

Third World Legal Studies

Volume 8 *Pluralism, Participation, and
Decentralization in Sub-Saharan Africa*

Article 3

1-3-1989

Rural Development, Human Rights, and Constitutional Orders in Sub-Saharan Africa

James C.N. Paul

Follow this and additional works at: <http://scholar.valpo.edu/twls>

Recommended Citation

Paul, James C.N. (1989) "Rural Development, Human Rights, and Constitutional Orders in Sub-Saharan Africa," *Third World Legal Studies*: Vol. 8, Article 3.

Available at: <http://scholar.valpo.edu/twls/vol8/iss1/3>

This Article is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Third World Legal Studies by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.

RURAL DEVELOPMENT, HUMAN RIGHTS AND CONSTITUTIONAL ORDERS IN SUB-SAHARAN AFRICA*

James C.N. Paul**

My purpose is to explore relationships between the three amorphous concepts which make up the title.

The sections which follow discuss:

1. Rural development meaning, here, development particularly geared to smallholders: an attempt to summarize doctrine found in much of the official, scholarly and specialist literature on rural development; to show the importance of this sector; to examine problems revealed by experience of the past decades and to analyze the implications of some strategies now widely proposed;

2. Human Rights: an attempt to identify some basic universal rights which seem particularly relevant to the realization of many rural development objectives and strategies;

3. Some implications for constitutional orders in Sub-Sahara Africa (SSA) of the above discussion.

The paper argues a position: the importance of empowering the rural poor with human rights in order to assert and protect their basic interests in relation to development programs, and, in that context, the importance of recognizing rights of participation in development processes in order to develop both the content of other basic rights highly relevant to the rural poor, and the means to realize them. The intention is to try to

* This paper, in part, grows out of my work with the International Center for Law in Development (ICLD) on projects concerned with protecting and promoting the rights of rural people affected by "development" activities. I owe a continuing debt to Clarence J. Dias, President of ICLD, for his help in developing many of the ideas expressed here. I am also very appreciative of the suggestions and intellectual help provided by Dr. Michael Cernea, Sociology Adviser to the World Bank; his writings on the roles and importance of participation are of great value to lawyers interested in rural development.

Instead of footnotes, I have appended what I hope will be useful annotated materials pertaining the concepts of the subject matter.

** William J. Brennan Professor of Law, Rutgers University and Secretary, International Center for Law in Development, United Nations, New York.

underscore the importance of this sadly neglected subject and stimulate further consideration of it by those who now argue for reforms which will make constitutional orders more democratic and thus more responsive to the needs of people.

I. Rural development

Of course the nature of smallholder agriculture and the social and physical environments of rural societies vary greatly in SSA. Some households engage primarily in self-provisioning agriculture, some in cash crop production. Some may be extensively incorporated into a market economy and increasingly dependent upon the state for services. In many regions the relative autonomy of smallholders from dependency on the state and markets may be changing, but as reported in local studies the patterns of change vary. So, too, the impacts on smallholders of drought and ecological change, the international recession, worsening terms of trade, ethnic conflict, civil warfare, population growth and indebtedness have differed, as have the content and impacts of national policies concerned with rural development. Study of the subject is also confounded by uncertainties of knowledge, notably data reflecting the present, changing character of rural communities.

Nevertheless, there is general agreement concerning some widespread trends in rural societies and smallholder agriculture, and agreement concerning explanations for these trends and conceptualization of problems to be addressed in many places. There is also a growing consensus regarding some principles and approaches which should inform strategies for rural development. Human rights issues are clearly implicated in these efforts even though development advisers, planners and managers regularly remain both insensitive of their obligations to respect and promote rights and blind to the consequences of ignoring them.

The Concept of Rural Development

Rural development, as the term is used here, and widely in current literature on SSA, focuses on development geared to smallholder households: on ways to increase their production of both food and other, cash crops and to increase new forms of income-generating employment to support households. The human dimension of rural development, emphasized in the 1988 Khartoum Declaration, focuses not only on efforts to improve access to services and resources essential to well being and human productivity, but also on efforts to help the rural poor become more self-reliant, aggressive and innovative in economic terms. The political dimen-

sion emphasized in other literature focuses on efforts to help the poor exercise the kinds of power they need to exert in order to change their relationships with state agencies, local elites and the legal system. The educational dimension focuses on ways to generate and share knowledge and skills which enable people, notably women, to engage in these tasks — especially through collective activities. These objectives are quite obviously interdependent.

The importance of rural development in SSA has been repeatedly recognized in recent development literature: in reports of the World Bank, IFAD, the UNECA, UNICEF and WHO, and in collective, official pronouncements such as the Khartoum Declaration, and the OAU's submission to the UN Special Session on Africa, and in the rhetoric of governments. While of course other areas of development such as industrialization, regional integration, debt relief and restructuring are also important, rural development — as conceived above — is generally seen as critical.

The Importance of Rural Development

Most people in most SSA countries live in smallholder households which produce, overwhelmingly, most of the food consumed within SSA countries, as well as many of the cash crops which are mainstays of national economies. Efforts to alleviate poverty, hunger and disease in other sectors of society — and create markets for local industrialization — may ultimately be dependent on raising living standards through rural development:

Generally, it could be safely assumed that at least two-thirds of the farm population in Africa would fall under the category of smallholder farmers. Their failure to maintain a certain level of production and welfare should be seen as the source of rural poverty and agricultural decline.

This is particularly the case in sub-Saharan Africa, where small farmers make up most of the population and contribute significantly to food production. For instance, in Zambia, about 87% of the farm population is classified as small farmer (primarily subsistence) producing 60% of agricultural production in value terms. It also is estimated that 50% of the maize market and 90% of the cotton is produced by small farmers. Similarly, in Nigeria, small farmers contributed around 97% of the food supply in 1980. . . . In Malawi, 70% of the population are smallholders producing 80% of the agricultural production. Smallholders cultivating less than 2ha. account for 96% of the food production in Ethiopia.

In Kenya, small farmers now contribute a considerable proportion of

the supply of dairy products, as well as such export crops as pyrrhtrum, tea and coffee. In Sierra Leone, a largely subsistence agriculture provides livelihood for about 75% of the population. The above examples vividly demonstrate the contribution of smallholders to African agriculture. In short, the key to the future development of African agriculture is the development of this sector.¹

Trends and Experience

While the importance of rural development is now stressed in official rhetoric, strategies to promote it must take account of recent history and current trends now affecting smallholder agriculture and rural society, and these social changes tend to underscore the importance of the political — hence human rights — dimensions of rural development. For example:

1. During the past two decades, especially the period 1978-1986, agriculture deteriorated; production, notably food production per capita, declined. Despite increasing amounts of food aid and imports, nutrition levels, especially among the rural poor, declined. It is estimated that at least 20% of the rural people in most countries are undernourished, and the long term consequences of this trend — if it persists — are grim to contemplate. There are disagreements about the extent and nature of food deficits in SSA countries, namely, to what extent hunger and malnutrition are reflections of problems of production as opposed to problems of distribution or access to food in rural areas. There are disagreements about strategies to meet food shortages, specifically over the role of food imports. Nonetheless, there is widespread agreement that most national development strategies must emphasize a higher degree of food self-sufficiency based on increased smallholder production, increased household earnings and systems of distribution which provide rural people with more access to food.

A recent Report from the Southern African Development Coordinating Conference (SADCC) summarizes the new view:

Present food production is largely in the hands of small farmers . . . and the failure of general policies to address the problems of the small farmer has been a major part of the more general problem of declining agricultural production.²

1. Nana-Sinkam, *The Fate of Smallholders and Other Rural Poor in Africa During the Structural Transition*, in *ASSISTING PARTICIPATORY DEVELOPMENT: RHETORIC VERSUS REALITY* (W.P. Lineberry, ed. 1989).

2. SOUTHERN AFRICAN DEVELOPMENT COORDINATING CONFERENCE, *FOOD AND AGRICULTURAL CONFERENCE REPORT* (1986).

It is also clear that the problems of the small farmer can never be properly defined, let alone addressed, without his or her participation in the effort.

2. The rapid growth of female-headed, smallholder households has been widely noted, as adult males migrate, in growing numbers, to larger towns and other areas to seek wage employment. While women have traditionally been responsible to varying degrees for household food production, the migration of males frequently imposes new labor demands on women which are difficult or impossible to meet. The position of women smallholders is further handicapped where they lack control over the land they farm, lack access to extension, credit, inputs, cooperatives and other markets. When needs for labor, inputs and other resources are unmet, productivity and income decline. In these circumstances, when absent husbands fail to remit adequate funds, and when other sources of family earning fail, the result, may be hunger and other forms of immiseration. Women's lack of access to essential resources is a reflection of their lack of power — within families, cooperatives, development agencies, courts and other forums.

3. Surveys in various countries suggest that changes in the composition of rural households have been accompanied by growing inequalities between households in terms of land, incomes and access to resources. Another factor introducing inequality in some rural communities is the increase in the number of absentee, urban landholders — “elites” who invest in productive land in periurban areas. The development of new or competing, land tenure systems also appears to create new risks for more vulnerable households. Of course these patterns vary, and they are complex. But it seems important to recognize that socio-economic stasis is not the condition of many rural areas; the picture is often one of change, coupled with a growing, but perhaps still inchoate, politicizing of groups and communities who have suffered from, or are threatened by, the changes taking place.

4. Another trend has been a deterioration of infrastructure and services in more remote rural regions. Deterioration of roads and transport contributes to lack of access to markets, including lack of access to consumer goods needed by rural families — conditions which contribute to lack of incentives to produce for the market. Deterioration in services may be reflected in such areas as extension or primary health — in services which may profoundly affect household productivity and the welfare of women and children. Again, these trends may, in part, be attributed to the political impotence of the rural poor.

5. Deterioration of environments is another trend, and it is probably far more serious than is yet generally recognized. The scenarios and causes

of degradation differ. In many areas there may be an increasing failure to follow ecologically sound crop rotation schemes as pressures on land intensify. Some environmentally vulnerable regions are threatened by new settlements and the introduction of unsuitable cultivation. Many other areas are being put at risk by the introduction of monocropping, overgrazing, deforestation or other harmful practices. It is also obvious that many of these harmful practices cannot be arrested simply by enacting legislation and creating regimes of government regulation. Appropriate remedies and their enforcement must come from within communities affected, through processes of popular participation.

6. A further trend, in many countries, is increasing rates of population growth, with attendant needs for more food and basic services, and increasing pressures on land, notably where there are declining opportunities for other productive employment. Indeed, while population growth still tends to be ignored in national planning or in the administration of health and education programs in many countries, the need to reckon with present fertility rates, particularly in rural areas, is widely stressed in the development literature. There is growing evidence that where appropriate health education and family planning services are made available, contraceptives and other controls are used. There is evidence that awareness of these services, and demands for them can be generated by helping women to organize and learn. Indeed, efforts to generate demand for health and family planning services are probably essential.

Explanations for These Trends

Explanations for these trends call attention to a wide range of factors. External calamities — such as severe droughts, debt or restructuring difficulties, declining terms of trade and other crises which impoverish governments — may of course, be major causes of distress. But amelioration of those conditions will not, per se, arrest the trends noted, let alone produce rural development.

It is widely agreed that there must also be changes in agricultural and rural development policies and programs. One effort must be a careful review of measures needed to promote “food security” for rural households — their capacity to meet basic needs from some combination of self provisioning and purchase of food in accessible markets, including imported food, when necessary — hence on some combination of measures needed to enhance production, provide for more effective storage and distribution, plus activities which may generate household incomes. The political will to mount such efforts, and their effectiveness, may depend

significantly on local capacities to demand them. Increasingly, the problem of food security is seen, in part, as a problem of political empowerment and not simply one of economics. It is generally conceded that state regulation of producer prices and state practices which tend to monopolize marketing, transport, food storage and distribution and other activities affecting producer incentives must be rigorously reviewed and revised. It is usually conceded that allocational policies favoring large scale farmers and export agriculture at the cost of services to smallholders and food production must also be reviewed. In many regions programs to protect or rehabilitate physical environments must also be put in place. It is clear that the needs of rural women in respect to all of their multiple roles must obviously be addressed. It is usually conceded that appropriate measures to understand, define and secure these objectives require a much greater involvement of those whose interests are most at stake, and that non-governmental organizations (NGO) of various kinds, working with rural communities, should play more significant roles in helping to identify and articulate the concerns, needs and requirements of smallholder households.

It is also widely noted that many of the government agencies responsible for designing and administering programs directly affecting rural development are afflicted with pathologies which presently limit their capacity to reach, work with and benefit the rural poor. These pathologies are reflected in hierarchical, stratified and overly centralized forms of organization; in official behavior characterized by elitist and etatist attitudes, patron-client relationships, in discrimination against women farmers; in abuses of power and, often enough, corrupt dealings; in processes for decision-making characterized by secrecy and limited access and still less accountability. Indeed, while the law of development administration is regrettably seldom studied systematically, it may be characterized as a regime of "lawless" law, perhaps rooted in colonial legacies and reflected by an absence of law establishing standards, processes, and institutions to secure conditions of popular access, participation and the imposition of accountability on those state agencies which control essential resources and services.

It is also recognized that some kinds of development projects have inflicted serious wrongs on vulnerable groups in rural communities, harms which go unredressed and then exacerbate the hardships noted above. Examples of these risk-prone measures include projects to build major dams and highways, to introduce large-scale agriculture or new systems of production of export crops, to extract timber resources, to resettle rural people in new environments, and to introduce capital intensive fishing

industries. Dams produce human displacement, health hazards such as bilharzia and malaria, and environmental damage including damage to the lands of downstream farmers. Large-scale irrigation, cash crop, farming projects have converted small farmers into tenants of absentee, urban landlords. Group ranching schemes have often marginalized those with fewer animals and little power. Other schemes to modernize agriculture have in effect transformed self-provisioning farmers into debt-ridden producers of export crops, dependent on private firms or parastatals for inputs, credit and prices. The introduction of mechanized farming and other kinds of cash crop projects often produce serious harms to environments and food systems. Resettlement projects have often produced disease, hunger and other deprivations through faulty planning and management sometimes characterized by gross negligence. If project-affected people are to be protected from these and other harms, they must, obviously, be empowered with rights, and aided by NGOs which can help them to understand and exercise their rights.

Strategies for Rural Development

Strategies for rural development emphasize new policies to address these problems and, at the micro level, depending on social and physical environments, some combination of measures designed to provide for:

1. increased smallholder production of food and cash crops through research and extension geared to community knowledge and concerns as developed in local group managed projects; and provision of accessible inputs, credit, improved storage, transport and marketing through arrangements which are made responsive to the needs of smallholders through new accountability procedures;
2. construction or rehabilitation of essential infrastructure such as rural roads and communications;
3. water resources for agriculture through small scale irrigation or water conservation and catchment facilities for farmers in low rainfall areas;
4. essential services and facilities, for example, to provide primary health care, family planning and more accessible potable water;
5. protection or rehabilitation of degraded environments through reforestation, controls on land use, conservation of water and of lands threatened with erosion;
6. support through credit, knowledge and skills-training for small scale, income-generating enterprises, notably participatory group enterprises such as manufacturing butter, soap, and charcoal; processing fish or crops; and household industries;

7. the inclusion of women in all of the above.

This list is suggestive, and the measures indicated may seem obvious, modest and feasible. In fact, however, repeated experience suggests that the objectives have been difficult to achieve. One reason, repeatedly stressed in the literature, is lack of "participation."

Importance of "Participation"

The importance of "participation" in rural development is, of course, now recognized. But there is no clear consensus regarding the multiple forms and functions of participation, even less clarity regarding the kinds of structural changes needed to promote them, and a bewildering silence among both development experts and too many lawyers regarding the kinds of legal changes which must be put in place if participatory activities essential to rural development are to be encouraged, protected, institutionalized and thus sustainable.

The concept of participation may gain coherence if one considers the many different functions and forms it must assume in order to promote rural development. The following are simply suggestive of some of these diverse functions and forms:

1. Generating and sharing knowledge. For example, much of the knowledge which rural people need in order to create capacities for self-reliant participation and protection of their interests when development projects are initiated simply does not exist a priori. This knowledge must be generated. If rural development projects are to be addressed to widely shared community needs, then the varying concerns of different categories of people must be discussed and a fair consensus established. If sustainable projects aimed at the objectives discussed above are to be established, there must not only be popular support for the objectives, but also agreement on the means to be used. The knowledge which may be relevant to the proper design of a project may include an understanding of local agronomy, land tenure, social structures, food systems, labor cycles and many other phenomena. The role and impact of the project on women must be ascertained. Neither outside experts nor any one person within the community may be aware of, or fully informed about, nor a proper advocate for all these and other matters which may become relevant. Again, knowledge must be generated and shared. So, too, if people are to be encouraged to act in other ways to organize themselves to protect or promote their interests, they must gain knowledge of ways to do this, and they must have access to all relevant information, including information controlled by development agencies. Indeed, these processes may

be seen by officials already pressed to conform to pre-ordained plans and schedules as time consuming and costly. They may be best undertaken by NGOs and unofficial community organizers who can catalyze group discussions, help to organize collective decision-making and mediate between different groups inter se, and between groups and officials. These processes, essential to the development of other forms of participation, entail many different kinds of activities which must obviously be free of state control, and which must often be stimulated and supported by NGO activities, equally free of state control.

2. Creating joint enterprises with external agencies: Such development projects as the establishment of primary health care facilities, or of agricultural research and extension projects geared to smallholder crops or forestation projects may require a pooling of efforts by external agencies and intended beneficiaries, and of power to design, manage and regulate activities pursuant to shared goals and standards of accountability. Joint enterprise participation can take a variety of institutional forms; finding the appropriate one, and developing it, depends again on free participation and appropriate facilitative laws.

3. Creating autonomous, self-managed group enterprises of both an income-generating and a service providing character reflect still different functions and forms of collective action, again requiring appropriate facilitative laws, including those which allow groups to become legal entities.

4. Making local government and officials responsive and accountable is yet another dimension, entailing different forms of participation, such as mobilizing, organizing, demanding protesting and electioneering — and freedom to engage in these activities.

5. Engaging in local law-making and local regulatory activities looms large in some kinds of micro development efforts. For example, it is clear that environmental projects aimed at overgrazing, deforestation and other concerns require community acceptance of goals and local, participatory law-making and enforcement structures geared to local conditions. Similarly, the creation of group organized credit systems requires endogenous law created by the group, as well as facilitative state law.

6. Imposing demands or accountability on local officials, or bargaining for better prices or other benefits may entail other kinds of participatory activities, including recourse to the legal system, the media and other ways of publicizing issues.

7. Seeking protection from risk-prone projects, and redress where harms occur, an activity which includes efforts to sue in the courts as

well as seek redress in other forums, is another important function, entailing still different forms of participation and support.

8. Engaging in politics through the formation of coalitions or unions of rural workers. Since rural development entails allocational decisions at both local and higher levels, it is intimately connected with politics, and hence with the capacity of local groups to wield power in regional and national forums.

9. Organizing NGOs to supply external catalysts, support and advocacy to local grassroots groups. These NGO tasks are usually crucial to the initiation or maintenance of all the kinds of group efforts noted above; hence the formation and management of different kinds of independent national or regional NGOs is a critical element of participation in rural development.

10. Raising funds and receiving grants to engage in the above activities is a further crucial element of participation which needs recognition and protection.

11. Empowering women in relation to all of the above functions adds a further dimension, with additional discrete problems to be addressed.

If these kinds of tasks are to be undertaken effectively, those who engage in them must enjoy empowering rights not generally accorded to citizens of many SSA states today. Examples of such powers include: powers to meet together without hindrance from local officials and the police; powers to form self-managed, autonomous associations; powers to organize a wide variety of collective activities (such as those noted above); powers to enjoy a corporate type of legal status and group capacity to make contracts, bring legal actions and raise money through local solicitations and grants from external agencies; powers to have access to the media and rights to organize their own communication systems; powers to engage in nonviolent demonstrations and other peaceful protest activity in order to make grievances known and visible; powers to seek and secure official information from development agencies — especially information which is crucial to enable meaningful participation; and the power to have access to legal resources.

All of these prescriptions have already been discussed in a growing body of literature concerned with the plight of the rural poor in Asia and Latin America. But there have been relatively few Africa-based inputs into this literature. Presumably that is because experiences with participation through self-managed, autonomous organizations engaging in the kinds of activities discussed above, have been limited, less reported and

often contained or controlled by governments. Political officials and local elites are often hostile to, or suspicious of, efforts to organize and use non state structures as vehicles of self reliant development. Furthermore, protective legal environments, so essential to enable mobilization, organization and institutionalization of participation in its diverse forms, and at varying levels, simply do not exist in most countries. This situation can never be changed unless basic, universal rights are taken seriously — not only by governments and development agencies, but, so important for the nurturing of rights, by concerned professionals working in activist as well as scholarly roles with and for smallholder groups and rural women.

II. Human Rights and Rural Development

The importance of human rights as interdependent ends and means of *rural* development, and development in many other sectors as well, should now be obvious to anyone concerned with human rights and development. Obvious — yet so many discussions of rights fail to focus on concrete needs to adapt and develop the very general principles of universal human rights law to SSA contexts, notably the needs of rural people.

An Approach to Rights in Relation to Rural Development

If one is interested in showing the relevance of rights to the social needs, values and concerns — i.e. the “interests” — of rural people in SSA several propositions about the nature of human rights law seem important.

1. **Interests.** Rights are legal devices to protect interests; *basic* rights are concerned with widely shared, deeply felt needs, values and concerns. The basic interests of the rural poor in SSA are quite different from — and indeed may sometimes conflict with — those of urban elites. The basic interests of smallholder households in the land they use, in the food system on which they rely, in access to essential knowledge and resources to maintain the household are unique to people in that situation. The basic interests of rural women may differ in part from those of rural men and urban women.

Rural communities may not only compete with cities for essential services, they may also require very different kinds of services and structures to provide them. The identification of the particular interests

of a particular rural group or community obviously calls for their participation, their articulation of their interests.

2. Empowerment. Rights legitimate the efforts of people, acting collectively, to identify and articulate their basic interests and demand appropriate protections when these are threatened, and redress sufficient to restore the interest when it has been harmed. A rich literature on participation teaches that when people gain knowledge of the legitimacy of these efforts, they become empowered in psychological terms, hence more capable of self-reliant participation in their polity, more capable of developing human rights geared to local needs, more capable of making democratic structures work.

3. Component Rights. Basic rights guaranteed by Constitutions or the International Bill of Rights are usually stated in very general terms. They can only gain meaning in relation to specific social contexts when people who believe that their basic interests are threatened by a particular activity demand specific protections appropriate to the threat. The process of rights development is, in part, a process of developing particular component rights — derived from very generalized human rights prescriptions, and geared to the specific needs of discrete groups for particular forms of protection of their interests. For example, the International Bill of Rights declares that “everyone [has a] right to food.” The right of rural women and children to food, may, in a particular community, focus on the need to protect their access to land sufficient to supply family needs, or on problems of environmental degradation, or on needs for better storage or better distribution systems geared to rural needs, or on other practices which threaten their supply of, or access to, food. The negligent practices of officials or agribusiness which exacerbate risks of rural hunger help us to understand the kinds of component protections or rights which could give vulnerable people at least some means to demand respect for their right to food.

4. The symbiotic relationships between basic rights. All basic rights seem grounded in a belief that they may help one to live a life befitting the dignity now universally ascribed to the human person. Rights to food, equality and participation are simply extensions of that principle, and the enjoyment of each of those rights requires enjoyment of the others. The right to food, say, through the protection of local, rural food systems, can only be developed by the exercise of rights of participation. Conversely, the central purpose of participation is to promote and protect enjoyment of other rights, notably social or economic rights. In this

context, the alleged dichotomy or conflict between economic and political rights should be seen as mischievous jurisprudence.

Some Basic Rights Highly Relevant to Rural Development

From the perspective of the rural poor in SSA the development of several basic rights seem important, i.e., rights relating to: (a) participation, (b) basic human needs, (c) security in land, (d) equality, and (e) development processes.

a. Participation.

The empowerment of people with capacities to participate, i.e., to identify, assert and protect their vital interests requires recognition of a number of component rights, such as: (1) access to information; (2) freedom to form and finance different kinds of self-managed organizations and use them as vehicles for a wide variety of different kinds of collective action; (3) freedom of communication and access to the media; (4) access to officials, government agencies, the courts and other forums and, often (5) freedom to form organizations to provide assistance, including legal assistance to help others realize these, among other rights.

b. Basic Human Needs.

These rights, too, may be widely misunderstood. Rights to food, health and functional knowledge (education) do not guarantee satisfaction of these needs. They do at least enable people to demand protections against practices which exacerbate risks of hunger, disease and ignorance of information which people need in order to protect their interests. These rights also enable people to demand protections against unjustifiable discrimination in the allocation of resources and services to provide for these needs. Once again, it is important to focus on development programs which inflict harms that violate basic needs rights: dams which create risks of bilharzia or malaria; salinization of water resources leading to degradation of land and food sources; commercial crop export programs which disrupt local food production; and other policies which affect distribution. It is important to focus on ministries which supply essential services such as health care when they seem to ignore the needs of rural areas or to ignore practices leading to the breakdown of services which they are supposed to be providing. When the victims of these kinds of wrongs are powerless to protest and demand redress, there is little probability that accountability will be imposed on those responsible or that damage done will be compensated.

c. Security in Land.

Security in land is obviously important to smallholder rural families, not only because land is a crucial source of supply, but also because it is a source of identity and political status, as well as being integral to culture. Protecting this security is becoming increasingly important in locales where the political economy of development threatens the tenure of vulnerable smallholders.

d. Equality.

These rights may also be central, particularly if one tries to understand the interests of rural women and other historically vulnerable groups. Article 14 of the 1979 UN Convention on Elimination of All Forms of Discrimination Against Women (known as CEDAW, a Convention now ratified by most SSA countries) speaks directly to the situation of rural women. The Convention prohibits discrimination in the allocation of goods and services, control of land, access to cooperatives and other public agencies and the courts. It further makes it possible for rural women to challenge and change, significantly, the position and roles now so often ascribed to them by custom or practice. The possibility of that challenge may depend on the extent to which rural women are helped to perceive and believe in their rights, and to organize efforts to demand them — on their capacity to realize rights of participation.

e. Development Processes.

The Human Right to Development is important, too, because it entitles rural people to demand that those who do development — both international agencies like the world Bank and government departments and parastatals — operate through structures which promote as well as protect the basic rights of those particularly and directly affected by a development program.

The right to “development [as a] right of people” has been incorporated in the Banjul Charter. A further recent step has been the drafting and enactment of the 1986 UN “Declaration on the Right to Development.”³ The impetus for the Declaration came from Third-World countries, and the purpose was to give content and focus to the right. It was

3. See UNITED NATIONS, DECLARATION ON THE RIGHT TO DEVELOPMENT, G.A. Res. 128, 41 U.N. GAOR Supp. (No. 53) at 186, U.N. Doc. A/RES/44/128 (1987).

approved by the Assembly by a vote of 146 to 1 (the U.S. stood alone in opposition and eight western governments abstained). The Declaration is hardly a model of clarity. It combines a number of quite different propositions, and insofar as it purports to grant rights to states to demand a new international economic order it is controversial, perhaps problematic as a human rights instrument. But some other essential propositions of the Declaration seem clear and on these there may be little disagreement about the value and importance of the Declaration to rural people in SSA. Thus the Declaration quite clearly:

- affirms the principle of “people centered” development: people should be the active subjects as well as the objects of “development” efforts;
- confirms the principle that human rights are means as well as ends of this kind of development;
- underscores (as have so many other Assembly Resolutions) the central importance of “participation” as both a basic right (or bundle of rights) and a means to realize other rights in people-centered development;
- imposes the obligation on governments and international development agencies to respect and promote human rights in the processes of development;
- empowers people, notably the intended beneficiaries of development activities to demand accountability to these principles through processes of participation.

Thus, the human right to development is, in part, process-oriented, perhaps comparable to the right to due process. It focuses on processes and institutions used to promote social change. It calls for participation of people, notably those most affected, in the design and management of change. It recognizes that rights of participation are an essential precondition if people are to gain capacities to understand, assert and win recognition of other rights. Participation is the vehicle by which other, very general rights set out in the Universal Declaration and the Covenants can be converted into specific, context-related claims for the protections and entitlements promised by the International Bill of Rights.

III. Rural Development, Human Rights and Constitutional Orders

At one level the implications of this analysis are obvious: constitutional orders must be reformed to secure the rights discussed above if the processes of people-centered, participatory rural development are to become sustainable. But it is equally obvious that this goal entails difficult and, in some settings, dangerous tasks for concerned lawyers and social activists. While the subject of the strategies to develop and use functional,

human rights geared to the needs of the rural poor deserves extensive attention, only a few, brief observations are offered here.

Focusing on Constitutional Orders

The need to focus on constitutional orders, not simply formal constitutions, should be evident. While bills of rights are important, they are easily frustrated if the constitutional order is incapable of securing the rights promised. The concept "constitutional order" directs our attention to the many, diverse bodies of law and administrative practices which define relations between people and state agencies and officials, and which establish a legal infrastructure that enables people to assert and exercise their rights.

For example, attention needs to be paid to the law dealing with sovereign and official immunity, to the standing of NGOs to defend group interests and rights and to the jurisdiction of courts or other institutions to determine such claims, to the civil, equitable and criminal remedies available to secure them. Similarly, attention needs to be paid to those bodies of law, variously labeled "labor" or "cooperative" or "business organizations" law, which enable rural workers, including smallholders, to form unions, cooperatives, educational and political advocacy groups, or to create joint enterprises with state agencies or NGOs in order to manage local, developmental institutions in order to, say, supply credit. Human rights for smallholders and women may be affected by the changing character of land law. The symbiotic relationships between human rights, local organizations and environmental protection laws need to be understood. These are all subjects which seem neglected in the conventional legal literature, and they are only examples.

International Human Rights Law as a Source of Rights for the Third World Poor

The importance of international human rights law as a potential source of rights geared to the needs of the Third World poor should be appreciated. The oft-repeated claim that international human rights law is simply western or bourgeois law writ large is dangerous obfuscation. The basic needs rights set out in the Covenant on Economic and Social Rights were drafted within UN agencies such as the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) with Third World peoples in mind, and often by Third World experts. The same can be said of the International Labor Organization (ILO) conventions dealing with rural workers, including all working members of small-

holder households, and of Article 14 of the Convention on the Elimination of Discrimination Against Women (CEDAW) which deals with rural women. The "Human Right to Development" was first proclaimed in the African Charter. The UN Declaration of 1986, which is supported by all African governments, makes this right a collective right of the rural poor. Rights of participation in relation to the rural poor have been spelled out in several important ILO conventions and in numerous international instruments dealing with rural development, food, health and other subjects. Indeed, it seems fair to say that these bodies of international human rights law are far more relevant to the basic interests of the rural poor than are many of the provisions of conventional bills of rights so far developed in most constitutions of SSA countries.

International human rights law is also an important resource because the rights guaranteed are meant to be universal. The obligation of *all* states to promote and respect them is a solemn undertaking which goes with UN membership — and with the emerging status of these rights as "hard" international law. The rights discussed above have a legitimacy even when governments ignore or, indeed deny them. These rights presently constitute the bases for claims which affected people can assert. Constitutional orders should recognize and enforce the underlying obligations of states to respect these rights. Quite simply, it is no longer lawful for any state to interpose its sovereignty as a pretext for denying universal rights which it is bound to respect.

Development of Specific Content and Exercise of Rights

The processes of developing the specific content and the exercise of these kinds of rights entail, as already suggested, a conjuncture of many different kinds of efforts by scholars, professionals and people working at grassroots levels. The actual realization of rights which protect important interests of the rural poor may well depend, in part, but indispensably, on endogenous efforts of this kind. Development *by* as well as *for* the rural poor can, perhaps, never become sustainable until awareness and capacities to assert rights are generated at grassroots levels.

In view of past experience, the present nature of the state in many SSA countries and the social classes controlling political and economic development, there may be ample reasons for cynicism in regard to the analysis offered here. Paradoxically, it is precisely the nature of the state in SSA countries, and the system of class interests which seems to be building around it, which may yet produce explosive reactions, popular demands for change. The imposition, on rural people, of the authoritarian

structures and activities of the exogenous, modern state in SSA simply forces the issue of rights: the imposition of alien law and inaccessible courts, of arbitrary prices and taxes, and of autonomous bureaucracies and security forces; the expropriation of traditional community structures; the creation of social gaps and conflicts between rulers and ruled. One seldom finds ordinary people protesting against the need for rights in SSA.

Participation, coupled with a recognition of the legitimacy of popular efforts to protect basic interests, is a means of allowing people to respond to these developments. Participation enables both popular education and the popular determination of the utility and value of human rights law by groups whose interests are directly affected. It enables an endogenous evolution of political culture in response to the traumas of colonial and post-colonial political developments. It is not a process which imposes human rights law on people, but one which allows people to help develop rights law in response to their shared cultural values as well as their material and political needs.

Themes of empowerment now appear with striking frequency in much of the rural development-focused literature — empowering the rural poor to make their interests known in the formulation of strategies and measures. But political empowerment requires a new kind of legal environment — a constitutional order which will help to promote as well as protect human rights, particularly rights of participation.

NOTES AND BIBLIOGRAPHY

This paper uses the term *smallholder*, rather than “peasant” or “subsistence farmer,” because it is now widely used in the literature and because it seems to connote the complex features which differentiate African farming systems from those in other parts of the world. Furthermore, the term focuses on the importance of rural households as units of production, and their distinctive social and economic characteristics and historic specificity. See various papers in *THE HOUSEHOLD ECONOMY: RECONSIDERING THE DOMESTIC MODE OF PRODUCTION* (R.R. Wilk ed. 1989) and in *UNDERSTANDING AFRICA’S RURAL HOUSEHOLDS AND FARMING SYSTEMS* (J.L. Mook ed. 1986), notably the essay by G. Hyden. See also the instructive paper by Nana-Sinkam, *The Fate of Smallholders and Other Rural Poor in Africa During the Structural Adjustment Transition* in *ASSISTING PARTICIPATORY DEVELOPMENT: RHETORIC VERSUS REALITY 19-48* (W.P. Lineberry ed. 1989).

The importance of improving conditions for smallholder agriculture is emphasized in many official reports and specially commissioned studies

on development in SSA issued during the 1980s. *See, e.g.*, WORLD BANK, TOWARD SUSTAINED DEVELOPMENT IN SUB-SAHARAN AFRICA: A JOINT PROGRAMME OF ACTION (1984); WORLD BANK, AFRICA'S ADJUSTMENT WITH GROWTH IN THE 1980s (1989); WORLD BANK, THE CHALLENGE OF HUNGER IN AFRICA: A CALL TO ACTION (1988); WORLD BANK, SUB-SAHARA AFRICA: FROM CRISIS TO SUSTAINABLE GROWTH (1989); OECD, CRISIS AND RECOVERY IN SUB-SAHARAN AFRICA (1985); OAU/ECA, AFRICA'S SUBMISSION TO THE SPECIAL SESSION OF THE UNITED STATES GENERAL ASSEMBLY ON AFRICA'S ECONOMIC AND SOCIAL CRISIS (1986); UNITED NATIONS ECONOMIC COMMISSION FOR AFRICA, SURVEY OF ECONOMIC AND SOCIAL CONDITIONS IN AFRICA: 1985-1986 (1986); UNITED NATIONS CHILDREN'S FUND (UNICEF), WITHIN HUMAN REACH: A FUTURE FOR AFRICA'S CHILDREN (1985); INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD), ANNUAL REPORT (1988); UNITED NATIONS, THE KHARTOUM DECLARATION: TOWARDS A HUMAN-FOCUSED APPROACH TO SOCIO-ECONOMIC RECOVERY AND DEVELOPMENT IN AFRICA (1988); SOUTHERN AFRICAN DEVELOPMENT COORDINATING CONFERENCE (SADCC), FOOD AND AGRICULTURAL CONFERENCE REPORT (1986); STRATEGIES FOR AFRICAN DEVELOPMENT: STUDY FOR THE COMMITTEE ON AFRICAN DEVELOPMENT STRATEGIES (Berg & Whitaker eds. 1986); CRISIS AND RECOVERY IN SUB-SAHARAN AFRICA: REALITIES AND COMPLEXITIES (Rose ed. 1985).

A number of valuable recent books on rural development are the product of organized efforts to mobilize experts, both experienced scholars and development practitioners, to contribute papers and surveys on discrete aspects of the subject such as agricultural research, environmental problems, health care, population growth, credit, marketing etc. Excellent surveys of the literature in some of the fields appear in RURAL TRANSFORMATION IN TROPICAL AFRICA (Rimmer ed. 1988). Some other important collections include FOOD POLICY: INTEGRATING SUPPLY, DISTRIBUTION AND CONSUMPTION (J.P. Gittinger, J. Leslie & C. Hosington eds. 1987); ENSURING FOOD SECURITY IN THE DEVELOPING WORLD: ISSUES AND OPTIONS (S. Reutlinger & J. Pellekaan eds., 1986); AFRICA'S AGRARIAN CRISIS: THE ROOTS OF FAMINE (S.K. Commins, M.F. Lofchie, & R. Payne eds. 1986); STRATEGIES FOR AFRICAN DEVELOPMENT, *supra*; DEVELOPMENT OPTIONS FOR AFRICA IN THE 1980s AND BEYOND (P.L. Ndegwa, L. Mureithi & R.H. Green eds. 1985); AGRICULTURAL PRICES, POLICY & EQUITY IN SUB-SAHARAN AFRICA (D.Ghai & L. Smith eds. 1987); CRISIS AND RECOVERY, *supra*. For important recent analyses of trends, experience and needs stressing participatory, pluralist approaches, *see* R.H. GREEN, DEGRADATION OF RURAL DEVELOPMENT: DEVELOPMENT OF RURAL DEGRADATION — CHANGE AND PEASANTS IN SUB-SAHARA AFRICA (1989); R. CHAMBERS,

RURAL DEVELOPMENT: PUTTING THE LAST FIRST (1985); G. HYDEN, NO SHORTCUTS TO PROGRESS (1983); D.W. BROKENSHA & P.D. LITTLE, ANTHROPOLOGY OF DEVELOPMENT & CHANGE IN EAST AFRICA (1988); LAND & SOCIETY IN CONTEMPORARY AFRICA (R.E. Downs & S.P. Reyna eds 1988); J.S. Whitaker, *The Policy Setting: Crisis and Consensus in STRATEGIES FOR AFRICAN DEVELOPMENT*, *supra*. WORLD BANK, FROM CRISIS TO SUSTAINABLE GROWTH (1989), is not a Bank document, but the product of a project enlisting many prominent African scholars, who produced both country reports and many other useful studies now being published by the bank.

On food production and food security, *see generally* S.K. Commins, M.F. Lofchie & R. Payne, *supra*; FOOD POLICY, *supra*.; UNITED NATIONS FOOD AND AGRICULTURAL ORGANIZATION (FAO), FOOD CROP OUTLOOK IN SUB-SAHARA AFRICA (1986); *see also* COPING WITH AFRICA'S FOOD CRISIS (Chazen & Shaw eds. 1988); SATISFYING AFRICA'S FOOD NEEDS: FOOD PRODUCTION & COMMERCIALIZATION IN AFRICAN AGRICULTURE (R. Cohen ed. 1988). Many articles in these volumes emphasize the political aspects of the food crises in SSA states, and the importance of strategies of rural empowerment. *See also*, for an able summary, J. Borton & E. Clay, *The African Food Crisis: A Provisional Review* in RURAL TRANSFORMATION IN TROPICAL AFRICA, *supra*; R.H. GREEN, *supra*; Nana-Sinkam, *supra*.

A fine symposium on current research on African women appears in 22 CANADIAN J. AFR. STUD. No. 3 (1988). Most of the articles deal with rural women. K. Staudt, *Women Farmers in Africa: Research and Institutional Action*, *supra* at 562-82, contains a good review of the extensive literature. *See also* A. Wipper, *Reflections on the Past Sixteen Years and Future Challenges: 1972 - 1988*, *supra* at 409-21, and Nana-Sinkam, *The Fate of Smallholders and Other Rural Poor in Africa During the Structural Adjustment Transition* in ASSISTING PARTICIPATORY DEVELOPMENT, *supra*, and J. Guyer (1986) summarizing trends. *See also* M. Mbilinyi ed., COOPERATION OR EXPLOITATION (1985). An interesting series of case studies analyzing the impact of various kinds of development projects on different categories of women and men in rural Africa was sponsored by the International Programs Division of the Population Council; *see, e.g.* I. PALMER, THE NEMOW CASE (1985) (irrigated farming and fishing); C. JACKSON, THE KANO PROJECT (1985) (dams and irrigation in Nigeria); K. STAUDT, AGRICULTURAL POLICY IMPLEMENTATION: A CASE STUDY FROM WESTERN KENYA (1985) (extension, credit and cooperatives). *See* AGRICULTURE, WOMEN AND LAND: THE AFRICAN EXPERIENCE (J. Davison ed. 1988) (valuable case studies of women farmers and land tenure changes).

On the growing inequalities in rural communities *see, e.g.*, 22 CANADIAN J. AFR. STUD. (1988) (women-headed households, an instructive Tanzanian case study); AGRICULTURAL PRICES, POLICY & EQUITY IN SUB-SAHARAN AFRICA (D. Ghai & L.D. Smith eds. 1987) (producer prices); LAND AND SOCIETY IN CONTEMPORARY AFRICA, *supra* (land distribution; power of local and urban "elites"); M. LIPTON, WHY POOR PEOPLE STAY POOR: URBAN BIAS IN WORLD DEVELOPMENT (1977) (rural-urban issues); E.W. NAFZIGER, INEQUALITY IN AFRICA: POLITICAL ELITES, PROLETARIAT, PEASANTS AND THE POOR (1988) (general survey); K. Swindle, *Agrarian Change and Peri-Urban Fringes in Tropical Africa* in RURAL TRANSFORMATION IN TROPICAL AFRICA, *supra* (1988) (marginalization of the rural poor in peri-urban areas, new classes of urban landlords and landless agrarian laborers).

On environmental problems, *see* L. TIMBERLAKE, AFRICA IN CRISIS: THE CAUSES AND CURES OF ENVIRONMENTAL BANKRUPTCY (1985); L. Timberlake, *Guarding Africa's Renewable Resources* in STRATEGIES FOR AFRICAN DEVELOPMENT 111-28 (1986) (a review of the literature); UNITED NATIONS ENVIRONMENTAL PROGRAMME (UNEP), GENERAL ASSESSMENT OF PROGRESS IN THE IMPLEMENTATION OF THE PLAN OF ACTION TO COMBAT DESERTIFICATION (1984) (pessimistic study of desertification); E. ECKHOLM, FUELWOOD (1984) (fuel; trees); DROUGHT & HUNGER IN AFRICA: DENYING FAMINE A FUTURE (M.H. Glantz ed. 1987) (country studies of need to bring environmental perspectives to bear upon development policies).

On population, *see* F.T. Sai, *Population and Health: Africa's Most Basic Problem* in STRATEGIES FOR AFRICAN DEVELOPMENT, *supra* (reviewing much of the literature); M. Wolfson, *Population and Poverty in Sub-Saharan Africa* in OECD *supra* at 96; POPULATION AND DEVELOPMENT PROJECTS IN AFRICA (J. Klarke, M. Khogal & L. Kofinski eds. 1985); A.G. Hill, *Population Growth and Rural Transformation in Tropical Africa* in RURAL TRANSFORMATION IN TROPICAL AFRICA 16-35 (1988) (careful review of fertility data and explanations); WORLD BANK, POPULATION GROWTH AND POLICIES IN SUB-SAHARAN AFRICA (1986), and SUB-SAHARA AFRICA: FROM CRISIS TO SUSTAINABLE GROWTH (1989) (emphasized strategies to create demand for family planning health services).

For a discussion and critiques of the legal aspects of development administration, *see* various papers in THIRD WORLD LEGAL STUD. 1982. *See also* WORLD BANK, SUB-SAHARA AFRICA: FROM CRISIS TO SUSTAINABLE GROWTH (1989) and WORLD BANK, WORLD DEVELOPMENT REPORT (1983).

On the concept of food security *see* many of the papers in FOOD POLICY, *supra*, especially, A. Sen, *Poverty and Entitlements* at 198-204, and S. Reutlinger. On the questions to be studied and various policies

and strategies related to food security *see, e.g.*, M. Rukuni & C. Eicher, *The Food Security Equation in Southern Africa* in *POVERTY, POLICY AND FOOD SECURITY IN SOUTHERN AFRICA* (Bryant ed. 1988); A. deJanury, *Dilemmas and Options in the Formulation of Agricultural Policies in Africa* in *FOOD POLICY, supra*, at 485-496 (1987).

A classic critique of agricultural policies in SSA states (and the interaction between politics and economic decisions) is R.H. BATES, *MARKETS AND STATES IN TROPICAL AFRICA: THE POLITICAL BASIS OF AGRICULTURAL POLICIES* (1981). J.S. Whitaker, *supra*, is a review of some of the debates and the now growing consensus on agricultural and rural development policies in SSA. Many papers in the edited collections already cited review these issues. OECD, *supra*, and OAU/ECA, *supra*, reflect the need for the kinds of reforms discussed.

On the harms caused by various kinds of infrastructure projects such as dams, and agricultural modernization projects such as the introduction and production of new cash crops, *see generally* J. Paul, *International Development Agencies, Human Rights and Humane Development*, 17 *DENVER J. INT'L L. & POL'Y.* 67, 92-101 (1988). *See, e.g.*, S. BARGHOUTI & G. LEMOIGNE, *IRRIGATION IN SUB-SAHARAN AFRICA* (1989) (irrigation projects); C. JACKSON, *supra* (dams); R.H. GREEN, *DEGRADATION OF RURAL DEVELOPMENT: DEVELOPMENT OF RURAL DEGRADATION-CHANGE AND PEASANTS IN SUB-SAHARA AFRICA* (1989) ("modernization" of agriculture); R. NORONHA & F.J. LEFHAM, *TRADITIONAL LAND TENURES & LAND USE SYSTEMS IN THE DESIGN OF AGRICULTURAL PROJECTS* (1983) (impact of various kinds of projects on tenure systems); E. GOLDSMITH & N. HILYARD, *THE SOCIAL AND ENVIRONMENTAL IMPACTS OF LARGE DAMS* (1984, 1986). An excellent case study illustrating many of the problems associated with large scale modernization of agriculture and discussed in the text is C. Lane, *Wheat at What Cost: CIDA and the Tanzania Canada Wheat Programme*, (unpublished, 1989). Resettlement schemes are fraught with serious risks. *See generally* C. ESCUDERO, *INVOLUNTARY RESETTLEMENT IN BANK-ASSISTED PROJECTS: INTRODUCTION TO LEGAL ISSUES* (1988). For a very instructive Ethiopian case study *see* G. Woldemeskel, *The Consequences of Resettlement in Ethiopia*, 88 *AFR. AFF.* 359-374 (1988).

The literature on participation in smallholder agricultural and rural development is now extensive. For purposes of the problems discussed in this paper, the following are significant because they suggest various functions and forms of participation in relation to different kinds of rural development: *RESEARCH EXTENSION, FARMER: A TWO-WAY CONTINUUM FOR AGRICULTURAL DEVELOPMENT* (Cernea ed. 1985) and M. CERNEA, *NON GOVERNMENTAL ORGANIZATIONS AND LOCAL DEVELOPMENT* (1987); S. PAUL,

COMMUNITY PARTICIPATION IN DEVELOPMENT (World Bank Discussion Paper 1987); ECONOMIC DEVELOPMENT INSTITUTE OF THE WORLD BANK, SUCCESSFUL DEVELOPMENT IN AFRICA: CASE STUDIES OF PROJECTS, PROGRAMS AND POLITICS (1988); N.T. UPHOFF, LOCAL INSTITUTIONAL DEVELOPMENT: AN ANALYTICAL SOURCEBOOK OF CASES (1986); C. BRYANT & L.G. WHITE, MANAGING RURAL DEVELOPMENT WITH SMALL FARMER PARTICIPATION (1984); R. CHAMBERS, *supra*.

The diverse forms and functions of participation can, perhaps, best be understood by studying the many different roles which grassroots groups and NGOs can and should play in relation to various kinds of development projects. Thus, it is important to examine a wide variety of discrete kinds of development activities and problems.

A large literature teaches that no activity designed to help a community meet some need or confront some social or environmental condition should be undertaken without first understanding processes which will generate knowledge enabling both outsiders and such relevant groups within a community as women and less affluent farmers, as well as community leaders, to begin to identify problems to be addressed and means to do so which are appropriate, equitable, understood and approved by all whose interests are affected. This is a central message in one of the most valuable texts on rural development, R. CHAMBERS, *supra*. The subject is dealt with in detail in a wide range of literature; in addition to the items cited above, see also D.W. BROSHENKA & P.D. LITTLE, ANTHROPOLOGY OF DEVELOPMENT & CHANGE IN EAST AFRICA (1988), and M. CERNEA, NON GOVERNMENTAL ORGANIZATIONS AND LOCAL DEVELOPMENT (1988).

There are now a number of instructive case studies illustrating how processes of participation at the design stage of a project resulted in a redesign of the original project proposed by development officials. See, e.g., EDI/WORLD BANK, *supra*. Indeed a growing school of thought holds that development agencies ought to encourage grassroots groups and communities to play leading roles in determining priorities, plans and strategies to meet shared perceptions of tasks to be addressed. See, e.g., IFAD, *supra* 1988); G. HONADLE & J. VAN SANT, IMPLEMENTATION FOR SUSTAINABILITY: LESSONS FROM INTEGRATED RURAL DEVELOPMENT (1985) (study prepared for U.S. AID).

It is clear that projects to develop essential community based services such as primary health care require broad-based community planning, management and support, if for no other reason than that these activities in Africa are increasingly financed through user fees and local resources. See, e.g., N.T. UPHOFF, LOCAL INSTITUTIONAL DEVELOPMENT: AN ANALYTICAL SOURCEBOOK OF CASES Chapter 4 (1986); C.P. MacCormack,

Anthropological Research in African Primary Health Care in RURAL TRANSFORMATION IN TROPICAL AFRICA 36-45 (1988). The design and sustainability of projects such as pumping systems to provide potable water has been a recurring problem. For a good case study see T. Waters, *Of Water Systems and Grain Mills: Observations of Felt Needs in Tanzania*, 15 ISSUES 47-50 (1989). See also J. BRISCOE & D. DEFERRANTI, WATER FOR RURAL COMMUNITIES: HELPING POOR PEOPLE HELP THEMSELVES (1988). The development of effective agricultural research and extension geared to smallholder contexts has been a recurring problem in many countries. Again there is a need for participation in defining needs and developing responsive programs, and in the view of many, participation in the management of extension at local levels. See M. CERNEA, PUTTING PEOPLE FIRST: SOCIOLOGICAL VARIABLES IN RURAL DEVELOPMENT (1985).

It is abundantly clear that genuine participatory structures are required for the design and management of sustainable, small-scale irrigation schemes, an increasingly important kind of development activity, as opposed to large scale projects, which often produce harmful changes in smallholder agriculture and are often not sustainable. See I. Caruthers, *Irrigation Investment: A Problem, Palliative or Panacea for Agricultural Development*, in AID FOR THE DEVELOPMENT OF IRRIGATION (Caruthers ed. 1984). According to Caruthers, successful small-scale projects must be planned through forms of participatory research which carefully analyze the agronomy, engineering and local labor requirements, as well as the management problems. See also B.F. Johnston, *Governmental Strategies for Agricultural Development*, in STRATEGIES FOR AFRICAN DEVELOPMENT, *supra* at 155-181.

Credit for smallholders is another area where experience with government managed programs, particularly those that attempt to tie loans to particular agricultural schemes or activities, have been problematic. See D.K. Leonard, *Putting the Farmer in Control*, in STRATEGIES FOR AFRICAN DEVELOPMENT, *supra* at 184-214. Many observers now urge the need to link endogenous credit structures such as community savings and loan groups to banks. According to Leonard, the recommended strategy seems to be a mix of community capital and bank capital locally administered under group-made rules with group peer pressure to provide incentives for repayment. See also, K. Tuinenburg, *Experience with Food Strategies in Four African Countries*, in FOOD POLICY, *supra*; and N.T. UPHOFF, LOCAL INSTITUTIONAL DEVELOPMENT: AN ANALYTICAL SOURCEBOOK OF CASES (1986).

Strategies to confront desertification and most practices leading to environmental degradation must usually entail a combination of local,

community organized rehabilitation efforts, including reforestation, water catchment schemes, and community enforced land use regulations. These activities obviously require “genuine grassroots organizations empowered to make and enforce rules, raise revenue [and engage] in collective resource management” (J. GORSE & D. STEEDS, *DESERTIFICATION IN THE SAHELIAN AND SUDANIAN ZONE OF WEST AFRICA* (1987)). See also M. CERNEA, *NON GOVERNMENTAL ORGANIZATIONS & LOCAL DEVELOPMENT* (1988); L. RALSTON & J. ANDERSON, *VOLUNTARY EFFORTS IN DECENTRALIZED MANAGEMENT: OPPORTUNITIES & CONSTRAINTS IN RURAL DEVELOPMENT* (1983) (projects to develop and maintain rural roads); RESEARCH EXTENSION, FARMER: A TWO-WAY CONTINUUM FOR AGRICULTURAL DEVELOPMENT, *supra* (to develop small scale fishing); *Id.* (to encourage competition, expansion and efficiencies in the marketing of crops all look towards the use of self-managed local organizations). See also Leonard, *supra*.

It is now becoming accepted wisdom that reduction of fertility rates requires effective primary health care coupled with “empowerment” education and more direct “involvement [in] the entire development process” (Sai, *supra*). See also MacCormack, *supra*.

The promotion and expanded exercise of rights of participation are crucial to enable smallholders to protect themselves from development projects which threaten expropriations, displacement, disruption of land tenure systems, risk-fraught resettlement schemes, food crop displacement, health risks etc. That is a central teaching of some important World Bank literature which the Bank should take seriously. See, e.g., M. CERNEA, *PUTTING PEOPLE FIRST: SOCIOLOGICAL VARIABLES IN RURAL DEVELOPMENT* (1985); C. ESCUDERO, *INVOLUNTARY RESETTLEMENT IN BANK-ASSISTED PROJECTS: INTRODUCTION TO LEGAL ISSUES* (1988); R. Noronha & F.J. Lefham, *supra* (1983); EDI/WORLD BANK, *supra*. Similarly various forms of organization and free, collective action are essential to resist, protest and redress state programs and bureaucratic practices which harm smallholders in serious ways. See, e.g., C. Mumbengegwi, *The Political Economy of a Small Farmer — Agricultural Strategy in SADCC*, in *POVERTY, POLICY AND FOOD IN SOUTHERN AFRICA*, *supra*.

The struggles to bring women into development processes, and to change customs, practices and policies which discriminate against them depends, essentially, on processes of group education, mobilization and organization. See, e.g., INTERNATIONAL LABOR ORGANIZATION (ILO), *RURAL DEVELOPMENT AND WOMEN IN AFRICA* (1984), and STAUDT, *supra*.

The role of NGOs in relation to these forms and functions of participation is increasingly recognized. See, e.g., M. CERNEA, *NON GOVERNMENTAL ORGANIZATIONS & LOCAL DEVELOPMENT* (1988); G. HYDEN, *supra*;

G. Hyden, *The Invisible Economy of Smallholder Agriculture in Africa* in UNDERSTANDING AFRICA'S RURAL HOUSEHOLDS & FARMING SYSTEMS (J.L. Mook ed 1986); UNEP, *supra*; N.T. UPHOFF, LOCAL INSTITUTIONAL DEVELOPMENT (1986). C. Mumbengegwi (*supra*) discusses the significant role of farmers' organizations in Zimbabwe. It is interesting to learn that a number of NGOs in Africa have organized the Forum for African Voluntary Development Organizations (FAVDO) in 1987. Among FAVDO's stated objectives are: support for national and regional NGOs; creation of environments conducive to NGO activities; establishment of channels of communication and advocacy with governmental and intergovernmental organizations, to develop guiding principles for NGOs. See Founding Resolution, Conférence Internationale des ONG, Dakar, May 30, 1987. Mazide N'diaye, President of FAVDO, is reported as saying that NGOs have a critical role to play in helping to build grassroots foundations for more participatory, democratic orders in Africa in the context of today's "patrimonial, authoritarian, administrative" state. He emphasizes the crucial role that NGOs must play in human rights education, the assertion of rights, and the nurturing of political self-reliance among the rural poor. See P. Robinson, *Transnational NGOs: A New Direction for U.S. Policy*, 18 ISSUES 41-46 (1989). The World Bank has not undertaken a major initiative to encourage use of NGOs in many kinds of development projects. For a report see L.F. SALMEN & A.P. EAVES, NON GOVERNMENTAL ORGANIZATIONS & THE WORLD BANK (1989). What the Bank clearly needs to do is recognize that the encouragement of NGOs, as grassroots, support, advocacy and legal resource groups, requires creation of a legal environment enabling this activity. On this theme see Paul & Dias, *Developing Legal Strategies to Help Combat Rural Impoverishment: Using Human Rights and Legal Resources*, in THE INTERNATIONAL CONTEXT OF RURAL POVERTY IN THE THIRD WORLD 231-67 (1986).

Much of the discussion on human rights in rural development is taken from Paul, *International Development Agencies, Human Rights & Humane Development*, *supra*; see also J. Paul & C. Dias, *Developing Legal Strategies to Help Combat Rural Impoverishment: Using Human Rights and Legal Resources*, in THE INTERNATIONAL CONTEXT OF RURAL POVERTY IN THE THIRD WORLD, *supra*. For a useful study showing how the CEDAW convention can and should be used to influence development activities of governmental and intergovernmental agencies, see K. Tomasevski, *Women-in-Development Cooperation: A Human Rights Perspective*, 6 SIM NEWSLETTER & NETHERLANDS Q. OF HUMAN RIGHTS 29-54 (1988).

Shortly after this article was finished, the UN ECA and other organizations sponsored an "International Conference on Popular Participation

in the Recovery and Development Process in Africa.” The purpose of the conference was to enable African and international Africa-oriented NGOs to present their view on African development processes to SSA governments and to international development agencies such as the Bank, FAO and bilateral aid agencies. Representatives of NGOs based in some forty countries attended. The Conference adopted a Report and an *African Charter for Popular Participation in Development* (E/ECA/CM.16/11) (Arusha, 1990). The Charter contains a vigorous demand for recognition of rights enabling popular participation in development, notably rural development, and it called upon African states and international organizations “to create the necessary conditions for such an empowerment,” to democratize the process of development and to respect and implement the universal rights now guaranteed by various international instruments. The Report and Charter lend powerful support to the central arguments of this paper.