

Realizing the Transformative Vision of the Declaration on the Right to Development

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When the General Assembly of the United Nations adopted the Declaration on the Right to Development in 1986, it thereby consecrated the right of all humanity – as peoples and as individuals - to the constant improvement of their well-being as human persons. To the majority of the world's people, the Declaration meant a life in larger freedom, with equality in dignity and rights, and the resurgence of hope. The world has come a long way since then. As an international community, we have since seen unprecedented progress in virtually every sphere of human activity, the rise of a unified global economy and an interdependent human community. At the same time, and increasingly in recent years, we hear the resounding calls for freedom from want and freedom from fear, to which all people are entitled under the Universal Declaration of Human Rights. Conventional wisdom on development policy based exclusively on economic growth with little regard for our well-being had permitted the rise of poverty and inequality; interconnected threats, challenges and crises; and an ecological habitat which crossed the threshold of nature.

The alternative vision for development policy and international cooperation that was enshrined in the Declaration on the Right to Development, in 1986, had the transformative potential to bring about a paradigm shift that promised to advance human rights, development and peace for us all. Unfortunately, the years that followed saw the continuation of the predominant model of economic development, which despite leading to considerable progress, neglected social

concerns, including human rights. Globalization, fostered and facilitated by advances in information, communications and technology, provided the context and overarching philosophy of development and brought many benefits. However, those benefits were, and continue to be, overwhelmingly concentrated among the already privileged: nations and populations alike. The interdependence and interconnectedness that globalization reinforced also meant that the negative impacts of such development crossed national boundaries with increased speed and ease, resulting in global economic, financial, food, energy, climate and other challenges. These, exacerbated by a lack or poor implementation of regulations, culminated in multiple crises.

It is now widely recognized that reliance on market forces as the sole engine and framework for development has failed. In the wake of these failures, it is time to reinvigorate the right to development together with all human rights, if we are to surmount the challenges to our common future, including poverty, inequality, hunger, unemployment, lack of access to clean water and sanitation, and limited sources of energy and natural resources.

The normative framework of the right to development reflects principles which can guide and shape policies and practices, especially in international economic relations, including international cooperation and the global partnership for development. All the present crises, most notably the climate crisis, have demonstrated that development itself has its limits. It is time to rethink how we can achieve a kind of development that is not aimed exclusively at creating and distributing material wealth, with its pressures on the environmental resources of our shared planet, but takes into account human rights and respect for peoples and individuals in all nations.

The international community has agreed on the need for sustainable, inclusive and equitable development. This will need to take place in the backdrop of the realities of our times - the changing contours of geopolitical and socioeconomic trends in an increasingly multipolar world. The fundamental changes taking place around us, including the worldwide calls for democracy, human rights and responsible governance and institutions, will in all likelihood continue to shift the ground beneath our feet. Whereas laws and policies concerning development issues and those relating to human rights and the environment have been evolving in their separate compartments, the right to development can support coherence in the policies emerging from the new ways of thinking that this paradigm demands.

The concept of an enabling environment for development, which supports the enjoyment of all -indivisible and interdependent- human rights by all, lies at the heart of the Declaration. The right to development has been described as an enabling right for its ability to facilitate the enjoyment of other human rights. This right can help us to address gaps and failures in responsibility, accountability and regulation in both national and global governance. The RTD is strong in its emphasis on duties, especially the duty of the international community to cooperate, which is particularly consonant with multi-stakeholder involvement in contemporary governance at all levels, and the emergence of a multiplicity of actors and forms of global partnership. Continued globalization, regional integration and the emergence of new alliances holds some promise for new and more equitable partnerships for a shared future, provided that these take place and operate in an enabling and equitable environment. The multiple crises of recent years further affirm the call of the Declaration on the Right to Development for

meaningful reform in global governance most notably in the economic arena, to ensure equality, democracy and accountability in line with human rights standards.

Making the right to development a vibrant force and living reality for all people everywhere calls for coherent policy, convergent practice and collective action supportive of all civil, political, economic, social and cultural rights, development and peace both within and between countries. Realizing the right to development will serve to renew and revitalize the global partnership for development, bringing to it a focus on human dignity and human rights-based approach to development, a vibrant sense of community and humanity, participation and mutual understanding, solidarity and shared responsibilities. Real development far surpasses economic growth, and is premised on human well-being, dignity and rights. This can therefore inform our search for responses to the multiple crises, for sustainable development and for a transformative Post-2015 Development Agenda. The Right to Development can play a bridge-building and humanizing role as it supports the realization of the full potential of every individual and all peoples. It can help to ensure that human rights also apply at the global level, in all forms of international cooperation and activities, including aid, trade, debt, technology transfer, intellectual property, access to medicines and climate change.

The evolving trends in discussions around the shortcomings of the MDGs and thoughts for a post-2015 Development Agenda reflect widespread agreement on the imperative of human rights and fundamental freedoms as a founding pillar. MDG8 on the global partnership for development lacked a strong normative foundation as it failed to integrate international human rights commitments. All human rights, including the right to development, should find their place in the post-2015 Development Agenda. International human rights standards represent

legally binding norms and their realization can support the ultimate ends of development. The human rights framework also offers a path to policy coherence that transcends traditional State-State cooperation and applies to new forms of cooperation between inter alia, States, civil society, international organizations and the private sector. Any new development vision should reflect the legal and moral obligations of States to promote and protect human rights including the right to development, in order to ensure accountability.

The human person is the central subject of development and the active participant and beneficiary of the RTD, and has the right to participate in, contribute to and enjoy development. Development in the DRTD takes place through the free, active and meaningful participation of all. The RTD defines how the process of development is to take place, with a view to the free and complete fulfillment of all human persons.

Equity and equality are at the heart of the RTD which calls for fair development policies at all levels. Equality of opportunity for all in access to basic resources - education, health, food, housing and employment, fair distribution of income, social justice in development and socio-economic reform to eradicate injustice, equality of opportunity for development for both nations and individuals, and fair distribution of the benefits of development both locally and globally, are all integral elements of the RTD. This right integrates a systemic and structural approach which can help us to disclose underlying and intrinsic discrimination, inequalities and asymmetries that are often masked by economic aggregates. The RTD's international and collective notions of peoples can support the entitlement of all in the Universal Declaration of Human Rights, to a social and international order in which the rights and freedoms set forth therein can be fully realized by all humanity.

Moving along the path from international instruments to regional ones, the DRTD is increasingly complimented by other instruments which enshrine this right- among them, the African Charter on Human and People's Rights, the Arab Charter of Human Rights and the ASEAN Charter. International trade, investment and all forms of international cooperation are growing at a fast pace in the global South – including across Africa, the Asia-Pacific region and the Middle East. The RTD can serve to ensure that these arrangements, both multilateral and bilateral, including through South-South and triangular relations, take place within a framework of accountability and fairness to all. The proliferation of Bilateral Investment Treaties (BITS) and International Investment Agreements (IIAs) must at the same time leave sufficient policy space for States to perform their protective and regulatory functions and ensure the accountability of all parties, including through fair and transparent dispute settlement procedures.

This RTD is made legally binding under Article 22 of the African Charter on Human and People's Rights and was upheld in the ruling of the African Commission on Human and People's Rights in the *Endorois Case*. In relation to the potential of the RTD in a particular context, the abundance of natural resources and extractive industries in the African continent makes this right, which also upholds the permanent sovereignty of peoples over their natural wealth and resources, particularly relevant. The rights and responsibilities of people, States and the private sector, including Transnational Corporations should be addressed within all international investment agreements from their negotiation stage to dispute settlement between investors and States, as well as in international development policies including on intellectual property and access to medicines. This is important to the treatment of HIV and other communicable diseases which continue to pose significant challenges especially in developing countries. Africa is

home to many Least Developed Countries (LDCs), sometimes viewed as the new grounds for globalization, and Land-locked Developing Countries (LLDCs), whose peoples face particular challenges and vulnerabilities which must be addressed equitably.

The ASEAN Declaration on Human Rights enshrines the right to development. The Asia-Pacific region has also been at the forefront of the course of the right to development and has much to gain from the application of its normative framework, given the magnitude of its size and population, the diversity of its peoples and cultures, the richness of its natural resources, and the vast inequalities that exist within its societies, including those based on class, caste, religion, race, ethnicity and gender. In the RTD, women must have an active role in development. Asia is home to some LDCs and LLDCs, and also to many Small Island Developing States (SIDS), whose populations face particular vulnerabilities, including natural disasters caused by climate change and profound environmental challenges including the very threat to their survival as peoples and as nations. The development paradigm of the RTD led by human well-being will help to bring about a more equitable development path consonant with human rights, and may contribute to putting out the flames of social unrest and conflict, ethnic violence and civil war. The RTD is essential to post-conflict state building, where States must start to build again against the backdrop of a new, changing and fragile world. Civil and political rights, economic, social and cultural rights, development, and peace, security and disarmament all meet in the normative framework of the RTD, with the potential of promise for inclusive, equitable and sustainable development. The RTD is universal in outreach, applying to people of both developed and developing countries, whether in the North or South, East or West. It can help us to reach the future we want, as one collective humanity. At the same

time, it can help us to address the diverse and distinct challenges we face, depending on our different contexts, which also shape and define our destinies as men, women and children of one humanity.