

Chapter 1

The Right to Development: Origins, History and Institutional Development

Daniel J. Whelan*, Mihir Kanade** and Shyami Puvimanasinghe***

Learning Objectives:

- To trace the origins and historical evolution of the Right to Development leading to the adoption of the 1986 Declaration on the Right to Development (DRTD) by the United Nations General Assembly.
- To identify key milestones in the evolution of the Right to Development since the adoption of the DRTD.
- To trace the institutional development of the Right to Development within the United Nations as well as in regional and sub-regional organizations.

Introduction

Most historical accounts of the right to development (RtD) locate its key origin in an inaugural lecture given by Senegalese jurist Kéba M’Baye to the International Institute for Human Rights (Strasbourg, France) in 1972,¹ and then jump to the “reiteration” of the right by the Commission on Human Rights in 1979, starting a process which eventually culminated in the United Nations Declaration on the Right to Development, 1986 (DRTD)². Some of the very early literature on the RtD fills out the story a bit more (e.g., Alston 1979; Andreassen and Marks 2007), but most accounts largely dispense with historical questions and begin with the formation of the Working Group on the Right to Development in 1981. However, there was a time when the RtD was quite differently framed, within a much broader global dialogue and debate about economic justice, which began in the mid-1950s, grew in intensity in the 1960s, and culminated in the demands for

* Associate Professor of Politics and International Relations, Hendrix College, Arkansas, United States of America.

** Head of the Department of International Law and Human Rights, and Director of the Human Rights Centre at the UN mandated University for Peace.

*** Human Rights Officer, Office of the UN High Commissioner for Human Rights.

¹ Kéba M’Baye, “Le droit au développement, comme un droit de l’homme”, *Revue des Droits de l’homme*, Vol. V-2-3 (1972), pp. 503–34.

² United Nations General Assesmbly, *Declaration on the Right to Development*, A/RES/41/128, 4 December 1986.

a New International Economic Order (NEIO) and the adoption of the Charter on the Economic Rights and Duties of States (CERDS) in 1974.³

It was another Senegalese diplomat, Doudou Thiam, who first articulated the “right to development” in a speech delivered at the opening session of the 21st UN General Assembly on 23 September 1966.⁴ This began as a reflection on the preceding twenty years of U.N. history and the failure of the international community to meet the goals of the U.N.’s first Development Decade.⁵ Thiam tied that failure to another lingering problem: that the achievement of political and legal sovereignty by newly decolonized states did not resolve the growing economic imbalance between the developing and developed worlds.

The problem, Thiam argued, lay in the inequitable international division of labour and deterioration in the terms of trade since 1950. In the post-War global economy, the underdeveloped countries had taken on the role of producers of raw materials and importers of finished goods: “In theory, the old colonial pact was doubtlessly abolished at the end of the last century, but in practice it has been maintained for a long time....An actual pillage of the developing countries has been organized on a world-wide scale”⁶.

Thiam called upon developing countries to act: the time had come to organize an “economic Bandung Conference”—a reference to the 1955 Afro-Asian summit which exemplified a newly emerging spirit of post-colonial unity and solidarity. Toward the end of his remarks, Thiam called for action:

“What is our task? We must lay the foundations for a new world society; we must bring about a new revolution; we must tear down all the practices, institutions and rules on which international economic relations are based, in so far as these practices, institutions and rules sanction injustice and exploitation and maintain the unjustified domination of a minority over the majority of men. Not only must we reaffirm our right to development, but we must also take the steps which will enable this right to become a reality. We must build a new system, based not only on the theoretical affirmation of the sacred rights of peoples and nations but on the actual enjoyment of these rights.”⁷

The RtD was thus framed within an emerging post-colonial critique of the dominant strand of development thinking after World War II – “modernization theory” – which was first fully articulated in W.W. Rostow’s “take-off” model of economic growth published in 1960 (Rostow 1960). This development paradigm, in which national economies pass through various stages – from pre-industrial “traditional” society toward high-consumption, fully industrialized

³ United Nations General Assembly, *Declaration on the Establishment of a New International Economic Order*, A/RES/S-6/3201, 1 May 1974; United Nations General Assembly, *NIEO Programme of Action*, A/RES/S-6/3202, 1 May 1974; United Nations General Assembly, *Charter on the Economic Rights and Duties of States*, Resolution 3281 (XXIX), 12 December 1974.

⁴ United Nations General Assembly, *Official Records*, Twenty-first Session, 1414th Plenary Meeting, 23 September 1966.

⁵ *Ibid.*, paragraphs 180-230.

⁶ *Ibid.*, paragraph 223.

⁷ *Ibid.*, paragraph 228.

modernization – was challenged by many Third World states that were influenced by dependency theorists (such as Raul Prebisch, who was UNCTAD Secretary-General from 1964 – 1969). Dependency theory maintained that declining terms of trade thwarted developing countries from moving out of production and trade of primary goods. While critical of this dominant development model, challengers nevertheless still subscribed to the notion that trade was the primary engine of development, a stance that remained a centrepiece of development policy throughout this period – as indeed, it continues to do so today.

Roots of the Right to Development

As a matter of justice, a fundamental root of the RtD (and, incidentally, its link to human rights) was the right to self-determination. While this right appears in many foundational constitutional documents of the post-War international order (especially the U.N. Charter), it was the identical articulation of the right to self-determination as Article 1 of the two human rights Covenants that defined the scope and content of the right.

Including the right to self-determination in the Covenants was difficult. In 1954, the Commission on Human Rights had proposed language on the right, but after handing off the draft Covenants to the General Assembly, its Third Committee spent two years debating its scope and content—or whether it should be included as a *human* right at all.⁸ By 1956, the final draft article was approved, but discussions continued about how the right could be realized and/or enforced, especially in its economic instantiation: the right to “permanent sovereignty over natural resources”. Chile took the lead in the Commission on Human Rights to urge the U.N. to further elaborate the scope and content of this right.

Another key genealogical root (perhaps the first) in the establishment of a common Third World stance on development policy was the 1962 Conference on the Problems of Economic Development, held in Cairo, Egypt. The “Cairo Declaration of Developing Countries”, issued at the end of the Conference, was subsequently endorsed by the U.N. General Assembly.⁹ Dominating the discussion were the international obstacles to “development”, with many delegations preferring the word “underdeveloped countries” to “developing countries” to underscore the idea that structural obstacles were thwarting the process of development itself. The Conference records¹⁰ also reflect the human impact of underdevelopment: some Head-of-Delegation speeches are peppered with references to poverty, human dignity, and the well-being of people – language that would, unfortunately, all but disappear by the time the NIEO and CERDS were adopted in 1974. The Cairo Conference was instrumental in the U.N.’s decision to establish

⁸ Daniel Whelan, *Indivisible Human Rights: A History* (Philadelphia, University of Pennsylvania Press, 2010), pp. 139–41.

⁹ United Nation General Assembly, *The Cairo Declaration of Developing Countries*, Resolution 1820 (XVII), adopted on a vote of 78-0-2, 18 December 1962).

¹⁰ Partial proceedings (Head-of-Delegation and Conference organizing speeches) can be found in United Republic of Egypt, *Conference on the Problems of Economic Development* (Cairo, Egypt, General Organization for Government Printing Offices, 1962). There were no summary records of sessional meetings.

the Conference on Trade and Development (UNCTAD), which held its first summit in Geneva in 1964.

The Right to Development Emerges: The Algiers Summit and UNCTAD II

Doudou Thiam’s 1966 General Assembly speech came as frustration grew over the failure of the international community to meet the goals established by the resolution declaring the 1960s as the U.N.’s “Development Decade” and the trade commitments (as modest as they were) that were hammered out in Geneva two year earlier.¹¹ In October 1967, the Group of 77 held its first Ministerial Meeting in Algiers to chart a common agenda in advance of UNCTAD II, which would be held in New Delhi the following year. Many of the discussions revolved around the attitude the G-77 should take relative to the developed countries, especially about trade, aid and development assistance.

After a few weeks of deliberations, the Conference adopted the “Charter of Algiers”, the second significant normative ancestor of the NIEO.¹² Compared to the 1962 Cairo Declaration, which was much shorter and focused mostly on setting guidelines for the first UNCTAD conference, the Charter of Algiers was a more robust document that established the pattern and structure that the NIEO outcome documents would take in 1974. The Charter of Algiers begins by proclaiming that “[t]he lot of more than a billion people of the developing world continues to deteriorate as a result of the trends in international economic relations”. Part II of the introductory section of the Charter outlines the failures of the agreements reached at UNCTAD I to materialize—again, with an emphasis on the worsening conditions of trade in the 1960s. Part III underlines the obligation of the international community to “rectify these unfavourable trends and to create conditions under which all nations can enjoy economic and social well-being, and have the means to develop their respective resources to enable their peoples to lead a life free from want and fear”.

The Charter of Algiers was the “new world economic charter” that Doudou Thiam envisioned in his 1966 General Assembly speech. He was thus determined to drive home the sense of *moral* obligation reflected in it. Thiam insisted that the Charter of Algiers had replaced the “rights” that former colonial powers claimed for themselves in the post-war global economic order:

“[W]ith a new type of juridical right: the right of the countries of the Third World to development....Those principles, amplified and codified, could constitute the nucleus of a

¹¹ United Nations General Assembly, *United Nations Development Decade: A Programme for International Economic Co-operation*, Resolution 1710 (XVI), 19 December 1961; United Nations Conference on Trade and Development, *Final Act and Report of the First United Nations Conference on Trade and Development – UNCTAD I*, (23 March – 16 June 1964), E/CONF.46/141, 16 June 1964.

¹² Full text of the Charter of Algiers can be found online, at <http://www.g77.org/doc/algier~1.htm>, accessed on 2 July 2017.

legal right to development. Development and aid must no longer be regard as moral issues or matters of charity; they constituted a juridical obligation.”¹³

Thiam carried this sentiment to the 1968 UNCTAD II summit in New Delhi, India. He urged Member-states to adopt the Charter of Algiers as a “universal declaration of the rights of the developing countries” – a complement to the Universal Declaration of Human Rights. “The New Delhi Conference must see to it that millions of men and women of the developing world did not hope in vain.”¹⁴ Thiam’s proposal for this new “declaration of rights” was beginning to gain some traction: Louis Nègre of Mali, Beshir El Bakri of Sudan, and Zouheir Khani of Syria specifically endorsed the idea.¹⁵ Sisouk Na Champassak of Laos said it should include a right to receive financial and technical assistance from the developed world.¹⁶ The Soviet Union felt that the Conference would be justified in “proclaiming the right of the newly independent States to receive compensation” for the damages suffered under colonialism.¹⁷

However, this support was still not enough. The language of the “right to development” failed to appear anywhere in the official statements or the resolutions, declarations and other decisions adopted at UNCTAD II. And while twenty-five representatives spoke of poverty in their official statements and Indian Prime Minister Indira Gandhi’s inaugural address was framed around the problem of poverty,¹⁸ the word “poverty” appears only once in the official outcome documents of the second session of UNCTAD. The official, sober tone of these documents indicates a still narrowly-defined “economic growth” model of development within the context of existing global institutions.

UNCTAD III: The “Right to Development” becomes “the Rights and Duties of States”

By 1971, a group of Latin American states had begun to embrace the concept of the “right to development”, but it had taken on a more concrete character – articulating not only a number of development – related rights held by developing countries, but now also including corresponding obligations of developed countries and the international community as a whole. Prior to the second G-77 Ministerial Meeting (which met in Lima, Peru from 28 October – 7 November 1971), its Special Committee on Latin American Coordination (CECLA) adopted its “Consensus of Lima”, which included as Principle No. 1 the “Right to Develop”:

“Economic development is both a duty and a right. The developing countries solemnly undertake to mobilize all their efforts to change their structures with a view to ensuring the economic progress and social well-being of their peoples. Economic development is also a

¹³ See: G-77 Doc. MM.77/I/SR.14, 25 October 1967, in Odette Jankowitsch and Karl Sauvart, *The Third World without the Superpowers: The Collected Documents of the Non-Aligned Countries, Volume I* (New York, Oceana Publications, 1978), pp. 311–12.

¹⁴ *Ibid.*, p. 164.

¹⁵ UNCTAD, *Proceedings of the United Nations Conference on Trade and Development, Second Session*, (Nègre statement, 141; El Bakri statement, 169; Khani statement, 174).

¹⁶ *Ibid.*, p. 133, ‘Statement by Sisouk Na Champassak, Minister of Finance of Laos’.

¹⁷ *Ibid.*, p.184, ‘Statement by Nikolai Patolichev, Minister for Foreign Trade of the USSR’.

¹⁸ *Ibid.*, pp.409–11, ‘Address by Mrs. Indira Gandhi, Prime Minister of India, at the inaugural ceremony, 1 February 1968’.

right: developing countries are entitled to demand from the international community the elimination of any impediments to development and the creation of a world economic environment conducive to its promotion and acceleration.”¹⁹

For many Latin American states, the most important impediment to their development concerned their ability to extract and exploit their own natural resources. Hence, Principle No. 2 of the Consensus of Lima addressed “Sovereignty over natural resources”, in particular emphasizing that any “external political or economic pressure” restricting this right would violate the right to self-determination and constitute “economic aggression” against the country concerned.²⁰

Again, the language on the RtD that appeared in the “Consensus of Lima” never made it into the outcome document of the Second Ministerial Meeting of the G-77 (the “Declaration and Programme of Action of Lima”). But the idea was still alive. Greater numbers of developing countries sought to turn the abstract “right to development” into a more concrete instrument on “the economic rights and duties of states”, which many wanted to be legally binding. This move materialized at the third session of UNCTAD, held in Santiago, Chile from 13 April to 21 May 1972.

At Santiago, Mexican president Luis Echeverria formally called for a Charter on the Economic Rights and Duties of States.²¹ Mexico had been working closely with other Latin American States, especially Chile and Brazil, to generate a general consensus on principles to be included in the Charter (Meagher 1979). At the following plenary meeting, Hernan Santa Cruz of Chile – one of the early architects of the U.N. human rights system – rose in support of the proposal, making the case that by virtue of its inclusion in the two human rights Covenants, the right to self-determination and especially permanent sovereignty over natural resources was *legally binding*.²²

At the 108th plenary meeting on 12 May, Ethiopia introduced a draft resolution on behalf of the G-77, calling for the establishment of a working group to draft a Charter of Economic Rights and Duties.²³ Santa Cruz pointed out that the Universal Declaration had included economic, social and cultural rights, and that Article 28 had recognized that the realization of those rights was intimately linked with the existence of a just social and economic order.²⁴ Mexico made the next link in the overall argument: the best way for the developed world to prove their “true desire” for economic

¹⁹ G-77 Doc. MM/77/II/Misc.3 and Add.1 and Corr.1, reprinted in Karl Sauvant, *The Third World without the Superpowers (Second Series): The Collected Documents of the Group of 77 (Volume II)* (New York, Oceana Publications, 1981), p. 556.

²⁰ *Ibidem*.

²¹ United Nations Conference on Trade and Development, *Proceedings of the United Nations Conference on Trade and Development, Third Session, Santiago (Chile), 13 April - 21 May 1972*, TD/180/SR.92, 17 April 1972.

²² ‘Summary of Statement Made at the 93rd Plenary Meeting (20 April 1972) by H.E. Mr. Hernan Santa Cruz, Ambassador with Rank of Minister of State, Chile’, in United Nations Conference on Trade and Development, *Proceedings of the United Nations Conference on Trade and Development, Third Session*, 57–58.

²³ U.N. Doc. TD/L.62

²⁴ United Nations Conference on Trade and Development, *Proceedings of the United Nations Conference on Trade and Development, Third Session*, p. 124.

cooperation, and their respect for the political and economic autonomy of developing states, was to “accept the duties and rights [that were] indispensable for a just order and stable world”²⁵. Antonio Álvarez Restrepo of Colombia took the argument a step further: such a Charter “could be even *more important* than the Universal Declaration of Human Rights, because it would defend the interests of mankind, not only at the level of the individual, but at the level of whole peoples”.²⁶

At the 115th plenary meeting, the Conference adopted resolution 45 (III), “Charter of the Economic Rights and Duties of States” which called for the establishment of a 31-country working group to report a draft Charter to UNCTAD’s Trade and Development Board after the Conference.²⁷ No doubt as a result of the lobbying of the Latin American states, the sixth recital of the resolution read:

“*Recalling* that the Universal Declaration of Human Rights and the International Covenants on Human Rights make the full exercise of those rights dependent on the existence of a just international order and respect for the principle of self-determination of peoples and of the free disposition of their natural wealth and resources;”²⁸

Despite this rearticulation of generalized economic demands in normative terms – attached to core economic and social rights – the deliberations and discussions at UNCTAD III would be the last within the process leading to the NIEO and CERDS where the significant moral and normative dimensions of underdevelopment, bound up with the “right to development”, would find expression. The CERDS Working Group met in four sessions between 1972 and 1974 to draft the Charter, which was finally submitted by UNCTAD to the U.N. General Assembly in 1974.²⁹ On 12 December 1974, the General Assembly adopted the Charter on the Economic Rights and Duties of States on a 120-6-10 vote.³⁰

Thus, the “right to development” as a general appeal for economic justice, found its final expression in the Charter of Economic Rights and Duties of States. While drafting of the Charter was part and parcel of the broad program of the G-77 that led to the 6th Special Session of the General Assembly, where the NIEO outcome documents were adopted, the CERDS was not part

²⁵ Ibid., p.125.

²⁶ Ibid., p.153. Emphasis supplied.

²⁷ The resolution was adopted on a vote of 90-0-19. All the abstentions were from the OECD countries. Luxembourg, Netherlands, Portugal, Belgium, France and Greece voted ‘yes’. Most of the abstentions were over technical matters, including the position that drafting of such a Charter should be handled by the UN General Assembly or ECOSOC. The U.S. remarked, simply, that it had ‘serious reservations about a number of features’ of the resolution. See: Karl Sauvart, *The Third World without the Superpowers (Second Series)* (Volume II), pp. 309–34.

²⁸ United Nations Conference on Trade and Development, *Proceedings of the United Nations Conference on Trade and Development, Third Session*, Annex 1, p.58.

²⁹ Full drafting history of the Charter can be found at <http://legal.un.org/avl/ha/cerds/cerds.html>, accessed on 1 August 2017.

³⁰ The negative votes came from Belgium, Denmark, the Federal Republic of Germany, Luxembourg, the United Kingdom and the United States. Abstaining were Austria, Canada, France, Ireland, Israel, Italy, Japan, the Netherlands, Norway and Spain. See: “Charter of Economic Rights and Duties of States”, *International Legal Materials*, vol. 14, no.1 (1975): pp. 251–65.

of that process. The words “human rights” appear nowhere in the Declaration on the Establishment of a New International Economic Order, and there are only two references to “the well-being of peoples”. The CERDS contains a few more of these human-centred references, but there is only one specific reference to human rights — and that was because the United States insisted upon its inclusion.³¹

Toward a Human Right to Development

As it was first articulated by Doudou Thiam in the late 1960s, and later appropriated by Latin American states, the RtD introduced a moral imperative to Third World demands for global economic justice *as a right*. It was rooted generally in the right to self-determination, and especially its economic constituent, the right to permanent sovereignty over natural resources. That right, as it related to development, only had meaning insofar as developing countries were able to actually extract and exploit those resources in order to trade in the global economy, and to have independent and autonomous control over that process. The RtD was deployed as a broadly-held right of underdeveloped states, and the developed world and the international organizations that they effectively controlled were clearly the duty-bearers responsible for the right’s realization. However, despite its normative weight and tone, the original right to development was decidedly *not* framed as a human right – notwithstanding attempts to forge links between it and, for example, the Universal Declaration of Human Rights and the Covenants.

The Commission on Human Rights and the Ganji Reports (1969-1974)

Since the mid-1960s, the Commission on Human Rights had slowly begun to turn some attention to addressing obstacles to the enjoyment of economic and social rights in developing countries, beginning with a number of U.N. Seminars on “Human Rights in Developing Countries”, the first of which was held in Kabul, Afghanistan in 1964.³² Following a suggestion posed by the seminar’s participants,³³ the Secretary-General prepared a “Study of special problems relating to human rights in developing countries”³⁴ which was finally taken up after a second seminar had been convened in Dakar, Senegal in 1967.³⁵ The Commission voted to make it a “priority item” on the following year’s agenda,³⁶ and requested another report by the Secretary General in 1968. The Commission reviewed that report³⁷ in 1969, and in 1970 appointed Iranian diplomat Manouchehr Ganji to the post of Special Rapporteur to prepare a comprehensive report on the realization of all the economic, social, and cultural rights set forth in the UDHR and ICESCR, with a special emphasis on the role of the Commission in that respect.³⁸

³¹ Under Chapter I, “Fundamentals of International Economic Relations”, one of the “governing principles” is “respect for human rights and international obligations”. It is the eleventh principle listed out of fifteen.

³² ST/TAO/HR/21.

³³ *Ibid.*, paragraph 203.

³⁴ E/CN.4/880.

³⁵ ST/TAO/HR/25

³⁶ E/CN.4/940, pp. 173–75.

³⁷ E/CN.4/988.

³⁸ The Commission had actually first requested the appointment in 1969, in Resolution 14 (XXV).

Ganji completed his report, “The Widening Gap”³⁹ in 1973. The report was quite technical in nature: the first part provided a comparative analysis of constitutional provisions regarding economic and social rights. The next sections contained social and economic indicators on health, education, income distribution, economic growth by country, divided into the three broad groupings of OECD, socialist, and developing countries. Part II of the study painted a bleak picture of poverty in Asia, Africa, and Latin America, which India’s representative on the Commission, Leela Damodara Menon, called “frightening”.⁴⁰

Most of the report was focused on internal, domestic factors and forces affecting the realization of economic and social rights around the world. Ganji emphasized many points quite emphatically during his presentation of the report’s findings to the Commission on 26 March 1973. First, he concluded that “the adoption of regional and international measures should not be used as an excuse for delaying the necessary national action, since regional and international instruments did not create new rights but only spelled out existing ones”.⁴¹ Second, he urged that “radical reforms were needed in the [...] less developed countries — land reform, the strengthening of administration, changes in educational systems....Such reforms, and the right of everyone to participate in economic, social, cultural, and political activities, should not be considered as by-products of economic growth to be postponed for a later stage of development”.⁴² He concluded by stating that the “[p]rimary responsibility for the needed social and economic reforms lay with the [less developed countries] themselves. Blaming foreign countries for all the ills they suffered was useless. The wealthy countries could do little to spread birth control or institute land reform programs, for instance”.⁴³

Toward the ‘Right to Development’ as a Human Right

Ganji revised the study⁴⁴ and presented it at to the Commission’s 30th session in 1974. His tone was more urgent than it had been in 1973, and the NIEO frame is markedly evident. The revised study placed a more explicit emphasis on the international dimensions of under-development than had the original, which did not speak of the global economic climate except in the most general terms. The revised report focuses specifically on the targets set by the International Development Strategy of the U.N. Second Development Decade and on the growing debt burden of the Third World.

³⁹ E/CN.4/1108 and Add. 1–9.

⁴⁰ United Nation Commission on Human Rights, *Summary Record of the 1225th Meeting*, 26 March 1973, E/CN.4/SR.1225, p.151.

⁴¹ *Ibid.*, pp. 145–46.

⁴² *Ibidem.*

⁴³ *Ibidem.*

⁴⁴ The revised report was titled, “The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress”. See: E/CN.4/1131 and Corr.1 (published by the U.N. in 1975 as E/CN.4/1131/Rev.1; sales number E.75.XIV.2). Observations of member-states are contained in E/CN.4/1132 and Add.1; Note by S-G (E/CN.4/1148) contained information and comments from regional economic commissions, and the Committee on Review and Appraisal, and the Committee for Development Planning, in accordance with ESOSOC Res. 1689 (LII).

Ganji particularly emphasized the need for the Commission to focus its attention broadly on poverty reduction, especially in the area of hunger, as the “most pressing objective of development in the context of human rights”.⁴⁵ He again called on the Commission to “courageously revise its priorities...the time had come to make poverty and human degradation a problem of public international law”.⁴⁶ The U.K. and especially India endorsed Ganji’s views.⁴⁷

During the ensuing discussion, three broad themes emerged. The first was that while the Commission should certainly raise the issues in Ganji’s report to a higher level of priority, that it not duplicate the efforts of other UN agencies.⁴⁸ Theo van Boven of the Netherlands was particularly concerned about the Commission taking on the role of a super-ECOSOC: “It was essential to define what the Commission’s contribution would be in dealing with such a broad subject”⁴⁹. This long-standing concern actually dated back to the original discussions and debates surrounding the nature of the reporting procedure for human rights (at the time, just for economic and social rights) – that the Commission needed to be mindful of its role with the broader UN development machinery, and not encroach on the missions and mandates of other UN agencies.⁵⁰

A second theme, expressed again by van Boven, was that the Commission should properly consider the human rights dimensions of development, based on the ICESCR’s preamble which confirmed the interdependence between economic, social and cultural rights and civil and political rights—an interrelationship that was bound up with Franklin Roosevelt’s famous “Four Freedoms”.⁵¹ One such area would be the prohibition of discrimination. Another would entail reconciling certain measures involved in planned economic and social development with respect for human rights and fundamental freedoms. These approaches to human rights, Van Boven argued, should take into account the procedures of the Review and Appraisal Committee for the Second Development Decade and the ILO’s reporting and independent expert system.⁵²

The third theme had the broadest appeal within the Commission: the findings of the Ganji report led to the conclusion that the Commission should accord the realization of economic and social rights a *higher priority than* civil and political rights. The representatives of Tunisia, Romania, and Egypt strongly endorsed this view. It was Senegal’s Keba M’Baye who set the tone, referring, for the first time in the Commission on Human Rights, to the “right to development”.

⁴⁵ E/CN.4/SR.1265, 20 February 1974, p.228.

⁴⁶ E/CN.4/SR.1266, 20 February 1974, pp. 234–5.

⁴⁷ E/CN.4/SR.1268, 21 February 1974, p.37 (UK) and p.19 (India).

⁴⁸ This view was expressed by Theo van Boven (Netherlands); Sir Keith Unwin (UK); Ivar Eriksen (Norway); and Phillip E. Hoffman (US). See: E/CN.4/SR.1268, 1269, and 1270.

⁴⁹ E/CN.4/SR.1267, 21 February 1974, p.247.

⁵⁰ Daniel Whelan, *Indivisible Human Rights: A History* (Philadelphia, University of Pennsylvania Press, 2010), pp. 101–03.

⁵¹ *Ibidem*.

⁵² *Ibid.*, pp. 248–9.

The Right to Development Resurrected

For M’Baye, the concept of economic, social and cultural rights was perhaps “too recent” to rouse “the same enthusiasm” shown to the traditional rights and freedoms.⁵³ However, the condition of the poor countries was worsening. “[T]he underdeveloped countries might well feel that development was not something to be negotiated but something to be seized by any possible means”.⁵⁴ And so, “[t]he responsibility for ensuring that everyone enjoyed human rights fell largely upon the rich countries. Such a responsibility was the price of international security”.⁵⁵ He concluded his lengthy remarks by urging that “development should be accorded the status of a human right”.⁵⁶

M’Baye further developed these ideas during the Commission’s 31st session (1975), which came on the heels of the General Assembly’s adoption of the NIEO and the CERDS the previous year. The Universal Declaration and the ICESCR created legal obligations “incumbent upon every state to assure to each individual a living standard adequate for surviving in dignity”, and that these obligations constituted a right to development.⁵⁷ Furthermore, this international legal obligation was reflected in Article 7 of the CERDS, which specified that it was the primary responsibility of all states to promote the economic, social and cultural development of its people. Furthermore, M’Baye exhorted, this obligation was “most rightly imposed” upon the rich and powerful states because of their responsibility for the current situation of the under-developed countries and for the course that world events had taken. While many other developing countries echoed M’Baye’s arguments, none of them used the phrase, “right to development”. But all of the constituent elements of the right – again, within the NIEO/CERDS frame (which was explicit) – were evident.

During this discussion, France, the Federal Republic of Germany, and the Netherlands engaged the discussion in a different kind of way: to point out the importance that development policies should not infringe (especially) on civil and political rights. While acknowledging the importance of the NIEO, Theo van Boven of the Netherlands suggested that the U.N. needed a new definition of development – and pointed to the 1974 “Cocoyoc Declaration” adopted at a United Nations Environmental Programme (UNEP)/UNCTAD joint symposium on “Patterns of Resource Use, Environment and Development Strategies”,⁵⁸ which explicitly approached the question of development from the standpoint of human rights.⁵⁹ These approaches to the relationship between human rights and development demonstrate the emergence of what we would now call the “human rights approach” (or “rights-based development” or “human rights-based approach”) to development, in contrast to M’Baye’s “right to development”.

At the 33rd session of the Commission in 1977, M’Baye refined his argument further: the ability of underdeveloped states to meet their human rights obligations in the economic and social realm

⁵³ E/CN.4/SR.1269, 22 February 1974, p.27.

⁵⁴ *Ibid.*, p.30.

⁵⁵ *Ibidem.*

⁵⁶ *Ibid.*, p.31.

⁵⁷ *Ibidem.*

⁵⁸ A/C.2/292.

⁵⁹ E/CN.4/SR.1298, 7 February 1975, p.77.

were overwhelmed by their inability to control global forces. Therefore, the right and proper focus of the Commission on Human Rights must be on the international dimensions of human rights. The Great Powers enjoyed privileges in the international system, but also bore the primary responsibility for the unjust international economic order. As a norm-creating body, it was time for the Commission to outline the juridical elements of the RtD.⁶⁰ The next year, M’Baye presented his views in a formal paper⁶¹ delivered at the 1978 UNESCO “Meeting of Experts on Human Rights, Human Needs and the Establishment of a New International Economic Order”.⁶²

General Assembly Resolution 32/130, adopted in 1977, directed the Commission on Human Rights to begin to study “alternative ways and means” to promote respect for human rights, and placed a much heavier emphasis on economic, social, and cultural rights. It is not surprising, therefore, that a good deal of the Commission’s work on this agenda item would be directed at formulating a right to development. In response to this resolution, the Commission requested the Secretary-General⁶³ to prepare a report on “the international dimensions of the right to development.”⁶⁴ The author of that report, Theo van Boven, used the study to “advocate a synthesis of political and economic, and individual and collective rights in the development ideal”.⁶⁵

Based on that report and a subsequent study on the national and regional dimensions of the right to development,⁶⁶ in 1981 the Commission on Human Rights created a fifteen-member Working Group on the Right to Development, consisting of government experts, “to study the scope and content of the right to development and the most effective means to ensure the realization of economic, social and cultural rights...” and to “submit concrete proposals for implementation of the right to development and for a draft international instrument on this subject.”⁶⁷

It is important also to note that the African Charter on Human and Peoples’ Rights (the “Banjul Charter”)⁶⁸ also adopted in 1981, enumerates a collective right (of “peoples”) to “their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind” (Article 22). And by the end of 1981, the General Assembly had declared the right to development to be an “inalienable human right.”⁶⁹

With respect to the early sessions of the Working Group, one astute observer of the politics of the Commission on Human Rights noted that “[a]fter the group decided that a declaration would be more appropriate than a convention, the experts could agree on little else”.⁷⁰ Despite their

⁶⁰ E/CN.4/1391, 16 February 1977, pp. 4-6.

⁶¹ UNESCO Doc. SS-78/CONF.630/8, 16 July 1978.

⁶² UNESCO Doc. SS-78/CONF.630/COL.2

⁶³ United Nations Commission on Human Rights, *Resolution 4 (XXXIII)*, adopted without a vote at the 1398th meeting of the Commission on 21 February 1977.

⁶⁴ E/CN.4/1334 (1979).

⁶⁵ Howard Tolley, *The U.N. Commission on Human Rights* (Boulder, CO: Westview Press, 1987), p.95.

⁶⁶ E/CN.4/1421 and 1488.

⁶⁷ United Nations Commission on Human Rights, *Resolution 36 (XXXVII)*, 11 March 1981.

⁶⁸ Organization of African Unity, *African Charter on Human and Peoples’ Rights*, O.A.U. Doc. CAB/LEG/67/3. Rev. 5, 21 ILM 58 (1982) entered into force 21 October 1986.

⁶⁹ United Nations General Assembly Resolution 36/133, 14 December 1981.

⁷⁰ Howard Tolley, *The U.N. Commission*, p.142.

differences, the majority view (i.e., of developing states) was consistent in its belief that “the holders of the right are peoples and states; its objective is the democratization of international relations”. In 1983 the Working Group issued a report listing seventeen pages of principles, none of which had been accepted by the Working Group as a whole. “Despite the high priority and expense, in four years the members could not resolve their profound differences.”⁷¹ Yet, they continued to work on a draft Declaration, which was presented to the General Assembly in 1986. It was adopted as General Assembly Resolution 41/128 entitled “Declaration on the Right to Development” (DRTD) on a vote of 146-1-8. The United States cast the sole dissenting vote.⁷² The abstentions were cast by Denmark, the Federal Republic of Germany, Finland, Iceland, Israel, Japan, Sweden, and the United Kingdom.

The Right to Development between 1986 and 2004

The period following the adoption of the DRTD witnessed a dramatic rise in new concepts gravitating around the term “development”, all of which have ultimately shaped the current understanding of the RtD. The first such milestone was the emergence of “sustainable development” as a global objective. Although the notion of sustainable development itself had been known in different forms to indigenous societies and ancient civilizations from the earliest times, as a matter of global policy, it began taking shape only in the 1970s, primarily in conjunction with the rise in concerns about environmental degradation.⁷³ The Stockholm Declaration adopted at the UN Conference on the Human Environment in 1972 laid the stage for the realization that there were environmental impacts caused by rapid and unchecked economic growth.⁷⁴ In 1980, IUCN, UNEP and WWF co-published the landmark report entitled “World Conservation Strategy: Living Resource Conservation for Sustainable Development”,⁷⁵ wherein the term “sustainable development” was coined for the first time. The purpose of the document was to “help advance the achievement of sustainable development through the conservation of living resources”.⁷⁶ The report further stated that “Human beings, in their quest for economic development and enjoyment

⁷¹ Ibid., p.143.

⁷² The U.S. American objections to the right to development were that it was premature for the U.N. to adopt a declaration without further reflection on the issue; the U.N. should spend more time on studies and that the Working Group is not a good use of U.N. resources; that the Working Group had exceeded its mandate by focusing on matters of economics, international trade, and arms control; that “some of the most vociferous proponents of the right to development denied their citizens the opportunity to develop themselves in every possible way”; that the U.N. should look at the real development assistance of states like the United States rather than rhetoric of a right to development coming from countries that have no such records; and that efforts at codification of this “right” were “pointless and should not be undertaken.” See: Phillip Alston, “Making Space for New Human Rights: The Case of the Right to Development”, *Harvard Human Rights Yearbook*, vol. 1 (1988): pp. 21–22.

⁷³ Jeffrey D. Sachs, “The Age of Sustainable Development”, in *Introduction to Sustainable Development* (New York, Columbia University Press, 2015), pp. 1–44.

⁷⁴ *Report of the United Nations Conference on the Human Environment, Stockholm, Sweden, 5-16 June 1972*, United Nations publication, A/CONF.48/14/Rev.1, Part One, Chapter One.

⁷⁵ International Union for Conservation of Nature, *World Conservation Strategy: Living Resource Conservation for Sustainable Development* (Gland, Switzerland, IUCN, 1980).

⁷⁶ Ibid., p. IV.

of the riches of nature, must come to terms with the reality of resource limitation and the carrying capacity of ecosystems, and must take account of the needs of future generations”.⁷⁷

It was only, however, in 1987 – one year after the adoption of the DRTD – that the expression “sustainable development” was co-opted and popularized in global policy making for the first time by the World Commission on Environment and Development, also popularly known as the Brundtland Commission (after its chairperson Gro Brundtland).⁷⁸ In this report, sustainable development was defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”.⁷⁹ Although the genesis of the concept had mostly to do with the linkages between economic growth and environmental protection, it soon encompassed within its fold the element of social equity as its third pillar. Over time, the notion of sustainable development has gained significant popularity and has ultimately metamorphosed into the Sustainable Development Goals (SDGs), articulated through the “2030 Agenda for Sustainable Development” adopted by the UN General Assembly on 25 September 2015⁸⁰.

Simultaneously, the UNDP began publishing annual “Human Development” reports in 1990. As the name suggests, the concept of “human development” focused predominantly on the human dimension of development in contrast to the popular focus at the time on national development measured through indicators such as GDP. In its first report, UNDP stated that:

“Human development is a process of enlarging people's choices. The most critical of these wide-ranging choices are to live a long and healthy life, to be educated and to have access to resources needed for a decent standard of living. Additional choices include political freedom, guaranteed human rights and personal self-respect”.⁸¹

By 1992, when the Rio Declaration was adopted at the Earth Summit in Brazil, “sustainable development”, “human development”, and the RtD, had all emerged as distinct but intersecting concepts.⁸² The Rio Declaration attempted to place all three concepts under one cohesive umbrella by highlighting their synergies and inter-relatedness. Thus, Principle 1 thereof stated that “Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature”. Similarly, Principle 4 stated that “In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it”.⁸³ These principles captured the human dimension of development and placed it at the centre of concerns for sustainable development. Principle 3 completed the circle by emphatically stating that “the right to

⁷⁷ Ibid., Foreword.

⁷⁸ World Commission on Environment and Development, *Our Common Future* (Oxford, Oxford University Press, 1987)

⁷⁹ Ibid. Paragraph 43.

⁸⁰ A/RES/70/1.

⁸¹ UNDP, *Human Development Report* (Oxford, Oxford University Press, 1990), p.1

⁸² *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, Brazil, 3–14 June 1992* (A/CONF.151/26 Vol. I), annex 1.

⁸³ Ibidem.

development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations”.⁸⁴

It is important to highlight that despite the opposing vote of the USA and abstentions by 8 countries during the adoption of the DRTD, such opposition had largely tapered off by 1992 when the Rio Declaration incorporating the RtD as a key principle was unanimously adopted. Thereafter, in 1993, States also unanimously adopted the Vienna Declaration and Programme of Action making explicit reference to DRTD and reaffirming the RtD as a universal and inalienable right and an integral part of fundamental human rights,⁸⁵ thereby settling the status of the RtD as a human right once and for all.

In the meanwhile, the academic world was feverishly debating the DRTD and its import well into the 1990s. At the UN, the term continued to pop up seasonally at conferences and resolutions of the erstwhile UN Commission on Human Rights (UNCHR).⁸⁶ In 1993, the UNGA established the post of the High Commissioner for Human Rights in order, *inter alia*, to promote and protect the realization of the RtD and to enhance support from relevant bodies of the UN system for this purpose⁸⁷. In the same year, the UNCHR established an open-ended working group of government experts on the RtD for a period of three years,⁸⁸ at the end of which, in 1996, it established an inter-governmental working group on the RtD for a period of two years.⁸⁹ In 1997, the UNGA passed a resolution with 129 States in favour, 12 against, and 32 abstaining, whereby a call was made to include the DRTD as part of the International Bill of Human Rights as an appropriate way of celebrating the 50th anniversary of the UDHR.⁹⁰ The resolution also called for the establishment of a follow-up mechanism for the implementation of RtD.⁹¹ Soon thereafter, the UNCHR recommended to the ECOSOC that an open-ended working group be created for a period of three years (whose mandate continues to date), along with the appointment of an independent expert to support the working group.⁹² This led to the appointment of Arjun Sengupta as the UN’s first independent expert on RtD.

Around this time, an important moment which significantly influenced the debates surrounding the RtD as well, was the publication of the book “Development as Freedom” authored by Amartya Sen in 1999.⁹³ In this rightly celebrated work, Sen challenged the predominant understanding of

⁸⁴ Ibidem.

⁸⁵ *Report of the World Conference on Human Rights, Vienna, Austria, 14–25 June 1993 (A/CONF.157/24, Part I)*, chapter III, Article 10.

⁸⁶ Apart from the 1993 Vienna Declaration and Programme of Action, see also the 1994 Cairo Programme of Action of the International Conference on Population and Development, the 1995 Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development, and the 1995 Beijing Declaration and Platform for Action, Fourth World Conference on Women, all of which made explicit references to the RtD and the DRTD.

⁸⁷ United Nations General Assembly Res. 48/141, 7 January 1994, paragraph 4(c).

⁸⁸ E/CN.4/RES/1993/22, 04 March 1993.

⁸⁹ E/CN.4/RES/1996/15, 11 April 1996.

⁹⁰ A/52/644/Add.2, 5 December 1997.

⁹¹ Ibid., paragraph 15.

⁹² E/CN.4/RES/1998/72, 22 April 1998 and ECOSOC Decision 1998/269, 30 July 1998.

⁹³ Amartya Sen, *Development as Freedom* (Oxford, Oxford University Press, 1998).

the notion of development in the field of economics at the time, which equated it with income, wealth or GDP per capita. He argued that the basic objective of development should be enhancing the lives we lead (our well-being) and the freedoms we enjoy, rather than just the maximisation of income or wealth.⁹⁴ He pointed out that income or wealth is useful, but its usefulness lies only to the extent of the things that it allows us to do — the substantive freedoms it helps us to achieve.⁹⁵ If income or wealth does not lead to enhancing our lives and freedoms, then it is pretty much useless. In his view, any adequate conception of development must not ignore economic growth, but must look beyond it. As such, he argued that enhancement of our freedoms is both the primary end and the principal means of development.⁹⁶ He, therefore, posited that the appropriate factual base for development is one that focuses on substantive freedoms that people have reason to enjoy and not on income statistics, and this essentially means focusing on capability deprivation of people rather than income deprivation.⁹⁷ A related but important insight provided by Sen was that when development is viewed as freedom, we must focus not only on the outcome achieved, but also on the process through which that outcome is achieved.⁹⁸ In other words, it would be erroneous to claim that we are moving towards development if the outcome of a project or measure results in enhancement of certain freedoms, but in the process of achieving those outcomes, some other freedoms have been violated.

Sen’s work has had a huge impact in the field of economics, with even the Bretton Woods organisations now adopting social indicators in their measurement of development. Coupled with studies on development produced by influential writers such as Arturo Escobar,⁹⁹ and Martha Nussbaum,¹⁰⁰ and the emergence of the twin concepts of human development and human security,¹⁰¹ a consensus gradually began to grow amongst economists and development institutions that the concept of development needed to include the human dimension as a central element.

It was at this moment that the near simultaneous appointment of Sengupta as the Independent Expert on the RtD and the publication of Sen’s book witnessed the convergence of the concept of development from both economic and human rights perspectives. During his mandate which lasted until 2004, Sengupta produced five reports clarifying the content and scope of the RtD as described in the DRTD, as well as questions regarding its programmatic implementation. The following points summarize Sengupta’s work regarding the RtD:

- a. The RtD is an inalienable self-standing human right and for that purpose, it is immaterial whether or not it is justiciable.¹⁰² Development is thus not just a privilege enjoyed by human beings, nor is it just a subject of charity or generosity.

⁹⁴ Ibid., p.27.

⁹⁵ Ibidem.

⁹⁶ Ibid., p.45.

⁹⁷ Ibid., p.32.

⁹⁸ Ibid., p.30.

⁹⁹ Arturo Escobar, *Encountering Development: The Making and Unmaking of the Third World* (Princeton, Princeton University Press, 1995).

¹⁰⁰ Martha Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge, Cambridge University Press, 2000).

¹⁰¹ See: UNDP, *Human Development Report* (Oxford, Oxford University Press, 1994).

¹⁰² A/RES/41/128, Article 1.

- b. The RtD should be understood as a vector, which in turn comprises all other human rights — civil, political, economic, social, and cultural — as its elements along with the resources of growth such as GDP, technology etc.¹⁰³ This does not mean that the RtD is some sort of a meta-right. The Vector approach simply means that given the very nature of development as a human right, in programmatic terms, when operationalized, it cannot be enhanced when there are violations of other human rights.
- c. The RtD requires focusing not only on outcomes which are sought to be achieved as a result of a development plan (the “what” question), but also on the process by which those outcomes are achieved (the “how” question).¹⁰⁴
- d. Human beings are individually and collectively the right-holders of the RtD against their States as well as other States. States are also right-holders of the RtD against other States, as agents of their citizens. The duty-bearers of the RtD are States, individually and collectively, including through international organisations. This duty is towards their own citizens as well as towards other States and their citizens.¹⁰⁵
- e. The RtD imposes an obligation on States, individually and collectively, to create conditions favourable to its realization, and refrain from making policies which are adverse to its realisation.
- f. Most importantly, the RtD imposes a duty on States with respect to international cooperation to achieve the RtD.

In the meantime, 189 world leaders also adopted the UN Millennium Declaration in 2000, which led to the establishment of the Millennium Development Goals. This Declaration is significant because one of its stated objectives was “making the right to development a reality for everyone”.¹⁰⁶ Therefore, the obvious intention was that the MDGs which had emerged from the Millennium Declaration would be implemented in a manner which promotes the RtD. However, it remains highly debatable whether or not the actual implementation of the MDGs on the ground by States over the next 15 years was in sync with the RtD.

Sengupta’s work as well as the implementation of the MDG agenda have continued to inform discussions and debates at the Open-Ended Intergovernmental Working Group on the RtD, although there still exists a lack of consensus among Member States on the scope and content of the RtD. The overall mandate of this group is to monitor and review progress in the promotion and implementation of the RtD, as elaborated in the DRTD, at the national and international levels; providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the DRTD; to review reports and any other information submitted by States, UN agencies, other relevant international organizations and NGOs on the relationship between their activities and the RtD; to present for the consideration of the UN Human Rights Council (UNHRC) a sessional report on its deliberations, including advice to the Office of

¹⁰³ *Third Report of the Independent Expert on the Right to Development, Mr. Arjun Sengupta*, E/CN.4/2001/WG.18/2, paragraph. 9–10.

¹⁰⁴ *Study on the Current State of Implementation of the Right to Development Submitted by Mr. Arjun Sengupta, Independent Expert*, E/CN.4/1999/WG.18/2, paragraph. 36.

¹⁰⁵ A/RES/41/128, Article 2. See also: Anne Orford, “Globalization and the Right to Development”, in *People’s Rights*, Philip Alston, ed. (Oxford, Oxford University Press, 2001).

¹⁰⁶ A/RES/55/2, paragraph 11.

the United Nations High Commissioner for Human Rights (OHCHR) with regard to the implementation of the RtD and suggesting possible programmes of technical assistance, at the request of interested countries, with the aim of promoting the implementation of the RtD.¹⁰⁷ Despite this mandate, political differences among States which are members of the Working Group have hindered fruitful outcomes to date.

The RtD from 2004 to Date

The UN human rights system underwent some major changes around this time – namely, in 2006, the Commission on Human Rights was replaced by the Human Rights Council (HRC),¹⁰⁸ and the Sub-Commission was replaced by the Advisory Committee.¹⁰⁹

Two years earlier, 2004 saw the establishment of a high-level task force on the implementation of the RtD, which replaced the independent expert, as the expert body mandated to support the intergovernmental Working Group on the Right to Development. Established within the framework of the Working Group, the task force was composed of five experts from five geographical regions, to provide expert findings and recommendations to support the Working Group.¹¹⁰

The work of the task force was based primarily on a review of global partnerships from an RtD perspective, which informed both its findings and their consolidation, and its making of draft criteria and operational sub-criteria. Premised on the basis that Millennium Development Goal 8, with its focus on international cooperation, was consistent with international responsibilities outlined in the DRTD, and consequent to the Working Group recommendations, the task force assessed several multilateral institutions and mechanisms from the RtD perspective, in the areas of development aid; trade; access to essential medicines; debt sustainability; and transfer of technology. The mandate of the task force ended in 2010, with the completion of its work. In consolidating its findings in 2010, the task force drew lessons and made suggestions for future work on the RtD.¹¹¹ It also presented draft criteria and corresponding operational sub-criteria for the implementation of the RtD, for consideration by the Working Group.¹¹²

In addressing the criteria and operational sub-criteria presented by the task force, the Working Group “considered that further work should be undertaken at the intergovernmental level to adequately reflect both the national and international dimensions” and “that additional time was necessary, at this stage, for consideration and pronouncement by Governments on the substance of the work of the high-level task force”.¹¹³ In its annual sessions since, the Working Group continued to consider the criteria and corresponding operational sub-criteria, and completed a

¹⁰⁷ E/CN.4/RES/1998/72, 22 April 1998 and ECOSOC Decision 1998/269, 30 July 1998.

¹⁰⁸ A/RES/60/251.

¹⁰⁹ A/HRC/RES/5/1.

¹¹⁰ United Nations Commission on Human Rights Res. 2004/7 and ECOSOC Decision 2004/249.

¹¹¹ A/HRC/15/WG.2/TF/2/Add.1; A/HRC/15/WG.2/TF/2/Add.1/Corr.1.

¹¹² Right to development criteria and operational sub-criteria recommended by the high-level task force are contained in A/HRC/15/WG.2/TF/2/Add.2.

¹¹³ A/HRC/15/23, paragraphs 43 and 44.

second reading, with a view to finalizing the text by its nineteenth session in 2018.¹¹⁴ It was envisaged that once completed, further action would be decided on, with the objective of elaborating a comprehensive and coherent set of standards for the implementation of the RtD. At its sixteenth session, the Working Group also requested the Chairperson to prepare a set of standards to implement the RtD, based on agreed language derived from the DRTD and other relevant international instruments for its consideration, pursuant to which the Chairperson presented a set of standards.¹¹⁵

Against the backdrop of renewed attempts to revitalize the right to development, the mandate of the Special Rapporteur on the RtD was established by the Human Rights Council on 28 September 2016.¹¹⁶ The mandate holder’s functions include: Contributing to the promotion, protection and fulfilment of the RtD in the context of the 2030 Agenda and Sustainable Development Goals, the Addis Ababa Action Agenda, the Paris Agreement on climate change and the Sendai Framework for Disaster Risk Reduction 2015-2030; engaging and supporting efforts to mainstream the RtD among various stakeholders aimed at strengthening the revitalized global partnership for sustainable development from the perspective of the RtD; contributing to the work of the Working Group on the RtD; submitting studies requested by the HRC and an annual report to the HRC and to the GA.¹¹⁷ In the Human Rights Council’s most recent resolution on the RtD,¹¹⁸ it extended the mandate of the Special Rapporteur for three years. Since assuming the mandate, the Special Rapporteur engaged in a variety of activities including the production of thematic reports on inequalities within countries;¹¹⁹ and on South-South Cooperation.¹²⁰ He carried out country visits¹²¹ and carried out several regional consultations, and developed guidelines and recommendations on the practical implementation of the RTD based on these consultations held in 2018 and 2019.¹²²

Reflections on the implementation and realization of the RtD, reveals that there are to date, several challenges to overcome, ranging from the conceptual to the political to the practical, which are particularly visible in the intergovernmental arena, most strikingly in the Working Group. With regard to conceptual challenges, for example, there is still some disagreement on the nature of the duties of States and on the relative emphasis to be placed on national and global responsibilities. Challenges in practice include failures in governance, absence of an enabling environment and a social and international order with conducive public, economic and development policies; inequalities, discrimination, unfair distribution and lack of participation; corruption, tax evasion, tax havens and illicit financial flows; unfair trade, investment, finance, intellectual property and other arrangements. Political challenges have perennially stifled the practical implementation of the RtD. They point, *inter alia*, to lack of political will; politicization and polarization in intergovernmental debates; lack of consensus among Member States; disagreement among States

¹¹⁴ A/HRC/36/35.

¹¹⁵ A/HRC/WG.2/17/2.

¹¹⁶ A/HRC/RES/33/14.

¹¹⁷ The first report of the Special Rapporteur is contained in A/HRC/36/49.

¹¹⁸ A/HRC/42/23.

¹¹⁹ A/HRC/39/51.

¹²⁰ A/73/271.

¹²¹ The report on his first country visit to Cabo Verde is contained in A/HRC/42/38/Add.1.

¹²² A/HRC/42/38.

on criteria to measure implementation and on the way forward on the RtD; insufficient understanding around the RtD and absence of a strong constituency in support of it, especially in civil society; and lack of policy coherence and integration of the RtD across the UN system.¹²³

In stark contrast to this pervasive lack of consensus and effective operationalization of the RtD, there has been a long and consistent line of re-affirmation and integration of this right since 1986 also within the intergovernmental arena of the United Nations system, reflecting a progressive development of international law and policy. Building further on the Rio Declaration on Environment and Development (1992);¹²⁴ Vienna Declaration and Programme of Action (1993);¹²⁵ Cairo Programme of Action of the International Conference on Population and Development (1994);¹²⁶ Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development;¹²⁷ Beijing Declaration and Platform for Action, Fourth World Conference on Women (1995);¹²⁸ Millennium Declaration;¹²⁹ and Monterrey Consensus of the International Conference on Financing for Development (2002) mentioned above;¹³⁰ this includes the World Summit Outcome (2005);¹³¹ UN Declaration on the Rights of Indigenous Peoples (2007)¹³² Outcome Document of the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals (2010);¹³³ Istanbul Programme of Action for the Least Developed Countries for the Decade 2011-2020;¹³⁴ Outcome Documents of the Thirteenth session of the UN Conference on Trade and Development;¹³⁵ ‘The Future We Want’, Outcome Document of the UN Conference on Sustainable Development;¹³⁶ Quadrennial Comprehensive Policy Review of operational activities for development of the UN system (2012);¹³⁷ SIDS Accelerated Modalities of Action (S.A.M.O.A.) Pathway, Outcome of the Third International Conference on Small Island Developing States (2014);¹³⁸ Addis Ababa Action Agenda of the Third International Conference on Financing for Development;¹³⁹ ‘Transforming

¹²³ See A/HRC/19/45, paras. 23-25.

¹²⁴ See: A/CONF.151/26 (vol. 1), adopted on 14 June 1992, paragraph 3; also available at *International Legal Materials*, vol.31 (1992), p.874.

¹²⁵ See: A/CONF.157/23, adopted on 25 June 1993, paragraphs 10 and 11, also available at *International Legal Materials*, vol.32 (1993), p.1661.

¹²⁶ Available at <http://www.unfpa.org/publications/international-conference-population-and-development-programme-action>, accessed on 31 August 2017.

¹²⁷ Available at <http://undesadspd.org/Home/WorldSummitforSocialDevelopment1995.aspx>, accessed on 31 August 2017.

¹²⁸ Available at <http://www.un.org/womenwatch/daw/beijing/platform/>, accessed on 31 August 2017.

¹²⁹ Available at <http://www.un.org/millennium/declaration/ares552e.htm>, accessed on 31 August 2017.

¹³⁰ Available at <http://www.un.org/esa/ffd/monterrey/>, accessed on 31 August 2017.

¹³¹ Available at <http://www.un-documents.net/a60r1.htm>

¹³² Available at <http://undesadspd.org/indigenouspeoples/declarationontherightsofindigenouspeoples.aspx>, accessed on 31 August 2017.

¹³³ Available at <http://www.un.org/en/mdg/summit2010/>, accessed on 31 August 2017.

¹³⁴ Available at <http://unohrrls.org/about-ldcs/istanbul-programme-of-action/>, accessed on 31 August 2017.

¹³⁵ Available at <http://www.unctadxi.org/en/pages/home.aspx>, accessed on 31 August 2017.

¹³⁶ Available at <https://sustainabledevelopment.un.org/futurewewant.html>, accessed on 31 August 2017.

¹³⁷ United Nations General Assembly Resolution 67/226, <http://www.un.org/en/development/desa/oesc/qcpr.shtml>, accessed on 31 August 2017.

¹³⁸ Available at <http://www.sids2014.org/index.php?menu=1537> accessed on 6 October 2019.

¹³⁹ Available at <http://www.un.org/esa/ffd/ffd3/>, accessed on 31 August 2017.

Our World: The 2030 Agenda for Sustainable Development” and the Sustainable Development Goals;¹⁴⁰ Paris Agreement on climate change;¹⁴¹ and Sendai Framework on Disaster Risk Reduction 2015-2030, all of 2015.¹⁴² As outlined earlier, within the UN system, the High Commissioner for Human Rights and her Office have a specific mandate on the RtD. In annual UNGA resolutions from 1987 to date, the High Commissioner is requested to mainstream the RtD and undertake effectively, activities aimed at strengthening the global partnership for development among Member States, development agencies and the international development, financial and trade institutions. The Human Rights Council annually calls upon the High Commissioner to ensure inter-agency coordination within the UN system with regard to the promotion and realization of the RtD. Activities including efforts to promote the RtD undertaken at the national, regional and international levels are reflected in the consolidated annual report submitted by the UN Secretary-General and the High Commissioner to the General Assembly and the Human Rights Council.¹⁴³ This report contains analysis of the implementation of the RtD, taking into account existing challenges and making recommendations on how to overcome them,¹⁴⁴ including in relation to the SDGs and Targets, notably Goals 10¹⁴⁵ and 17.¹⁴⁶ In implementing its RtD mandate, OHCHR endeavours to mainstream¹⁴⁷ raise awareness, sensitize, educate and build capacity and resource materials around this right. This includes research and analysis; advocacy and policy guidance; technical advice; partnerships with stakeholders including Member States, multilateral organizations, civil society and academia; publications and publicity materials; enabling dialogue and organizing expert meetings.

The Office also provides secretarial support to relevant mechanisms and mandates of the UNGA and the Human Rights Council including the Working Group and the Special Rapporteur on the RtD, as well as several related special procedures mechanisms including those on extreme poverty, international solidarity, democratic and equitable international order, foreign debt, a safe, clean, healthy and sustainable environment, the Working Group on human rights and transnational corporations and other business enterprises, and the UN Committee on Economic, Social and Cultural Rights and other Treaty Bodies. It also works on related areas such as international cooperation, trade, investment, finance, technology, intellectual property, and anti-corruption.

OHCHR efforts to revitalize the RtD optimized on the momentum of the 25th and 30th Anniversaries of the DRTD in 2011 and 2016 respectively. During a year-long programme of commemoration in 2011,¹⁴⁸ efforts were focused on elucidating the meaning and application of

¹⁴⁰ Available at <https://sustainabledevelopment.un.org/post2015/transformingourworld>, accessed on 31 August 2017.

¹⁴¹ Available at http://unfccc.int/paris_agreement/items/9485.php, accessed on 31 August 2017.

¹⁴² Available at <https://www.unisdr.org/we/coordinate/sendai-framework>, accessed on 31 August 2017.

¹⁴³ See the latest report A/HRC/42/29.

¹⁴⁴ A/HRC/36/23.

¹⁴⁵ A/HRC/39/18.

¹⁴⁶ A/HRC/42/29.

¹⁴⁷ Mainstreaming the RtD as a universal, inalienable and integral part of fundamental human rights, is within OHCHR’s thematic priority “Integrating Human Rights in Development and in the Economic Sphere”; and Subprogramme 1 of the Strategic Framework for 2016-2017, Programme 20-B on the Right to Development.

¹⁴⁸ As requested by the Human Rights Council (Res. 15/25) and the UNGA (Res. 65/219).

the RtD, through activities, publications and other means.¹⁴⁹ The Office disseminated 4 key messages on the RtD: that development is a human right; that it belongs to everyone; that it addresses contemporary challenges; and that we must act together now.¹⁵⁰ The High Commissioner called on governments and others to move beyond political debate and focus on practical steps to implement the Declaration. Resource materials included a Public Information Note on the Declaration at 25;¹⁵¹ an online learning course; a video; an illustrated text of the Declaration and an online publication “Landmarks in the Recognition of Development as a Human Right”. The 25th anniversary also saw 18 UN system organizations and treaty bodies issue a joint statement reaffirming their commitment to the RtD and resolve to apply it fully in their endeavours; a statement by Chairpersons of the UN Treaty Bodies; and by the UN Committee on Economic, Social and Cultural Rights. The many commemorative events included a special event at the UNGA on “The Right to Development at 25: Policy Coherence in the Global Partnership for Development”, with the participation of the Secretary-General, the President of the General Assembly, the High Commissioner for Human Rights, and the Chairpersons of the First, Second and Third Committees, in a unique combined gathering.

In the landmark publication “*Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development*,”¹⁵² over 25 expert contributions clarify the meaning and status of this right and survey the most salient challenges to its transformative potential. They endeavor to illustrate this potential and relevance to date and make the case for reinvigorating the RtD in order to realize its added value to advancing human rights, development, and peace and security in an interdependent, fragile and changing world: In the foreword to this book, it was observed:

“The global financial and economic crisis, the food crisis, the energy crisis and the climate crisis have converged in a multi-front assault on human dignity. And our institutions of governance, at both the global and national levels, have been at best negligent, and at times complicit, in this onslaught. As a result, in both North and South, the opening years of the twenty-first century have been marked by growing poverty, inequality, hunger, desperation and social unrest.”¹⁵³

Efforts to revitalize the dialogue around the RtD continues to date, with renewed momentum and efforts during the 30th Anniversary in 2016 which also saw several events including: A High-Level segment of the General Assembly with the participation of the Secretary-General, the High Commissioner, the President of the General Assembly and the Secretary-General of UNCTAD, an HRC high-level panel discussion on mainstreaming human rights, focused on the 2030 Agenda

¹⁴⁹ Available at www.ohchr.org/EN/Issues/Development/Pages/InformationMaterials.aspx, accessed on 31 August 2017.

¹⁵⁰ Ibid., Public Information Note on the Declaration at 25.

¹⁵¹ For all resources referred to in this paragraph, see www.ohchr.org/EN/Issues/Development/Pages/InformationMaterials.aspx, accessed on 31 August 2017.

¹⁵² Available at www.ohchr.org/EN/Issues/Development/Pages/Events.aspx, accessed on 31 August 2017.

¹⁵³ See Foreword by the United Nations High Commissioner for Human Rights: United Nations, *Realizing the Right to Development: Essays in Commemoration of 25 Years of the Declaration on the Right to Development* (New York and Geneva, United Nations, 2013), page iii.

with an emphasis on the RtD, and an HRC 30th anniversary panel discussion;¹⁵⁴ and the production of further resources including 2 videos, several information notes on the RtD and related issues, and a Factsheet elucidating the RtD, and making links with evolving global and local issues of common concern. Addressing the HRC panel, the High Commissioner at the time, underscored the importance of the 2030 Agenda and its role in addressing the systemic obstructions and multiple challenges facing the right to development. At the international level, the failure to adequately regulate globalization could affect the pursuit of inclusive development, which compromised basic human rights in relation to food, water and sanitation, health, equity and democratic decision-making. The world needed a renewed spirit of multilateral action for the common good, recognizing that efforts to reduce towering inequalities would help the marginalized and the poor. During the year, joint statements in support of the RtD were issued by 16 Special Procedures Mandate Holders, and by the Human Rights Working Group of the United Nations Development Group.¹⁵⁵

The RtD has also been consistently advocated in OHCHR’s engagement in UN processes, and reaffirmed in their outcomes. These have also been moments of revitalizing, as each such engagement has drawn on the principles, elements, values and spirit of the Declaration. Prominent examples include its advocacy at the Fourth United Nations Conference on the Least Developed Countries (LDC-IV) in 2011; the Thirteenth United Nations Conference on Trade and Development (UNCTAD XXIII) and the UN Conference on Sustainable Development (Rio+ 20) in 2012; the Third International Conference on Financing for Development, and the 2030 Development Agenda for Sustainable Development in 2015. Ongoing efforts to revitalize the RtD focus on ensuring its effective operationalization in the implementation of the contemporary global development policy framework and the global paradigm shift to sustainability, which will frame the contours of development theory and practice in the years to come. This requires that it plays a key role in the implementation of the 2030 Agenda and SDGs, the Addis Ababa Action Agenda, the Paris Agreement and the Sendai Framework, as well as the emerging vision of the United Nations for Preventing Conflict and Sustaining Peace.

Beyond the global stage, and closer to the common aspirations of people on the ground, the DRTD finds its regional counterparts in several instruments rooted in the global South. Apart from the 1948 Charter of the Organization of American States, which enshrined the related concept, rights and duties of integral development, the overall purpose of which is the “establishment of a more just economic and social order that will make possible and contribute to the fulfilment of the individual”¹⁵⁶, and the African Charter on Human and Peoples’s Rights and other African instruments discussed above, the Arab Charter on Human Rights of 2004 included the RtD.¹⁵⁷ Under its Article 37, the RtD is a fundamental human right and all States are required to establish the development policies and to take the measures needed to guarantee this right. They have a duty to give effect to the values of solidarity and cooperation among them and at the international level with a view to eradicating poverty and achieving economic, social, cultural and political

¹⁵⁴ See report in A/HRC/33/21.

¹⁵⁵ For further information on 30th anniversary events and all related materials see <http://www.ohchr.org/EN/Issues/Development/Pages/DevelopmentIndex.aspx>

¹⁵⁶ Organization of American States (OAS), *Charter of the Organisation of American States*, 30 April 1948, Article 33.

¹⁵⁷ League of Arab States, *Arab Charter on Human Rights*, 15 September 1994.

development. By virtue of this right, every citizen has the right to participate in the realization of development and to enjoy the benefits and fruits thereof.

Later in 2012, the ASEAN Human Rights Declaration devoted a section to the RtD,¹⁵⁸ and stated, inter alia, that ASEAN Member States should mainstream the multidimensional aspects of the RtD into the relevant areas of ASEAN community building and beyond, and shall work with the international community to promote equitable and sustainable development, fair trade practices and effective international cooperation.

In 2016, the Abu Dhabi Declaration adopted by the Organization of Islamic Cooperation Independent Permanent Human Rights Commission, affirmed that the RtD is an indivisible, interdependent, interrelated and mutually inclusive individual and collective right, which belongs to all individuals and peoples in all countries without discrimination on any grounds, including foreign and colonial occupation.¹⁵⁹ It also urged the OIC Member States to take concrete and urgent actions to: reinvigorate political will for implementing the RtD; mainstream human rights and the RtD norms into development plans and ensure system-wide coherence to bridge implementation gaps; strengthen international cooperation with multilateral development institutions to address persistent challenges and create linkages with the ongoing international initiatives like the SDGs taking into account national circumstances and priorities.¹⁶⁰

There is also a striking body of jurisprudence coming out of Africa, where the RtD has been invoked and held to be legally binding.¹⁶¹ Most significantly, the African Court on Human and Peoples’ Rights pronounced unequivocally on the justiciability of the RtD, upholding it in the case of *006/2012 – African Commission on Human and Peoples’ Rights v. Republic of Kenya (2017)*.

The DRTD is a potential instrument for rejuvenating social justice. Its 10 Articles and Preamble provide ample testimony of its vibrant potential, transcending the trends of the times, from decolonization and new independence, to globalization and interdependence. Its regional articulations, reflect like potential, which implemented together, can help come alive, objectives of the UN system, peace and security, human rights and development. The Rio Declaration set the goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people. All the principles of the Rio Declaration were reaffirmed in “The Future We Want” at Rio+20, which is in turn, integral to the 2030 Agenda. Going forward, constructive and creative engagement by States, the international

¹⁵⁸ Association of Southeast Asian Nations (ASEAN), *ASEAN Human Rights Declaration*, 18 November 2012, Articles 35–37.

¹⁵⁹ Available at http://www.oic-iphrc.org/en/data/docs/articles_studies/iphrc_abu_dhabi_outcome_2016.pdf, accessed on 31 August 2017.

¹⁶⁰ Ibidem.

¹⁶¹ In particular, see: 276/03 Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council)/Kenya (2009). Other cases decided by the African Commission on Human and Peoples’ Rights directly relevant to the RtD include: 55/96 Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights (CESR) / Nigeria (2001); 227/99 Democratic Republic of Congo / Burundi; Rwanda, Uganda (2003); 266/03 Kevin Mgwanga Gunme et al / Cameroon (2009); 279/03-296/05 Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE)/Sudan (2009).

community and all stakeholders, with enhanced voice for developing countries globally, and greater civic space at all levels, will be key to realizing the RtD in a sustainable manner, in the hope of a better and shared future for present and future generations.

Recent developments reflect renewed momentum on the RtD, with new scope for realizing its potential for the benefit of our common humanity. As per its previous resolutions on the right to development, in particular A/HRC/RES/9/3, 36/9 and 39/9, in A/HRC/42/23 of 20 September 2019, the Council decided to continue to act to ensure that its agenda promotes and advances sustainable development and, in this regard, to lead to raising the right to development, as set out in paragraphs 5 and 10 of the Vienna Declaration and Programme of Action, to the same level and on a par with all other human rights and fundamental freedoms.

At its thirty-ninth session, the Council decided that the Chair-Rapporteur of the Working Group should prepare a draft legally binding instrument on the right to development to serve as a basis for substantive negotiations commencing at its twenty-first session.¹⁶² The HRC also welcomed the work of its Advisory Committee in preparing a research-based report on the importance of a legally binding instrument on the RTD, which will be presented at its forty-fifth session. Recent sessions of the Working Group have included interactive dialogues with experts, including on a legally binding instrument.¹⁶³ In 2019, OHCHR established a group of five experts to prepare a draft legally binding instrument. After further expert consultation, the drafting group finalized a “zero draft” and submitted it with accompanying commentaries to the Chair-Rapporteur in December 2019. Following endorsement of the text¹⁶⁴ by the Chair Rapporteur, the draft convention and commentaries¹⁶⁵ were submitted to the Working Group for consideration at its twenty-first session to be held in 2020.

In parallel progressive steps taken at the 42nd session,¹⁶⁶ the Council decided to organize a biennial panel discussion on the RtD, starting at its forty-fifth session, for Member States, and other stakeholders. The HRC further resolved to establish a subsidiary expert mechanism to provide it with thematic expertise on the RtD in searching for, identifying and sharing best practices among Member States and to promote its implementation worldwide. The new mechanism composed of five experts who will report to the Council, assumed duties on 1 May 2020.

As in previous years, the General Assembly in its annual resolution on the right to development¹⁶⁷ requested the Secretary-General to submit a report to the General Assembly at its seventy-fifth session and an interim report to the Human Rights Council on the implementation of its RtD resolution, including efforts undertaken at the national, regional and international levels, and invited the Chair-Rapporteur of the Working Group and the Special Rapporteur to present an oral

¹⁶² A/HRC/RES/39/9, para.17(f).

¹⁶³ See A/HRC/36/35; A/HRC/39/56; A/HRC/42/35 and A/HRC/42/35/Corr.1.

¹⁶⁴ A/HRC/WG.2/21/2.

¹⁶⁵ A/HRC/WG.2/21/2/Add.1.

¹⁶⁶ A/HRC/RES/42/23.

¹⁶⁷ A/RES/74/152, 18 December 2019.

report and to engage in an interactive dialogue with the Assembly. The Working Group’s report was presented to the Council and the Assembly in September and October 2019 respectively.¹⁶⁸

The Special Rapporteur on the right to development submitted a report to the Council¹⁶⁹ wherein he presented guidelines and recommendations on the practical implementation of the right to development drawing from regional consultations held in 2018 and 2019 pursuant to Council resolution 36/9. The report focused on meaningful participation in setting development priorities and enjoying development benefits, inclusive and sustainable methods of mobilizing resources for development, monitoring and evaluation of development policies, and accountability measures. In November 2019, the Special Rapporteur presented to the General Assembly a report exploring the links between the right to development, sustainable development and disaster risk reduction,¹⁷⁰ including key recommendations aimed at improving the participatory processes related to planning, monitoring and implementing of disaster risk reduction measures and policies.

In February 2020, the SG launched “The highest aspiration: A call to action for human rights.”¹⁷¹ The first overarching principle of this call is “rights at the core of sustainable development”, underscoring that human rights-centred development leads to more sustainable, powerful and effective outcomes. The right to development is key to the realization of all the overarching principles of the call to action, namely “rights in times of crisis”; “gender equality and equal rights for women”; “public participation and civic space”; “rights of future generations, especially climate justice”; “rights at the heart of collective action”; and “new frontiers of human rights”.

In an increasingly interdependent world facing both a multitude of interconnected challenges and a dire decline in multilateralism in this 75th anniversary of the United Nations and centenary year of the League of Nations, the COVID-19 pandemic been a profound reminder of the need for international cooperation and solidarity. The Secretary-General,¹⁷² the High Commissioner for Human Rights¹⁷³ and the entire UN system have amplified their calls for global solutions in responding to the pandemic, which also implies the renewed relevance of the right to development. Among other developments, the Secretary-General issued policy briefs on Covid-19 and its socio-economic impacts,¹⁷⁴ debt¹⁷⁵ and human rights challenges¹⁷⁶ through global solidarity. The UN also adopted a framework for the immediate socio-economic response to COVID-19, which

¹⁶⁸ A/HRC/42/35.

¹⁶⁹ A/HRC/42/38.

¹⁷⁰ A/74/163.

¹⁷¹ Available at

https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Asperation_A_Call_To_Action_For_Human_Right_English.pdf.

¹⁷² Available at <https://www.un.org/en/coronavirus>.

¹⁷³ Available at <https://www.ohchr.org/EN/NewsEvents/Pages/COVID-19.aspx>.

¹⁷⁴ Available at <https://unsdg.un.org/sites/default/files/2020-03/SG-Report-Socio-Economic-Impact-of-Covid19.pdf>.

¹⁷⁵ Available at

https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_debt_relief_and_covid_april_2020.pdf.

¹⁷⁶ Available at <https://www.un.org/ruleoflaw/wp-content/uploads/2020/05/UN-SG-Policy-Brief-Human-Rights-and-COVID-23-April-2020.pdf>.

includes key indicators to track the human rights implications of the pandemic.¹⁷⁷ The SG further called for a global ceasefire,¹⁷⁸ calling on all to ‘silence the guns’.

In March 2020, the HC called for easing of sanctions to enable medical systems to fight Covid-19 and limit global contagion, emphasising negative impacts of sanctions on several countries.¹⁷⁹ At the Council on 9 April 2020,¹⁸⁰ she emphasised that the epidemic clarified the need to increase efforts to ensure that all people, including the most vulnerable, benefit from development and reminded all States of the duty of international cooperation and assistance. In May 2020, she joined several heads of agencies and heads of State in signing on to “Making the response to Covid-19 a public common good”.¹⁸¹ This calls for equitable global access to Covid-19 health technologies through sharing of knowledge, intellectual property and data.

On 20 May 2020, the SG launched a policy brief on the impact of Covid-19 in Africa.¹⁸² He called for international action to strengthen Africa’s health systems, maintain food supplies, avoid a financial crisis, support education, protect jobs, keep households and businesses afloat, and cushion the continent against lost income and export earnings. He affirmed that African countries should have quick, equal and affordable access to any eventual vaccine and treatment that must be considered global public goods. The HC urged¹⁸³ equitable access for Covid-19 diagnostics, therapeutics and vaccines and called upon creditors of African countries to freeze, restructure or relieve countries’ debt. She stressed that international solidarity with the people of Africa and African governments was a matter of human rights necessity, and priority should be given to investing more in health, water and sanitation, social protection, employment and sustainable infrastructures to ensure that no one is left behind. She called for the lifting of unilateral sanctions, debt-relief and swift and generous financial and technical international support.¹⁸⁴ Finally, the reports of the Secretary-General¹⁸⁵ and High Commissioner for human rights¹⁸⁶ on international cooperation in the field of human rights also highlight the relevance of the right to development.

¹⁷⁷ Available at <https://unsdg.un.org/sites/default/files/2020-04/UN-framework-for-the-immediate-socio-economic-response-to-COVID-19.pdf>.

¹⁷⁸ Available at <https://www.un.org/sg/en/content/sg/press-encounter/2020-03-23/transcript-of-the-secretary-generals-virtual-press-encounter-the-appeal-for-global-ceasefire>.

¹⁷⁹ Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25744>.

¹⁸⁰ Available at <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=25785>.

¹⁸¹ Available at https://www.who.int/docs/default-source/coronaviruse/solidarity-call-to-action-29-may-2020.pdf?sfvrsn=202610bd_2.

¹⁸² Available at https://www.un.org/sites/un2.un.org/files/sg_policy_brief_on_covid-19_impact_on_africa_may_2020.pdf.

¹⁸³ Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25898>.

¹⁸⁴ Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25833>.

¹⁸⁵ [A/74/351](#).

¹⁸⁶ [A/HRC/44/28](#).