



PROMOTING THE RIGHT TO DEVELOPMENT: THE ROLE OF PARLIAMENT

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What is the right to development?

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Distinguished delegates,
Members of Parliament,
Excellencies,
Ladies and Gentlemen,

In 1985, a year prior to the adoption of the Declaration on the Right to Development by the United Nations General Assembly, Professor Jack Donnelly wrote a provocative article against the right to development. Entitled “In search of the Unicorn: The jurisprudence and politics of the right to development” the article starts polemically with the following paragraph: “A philosopher is a person who goes into a dark room on a moonless night to look for a nonexistent black cat. A theologian comes out claiming to have found the cat. A human rights lawyer, after such an on-site visit, sends a communication to [what now would be the Human Rights Council]; and a member of the [Council] leaves the room drafting a resolution on the treatment of black cats. This, in a nutshell, is uncomfortably close to the history of the so-called human right to development.”

I do not intend to address his arguments against the very existence of the right to development as a human right, which are largely obsolete, nor the counter-arguments made in the quite famous exchange that followed between Professor Donnelly and Professor Philip Alston. Instead I will provide you with a brief overview of the origin of this right and its content.

The primary inspiration for the modern articulation of the right to development comes from Judge Keba M'Baye of Senegal, who in 1972 argued that development should be viewed as a right. He was able to secure a Commission on Human Rights resolution in 1977 which authorized a study on "The international dimensions of the right to development as a human right in relation with other human rights based on international cooperation, including the right to peace, taking into account the requirement of the New International Economic Order and the fundamental human needs". Other studies followed suite.

Ultimately, as you all know, the work undertaken by the Commission and a Working Group set up for this purpose resulted in the adoption, in 1986, of the United Nations Declaration on the Right to Development, the first comprehensive elaboration of the substantive content of the right to development. The declaration was approved by 146 out of the then 159 Member States. It shall be noted that the above-mentioned Working Group consisted of, among others, Bulgaria, Cuba, the Soviet Union, the United States, France, the Netherlands, Peru, India, Senegal and Algeria. Thus, the product does not result from imposition of one particular human rights view on any other.

The right to development as a human right emerged in the United Nations system in parallel to that of the quest for a New International Economic Order and the Charter of Economic Rights and Duties of States.

The constituent elements of the right to development are rooted in the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants of Civil and Political Rights and Economic, Social and Cultural Rights as well as other United Nations instruments.

Through the United Nations Charter, Member States undertook to "promote social progress and better standards of life in larger freedom" and "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." Article 28 of the Universal Declaration of Human Rights echoes these principles.

The key ideas that supported the right to development include:

- the quest for a democratic and equitable international order, in particular a reform of the governance system of the international financial institutions;
- economic independence, in particular sovereignty over natural resources commensurate with the political independence obtained through the decolonization process;

- recognition of the perceived failure of development programmes;
- the relationship between human rights and development but also between the two sets of rights, civil and political right on the one end and economic, social and cultural rights on the other end;
- reparation for past injustices; and
- the recognition that international cooperation and relations are quintessential for the realization of sustainable development.

Several international and regional instruments have re-affirmed the right to development since the adoption of the Declaration on the Right to Development, most recently for example in the 2010 Millennium Review Summit Outcome Document and the Istanbul Programme of Action for LDCs. The right is explicitly enshrined in the legally binding African Charter on Human and Peoples' Rights. It may be mentioned that the African Commission on Human and Peoples' Rights is building its case law under article 22 and has its own reporting template.

Ladies and Gentlemen,

The preamble of the Declaration describes development as “a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom [...]”.

Article 1 of the Declaration on the Right to Development defines the right to development as an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

Characterizing development as a human right has several implications:

- It means that the right to development cannot be given away from or denied to individuals or peoples;
- As such it empowers individuals and peoples to become active agents of the development process, to participate actively, freely and meaningfully in development, or in other words to claim their rights; and
- It focuses on the dimension of accountability. As a human right, the right to development enhances accountability by virtue of its universality, by placing implementation responsibilities on individual States, and by requiring effective international cooperation in policies and action for development.

The Declaration sets out the particular requirements of the right to development itself, and, by extension, human rights-based development, namely:

- Putting the human person at the centre of development,
- Ensuring active and meaningful participation,
- Securing non-discrimination,
- Fairly distributing the benefits of development,
- Respecting self-determination, and sovereignty over natural resources, and
- Informing all processes that advance other civil, political economic, social and cultural rights.

Further, the Declaration identifies those obstacles that frustrate the purpose of international cooperation, such as threats to peace and security, foreign domination and racism in all its forms.

Development has sometimes been equated with economic growth. But real development is about access to opportunities for the constant improvement of human wellbeing, about guaranteeing the right to a life in dignity and freedom – freedom from want, freedom from fear and the freedom to flourish.

Distinguished delegates,
Members of Parliament,

At the intergovernmental level, discussions on the contours and content of the right to development have been divisive and politicized, not making substantial progress. Somewhat in parallel, development law evolved with the adoption of declarations at successive major international conferences leading inter alia to the adoption of the Millennium Development Goals and the human rights-based approach to development cooperation. These developments are arguably being overtaken by changes in the geopolitical situation, the rise of emerging market economies, the Arab spring but also by the global challenges stemming from the financial crisis, climate change and environmental degradation.

Is it time to adapt to new realities, to adjust development models to the realities of a climate-constrained environment with finite energy and natural resources? Is the right to development still relevant in today's reality?

No doubt, the world is undergoing dramatic changes, not only environmental or demographic ones. The popular uprisings in North Africa and the Middle East, demonstrations in several parts in Europe and the United States, they all ultimately claim the right to development.

In North Africa and the Middle East people were taking to the streets because of rampant poverty and inequalities, rising unemployment, a lack of opportunities, and the chronic denial of their economic, social and cultural rights, as well as civil and political rights. They had no regular channels to express their discontent; they are deprived of the benefits arising from the natural resources of their countries, and they cannot meaningfully participate in the decision-making process to change the situation.

In Europe, demonstrators against austerity measures eroding away social benefits call themselves “les indignés”, making reference to the small but influential publication “Indignez-vous” of Stéphane Hessel, one of the drafters of the Universal Declaration of Human Rights. The main message of his publication is, don’t remain indifferent, engage, get involved, for your rights and those in need of protection.

In the United States a “Declaration of the Occupation of New York City” summons all those who feel “wronged by the corporate forces of the world”. Corporations “place profit over people”, “run our governments”, take bail-outs “with impunity”, poison the food supply, block green energy, “perpetuate colonialism at home and abroad”, muzzle the media and use student loans to “hold students hostage”. The protests explicitly invoked the spirit of Tahrir Square, demanding “just solutions to the crises we face”.

These are exactly the kind of issues addressed by the right to development. No doubt, the right to development is as relevant today as it was on the day the Declaration was adopted and it responds to contemporary challenges.

The right to development not only helps address these root causes; the Declaration also guides our efforts to find sustainable solutions because it puts people at the very heart of development. All human rights including the right to development must be at the core of development policy and crucially, at the heart of a strengthened global partnership for development and, of global strategies to meet existing and new challenges.

Representing the people, parliaments have an essential role and duty in making the right to development a reality for everyone as stated in the Millennium Declaration.

Thank you.