



ASSOCIATION INTERNATIONALE DES JURISTES DEMOCRATES
INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS
ASOCIACION INTERNACIONAL DE JURISTAS DEMOCRATAS
МЕЖДУНАРОДНАЯ АССОЦИАЦИЯ ЮРИСТОВ ДЕМОКРАТОВ
國際民主法律家協會
رابطة الحقوقيين الديمقراطيين العالميين

Expert Mechanism on the Right to Development - 6th session
Panel on engagement with civil society
statement by Micòl Savia, IADL permanent representative to the UN in Geneva

Good afternoon,

it is an honour to participate in today's important discussion as a representative of the International Association of Democratic Lawyers (IADL). We warmly thank the Expert Mechanism on the Right to Development for inviting us, and for the genuine efforts they are making to reach out and engage with civil society. We strongly support their work and their mandate.

IADL has been advocating for the realization of the right to development since its inception in 1946. Our organization was indeed established with the main objective of ensuring common action by lawyers from different regions of the world to achieve the aims set out in the UN Charter, namely the maintenance of international peace and the promotion of the economic and social advancement of all peoples.

IADL always stood by peoples struggling for their rights to self-determination, independence, sovereignty, and equality. During the decolonization process, IADL lawyers provided legal assistance to liberation movements in several Third World countries. When these peoples conquered a seat at the United Nations, we continue to work side by side with their representatives. At the time, right to development was central to our activities.

In 1975, the 10th IADL Congress – which was held in Algiers with a strong representation of African national liberation movements – proclaimed for the first time the right to development. In 1981 IADL, together with the Centre for Economic and Social Studies of the Third World, organized in Mexico a multidisciplinary conference aimed at elaborating proposals for the transition to a new international democratic order. The meeting was attended by 80 specialists from all continents, as well as personalities such as the Minister of Economy of Costa Rica, the Minister of Trade of Congo, the Minister for Foreign Affairs of Mali, and Nobel Peace Prize Adolfo Perez Esquivel. In the outcome document, participants agreed on the need to formally recognize the right to development as a fundamental human right.

IADL has been actively involved in all discussions and negotiations that led to the adoption of the UN Declaration on the right to development in 1986. At the time, the world was shaken to its foundations, and the elaboration of new international legal instruments was enshrining and reinforcing the rights conquered by the peoples. A golden age for international law.

Then times changed dramatically. Transnational corporations and financial institutions took over decision-making spaces at all levels. International law lost much of its emancipatory force, and for many years the UN have been unable to achieve any substantial progress in the

implementation of the right to development. What is worse, during ‘negotiations’, concepts that were once clear become blurred and confused.

Nowadays few people – and few lawyers - know about the real content and scope of the right to development, and therefore they do not include it or use it in their revendications.

Despite these challenges, peoples’ struggle for their ‘*right to participate in, contribute to, and enjoy economic, social, cultural, and political development*’ has never stopped. And progressive lawyers around the world continue to stand by their side, providing legal assistance to the many who end up in jail, or are beaten, threatened, dispossessed, and even killed for claiming their right to development.

IADL and its member associations continue to advocate for the implementation of international law and to promote better knowledge and awareness of it, nevertheless our efforts are met with increasing scepticism - which unfortunately is something inevitable when law stops responding to people's needs and favours instead the interests of those who oppress them.

The recent decisions taken by the Human Rights Council - under the leadership of the Non-Aligned Movement - to appoint a Special Rapporteur, establish an Expert Mechanism and mandate the Working Group to elaborate a legally binding instrument on the right to development, encourage us. The implementation process seems to have regain momentum and the draft convention currently under discussion is a good text, firmly anchored in basic principles of international law. We express our deepest gratitude to all those who made this important advancement possible.

The challenge now is to convince people that the codification process is back on track and that the right to development is a useful tool for their struggles. And we absolutely need rightsholders to seize and claim their right, otherwise it will remain a mere legal concept.

One obstacle in reaching out to people and talk about the right to development is that, despite the big steps forward made by the Human Rights Council, the mainstream narrative surrounding the right to development continue to be dominated by the 2030 Agenda for Sustainable Development and its implementation. Even the debates of the Council and its resolutions are filled with references to these programmatic documents.

Even though we recognize that the 2030 Agenda might have facilitated some improvements, and we value member states’ efforts to reach the targets, we cannot but consider such programmes as completely inadequate and insufficient to address the challenges we are facing.

The implementation of the right to development requires precise legal guarantees. As stated in the Preamble of the Universal Declaration, ‘*human rights should be protected by the rule of law*’. Goals, targets, voluntary guidelines, self-regulations, codes of conduct and good intentions in general, cannot by themselves ensure a democratic orientation of development nor the protection of any human right.

Affected communities, exploited workers, indigenous peoples, peasants rightly claim legally binding norms and implementation mechanisms. They want legal protection for their rights. They want access to justice, accountability, reparations and guarantees of non-recurrence. The 2030 Agenda machinery has no attraction whatsoever for them, quite the opposite.

It would perhaps be more useful to link the right to development to the ongoing UN discussions aimed at regulating TNCs' activities or ensuring protection of peasants' rights, analyzing and deepening their relationship. It would be useful to bring the discussion on the right to development back in the realm of claims for the establishment of a New International Economic Order, claims that might have gone slightly out of fashion among governments but remain a priority for rightsholders.

We hope that the EMRTD - through its technical advice and sound legal arguments – will continue to dispel all the doubts and uncertainties of member states, facilitating the adoption of a meaningful convention on the right to development.

In fulfilling its mandate, the EMRTD should analyse the work of social and peasants' movements, who have a deep understanding of obstacles to the right to development and carry out inspiring initiatives to overcome them. Peoples' struggle to resist and roll back exploitation and oppression and create better conditions of living for all, is definitely a good practice worth to be shared with member states.

To conclude: the full realization of the right to development rest in the hands of peoples and depends solely on their capability to enforce it by their governments. International law can only accelerate or delay their achievements. We believe that, in the face of the multiple crisis affecting humanity and the planet and the black clouds looming on the horizon, there is no time to lose. It is urgent to provide rightsholders with the legal tools they need to make the right to development a reality.

Thank you.

November 1, 2022