

Role of business in realizing the right to development (A/78/160)

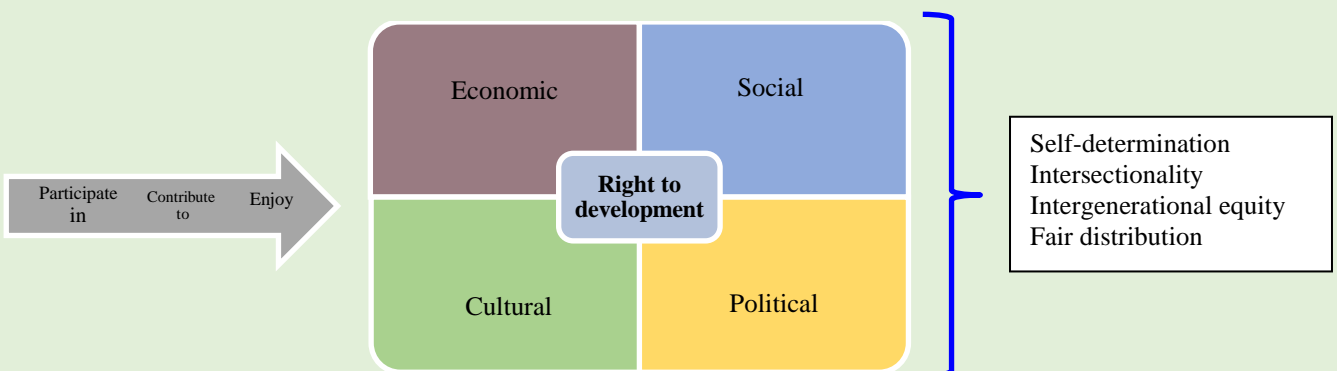
***Summary of the Report of the Special Rapporteur on the right to development,
Surya Deva***

In his first report, submitted to the United Nations General Assembly pursuant to resolutions [33/14](#) and [51/7](#), the Special Rapporteur on the right to development, Surya Deva, articulates a holistic vision of the right to development and examines the role of business in realizing this right.

Based on the definition of the right to development elaborated in the landmark 1986 Declaration on the Right to Development, the Special Rapporteur discerns **three elements** and **four facets** of the right (see Figure 1). The three elements are the ability of human beings to participate in, contribute to and enjoy the right to development. The four facets are economic, social, cultural and political development. Pursuing these four facets of development provides a pathway to realize all human rights and fundamental freedoms.

In addition, one can derive four overarching principles of the right to development from the Declaration and other relevant instruments: **self-determination, intersectionality, intergenerational equity and fair distribution**. “Self-determination” signifies that peoples have a right to determine their economic, social and cultural development in line with the International Bill of Human Rights. The principle of self-determination entitles peoples to have “full sovereignty over all their natural wealth and resources”. “Intersectionality” refers to the fact that rights holders are not a homogenous group and that many individuals and groups often face multiple and layered forms of discrimination in society, which undermine their ability to realize the right to development. The third overarching principle of the right to development is “intergenerational equity”, because this right is not a licence to destroy the planetary ecosystem or undermine the ability of future generations to fulfil their development aspirations. Lastly, article 2 (3) of the Declaration provides that the aim is “the constant improvement of the well-being of the entire population and of all individuals” and “the fair distribution of the benefits” resulting from national development policies.

Figure 1 A holistic vision of the right to development



Businesses have an indispensable role in realizing the right to development. They construct houses, build infrastructure, offer loans and banking services, create employment opportunities, foster

vocational capabilities, develop new medicines and vaccines, provide Internet services, offer various means of transport and provide access to essential public services. At the same time, business activities can also undermine the right to development, e.g., through evading tax payment, promoting the sale of unhealthy products, exploiting migrant workers, causing environmental pollution or displacing Indigenous Peoples for development projects. The key is to harness the positive contribution of businesses and minimize the adverse impacts of business activities on the right to development.

In light of the facets and principles, identified above, the report provides a road map to harness the positive contribution of business and minimize the adverse impacts of business activities on the right to development. By analysing selected international standards, it provides illustrative examples of how businesses could contribute to realizing all four facets of the right to development (economic, social, cultural and political development) and the enabling role that States and civil society organizations should play in this regard. The Special Rapporteur also calls for a fundamental shift in how businesses operate in society by reorienting the purpose of business, changing irresponsible business models and going beyond the “do no harm” approach. Only by making these transformative changes will businesses be able to make a meaningful contribution to inclusive, equitable and sustainable development.

With regard to **economic development**, the report points out the widespread inequalities that have recently sharply increased. It demonstrates that certain business policies and practices are part of the problem. The Special Rapporteur note that businesses can become part of the solution by taking several measures to reduce existing economic inequality: if businesses pay living wages to workers (including those part of their supply chains), this will directly reduce economic and other inequalities. Businesses should adopt responsible purchasing practices, rather than passing the burden of complying with mandatory human rights laws to their supply chain partners. In addition, businesses should respect workers’ rights to the freedom of association and collective bargaining, because an effective realization of these rights will allow workers to address power imbalances and in turn secure decent work.

Economic inequality often contributes to the digital divide, which in turn exacerbates existing inequalities and undermines pathways to realizing the right to development. Businesses should take individual and collective measures not only to bridge the digital divide but also to ensure access to safe and affordable technologies to all people without any discrimination.

With regard to **social development**, the report notes that despite various law and policy measures, gender inequality remains a major hurdle to the social development of girls and women. The current data show that “the world is not on track to achieve gender equality by 2030” and that “closing gaps in legal protections and removing discriminatory laws could take up to 286 years based on the current rate of change”. For example, “women are a minority of students in STEM (science, technology, engineering and mathematics) education, at only 35 per cent, and in information and communication technology studies, at just 3 per cent”. They “make up just 19.9 per cent of science and engineering professionals”. Women and girls also face disproportionate levels of discrimination, the gender pay gap, sexual harassment and gender-based violence in both the public and the private spheres. This situation undermines women’s pathways to development.

Children, our future, similarly face significant barriers to realize their right to development. Millions of children are trapped in situations of child labour, forced marriage, modern slavery and human trafficking for sexual exploitation. They are also disproportionately impacted by armed conflicts. The voices of children are rarely integrated adequately in decision-making processes about issues directly impacting their well-being such as new technologies and climate change.

Operating in this context, businesses must take proactive steps to advance substantive gender equality and the rights of children to further their social development. They should contribute to advancing gender equality by ensuring “women’s full and productive employment and decent work, equal pay for equal work or work of equal value, and equal opportunities, as well as protecting them against discrimination and abuse in the workplace”. Although only 31 States have ratified the ILO Violence and Harassment Convention 2019 (No. 190) as of June 2023, businesses should act in line with the spirit of the Convention wherever they operate. Businesses should also promote women’s entrepreneurship in line with the Women’s Empowerment Principles.

Considering that “business activities and relationships can have multiple adverse impacts on children”, what they do and do not do will have a direct bearing on the social development of children. Businesses must eliminate child labour throughout their supply chains, stop sexual exploitation of children, phase out the sale of unhealthy products and protect children from online abuses. They should also recognize the agency of children and involve them in decisions affecting children, e.g., introducing new technologies and climate change adaptation and mitigation measures.

Lack of effective remediation and accountability for business-related human rights abuses – many of which are linked to development projects – is another obstacle to achieving social development. Under the United Nations Guiding Principles, businesses (including development finance institutions) are expected to establish effective operational-level grievance mechanisms as part of their responsibility to respect human rights. Some such mechanisms often fail to provide effective remedial outcomes because they lack the active, free and meaningful participation of affected rights holders. Codesigning grievance mechanisms with affected rights holders or promoting community-driven operational-level grievance mechanisms might allow businesses and development finance institutions to ensure such participation and in turn contribute to social development.

With regard to **cultural development** the report gives the example of Indigenous peoples who have been living in harmony with nature for centuries. However, the current development model often results in the dispossession or forced displacement of Indigenous Peoples from their traditional lands, territories and resources, which has a direct impact on their cultural development. While Indigenous Peoples have contributed least to the current climate crisis, they are highly vulnerable to mining or hydropower projects aimed at transition to a low-carbon economy.

It is worrying that many companies continue to ignore climate change risks or mislead their stakeholders about the seriousness of these risks. For example, the Carbon Tracker Initiative reported that “more than 70 per cent of listed companies that represent some of the world’s largest carbon-polluters, alongside most of their external auditors, are not fully accounting for climate-related risks in financial statements”. It is widely accepted that the impact of climate change will be felt disproportionately by lower-income countries and marginalized individuals or groups such as women, girls, persons with disabilities and Indigenous Peoples. While some mining may be necessary to sustain current development needs and support renewable energy transition, mining could also have significant adverse impacts on all human rights, including the right to development, environmental rights and the rights of human rights defenders.

In this context, business can play a critical role by ensuring that mining or other development projects in which they are involved promote – rather than undermine – cultural development not only of the present generation but also future generations. Businesses must ensure that mining is not only responsible and sustainable but also conducted only after obtaining a social licence from the affected communities through their active, free and meaningful participation. If the rights of Indigenous Peoples are impacted by any mining or other development project, then businesses must obtain a free, prior and informed consent in line with the United Nations Declaration on the Rights of Indigenous Peoples and the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). As noted in the

Maastricht Principles on the Human Rights of Future Generations, businesses “should draw inspiration and guidance from Indigenous Peoples’ knowledges, cultures and traditional practices which contribute to sustainable and equitable development and the proper management of the environment”.

Public development banks can also support businesses in contributing to cultural development by supporting projects which promote inclusive, equitable and sustainable development and giving priority to climate finance needed to ensure a just transition to a green economy.

With regard to **political development**, the Special Rapporteur contends that businesses can contribute in several ways. They can support the active, free and meaningful participation of people in all decision-making processes affecting them. The 2022 Corporate Human Rights Benchmark shows that “71 per cent of companies scored zero on their approach to engaging with affected stakeholders on a regular basis”.

Participation is not identical to the consultation that many businesses may already conduct as part of human rights due diligence – the former requires recognition of the agency of people and the co-sharing of power with them to take decisions. Only by securing such participation of people would businesses ensure that “decisions reflect people’s needs and enable everyone to contribute to transformational change”. In this regard, businesses may draw inspiration from the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

Businesses can also nurture leadership by offering women and people from marginalized groups pathways to gain education, skills and opportunities for employment and loans. Businesses can contribute to political development by facilitating access to safe and affordable technologies to all people without any discrimination. This will entail following the “safety by design” approach, developing human rights-based data systems and taking affirmative action to provides access to vital technologies to disadvantaged individuals or groups. Digital companies should move away from their “data extractivist models” and address gender and racial bias in the use of artificial intelligence tools.

In addition to conducting heightened human rights due diligence and following the Voluntary Principles on Security and Human Rights, businesses should try to address the root causes of conflicts such as poverty, inequalities, discrimination against marginalized groups and xenophobia. Businesses should also conduct a human rights impact assessment before supplying weapons and ammunitions, ensure that their operational presence does not assist conflict actors and offer humanitarian aid wherever possible.

Lastly, as States listen to business leaders, businesses should use their leverage not merely to demand tax rebates or the creation of a business-friendly environment but also to encourage States to preserve civic space, which is a precondition for facilitating peoples’ participation in all decision-making processes related to the right to development. Without adequate civic space, businesses will also not be able to conduct meaningful human rights due diligence.

The world needs a new model of “planet-centred participatory development”. A fundamental shift is also needed in how businesses operate in society by reorienting the purpose of business, changing irresponsible business models and going beyond the “do no harm” approach. Businesses earning profit should be seen as part of a wider social good, that is, achieving inclusive, equitable and sustainable development. States must take several measures to bring this fundamental shift, including by changing the legal architecture that facilitates irresponsible or unsustainable business practices.

The report concludes with a set of practicable recommendations addressed to states, businesses and civil society actors.