



Call for information: Special Rapporteur on the right to development

A. HRC Report (September 2023) – “Reinvigorating the right to development: A vision for the future”

1. What have been the most important achievements for the implementation of the right to development at the national, regional and international levels in the past decade?

Understood as an inalienable human right based on a self-determined and people-centered development model, the right to development has been mostly neglected by states since the adoption of the UN Declaration on the right to development in 1986. The adoption of a legally binding Covenant or Convention on the Right to Development is, therefore, a major step towards the effective implementation of this human right on international, regional, and national levels.

Nevertheless, some achievements that might have contributed to the implementation of the RTD are:

National level: elaboration of public policies and legislations that guarantee people's access to basic services such as public health, education, pensions, transport, housing (access to land and shelter), and sanitation; as well as their basic needs such as access to clean and potable water, enough nutritious food, safe living and working environments, etc. It is important to affirm that countries which eventually implemented some of the above-mentioned policies have done so not in light of the right to development, but rather according to their own political commitments that may partially converge with the implementation of such right. Unfortunately, until the present day the right to development and its relevance have been mostly neglected, rendering this human right generally unfulfilled.

Regional and International level: Few significant efforts have been made to enhance cooperation and coordination for the full realization of the right to development across the globe. This would consist in promoting stronger South-South and triangular cooperations, as well as non-arbitrary North-South cooperations. Most development practices in place nowadays reproduce a logic which is primarily based on neoliberal economic practices and unfair power relations that rarely have positive and enduring effects on the lives of vulnerable and marginalised peoples. In this sense, a full realisation of the right to development would mean the inversion of such logic and the implementation of practices that are truly democratic, inclusive, sustainable and people-centred.

2. What are the key remaining challenges in the effective realization of the right to development at different levels?

Numerous obstacles persist in fully implementing the principles of the right to development.

At the global level, one major challenge is the persistence of structural inequalities and power imbalances among nations. Developing countries and their peoples often lack the resources, technology, and capacity to fully exercise their right to development. Addressing these disparities requires an equitable global economic order, fair trade practices, and enhanced development cooperation. At this level, we observe an overall lack of fair and inclusive cooperation; of political will from northern states in promoting wealth redistribution and overcoming unequal power structures; and of international regulations that protect peoples from human rights violations perpetrated by transnational corporations. Furthermore, the current mainstream development logic mostly sustains a neocolonialist approach which hinders an effective realisation of peoples' right to a self-determined development. Finally, the perpetuation of foreign debt and the stimulation of practices that lead 'developing' countries into indebtedness severely hamper the implementation of the right to development in such countries. A full revision of World Bank's, IMF's and WTO's structures and policies in light of the right to development is highly necessary.

At the national level, challenges include inadequate participatory governance, corruption, and weak institutional frameworks. Strengthening democratic governance systems, promoting transparency and accountability, and enhancing the rule of law are crucial to ensure the right to development is upheld. Furthermore, empowering marginalized groups (such as women, indigenous peoples, peasants, persons with disabilities etc.) through targeted policies and affirmative action is essential for an inclusive and self-determined development.

Additionally, in the framework of the endless multidimensional neoliberal crises, the COVID-19 pandemic has exacerbated existing challenges and introduced new ones. The health crisis has strained healthcare systems, disrupted economies, and widened socio-economic inequalities.

3. How could the right to development be mainstreamed and integrated into other relevant agendas (including the 2030 Agenda) at the national, regional and international levels?

In theory, the right to development might be in alignment with the objectives of the 2030 Agenda. However, in practice they present fundamental differences when it comes to tackling the world's structural inequalities and power imbalances. On the one hand, the SDGs are only "goals" that rely largely on profit-driven policies for their realization. On the other hand, the right to development is an internationally recognized multidimensional human right which puts people at the centre of development practices. Moreover, it enforces democratic, inclusive and transformative measures based on civic participation in decision-making processes and on the principles of wealth redistribution and peoples' self-determination – in contrast to the neoliberal status quo which takes for granted the current unilaterally imposed economic order that exacerbates poverty, ecosystem destruction and inequalities.

The right to development contains a commitment to foster international solidarity and cooperation in many areas of concern to countries of the Global South, including technology transfer, access to essential medicines, debt sustainability, aid, international trade and policy space in decision-making. Therefore, a thorough integration of the right to development into all UN agendas (including its specialized agencies), is imperative if we are to truly tackle the world's socioeconomic injustices. Such integration must be conducted, most of all, by all member states in mutual cooperation and political will to advance the right to development.

It is the role of states to bring forward and mainstream the right to development into their national, regional and international agendas. Together with regional and international organizations, they must develop strategies and action plans that prioritize inclusive and sustainable development, ensuring that no one is left behind. Cooperation on different levels can foster knowledge exchange, capacity building, and the sharing of best practices in promoting the right to development. Additionally, national, regional and international organizations must monitor and assess the progress made by member states in implementing the right to development and provide support to states in relation to the implementation of this right when appropriate.

4. What steps have been taken to realize the right to development of vulnerable or marginalized individuals and communities? Have these been effective?

No concrete steps have been made so far for the realisation of the right to development at varied levels. The Declaration on the Right to Development, despite its existence since 1986, has been mostly disregarded, never implemented by states and not sufficiently promoted by international, regional and national organizations. Thence, we hope that the future Convention will lead us to a full, meaningful and effective implementation of the right to development across the world. Along with this new Convention, the engagement of states, international organizations and the civil society must be considerably strengthened in order for the right to development to be promoted and implemented in a way that effectively benefits its rights-holders.

As of today, several challenges persist in effectively realizing the right to development for vulnerable or marginalized individuals and communities. In many cases, its implementation has been hindered by states' dependency on profit-driven foreign private sector, high levels of indebtedness, resource constraints, inadequate capacity and other issues directly related to unequal power structures and wealth distribution across the world. Therefore, for implementation efforts to be effective, such problems, in addition to other issues such as food insecurity, hunger, the deepening income inequality, climate injustice and war economies, must be addressed at their roots. An effective implementation of the right to development depends on shifting the current profit-making-at-all-costs growth logic into an approach that prioritizes people's needs on social, cultural, environmental and economic levels.

The implementation of laws and policies rendering mandatory peoples' participation in decision-making processes on projects/initiatives that will have an impact on their life is a

central element. Moreover, their right to free and prior consent on development initiatives is just the outset of their active participation in the development process of their choice.

5. How can the role of actors such as development agencies, international financial institutions, businesses, universities, civil society and the media be harnessed to contribute to the realization of the right to development?

No one knows better than a specific group or community about their own needs and interests; therefore, civil society's meaningful participation lies at the heart of implementation efforts on the right to development. In the case of indigenous, peasant and other traditional populations and communities, their representative organizations must play an active role in the design and implementation process - with the support of the state, development agencies, among others - of their chosen development path. The same applies to projects, policies, or any initiative targeted to benefit specific social groups, such as rural populations, women, the working poor, vulnerable children, people with disabilities, etc.

Development Agencies: Development agencies have a mandate to support development efforts. They can contribute to the realization of the right to development by providing technical assistance, capacity building, and financial resources to countries and communities in accordance with their priorities and needs. These agencies can help governments design and implement policies that prioritize inclusive and sustainable development. Development agencies must provide trainings on the right to development to their members of staff for a full integration of this human right into their mandates.

International Financial Institutions (IFIs): IFIs, including the World Bank and the International Monetary Fund (IMF), must be reformed and must restructure their policies in light of people's right to development. This means shifting from a neoliberal and profit-making neocolonialist approach to development that disfavours less privileged countries to a more democratic and inclusive logic that facilitates the redistribution of wealth and tackles foreign indebtedness, after having conducted a whole account of structural adjustment policies.

Businesses: The productive private sector can play a critical role in economic development. Businesses can contribute to the right to development by promoting responsible investment, creating job opportunities, and fostering sustainable business practices. To do so, they should preferably be under public control, aligning their activities with the principles of the right to development and in the perspective of fulfilling public interests, thus renouncing to an individualistic profit-driven logic, and ensuring that their operations do not harm communities and the environment.

Universities: Universities and academic institutions have a wealth of knowledge and expertise that can be harnessed to promote the right to development. They can contribute through independent research, analysis, and knowledge sharing. Universities can conduct research on development issues, offer specialized courses on the right to development, and collaborate with governments and other civil society organizations.

Civil Society: Social movements, trade unions, community-based groups and other civil society organizations, have a strong voice in advocating for the right to development. They can promote participatory development processes, ensure the inclusion of impoverished and marginalized groups, and monitor the implementation of development policies. Civil society organizations can also raise awareness, mobilize public support, and hold governments and other actors accountable for their commitments to the right to development on the ground.

Media: The independent media can play a crucial role in raising awareness about development issues. Journalists and media organizations can contribute to the right to development by reporting on development challenges, highlighting success stories, and promoting public discourse on inclusive and sustainable development. They can also hold governments and other actors accountable for their actions, ensuring transparency and promoting good governance.

6. What more should be done to strengthen cooperation among States as well as collaboration with various non-State actors in realizing the right to development?

The right to development is a key structural entry point for developing countries to review and improve on the current global finance and trade architecture that increasingly undermine the ability of countries of the Global South to deliver on the commitments they have made to ensure fundamental human rights such as food, housing, healthcare, education and decent work. Even the commitment to achieve gender equality and the empowerment of women and girls runs the risk of failure if left unresolved. A thorough respect of human rights can help safeguard against debt, trade, investment, and finance policies eroding the fundamental human rights of people and communities that the LDC governments pledged to protect.

A right to development-based approach to international development cooperation has the potential to usher in new cooperative arrangements among countries and peoples. International solidarity and equity will guide the observance of the principles of national sovereignty, self-determination, equality, and mutual benefit. This will democratize global economic governance – if the concerned social categories are organized to guarantee its implementation. This could result in the rescinding of trade and investment treaties that amplify the power of transnational corporations and curtail efforts of Southern countries to be able to adopt their sovereign path to development. It could repudiate the global debt problem that has crippled the global South due to lender-imposed neo-liberal policies of privatization, liberalization, deregulation and austerity. And a right to development-based approach could stop the dominance of international financial institutions that are under the control of a few powerful countries.

B. UNGA report (October 2023) – “Role of businesses in realizing the right to development”

1. What laws, policies and incentives are in place (or should be introduced) to encourage businesses to contribute to the effective realization of the right to development?

Firstly, we should not limit ourselves to “encourage” businesses to comply with human rights norms, but rather we must establish concrete and binding norms and mechanisms to oblige transnational corporations (TNCs) to respect the right to development as well as labor and environmental norms. In case of non-compliance, enforcement mechanisms shall be able to prosecute and sanction TNCs.

The currently existing legal frameworks are very often not enough to satisfactorily control and regulate businesses – especially TNCs – and guarantee that they abide to international human rights norms. Because of the transnational character and complex administrative structures that permeate TNCs, the creation of a solid international binding treaty, as currently negotiated within an ad-hoc Inter-Governmental Working Group of the Human Rights Council, is imperative to guarantee that such corporations respect people’s right to development in countries where they run businesses.

2. What steps are being taken to ensure that businesses provide adequate living wages to their employees/workers throughout their operations and adopt responsible purchasing practices?

Not enough steps have been put forward in this regard, as precarious working conditions and poor remuneration are still vastly observed both in Southern and Northern countries, especially considering marginalized populations such as migrants, afro-descendants, women, and people with disabilities.

Multilateral mechanisms such as the UN must shield themselves from the strong corporate lobbies that constantly – and successfully – intervene in the elaboration of regulatory international norms to regulate the predatory practices of TNCs. Strong binding treaties must be adopted to oblige TNCs to comply with human rights norms, respect people’s right to development and, therefore, ensure adequate living wages and working conditions for their workers.

3. How do businesses ensure that development projects do not result in environmental pollution and/or forced displacement of communities, including indigenous peoples?

Businesses claim they ensure socially and ecologically sustainable practices through their own due diligence processes, which supposedly identifies risks and prevent them from occurring on the ground. It is clear, however, that the “due diligence” processes currently practiced are not enough to regulate corporate activities, nor to establish legal liability of TNCs, and let alone to hold TNCs accountable for violations along their value chains, as they are mainly internal and self-regulated processes.

Once again, an imperative step lies in the adoption of strong binding treaties to regulate TNCs and to oblige states to promote and implement peoples’ right to a self-determined development.

Indeed, a key aspect is the need for guaranteeing the free, prior and informed consent of indigenous peoples and groups that will be affected by businesses' activities. Respecting the former's development choices and positions must be imperative both for TNCs and states.

Finally, effective monitoring and inspections should be carried out in order to assess whether businesses are correctly abiding by all [future] legislations concerned or not. Exemplary punishment to TNCs that fail to respect international human rights norms is also a must.

4. Are the existing regulatory frameworks at the national, regional and international levels adequate to ensure that businesses do not evade paying taxes to States?

Clearly not. The minimum tax rate of 15% recently adopted by the OECD to TNCs is not enough and can easily be subverted.

5. What are the good practices about businesses trying to bridge the digital divide and/or ensure the safe use of technologies by vulnerable population such as children, elderly and minorities?

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6. How can States and other actors (e.g., national human rights institutions, development finance institutions and businesses) provide effective remedies to individuals and communities alleging breach of the right to development?

The adoption of an international binding treaty in combination with a strong and effective enforcement mechanism is indispensable. While the binding instrument will serve to regulate TNCs by establishing concrete provisions and obligations to respect the right to development and oblige countries to promote and fulfil this human right, the enforcement mechanism will be a valuable space where those affected can refer to and present complaints against TNCs that violate their rights.

In this sense, the Global Campaign to Stop Corporate Impunity, of which CETIM is member, has been pleading for the creation of an international tribunal to judge TNCs' human rights violations and to put forward punishment measures accordingly. This would certainly be an important element for protecting individuals and communities who allege violations of their right to development. For further information on this, see [here](#).

C. Thematic priorities for 2023-26

1. What issues should the Special Rapporteur focus on during the next three years of his mandate for the effective realization of the right to development at the local, national, regional and international levels?

At the local level, the Special Rapporteur should address the challenges faced by marginalized, impoverished and vulnerable communities in accessing development opportunities. This includes advocating for inclusive and participatory processes that empower local communities to actively participate in decision-making processes that affect their lives. It is crucial to ensure that development policies and projects are designed in a way that respects and incorporates the needs and aspirations of local communities.

At the national level, the Special Rapporteur should emphasize the importance of policy coherence and integration of the right to development into national development plans. This involves promoting an enabling legal and policy environment that protects and promotes the right to development. The Special Rapporteur should also advocate for equitable distribution of resources, including land, water, and other natural resources, to ensure that no one is left behind in the development process.

Regionally, the Special Rapporteur should encourage regional cooperation and coordination in addressing common development challenges. This includes promoting knowledge sharing, capacity building, and the exchange of best practices among countries within a region. The Special Rapporteur should also advocate for regional economic integration that fosters people's right to a self-determined development model and that reduces inequalities among countries.

At the international level, the Special Rapporteur should focus on the role of international financial institutions and TNCs in promoting or undermining the right to development. This includes holding corporations accountable for their human rights impacts, ensuring responsible investment and trade practices, and advocating for fair and just international economic and financial systems. The Special Rapporteur should also advocate for the adoption of the Convention and, once adopted, promote its future implementation.

Overall, the Special Rapporteur should prioritize a right to development-based approach to development, ensuring that the right to development is at the center of all development policies and practices.

2. What are the main challenges faced in realizing the right to development? Are there any good practices and effective strategies in overcoming these challenges?

One of the main challenges is the unequal distribution of resources and power among nations. Economic disparities, unequal access to technology, and imbalances in global trade hinder the realization of the right to development. To address this challenge, countries can adopt inclusive and equitable economic policies that prioritize poverty reduction, social protection, and investment in human capital. International cooperation, such as technology transfer and financial assistance, can help bridge the gap between developed and developing nations.

Another challenge lies in ensuring the meaningful participation of marginalized and vulnerable groups in decision-making processes. Peasants, workers, women, indigenous peoples, persons with disabilities, and other marginalized groups often face discrimination and exclusion, preventing them from fully exercising their right to development. To

overcome this challenge, governments should create enabling environments that promote the participation of these groups in decision-making at all levels. This can be achieved through affirmative action measures, inclusive governance structures, and capacity-building initiatives.

Furthermore, ensuring sustainability and environmental protection is a crucial challenge in realizing the right to development. Unsustainable practices, climate crisis, and environmental degradation pose significant threats to development efforts. To address this challenge, countries should adopt a sustainable development approach that integrates social, economic, and environmental dimensions, based on the right to development. This includes promoting renewable energy, sustainable ecological agriculture, and responsible consumption and production patterns.

In overcoming these challenges, there are several good practices and effective strategies that can be employed. First, promoting democratic governance, equitable income distribution and the rule of law is essential. Transparent and accountable institutions, an independent judiciary, and an effective legal framework can ensure the protection of human rights and foster an environment conducive to a people-centred development.

Education and capacity-building are also key strategies in realizing the right to development. Investing in quality education and skills development equips individuals with the knowledge and capabilities necessary to actively participate in society and contribute to development. Moreover, empowering women and girls through education and gender equality initiatives can have a transformative impact on societies.

Finally, promoting international solidarity and cooperation in good faith is also vital.

3. What actions should be taken to ensure the integration of the right to development in other agendas such as the Sustainable Development Goals, business and human rights, protection of the environment, climate change, discrimination, migration, peace and security, development finance, trade and investment agreements, new technologies, civic space, and access to justice?

See answer in Section A number 3.