



The Right to Development: 30 Years On

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The Declaration on the Right to Development, adopted by the UN General Assembly in 1986 (as Document 41/128) is 30 years old. It is appropriate to celebrate this anniversary. For the right to development has had great resonance among people all over the world, including in developing and poor countries. Even the term itself “the right to development” carries a great sense and weight of meaning and of hope.

It is fitting to recall some of the important elements of this right to development. **It is human and people centered.** It is a human right, where every human person and all peoples are entitled to participate in, contribute to and enjoy development in which all rights and freedoms can be fully realized (Article 1.1). The human person is the central subject of development and should be the active participant and beneficiary of development (Article 2.1).

It gives responsibility to each state to get its act together to take measures to get its people’s right to development fulfilled. (States have the right and duty to formulate appropriate national development policies, that aim at improving the well-being of all individuals on the basis of their meaningful participation in development and in the fair distribution of the benefits resulting therefrom - Article 2.3.)

But it also places great importance to the international arena, giving a responsibility to all countries to cooperate internationally and especially to assist the developing countries. (States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development - Article 3.3; States have the duty to take steps, individually and collectively, to formulate international development policies to facilitate the full realisation of the right to development - Art 4.1; Sustained action is required to promote more rapid development of developing countries...Effective international cooperation is essential in providing developing countries with appropriate means and facilities to foster their comprehensive development - Art 4.2.)

Thus **it recognises that international relations and rules have important roles.** And it implicitly recognises that there are imbalances and inequities in the existing international order that hinder countries from implementing the right to development. Therefore it calls for a new

international order. (States should realise their rights and fulfil their duties in such a manner as to promote a new international economic order - Article 3.3.)

The right to development is also practical. It calls for the realisation of the right to development. It recognises that there are obstacles to the realisation of the right to development. It also recognises that there are international-level obstacles and national-level obstacles, and encourages all parties and stakeholders to identify these obstacles and to act to remove these obstacles. The international obstacles obviously require international cooperation to address them. (States should take steps to eliminate obstacles to development - Article 6.)

In this 30th anniversary of the Declaration, it is useful to make use of the practical relevance of the Right to Development by elaborating on some of the key global issues of our present times, and how they affect the right to development. The realisation of the right to development requires that we identify, diagnose and address these global issues, challenges and problems. I will choose five such global issues and point to their relevance to the right to development.

1. The global economy in crisis.

The economic sluggishness in developed countries has had adverse impact on developing economies. With commodity prices down, many commodity dependent developing countries are facing reduced export earnings. Many countries had to endure great fluctuations in the inflow and outflow of funds, due to absence of controls over speculative capital flows. Currencies are fluctuating due to lack of a global mechanism to stabilise currencies. Growth rates have fallen in Africa and elsewhere and some countries are on the brink of another debt crisis. There is for them an absence of an international sovereign debt restructuring mechanism, and countries that do their own debt workout may well become victims of vulture funds. All these become challenges for maintaining development, and are obstacles to the right to development, and need addressing.

2. The challenges of implementing appropriate development strategies.

Developing countries that aspire to achieve sustained economic growth and sustainable economic development face many challenges in formulating and implementing policies that work.

There are challenges in getting policies right in agricultural production, ensuring adequate livelihoods and incomes for small farmers, and national food security.

Countries that aim to industrialise face the challenges of climbing the ladder from starting viable low-cost industries to establishing labour-intensive industries to higher technology industries including overcoming the middle-income trap.

Then there are the challenges to build a range of services, including providing social services like health and education and water supply, lighting and transport, developing financial services and commerce.

These sectoral policies and the overall policy are even more difficult to formulate and implement due to the trend of liberalisation and the dangers of premature liberalisation as a result of loan conditionality and recently due to trade and investment agreements which also constrain policy space. In particular, investment agreements that contain the investor-state dispute settlement (ISDS) system enable foreign investors to take advantage of imbalanced provisions and great shortcomings in the arbitration system that not only cause countries a lot of costs but also put a chill or constraint on the ability to make policy. There is an increasing legitimacy problem for the investment rules regime. These challenges and obstacles to development policy making should be addressed including through processes in the right to development.

3. Climate change has become an existential problem for the human race.

Climate change is an outstanding or even an ultimate example of an environmental constraint to development and the right to development. In 2014 the IPCC's 5th Assessment Report gave the sobering figure that there is atmospheric space to absorb Greenhouse Gases of only another 1,000 billion tonnes for a reasonable chance of avoiding global warming of 2 degrees Celsius. Anything above that would be a devastating disaster. Global emissions are running at 50 billion tonnes a year. Within 2 decades the atmospheric space would be filled up. If the aim is to keep warming to 1.5 degrees, we have little more than a decade left. Therefore there is an imperative to cut global emissions as sharply and quickly as possible.

In seeking a solution, one key question is which country and which groups within countries should cut emissions by how much? The danger is that the burden will mainly be passed on to developing and poorer countries and to the poor and vulnerable in each country. A global agreement and national agreements to tackle climate change have to be environmentally ambitious, socially fair and economically viable. This is a set of enormous challenges.

The Paris Agreement of December 2015 succeeded in

showing the ability to reach a multilateral deal on an issue that threatens human survival. But it is not ambitious enough to save humanity, and it also does not demonstrate that the promise of transfers of finance and technology to developing countries will take place. The celebration of reaching an agreement has to give way to the sobering challenge of doing much more within a few years. The question is how the objective urgency of the situation can be met by measures that are equitable and economically feasible. This is a major challenge to development and the realisation of the right to development.

4. The crisis of anti-microbial resistance brings dangers of a post-antibiotic age.

Another possible existential issue that is less known is antibiotic resistance or more broadly anti-microbial resistance. Many diseases are becoming increasingly difficult to treat because bacteria have become more and more resistant to anti-microbials. Some strains of bacteria are now resistant to multiple antibiotics and a few have become pan resistant – resistant to all antibiotics. The WHO Director General has warned that every antibiotic ever developed is at risk of becoming useless. She added that: “A post-antibiotic era means in effect an end to modern medicine as we know it. Things as common as strep throat or a child's scratched knee could once again kill.”

There is also the special danger in the discovery of the existence of two genes (MCR-1 and NDM-1) with the frightening ability to easily spread resistance to other species of bacteria. MCR-1 has been found to be resistant to colistin, a very powerful antibiotic usually used only as a last resort, and another danger is its ability to spread resistance from one type of bacterium to other bacteria. NDM-1 is another gene with the ability to jump from one bacteria to other species, making them highly resistant to all known drugs, except two. In 2010, only two types of bacteria were found to be hosting the NDM-1 gene --- E Coli and Klebsiella pneumonia. Within a few years, NDM-1 had been found in more than 20 different species of bacteria. The discoveries of NDM-1 and now of MCR-1 add urgency to the task of addressing anti-microbial resistance.

Actions needed include better surveillance, measures to drastically reduce the over-use and wrong use of antibiotics including control over unethical marketing of drugs, control of the use of antibiotics in livestock, public education, and discovery of new antibiotics. The WHA in 2015 adopted a global plan of action to address anti-microbial resistance but the challenge is in the implementation. Developing countries require funds and technology such as microscopes and diagnostic tools; they also need to have access to existing and new antibiotics at affordable prices; and people in all countries need to be protected from anti-microbial resistance if life expectancy is to be maintained and if there is to be realisation of the right to development.

5. Challenges of meeting the Sustainable Development Goals.

A special challenge is the extent to which the ambitious Agenda 2030 and the Sustainable Development Goals can be fulfilled. There is a close connection between the Right to Development and the SDGs. Fulfilling the SDGs would go a long way to realising the right to development. The SDGs include some very ambitious and idealistic goals and targets. Yet there are obstacles for many countries and people to fulfil these.

For example, Goal 3 is “to ensure healthy lives and promote well-being for all at all ages.” What could be more noble than this? One of the targets is to achieve universal health coverage, that no one should be denied treatment because they cannot afford it. But unless there is sufficient means of implementation in countries or among people, this will remain a noble target. Even if the government of a poor, or average or even rich country is willing to give a sizable allocation to health care, it will face the problem of lack of resources or the need to redistribute income or both. The financing of health is thus a major challenge.

It becomes more of an obstacle when treatment is unnecessarily expensive. One problem is when medicines are priced very high and out of reach of the poor or even the middle class. The treatment for HIV AIDS became more widespread and affordable only when generics were made more and more available at cheaper and cheaper prices, for example \$60 a patient a year as compared to the original prices of \$10,000 or \$15,000, and millions of lives have been saved. A similar situation has arisen for patients of Hepatitis C where the original price of a new drug with nearly 100% cure rate is \$84,000 in the US and 56,000 euros in Europe for a 12 week course of treatment, whereas generics can be produced and sold for less than \$1,000 (in some cases around \$600) in a number of developing countries. Similar wide price comparisons can be made for drugs to treat cancer and other diseases and for the new category of drugs known as biologics, many of which are priced at above \$100,000 in the US.

Some of the new medicines are unaffordable even in rich countries and not provided in their national health service and certainly unaffordable in developing countries let alone LDCs. The issue of patents, over pricing of original drugs, and the need to make generic drugs more available, is relevant to the fulfilment of SDGs, to

universal health coverage, and the realisation of the right to development and the right to health. Therefore for the SDGs to have a chance of a good success rate, the goals and targets have to be taken seriously using domestic resources of the countries, and they also have to be accompanied by adequate means of implementation. Obtaining adequate means of implementation entails international cooperation in at least three areas: (1) the provision of finance and technology to developing countries, including to assist them to fulfil the SDGs; (2) establishing appropriate international rules in trade, finance, investment, intellectual property and technology; (3) when formulating their domestic policies, policy makers in developed countries are sensitive to and take account of the interests and needs of people in developing countries.

The approach and instruments of the right to development would be useful to apply when implementing the SDGs. In turn, the fulfilment of the SDGs would be helpful for the realisation of the right to development. At the same time we should be mindful that there are limitations to the set of SDGs, and to the SDG approach. This should be supplemented by other instruments and approaches that are needed for a comprehensive understanding of the dynamics of development and thus of the right to development.

The five issues above are examples of the global crises and challenges facing our present world. There are undoubtedly several more major global issues. And there are many more issues at the national level. The right to development, its principles, perspectives and approaches, provide a valuable framework to address these problems. It would be very useful, for each issue, to: (1) identify the issue and its link to the right to development; (2) diagnose the causes of the problem; (3) elaborate on how it constitutes obstacles to development and to realising the right to development; (4) formulate and implement measures to eliminate the obstacles; (5) evaluate the effects of the actions and adjust the measures or actions to make them more effective.

This would be an action-oriented way to celebrate the 30th anniversary of the declaration on the right to development.

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