

## **25 Years of the Right to Development: Achievements and Challenges**

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### **Global Partnerships for Development**

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**(Statement for circulation)<sup>2</sup>**

I am very honoured to be here and to have the opportunity to speak about ‘global partnerships’ for development. ‘Global partnerships’ is the accepted consensus language of the international community – included as Goal 8 of the MDGs - to refer to the role of governments in supporting development. In the language of the Right to Development (RtD), it refers to the international dimension of the right, including the contentious issue of collective responsibilities of states and the demands for a just global economic system motivated by commitment to global solidarity for human dignity and freedom. As last night’s panel discussion made clear, this is the issue that divides countries, between the North and the South, and which has created the political obstacle to taking the RtD forward. Conceptually, I agree with Ibrahima Salama who stated categorically that this was the added value of the Right to Development; no other human rights focuses on the problems created by actions of states that undermine the human rights entitlements of people in other states. He gave the example of agricultural subsidies in the US and Europe and their effects on cotton farmers in West Africa to illustrate the point. Michael Windfuhr illustrated the problem in detail with the

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<sup>2</sup> A shorter version of this statement was delivered. The full statement could not be delivered due to limitations of time.

example of a woman rice farmer in Ghana whose livelihood interacts with the global economy in complex ways through a variety of national and international policies. I also want take this opportunity to reaffirm Stephen Marks's impassioned statement last night that the five members of the High Level Task Force behind the 2010 Report were individually and personally committed to the importance of the international dimensions of the Right to Development.

I will focus my remarks today on one aspect of the RtD, the importance of the right to development on global economic policy, covering four points: (i) the development economics basis for the Right to Development and for defining obligations under this right; (ii) economic policies and other public policies as the principal means for implementing the right to development; (iii) priority agenda for collective international responsibilities; and (iv) mobilizing civil society to move RtD forward.

First, development economics and the Right to Development. I come to human rights from the development field, not from law. While human rights theory and practice have developed in the disciplines of law, political science and philosophy, Development Economics can also contribute. Economics can be particularly helpful for RtD, clarifying what are the relevant state obligations to respect, protect and fulfill these rights by offering a deeper understanding of the process by which development takes place. Understanding the nature of the economics of the process is particularly important because this is where the controversies over this right have been. The divergent positions are about the means, not the ends of the RtD. There is no disagreement over desirable objectives – no one, no

state, objects to 'development' as an aspiration or even an entitlement, nor to specific characteristics of development such as food and education, nor non-discrimination, equity, or participation. But there is disagreement about the 'enabling international environment' for development, how important this is and what that includes.

These questions about the factors that determine successful development outcomes are at the core of what development economists have been studying for decades since the discipline emerged in the late 1940s. The disagreements between NAM and the Western group reflect controversies among economists. The Right to Development as a concept can only be robust if it draws on the evidence and explanations of the economics literature, and particularly from the critical rather than the mainstream perspectives. In the history of development thought that emerged since the end of the Second World War, there are broadly three strands of thought: the mainstream thought has dominated national and international policy-making centers around economic growth models, and two critical strands of thought that challenge this approach: structuralism, and human centered development. RtD draws on these two alternative schools of thought because they challenge the mainstream of development thinking for lack of attention to distribution and deprivation, to the questions of inequality and poverty within and between countries.

Economic policy making has been dominated by what we might call the "economic growth" approaches that includes several theories from Keynesian to neo-classical economics, and several growth models from Harrod-Domar to Solow

to the New Growth theory. They identify savings and investments, human capital, technological advance and stable macro-economic environment as critical factors that drive economic growth. They recognize differing roles of the state and markets. But the important assumption that is made is that economic growth is not only a necessary but a sufficient condition for improving human welfare.

The first heterodox challenge to this group of models is structuralism and dependency theory. Starting in the late 1950s, Prebisch, Sunkel, Singer and other economists began to argue that underdevelopment was a product of the global economic structure in which developing countries continued to be left behind because of the disadvantages created by the global economy. Development required not only investments but structural change and a degree of national autonomy in redefining its place in the global economy. The New International Economic Order and the RtD were motivated by this school of thought. Although these ideas have lost influence, it is still reflected in the works of economists such as Ha-Joon Chang, Jomo, Deepak Nayyar, Jose Antonio Ocampo, and to some extent Joe Stiglitz. They too focus on the important role of the global economic system, and the structure of this system as constraints to national development, and advocate reforms in global economic governance. NAM group's comment on the report of the High Level Task Force that it does not adequately emphasize "Development for Human Rights" reflects this thinking. The problem, however, is that the NAM agendas do not seem to have been adapted to the challenges of the 21<sup>st</sup> century – I will return to this point later in my remarks.

The other critical perspective on development is the people centered approach that sees people not only as the primary beneficiaries of development but also the agents of change. They see human empowerment as the necessary strategy because – to quote Mahbub ul Haq – people are the real wealth of a nation. Sen’s capability approach is the leading theoretical framework and its application, the human development approach, is the best-known of this perspective. But there are other approaches that are centered on human empowerment as the critical factor in development, such as the participatory approach of Robert Chambers and others, the gender empowerment approach of feminist economists such as those in the DAWN movement, and not least, the human rights based approach. Much of the work of the Human Development Reports with which I have been associated has been an effort to analyse development policies in this framework.

But then what exactly is this link between economic development policies and the obligations of states under the RtD? Do we need to prescribe a specific set of policies? That would be hard because there is no single magic formula of strategies for human development, nor for redressing global inequalities – policies have to be context specific, and tailored to the set of challenges of a particular time. But economics, heterodox economics drawing on structuralism and capabilities theory, provides a procedure including concepts and guiding principles for evaluating and designing development policies and strategies that would further the objectives of development as defined by the RtD.

This brings me to my second point is about ‘operationalizing’ or ‘implementing’ the RtD. Much of the debate about taking RtD forward from a Declaration to

implementation has been concerned with legal processes, either through the creation of legally binding instruments and standards such as a treaty as proposed by the NAM countries. (Nico Schrijver has provided a very useful note elaborating on the various options ranging from a new declaration to guidelines to a framework agreement to a new convention). Another legal process that has been discussed is the development of 'case law'. We have heard about the very interesting case of the Endorois Community which has won a ruling from the African Commission on Human and Peoples' Rights in their case against the Government of Kenya for their eviction from their ancestral lands.

Such legal procedures are important but are not the only ways for implementing human rights. There is another, important avenue, that has not received much attention. That is the formulation of economic and other public policies. In fact, I would argue that public policy would be the primary means to implementing RtD. Litigation can only be a limited means to the implementation of RtD because the nature of obligations that this right invokes. The moderator in the panel last night asked 'can you take anyone to court' for violating the RtD? While the Endorois case was persuasive, it was the only one that has materialized in the last 25 years. One of the panelists answered that litigating RtD would be hard because responsibilities are diffused. Yes, many actors are responsible for RtD, making it difficult to take any single actor to court for a violation. Some might argue that this renders this claim a non-right, and this has been one of the arguments of the critics of economic and social rights. Amartya Sen has considered this point in some depth and argues in his 2003 article in the Journal of Philosophy and Public Affairs, as he had done in the 2000 Human Development Report and elsewhere

that economic and social rights invoke *imperfect obligations* but these are obligations nonetheless and do not delegitimize entitlements as human rights. Imperfect obligations are hard to enforce by law, but governments can act to respect, protect and fulfill those rights a public policy measures.

Implementation of the RtD depends primarily on policies of national governments, including collective international policies such as multilateral trade agreements or international human rights treaties. RtD can be applied operationally as an evaluative framework for scrutinizing the adequacy of public policy at both global and national levels. Such analysis would serve to both assess adequacy of state policies and hold them accountable, as well as for the formulation of appropriate policies that would fulfill obligations to respect, protect and fulfill the RtD. Law provides for penalty and remedy when human rights are violated. But it is not always the best instrument for giving incentives to states and other actors to take action to protect and fulfill rights.

Let me now move on to the third point which is about current international policy agendas. There are gross and extensive failures in the collective obligations of states – all states, developed and developing – to fulfill their obligations for the RtD through public policy to create an enabling environment for development. You do not need to do extensive research to be convinced of this. Just take a look at the first page of the 2010 MDG Gap Task Force Report for MDG8. The MDG8 is very unsatisfactory from the human rights perspective because they contain so little. But they are a set of goals related to collective obligations of states to fulfill the RtD on which there is political consensus internationally. Since 2008, the UN system has constituted a task force comprised of the main development agencies

(UNDP, DESA, UNCTAD and others) to monitor implementation of MDG8 since individual states do not always track this goal. Each of the three reports published since 2008 has presented a very gloomy picture. The latest one – the 2010 report – states on the first page of the Executive Summary “with only five years until the 2015 deadline, enormous gaps remain in the delivery of MDG8 commitments. It is now clear that the delivery of official development assistance (ODA) will fall well short of the Gleneagles targets set for 2010. .... The prospect of concluding a development-oriented Doha Round in the near future still seems highly uncertain. The existing internationally concerted framework for dealing with the debt problems of heavily indebted poor countries (HIPCs) is not available to countries that are not currently declared eligible, and this is at a time when heavy debt-service obligations are limiting the fiscal resources available for supporting MDG achievements in a number of low- and middle- income countries and when future debt distress cannot be ruled out in many countries. Resource availability to meet needs for affordable access to a number of essential medicines is under stress. Improved access to new technologies has become increasingly pressing, especially those technologies necessary for climate change mitigation and adaptation.”

This is a very mild statement. The financial crisis of 2008 amply demonstrated the negative as well as the positive impact of economic interdependence. It also demonstrated the failure of governments across the world to respect and protect individuals and people’s RtD. Even though the 2009 G-20 statement made commitments to act to protect the livelihoods of the poor and the economies of poor countries, virtually nothing was done to provide the means to the poorest

countries to put in place the necessary economic stimulus and market management measures to combat the contagion effects. The trillions of dollars spent to fight the crisis globally were spent in rich countries, a few of the middle income countries, and to save corporations and banks that were too big to fail. I refer you to my joint editorial article on this point with Margot Solomon on *Carnegie Council's Ethics Online* 2009, and a follow up 2010 article by Margot in the same publication on the disconnect between human rights and the global economy.

Governments acting collectively should have been well aware of their shortcomings by 2010 as they have been warned since 2008. Indeed, it is depressing to note the increasingly desperate tone of the Reports' titles: the 2008 report merely headlined it "Delivering on the Global Partnership for Achieving the MDGs", in 2009 the title was "Strengthening the Global Partnership for Development in a *Time of Crisis*", and the latest one is more direct "Global Partnership for Development at a *Critical Juncture*".

My fourth and final point is about the new political dynamic required to take RtD forward, a political dynamic driven by new agendas and actors. The intergovernmental negotiations are stuck, as clearly documented in the paper by Stephen Marks. The actors in this impasse are NAM and the Western groupings. The divergent positions are over the so called balance between international and national dimensions, or the demands of the NAM for a more proactive defense of the rights to an enabling international policy environment. Stephen Marks urges in his paper and in his remarks this morning, a "politics of the possible", to forge a

compromise, and for the parties to accept what they do not support in order to achieve the desirable.

I would instead look for a new political dynamic, i.e. one that involves new actors, alignments and strategic content. Starting with strategic content, we should note that the policy content of the RtD debates have not changed over the years, and can be characterized as 'general' rather than 'specific'. Yet the world has changed dramatically since the 1970s when RtD was being conceptualized and 1986 when the Declaration was adopted. The NAM group agenda has included claims for development aid, debt, and technology transfer. The most prominent amongst them is development aid reaching 0.7% of GNI of the developed countries.

This agenda is outdated in the context of the transformation in the global economy since the 1970s and 80s. The issues are relevant but not necessarily the priority ones. Development aid is no longer the most important means by which rich countries can support the development process of poor countries.

Globalization has brought not only deeper trade but rapid integration of capital markets, increase in portfolio investments, and flows of people and their remittances. Private flows are more important than public flows. Moreover, resource flows from one NAM country to another have begun to rival flows from the West to the NAM; investments from China in Africa already surpass the volume of World Bank loans and credits.

These new patterns of international economic relations have raised new challenges for RtD beyond official development aid. They include such issues as:

not just integration into but also protection against the vagaries of international markets in goods, capital and investments; creating a level playing field amongst countries in these markets; greater voice for developing countries in global economic decision making institutions; creating new mechanisms for financing innovation and access related to technological progress; and the consequences of the international economy on poverty, inequality and exclusion; sustainability of natural resources; and protecting the human rights of migrants.

Conceptualizing aid as the primary obligation of the developed countries under RtD draws on the mainstream growth-centered paradigm of development. It assumes that the 'savings gap', was the major obstacle to growth in poor countries. This is an idea that was at the core of growth models of the early 1950s (Harrod-Domar), and development thinking that emphasized the role of public sector investments in economic and social infrastructure for modernization purposes. As I have related in my first point, this theory of development is out of synch with ideas that underpin RtD as an economically justifiable development model, and with the current challenges that countries face. The intellectual justification for the RtD is the need to redress the aspects of the global economy that constrain prospects for development. Issues of institutions and rules in a wide variety of areas is today more important than the transfer of capital through official channels.

Turning to actors and their alignments, RtD has involved states involved in negotiations in UN Human Rights fora. We note that their alignments are also frozen in the political alignments of the Cold War era, dividing countries into the

NAM and Western groupings. The issue of aid perhaps is the one issue where the N-S is still relevant, though perhaps not for much longer. The new priorities for realizing the RtD go beyond aid and relate to a wide range of global economic policies and require new alliances. These new issues increasingly concern groups within the North and not just countries of the South. The rise in inequality, entrenched poverty and vulnerability of people, marginalization and social exclusion, the plight of migrants, climate change and sustainability are all major challenges that drive social policy debates in Europe, North America and Japan as well as in South America, Asia and Africa.

True, developing countries of the 'South' continue to have significant common interests in increasing official flows of capital to the public sector. Development aid is one issue where the N-S alignment still makes some sense, though not likely for long as the emerging economies increase their official and private flows. The interests of countries over other issues of financial market stability, commodity markets, migration and climate change are more complex and blur the simple N-S alignments.

A new political dynamic needs, above all, a new set of actors to champion the RtD. The RtD emerged from the political economy of the Cold War era, when the countries of the South championed a New International Economic Order and a restructuring of the world economy. Today, RtD negotiations involve a very narrow set of actors. They are the lead countries of the NAM grouping but within these countries, the actors that engage with RtD are limited – units of the foreign ministry charged with Geneva based human rights processes. Within the NAM

countries, the stakeholders do not extend much beyond these units such as to other ministries or perhaps not even to other parts of the foreign ministry. Nor do RtD debates mobilize civil society actors who advocate global justice and human dignity – human rights NGOs, development NGOs, social justice movements in the North and the South. Only a handful of NGOs attend RtD debates, none of them large and influential international bodies, in stark contrast to the worldwide mobilization that involve dozens or hundreds of civil society groups that attend many other UN meetings.

Delinked from current policy challenges, agendas, and stakeholders, the RtD cannot move forward for lack of momentum. The RtD is a search for a global economic order that delivers on human rights. It calls attention to the obligations of governments to create an enabling economic environment for the enjoyment of the Right to Development, and attends to the problems created when actions or inactions of state A impinges on the fundamental rights of individuals in state B. It is a worthy and important human rights challenge but it is in need of a new political dynamic.

Thank you.