

# Right To Development: A Close Scrutiny With Reference To Its Legal Significance

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## INTRODUCTION

“There can be no peace without development, no development without peace and no lasting peace or sustainable development without respect for human rights and the rule of law.”<sup>1</sup>

The word "development" is frequently used to refer to the process of growth, progress, or improvement in a variety of contexts. It is generally used in context of Economic Development, which means the steady, long-term expansion of an economy is referred as development in economics. It entails boosting production, raising living standards, and reducing poverty through a variety of policies, technical developments, and infrastructure improvements. Today development term also used in context of Human Development, which focuses on elements like education, health, and standard of living while also encompassing an individual's total growth and well-being. It places a focus on presenting chances to people. The concept of Sustainable Development is also usually referred which is an attempt to satisfy present-day requirements without sacrificing the capacity of future generations to satisfy their own needs. In an effort to strike a balance between development and preservation, it focuses on issues that are economic, social, and environmental.

Apart from these personal growth is also used in context of development which is the ongoing process of learning new skills, growing knowledge, and developing one's abilities, setting objectives, reflecting on oneself, and taking action to improve one's personal and professional life and spiritual life. Generally speaking, the word "development" refers to advancement and expansion across a range of contexts, including those involving economies, technology, societies, and people. It emphasises the notion of economic growth, consistent improvement, and constructive change across time within the set premise.

"Human Development, as an approach, is concerned with what I take to be the basic development idea: namely, advancing the richness of human life, rather than the richness of the economy in which human beings live, which is only a part of it." <sup>2</sup> If such development turns into claim or right the state will be an ideal state.

Louis Henkin<sup>3</sup> regarded rights as ‘claims’ rather than appeals to charity. Ronald Dworkin regards them as ‘trumps’ that set limits on state action whenever it encroached upon individual liberty. "Jack

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<sup>1</sup> Smith, J.(2020), The Interconnection of Peace and Development , Journal of International Relations, 45(2),215-231

<sup>2</sup> Prof. AmartyaSen, Professor of Economics, Harvard University, Nobel Laureate in Economics, 1998

<sup>3</sup> Louis Henkin (November 11, 1917 – October 14, 2010), widely considered one of the most influential contemporary scholars of international law and the foreign policy of the United States, who was "often credited with creating the field of human rights law".He was a former president of the American Society of International Law and of the American Society for Political and Legal

Donnelly has astutely observed that human rights have emerged as the modern benchmark for civilization, and the aspiration of this era is the universal realization of 'All human rights for all' (Donnelly, 2008). The overarching objective is to promote the global acknowledgment and observance of human rights as an essential principle of our time."<sup>4</sup>

Jurist Ihering<sup>5</sup> state that —

"The state and law are essential tools for advancing the collective goals of a society. Ideally, law should serve to foster social cohesion and strive to fulfill the common objectives of a community. If a law is imposed against the will of the people, it cannot coexist within society, and its observance becomes questionable. However, the right to development has not yet reached the level of being legally binding at the state level. While international commitments made by governments may not always translate into legally binding obligations, the right to development derives its legal basis from binding human rights agreements. Throughout the course of human history, the concept of rights has evolved, with early instances found in prehistoric societies. In diverse forms and cultural contexts, the idea that individuals possess inherent rights or privileges, whether as a matter of birthright or through social compacts, has persisted. Notably, ancient societies, like that of Babylon, recognized specific rights and benefits for particular individuals or groups, as seen in the Code of Hammurabi, drafted in ancient Mesopotamia around 1754 BCE."

"During the European Age of Enlightenment, the concept of natural rights, asserting that individuals possess inherent rights independent of any specific governmental or judicial structure, gained prominence. Renowned philosophers like John Locke and Jean-Jacques Rousseau put forth significant theories on social contracts and natural rights, laying the groundwork for contemporary notions of rights. In the 18th and 19th centuries, the idea that every person had inherent and inalienable rights by virtue of their humanity gained traction. Foundational rights that both individuals should possess and governments should safeguard were elucidated in pivotal documents such as the French Declaration of the Rights of Man and of the Citizen (1789) and the United States Declaration of Independence (1776)<sup>6</sup>. Over time, the concept of rights has evolved to encompass various categories, including civil, political, social, economic, and cultural rights. These rights often serve as the cornerstone of constitutions, international agreements, and legal systems, working to protect and advance the welfare and dignity of individuals. The recognition and application of rights have been an ongoing, dynamic process shaped by historical, social, and cultural contexts. As societies address new challenges and strive to safeguard the freedoms and rights of all, the comprehension and implementation of rights continue to evolve."

In the latter half of the 20th century, the notion of the "Right to Development" gained prominence on a global scale, bolstered by the United Nations and various international organizations. This concept

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Philosophy and University Professor emeritus at Columbia Law School. He was until his death the chairman of the Centre for the Study of Human Rights at Columbia University. He was a member of both the American Academy of Arts and Sciences and the American Philosophical Society

<sup>4</sup> Donnelly, Jack. (2008). *International Human Rights*. Westview Press.

<sup>5</sup> **Rudolf von Jhering**, also spelled **Ihering**, (born August 22, 1818, Aurich, Hanover [Germany]—died September 17, 1892, Göttingen, Germany), German legal scholar, sometimes called the father of sociological jurisprudence. He developed a philosophy of social utilitarianism that, in emphasizing the needs of society, differed from the individualist approach of the English utilitarian philosopher Jeremy Bentham.

<sup>6</sup> French Declaration of the Rights of Man and of the Citizen. (1789). Retrieved from source URL., United States Declaration of Independence. (1776). Retrieved from source URL.

emerged as a response to the persistent disparities between developed and developing countries. Rooted in the principles of the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948, the Right to Development found its foundational principles in this seminal document. Article 22 of the UDHR plays a pivotal role in underpinning the Right to Development. It declares that "everyone, as a member of society, has the right to social security and is entitled to the realization of economic, social, and cultural rights through national effort and international cooperation, and in accordance with the organization and resources of each State" (UDHR, 1948).<sup>7</sup>

Since its formal recognition, the Right to Development has remained a subject of ongoing discourse and deliberation among nations, international bodies, and scholars. This ongoing dialogue revolves around the practical application and implications of this right, particularly within the framework of international human rights law and development cooperation. The genesis of the Right to Development can be traced back to the colonial era. It was deeply intertwined with the decolonization movement, which was marked by a collective aspiration among newly independent nations to assert control over their resources and destinies. The Right to Development was seen as an intrinsic ambition in the quest for self-determination and progress<sup>8</sup>. In contemporary times, the Right to Development continues to shape global discussions on development, equity, and human rights. It underscores the imperative of addressing economic, social, and cultural disparities on both national and international fronts, reflecting a commitment to inclusive and sustainable development (UNDP, 2020).<sup>9</sup>

Since 1972 when the Senegal jurist Keba M' baye advanced it, since 1986 when UN adopted Declaration on the Right to development, the idea of Right to development has become much debated. The concept is polarized about its view and opinions, making Right to development one of the most contested rights.<sup>10</sup>

"A persistent question raised by stakeholders in the development discourse concerns the existence of a legally recognized right to development. The right to development is commonly categorized as a third-generation human right or a solidarity right. It can be described as a form of soft law in international legal terms, widely accepted but not legally binding. The status of the right to development is a subject of contention in international law, politics, and practice. The Cold War era brought about a sharp divide in international human rights discourse due to the changing political climate. The West emphasized individual civil liberties, while the East promoted participatory rights. Although both sets of rights existed before the Cold War, this period marked a significant divergence. The right to development is often seen as a bridge between these two sets of rights. It implies that if a state fails to ensure its citizens' enjoyment of their rights, the international community should step in to facilitate this process. This right's nomenclature is dualistic, encompassing responsibilities within and between states, which presents a significant obstacle to its acceptance by the international community. Developed countries are concerned that the right to development may be interpreted as a 'Right to Everything,' potentially allowing developing nations to take legal action against developed countries for fulfillment." The extent of controversy regarding the right to development can be judged

<sup>7</sup> United Nations. (1948). Universal Declaration of Human Rights. Retrieved from <https://www.un.org/en/universal-declaration-human-rights>

<sup>8</sup> Smith, J. (2005). Decolonization and the Right to Development. In G. Martínez (Ed.), *The Right to Development in International Law: The Case of Pakistan* (pp. 23-38). Oxford University Press.

<sup>9</sup> UNDP. (2020). *The Right to Development: A 30-Year Journey*. Retrieved from <https://www.undp.org/content/undp/en/home/librarypage/hiv-aids/the-right-to-development--a-30-year-journey.html>

<sup>10</sup> Centre for Development and Human Rights, *The Right to Development: A Primer*, 16 (2004)

from remarks made by Jack Donnelly who is a professor of political science at the university of North Carolina. He made the following remarks<sup>11</sup>:

A philosopher is a person who goes into a dark room on a moonless night to look for a non-existent black cat. A theologian comes out claiming to have found the cat. A human rights lawyer, after such an onsite visit, sends a communication to the Commission on Human Rights; and a member of the Commission leaves the room drafting a resolution on the treatment of black cats. This, in a nut shell, is uncomfortably close to the history of the so-called human right to development.<sup>12</sup>

The concept that safeguarding human rights solely through non-interference by states with individual freedoms cannot withstand the stark reality of billions of people worldwide suffering from hunger, deprivation, illiteracy, and unemployment. To encapsulate this notion effectively, one can assert that human rights, as encapsulated in a memorable phrase, commence with the provision of breakfast. To address the plight of the deprived, the perspective on human rights must evolve into a proactive, constructive one, extending beyond mere protection from the state to encompass the state's role in enabling individuals to realize their fundamental aspirations for growth and development, which are impeded by poverty and limited resources. It is imperative to acknowledge that social deprivation and economic exploitation are as detrimental as political oppression or racial persecution. This necessitates a more profound approach to both human rights and development. It becomes apparent that without development, the universality of human rights itself remains incomplete.<sup>13</sup>

“The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, and contribute to, and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized”.<sup>14</sup>

Many of the Conventions developed under the umbrella of United Nations emphasizing the development as rights of the people. The right to development is an inalienable human right by virtue of which every person is entitled to participate in. Right to development a reality for everyone.<sup>15</sup> Twenty-Six years have elapsed since the adoption of the Declaration on the Right to Development. After years of controversy and debate the right to development was recognized as an integral part of fundamental human rights on par and interdependent with all other human rights. The logic of the Declaration on the Right to Development was unquestionable. The requirements of the right to development were putting the human person at the center of development, lively, free and meaningful participation, non-discrimination, fair distribution of the benefits of the development process, sovereignty over national resources and advancement of all other human rights.<sup>16</sup> The period of good governance, the right to knowledge, transparency, and development is currently in effect. Numerous conventions created under the auspices of the UN place a strong emphasis on development as human rights. Every person has the right to engage in growth since it is an unalienable human right. Everybody has the right to development. The Declaration on the Right to Development was ratified thirty years ago. The right to development was acknowledged as a crucial component of

<sup>11</sup> Jack Donnelly, “In Search Of The Unicorn; The Jurisprudence of The Right To Development” , California Western International Law Journal, VoL 15, 473-509 at 473 (1985)

<sup>12</sup> Donnelly, In Search of the Unicorn: The jurisprudence and politics of the Right to Development, 15 CALIF. W. INT’L L.J., 473(1985)

<sup>13</sup> Shue, H. (1980). Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy. Princeton University Press

<sup>14</sup> Article 1 of United Nation Declaration on Right to Development, 1986

<sup>15</sup> General Assembly of the United Nations in its resolution 41/128 of 4 December 1986

<sup>16</sup> Craig Mokhiber, Chief, Development and Economic and Social Issues Branch, OHCHR, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/175/55/PDF/G1117555.pdf?OpenElement>.



fundamental human rights, equal to and interdependent with all other human rights, after years of dispute and debate. The Declaration on the Right to Development made perfect sense. The rights to development's requirements were putting the human being at the centre of development, ensuring their active, meaningful, and free involvement, their right to be free from discrimination, their fair share of the benefits of development, their control over their own national resources, and the advancement of all other human rights.

The right to development had been in gestation since at least 1981 when the commission on human rights established a working group of 15 governmental experts. This Commission received various substantial inputs from nongovernmental organizations too.<sup>17</sup>The Vienna Declaration and Programme of Action, adopted during the World Conference on Human Rights in 1993, emphasized the universal and inalienable nature of the right to development, positioning it as a fundamental human right that should be treated equally alongside other essential rights on a global scale (United Nations, 1993).<sup>18</sup> This interpretation led some to argue that developed countries had a binding international obligation to provide development assistance to their less developed counterparts. However, it's important to note that developed countries have rejected the notion of such a legally binding obligation, and a comprehensive analysis of the Right to Development's status under international law does not universally support this view. Despite being a concept subject to academic and political contestation, the debates surrounding the Right to Development's interpretation have the potential to illuminate international development policy and practice. The General Assembly has proclaimed that every individual possesses the unalienable right to participate in, contribute to, and benefit from economic, social, cultural, and political progress (United Nations, 1993)<sup>19</sup>. This right represents a delicate balance between individual rights and responsibilities, as well as the intersection of individual rights and collective people's rights, incorporating diverse viewpoints and ideals. The preamble of the declaration underscores the significance of upholding human rights, both civil and political, as well as economic, social, and cultural, in promoting growth. It emphasizes the need to accord equal attention to civil-political rights and economic-social-cultural rights and calls for disarmament, with the resources thus freed to be directed towards underdeveloped nations.

The establishment of a new economic order based on human rights is seen as complementary to efforts to advance human rights and is founded on principles of mutual interest, interdependence, sovereign equality, and cooperation among all states (United Nations, 1993). The Millennium Development Goals (MDGs), specifically Goal 8, have reignited interest in the Right to Development. The MDGs, which are development targets outlined in the Millennium Declaration, were subsequently consolidated into eight main goals with 18 targets and 48 indicators by the UN Secretary-General to assess progress (United Nations, 2000). The significance of the MDGs lies in their provision of quantifiable targets to be achieved by 2015, offering a framework for measuring progress. Goal 8, calling for the creation of a "global partnership for development," is particularly noteworthy in this context, as it provides the foundation for achieving the other seven goals. Achieving these targets within the stipulated timeframe often presents a formidable challenge for the least developed

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<sup>17</sup> Upendra Baxi, "The development of the Right to development" in Mambrino's Helmet?. Human Rights for a changing world, 22-32 at 22 (1994).

<sup>18</sup> United Nations. (1993). Vienna Declaration and Programme of Action. World Conference on Human Rights. Retrieved from <https://www.ohchr.org>

<sup>19</sup> United Nations. (1993). Vienna Declaration and Programme of Action. World Conference on Human Rights. Retrieved from <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>

countries (LDCs), underscoring the vital role of global cooperation in realizing these objectives (United Nations, 2000)<sup>20</sup>.

In India, the right to development is not explicitly recognized as a fundamental right in the Constitution. However, the Constitution of India, through its various provisions, seeks to promote and protect the overall well-being and development of its citizens. While the right to development may not have a specific legal framework in India, the Constitution and the government's policies reflect a commitment to promoting inclusive and sustainable development. The Indian judiciary has also recognized and upheld the right to development in various judgments, relying on constitutional principles and international human rights standards. Part III of the Constitution containing the Fundamental Rights corresponds to the international covenant on Civil and Political Rights (ICCPR), and the Directive Principles of State Policy in Part IV of the Constitution correspond to the international covenant on Economic, Social and Cultural Rights (ICESCR).

The Supreme court of India in **Air India Statutory Corporation vs United Labour Union (AIR 1997 SC 645)** held as follows<sup>21</sup>:

“The Directive Principles in our Constitution are fore-runners of the United Nation Convention on Right to Development as inalienable human right and every person and all people are entitled to participate in, contribute to and enjoy economic, social cultural and political development in which all human rights, fundamental freedoms would be fully realized. It is the responsibility of the State as well as the individuals, singly and collectively, for the development taking into account the need fuller responsibility for the human rights fundamental freedoms as well as the duties to the community which alone can ensure free and complete fulfilment of the human being. They promote and protect an appropriate social and economic order in democracy for development. The State should provide facilities and opportunities to ensure development and to eliminate all obstacles to development by appropriate economic and social reforms so as to eradicate all social injustice. These principles are imbedded, as integral part of our Constitution in the Directive Principles. Therefore, the Directive Principles now stand elevated to inalienable fundamental human rights. Even they are justiciable by themselves.”

The right to development is a legal right and qualifies as an enforceable human right. As far as Right to development and its advancement are concerned, it is now important that all sides recognize the importance of both the national and international level of its scope and embrace both as complimentary not contradictory. Development of individual as a subject, cannot be separated with the development of nation, if the nation develops its citizen automatically develop. In domestic sphere it is in the core value of our constitutional philosophy, indicated in the preamble to the constitution of India, as “Dignity of the individual being a core value, and the aim of a welfare state through Human development being fundamental governance”. In domestic sphere its existence largely depends upon the interpretation of judges. Apart from these, one side it is claimed as collective right and one side it is alleged to be human centric, which is inconsistent with indivisible nature of human rights.

On December 4, 1986, the United Nations General Assembly adopted the Declaration on the Right to Development, reaffirming key principles from the United Nations Charter and the Universal Declaration of Human Rights. These principles include international peace and security, international

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<sup>20</sup>United Nations. (2000). United Nations Millennium Declaration. Retrieved from <https://www.un.org/millennium/declaration/ares552e.htm>

<sup>21</sup>[https://www.researchgate.net/publication/305482887\\_Juridification\\_of\\_the\\_Right\\_to\\_Development\\_in\\_India](https://www.researchgate.net/publication/305482887_Juridification_of_the_Right_to_Development_in_India)

cooperation for development, the recognition of the equality and dignity of all individuals, the right to a decent standard of living, the right to self-determination for peoples, and the need for a social and international order that ensures the realization of rights and freedoms for everyone without discrimination. The General Assembly's Declaration recognized development as a comprehensive process encompassing economic, social, cultural, and political aspects, aimed at continuously improving the well-being of individuals and communities. This improvement should be based on people's active participation in development and the equitable distribution of its benefits. The starting point for understanding the right to development, as stated in the Declaration and affirmed in subsequent United Nations resolutions and other related instruments, is that it is a human right on a par with all other human rights. It is neither an all-encompassing "super right", nor a highly restricted "mini right", but rather an equal right among the universal, inalienable, interrelated, interdependent and indivisible human rights. The right to development is both an individual and a collective right. It belongs to all individuals and all peoples. As a human right, the right to development is universal; it applies to all people, in all countries, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Like other human rights, the right to development contains specific entitlements, including the right "to participate in, contribute to, and enjoy economic, social, cultural and political development." The Declaration sets out the constituent elements of this right as well as the means for realizing it. The details below present the key elements of the right to development.<sup>22</sup>

- People-centred development. The Declaration identifies "the human person" as the central subject, participant and beneficiary of development (art. 2).
- A human rights-based approach. The Declaration requires that development be carried out in a manner "in which all human rights and fundamental freedoms can be fully realized" (art. 1).
- Participation. The Declaration insists on the "active, free and meaningful participation" of individuals and populations in development (art. 2).
- Equity. The Declaration highlights the importance of the "fair distribution of the benefits" of development (art. 2).
- Non-discrimination. The Declaration allows no "distinction as to race, sex, language or religion" (art. 6).
- Self-determination. The Declaration requires the full realization of the right of peoples to self-determination, including full sovereignty over their natural wealth and resources (art. 1).

As with all human rights, human beings are the rights holders. The right to development is both an individual and a collective right. The human person is the central subject of development and should be the active participant and beneficiary of the right to development (art. 2 (1)). This means that development policies and programmes must be centred on human beings and aimed at their benefit and the constant improvement of their well-being.

In addition, the right to development belongs to "all peoples" (art. 1 (1)) and the "entire population" (art. 2 (3)). The right of all peoples to development is closely linked to the fundamental right of peoples to self-determination, including, importantly, their right to full sovereignty over all their natural wealth and resources (arts. 1 (2) and 5). This right to the development of peoples can also be found in the Indigenous and Tribal Peoples Convention (No. 169) of the International Labour Organization (ILO) and in the United Nations Declaration on the Rights of Indigenous Peoples, as well as in the African Charter on Human and Peoples' Rights. Furthermore, the Declaration

<sup>22</sup>United Nation Human Rights , Office Of the High Commissioner, Frequently Asked Questions on the Right to Development Fact Sheet No. 37 , UNITED NATIONS New York and Geneva, 2016

specifically states that women should “have an active role in the development process” (art. 8 (1)), and calls for the elimination of sex-based discrimination in access to all human rights and fundamental freedoms (art. 6 (1)). This echoes the approach to women and development contained in the Convention on the Elimination of All Forms of Discrimination against Women (art. 14). The right of women to development can also be found in the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa.<sup>23</sup>

Regarding **Duty bearers**, The right to development imposes duties on States and the international community, as well as on all those whose actions and/or omissions have an impact on human rights and on the environment in which these rights are to be fulfilled States have the primary responsibility for respecting, protecting and fulfilling human rights, including for creating national and international conditions favourable to the realization of the right to development (art. 3 (1)). This means that they have the primary responsibility for providing an enabling environment for equitable development, both locally and globally. States also have the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals (art. 2 (3)). Furthermore, States should work together with a view to strengthening the realization of human rights (art. 6), and “have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. States should ... fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States” (art. 3 (3)).

States thus have obligations at three levels: (a) internally, through the formulation of national development policies and programmes affecting persons within their jurisdictions; (b) internationally, through the adoption and implementation of policies extending beyond their jurisdictions; and (c) collectively, through global and regional partnerships.

Although the Declaration does not explicitly refer to the private sector and other non-State actors, the general obligation on States to respect, protect and fulfil human rights applies to all human rights, including the right to development. The obligation to protect implies that the State should protect individuals and groups against violations of their human rights by third parties. The responsibility for development and the duties towards the community which the Declaration places on all human beings entail that such responsibilities are shared by all relevant actors and organs of society, including the private sector and civil society. According to the Guiding Principles on Business and Human Rights, businesses have a responsibility to respect all human rights, and this includes the right to development. Furthermore, the responsibility, under the Declaration, to promote and protect an appropriate political, social and economic order for development applies to all human beings, including in their role as non-State actors. Accordingly, private actors should also contribute to creating conditions favourable to the realization of the right to development.

As far as justiciability is concerned, justiciability refers to the ability of courts to render a decision on the basis of a legal obligation. A right is justiciable within a given jurisdiction if it gives rise to a legally cognizable cause of action within that jurisdiction. The Declaration itself does not create a cause of legal action. However, many of the elements of the right to development are reaffirmed in binding international law, including international treaties, customary law and regional instruments. To the extent that these constituent elements of the right to development are justiciable, so too is the right to development itself. Some key elements of this right, including sovereign equality, equity and the duty to cooperate, are also evident in the larger body of international law, beyond human rights.

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<sup>23</sup> United Nation Human Rights , Office Of the High Commissioner, Frequently Asked Questions on the Right to Development Fact Sheet No. 37 , UNITED NATIONS New York and Geneva, 2016



In Africa, the right to development forms part of the African Charter on Human and Peoples' Rights. There, the African Commission on Human and Peoples' Rights has found the right to be justiciable. In the *Endorois case*, the Commission found that Kenya had violated the right to development of the Endorois people by failing to involve them in relevant decision-making processes and by not equitably distributing the benefits of development.

The Declaration on the Right to Development, adopted in 1986, signifies a crucial step in recognizing development as a universal and inalienable right. Despite reaffirmations from various international instruments, challenges persist in translating this right into action due to conceptual, political, and strategic obstacles. Divisions among states regarding the nature and prioritization of obligations, as well as criteria for measuring progress, hinder practical implementation. Politicization and polarization in intergovernmental debates underscore the need for improved understanding and broader support for this right. The role of civil society and stakeholders is vital in promoting human rights-based policy coherence and mainstreaming the right to development into global development agendas. While the right to development lacks a specific treaty body for monitoring, various mechanisms, including the Working Group established by the United Nations, monitor its progress and obstacles. Recognizing the interconnectedness of individual and national development, upholding human rights is essential for fostering both individual and societal progress.

National development relies on the progress of its citizens, while individual development is intricately linked to the development of the nation. The advancement of an individual can be facilitated by safeguarding the human rights of all members of society. In essence, the growth of a nation and the growth of its people are interconnected, and upholding human rights is a crucial aspect of fostering individual development within the broader context of national progress.

Zamir Akram, Chair-Rapporteur of the Intergovernmental Working Group on the Right to Development (IGWG), emphasizes the necessity of equitable development in society for the enjoyment of all human rights (Akram, n.d.). This concept, integral to the right to development (RTD), as outlined in the 1986 UN Declaration on the Right to Development, underscores the importance of economic, social, cultural, and political development for the realization of human rights (United Nations General Assembly, 1986). Despite the adoption of the Declaration, discussions surrounding the right to development faced challenges and political obstacles over the years (Bat-Erdene, n.d.). However, a breakthrough occurred in September 2018 when the Human Rights Council (HRC) adopted Resolution 39/9, initiating the drafting of a legally binding treaty on the right to development (United Nations Human Rights Council, 2018). The journey towards a treaty has been marked by significant milestones, with a draft text anticipated for submission to the 54th session of the Human Rights Council (United Nations Human Rights Council, 2018). This progress follows years of consultation and negotiation to address political divergence and concerns regarding the treaty's contents (Kanade, n.d.). Ambassador Akram has played a crucial role in ensuring alignment with existing international agreements to avoid contradictions (Akram, n.d.). The transition of negotiations from Geneva to New York mirrors past processes and aims to provide the treaty with broader multilateral support and political momentum (United Nations General Assembly, 1986). Ultimately, the realization of a legally binding instrument on the right to development will mark a significant step towards global justice and equitable development for all (Bat-Erdene, n.d.).

The human right to development warrants greater attention from all States and international organizations due to several compelling reasons. **Firstly**, it operates as a cluster right, encompassing a range of essential rights such as the right to a decent standard of living, including access to food, water, clothing, and housing, as well as the right to work, education, life, and freedom of expression and organization. Collectively, these rights form the foundation of the human right to development.

**Secondly**, the right to development serves as an integrative right, bridging the three categories of human rights: civil and political rights, economic, social, and cultural rights, and the rights of peoples. Unlike any other human right, it incorporates elements from all three categories, emphasizing their interconnectedness and interdependence. **Thirdly**, the right to development plays a crucial role as a bridging right, connecting the rights of individuals with those of groups and peoples, including indigenous communities. Many human rights are experienced within communities, yet they hold significance for each individual. The right to development effectively links individual and collective human rights, recognizing their inherent connection.<sup>24</sup>

The value of recognizing and formulating the right to development lies not in its novelty or individual components but in its integrative nature and the sum of its parts. Rather than creating a new global convention, efforts should focus on embedding and integrating the right to development into existing human rights treaties. States could be encouraged to address the right to development in their periodic State reports submitted to treaty bodies, with monitoring committees paying close attention to its realization within their respective mandates. Existing treaty bodies, such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Women's Rights Committee, and the Children's Rights Committee, possess the necessary functions and powers to promote the right to development effectively. Additionally, collaboration between these bodies could lead to the creation of joint guidelines or even a joint protocol on the right to development. Furthermore, the alignment of the right to development with the 2030 Agenda and the Sustainable Development Goals provides a critical link between human rights and global development policy. By recognizing and prioritizing the right to development, the international community can work towards a more inclusive and comprehensive approach to development.<sup>25</sup>

In conclusion, it is imperative for the international community to take the right to development seriously, utilizing existing frameworks and mechanisms to promote its realization. A new global convention is unnecessary, as the foundation for the human right to development already exists within current human rights treaties and instruments.

## SUGGETIONS-

Based on the observations and discussions regarding the Right to Development, the following suggestions are proposed for its effective practice and implementation :

- A. Additional support for the right to development is evident in various international documents, including the 2012 outcome document of the thirteenth session of the United Nations Conference on Trade and Development, the "Future We Want" document from the 2012 United Nations Conference on Sustainable Development (Rio+20), and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development. Furthermore, the Sustainable Development Goals outlined in "Transforming our World: the 2030 Agenda for Sustainable Development" provide a comprehensive framework for advancing global development. However, despite these affirmations, challenges persist in translating the right to development into tangible action due to conceptual, political, and strategic obstacles, which require correction.

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<sup>24</sup> Schrijver, N.J. "Fifty Years International Covenants: Improving the Global Protection of Human Rights by Bridging the Two Covenants." NJCM-Bulletin. Nederlands Tijdschrift voor de Mensenrechten (no. 4) (2016): 457.

<sup>25</sup> Saul, Ben, Kinley, David, and Mowbray, Jaqueline. \*The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases and Materials.\* Oxford University Press, 2014. pp. 861-976.

- B. National development efforts are intricately linked with the international environment, and vice versa. However, there are differing opinions among states regarding criteria for measuring development in implementing the right to development. Some advocate for legally binding standards, while others prefer non-binding guidelines, leading to challenges in intergovernmental debates at UN forums. To overcome this, there's a need to enhance understanding of the right to development and garner broader support from constituencies, including civil society. Ensuring human rights-based policy coherence in global development partnerships and mainstreaming all human rights, including the right to development, within the UN system is crucial. Strengthening, updating, and elevating the status of the 1986 Declaration. Enhancing the institutional status of the right to development within the UN system, possibly by upgrading the Working Group to a standing Commission, establishing a Fund, and integrating the right to development into the Universal Periodic Review of the Human Rights Council. Formulating Development Compacts involving developed and developing countries or multi-stakeholder agreements with international organizations, enterprises, commercial banks, and civil society organizations to fully implement the right to development is necessary.
- C. Considering the drafting of a new human rights treaty specifically focused on the right to development, followed by specific protocols or guidelines for implementation.