

2016 Human Rights Day



30th Anniversary of the Declaration on the Right to Development

THE RIGHT TO DEVELOPMENT, 30 YEARS LATER:
ACHIEVEMENTS, CHALLENGES AND THE WAY FORWARD:
Proceedings of the UN Geneva Side Event
Held on 5 December 2016 and Lessons Learned



GENEVA CENTRE FOR HUMAN RIGHTS ADVANCEMENT AND GLOBAL DIALOGUE
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The Geneva Centre for Human Rights
Advancement and Global Dialogue

**THE RIGHT TO DEVELOPMENT, 30 YEARS LATER:
ACHIEVEMENTS, CHALLENGES
AND THE WAY FORWARD**

GENEVA, 5 DECEMBER 2016
PALAIS DES NATIONS

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INTRODUCTION

The present publication provides the summary record and speeches of the panel members having participated in a side event entitled “*The Right to Development, 30 years later: achievements, challenges and the way forward*”, organized by the Geneva Centre for Human Rights Advancement and Global Dialogue, in cooperation with the Permanent Mission of Azerbaijan to the UN and other International Organizations in Geneva. The panel discussion took place on 5 December 2016, and was an opportunity to commemorate the 30th anniversary of the adoption of the Declaration on the Right to Development, as well as the 2016 International Human Rights Day.

As is its current practice, the Geneva Centre endeavours to draw lessons and conclusions from such debates that are periodically initiated in cooperation with its partners, in the context of the UN Office in Geneva. A full chapter in the present publication is accordingly dedicated to an analysis of the outcomes of this very fruitful discussion, and to drawing lessons that could be helpful in achieving the full implementation of the 1986 Declaration on the Right to Development, at a time when the inclusion of the concept of the right to development has received consensus approval in the context of the 2030 Agenda for Sustainable Development and specifically in the Sustainable Development Goals.

I take this opportunity to reiterate the commitment of the Geneva Centre towards the attainment of the right to development for all. The past years have been marked by an outstanding momentum for the development process, reflected in the renewed commitments of the international community towards the achievement of a better future for all. We should use these advances to give new impetus to the implementation of the right to development and to the 2030 Agenda, and commit to working together by overcoming all differences in this respect.

Hanif Hassan Ali Al Qassim

*Chairman of the Geneva Centre for Human Rights
Advancement and Global Dialogue*

SUMMARY RECORD OF THE PANEL MEETING

The present report provides a summary record drawn up by the Geneva Centre on the discussions which took place during the panel meeting. It does not commit the authors of the remarks themselves, whose statements were recorded and are reproduced in full in the annex to the report.

The Geneva Centre for Human Rights Advancement and Global Dialogue, in cooperation with the Permanent Mission of Azerbaijan to the UN and other International Organizations in Geneva, organized a panel discussion entitled “The Right to Development, 30 years later: achievements, challenges and the way forward”. The discussion was an opportunity to commemorate the 30th anniversary of the adoption of the Declaration on the Right to Development, as well as the 2016 International Human Rights Day.

The discussion took place on 5 December 2016, in Room XXI at the Palais des Nations, from 12:00 to 14:00. The Chairman of the Geneva Centre’s Board of Management, H. E. Dr. Hanif Al Qassim, and H. E. Mr. Vaqif Sadiqov, Ambassador and Permanent Representative of the Republic of Azerbaijan to the UN and other International Organizations in Geneva delivered inaugural addresses.

Panel members were: Ambassador Zamir Akram, Chair-Rapporteur of the UN Working Group on the Right to Development; Dr. Manuel Montes, Senior Advisor on Finance and Development at The South Centre; Prof. Koen de Feyter, Chair of International Law at the University of Antwerp; and Prof. Dr. Nico Schrijver, Chair of Public International Law and Academic Director of Grotius Centre for International Legal Studies at Leiden University, and Expert Member of the UN Committee on Economic, Social and Cultural Rights. The discussion was moderated by Ambassador Idriss Jazairy, Executive Director of the Geneva Centre.



H. E. Dr. Hanif Al Qassim delivered inaugural remarks. He noted that the two celebrations observed by the panel discussion, namely the 30th anniversary of the adoption of the Declaration on the Right to Development, and the International Human Rights Day, were overshadowed by global threats to human rights such as violence, conflict and displacement of people. Dr. Al Qassim noted the growing trend towards Islamophobia and the proliferation of unfavourable views of Muslims in the United States and in Europe. He also mentioned that the mainstreaming of anti-Muslim hate speech had aroused dormant racism, despite the fact that some dismissed xenophobic speech as a public relations stunt.

Dr. Al Qassim emphasized the upsides of the current situation, such as the fact that the proportion of the global population living below the poverty line had declined from 26% to 13% between 2000 and 2012. He welcomed the decline of 44% in the global mortality ratio observed over the past 15 years, and the drop of under-5 mortality rate by more than half. Progress was also being made in developing countries in terms of the role of women in national political life, as exemplified by the fact that 1 in 5 speakers in Parliament worldwide were women.

Nevertheless, the world was far from achieving the MDGs, and was challenged by the newly adopted SDGs of the 2030 Agenda, as 1 in 8 people still lived in extreme poverty and nearly 800 million people suffered from hunger. Also, water scarcity affected more than 2 billion people.

Dr. Al Qassim noted that there was a need to respect the symbiosis of peace and security and to fight against violence that was a menace to both. He concluded by encouraging the audience to revitalize their commitments to enhancing both human rights and development, and to re-engage their efforts to promote the principles established in the Declaration on the Right to Development.



In his opening remarks, **H. E. Mr. Vaqif Sadiqov**, Ambassador and Permanent Representative of the Republic of Azerbaijan, noted that the 1986 Declaration reaffirmed the norms and the principles contained in the UN Charter, the Universal Declaration of Human Rights and the International Covenants on Human Rights, such as peace and security, international cooperation, equality, non-discrimination, welfare, participation, respect for human rights, and the achievement of an adequate social and equitable international order. He noted that the Declaration established the right to development as an inalienable human right, both an individual and a collective right, and a right that was equal to, and part of, the other universal, interrelated and indivisible human rights.

One of the major features of the Declaration was that it identified the human being as a central element of development. The latter was defined as a comprehensive social, cultural and economic process. Ambassador Sadiqov highlighted the correlation between the Declaration and the SDGs. He noted that the Constitution of Azerbaijan recognized, in articles 15 and 16, the right to development. He also highlighted the achievements of Azerbaijan in terms of eradicating extreme poverty, as well as of promoting universal access to education and gender equality. Azerbaijan's rating with regard to the human development index improved to 78 in 2015, bringing the country within the group of high index States. Azerbaijan was adapting its legislation in accordance with the SDGs, and had established a national coordination council in order to formulate national priorities in this direction.

Ambassador Sadiqov also emphasized the requirement for cooperation between States to eliminate obstacles to development, and noted that, as an emerging donor country, Azerbaijan took an active part in international development efforts through UN and non-UN agencies, as well as through the Azerbaijan International Development Agency - the humanitarian arm of the Foreign Ministry, and the biggest NGO of Azerbaijan - the Haydar Aliyev Foundation.



Ambassador Idriss Jazairy, moderator of the discussion and Executive Director of the Geneva Centre, underscored that the assessment of the right to development was mixed. He saluted the progress achieved with the adoption by consensus of the Addis Ababa Action Agenda on Financing for Development, as well as the 2030 Agenda for Sustainable Development, and the Paris Agreement after the COP 21. He noted however that there was a

need to reactivate consensus as expressed in the 1993 Vienna Declaration and Programme of Action and in the 2030 Agenda for Sustainable Development. He shared concern as a result of the fact that resolution 33/L.29, adopted by the Human Rights Council at its September 2016 session, which referred to the right to development and to the creation of a Special Rapporteur mandate on the issue, was not approved by consensus as a result of reservations of Western countries. The latter put emphasis on understanding the right to development as an obligation that States had to implement in relation to their own population.

Ambassador Jazairy also noted that the general environment was less conducive to the achievement of the right to development, with the generalization of the resort to violence, whether organized or non-State violence. Quoting Pope John Paul II,

Ambassador Jazairy remarked that “peace was another name for development.” While stating that much of the right to development was in the purview of sovereign States, he underlined however that an enabling international environment was needed, as mentioned in article 4 of the Declaration and in General Comment No. 3 of the Committee of Economic Social and Cultural Rights.

He concluded by remarking that the right to development was not just an additional source of conditionality for domestic policy change in developing countries, but also an entitlement of developing States to enabling action at the international level. According to Ambassador Jazairy, the Declaration on the Right to Development should be considered as part of the International Bill of Human Rights, at least until a consensus could be reached on a binding international instrument.



Ambassador Zamir Akram spoke from his experience as Chair-Rapporteur of the UN Working Group on the Right to Development. He reiterated that the 1986 Declaration had established the right to development as an inalienable right with the human person at its core, and underlined that this human rights-based approach was consistent with the UN Charter, the Universal Declaration of Human Rights and the International Covenants.

Ambassador Akram emphasized that articles 2 and 3 of the Declaration stated the obligation to implement the right nationally and internationally, on the basis of equality and non-discrimination, and he dwelled on the need for international cooperation. He deplored the persistence of obstacles such as inequality, discrimination, the denial of self-determination, and conflict. He noted that some States in the West questioned the very basis of the right to development as a human right, and declared that such differences of interpretation were artificial and inconsistent with the commitment of States to the principles of the UN.

Referring to the Vienna Declaration of 1993, which was adopted by consensus, Ambassador Akram stated that all controversy related to the right to development should be laid at rest as there was no more room for divisions on this issue. He recalled the unanimous adoption of the 2030 Agenda, which admitted to be informed by the right to development, as well as the Addis Ababa Action Agenda on Financing for Development.

As Chair of the Working Group on this matter, Ambassador Akram expressed his

awareness of the conflicting positions of member States, and his disappointment at the slow progress in finding a solution to these issues. He encouraged countries to put aside their differences and ideologically-driven positions, and gather the necessary political will to compromise and to cooperate. He stated that the consensus reached around Agenda 2030 should represent the incentive to demonstrate the political will to take the right to development further forward.

Ambassador Akram emphasized that there could be no human rights without addressing human needs and called for long-time commitments. Thus, progress should not be expected over night. He noted the need to address the direst human needs as building blocks for the entire human rights system. As chair of the Working Group, he had advocated the adoption of national and international policies addressing issues such as the eradication of poverty and the promotion of education, the provision of adequate housing, drinking water and sanitation, the protection of the environment and the promotion of gender equality through women empowerment.

He had also proposed to improve measurability and accountability, not just domestically but also at the international level. In this sense, Ambassador Akram suggested that States speak about their achievements during the Human Rights Council, establishing a process of voluntary sharing of information and encouraging other countries to follow the lead. He also urged that cooperation be improved with the UN mechanisms in New York. Ambassador Akram concluded by encouraging the international community to collaborate and to remain focused on the ultimate goal of the Declaration –working together to overcome all obstacles on the way to development.



Dr. Manuel Montes, Senior Advisor at The South Centre, recalled in his statement the year 1986, when the Soviet Union had the reputation of being a violator of civil and political rights, but was also perceived as a system that lifted millions out of rural poverty, eliminating the absolutist personal control of a small elite. At the time, the Soviet system was led by a leader intent on confronting authoritarian mechanisms and on expanding civil and political

rights. This state of affairs, Dr. Montes noted, placed the West in a challenging position, as the Soviet transition could have been manoeuvred to show a successful economy, thus de-legitimizing the Western model.

The year 1986 marked the birth of the idea of the right to development, in the

initiation of which some members of the US delegation were involved. Dr. Montes noted that political trends have since moved away from an obligation by the developed countries, to one of voluntary compliance. He also mentioned that the trend was to blame economic failures on individual policy mistakes of countries, thus turning the spotlight away from international systemic failures, as redressing the latter was deemed to be too expensive to be recognized by the West.

Dr. Montes highlighted the global issues that were surfacing as critical, such as the resolution of international debt, agenda and norm-setting in international tax cooperation, financial regulation and payments imbalances, unilateral economic sanctions, and loss of policy space by sovereign States. He also noted that some of these issues had started to affect the West itself, as reflected by the Eurozone debt. He deplored the fact that the Western countries and Japan insisted on addressing these issues in venues in which they had a dominant position, thus causing suffering and dislocation in developing countries. Dr. Montes also underscored that in the abovementioned paradigm, the poor and the indigenous were not adequately represented in decision-making processes.

He noted that the right to development had had no role in the struggles for a more efficient and just international system. He mentioned that the Declaration noted that the primary responsibility for the creation of national and international conditions was on States, but the meaning of “States” in international relations remained undefined. To conclude, Dr. Montes remarked that the right to development was continuously threatened by issues like nonrepresentation in decision-making processes, unilateral sanctions and loss of policy space by sovereign States, and noted that the recently adopted international agreements—including Addis Ababa Action Agenda, Agenda 2030, the Paris Agreement – were a challenge to the obligation stated in Article 3.3 of the Declaration, on “the duty to cooperate”.



Professor Koen De Feyter of Antwerp University focused on two aspects of the relation between the right to development and human rights law. Firstly, he spoke of the contribution of the right to development to expanding the ability of human rights to contribute to social justice within societies. Secondly, he explored the role of this right in addressing inequality among societies. On the first issue, Prof. De Feyter noted that human rights were

usually individually formulated, and “lived” when they were claimed by individuals. They were not however, instruments for the protection of individual

interests only.

Human rights were meant to contribute to the common good and their individualization could act as a barrier to achieving social justice. Prof. De Feyter noted that in litigation courts, the judgements did not have binding force outside the parties and therefore, it was important to situate individual claims into the social context. He stated that understanding the right to development as a group right would increase the relevance of human rights to social justice.

Prof. de Feyter reiterated that the SDGs were grounded in human rights, because there was an expectation that human rights would make a contribution to the achievement of these goals. He noted that the current international human rights law ensured only partially the realisation of the SDGs. He noted also that the system maintained a narrow focus on monitoring territorial responsibilities of domestic states and was inadequately equipped to offer a response to the human rights needs of the global poor, in the South and increasingly in the North.

Prof. de Feyter underlined the critical importance of the duty to cooperate. He mentioned that the duty to cooperate should also apply to non-State actors, and that a multi-stakeholder approach was necessary. He also noted that this duty to cooperate included a duty to do no harm that implied removing obstacles in the international economic environment to the realization of human rights. In this sense, he spoke of UNCTAD's efforts to enhance the sustainable development dimension of international investment agreements, as an example of multi-stakeholder involvement in the promotion of a human-rights based approach to development.



Professor Nico Schrijver of Leiden University built his intervention on four pillars, namely the background of the right to development, its meaning, the legal status of this right in international law, and finally, its future and its connections with the SDGs and the 2030 Development Agenda. Prof. Schrijver mentioned that the roots of the right to development went back before the 1986 Declaration, recalling the 1948 Universal Declaration of Human Rights that

mentioned the right of everyone “to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized”. He also recalled the First World Conference on Human Rights, held in Tehran in 1968, which noted that “the achievement of lasting progress in the implementation of human rights was dependent upon sound and effective national and

international policies of economic and social development.” Prof. Schrijver also spoke of the General Assembly Declaration on Social Progress and Development, adopted in 1969.

With regard to the meaning of this right, Prof. Schrijver noted that development was a multifaceted process whose aim should be the constant improvement of the wellbeing of the entire population, and of individuals. Like the other panellists, he noted that the right to development was a fundamental, inalienable human right, and an individual as well as a collective right. Development represented a societal process, and the right to development was, according to Prof. Schrijver, a cluster right. He mentioned that the right consisted of core human rights, such as the right to an adequate standard of living, education, food, work, social security, health, as well as some civil rights such as freedom of expression, freedom of assembly and freedom of association.

Prof. Schrijver noted that there was a special momentum with the adoption of the SDGs. He also noted that there already existed a “mini-treaty” on the right to development quoting as an example the extensive Article 11 of the Covenant on economic, social and cultural rights, and encouraged the international community to achieve the embedding of the right to development in the contemporary interpretation of the existing human rights treaties. He also noted that the Committee on Economic, Social and Cultural Rights was drafting a general comment on the relationship between development, and economic rights, which, in conjunction with the Working Group and the monitoring bodies for the SDG realization, would represent an additional avenue for the achievement of the right to development.

At the end of Prof. Schrijver’s intervention, the moderator of the debate deplored the absence of Professor Karin Arts of the Dutch Institute, who had to cancel her participation in the discussion on a short notice.

Debate

H. E. Mr. Abdulla Nasser Al Rahbi, Ambassador and Permanent Representative of Oman saluted the interventions from the panellists and commented on a few key issues, namely the need to include the issue of security in discussions on the right to development, and the negative impact of the widespread problem of arms trafficking. He underlined the importance of acknowledging the impact of arms trafficking on development, particularly in the Arabic-speaking world, especially given the increasing pressure put by the developed countries on the developing countries with regard to trade. Referring to the Arab region, he warned that ongoing conflicts and terrorism were negating the realization of the right to development.

He then underscored the role of the international system in ensuring the realization of the SDGs, but deplored the fact that the international order had lost credibility by engaging the international community in pointless debates. He regretted that the focus of these debates was moving away from crucial issues like development, and questioned whether, for example, the matter of LGBT rights was more important than the right to development, or whether the arms trade was more important than armed conflict itself. He concluded by encouraging the international community to scrutinize the issues at the very core of the right to development, and not to look only at the marginal matters.

H. E. Mr. Obaid Salem Saeed Al Zaabi, Ambassador Extraordinary and Plenipotentiary and Permanent Representative of the UAE, recalled the statement of the UN High Commissioner for Human Rights on the 30th Anniversary of the right to development, which stated that this right broke new ground in the “universal struggle for greater human dignity, freedom, equality and justice”, also recalling that “the main goal of development is to improve the well-being of every member of society”. He acknowledged the adoption of the Declaration as a milestone, but also highlighted that, despite the passage of three decades and numerous reaffirmations of this right in international instruments, the goals of the Declaration were far from being achieved.



He urged the participants to consider the process of implementation of the right to development on the basis of three main aspects: distributive social justice, participation and transparency, and international cooperation on transnational issues to build inclusive, peaceful and resilient societies taking into account cultural, social and political particularities. He welcomed the creation of the mandate of UN Special Rapporteur on the right to development and urged the mandate-holder to widen the scope and implementation of this right.

He presented the experience of the United Arab Emirates in realizing the right to development. At the national level, the UAE adopted comprehensive development policies, prioritizing the empowerment of women and investments in human resource development. At the international level, the UAE continued to provide international assistance, in order to enhance development initiatives in many parts of the world, under the authority of the Abu Dhabi Fund for Development, founded in 1971. The UAE also supported international organizations such as the UNDP, UNESCO, UNICEF, WHO and the UNEP.

He also noted the success of the UAE in moving towards the attainment of the highest standard of living for its citizens, particularly by investing in education, health, and housing. Finally, he reiterated the desire of the UAE to collaborate with all stakeholders in promoting the human rights-based approach in all development processes, and its support for the efforts of the Working Group.



H. E. Ms. Tehmina Janjua, Ambassador and Permanent Representative of Pakistan, agreed with previous comments saying that the years 2015 and 2016 had been important milestones for the right to development, and noting that the discussion on the right to development had been brought to centre stage by the adoption of the SDGs.

She mentioned that, on the commemoration of the Declaration, the achievements and obstacles had to be assessed. She commended the work put up by the Working Group, by the former Independent Expert, and by the High-level task force for elaborating the salient features of the right to development, and noted that the international community needed to ensure that the platform of the SDGs was used most effectively to pursue the rights included in the Declaration. There was an opportunity for the practitioners of human rights to continue to stress the importance that the Declaration had for the right to self-determination, a right which needed to be refocused and underscored. She concluded by noting that during the past year a lot of progress had been made towards the realization of the right to development, and that there was now a need for a realistic assessment of its implementation under the SDGs.



H. E. Mr. Boudjemâa Delmi, Ambassador and Permanent Representative of Algeria, remarked that there existed some contradictions in the Western countries' manner of approaching development. First of all, from a legal point of view, Ambassador Delmi questioned the reluctance of these countries to adopt by consensus resolutions related to the right to development. He underlined the fact that, while all resolutions on the rights stemming from the right to development, such as the right to nutrition, health, adequate housing, were adopted by consensus, there was still reluctance from some countries to unanimously recognize the right to development itself as universal.

Ambassador Delmi also noted a practical contradiction in the attitude of Western countries towards the right to development. He recalled the Marshall Plan that allowed certain countries to develop at the time, and spoke of the policies of the European Community, where the members deployed many efforts to find solutions to better integrate the accessing countries and reduce gaps in development. He thus pondered why such efforts for better integration from a development point of view were not directed towards the rest of the world as well.

H. E. Mr. Ravinatha P. Aryasinha, Ambassador and Permanent Representative of Sri Lanka, noted that the right to development was as relevant now as it had been thirty years ago, and that, as previously mentioned, the 2030 Agenda, the commitments in the Addis Ababa Action Agenda on Financing for Development and the Paris Agreement provided a new impetus for the realization of this right.



He mentioned that the symptoms and structural causes of inequalities were integrated in the 2030 Agenda, and that international cooperation was indispensable for tackling these, while attempting to alleviate extreme poverty induced by adverse effects of climate change and of other developmental issues. He noted that there was still a long way to go in order to surpass the rhetoric and transform this right into reality, as well as to move beyond the Declaration towards a legally binding instrument. However, the year 2016 provided new hope with the creation of a mandate of Special Rapporteur. He saluted the Chairperson of the Working Group, Ambassador Akram, for the efforts of the Group to present a set of standards for the implementation of the right to development, which represented a useful basis for further deliberations on implementation, and could be also a basis of a binding instrument.

Ambassador Akram echoed Ambassador Delmi's concerns about the reluctance of some Western States to agree holistically on the right to development, in a broader resolution or a program of action, instead of adopting individual resolutions on the rights that stem from the right to development. He noted the urgent need to look at the dire human rights issues related to development, such as extreme poverty, and to agree to work together in overcoming them, as a first step towards the overall realization of the right to development. As a matter that raised contradictions in the Working Group, he mentioned the fact that representatives of some Western States, contrary to developing countries, argued that human rights were individual rights and not collective rights. They claim therefore that the right to development was not to be seen as a collective or a group right, but as an individual right as all other human rights.

A second related point of divergence noted by Ambassador Akram was the perception that development was a national responsibility, at domestic level. From this it followed that international assistance by donor countries to developing countries was not a right to be expected from developed countries, but individual developing countries had to fulfil their needs through their own devices. There were other controversial issues, such as the fact that the developing countries would like to move towards a convention on the right to development, whereas the developed countries did not favour the elaboration of such a convention. He noted that the task of bridging these gaps was a challenge for the Working Group.



Professor Nico Schrijver replied to Ambassador Delmi's second question, mentioning that at the EU level, there was indeed a mass transfer of resources towards Central and Eastern European countries, in order to integrate them not only in the common market, but into the EU as a whole. Prof. Schrijver noted that similar objectives had been formulated in the treaty of Lisbon, with the objective of promoting global respect for human rights and meeting the obligations in international development assistance.

The EU had concluded development partnerships with as many as 80 developing countries in Africa, the Caribbean and the Pacific, namely the Cotonou Partnership Agreement—and elements of the right to development were reflected in it. Prof. Schrijver also mentioned that there was much more than transfer of resource within the EU, as many efforts were deployed into building joint cooperation and joint institutions to create an enabling environment for trade and investment. He underlined the fact that the “mother document” of the right, namely the 1986 Declaration, had been adopted with almost all European States in favour, and the lack of consensus in this sense is recent, due to changing political situations. The latter were causing little appetite for a new convention, and, as previously mentioned in his intervention, Prof. Schrijver highlighted the fact that several core elements of the right to development were already recorded in binding human rights instruments and this should be further taken into consideration.

A representative of the European Union Permanent Mission in Geneva reiterated the support for the right to development and particularly, the human-rights based approach to this right that placed the individual at the centre of the process. He also mentioned the European support for the multidimensional nature of development strategies. He saluted the consensus on the primary responsibility of States concerning implementation, and noted however the different views in the understanding of the right to development, notably as it concerned the way forward and the adoption of a legally binding document. From the point of view of the EU, the 2030 Agenda and the consensus around it marked a paradigm shift. The EU saw the Agenda as a promoter of peaceful and inclusive societies, respectful of all human rights including the right to development and based on the rule of law and on transparent, effective and accountable institutions.

The representative of the European Union proceeded to present the latest policy developments adopted at the EU level with regard to the implementation of Agenda 2030, mentioning the “Proposal for a New European Consensus for Development”, released on 22 November 2016 by the EU Commission, a blueprint seeking to align the EU development policy to the UN 2030 Agenda.

The second document, released on the same day, entitled “Next steps for a sustainable European future - European Action for Sustainability” was to be launched in Brussels, during a conference held on the 20 December 2016.

H. E. Ms. Saja Majali, Ambassador and Permanent Representative of Jordan echoed the concerns expressed by the Ambassador of Oman with regard to the need for security, observing that security and peace were the bedrock for the right to development. Speaking of the Arab region, she noted that there were grave turbulences generating complex humanitarian challenges, and also undermining development. Ambassador Majali quoted *The Economist*, which had commented on the latest Arab Human Development Report released in November 2016, affirming that the States in the Arab region had not learned from the revolts that had toppled their leaders. The 2009 Report, on the other hand, had clearly indicated five countries that were prone to conflict, with 3 out of 4 people who will be living in conflict-prone, vulnerable countries in the future. Ambassador Majali noted that if the 2009 report had forecasted chaos and doom, the current report was forecasting another “awakening” if the challenges were not addressed.



In terms of recommendations, Ambassador Majali urged the stakeholders to think of the right to development in the wider scheme of human rights. She also spoke of the needs of the youth, notably in terms of better education, job opportunities, and honest responses from the governments. These could constitute the features of a new development model in the Arab region, prioritizing and coordinating holistic policies to create an enabling environment

of peace and security. The right to development should be looked at through a human rights lens. She mentioned that, at the national level, the State should ensure the mainstreaming and respect of all human rights in national strategies and legislation, and at the international level, through global cooperation, States requesting support should be provided with the necessary assistance to enable them to work on ensuring the eradication of poverty, hunger, and other developmental issues.

A representative of the International Organization of La Francophonie (IOF) remarked that young diplomats, particularly from the South, were often wrong in believing that the debates on the right to development were the easiest and least controversial of all. On the contrary, he said, these discussions were often stalled by lack of consensus. He noted that one of the main reasons for these

blockages was an original misunderstanding reflected in the persisting idea that the right to development had an international dimension involving beneficiaries and debtors.



He noted that stakeholders agreed on the fact that the international community bore the responsibility for realizing this right, by eliminating all obstacles to its achievement. He added that there was also a persisting misconception, with regard to the lack of interest of some stakeholders to make efforts towards its realization. He thus remarked that it was necessary to demonstrate that the right had just as much relevance for the North as for the South, as there exist regions affected by underdevelopment in the North as well. He noted that by adopting the view suggested by Prof. Schrijver, according to which the right to development was already provided for in certain binding treaties, the stakeholders would risk silencing the debate and slowing progress on this matter.

A representative of the Permanent Mission of Armenia commented on the implications of closed borders and of violent attempts to suppress the right to self-determination included in the right to development. He noted that such situations were, in essence, a violation of the right to development. Emphasizing the linkage between the right to development and self-determination, he noted that the 1986 Declaration made clear reference to the necessity of fully realizing self-determination. He pondered what could be the steps to be taken within the international human rights machinery to ensure a nonselective approach to the realization of self-determination.

A representative of the NGO Indian Council of South America also spoke of the fundamental right to self-determination that belonged however to peoples, not States, this including peoples under occupation and in other similar situations. He inquired on the possibilities to modify the rules and procedures within the UN in order to ensure that all communities can participate equally. This was necessary, the speaker said, so as to ensure that their property rights, their right to self-determination and other rights flowing from the latter, were not undermined.



A representative of the Permanent Mission of Singapore reiterated commitment to the right to development and to the implementation of the SDGs. In light of the current momentum, she reiterated a call to donors to fulfil their pledges and assist in the achievement of the SDGs in developing countries, as well as in the building of inclusive and progressive societies. She noted that the challenge for UN member States was to achieve coherence as they strived to realize the SDGs. She highlighted, as the previous speakers did, the need for international cooperation, pursued in a holistic way that would take the local, cultural, social and political contexts into account.

At the national level, the representative of Singapore noted that there was a need for the government as a whole and even the society as a whole to get involved. She mentioned that, for small countries like Singapore, collaborative partnerships were key to development. She also shared some observations on the Singaporean experience, mentioning that in September 2015, the Ministry of Foreign Affairs had launched a sustainable development programme to support the 2030 Agenda by providing training to civil servants around the world, cooperating with UN Habitat to help cities practise sustainable organization and by partnering with other UN agencies to cooperate and provide practical solutions in water and sanitation.

A representative of the Permanent Mission of Iran underscored that the 1986 Declaration clearly considered international cooperation as an integral part of the process of realization of the right to development. He deplored the fact that the international community was witnessing a lack of political will in the promotion of cooperation. He also noted that there were coercive measures which gravely hindered the normal course of activities required for the realization of this right. He encouraged the participants to the panel to consider the negative impacts of unilateral coercive measures on the realization of right to development.

In his concluding comments Professor Koen De Feyter replied to the inquiry made by the EU representative, remarking that donor countries should focus on the strengthening of the capacity of governments and civil society organizations, in those countries facing difficulties in the implementation of their human rights obligations. He mentioned that the international dimension of the right to development was perhaps less looked at through the lens of a human rights based approach than the domestic dimension.



Dr. Manuel Montes approached the previous speakers' observations on self-determination by referring to the British Colonial Act of 1929, which mentioned the role of the colonial administration in providing minimum standards for education, health, nutrition, as a matter of justifying the colonial presence in these territories. Dr. Montes quoted the economist Arthur Lewis in saying that the Jamaican Colonial Act was tackling social development. He also said that one of the reasons why it was easier to reach international agreements on poverty or nutrition, for example, was that these agreements did not create additional obligations for the developed countries.

He also noted that there had been a struggle over policy space for a long time, remarking on the necessity of providing policy space to the authorities of developing countries in order to facilitate their use of the human rights based approach to development. He mentioned that while it was being said that Agenda 2030 was calling for an ambitious transformational programme, his own interpretation was that it was actually calling for a new international economic order.

A representative of the NGO APG 23 (Associazione Comunità Papa Giovanni XXIII) mentioned that during their active participation in the open-ended Working Group debates, they had witnessed several political impasses, and this particularly frustrated the people in the field, blocking the implementation of the right to development. She noted that there was a big opportunity for members States and NGOs to mainstream the vision of the 1986 Declaration, and recalled the upcoming summit on migration and refugees. The migration compact that would be elaborated out of this summit would be an opportunity to mainstream the right to development and create the necessary nexus with the challenge of migration. She noted the obligation of States, also in the origin States, to implement the right to development with regard to migrants.

The APG 23 representative inquired about the newly created mandate for a Special Rapporteur on the matter, and pondered on what could be the crucial areas of contribution of the new Rapporteur in overcoming the political polarization of this right.

Ambassador Idriss Jazairy, moderator of the debate, concluded the panel discussion by recalling the vision of the Geneva Centre, namely to build bridges between North and South, and to seek to promote consensus, and thanked the participants for their contributions that converged towards these objectives.



II. DRAWING LESSONS FROM THE PANEL MEETING by Ambassador Zamir Akram¹

1. Chair of the UN Working Group on the Right to Development

1. Introduction

The Geneva Centre for Human Rights Advancement and Global Dialogue organized a panel discussion on the topic “*The Right to Development, 30 years later: achievements, challenges and the way forward*” on 5 December 2016 in Geneva, to commemorate the 30th anniversary of the adoption of the UN Declaration on the Right to Development. The proceedings of this event made extremely valuable contributions to a better understanding of the right to development as codified in the Declaration of 1986, the achievements made and the continuing challenges in the implementation of this right and on the way forward.

As is now the practice of the Geneva Centre, the report of the meeting includes an in-depth study of lessons learned, drawing on the outcome of the proceedings and opening new vistas for further discussion on and eventual implementation of, the right to development.

2. Key Concepts of the Right to Development

The Panel Discussion was informed by a highly useful concept paper prepared by the Centre providing the context for the deliberations of the Panel. These exchanges underscored the essence of the Declaration on the Right to Development that this is “an inalienable human right” by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be realized. It, therefore, places the human person at the heart of development both as beneficiary and participant; and maintains that the right to development is both an individual and a collective right that is indivisible and inseparable from all other human rights and fundamental freedoms. As such, it defines development in holistic terms – involving economic, social, cultural and political rights. Moreover, by calling for equal participation and inclusiveness, the Declaration provides the way to an equitable process of development, a necessary premise for ensuring peace and security. As Pope John Paul II once said “Peace is the other name for Development”. From another perspective, security and development are two sides of the same coin and that there can be no human rights without addressing

human needs. In this sense, the right to development expands the sphere of human rights to contribute to social justice in society.

Another fundamental aspect of the Declaration that was stressed during the discussions is that it places responsibility on States, both nationally and internationally, to implement the right to development. At the national level, this means ensuring national development policies aimed at the constant improvement of the well-being of the entire population through the active and meaningful participation of all members of society, including the most vulnerable. At the international level, this is a call on States to reduce inequalities among them and to focus on assisting countries lagging behind while not taking any unilateral coercive measures in the form of economic sanctions that can undermine the right to economic and social development of vulnerable people in developing countries. As such, the Declaration requires equality, non-discrimination and cooperation at the national and international levels to achieve the right to development.

The Declaration, therefore, calls for an enabling environment “for development at the national and international levels”. In specific terms, it calls upon States to ensure at the national level equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and fair distribution of income as well as ensuring an equally active role by women in the development process.

At the international level, the Declaration places considerable emphasis on cooperation among States to promote development and remove obstacles to development. In its preamble, it recalls the UN Charter’s stipulation for international cooperation in solving international problems of an economic, social, cultural or humanitarian nature as well as in promoting human rights and fundamental freedoms for all without distinction. With reference to the Universal Declaration of Human Rights, it calls for a social and international order in which the rights and freedoms set forth in this Declaration are fully realized.

More specifically the right to development calls for respect for the right of self-determination; full and complete sovereignty of peoples over all their natural wealth; elimination of colonialism and neo-colonialism; apartheid; all forms of racism and racial discrimination; foreign domination and occupation; aggression and threats against national sovereignty, national security and territorial integrity. It also maintains that States have the primary responsibility for the creation of national and international conditions favourable to the

realization of the right to development (article 3.1); that States are required to fully respect the principles of international law concerning friendly relations and cooperation among States in accordance with the UN Charter (article 3.2); that States have a duty to cooperate in ensuring development and eliminating obstacles to development as well as to promote a new international economic order based on equality, interdependence, mutual interest and cooperation among States (Article 3.3); that States have a duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development (article 4.1); and that sustained action is required to promote more rapid development of developing countries; in particular to complement the efforts of developing countries through effective international cooperation which is essential in providing these countries with appropriate means and facilities to foster their comprehensive development. The Declaration also maintains that States should take steps to eliminate obstacles to development resulting from the failure to observe civil and political rights as well as economic, social and cultural rights (article 6). Moreover, it maintains that all States should ensure international peace and security and to that end achieve general and complete disarmament so as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of developing countries (article 7).

3. Obstacles to the Right to Development

During the discussions in the seminar, it also became clear that the history of the past 30 years since the adoption of the Declaration on the Right to Development is one of under-achievement, missed opportunities and continuing controversies, as a result of which the promise of this Declaration to promote human progress and prosperity for the attainment of all human rights and fundamental freedoms largely remains unfulfilled.

To be fair there have been some successes which should not be discounted. For instance, there has been progress since 1986 in the reduction by more than half of the proportion of people living in extreme poverty and of under-nourished people in developing countries. There has also been improvement in the access to sanitation and to drinking-water as well as access to education, apart from an increase in the level of Official Development Assistance (ODA).

This is to a considerable extent due to the unprecedented action of the Chinese government which has taken over 700 million people out of poverty in just a generation.

The Millennium Development Goals (MDGs), adopted more than 15 years ago, at the UN Millennium Summit along with the evolution of the Washington Consensus and the process of globalization of financial markets, trade arrangements and technological advances, have contributed indeed to global growth, to the creation of wealth and to the improvement in economic and social standards, but not to sustainable development. The progress achieved through the MDGs has been uneven, especially in the developing countries. Even in the developed countries, which coined the Washington Consensus and the concept of “globalization”, some sections of the vulnerable groups have not benefitted from it and their socio-economic situation has deteriorated. As a result of the uneven progression, there are poor people in rich countries and rich people in poor countries. This demonstrates that whatever progress that has been made in different parts of the world has been disconnected from the requirements of the right to development as a fundamental human right for all. Indeed, whatever growth has been possible has not led to development from the perspective of human rights.

The failure of the international community to operationalize the right to development and to implement the Declaration of 1986 has been due to political and procedural obstacles.

These need to be reviewed in turn:

The most important political hurdle has been at the international level the unwillingness of States, especially the major economic powers, to implement the right to development in letter and spirit. This lack of political will has retarded progress towards removing the barriers to economic development which the Declaration on the Right to Development identifies, such as denial of self-determination; colonialism and neo-colonialism; racism and racial discrimination; failure to ensure disarmament; equality among peoples and States; and respect for sovereignty especially over national wealth and resources. Further since the end of the ‘eighties of last century, there has been an increasing resort to unilateral economic, financial and trade sanctions applied in essence by developed countries or groups thereof to developing or emergent countries which are reversing development efforts. In short, the international community has failed due to the lack of political will, to ensure the necessary enabling environment for the realization of the right to development. Consequently, the expected new international economic order has failed to materialize. Anger in the pauperized middle classes in developed countries has led to the rise of populism and xenophobia, on which no new, or even improved, international order can be built.

At the heart of this problem are the continuing disputes and power rivalries among States which have been pursuing their individual national interests at the cost of the required cooperation for international peace and security as well as the realization of civil, political, economic, social and cultural human rights including the right to development.

It has not only been at the inter-State level that countries have failed to deliver, but also at the national level. Simply stated the good governance envisaged in the Declaration has not been present in most States – both developed and developing. For instance, national development strategies have rarely been people-centred or involved their effective participation. These strategies have usually been driven by party politics and corporate/big business interests. Little attention has been given to basic needs – education, health services, food, housing, employment and fair distribution of income. The vulnerable groups, especially women, have been marginalized in development programmes. Nor have there been adequate social reforms aimed at eradicating social inequalities. Most development programmes have lacked a human rights approach at both the individual and collective levels which is an essential aspect of the right to development. And in a large number of countries, corruption at all levels has taken a heavy toll on the development process.

These international and national level political obstacles have in turn triggered systemic problems that have retarded the implementation of the right to development. For instance, international cooperation including ODA is applied with conditions that are not necessarily related to the success of projects it finances. The international trading system, despite the WTO, is still unfair and unregulated. As a result, the producers of raw materials and agricultural goods, which are mostly developing countries, are particularly vulnerable. Global issues, such as international debt, norm setting in international tax cooperation, financial regulations, payments imbalances and unilateral economic sanctions or coercive measures are additional systemic factors undermining the right to development.

Failure to address these obstacles has given rise to new emerging challenges which make the achievement of the right to development even more demanding. One of these challenges is climate change which poses an environmental constraint on development. It is a sobering fact that the ten most vulnerable countries, which are all developing States, are the least responsible for the greenhouse gas (GHG) emissions that are being created mainly by the industrialized developed countries. It is particularly worrying in this context that one of the most important emitters of GHG is now in the process of withdrawing from the

Paris Convention on Climate Change.

Similarly, growing anti-biotic resistance, arising from uncontrolled use of antibiotics, especially in developing countries, is increasingly affecting the ability to fight infections. Moreover, the high cost of drugs and life-saving medicines, as a result of intellectual property rights and the absence of comparable generic medicines, is badly affecting health care of poor people in both developed and developing countries.

These challenges are not only endemic for States in their internal and external policies but also influence the work of non-State actors such as corporations and NGOs as well as multi-State organizations such as the UN itself and institutions like the World Bank, IMF, WTO, FAO ILO, WHO among others that are directly or indirectly connected to the development process. The decisions on policy options by these organizations are taken largely on the basis of political considerations rather than on the merits of the development imperative. This has undermined the role of such organizations towards promoting the right to development.

These political and systemic differences among and within States have permeated into the international discourse on the right to development. The understanding among States that facilitated the adoption of the Declaration on the Right to Development 30 years ago, has long since evaporated. A renewed effort to revive this understanding through the consensus adoption of the Vienna Declaration and Programme of Action on Human Rights in 1993, which, in article 10 reaffirmed the right to development as established in the Declaration on the right to development, has proved to be short lived. The issue has, therefore, taken a clear North – South divide or a debate between the developing and developed countries on the very basis of right to development.

Some developed countries have indeed questioned whether the right to development is in fact a human right. They have also argued that even if it is accepted as a human right, it is an individual and not a collective right. Both arguments are obviously opposed by the developing countries. Another bone of contention that has emerged is over the advocacy by developing countries of a binding international legal instrument on the right to development which is strongly opposed by the developed countries.

Given these wide-ranging differences that continue to persist among member States of the UN, the Declaration on the Right to Development remains unfulfilled and at best a work in progress. There is, therefore, an urgent need to restore consensus among States on the right to development.

4. Need for Consensus Building

The continuing impasse between the developed and developing countries that has prevented the implementation of the Declaration on the Right to Development for the last 30 years is really a political problem rather than a divergence over principles. This is clear from the fact that the Declaration not only enjoyed wide-spread support of UN members at the time of its adoption in 1986 but also that it is inspired by and derived from consensus instruments, agreements and resolutions. The most important source of the Declaration is the UN Charter itself which is reflected in its first preambular paragraph which states that “Bearing in mind the purposes and principles of the Charter of the United Nations relating to the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian nature and in promoting and encouraging respect for human rights and fundamental freedoms for all ...” (Article 1.3).

Furthermore, the letter and spirit of the Declaration on the Right to Development is supported by article 55 of the UN Charter which States that “with a view to the creation of conditions of stability and well-being, which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations is to promote, inter alia, higher standards of living, full-employment and conditions of economic and social progress and development”.

The Declaration also refers in its third preambular paragraph to the Universal Declaration of Human Rights that “everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized”.

The Universal Declaration of Human Rights also states in article 22 that “everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality”.

In the same vein, both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights recognize that “the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights as well as his civil and political rights”.

The International Convention on the Elimination of all forms of Racial Discrimination also defines the basic purposes on which the right to development is based – non-discrimination, equality and social justice. In its article 5(e) the Convention goes on to establish the rights to work, housing, public health, medical care, social security and social services and education and training – all of which are integral to the right to development.

If any doubts still remained, despite the clear stipulations of these consensual instruments, the Vienna Declaration and Programme of Action, adopted by consensus in 1993, should put to rest these reservations because it reaffirms in article 10 the right to development as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.

Several other multilateral consensus documents, decisions and resolutions, too numerous to mention here, also validate and reaffirm the Declaration on the Right to Development in whole or in part thereof. Of particular signification are, for instance, consensus resolutions of the UN General Assembly and the Human Rights Council on the Rights to food, water and sanitation, health, housing, education and gender equality.

From the foregoing, it is clear that there is no dearth of consensus international instruments and resolutions relating directly or indirectly to the Right to Development. These should provide the basis and the obligation for the international community to overcome their differences and move decisively towards the implementation of the right to development at the national and international levels.

More recently there are hopeful signs that the world is moving towards the realization of the right to development. The most significant contribution is the consensus adoption of the 2030 Agenda on Sustainable Development Goals (SDGs) in 2015. This can provide the needed impetus for the implementation of the right to development. Specifically, the 2030 Agenda affirms in its preamble that eradicating poverty in all its forms and dimensions is an indispensable requirement for sustainable development and pledges that “no one will be left behind”. Paragraph 10 of the Agenda states that it is “informed by other instruments, such as the Declaration on the Right to Development”. In paragraph 30, “States are strongly urged to refrain from promulgating and applying unilateral economic, financial or trade measures not in accordance with international law and the Charter of the United Nations that impede the full achievement of economic and social development particularly in developing

countries”. In paragraph 35, the Agenda recognizes the need “to build peaceful, just and inclusive societies that provide equal access to justice and that these are based on respect for human rights, including the right to development”.

The 17 Sustainable Goals of the 2030 agenda aim at achieving all the crucial elements of the right to development: ending poverty and achieving food security, ensuring health, ensuring inclusive and equitable education, gender equality and empowerment of women, promoting inclusive and sustainable economic growth, full employment and calls for reduction of inequality within and between States. Of particular importance is Goal 17 which contains a commitment to strengthen domestic resource mobilization and to complement it through international support for developing countries and calls on developed countries to implement fully their official development assistance commitments and to assist developing countries in attaining long term debt sustainability. It also calls for enhancing international cooperation and access to science, technology and innovation and to promote a universal, rules-based, open, non-discriminatory and equitable multi-lateral trading system.

Accordingly, there is a clear symbiotic relationship between the Declaration on the Right to Development and the 2030 Agenda. They are not only parallel tracks towards the same goal but have over-lapping convergent objectives. Therefore, the pursuit of the 2030 Agenda can also ensure the implementation of the right to development.

A complementary agreement, also adopted by consensus, is the Addis Ababa Action Agenda in 2015 which affirms a commitment to address the challenge of financing for development and creating an enabling environment at all levels for sustainable development. In this sense the Action Plan provides the funding component for the implementation of the 2030 agenda and along with it the right to development.

A third significant consensus outcome which addresses a key aspect of development is the Paris Climate Agreement. Faithful implementation of this agreement will enable developing countries in particular to overcome the challenges posed for their sustainable development by the adverse effects of climate change and environmental degradation. As mentioned earlier however, a long shadow is now hanging over this agreement.

Taken together these significant achievements have the potential to change the dynamics for international development and provide the practical means for implementing the right to development at the national and international levels.

5. Mechanisms for Implementing the Right to Development

Before and since the adoption of the Declaration on the Right to Development in 1986, various mechanisms have been utilized to implement and operationalize this right. Due to reasons of space it would not be appropriate here to go into the history of these efforts over 30 years. One should however focus on the key mechanisms that have been and are being employed to implement the right to development.

In view of the fact that the right to development is considered a fundamental human right, it is fitting that the primary role for the implementation of this right be played by the High Commissioner for Human Rights with the support of the office of the High Commissioner for Human Rights (OHCHR). The role of the High Commissioner is contained in General Assembly resolution 48/141, which gives him the mandate to “promote and protect the realization of the Right to Development and to enhance support from relevant bodies of the UN system for this purpose”. The General Assembly and the Human Rights Council (HRC) also call upon the UN Secretary General and the High Commissioner to report annually on progress in the implementation of the right to development including activities aimed at strengthening the global partnership for development between member States, development agencies and international financial and trade institutions, such as the UNDP, UNCTAD, UNFCCC, ECA, the World Bank, IMF, WTO, UNESCO, WIPO, WHO, the Global Fund and the ICTSD. Accordingly, the High Commissioner has a wide-ranging mandate to implement the right to development in conjunction with not only the UN but also all the multilateral agencies involved in the comprehensive development process.

The second important mechanism for implementing the right to development is the inter-governmental Open Ended Working Group on the Right to Development set up in 1998. It was preceded by similar Working Groups of government representatives and/or experts such as the one from 1981-89, which prepared proposals for the Declaration on the Right to Development and others from 1993-95; and 1996-97. The mandate of the current group, established by the Human Rights Council is wide-ranging and calls upon the group to: (a) to monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment; (b) to review reports and any other information submitted by States; United Nations agencies, other

relevant international organizations and non-governmental organizations on the relationship between their activities and the right to development; and (c) to present for the consideration of the HRC a sessional report on its deliberations including advice to the OHCHR with regard to the implementation of the right to development and suggest possible programmes for technical assistance at the request of interested countries with the aim of promoting the implementation of this right.

The Working Group has also been assisted from time to time, based on HRC decisions, by an Independent Expert, who was appointed in 1999 and held that position until 2004 and proposed a “Compact” for realizing the right to development.

Since 2004 until 2010, the HRC set up a High Level Task Force composed of 5 independent experts to advise the Working Group on the implementation of the right to development. This task force proposed a set of criteria and corresponding operational sub-criteria for this purpose which is still under consideration by the Group.

In 2015, the Working Group requested its Chair – Rapporteur to prepare a set of standards for consideration by the Group for the implementation of the right to development. These set of standards were submitted by the Chair – Rapporteur to the Group in May 2016.

In September 2016, the HRC adopted a resolution supported by the developing countries but opposed by the developed countries to appoint a Special Rapporteur with the mandate to contribute to the work of the Working Group on the Right to Development, with a view to supporting the accomplishment of its overall mandate; to contribute to the promotion, protection and fulfilment of the right to development in the context of the coherent and integrated implementation of the 2030 agenda for Sustainable Development; to engage and support efforts to mainstream the right to development among various United Nations bodies, development agencies, international development, financial and trade institutions; and to submit an annual report to the Human Rights Council and to the General Assembly covering all activities relating to the mandate, with a view to maximizing the benefits of the reporting process. At the thirty third session of the Human Rights Council (on 29 September 2016), the seasoned diplomat Saad Alfarargi (Egypt), also a Board member of the Geneva Centre, was appointed to this position.

While the High Commissioner, the OHCHR, the Working Groups and the independent experts have made commendable efforts for the implementation

of the right to development over 30 years, no substantive and practical progress has been made so far to achieve the desired results. The reality is that all these efforts have been stymied by the political differences among member States which continue to be divided on the way forward. The contradictions between the developing and developed countries continue to persist on both substantive and procedural grounds. There continues to be a lack of common space and understanding on the implementation of the right to development. It can only be hoped that the appointment of a Special Rapporteur, itself a contentious issue between the two sides, can help to bridge the gap and help make real progress towards realization of the right to development in the future. All the relevant stakeholders, the member States as well as the development agencies, civil society and the private sector, have to work together to break the stalemate and find a way to move forward.

6. The Way Forward: Recommendations for Implementing the Right to Development

Experience over the last 30 years since the adoption of the Declaration on the Right to Development clearly shows that the single most important obstacle to the realization of this right that is at the root of all other impediments is the lack of the necessary political will by the international community. Despite the fact that the Declaration of 1986 is based on fundamental consensus documents like the UN Charter, the Universal Declaration on Human Rights, and the two Conventions on Civil, Political, and Economic, Social and Cultural Rights, among others, all of which underscore the need for equitable and non-discriminatory pursuit of development, the differences between the developed and developing countries in this regard have persisted. Therefore, the essential prerequisite for implementing the right to development is to build the necessary political will both at the national and international levels. This will require all stakeholders, especially States, to overcome their differences and cooperate to create the necessary enabling environment for realization of the right to development.

Fortunately, recent developments such as the consensus adoption of the 2030 Sustainable Development Agenda and the Addis Ababa Action Agenda on Financing for Development in 2015, not only demonstrate that the political will is possible but also that the action plan to implement the right to development is there to be actively pursued. Given the complementarity and concurrence between the 2030 Agenda and the Declaration on the right to development, there is now an international environment that has not existed so far, for the practical implementation of the Right to Development as a fundamental human right.

A key factor for progress in this regard is provided by the recognition in the Addis Ababa Action Agenda for accountability and measurability of the actions being taken towards development. The exercise of such accountability will need to be done at the national and international levels – not just what States have done and achieved in terms of development internally but also what they have contributed to development externally, especially in the context of assisting the developing countries achieve their development goals. Such accountability would also need to apply to multi-lateral development related institutions and agencies as well as civil society and the corporate sector in terms of pursuing their social responsibility, within countries and at the international level.

Admittedly such accountability would take time to materialize. It could start voluntarily by States and donor agencies, perhaps during the Human Rights Council sessions and/or become part of the UPR process of States. Once the momentum builds up by such voluntary accountability, other States and agencies would become compelled to follow suit until it becomes an acceptable and necessary norm.

The international community would also need to be patient and pragmatic in its expectations about achievement of the right to development. The necessary enabling environment based on international peace, non-discrimination, self-determination, equality, disarmament and equitable trading arrangements among other factors, though noble and desirable goals for promoting the right to development, are not about to become a reality in the foreseeable future. Therefore, instead of a comprehensive or “Big Bang” approach, there would need to be a gradual step by step approach, with achievement of short term goals that would create the basis or the critical mass for the long term in which all the objectives of the right to development could be achieved. Accordingly, a realistic, pragmatic and practical approach should be adopted to implement the right to development over the short and long terms.

In the short term, say over the next 5 years, the focus should be on the implementation of the core or basic development needs on which a clear consensus exists that would make their achievement easier and non-controversial. From this perspective, the goals that should be pursued in the short term and that will meet core human needs are; (i) ending poverty, (ii) ending hunger; (iii) ensuring healthy lives; (iv) ensuring inclusive and equitable quality education and (v) achieving gender equality and empowering women. These are the first 5 goals of the 2030 agenda which are also envisaged in the Declaration on the Right to Development. The SDGs Action Plan provides the operational means to achieve these goals. Resolutions of the UN General

Assembly and the Human Rights Council adopted by consensus also call for the attainment of these objectives. Therefore, the international political will already exists on these specific objectives. This will must be used towards beginning the implementation of the right to development through national efforts and international cooperation as well as through the involvement of international development agencies, NGOs and the corporate sector where necessary. Any State that opposes cooperation for the achievement of these goals would then be going against the established consensus and its opposition would be exposed in multi-lateral fora, especially the General Assembly and the Human Rights Council through the process of accountability.

Over the long term, of, say, the next 15 years, once the basis for development has been created through achievement of these short time goals, focus could shift to the remaining development goals as envisaged in the SDGs and the Declaration on the Right to Development. These would include water and sanitation; energy, full employment and decent work; infrastructure and industrialization; combating climate change; and promoting peaceful and inclusive societies for sustainable development including access to justice and building effective, accountable and inclusive institutions. All these goals are consistent both with the 2030 agenda and the Declaration on the Right to Development.

In the pursuit of both short and long term goals, the one factor that would be essential and which the 2030 Agenda and the Declaration on the Right to Development both cover is SDG Goal 17 which calls for strengthening the means of implementation and revitalizing the global partnership for sustainable development. Such international cooperation would be critical for achieving the SDGs and with them the right to development. This would require greater cooperation and coordination among all the stakeholders at the national and international levels.

Finally, there would be a need for all the relevant mechanisms – those relating to implementing the Right to Development and the SDGs, to work in an integrated, cooperative and coordinated manner. Accordingly, there is need for greater synergy between the work of the UN Secretary General, the High Commissioner for Human Rights, the Working Group on the Right to Development and the newly appointed Special Reporter as well as the UN mechanisms entrusted with implementing the 2030 Agenda apart from the multilateral development agencies, civil society and the corporate sector. All of these mechanisms working together will be crucial to implement the SDGs and with them the right to development.

ANNEX I
FULL STATEMENTS OF PANEL MEMBERS

Statement by H. E. Dr. Hanif Al Qassim

Chairman of the Geneva Centre's Board of Management

**Excellencies,
Distinguished panellists and participants,
Ladies and Gentlemen,**

It is a great honour to open this panel discussion entitled “The Right to Development, 30 years later: Achievements, Challenges and the Way Forward.”

In my capacity as Chairman of the Geneva Centre for Human Rights Advancement and Global Dialogue, I wish to express my gratitude to the Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva, for their valuable cooperation in the organization of this meeting.

Today's panel discussion is intended to observe two important events: Firstly, the 10th of December marks the International Human Rights Day, an opportunity to celebrate and renew our commitments towards human rights. Secondly, on the 4th of December we commemorate the 30th anniversary of the Declaration on the Right to Development, a document that has laid the foundation for human rights globally.

We celebrate both occasions and at the same time realize that this anniversary celebration is overshadowed by global threats to human rights that are playing out across the globe.

Today's harsh realities of violence, conflict, and displacement, and the growing spread of extremism contradict the vision passionately expressed in these halls 30 years ago.

Today, we face a worrying increase in Islamophobia and see hate crimes against Muslims in the United States rising by a staggering 67% since 2015.

Today, we see unfavourable views of Muslims surging across Europe and the US, with minorities being the target of heinous attacks.

The mainstreaming of anti-Muslim hate speech in political campaigns has aroused dormant racism and conferred legitimacy upon extremism.

Many dismiss xenophobic speech as a PR stunt - as we saw with the latest US

presidential campaign.

PR or not, the toxic effects are poison in society's veins and will only magnify hate-filled sentiment.

Of course, the dismal human rights and development narrative for the year 2016 is not the entire story of this thirty-year period and we must recognize and celebrate our gains. I will mention a few of them: From 2002 to 2012, the proportion of the global population living below the poverty line dropped from 26 % to 13 %.

Between 1990 and 2015, the global maternal mortality ratio declined by 44 % and the global under-5 mortality rate declined by more than half.

Steps toward achieving gender equality and political participation were also noteworthy: in 2016, women accounted for 18 % of all speakers of parliament.¹

However, the latest data also shows that one in eight people still live in extreme poverty and nearly 800 million people suffer from hunger.

Some 1.1 billion people live without electricity, and water scarcity affects more than 2 billion people.²

Looking to the future, we must respect the symbiosis of peace and security. Violence disables both and tramples the most basic of human rights.

With the current political rhetoric trivializing xenophobia and driving violence we can only assume the situation for many people will worsen.

On this anniversary let us renew our commitments for both human rights and development and re-engage our efforts to promote the principles established some 30 years ago.

I thank you for being here and I wish you a successful and productive meeting.

Statement by Ambassador Idriss Jazairy

Executive Director of the Geneva Centre for Human Rights Advancement and Global Dialogue

Excellencies, Ladies and Gentlemen,

I wish to thank our Distinguished Chairman and H. E. Vaqif Sadiqov for their inspiring remarks at the opening of our meeting.

As 2016 draws to an end, our assessment of the state of the Right to Development is a mixed one.

At the international legislative level, we have made progress in 2015-2016 : we adopted by consensus the Addis Abeba Action Agenda on Financing for Development as well as the 2030 Agenda for Sustainable Development which itself includes in the consensus the Right to Development. COP21 was likewise a land-mark as those that have contributed least to climate change are likely to be those that will suffer most from its consequences. But there have been some reversals as well: consensus which prevailed in the Commission on Human Rights in 1986 when the Declaration was adopted or later in 1998 when the Open-Ended Working Group and the Independent Expert were established, that consensus collapsed this year in the adoption of HRC res.33/L.29. What can we do to revitalise this global resolve of halcyon days long gone?

On the ground, has freedom from fear and want made the headway we expected as we put our trust in global solidarity 30 years ago? As Pope John Paul II once said « Peace is the other name for development ». But 2015-2016 have reminded us that the absence of organised warfare is not peace. Violence continues to engulf the MENA region and has spilled over into the Global North. Economies are in tatters. The after effects of the 2008 economic crisis and the current collapse in commodity prices has put paid to our hopes encapsulated in the « Africa rising » catchword.

Globalisation has run amok even of its protagonists, leading to exacerbated disequilibria in wealth distribution and to generalised corruption in countries of the Global North as well as of the Global South. The toxic mix of violence and of wanton globalisation have got people on the move like at no time since WWII. No wall will stop them, not even if their basic rights are disregarded. Isn't it time to recognize that the system needs fixing?

Much of the action to ensure the R2D is within the purview of sovereign states, whether it has to do with improved governance, the fight against corruption, unleashing the potential of women and of marginalised groups, removing glass

ceilings, taking steps to enhance livelihood for all, etc...But this calls for an enabling international environment. Hence the emphasis in the Declaration on the Right to Development, article 4, on the essential role of international cooperation as a complement to national efforts. In fact General Comment No.3 of the Committee on Economic, Social and Cultural Rights stresses that « international cooperation for development and thus the realization of economic, social and cultural rights is an obligation of all States. ». Is this not an opportunity to recognize therefore that the Right to Development is not just one more source of conditionality to obtain domestic policy changes in developing countries? Is it not also an entitlement of developing States to enabling action at the international level? In other words, is not the R2D a universal right? Is it not applicable erga omnes to donors as well as to recipients and whose enjoyment should be promoted equally among individuals and between States?

Finally should not the Declaration on the Right to Development be considered as part of the International Bill of Human Rights? This could be a solution at least until such time as consensus can be reached on the kind of binding international convention which was supported once more by the OIC Human Rights Commission Seminar on the Right to Development held in Abu Dhabi on 12-13 October 2016.

On this double commemoration of the adoption of the Universal Declaration of Human Rights and of the Declaration on the Right to Development, we are indeed privileged to have with us four very eminent practitioners and thinkers from the Global North and the Global South. My former Colleague in Geneva, Ambassador Zamir Akram is the Chair of the Open Ended Working Group on the Right to Development. This is a group which has been blighted by pickwickian debates for close to two decades. Yet the Group's mandate is not about linguistic niceties but about the individual and collective rights of common persons and of peoples to dignified living. We support the worthy efforts of Ambassador Akram to bring it back to basics: setting standards for achieving such basic rights as the right to be free from poverty and hunger and the right to water and sanitation, the right to health, to shelter and to gender equality.

Statement of H. E. Mr. Vaqif Sadiqov

Ambassador and Permanent Representative of the Republic of Azerbaijan

Distinguished Moderator,

Distinguished Panelists,

Dear Guests, Excellencies, Ladies and Gentlemen,

At the outset, I would like to welcome all of you and express my deepest gratitude for joining us today to mark the 2016 Human Rights Day and the 30th Anniversary of the Declaration on the Right to Development. I would also like to sincerely thank Geneva Centre for co-organizing this very important meeting with our Permanent Mission, which I hope will allow us to exchange views on achievements, challenges and the way forward on the implementation of the Declaration on the Right to Development. It will be also a good opportunity to discuss the ways on how to better promote international cooperation for the realization of the right to development.

When the Declaration on the Right to Development was adopted by the UN General Assembly in 1986, it reaffirmed several fundamental norms and principles stipulated in the UN Charter, the Universal Declaration of Human Rights and the International Covenants on Human Rights, such as peace and security, international cooperation, equality, non-discrimination, welfare, participation, respect for human rights, and adequate social and international order.

The Declaration recognized the right to development as “an inalienable human right”, which is both an individual and a collective one. So, this right belongs to all individuals and peoples. At the same time, the right to development is an equal right among the universal, inalienable, interrelated and indivisible human rights.

One of the major features of the right to development is that it identifies the “human being” as a central subject and covers all the aspects of his/her life. This right also identifies development as a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals.

Taking into account that currently the 2030 Agenda for Sustainable Development Goals (SDGs) stands at the centre of a development agenda, there is a need also to highlight the issue of co-relationship between Declaration and SDGs. Both are of key importance in promoting development worldwide and both of them identify the States as main duty bearers, emphasizing that the states

have primary responsibility for the creation of conditions favourable to the realization of the right to development and for formulating appropriate national development policies aiming at constant improvement of the well-being of entire population.

As regards my country, the Constitution of Azerbaijan recognizes the right to development. In Articles 15 and 16, it states that ensuring the rights and freedoms of all citizens and persons subject to its jurisdiction and decent living conditions for all citizens are the highest objectives of the State. Economic and social development goals are also reflected in the Constitution.

Azerbaijan has achieved impressive results on many Millennium Development Goals, especially on eradicating extreme poverty and hunger, ensuring universal education, promoting gender equality, and etc. Azerbaijan has considerably improved its rating in human development index moving from the 91st place in 2004 to 78th in 2015, and advancing from medium to high human development group.

Currently, Azerbaijan is adapting its national sustainable development strategy taking into account the SDGs. In this regard, the National Coordinating Council for Sustainable Development has been established in Azerbaijan headed by the deputy prime-minister. The main purpose of the Council is to define the national priorities until 2030, corresponding to global goals and targets, and to ensure the compliance of state programs and strategies covering the socio-economic spheres with the SDGs.

The Declaration also emphasized that the states have to cooperate with each other in ensuring development and eliminating obstacles to development. For this purpose, as an emerging donor country, Azerbaijan takes an active part in international development efforts in responding to humanitarian and socio-economic challenges the developing countries face, in particular through the Azerbaijan International Development Agency which is the humanitarian arm of the Foreign Ministry, and the biggest NGO of Azerbaijan - the Haydar Aliyev Foundation.

I would like to stress that as the newly elected ECOSOC member - Azerbaijan will continue to adhere to the principles enshrined in the Declaration on the Right to Development.

And finally, I would like to say that like all of you, I am looking forward to having interesting and focused discussions today.

Thank you.

Statement of Ambassador Zamir Akram

Chair of the Working Group on the Right to Development

**Mr. President,
Distinguished Delegates,
Ladies and Gentlemen,**

The Declaration on Right to Development establishes this right of all individuals as an inalienable human right and places the human person at the center of development. This human rights based approach is consistent with the UN Charter, the Universal Declaration on Human Rights, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights as well as several resolutions and decisions adopted by the UN and the Human Rights Council.

Articles 2 & 3 of the Declaration clearly establish the responsibility of states to implement the Right to Development both nationally and internationally. It calls for such development on the basis of equality and non-discrimination while also underscoring the need for international cooperation to reduce inequalities within and between nations.

Unfortunately, however, this Right to Development still remains to be fully realized. Obstacles such as inequality and discrimination, denial of self-determination and persistence of conflicts within and between states has distracted the international community from realizing this noble goal.

At the same time there exist differences among states on the implementation of the agenda for development. Indeed, some states in the West question the very basis of the Right to Development as a human right.

In my view such differences and obstacles are artificial and inconsistent with the commitment of States to the principles of the UN, its decisions and the Human Rights Covenants that I have just mentioned. In particular, we need to refer to the consensus adoption of the Vienna Declaration and Programme of Action of 1993 which reaffirmed the Right to Development as a universal and inalienable right and an integral part of fundamental human rights with the individual as the central subject and beneficiary of development.

More recently, the consensus adoption of the 2030 agenda on the Sustainable Development Goals as well as the international conference on financing for Development, both of which were adopted in 2015, open up immense possibilities for implementing the Right to Development. The 2030 agenda calls for a human rights based approach to development in which no one should be left behind. Moreover, under goal 17 it calls for strengthened global solidarity and enhanced

international cooperation towards rights based development.

As the Chair of the Working Group on the Right to Development, I am well aware of the conflicting positions of member states. After 30 years since the adoption of the Declaration, it is time that countries put aside their differences and commit themselves to upholding the most fundamental of human rights—that is the right to a better existence for all human beings. What is needed is the necessary political will to compromise and to cooperate.

I have always under scored the fact in my interaction with member states that there can be no human rights without addressing human needs. Human rights should, therefore, be seen in their totality since all human rights are indivisible, interconnected and interdependent.

But we must also be realistic and recognize that the attainment of the Right to Development will require cooperation and commitment over the long term both at the domestic and international levels. We would need to overcome the obstacles at every level and at every stage. This will of course require sustained efforts over the long term.

Even so, we need to recognize that a beginning must be made now. From a practical and pragmatic perspective we need to begin by addressing the most urgent and the direst human needs as the building blocks for the realization of the entire spectrum of human rights.

Guided by this approach, I have advocated the pursuit of promoting national and international policies that address fundamental issues such as poverty, education, housing, the environment and gender equality through women's empowerment. I believe these can provide the bed-rock or the building blocks for more comprehensive human rights based approach to development.

It is important to recognize that these key human rights goals are non-controversial and enjoy consensus support in the international community. They are also fully endorsed by the 2030 development agenda. For these reasons it should be possible for the international community to combine its efforts for their realization.

At the same time we will need to remain focused on the ultimate goal that has been enshrined in the Declaration on the Right to Development and reaffirmed by the 2030 sustainable development goals. We need to work together to overcome all the obstacles that impede progress.

But none of this will be possible without the necessary political will by all states to implement the Declaration on the Right to Development in their domestic policies as well as on the international stage.

Opening remarks by Dr. Manuel Montes

Senior Advisor on Finance and Development at the South Centre

From Rousing Phrases to Prosaic Benchmarks

Manuel F. Montes²

3 November 2016

Do you remember 1986? (That was two years after Orwell's 1984?) The Soviet Union had a reputation in journalistic circles in the West as a systemic violator of civil and political rights. But even with a moribund economy, it also was known as a system that lifted millions out of grinding rural poverty, eliminating absolutist personal control by a small elite over the lives of millions, moving its population to industrial employment and setting up an economy based on widespread social protections. The Soviet system was being led by a leader who seemed to be set on confronting authoritarian mechanisms and expanding civil and political rights as a way of revitalizing the economy.

The grave danger facing the West was that if the long-imagined Soviet transition could be maneuvered successfully in such a historically successfully economy, it would be the Western model of maldevelopment and persistent economic discrimination that would be proven not credible.

The danger has passed, of course. The Soviet Union became a market economy with the same features of Western economic inequality and corruption, a feature whose nursemaid was the set of deregulation-privatization-liberalization policies needed to create its private sector.

But in 1986, the idea of the right to development, in whose initiation members of the US delegation in the General Assembly keenly participated, this danger was real. (My authority for this information is former Slovenian President Danilo Turk who during that period was the UN Special Rapporteur on the Realization of Economic, Social and Cultural Rights.)

With the disappearance of the danger, political trends in multilateral cooperation have moved away from an obligation by the developed countries to one of voluntary compliance. The US eventually voted against the resolution, just as the West and Japan consistently vote against multilateral obligations in the economic sphere.

2. Senior Advisor on Finance and Development, The South Centre. Speech notes for the panel on "30th Anniversary on the Right to Development" on human rights day 2016, 5 December 2016, Palais des Nations, Room 21. I am solely responsible for all errors, opinions and analyses. Email: montes@southcentre.org.

The idea is to blame economic failures on individual policy mistakes of countries and turn the spotlight away from systemic failures which at the technical level the economics profession recognizes but which the West and Japan find too expensive to recognize because such recognition could require giving up the dominance of the IMF, OECD, in economic policy.

Issues around the resolution of international debt to private parties, agenda and norm setting in international tax cooperation, financial regulation and payments imbalances, unilateral economic sanctions, loss of policy space by sovereign states and so on have surfaced as critical. In fact some of these have begun to bite against the West itself, as reflected in the Eurozone debt and austerity crises.

However, Western countries and Japan act as if they prefer that these issues continue to be addressed in venues where they have a dominant vote, the better probably to meet their policy responsibilities to their own economies and private sectors. While there is some grudging progress in these issues, its slow pace causes untold suffering and dislocation among countries and parties such as the poor and indigenous peoples not represented adequately in these decision-making platforms.

The multilateral system has a long tradition of mutual obligation, the problem is how to realize these mutual obligations in economic relations.

Other human rights obligations are not evenly applied and widely accessible anyway.

The right to development whose 30 year anniversary we celebrate has had practically no role in these struggles for a more efficient, effective and just international system.

The right to development is premised on the fact that under the Universal Declaration everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized.

Article 1 says that “States have the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development.”

What states in the plural means in international relations is not well-defined. At a minimum, each and every state has this primary responsibility. This means, for example, the spillover effects of tax policies of OECD-member countries (as analyzed and quantified by the IMF in May 2014 and June 2015) can be a matter for the right to development.

As suggested by the special rapporteur on the RTD in a series of papers more than 15 years ago, the RTD creates a right and obligation to a process, not an end-state.

Successful resistance to making progress in implementing the RTD is equivalent to success in denying access of human rights holders – individuals, peoples, countries – to a process. Finding ways to translate the ringing phrases from 1986 declaration to prosaic benchmarks and secure access to international decision-making process has been an indecisive and unsuccessful process for more than a decade.

Denying individuals, peoples, and countries from adequate participation in decision-making processes on issues of international debt to private parties, agenda and norm setting in international tax cooperation, financial regulation and payments imbalances, loss of policy space, unilateral economic sanctions, and loss of policy space by sovereign states and so on violates the right to development.

The international agreements in 2015 – including Addis Ababa Action Agenda, Agenda 2030, the Paris Agreement (Accord de Paris) – presents a challenge to obligation stated in Article 3.3 of the RTD about “the duty to cooperate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and 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, as well as to encourage the observance and realization of human rights.”

Thank you.

Statement by Prof. Koen De Feyter

Professor of International Law, University of Antwerp

Allow me to express my gratitude to the organizers for inviting me to this panel discussion celebrating the 30th anniversary of the Declaration on the Right to Development.

I would like to focus on two aspects of the right to development, where, in my view, the right to development can make a valuable contribution to existing human rights law, namely:

- in expanding the ability of human rights to contribute to social justice within societies;
- and secondly:
- in addressing inequality among societies more effectively.

1.

Human rights are usually formulated as individual rights. This is important because it enables individuals to activate human rights protection. Human rights come alive when they are claimed, and individuals need to be empowered to do so.

Nevertheless, human rights are not instruments for the protection of the individual interest only. They are also meant to contribute to the common good: to improve social justice within society – particularly for those most left behind. When a slum dweller makes a human rights claim, she does not only do so on her personal behalf. She acts on behalf of all those sharing her predicament. In such instances, the individualization of human rights may from time to time act as a barrier to achieving broader social justice. In human rights litigation, courts traditionally find that their judgments do not have binding force except between the parties and in respect of the particular case.

In order to ensure that human rights optimally contribute to social justice, it is important to situate individual claimants in their social context; to analyse where these individuals are located within their group; and to consider the (possibly unequal) relationship of the group to which they belong to other groups.

To think of development not only as an individual right, but also as a group right helps in increasing the relevance of human rights to more people. As the African Commission on Human and Peoples' Rights has stated in its Endorois decision: people as holders of the right to development should be understood as including 'marginalized and vulnerable groups that have not been accommodated by dominating development paradigms'.

The sustainable development goals are grounded in human rights, because there is an expectation that the implementation of human rights will make a crucial contribution to the achievement of the goals. This also implies that we think of human rights in a social justice/development-informed manner.

2.

In today's world, the local and the global can no longer be dissociated. Global policies affect local situations everywhere. Universal protection of human rights therefore requires that the international community as a whole assumes responsibility for their realization. Current international human rights law only partially does so. Human rights treaty law provides a system for allocating, rather than sharing responsibility. It maintains a narrow focus on monitoring the territorial responsibility of the domestic state, and is inadequately equipped to offer an appropriate response to the human rights needs of the global poor in the South, and in the North.

The UN Declaration on the Right to Development provides for a State duty to cooperate for the realization of development, which includes the realization of human rights. The provision on the right to development in the 2012 ASEAN Human Rights Declaration speaks of the need to narrow the development gap among the peoples in the region, and states that the implementation of the right to development requires 'equitable economic relations, international cooperation and a favourable international economic environment'.

In my view, that statement is correct.

There is a need to specify the duty to cooperate for the implementation of human rights, and to breathe life into it. Existing human rights treaties should be complemented with reciprocal State commitments to realize human rights, while at the same time we should ensure that in that cooperation they remain accountable to rights holders. That is a conceptual challenge, but not an impossible one.

The duty to cooperate should also apply in my view, to non-State actors, or to every (global or domestic) organ of society, as the Universal Declaration put it. A multi stakeholder approach to human rights protection becomes increasingly necessary.

And certainly, at the very least, the duty to cooperate includes a duty to do no harm that implies removing obstacles in the international economic environment to the realization of human rights. UNCTAD's current effort to enhance the sustainable development dimension of international investment agreements is

one example of an excellent effort that stands to benefit from human rights integration, and from a right to development analysis.

After thirty years, I remain optimistic that it is possible to conceive of a right to development that, when properly implemented, will result in a more effective human rights approach to addressing global inequality.

Statement by Prof. Nico Schrijver

Chair of Public International Law and Academic Director of Grotius Centre for International Legal Studies at Leiden University, and Expert Member of the UN Committee on Economic, Social and Cultural Rights

It is a great pleasure to participate in this 30th birthday party, demonstrating that the right to development has well matured.

For today's discussion I would like to make four observations. The first is on the background of the RtD. The second one relates to its meaning. The third observation is on the legal status of the RtD in international law. The fourth one relates of course, on this celebratory day, to its future and its link with the SDGs and the 2030 Development Agenda.

The background of the right to development

In essence, we can trace the RtD already back to the 1948 Universal Declaration of Human Rights. Apart from the well know individual rights it also features in Article 28 the right of everyone “to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized”. Furthermore, the relationship between human rights and development was also emphasized in both the final document of the First World Conference on Human Rights, held in Tehran in 1968. I quote from para. 13: “Since human rights and fundamental freedoms are indivisible, the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible. The achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development”. I should also refer you to the still highly pertinent GA Declaration on Social Progress and Development adopted in 1969, particularly Article 2: “Social progress and development shall be founded on respect for dignity and value of the human person and shall ensure the promotion of human rights and social justice [...]”.

The concept of the right to development emerged in so many words during the 1970s as an offspring of the so-called structural approach to human rights. The Commission on Human Rights initiated in 1979 a process to formulate the right to development which resulted in the adoption of the 1986 Declaration on the Right to Development, following protracted negotiations. The Declaration is a solid, substantive and well-formulated document, consisting of a preamble and 10 articles. Unfortunately, it never received universal endorsement. However, the Vienna Declaration of the World Conference on Human Rights in 1993 recognised the right to development “as a universal and inalienable right and an

integral part of fundamental human rights” and it also features prominently in the resolution establishing the Office of the HCHR. Fortunately, at the time the US government joined this consensus.

The meaning of the right to development

The 1986 Declaration provides first of all an interesting and relevant description of the concept of development, pointing out that:

“(…) Development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.”

Here it is significant that the Declaration does not reduce development to merely economic aspirations but articulates a broad, comprehensive and integral understanding of development at both national and international levels.

Furthermore, Article 1 of the 1986 Declaration provides:

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

I believe these definitions still provide good starting points for any discussion on the meaning. The Declaration really positions the right to development as a fundamental right by labelling it as inalienable. It also emphasizes that it is a human right and a people’s right. This is to be distinguished from a right of a State to participate in economic development: for me this is a very important issue, but part and parcel of the international law of development and not of the right to development as a human and people’s right.

The right to development can in my view best be considered as a cluster right, consisting of core human rights such as the right to an adequate standard of living, education, food, work, social security, health, as well as some civil rights such as freedom of expression, freedom of assembly and freedom of association. As such the right to development is more than the sum of its components, since it bridges economic, social and cultural rights and civil and political rights. Similarly, in this way it also connects individual and peoples’ rights, collective human rights. Let me say, on this celebratory day, to you: the right to development entails the best of all worlds.

Legal status of the right to development

It could well be argued that the right to development is already well anchored in the existing human rights treaties, most notably the two international covenants and the Convention on the Rights of the Child. Indeed, if the rights contained in these global human rights treaties are fully implemented, we have also realized the fulfilment of the right to development. However, as long as this is not yet achieved, the discussion on the formulation, the consolidation and anchoring of the right to development symbolizes the UN Charter calls “to promote social progress and better standards of life in larger freedom” and “to employ international machinery for the economic and social advancement of all peoples” (preamble UN Charter). From this perspective the right to development is as fundamental as other human rights.

It became part of the political debate on structural development issues, such as development assistance, debt relief, technology transfer and multilateral trade. Furthermore, the legal content of the right to development also provided for these difficulties. Questions relating to the definition of the right as well on the right holders and duty bearers are still partly unanswered. Occasionally, consensus could emerge. [[In 2008, a major step forward could be made in a more cautiously formulated GA resolution which welcomes and even endorses the conclusions of the Working Group and the work of the High-level Task Force on criteria on the implementation of the right to development. Whereas in previous years the majority stipulated “the further consideration of the elaboration of a convention on the right to development”,³ a 182 member state majority now advocated the elaboration of the criteria “which could [...], evolve into a basis for consideration of an international legal standard of a binding nature” (para. 8). Also the voting record in the GA for 2008 is especially notable since it shows a drastic change compared to previous years. This time as many as 182 states voted in favour, with 4 against and two abstentions.]] Unfortunately, emotions were running high again in later years, both in New York and Geneva.

How to move forward?

I do believe we have a special momentum with the adoption of the SDGs, particularly Goal 16 on Peace and Justice for All, and with the 2030 Development Agenda. I welcome the further work by the Working Group to develop a set of Guidelines for the Implementation of the RtD. From the Ruggie standards on Business and Human Rights as well as from various successful Guidelines

3. See for example A/RES/62/161, para. 10(d).

from the OECD on Multinational Enterprises and Social Development and from the ILO Declaration on Fundamental Labour Norms we know that such Guidelines can be instrumental in developing legally binding standards, which do not necessarily take the form of a treaty. Furthermore, we should also not forget that several core elements of the right to development are already recorded in binding human rights instruments, for example in the extensive Article 11 of my Covenant on economic, social and cultural rights. This provides for the right to an adequate living standard, including housing and food and next are the right to health and the right to education. In my view it is also very important to work with the human rights treaty bodies and to seek to achieve as much as possible the embedding of the right to development into the contemporary interpretation of these treaties. This, in full conjunction with realizing the Sustainable Development goals.

I thank you for your attention.

ANNEX II
UN GENERAL ASSEMBLY DECLARATION ON
THE RIGHT TO DEVELOPMENT



General Assembly

Distr. GENERAL

4 December 1986

A/RES/41/128
4 December 1986
97th plenary meeting

41/128. Declaration on the Right to Development

The General Assembly,

Having considered the question of the right to development,

Decides to adopt the Declaration on the Right to Development, the text of which is annexed to the present resolution.

ANNEX

Declaration on the Right to Development

The General Assembly,

Bearing in mind the purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom,

Considering that under the provisions of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized,

Recalling the provisions of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights,

Recalling further the relevant agreements, conventions, resolutions, recommendations and other instruments of the United Nations and its specialized agencies concerning the integral development of the human being, economic and social progress and development of all peoples, including those instruments concerning decolonization, the prevention of discrimination, respect for and observance of, human rights and fundamental freedoms, the maintenance of international peace and security and the further promotion of friendly relations and co-operation among States in accordance with the Charter,

Recalling the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development,

Recalling also the right of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources,

Mindful of the obligation of States under the Charter to promote universal respect for and observance of human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind,

Concerned at the existence of serious obstacles to development, as well as to the complete fulfilment of human beings and of peoples, constituted, *inter alia*, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms,

Considering that international peace and security are essential elements for the realization of the right to development,

Reaffirming that there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries,

Recognizing that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development,

Recognizing that the creation of conditions favourable to the development of peoples and individuals is the primary responsibility of their States,

Aware that efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order,

Confirming that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,

Proclaims the following Declaration on the Right to Development:

Article 1

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

2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the

exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

Article 2

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development.

2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.

3. States have the right and 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, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

Article 3

1. States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development.

2. The realization of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.

3. States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.

Article 4

1. States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.

2. Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.

Article 5

States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.

Article 6

1. All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion.

2. All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights.

3. States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as

economic, social and cultural rights.

Article 7

All States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries.

Article 8

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, *inter alia*, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.

2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.

Article 9

1. All the aspects of the right to development set forth in the present Declaration are indivisible and interdependent and each of them should be considered in the context of the whole.

2. Nothing in the present Declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, group or person has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights and in the International Covenants on Human Rights.

Article 10

Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.

**OVERVIEW OF PANEL DISCUSSIONS AND PUBLICATIONS
INITIATED BY THE GENEVA CENTRE DURING THE PERIOD OF
2014 – 2017**

Panel discussions

1. **Human Rights: Enhancing Equal Citizenship Rights in Education** (in collaboration with the Permanent Mission of the Kingdom of Bahrain, the UNESCO Geneva Liaison Office and UNESCO – IBE), 12 May 2017.
2. **Islam and Christianity: the Great Convergence – Working Jointly towards Equal Citizenship Rights** (in collaboration with the Permanent Missions of Algeria, Lebanon, and Pakistan and the Permanent Observer Mission of the Sovereign Order of Malta), 15 March 2017.
3. **The Right to Development, 30 Years Later: Achievements, Challenges and the Way Forward** (in collaboration with the Permanent Mission of the Republic of Azerbaijan), 5 December 2016.
4. **Muslims in Europe: The Road to Social Harmony** (in collaboration with the Permanent Mission of the People’s Democratic Republic of Algeria and the Independent Permanent Human Rights Commission of the OIC), 19 September 2016.
5. **De-radicalization or the Roll-Back of Extremist Violence** (in collaboration with the Permanent Mission of the People’s Democratic Republic of Algeria), 23 June 2016.
6. **The Human Rights Council Special Procedures: Assessment and Way Forward** (in collaboration with the Permanent Delegation of the African Union), 13 May 2016.
7. **Islamophobia and the Implementation of UN Human Rights Council Resolution 16/18: Reaching out** (in collaboration with the Permanent Mission of the Islamic Republic of Pakistan), 29 April 2016.
8. **The International Day of the Remembrance of the Victims of Slavery and the Transatlantic Slave Trade: An Opportunity to Fight Racism and Prejudice** (in collaboration with UNESU and the UNESCO Liaison Office in Geneva), 29 March 2016.
9. **The Advancement of the Status of Women in the Arab World**, (in collaboration with UNESU and the UNESCO Liaison Office in Geneva), 22 March 2016.
10. **The Current Migrant Crisis: an Aftermath of the Arab Spring?** (in collaboration with UNESU), 11 December 2015.

- 11. Children in Armed Conflict: The MENA as a Case Study** (in collaboration with UNESU), 30 June 2015.
- 12. Promoting Interfaith and Intercultural Dialogue** (in collaboration with UNESU), 5 March 2015.
- 13. Religious and Cultural Tolerance in Bahrain: Human Dimension of Global Civilization**, 22 September 2014.
- 14. Development and Human Rights**, 26 June 2014.
- 15. Combatting Political Extremism and Terrorism in the Middle East**, 19 June 2014.
- 16. Women's Right to Education in the MENA Region**, 16 June 2014.
- 17. Egypt: Democracy in Transition**, 5 March 2014.

Publications

- 1. The Right to Development, 30 Years Later: Achievements, Challenges And The Way Forward: Proceedings of the UN Geneva Side Event Held on 5 December 2016 and Lessons Learned (2017)**
- 2. Muslims in Europe: The Road to Social Harmony. Proceedings of the UN Geneva Side-Event Held on 19 September 2016 and Lessons Learned (2017)**
- 3. Women's Rights in the Arab Region: Myths and Realities (2017)**
- 4. Islamophobia and the Implementation of UN Human Rights Resolution 16/18: Reaching Out (2016)**
- 5. Muslims in Europe: The Road to Social Harmony (2016)**
- 6. De-radicalization and the Roll-back of Violent Extremism: Proceedings of the Panel Meeting (2016)**
- 7. In Defence of Special Procedures of the Human Rights Council: An Alternative Narrative from the South (2015 - English & Arabic)**
- 8. The Arab Group and the Arab States in the Human Rights Council: A Statistical Glance (2014)**



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