The Right to Development: Potential for Promoting Science and Technology

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AAAS Science and Human Rights Coalition Symposium
"Advancing the Right to Development through Science and Technology"
Washington, D.C.
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Objectives

• To review the history of the right to development

• To explore whether the Right to Development has any practical value for the human right to benefit from scientific progress

• To examine the content of the right to development criteria from the perspective of transfer of technology

• Review the current position of the Human Rights Council on next steps
RELATION BETWEEN RTD AND REBSP

• **REBSP**: the right to enjoy the benefits of scientific progress and its applications (art. 15, para. 1 (b)); the right of everyone to benefit from the protection of moral and material interests resulting from any scientific, literary or artistic production of which they are the author (art. 15, para. 1 (c)); and the right to freedom indispensable for scientific research and creative activity (art. 15, para. 3). (ICESCR, 1966)

• **RTD**:” 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.” (DRTD, 1986, art. 1(1))
The Right to Development: A Concept Born in Africa

Kéba Mbaye (1924-2007)

• 1972 Strasbourg lecture by Mbaye

• 1977 CHR resolution 4 (XXXIII) under Senegal chair


• 2010 First case on RTD decided by AfCHPR
African [Banjul] Charter on Human and Peoples' Rights

• **Preamble:** “it is henceforth essential to pay a particular attention to the right to development.”

• Article 22: (1). All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. (2). States shall have the duty, individually or collectively, to ensure the exercise of the right to development.
RTD-basic chronology

- 1972 - Idea of human right to development proposed
- 1986 - Declaration on the Right to Development
- 1981-1998 Four working groups, various mandates
- 1993 - Vienna Declaration
- 1998 - Open-Ended Working Group on the Right to Development created
- 2000 Millennium Summit Declaration
- 2002 - Monterrey Consensus
- 2003 - Concept paper requested from Sub-commission
- 2004 - I.E. completes mandate and High-level Task Force created
- 2004-2005 - High-level Task Force examines impact assessment and MDGs in general
- 2006-08 - TF applies and refines criteria
- 2009-10 - FT prepares and submits to WG consolidated findings, criteria and suggestions for further work
- 2011 - February 24-25 - Berlin Conference
- 2012 - October WG to consider next steps, AAAS considers RTD
How long have we waited?

- Forty years since the RTD was publicly proposed as a human right

- Twenty-six years since the General Assembly officially recognized this right in a Declaration

- Nineteen years since a consensus involving all governments was reached on RTD (Vienna-1993, Millennium Summit Declaration-2000, Monterrey-2002)

- Thirteen-one years since the OEWG and the position of Independent Expert

- Seven years since the High-level task force was set up and two years since its mandate ended
Uvin’s view

• “the Declaration on the Right to Development was, from its inception onward, politically very weak. It was politically engineer as bad law: vague, internally contradictory, duplicative of other already clearly codified rights, and devoid of identifiable parties bearing clear obligations... [it was] so watered down that it became meaningless” and “has been devoid of any real impact.” (p. 43)
Main ideas of independent expert (chair of OEWG until 2010)

- Nature of RTD: Development as a process
- The right to this process belongs to individuals and states.
- International cooperation means that the donor community must contribute resources.
- Development compact is a method to match states duties with those of the international community.
Complainants allege that the Endorois’ right to development has been violated as a result of the Respondent State’s creation of a Game Reserve and the Respondent State’s failure to adequately involve the Endorois in the development process and the failure to ensure the continued improvement of the Endorois community’s well-being.
277. The African Commission is of the view that the right to development is a two-pronged test, that it is both constitutive and instrumental, or useful as both a means and an end. A violation of either the procedural or substantive element constitutes a violation of the right to development.
• 298. The African Commission is of the view that the Respondent State bears the burden for creating conditions favourable to a people’s development. It is certainly not the responsibility of the Endorois themselves to find alternate places to graze their cattle or partake in religious ceremonies. The Respondent State, instead, is obligated to ensure that the Endorois are not left out of the development process or benefits. The African Commission agrees that the failure to provide adequate compensation and benefits, or provide suitable land for grazing indicates that the Respondent State did not adequately provide for the Endorois in the development process. It finds against the Respondent State that the Endorois community has suffered a violation of Article 22 of the Charter.
What next? Recommendations:

1. In view of the above, the African Commission finds that the Respondent State is in violation of Articles 1, 8, 14, 17, 21 and 22 of the African Charter. The African Commission recommends that the Respondent State:

   (a) Recognise rights of ownership to the Endorois and Restitute Endorois ancestral land.

   (b) Ensure that the Endorois community has unrestricted access to Lake Bogoria and surrounding sites for religious and cultural rites and for grazing their cattle.

   (c) Pay adequate compensation to the community for all the loss suffered.
Article 37

The right to development is a fundamental human right and all States are required to establish the development policies and to take the measures needed to guarantee this right. They have a duty to give effect to the values of solidarity and cooperation among them and at the international level with a view to eradicating poverty and achieving economic, social, cultural and political development. By virtue of this right, every citizen has the right to participate in the realization of development and to enjoy the benefits and fruits thereof.
World Bank Institute, 2006
Bård A. Andreassen and Stephen P. Marks (eds.)

Nobel symposium 2003

Development as a Human Right

Legal, Political and Economic Dimensions

2nd edition
Implementing the Right to Development
The Role of International Law

Stephen P. Marks, Editor

FES/OHC HR conference 2008
The Politics of the Possible
The Way Ahead for the Right to Development

STEPHEN P. MARKS
June 2011

There is general agreement on the added value of the right to development as it places human well-being, rather than growth, at the center of the development process; supports greater democracy in international financial decision-making; and seeks social justice and respect for all human rights as part of the processes and outcomes of national and international development policies. Yet, up to now this right has been essentially a political claim that has had little impact on the development practice.

International debate on the future of the right to development reveals political concerns regarding the priority of human rights vs. development; collective responsibility; the enabling environment; the structure of the global economy; access to resources and technology; and gender issues.

Governments are divided on whether there should be an international treaty and on the use of indicators – the former strongly opposed by OECD countries and the latter equally strongly opposed by the Non-Aligned Movement. These are false problems: legal obligations can just as well be established by numerous other applications of binding international law and, meaningful monitoring of any human right always requires reliable tools of measurement, by whatever appellation.

The current political concerns need not prevent pilot-testing of context-specific reporting templates or studying experience with guidelines, framework agreements, multistakeholder agreements, and regional treaty regimes. The same holds true for mainstreaming the right to development in the work of Treaty Bodies, Special Procedures, the Universal Periodic Review, and for increased and meaningful engagement of civil society.
Phase I: pilot testing preliminary criteria with development partnerships under MDG 8 (2004-2008)

- 2004 TF announced intention to “to develop practical tools, including guidelines and objective indicators, which help in translating the human rights norms and principles into parameters accessible to policymakers and development practitioners” (E/CN.4/2005/WG.18/2, para. 46)


- 2006, 2007 and 2008, the task force applied the criteria to 12 global MDG 8 partnerships and refined them in the light of that experience.
Phase II: finalizing the criteria covering all of RTD (beyond MDG8) (2008-2010)

- 2008 consultant paper on criteria and indicators
- 2008 expert meeting on methodology
- 2009 consultants paper on revised criteria and indicators
- 2009 expert consultation on criteria
- 2010 final session of the TF
Final Product of the task force in 2010

• “Consolidate its findings and present a revised list of right to development criteria along with corresponding operational sub-criteria and outline suggestions for further work, including aspects of international cooperation not covered until then, for the consideration of the Working Group.”

• (A/HRC/9/17 of 10 September 2008, para. 43(e))
Human Rights Council
Fifteenth session
Working Group on the Right to Development
Eleventh session
High-level task force on the implementation of
the right to development
Sixth session
Geneva, 14–22 January 2010

Right to development

Report of the high-level task force on the implementation of
the right to development on its sixth session (Geneva, 14–22
January 2010)

Chairperson-Rapporteur: Stephen Marks
General Assembly

Human Rights Council
Fifteenth session
Working Group on the Right to Development
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Sixth session
Geneva, 14–22 January 2010

Consolidation of findings of the high-level task force on the implementation of the right to development
Some findings relevant to science and technology

5. Transfer of technology

(a) Development Agenda of the World Intellectual Property Organization

... significant connections between intellectual property rights and the right to development. Comprising 45 recommendations, the agenda, adopted in 2007, is a key contemporary global initiative towards realizing the right to development. Intellectual property is a policy tool serving the important public and developmental purpose of providing incentives for investing in new technology. But it can also have a negative consequence on the diffusion of technology, since the temporary monopoly it creates can restrict the sharing of the benefits of technology. The Development Agenda does not include any reference to human rights or the right to development, but contains many provisions that could respond to the imperatives of this right.

The task force recommended greater attention to policy research, to developing innovative approaches to mainstream development objectives into intellectual property policy rather than simple transfer of intellectual property systems to developing countries; to greater collaboration with development agencies, especially those of the United Nations system and civil society; and to the development of a monitoring and evaluation system. The task force reiterated the importance of the implementation of article 66.2 of the TRIPS agreement, which is one of the few legal obligations on developed countries to establish incentives for technology transfer to least developed countries.
Some findings relevant to science and technology

3. Access to essential medicines

(a) Intergovernmental Working Group on Public Health, Innovation and Intellectual Property

... potential synergy between the strategy and plan and the right to development. ... congruence between the eight elements designed to promote innovation, build capacity, improve access, mobilize resources and monitor and evaluate implementation of the strategy itself, and duties of States to take all necessary measures to ensure equality of opportunity for all in access to health services, pursuant to article 8.1 of the Declaration on the Right to Development.

... concern that the strategy and plan do not caution against adoption of Trade-Related Aspects of Intellectual Property Rights (TRIPS)-plus protection in bilateral trade agreements, or refer to the impact of bilateral or regional trade agreements on access to medicines. ...States parties should ensure that their legal or other regimes protecting intellectual property do not impede their ability to comply with their core obligations under the rights to food, health and education.

... potential of exploring with stakeholders the Human Rights Guidelines for Pharmaceutical Companies in relation to Access to Medicines and the right to health.
(b) **Special Programme for Research and Training in Tropical Diseases**

… aim is to deliver research and implement practical solutions to many of the world’s neglected diseases. …community-driven interventions increase the distribution of some drugs, lead to better public services and contribute to political empowerment and democratization, all contributing to the realization of the right to development.

The impact of the programme on innovation through research and development regarding infectious diseases has been limited owing to underfunding and the high price of medicines.

…Transparency and accountability could be strengthened, particularly as concerns contractual agreements with pharmaceutical companies regarding pricing and access to medicines, broadening scope of independent reviews for mutual accountability.

(c) **The Global Fund to Fight AIDS, Tuberculosis and Malaria**

…Elements in the right to development criteria, relevant to the work of the Global Fund, include equity, meaningful and active participation and the special needs of vulnerable and marginalized groups.

… Transparency, commitment to good governance and sensitivity to human rights concerns were emphasized as characteristics of the Global Fund, … generally consistent with right to development principles… role to play in developing a more enabling international environment for both health and development and contributing to the policy agenda for promoting public health, human rights and development.
(b) **Clean Development Mechanism**

The task force recognized the value of the Clean Development Mechanism to the climate change dimension of the right to development and for target 8-F of Goal 8 **insofar as the transfer of green technology can enhance the prospects for sustainable development in developing countries.** Although there is no specific reference to human rights in this Mechanism, from a rights-based approach, it includes elements of equity, participation, empowerment and sustainability, which all underscore its relevance to promoting the right to development and importance of close monitoring of these elements to ensure that it makes a positive contribution to this right.

Despite the criticisms, the mechanism remains important for greenhouse gas mitigation and promoting sustainable development and technology transfer. It should be reinforced by enhancing its effectiveness, ensuring its social and environmental integrity, and incorporating a right to development perspective. Future negotiations for a new climate change agreement will provide an opportunity to include such right to development components into the mechanism.
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Addendum

Right to development criteria and operational sub-criteria
Where do the criteria come from?

- (a) the Declaration on the Right to Development;
- (b) criteria already examined and found useful by the Working Group;
- (c) an analysis of United Nations bodies or agencies, leading scholars and practitioners;
- (d) other international human rights laws, standards, theories and practices; and
- (e) prevailing international development standards, theories and practices.
from the criteria and sub-criteria

- Core norm (1)
  - Attributes (3)
    - Criteria (18)
    - Sub-criteria (69)
  - Indicators (150)
Why a core norm?

• “There is no agreement on what comprises the Right to Development. While we all hope to be able to reach consensus on this issue, the numerous and, at times, contradictory opinions expressed in the last Working Group indicates that we still need more time to discuss the Right to Development to and common ground on which we can all agree. ... There is no internationally accepted definition of such a right.” (A delegate to the WG 2003)

• “the definition of the right to development was ever-changing and was, in many cases, shrouded in ambiguity” (A delegate to the WG, 2009)
“Core norm”

• “...right of peoples and individuals to the constant improvement of their well being and to a national and global enabling environment conducive to just, equitable, participatory and human-centred development respectful of all human rights.”
Three attributes

• Attribute 1: Comprehensive and human-centred development policy (institutional)

• Attribute 2: Participatory human rights processes (process)

• Attribute 3: Social justice in development (outcomes)
Criteria and Sub-criteria

- 10 relate to attribute 1 on development policy with 39 sub-criteria
- 5 relate to attribute 2 on principles with 18 sub-criteria
- 3 relate to attribute 3 on social justice with 12 sub-criteria
Reassurance on indicators

• “The development of indicators was not an exercise in ranking or even judging countries, but rather in providing to the Working Group operational sub-criteria in the form of a set of methodologically rigorous tools that can be used in determining where progress is occurring or stalling, and the next steps for promoting implementation of the right to development.” (Add. 1, para. 73)
Nature of indicators used

“The indicators selected for inclusion reflect pressing contemporary concerns and established tools of measurement and data collection, as identified by international institutions, used to measure progress in meeting commitments arising from international agreements and conferences dealing with human rights and such matters as debt, trade, poverty reduction, financing of development and climate change.” (Add. 2, para. 14)
• “The indicators included ... are selected from among a much larger set of relevant structural, process and outcome indicators ... Preference was given to indicators that were likely to show variations among countries and over time, and thus illustrate changes in human well-being. There is a mix of indicators primarily useful for describing development outcomes and indicators (structural and process) in providing guidance for future action (outcome).” (Add. 2, para. 15)
Two rationales for using indicators

1. Open the way for a monitoring mechanism, informal or treaty-based. ... “The right to development cannot be useful to alter approaches to development unless and until the actions of those responsible for development are assessed using professionally crafted tools of measurement.” (Add.1 para. 75)

2. Treat RTD on a par with other human rights, as called for by the GA, in light of trends to assess all other human rights using indicators.
And yet officially ...

• “The NAM has consistently pointed out … that the elaboration of indicators is not part of its mandate. However, the final output submitted by the task force has included a list of indicators, for which there was no mandate. Hence, those indicators were not incorporated in the NAM evaluation exercise. Also, they lack any legal basis to be considered as such during discussions within the Working Group.” (Detailed Comments and Proposals of NAM on the Draft Criteria and Operational Sub-criteria for the Implementation of the Right to Development Introductory Remarks, Written submission received in 2012)
To whom are the criteria addressed?

- "States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development." (Declaration on the Right to Development, article 3)
Criteria and indicators relevant to science and technology

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<th>Criteria</th>
<th>Sub-criteria</th>
<th>Indicators</th>
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<tr>
<td>1 (a) To promote constant improvement in socio-economic well-being</td>
<td>1 (a) (i) Health</td>
<td>Public expenditures on primary health; life expectancy at birth; access to essential drugs; low birthweight babies; child mortality; HIV prevalence; births attended by skilled personnel</td>
</tr>
<tr>
<td>1 (a) (ii) Education</td>
<td></td>
<td>Public spending on primary education; school enrolment rates; school completion rates; international scores for student achievement</td>
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<tr>
<td>1 (a) (iii) Housing and water</td>
<td></td>
<td>Public expenditure on public service provision; access to improved drinking water and sanitation; homelessness rate; cost of housing relative to income; slum populations</td>
</tr>
<tr>
<td>1 (a) (iv) Work and social security</td>
<td></td>
<td>Long-term unemployment; involuntary part-time employment; public expenditure on social security; income poverty rates below national and international lines</td>
</tr>
</tbody>
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1 See General Assembly resolution 41/128, annex, second preambular paragraph, art. 3.
2 Ibid., art. 4.
3 Ibid., art. 2.
4 Ibid., second preambular paragraph and art. 2.3.
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<th>1(g)(i) Pro-poor technology development strategy</th>
<th>Existence of policy framework for technology development targeted at poor peoples’ needs&lt;sup&gt;57&lt;/sup&gt;</th>
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<td>1(g)(ii) Agricultural technology</td>
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<td>1(g)(iii) Manufacturing technology</td>
<td>Technology component of exports&lt;sup&gt;60&lt;/sup&gt;, performance requirement provisions in trade agreements&lt;sup&gt;61&lt;/sup&gt;</td>
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<td>1(g)(iv) Technology transfer, access, and national capacity</td>
<td>Electricity consumption&lt;sup&gt;62&lt;/sup&gt;; internet coverage&lt;sup&gt;63&lt;/sup&gt;; intellectual property and licensing&lt;sup&gt;64&lt;/sup&gt;, intellectual property and technology transfer provisions in trade agreements&lt;sup&gt;65&lt;/sup&gt;</td>
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<td>1(g)(v) Green energy technology</td>
<td>Development cooperation for green technologies&lt;sup&gt;66&lt;/sup&gt;; use of TRIPS flexibilities to acquire green technologies&lt;sup&gt;67&lt;/sup&gt;</td>
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<td>1(g)(vi) Health technology</td>
<td>Aid allocations to health technologies&lt;sup&gt;68&lt;/sup&gt;; use of TRIPS flexibilities and price discounts to expand access to HIV antiretroviral drugs&lt;sup&gt;69&lt;/sup&gt;</td>
</tr>
<tr>
<td>1(g)(vii) Information technology</td>
<td>Access to telecommunications infrastructure&lt;sup&gt;70&lt;/sup&gt;</td>
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<sup>53</sup> General Assembly resolution 41/128, Preamble paragraphs 3, 10, and 16, Articles 2.3, 3.3 and 4; General Assembly resolution 55/2. Millennium Declaration, para. 20; General Assembly resolution 60/1. 2005 Summit Outcome, paragraph 60.
57. **Existence of national policy statement on science in technology.** Source: national development plan or other strategy document such as Poverty Reduction Strategy Paper. Source: national government documentation. No international datasets available.


60. **High technology exports as percentage of total exports of goods.** Source: UN Statistical Division Comtrade

61. **Percentage of bilateral and regional trade agreements that prohibit developing countries from using performance criteria (local content requirements, technology transfer requirements, local employment requirements, etc.) to maximize benefit of foreign direct investment on national development.** Source: content of review of bilateral and regional trade agreements. No international datasets available.

62. **Kilowatt hours per capita.** Source: World Bank *World Development Indicators Online*

63. **Internet hosts per 1000 people.** Source: International Telecommunications Union. *World Internet Reports*

64. **Patents granted to residents.** Source: WIPO *Intellectual Property Statistics*

65. **Bilateral trade agreements and regional trade agreements that include conditions tightening intellectual property rights protection beyond the agreed levels of the TRIPS Agreement.** Source: review of bilateral and regional trade agreements.

66. **Share ODA devoted to promoting green technologies.** Source: OECD http://www.oecd.org/dataoecd/50/17/5037721.htm

67. **Number of cases.** Source: National government documentation. No international datasets available.

68. **Share of ODA dedicated to health technologies.** Source: OECD aid statistics http://www.oecd.org/dataoecd/50/17/5037721.htm


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<th>1(h) Prevent environmental degradation and resource depletion</th>
<th>Ratification of environmental conventions(^{71}); consumption of ozone-depleting substances(^{72}); fishing subsidies(^{73}); tropical timber imports(^{74}); gasoline taxes(^{75})</th>
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<td>1(h)(i) Access to natural resources</td>
<td>Value of natural capital(^{76}); consultative process for respecting the rights of indigenous peoples over natural resources(^{77})</td>
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<td>1(h)(iii) Sustainable energy policies and practices</td>
<td>Renewable energy supply(^{78})</td>
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\(^{71}\) [Ratification of key environmental conventions](http://www.unhchr.ch/tbs/doc.nsf/StatusfrSetOpenFrameSet), Source: OHCHR Treaty Body database http://www.unhchr.ch/tbs/doc.nsf/StatusfrSetOpenFrameSet

\(^{72}\) [CO2 emissions, kg per $1000 (PPP) of GDP; CO2 emissions per capita](http://worldbank.org/WEBSITE/EXTERNAL/TOPICS/ENVIRONMENT/EXTEEL/0,,contentMDK:21005068~pagePK:210058~piPK:210062~theSitePK:408050,00.html), Source: World Bank [World Development Indicators Online](http://worldbank.org/)

\(^{73}\) [Fishing subsidies per capita](http://www.oecd.org/document/14/0,3746,en_2649_34371_38811302_1_1_1_1,00.html), Source: OECD, 2005. [Review of Fisheries in OECD Countries, Policies and Summary Statistics](http://www.oecd.org/)

\(^{74}\) [Value of tropical timber imports per capita](http://www.worldbank.org/WEBSITE/EXTERNAL/TOPICS/ENVIRONMENT/EXTEEL/0,,contentMDK:21005068~pagePK:210058~piPK:210062~theSitePK:408050,00.html), Source: national statistics. No international data series available

\(^{75}\) No data source identified yet


\(^{77}\) Existence of requirement for consultation process in regulations regarding foreign direct investment. Source: National documentation. No international datasets available.

\(^{78}\) Clean energy production as % of total energy supply. Source: World Bank, *World Development Indicators Online*
## Attribute 2: Participatory human rights processes

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<th>Criteria</th>
<th>Sub-criteria</th>
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<tbody>
<tr>
<td>2 (a) To establish a legal framework supportive of sustainable human-centred development(^{14})</td>
<td>2 (a) (i) Ratification of relevant international conventions</td>
<td>Ratification of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and conventions relating to environment,(^{94}) disadvantaged and marginalized populations(^{95}) and labour standards(^{96})</td>
</tr>
<tr>
<td>2 (a) (ii) Responsiveness to international monitoring and review procedures</td>
<td>2 (a) (ii) Responsiveness to international monitoring and review procedures</td>
<td>State reporting, acting upon findings and recommendations and views of treaty bodies and cooperation with special procedures and the universal periodic review process(^{97})</td>
</tr>
<tr>
<td>2 (a) (iii) National legal protection of human rights</td>
<td>2 (a) (iii) National legal protection of human rights</td>
<td>Constitutional and legislative guarantees,(^{98}) national human rights institutions protecting human rights(^{99})</td>
</tr>
<tr>
<td>2 (b) To draw on relevant international human rights instruments in elaborating development strategies(^{15})</td>
<td>2 (b) (i) Human rights-based approach in national development strategies</td>
<td>Human rights in national development plans and PRSPs,(^{100}) responsibility for extraterritorial infringement of human rights including by business enterprises(^{101})</td>
</tr>
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## Attribute 3: Social justice in development

<table>
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<th>Criteria</th>
<th>Sub-criteria</th>
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<tr>
<td>3 (a) To provide for fair access to and sharing of the benefits of development(^{19})</td>
<td>3 (a) (i) Equality of opportunity in education, health, housing, employment and incomes</td>
<td>Income inequality,(^{127}) disaggregated outcome data by population groups, for example, male-female, rural-urban, ethnic/racial and social-economic status (see indicators for 2 (c) (vi))(^{128})</td>
</tr>
</tbody>
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\(^{17}\) See General Assembly resolution 41/128, arts. 3 and 10; General Assembly resolution 64/172, para. 10 (a); the Monterrey Consensus (A/CONF.198/11), paras. 7, 38, 53, 57, 62 and 63; and Human Rights Council resolution S-10/1, para. 3.

\(^{18}\) General Assembly resolutions 41/128, arts. 1.1, 2.3, 3.1, 6.3, 8.1 and 10; and 64/172, paras. 9, 10 (e), 27 and 28.

\(^{19}\) General Assembly resolution 41/128, first and second preambular paragraphs, arts. 1.1, 2.3 and 8.
### 3(b) Provide for fair sharing of the burdens of development

<table>
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<tr>
<th>3(b)(i) Equitably sharing environmental burdens of development</th>
<th>Availability of climate change funds for developing countries(^{134}); multilateral agreements to reduce negative environmental impacts (^{135}); distribution of contribution to climate change(^{136})</th>
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<td>3(b)(ii) Just compensation for negative impacts of development investments and policies</td>
<td>Hazardous industries, dams, natural resource concessions(^{137})</td>
</tr>
<tr>
<td>3(b)(iii) Establishing safety nets to provide for the needs of vulnerable populations in times of natural, financial or other crisis</td>
<td>Domestic emergency response funds(^{138}); international humanitarian and reconstruction aid(^{139}); counter-cyclical official financial flows(^{140})</td>
</tr>
</tbody>
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\(^{134}\) Value of global funds (sum of ODA and private contributions) as percentage of global GNI made available to developing countries for activities mitigating the effects of climate change. Source: OECD aid statistics [http://www.oecd.org/dataoecd/50/17/5037721.htm](http://www.oecd.org/dataoecd/50/17/5037721.htm)

\(^{135}\) Percentage signed of major environmental treaties (e.g. Cartagena Protocol, Framework Convention on climate change, Kyoto Protocol to the framework convention, Vienna Convention for the protection of the ozone layer, Montreal Protocol on substances that deplete the ozone layer, Stockholm convention on persistent organic pollutants, Convention of the law of the sea, Convention to combat desertification). Source: documentation on each treaty.

\(^{136}\) Ratio of per capita CO2 emissions of high income countries to CO2 emissions of developing countries (least developed, landlocked, small island developing, low income, middle income) countries. Source: World Bank [World Development Indicators Online](http://data.worldbank.org/indicator)

\(^{137}\) Value of compensation per capita for negative impact of development. Source: case specific information. No international data sets available.

\(^{138}\) Emergency response funds. Source: national budgets. No international data sets.


\(^{140}\) Year to year percentage change in total IMF credit and loans disbursed (net transfer IDB and IDA loans outstanding, official net transfer) in proportion to percentage change in GNI growth rate. Source: calculate with data from World Bank [World Development Indicators](http://data.worldbank.org/indicator) and [Global Development Finance](http://data.worldbank.org/indicator)
Three levels of obligations

1. States acting collectively in global and regional partnerships

2. States acting individually as they adopt and implement policies that affect persons outside of their jurisdiction

3. Policies and programmes at the national level affecting persons within a State’s jurisdiction
Human Rights Council
[Adopted by a recorded vote of 46 to 0, with one abstention. The voting was as follows:]

**In favour:**
Angola, Austria, Bangladesh, Belgium, Benin, Botswana, Burkina Faso, Cameroon, Chile, China, Congo, Costa Rica, Cuba, Czech Republic, Djibouti, Ecuador, Guatemala, Hungary, India, Indonesia, Italy, Jordan, Kuwait, Kyrgyzstan, Libya, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Nigeria, Norway, Peru, Philippines, Poland, Qatar, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Spain, Switzerland, Thailand, Uganda, Uruguay.

**Abstaining:**
United States of America

Resolution adopted by the Human Rights Council’

19/34
The right to development
5. **Decides:**

(a) To continue to act to ensure that its agenda promotes and advances sustainable development and the achievement of the Millennium Development Goals and, in this regard, lead to raising the right to development, as set out in paragraphs 5 and 10 of the Vienna Declaration and Programme of Action, to the same level and on a par with all other human rights and fundamental freedoms;

(f) To invite the Chairperson/Rapporteur of the Working Group to hold informal consultations with Governments, groups of Governments, regional groups and relevant stakeholders and to report thereon to the Working Group at its next session;

(g) That the criteria and corresponding operational sub-criteria mentioned in subparagraph (b) above, once considered, revised and endorsed by the Working Group, should be used, as appropriate, in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development;

(h) That the Working Group shall take appropriate steps to ensure respect for and the practical application of the above-mentioned standards, which could take various forms, including guidelines on the implementation of the right to development, and evolve into a basis for consideration of an international legal standard of a binding nature through a collaborative process of engagement;
What next? TF suggestions for further action on the criteria

1. Circulation of the criteria for comments
2. Preparation of reporting templates and applying them
3. Consultations with regional institutions
4. Further development of a comprehensive and coherent set of standards (guidelines, codes of conduct, practice notes, legally binding instruments?)
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