Right to Development
A Sustainable Approach to Substantive Equality

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Preface

The concept of right to development placed in the interface between human rights and development has been acknowledged by the international community as a legitimate human right and has been debated quite comprehensively within UN systems. However, in spite of RTD getting this acknowledgement as a human right, through a number of declarations and cannons, the “Right” is neither justiciable nor enforceable. Consequently when it comes to the realization of RTD, it seems that a lot of ground needs to be covered. In fact, some other rights within the gamut of ESCR, such as right to Food, Right to Health, Right to Housing have got much more attention, and are regularly monitored at UN level as well as within countries.

Right to Development, which seeks to promote development as a human right and could have provided a much more comprehensive framework especially in view of the increasing globalization, somehow escaped the attention of the world leaders and human rights defenders. We believe, partly it had to do with the ‘not so clear delineation’ of the “right” and partly because within the United Nations Right to Development was seen a victory of sorts for the developing countries and perhaps that is why not backed by developed countries and donors. However, over the past two decades the international real politic has undergone a sea change as a result of several processes happening simultaneously, which demands a serious relook at the concept of the Right to Development. It is against this background that IPAC–SDS in association of a number of active human rights groups decided to initiate a debate on the concept of Right to Development through a wide consultative process. In this regard three meetings/consultations have already been organized during the past one year.

As the right to development encompasses the right of the people to the outcomes of the process, i.e. improved realization of different human rights as well as the right to the process of realizing these outcomes itself, it requires an awareness of rights and duties, active people’s participation, appropriate and responsive institutional arrangements and the existence of a democratic civic culture. Facilitating such socio–political cultures continue to be a big challenge for human rights mechanisms including that within UN system. Simultaneously, it is a challenge for the human rights activists to enlarge their intervention repertoire from a very legalistic angle to a more pro–active stance of building human rights communities and responsible citizenships.

One of the other challenges, as also underlined by many experts on RTD, is to shift the focus from political posturing to creating the international environment considered to be
important to an agreed UN resolution on the Right to Development; and one vehicle for doing so is to develop a knowledge base on which implementation can be assessed in concrete situations and thus the obstacle of ignorance could be overcome. This means that we need to develop a knowledge base of the actual and potential applications of the Right to development framework in concrete settings at the field level. At IPAC, we wish to initiate such an exercise in one of the States in India where we work, and we have prioritized the state of Rajasthan to undertake this project. We invite all rights activists and colleagues interested in pursuing the idea of Right to Development to help, cooperate and partner with this project in whatever manner they can.

Before I conclude, I take this opportunity to thank all the friends and partners who have so far participated in the discussions and who intend to continue to be part of this exercise. In particular, I would like to thank the RTD core group comprising of Shivani Bhardwaj, Indu Prakash Singh, Farida Vahedi, M.K. Jabbi. Finally, thanks are also due to Dr. Shewli Kumar, a faculty member at the Tata Institute of Social Sciences Mumbai for taking pains in putting together this paper. I hope the discussion paper generates further interest in the subject, and put the issue of Right to Development on a fast track towards its universal realization.

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Introduction
Within a fast moving world where ‘growth centred’ economy is the catch word, the rights discourse has become even more urgent and relevant than before. Over the last several years, growing number of development and human rights organisations have begun to critically reflect on the impact of their work. With inequality and poverty deepening in many parts of the world, development organisations have been exploring shifts in their strategies and programmes in addressing these issues. The human rights framework is increasingly being used to address the ‘development concerns” which include shelter, water and social rights largely articulated by the West. The principle of the indivisible, interdependence and non–hierarchical nature of rights has been the mantra since the 1993 World Conference on Human Rights held in Vienna. The Vienna Declaration and Programme of Action recognized the right to development and found clear guidelines as a universal and inalienable right and integral part of fundamental human rights. However, social and economic rights still encounter a degree of scepticism as to their status as rights. This contemporary talk of ‘rights–based approach’ within the international development circles displays little awareness of the earlier struggles around Right to Development. This absence of Right to Development can be partly explained by a deliberate effort to steer clear of the controversies raised by reference to global inequalities. The UN proclaimed development as a human right in its 1986 Declaration on the Right to Development. The Commission on Human Rights thereafter appointed an Independent Expert on the Right to Development in 1998.

The Declaration on the Right to Development Article 1 states:

“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.”

The Preamble of the Declaration goes on to define development as:
“ a comprehensive economic, social, cultural and political process which aims at the constant improvement of wellbeing of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in fair distribution of benefits resulting therein.”

Therefore the Right to Development is the right to a process of development where all human rights-economic, social and cultural rights and civil and political rights– are
realized. An improvement in realization of the Right to Development means that at least some rights should improve while no rights are violated. This would mean ensuring a development process which has policies to harmonize individual rights with economic growth, respecting standards of human rights. The key to such a policy is the approach and process which should be equitable, accountable, participatory, transparent and non-discriminatory.

Between formal legal formulations of rights and the actual experiences of making rights substantive, questions of whose rights are being defined and claimed, by whom, and how, all become crucial. One ought to understand that the process of making rights real is a political one, rather than technical or procedural one, because it entails confronting the structural inequalities that underlie the negation of rights. Understanding how rights can shift power relations is essential to realising the potential of rights to contribute to social change. A rights-based perspective, when understood within particular contexts and linked to strategies to shift power relations, has the potential to confront some of the most prominent assumptions of development orthodoxy.²

Within this process of shifting power relations is the element of participation. The shift towards a rights-based approach has been informed by consistent mobilising of Southern nations with their understanding of development needs. Here participation has been seen as a way of re-politicising an approach to development that had turned instrumentalist as it was popularised in the mainstream. Rights talk provides a new frame within which to signal a move towards a more inclusive and democratic process of popular involvement in decision making over resources and institutions that affect people’s lives. The focus of rights-based approach is then shifting from a needs assessment of beneficiaries to encouraging citizens to claim their rights and obligation holders to honour their responsibilities.³

Development practitioners have begun to recognise the limits of their technical and micro-project approaches in tackling the root causes of poverty. They realise the need to address deeper structures of inequality and exclusion and to confront these at the legal, political as well as social, cultural and economic levels. There is a shift in the efforts of governments to upscale participatory methods into processes of policy making, service delivery and governance as well as in the move by NGOs (national and international) to

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¹ http://www.cdhr.org.in/rtd.htm
³ ibid
engage in advocacy and community mobilisation. However missing from this ‘mainstreaming’ is the dimension of rights and obligations: the legal, political and social processes needed to ensure that development commitments are met.

The Historical Background
The struggles for rights in development may seem new but in reality the struggles for realisation of social, economic and cultural as well as civil and political rights have long been a feature of the political landscape of the developing nations. Rights talk has always centred on liberation and resistance movements in developing nations with the starting point being the nationalist and anti-colonial movements for self-rule. These movements were a spontaneous response to the everyday constraints and oppressions which the colonial rule imposed upon the people not just on their liberty but also livelihoods. According to Mamdani (1996) and Manji (1998), it was this act of struggling together that rights were articulated and came to form the basis of action for social justice.

At the same time the colonial project was uneven and contradictory as despite the process of extraction and oppression spaces opened up for certain social groups like women to gain access to new opportunities and realise new rights that traditional societies did not recognise. This gave rise to tangible new opportunities to socially excluded groups, by actively transforming people into something that they could use to secure freedoms. In India the seeds of Dalit and women's assertion and demands for equal spaces in the development process were sown during the nationalist demands for freedom from colonial rule. From the colonial era to the period of after World War II “development” and “human rights” were seen in separate domains. “Development” was the terrain of economists, for the most part “human rights”, the territory of lawyers and activists (UNDP 2000).

The 1966 International Covenant on Economic, Social and Cultural Rights provided an important opportunity to Third World nations to locate “ development as a Right” the outcome of which was the “Declaration on the Right to Development” in 1986. This Declaration was a key milestone of a decade long struggle of Third World countries within the UN to pass a package of reforms that would result in a New International Economic order (NIEO) that was fair for the poor countries. The key elements of this Declaration are:

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 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 2).

In 1996 the Commission on Human Rights reaffirmed the implementation of the Right to Development and to ensure a dynamic process towards the same inter-governmental group of experts with a mandate to elaborate a strategy for implementation and promotion of the right to development in its integrated and multi-dimensional aspects. This group would take into consideration the deliberations and recommendations that emerged from not only the World Conference on Human Rights but also the UN Conference on Environment and Development (Rio de Janeiro, 1992), the International Conference on Population and Development (Cairo, 1994), the World Summit on Social Development (Copenhagen, 1995) and the Fourth World Conference on Women (Beijing, 1995). This group of experts submitted a global strategy for promotion and implementation of the right to development which was directed at the UN, other international organizations, states and civil society.

The Right to Development promotes participation and recognises both the individual and collective rights of the people. As explained and expanded by Sengupta (2000) Article 1 recognizes that not only “every human person” but “all peoples” are entitled to the right to development. Article 1, Clause 2 even explicitly refers to the right of peoples to self-determination. But that does not mean that “peoples’ rights” can be seen as countering to or in contradistinction from an individual’s or “every human person’s” right. Article 2, Clause 1 categorically states that it is “the human person” who is the central subject of development, in the sense of the “active participant and beneficiary of the right to development.” Even if “peoples” or collectives of “human persons” are entitled to some rights, such as full sovereignty over the natural wealth and resources in terms of territory, it is the individual human person who must be the active participant in and beneficiary of this right. The process of development, “in which all human rights and fundamental freedoms can be fully realized,” would lead to, according to Article 2, Clause 3, “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 [emphasis added]." Article 8 elaborates this point further by stating that the measures for realizing the right to development shall ensure “equality of opportunity for all” in their access to basic resources, education, health services, food, housing, employment and in the *fair distribution of income*. The realization of the right would also require that *women have an active role* in the development process, and that “appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.”  

**Sustainable Development - An Integral Aspect of Right to Development**

In any discussion on right to development, it is important to locate the current debates on ‘economic growth’ and ‘sustainable development’. According to Peet (2005) development differs from economic growth in that it pays attention to the conditions of production, for example, the environments affected by economic activity, and to the social consequences, for example, income distribution and human welfare. He goes on to expand that development entails human emancipation, one by use of science and technology to liberate from vicissitudes of nature and two self emancipation through control over social relations. In both senses development entails economic, social and cultural progress, finer ethical ideals and higher moral values. 

The realisation, that all development processes need to ensure environmental protection, and that unless the *'earth is nurtured and sustained'* human existence will be endangered as much as other living beings, had begun as early as 1972. The Stockholm UN meeting came up with a report “Only one Earth” which summarized the findings of 152 experts from 58 countries. The 1972 summit was followed by another at Rio de Janeiro in 1992 and later at Johannesburg in 2002. Throughout these summits the emphasis has been to ensure sustaining as well as using natural resources equitably. There is considerable awareness, research and discussions regarding people’s ownership and control over natural resources, specifically of those who live and nurture these resources. This is also true of the indigenous populations whose ‘way of life’ including ‘culture’ often ensures practices which recognize nature to be organically linked to human existence. It is the indigenous people, who are bearing the major brunt of this kind of ‘development’ wherein they are displaced, losing livelihoods, destruction of environments, damage to sacred sites and from the perspective of indigenous people an intrusive, unsustainable and unplanned influx of outsiders.

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4 Sengupta A. (2000). The Right to Development as a Human Right
In an interesting ongoing study by IFAD “Harvesting Solutions: How Poor Rural People Overcome Poverty” it is premised that in a rapidly changing world there is no one way out of poverty for the rural poor and hence it is important to ensure and increase participation of all stakeholders, specifically the poor themselves, for alleviation and eradication of poverty. Some of the key messages of IFAD to explore in this study are:

- In most developing countries, inclusive agricultural and rural development is a necessity for poverty reduction, sustainable development, and food security, preserving the environment, limiting forced migration and ensuring peace.
- Although agriculture is a private enterprise, its role in providing public goods for society as a whole cannot be regulated exclusively by the market and needs to be supported by strong and proactive public policies.
- Rural poverty reduction is possible when and where poor rural people are empowered, and the right combinations of enabling policy and rural investments are in place. Pathways out of poverty are diverse. They are affected by global processes but depend on local conditions, institutions, initiatives and investment. More attention from policymakers, more policy space for countries and rural societies to decide their own path to development, and more innovation are needed to address this diversity.
- Rural people, especially smallholders, are key actors in bringing sustainable solutions to the challenges of tomorrow, such as how to achieve food for all, sustainable management of natural resources and biodiversity, climate change mitigation, and supply of renewable energy. This all constitutes a common agenda in which 2.1 billion poor rural women and men have a key role to play.\(^6\)

Within this context it is important to bring in those groups which have living knowledge of the environment—the indigenous groups. Most indigenous people live in areas rich in natural and mineral resources and their traditions and cultures are intimately connected to the environment around them. Being in a situation where the current development paradigm dictated by globalisation requires access and control over these resource rich areas, there is increasing displacement and evictions of the indigenous population world over. This implies that any mobilisation and civil society engagement with right to development would also locate the ‘principle to self determination’ which was first codified in the UN Charter, followed by a reference to the right to self determination in treaty form in the two human rights Covenants (ICCPR & ICESCR).

As explained by Sengupta (2003) the right to self determination entails that the international community of states has a duty to cooperate not only in respecting the right to self determination of all peoples (abstaining from violative practices) and in protecting it (regulating the activities of third parties), but also by taking legislative, administrative, budgetary and judicial measures in order that the right is fulfilled. The scope of the obligation in relation to self determination and sovereignty over natural resources would apply when they are considered as rights unto themselves and as part of the right to development. Within this explanation one can locate the fact that self determination is a right close to the hearts of the indigenous peoples and this can be explained more clearly as a ‘right to self determined development’. It is the freedom to pursue economic, social, cultural and political development. It is a right that facilitates the enjoyment of indigenous peoples of the right to their cultural identities and their ability to determine their own economic, social and political system through democratic institutions and actions. It is about sustainable and equitable use of natural resources in a manner that fully and completely integrates the range of rights provided to indigenous with regard to their lands, territories and resources, their values, traditions and economic, religious and spiritual relationships to their land.  

Despite these commitments and researches to increase participation of the poor and marginalised in the developmental processes, the ground reality has not changed. There is continued evidence of the gap between the rich and poor increasing. Besides forests continue to disappear, people were and are being displaced to make way for ‘development projects’, greenhouse gases are increasing and so is water and other kinds of pollution. Some answers can be found in the fact that though the rights discourse is very much evident and discussed vehemently the forums are largely manned by diplomats and human rights activists and very little representation can be identified from the people themselves.

Besides one critical element that would ensure right to development is the linkage between human rights and development assistance which was clearly articulated in the 1986 Declaration. However it is striking how discussions on the right to development do not from the central part of current discourses on human rights in aid agencies and cannot be said to have directly informed the adoption of the rights–based approaches.

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(Piron 2002). In general the debates on ‘rights’ and ‘right to development’ is kept separate. This is so at a ‘physical’ and ‘professional’ level: Right to Development meetings take place among diplomats at the UN in Geneva or New York: they rarely involve aid agency officials (at least not beyond assisting their diplomatic colleagues in these political discussions). This separation of people from power holders as well as separation of the discourses on rights from right to development could also be due to the ensuing international obligations on wealthier nations that will emerge with the development of a legally binding convention. Donor countries do not wish to be legally obliged to provide aid; at present they do so, on political, moral or self interested grounds.

As discussed by Piron (2005) though a number of commitments in line with what the Declaration on the Right to Development would call for, such as the 8th Millennium Development Goal (UN 2001) or as a result of the Monterrey Consensus (UN 2002), donors do not wish these commitments to be associated with human rights obligations and any form of legally enforceable responsibility. However it is to be remembered that some aspects of the 1986 Declaration on Right to Development are highly relevant for aid policies, in particular the strong definition of the right to ‘active, free and meaningful participation’ and the clear statement of the indivisibility and interdependence of all human rights. It can be used to push for greater donor accountability and reciprocal relations with developing countries (Piron 2004).

**Substantive Equality and Right to Development**

One of the challenges which the advocates of right to development will have to face is the question of structural discrimination. Structural discrimination refers to social, economic or cultural background conditions that place a particular group in a position of relative disadvantage to other groups in society. These background conditions are created historically through past discrimination which in turn has become entrenched in institutions. They are also informed by the ‘public–private’ dichotomy that has traditionally failed to recognise and remedy human rights violations occurring in the private sphere, including for example, domestic violence and the undervaluing of domestic labour. Once entrenched, these past practices of discrimination often become masked as part of neutral baseline of these institutions. Due to its invisibility, its pervasiveness and its firm hold on the structures governing economic, social and cultural life, this form of discrimination is particularly difficult to remedy.

What then is required is a set of special measures which would go beyond the structures of discrimination and focus on promotion of remedial socio-economic programmes which
assist disadvantaged groups to compete. This discrimination often is more pronounced for women belonging to these groups. In such cases there is a need to advocate for temporary special measures which can be located in the Convention on Elimination of Discrimination against Women (CEDAW) where the objective is to promote substantive equality and not merely formal equality between men and women. Where an existing paradigm of non–discrimination advances a comprehensive conception of substantive equality, temporary special measures are not necessary because this approach ensures equality of result and equal opportunity. However, where formal equality is the favoured approach, the results–orientation of temporary special measures is necessary to address the embedded and structural nature of discrimination which a formal equality approach alone fails to address. It is to clarified that where women face social and institutional discrimination, and such inequalities stand as obstacles in the way of their development and dignity temporary special measures do not give them 'preferences' but merely ensure the right treatment as equal as members of marginalised groups. In this case the same principle can be applied to all people (both men and women, but women more so) belonging to marginalised groups.

Making the Right to Development a Reality
As more and more civil society organisations are engaging with governments and multi–lateral institutions there is a concerted shift towards 'rights–based approaches” to their work with them. At the same time in response to violations of their rights increasingly marginalised communities including the indigenous people and historically discriminated groups are gathering together to demand and claim their rights, wherein participation forms the key to such mobilisation. As listed by Miller et al (2005) it is important to distinguish between invited and claimed policy spaces which are critical for making strategic choices about where and how to promote rights vis a vis formal institutions. Invited spaces include public discussions or policy–making processes, such as the World Bank’s poverty reduction strategy processes, to which civil society organisations are invited by powerful state and international actors who control the agenda and rules of engagement. In contrast, claimed spaces, such as citizen juries or public accountability sessions, are created by civil society organisations where the agenda and terms of debate and participation with state and international actors are defined by citizens groups. Thus, beyond just the quality of participation groups must also be alert to the nature of spaces in which they are participating and to what extent they offer real opportunities for

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8 IWRAW Asia Pacific Occasional Papers Series. No 8–Addressing Intersectional Discrimination with Temporary Special Measures.
influence. However, ultimately participation that advances more equitable development and rights seeks to:

- Include marginalised groups as protagonists and decision makers by fostering their critical consciousness and ability to influence the norms, systems and institutions that govern their lives.
- Build new leadership, strengthen local organisation, expand strategic and political experience and foster a sense of active, informed citizenship.
- Change decision-making structures and processes to be more inclusive of citizen’s interests as well as promote individual and group awareness of rights.
- Where needed, weave expert knowledge into community designed strategies and analysis, so that groups can deal more effectively with the range of national and global institutions, forces and policies shaping their choices and livelihoods.
- Create and affirm a sense of individual empowerment, dignity and autonomy, as a basis from which to organise and engage with dominant forms of power and knowledge and to negotiate with existing power structures.

Bringing the Right to Development back into the centre of rights-based discourse entails the acceptance of the dynamic view of rights where the process in developing strategies to claim rights becomes most significant. This approach links rights with participation by excluded groups. Both the processes of giving meaning to rights and of using rights in practice are essential to understanding how rights can be made substantive. In other words by building a dynamic understanding of rights that locate and deal with urgent practical problems it ensures empowerment and development of an active citizenship. This is true more specifically for marginalised groups where the process includes building alternative forms of power, especially the power gained from collective demands, from researching and generating new knowledge, from building new relationships within civil society and with the state.

**Power as a Means for Promotion of Right to Development**

Right to Development encompasses and emphasises that the process of development has to consider the inherent power of those who want such development. The two critical elements of right to development are that one it speaks for the recognition of diversity and difference and second the creation of collective consciousness which would move towards greater participation of groups/people that have been marginalised and pushed away from the developmental processes. In doing so it also recognises that all rights stand at par and cannot be separated from each other. Indeed fragmenting the rights into
separate compartments has led to a greater alienation of people’s control over what they would consider a basic requirement for ‘living with dignity.’

This then brings to the fore the role of civil society organisations which will play a critical role in building this ‘critical consciousness’ and ‘collective bargaining’ process. Over the years those spaces (local, national and international), knowledge (local and indigenous) and skills (traditional) that have been marginalised and made redundant due to the current preoccupation with a ‘growth centred, and consumerist’ development agenda, needs to be reclaimed, rebuilt, advocated and lobbied for to bring about a ‘sustainable, equitable and peaceful’ development process.

One of the major challenges that civil society organisations face is to make the Right to Development a judiciable instrument whereby it can be used by the people to demand a ‘just world’ for themselves. These organisations will need to strategise to focus on development of people’s agenda and what they feel should be the “development paradigm.” Instead of looking towards nationalistic approaches only, there needs to be a concerted effort to build and strengthen the diverse voices, create spaces and develop a complete right to development with these diversities as a given feature. In the Indian situation such voices are already making themselves heard these can be seen among the Dalits, Tribes, women and a gradual momentum is gathering among the religious minorities. It is here that the civil society organisations need to concentrate and focus on strengthening these groups, so that they can use their power and understanding to develop the conceptual framework for Right to Development. To make it so will be a challenge for civil society organisations and issues of justiciability of the Right to Development will then need to incorporate these diversities.

**Conclusion**
The duty bearers of the right to development are both the state acting at the national level and the international community of states acting individually or collectively, and a balance is struck between duties entailing international cooperation and those that require domestic implementation. At the national level the right to development implies the need for an enabling environment, which includes arrangements to ensure good governance. Good governance refers to effective systems of governance by state which includes an accountable government and one that takes action against corruption as well as ensures respect for human rights and access to justice. States need to function not as power holders but as catalyst for change. Good governance should ensure openness, flexibility and transparency with an approach towards respecting all kinds of knowledge
systems, diverse opinions and people’s participation—not as tokenism but as a real life element. Most importantly the state should believe in ensuring substantive equality and promote non-discriminatory practices through affirmative policies for those who have been pushed to the background due to the current development paradigm, which thrives on the policy of ‘survivor of the fittest’ wherein there are no spaces available for alternate voices for a different kind of development. This would include recognising, generating and promoting alternate knowledge systems, economic paradigms, which are localised addressing diverse needs, and respecting and promoting space for development alternatives, which India has been a precursor of and yet is fast moving towards renouncing these for the ‘an economic growth model of development’ which is leading to global crises like global warming, increasing fundamentalism and violence towards the marginalised i.e., women, Dalits, Tribes, religious minorities, children and such others.

At the international levels, rules and obligations for international cooperation should be informed and guided by the Right to Development. Indeed the promotion of certain rules of operation which would set the process of an equitable international economic system of multilateral trade, finance and investment is largely accepted as essential, particularly where there is direct correlation to the promotion and protection of human rights.

References
- IWRAW Asia Pacific Occasional Papers Series. No 8–Addressing Intersectional Discrimination with Temporary Special Measures.
- http://www.cdhr.org.in/rtd.htm
Declaration on the Right to Development

Adopted by UN General Assembly resolution 41/128 of 4 December 1986

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 fulfill 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.
EXTRACTS OF THE REPORT ON THE FOLLOW UP MEETING ON RIGHT TO DEVELOPMENT

Date: 30th September, 2008
Venue: Bahai House, New Delhi

Introduction:

In the beginning of this year, IPAC-SDS initiated a debate on the concept of Right to Development at a national consultation held in Delhi on 3rd March 2008. Prior to this national consultation, a discussion was held at smaller level in October 2007 on the same issue. In the national consultation, several dimensions of RTD were discussed; however still there was no consensus on the strategies to take this issue further. Nevertheless two clear points emerged from the consultation; a) the discussion on RTD should be continued, and b) efforts should be made to approach the issue of RTD from specific rights also, such right to food, right to housing and so on.

In continuation of that discussion, and to delineate some concrete action point for campaigning on the RTD, another meeting was organised on 30th September 08 in Delhi. This report briefly captures what happened during the consultation.

The consultation started with a background presentation by Mr. Narender Kumar. He explained why the issue of Right to Development is important to IPAC and the process of its continuation despite some reservations expressed by the human rights activists, and why RTD has become all the more important in the current global economic situation. The right to development encompasses the right of the people to the outcomes of the process, i.e. improved realization of different human rights as well as the right to the process of realizing these outcomes itself. It requires an awareness of rights and duties, active people’s participation, appropriate and responsive institutional arrangements and the existence of a democratic civic culture. Facilitating such socio-political cultures continue to be a big challenge for human rights mechanisms including that within UN system.

Following the presentation by Mr. Narender Kumar, each participant has an opportunity to express their views and make suggestions in carrying forward the agenda of RTD. The interventions were made by almost all the participants.

While some participants agreed with the need of promoting the concept of RTD, they were not very clear about its shape and content at the national and local level. Since RTD is not justiceable, the human rights activists find it difficult to use RTD as an instrument in furthering their struggles, campaigns. Therefore, according to them, there was a need to add more flesh to the concept of RTD and a strategy need to be adopted to contextualize it.

Majority of the participants suggested that a fresh look at the issue of “realization of right” needs to taken from the point of view of sustainable development, management of globalization, good governance and people participation; and the ‘Right to Development’ provides such a framework. Therefore, the discussion and a possible campaign on RTD are very timely.
According to them in India, development is really needed for the people residing in the backward regions like rural and tribal people. Therefore, even if the concept of RTD was originally initiated at the international level, it had a high relevance for the local level interventions. They were of the opinion that there are four elements for overall development of any society, these are in every state government officials should be accountable, safety and security of all the people should be ensured, adequate standards of living and right to life should be maintained, complete freedom of association and expression of interest should be provided.

One participant noted that the development that is taking pace in India is meaningless as long as there is a feeling of fear and violence. She also talked about that in the discourse on Right to Development to be embedded in the three elements that are science, religion and development is important, and needs to be further integrated with these. A clear emphasis was laid on the Right to Development to be about empowering marginalized and excluded sections and communities of our society, and therefore, it was reiterated that Women’s Rights should be an integral part of framework of Right to Development.

The main highlights of the discussion were:

- Right to Development gives us the opportunity to bring back the debate on the very model of development. Development should be more employment friendly.
- Right to Development is the inclusive of all other Rights; the other rights are indivisible and inalienable, as they work simultaneously. Right to Development gives us a holistic perspective of different Rights and should be vigorously pursued.
- Much more conceptual clarity is needed for Right to Development.
- Right to Development needs to be synchronized with other processes like globalization and international trade.
- One of the agenda of Right to Development is to work for assurance of women’s space, women’s ownership of resources and equal ownership of resources of both men and women.

**Future Action Plan:**

For future action plan some of the action points that came of the discussion were:

- A small working group should be constituted to move further with this debate. Persons who are really interested and want to be partners in the proposed campaign should volunteer.
- It was important to experience the Right to Development from different approaches and perspectives with the other issues related with basic human rights, social, political, economic, and civil rights on which the other organizations are already working.
- A brochure should be made highlighting our main points and issue in focus that could then be circulated among various other campaigns, formations, organizations, seminars and conferences like this to enlarge the support group members.
- State political heads who are contestants of elections could be asked to keep the agenda of Right to Development in their election mandate, in upcoming state elections.
- A full debate on Right to Development is also needed in the Hindi language on a much larger scale.
Immediate Action:

1. A small working group was formed. The members who volunteered to be on the group included Indu Prakash Singh, Shivani Bhardwaj, Farida Vahedi, M.K. Jabbi and Narender Kumar, IPAC would continue to be the contact point.

2. A brochure/ the working paper would be made and circulated amongst other associations and campaigns. IPAC took up the responsibility of making the first draft of such a paper.

3. Experiencing Right to Development by linking it with the activities that are running to protect the other rights of people.

4. Involving more and more people in this debate.

From a long term perspective, some of the following tasks (not the exhaustive list), need to be accomplished in order for RTD to become a reality. These include:

- An international legal standard of binding nature
- Guidelines on the implementation of the Right to Development
- Principle for development partnership based on the Declaration on the Right to Development
Introduction

IPAC–SDS organized a National Consultation on the Right to Development in Delhi on 3rd March 2008. The purpose of the consultation was to initiate a debate on the need for Right to Development, an all encompassing right with all those who have been engaged in the “Rights” discourse and policy influencing processes at various levels. Invitations were sent to around 90 persons from various organizations, individual experts and stakeholders working on the issue at various levels. However, a total of 28 participants could attend the consultation.

The meeting formally started with a Welcome Note by Mr. Narender Kumar, Executive Director–IPAC, who also explained the purpose of organizing the consultation and put forward the intentions of the organization behind such initiatives.

Following the inaugural address all the participants introduced themselves, followed by a reflection on the day’s programme. It was suggested by some participants that if the speakers could be focused and business like, the meeting could be concluded at the lunch time which could be extended by half an hour or so. After some brainstorming, it was agreed that let the discussion take their own pace and flow, and if towards the end it is felt to wrap the consultation around lunch, it could be done.

SESSION-I

The first session was planned to focus on the Conceptual Framework and Positioning of RTD in the UN.

The first speaker, Dr. Manoj Kr. Jha, Delhi School of Social Work, University of Delhi made a presentation to explain the theoretical and conceptual framework of Development and then linked it to Right to Development. He mentioned the work of various theorists and historians to back his arguments. He stressed that the role of the governing bodies and State is quite important in the area of Human Rights and the context of Development. While discussing the theoretical aspect he brought to the fore the role of government in the present context. He talked about the increasing tendency in the human right discourse to demonize the State, which he felt was neither legitimate nor appropriate from the pragmatic point of view. According to Dr. Jha Government is not the problem; it is actually at the centre of many solutions to most of the pressing problems we face as a nation.

The Second speaker in the first session, Mr. Suhas Chakma, Asian Centre for Human Rights taking a very different approach, explained the positioning of Right to Development in a critical manner which was provided a lot of material to brainstorm, and ponder over the issue. He had quiet different opinion as compared to Dr. M. K. Jha. He actually almost ridiculed the concept and present status of Right to Development in UN. He lamented that the Declaration on the Right to Development is a piece of paper full of generalities and rhetoric, and in practical terms it does not mean anything to the human rights defenders. He believed that the international Covenant of Civil and Political Rights
and International Covenant of Economic, Social and Cultural rights and other international legal standards are far more clearly defined and effective.

Ms. Farida Vahedi, Secretary, Ext. Affairs, National Spiritual Assembly of Baha’i of India made a presentation on the Alternative Paradigm in Development while stressing on spirituality as an important aspect of achieving development in all spheres of life and for all sections of society. She said that development initiatives alone would not lead to tangible and lasting improvements in physical well-being without drawing on those universal spiritual postulates that give directions and meaning to life. While science can offer the methods and tools for promoting social and economic advancements, it alone cannot set directions; the goal of development cannot come from within the process itself.

There was a mixed reaction of the group following the presentation in the first session, especially between the first two speakers. These presentations generated a lot of discussion, and the participants felt that while it was important to understand the politics behind RTD and be cautious how it is presented, it would be a pity if we lose sight of the overall purpose and potential value of the RTD. Though, the framework explained by Dr. Jha and stressing on the role of government was appreciable but the critical remarks given by Mr. Chakma were equally important to draw the attention of the group to think about the present practical status of the issue. There were also some clear disagreements on some of the remarks like devaluing the importance of Universal Declaration of Human Rights by some members of the group. The idea of spirituality to be an important tool in achieving development was well appreciated.

SESSION-II

The second session focused on understanding the Right to Development through different basic rights.

Ms. Shivani Bhardwaj (Sathi for All Partnerships) presented, albeit briefly, the efforts made by the Coalition on Women’s land rights. The human rights based approach to land reform has not yet sunk in the ethos of the state. Its implications for land reform have not yet been addressed from a livelihood or a gender perspective. She elaborated the need to integrate the women rights over land and resources by state government in the programs and rehabilitation policy for the displaced tribals.

Dr. Jyotsana Chatterjee (Joint Women’s Programme) presented her views and experiences on the development issue of girl child in India. She mentioned the statistics related to female foeticide and the still prevailing inequality in the sex ratio in various parts of India. She put forward various evidences of trafficking and abuse of the girl child. She stressed on the basic needs and resources lacking like education and health both in urban and rural areas. She said that it is worthless to talk about Right to Development as a whole while ignoring such basic realities and rights.

Mr. Indu Prakash Singh (Action Aid International, India, started by saying that despite its slow progress, Right to Development could provide a useful and effective framework within which the basic needs of the poor and marginalized could be addressed. He explained the issue with Housing and Shelter rights as an example and provided useful statistics and examples from the field.
The discussion was concluded by Ms. Razia Ismail Abassi from Women’s Coalition Trust. She first of all praised the efforts of IPAC and also congratulated the Organization for developing such a platform for initiating the discussion and debate on the Right to Development where individuals and organizations can discuss their views and share their experiences in the Context of Development. She appreciated the contribution of the speakers in the consultation covering various aspects of Right to Development from theoretical framework to practical implementation. She stressed on the need that all the group members should be well connected and share the information and experiences of the related fields on the Right to Development in the future also.

**Follow-Up Plan:** At the conclusion, the group members suggested that the discussion needs to be carried forward by organizing such meetings in the near future periodically and to share the results and proceedings with all those involved and who are not present in the discussion. This continuous effort of initiating such debates and discussions could surely lead to a campaign in the near future.
Mr. Chairman, at the outset we would like to congratulate you on your election as the President of the Commission, and thank you for providing us the opportunity to submit our views on the Right to Development.

On behalf of Voluntary Action Network India, I join all in expressing our grief on losing the valiant champion of human rights who had just begun to pioneer the UN efforts for peace in Iraq, Mr. Sergio de Mello.

Mr. Chairman, as civil society representatives we fully subscribe to the Declaration to the Right to Development and reiterate 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. The declaration adopted in 1986, have been followed by Vienna Conference (1993), World Summit on Social Development (1995) and Millennium Development Goals. While each of these events has taken the concept of *rights in development* further, the situation at the ground level has not improved significantly. In fact, the sixth report of the independent expert on the right to development indicates that over a period of 12 years (1987 – 1999) the numbers of poor have risen to 880 million to 945 million. Has the international community failed in its expressed commitment?

In this regard, we wish to make three fundamental points, which are critical to attain right to development.

i) Ensuring Peace:

Peace is a prerequisite for the realization of human rights, specifically the right to development. The tendencies of ethnocentrism leading to intercommunity tensions, the situation of internal armed conflicts, insurgencies even though these are in the name of freedom struggles make it nearly impossible for local communities and nations at large to create permissive conditions, required infrastructure for ensuring food security, educational opportunities and health services in a sustained manner.

While maintaining in-country peace is the responsibility of a nation, it is difficult to achieve this without *international cooperation*. The article 3 of the declaration mentions that States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. However, in many situations, we abdicate this responsibility and keep ourselves engaged in rhetoric that impedes the progress towards realization of the right to development. The illusionary "core issue"becomes the alibi.

ii) National Responsibility:

The prime responsibility of implementing the right to development is with the nation States. In addition to achieving the economic progress in aggregate terms, a State has to ensure the equality of opportunity for all in their access to basic resources, education, health services, food and the fair distribution of income. If the equality of opportunity is
not ensured, the right to development, higher GDP notwithstanding, cannot be achieved. Even the economic development at the national level will not be sustainable without the active participation of all including the poor in this process. If the nation makes progress and "shines", it has to shine for every citizen. This is particularly true for a diverse and pluralistic nation like India from where I come.

c) Fair Trade:

It is generally believed, perhaps rightly so, that world trade could be a powerful force for poverty reduction. The World Trade Organization was set up to facilitate the international trade with high hopes of achieving faster growth for all. However, over the years one has come to realize that fair trade is difficult to achieve given the unequal and unfair international governance structures. In fact, trade has not provided solutions to poverty; it is a part of the problem.

Ministers attending the WTO 4th Ministerial Meeting in Doha declared that they would place the needs and interests of developing countries “at the heart of WTO work plan”, but by the time they reached Cancun, the entire discourse, the language changed and the big players rigidly insisted that they have own their interests to protect.

Mr. Chairman, as pointed out by the independent expert, there is a need to regulate and guide the market to make the production of goods and services correspond to the desired outcomes consistent with the realization of the right to development. We recommend that urgent steps are taken to bring the WTO under the overarching authority of the United Nations and systems are put in place to prevent further violations of economic, social and cultural rights.

Thank you Mr. Chairperson