

OBSTACLES TO THE RIGHT TO DEVELOPMENT

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Thirty years have elapsed since the Right to Development was publicly proposed as a human right,¹ sixteen years since the General Assembly officially recognized this right in a Declaration,² ten years since a consensus involving all governments was reached on the Right to Development,³ and five years since the Open Ended Working Group was established and the Independent Expert on the Right to Development, Arjun Sengupta, was mandated to “present to the working group at each of its sessions a study on the current state of progress in the implementation of the right to development as a basis for a focused discussion, taking into account, *inter alia*, the deliberations and suggestions of the working group.”⁴ Sengupta has produced six reports pursuant to this mandate and the Open Ended Working Group held its fourth session in February 2003.

For the past two years, I have been working with Dr. Sengupta on the Right to Development Project and we have spent countless hours discussing the philosophical, legal, economic, and political issues surrounding this human right and visiting the country projects through which we hope to gain some insight on what this right could mean if taken seriously in the development process. This is very much a work in progress but it is clear that major obstacles stand in the way of transforming the aspirations of the Declaration into reality for the hundreds of millions of people for whom development remains an empty promise.

I will address three sets of obstacles to realizing the right to development and indicate how the Right to Development Project is beginning to deal with them. The first relates to the politics of the right to development (RTD), that is, the unavoidable yet quite unproductive tensions that arise as governments seek to use RTD to advance conflicting perceptions of national interests. The second concerns the epistemology of RTD, specifically, the theoretical and empirical basis on which we can speak knowledgeably

¹ Various starting dates have been proposed. A significant inaugural moment was Judge Kéba M’Baye’s lecture at the International Institute of Human Rights in 1972, published as “Le droit au développement comme un droit de l’homme,” *Human Rights Journal*, Vol. V, No. 2-3, pp. 505-534.

² The Declaration on the Right to Development was adopted by the General Assembly in its Resolution 41/128 of 4 December 1986.

³ See Vienna Declaration and Programme of Action, June 1993, paras. 10, 11, 72 and 73.

⁴ Commission on Human Rights Resolution 1998/72, adopted without a vote on 22 April 1998.

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about RTD. The third focuses on what changes in national and international policy would need to occur before RTD would be taken seriously in practice.

The politics of the right to development

The first obstacle to the realization of RTD is a political one. It is obvious to anyone who observes the meetings of the various working groups on the right to development and the Commission on Human Rights that the political discourse is characterized by posturing of predictable positions rather than practical dialogue on the implementation of the right to development.

From the beginning, the concept of the right to development has been controversial. It emerged from the legitimate preoccupation of newly independent countries with problems of development and the dominance of East-West issues on the agenda of the Commission on Human Rights, marginalizing the concerns of the political South. Their efforts to use the United Nations to advance the idea of a New International Economic Order (NIEO) had emboldened Third World delegations. But the challenge to the prevailing order favoring First World countries—to use the classification of the Cold War—generated a reaction among Western delegations that ranged from cautious support to outright hostility for the idea of a human right to development.

The group that eventually drafted the Declaration was established in 1981,⁵ and Key Western delegations made it clear to the other members of the drafting group that they would ensure that the RTD Declaration was not used as a means of resuscitating NIEO. Nor would they allow the declaration to create any entitlement to a transfer of resources; aid was a matter of sovereign decision of donor countries and could not be subject to binding rules under the guise of advancing every human being's right to development. Developing countries, for their part, had benefited from the insights of economists who occupied high positions as international officials, like Samir Amin and Raúl Prebisch, and were indignant at the blatantly unjust international division of labor which favored the countries of the center to the disadvantage of those in the periphery, giving rise to a sense of an "unjust international economic order" that could be redressed if the "right to development" were respected.

This politicization of the RTD discussion in the UN has been maintained throughout the various Working Groups and even during the period of the Open Ended Working Group (OEWG) and the Independent Expert, established pursuant to resolution 1998/72. The interventions of delegations are rarely substantive and often reflect stale political rhetoric that is far removed from the good intentions expressed—perhaps not entirely sincerely—in resolutions. Indeed, the Commission has no problem reaffirming "the need for an international environment which is conducive to the realization of the right to development,"⁶ but has not been able to create such an environment for its own deliberations. Nor does that international environment characterize discussions at the Third Committee of the General Assembly or the international summits, conferences and

⁵ Commission on Human Rights Resolution 36 (XXXVII) of 11 March 1981.

⁶ Commission on Human Rights Resolution 2002/69, adopted on 25 April 2002 by a recorded vote of 38 votes to none, with 15 abstentions.

GA Special Sessions, where human rights in general and the right to development in particular are hotly contested.

Most donor countries, developing countries, international agencies and NGOs seek to strengthen references to human rights in consensus documents on housing, food security, HIV/AIDS, children, financing development, and sustainable development, to name the most recent themes of international summits and special sessions of the General Assembly. A few skeptical donor countries and developing countries that feel threatened by human rights policies they perceive as too intrusive have removed or softened the mention of human rights in these documents. The skeptical countries tend to abstain from or even oppose resolutions on RTD, while the “hard-line” group tends to insist on including in draft resolutions language stressing obligations of developed countries to provide aid, improve terms of trade and forgive debt.

Voting in the Commission on Human Rights and the General Assembly is the principal indicator of these cleavages. At its 2003 session, the Commission adopted a resolution on RTD by a vote of 47 in favor and 3 against, with 3 abstentions,⁷ the United States, Australia and Japan casting the negative votes, and Canada, Korea and Sweden abstaining. In that resolution, the Commission requested its Sub-commission “to prepare a concept document establishing options for the implementation of the right to development and their feasibility, inter alia an international legal standard of a binding nature, guidelines on the implementation of the right to development and principles for development partnership.” The reference to a binding legal instrument came from an initiative of the NAM at its meeting in Malaysia earlier that year.

In December 2002, the General Assembly endorsed the conclusion of the Open Ended Working Group on the Right to Development over the negative votes of the United States, Australia, the Marshall Islands and Palau and the abstention of 47 other countries, thus perpetuating the politicization of the issue.⁸ The previous year the vote was 123 to 4 (Denmark, Israel, Japan, and the United States) with 44 abstentions. Among the abstaining countries were Australia, Austria, Belgium, France, Germany, Norway, Sweden and the UK, that is those countries in the best position to support developing countries for which the right to development offers a valuable guide to integrating human rights into human development. The Western donor nations, who had agreed to the resolution in 2000,⁹ have clearly been frustrated by seeing their offers to provide resources met with insistence on debt relief and a more just international trading system. Even in 2001 at the Commission on Human Rights, most European nations voted for the resolution, although the US and Japan voted against and the United Kingdom, the Republic of Korea and Canada abstained.¹⁰ At the Commission in 2002 references to the Durban Conference Against Racism were retained but the Commission was willing to

⁷ Resolution 2003/83, adopted on 25 August 2003.

⁸ General Assembly Resolution 57/223, adopted on 18 December 2002 by a vote of 133-4-47. Resolution 56/150 was adopted on 19 December 2001 by a vote of 123-4-44.

⁹ Resolution 55/108 was adopted on 4 December 2000 without a vote.

¹⁰ Commission on Human Rights Resolution 2001/9, adopted on 18 April 2001 by 48 to 2 with 3 abstentions.

endorse the agreed conclusions adopted by consensus at the third session of the OEWG and the Commission adopted it by 38 to none, with 15 abstentions.¹¹ The dramatic change at the General Assembly vote resulting in 47 abstentions and the negative votes of Denmark, Israel, Japan and the US (which was not on the Commission at the 2002 session) were due in part to the insistence on a reference to the Durban Conference Against Racism and especially on language relating to the international political economy that 51 countries considered not part of the April consensus. South Africa, presenting the draft on behalf of the Non-Aligned Movement, said it “forged new ground for the [Third] Committee as it was based on the agreed conclusions of the last session of the Working Group on the Right to Development.”¹² The UN press release summarizes what happened as follows:

Before action was taken, the representative of South Africa said that ... when the text had been introduced on behalf of the main sponsors, the position of the Non-Aligned Movement (NAM) had been outlined. He had also said at that time that the NAM was prepared to continue negotiations in order to reach consensus. Unfortunately, the delegation of the United States had said that whether consensus was reached or not, it would call for a vote on the draft. The Member States of the NAM had therefore requested South Africa move forward with a vote today. A recorded vote was requested. The representative Egypt asked if any other delegation had joined the United States in requesting a recorded vote. The Bureau informed his [sic] that no other delegation had called for a vote. The representative of Australia said her delegation was an active and constructive participant in the Working Group on the right to development at the Commission on Human Rights in Geneva. It had been surprised that less than a month after the recommendations of the Group had been adopted by consensus at the conclusion of that Group’s last session in May, the main sponsors of a relevant text introduced a draft resolution to the Commission that went far beyond what had been agreed. By doing that, the sponsors of the text undermined the work of the Group as well as the legitimacy of the negotiations [sic] process. So Australia's vote today was not a vote against the right to development, but it was nonetheless unable to support the resolution. The representative of Canada said his delegation had been pleased that the Working Group had reached a positive outcome in Geneva this year. Canada had hoped that those agreed conclusions could be used as a basis for reaching consensus in the Committee. It had therefore been disheartening that the sponsors of the text before the Committee had not included those conclusions. The text raised several concerns, including language taken out of context from the Durban Declaration. Canada would abstain from the vote today.

The draft resolution was approved by a vote of 114 in favour to 3 against (Australia, United States, Marshall Islands), with 47 abstentions. ...Following that action, the representative of the United States said his delegation had voted against the draft, even though it had hoped it would be in a position to support a consensus text this year. The United States believed that development was the key to a sustainable future for all. Development was the duty of governments to ensure that each member of society reached his or her full potential. While there was much in the draft that the United States would support, it would express profound disagreement to the inclusion of language on macroeconomic policy and globalization. Neither did the United States support adding to the mandate of the High Commissioner for Human Rights burdensome tasks related to development, which were already being considered by other United Nations agencies. The representative of Denmark, speaking on behalf of the European Union, said the Union was committed to the right to development and

¹¹ Commission on Human Rights Resolution 2002/69, adopted on 25 April 2002.

¹² Press Release GA/SHC/3726 dated 18 November 2003, available at <http://www.un.org/News/Press/docs/2002/gashc3726.doc.htm>.

remained convinced that without more efforts to build on the work done by the Working Group it would be difficult to achieve the right. The outcome of the last session of the Working Group had reached consensus on a set of agreed conclusions after long negotiations. Though the present draft did include elements from those agreed conclusions, some elements went far beyond what had emerged from the negotiations in Geneva. It was a pity that the text did not include language that had been agreed during the negotiations since the agreed conclusions of the Working Group should pave the way for the right to development. The European Union would also insist that the next round of deliberations in the Working Group not be based on the resolution just adopted. The representative of New Zealand said the text raised some issues that required further consideration. New Zealand would have preferred to see the agreed conclusions of the Working Group used as a basis for the resolution.¹³

The NAM functions at the Working Group primarily through the “Like-Minded Group” (LMG) whose members are Algeria, Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Iran, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Sudan and Vietnam.¹⁴ Their interests are not only support for the follow-up to the Durban Conference but more generally “that developing countries continue to face difficulties in participating in the globalization process, and that many risk being marginalized and effectively excluded from its benefits”¹⁵ and therefore stress the impact of international trade, access to technology, debt burden and the like on the enjoyment of human rights and place these issues on the mandate of the Independent Expert.¹⁶

These claims of greater justice in the international economic order do indeed merit serious attention but for the Western Group there are more appropriate fora for that discussion. The price of including them formally in a resolution on RTD is the unwillingness of 51 countries to approve the resolution, thus making the process somewhat self-defeating.

The participation in the OEWG is drastically reduced, only a handful of NGOs (Franciscans International, the FXB Center, Minority Rights Group and the Tapac Amaro) bother to attend, and the key trade and development finance institutions almost never address the OEWG or follow its deliberations, with the notable exception of the World Bank, thanks to the personal interest of its representative. In the meantime, national and international agencies have been increasing their support to making human rights a genuine component of development and will see no need to refer to the Declaration or to the OEWG. Occasionally, countries with RTD-friendly aid programs consider presenting their experience to the OEWG. For example, in 2000, the UK delegation and a representative of Rwanda presented the project that was very close to being an RTD development compact or at least a precursor thereof. Denmark considered presenting its program in Tanzania, which had elements of RTD in it, but decided it was not worth the effort.

¹³ Press Release GA/SHC/3729, dated 21 November 2002. Available at <http://www.un.org/News/Press/docs/2002/GASHC3729.doc.htm>.

¹⁴ List circulated by the Secretariat at the Open Ended Working Group on the Right to Development, 10 February 2003, on file with the author.

¹⁵ General Assembly Resolution 56/150, para. 20.

¹⁶ For example, *Id.*, para. 21.

The political challenge facing the Independent Expert, the Working Group, governments and NGOs active in this item is to shift the focus from political posturing to creating the international environment they declare to be so important in the resolutions. One vehicle for doing so, as several members of the OEWG have suggested, is to develop a knowledge base on which implementation can be assessed in concrete situations and the obstacle of ignorance can be overcome.

The epistemology of the right to development

The second obstacle to the realization of the right to development is that of ignorance. At the conceptual level, much can be done to improve thinking about how RTD relates to development and human rights theory in the scholarly community through academic publications, deliberations of learned societies, and teaching in universities. In addition to the weakness of conceptual thinking on RTD in the human rights and development literature, there is also a lack of empirical knowledge. We need to develop a knowledge base of the actual and potential applications of RTD in concrete settings of developing countries.

Since the late 1970s, a veritable library of scholarly writing has emerged on the right to development. Much of it was written around the time of the adoption of the Declaration, the most notable publication being the proceedings of the 1976 workshop organized by the Hague Academy of International Law.¹⁷ Other efforts to assess the issues and implications in international law appeared in symposium issues of journals, like the *Revue Sénégalaise de Droit*,¹⁸ and the *California Western International Law Journal*,¹⁹ and the right to development has been the topic of occasional articles in the *Human Rights Quarterly*.²⁰ A few edited volumes have appeared since the adoption of the Declaration,²¹ in addition to some truly innovative thinking provided by people like

¹⁷ René-Jean Dupuy (ed.), *The Right to Development at the International Level*, Workshop, the Hague, 16-18 October 1976, Sijthoff & Noordhoff, Hague Academy of International Law, 1980.

¹⁸ *Revue Sénégalaise de Droit*, Numéro Spécial relative au Colloque de Dakar sur le développement et les droits de l'homme, Les Nouvelles Editions Africaines, No. 22, December 1977, published in September 1978.

¹⁹ *California Western International Law Journal*, Symposium: Development as an Emerging Human right, 22-23 February 1985, Vol. 15, No. 3, Summer 1985.

²⁰ Russell Barsh, "The Right to Development as a Human Right: Results of the Global Consultation," *Human Rights Quarterly*, Vol. 13, No. 4, pp. 467-490 (1991); N.J. Udombana, "The Third World and the Right to Development: Agenda for the Next Millennium," *Human Rights Quarterly*, Vol. 22, No. 3, pp. 759-787 (2000); Brigitte Hamm, "A Human Rights Approach to Development," *Human Rights Quarterly*, Vol. 23, No. 4, pp. 1005-1031 (2001).

²¹ See, for example, Shubrata Roy Chowdhury, Erui Denters and Paul de Waart, *The Right to Development in International Law*, Nijhoff, 1992; and Ved P. Nanda, George W., Jr. Shepherd, and Eileen McCarthy-Arnolds, *World Debt and the Human Condition: Structural Adjustment and the Right to Development* (Studies in Human Rights), Westport, CT, Greenwood Press, 1993.

Philip Alston,²² George Abi Saab,²³ James Paul,²⁴ Anne Orford²⁵ and Upendra Baxi.²⁶ Some of these works reflect the pious wishes of those who would translate a sentimental attachment to improving the lot of the world's poor into a normative construct removed from the rough and tumble of resource allocation and development planning. Others offer insightful assessments of legal and philosophical complexities coupled with a firm grounding in development practice.

The challenge is, of course, to build on this second trend and move this literature to a new level, one characterized by conceptual rigor and compelling policy relevance. Among the means of stimulating the scholarly debate toward this end is for those interested in RTD to create and participate in panels at the various professional associations of economists, political scientists, and international lawyers and international relations specialists. The second means is by submitting articles to scholarly journals and by writing books dealing with RTD. As a start, the Independent Expert has reformulated his ideas into articles published in journals like *Development and Change*²⁷ and *Human Rights Quarterly*,²⁸ as well as numerous publications containing formulations of various aspects of the right to development.²⁹

A third means of enhancing the scholarly debate is to introduce RTD issues analysis into the teaching of economics, international law, and related fields. It is significant that a leading human rights course book used in the United States devotes a

²² Among his numerous official and scholarly writing on the topic, special mention must be made of Philip Alston, "Making Space for Human Rights: The Case of the Rights to Development," in *Harvard Human Rights Yearbook*, 1988, pp. 3-40.

²³ George Abi Saab, "The Legal Formulation of a Right to Development," in René-Jean Dupuy (ed.), *The Right to Development at the International Level*, Workshop, the Hague, 16-18 October 1976, Sijthoff & Noordhoff, Hague Academy of International Law, 1980, pp. 163 ff.

²⁴ James C. N. Paul, "The Human Right to Development: Its Meaning and Importance," in *The John Marshall Law Review*, vol. 25, pp. 235-264.

²⁵ Anne Orford, "Globalization and the 'Right to Development'," in Philip Alston, *People's Rights*, Oxford University Press, 2001, pp. 127-184.

²⁶ Upendra Baxi, "The Development of the Right to Development," in Baxi, *Mambrino's Helmet? Human Rights for a Changing World*, Har-Anand Publication, New Delhi, 1994, pp. 22 ff.

²⁷ "Realizing the Right to Development" *Development and Change*, Vol. 31, No. 3, June 2000.

²⁸ "Theory and Practice on the Right to Development," *Human Rights Quarterly*, Vol. 24, No. 4, pp. 837-889 (2002).

²⁹ "Realizing the Right to Development," Paper published in Essays in Honour of Professor D.P. Chattopadhyaya by the Centre for Studies in Civilizations at New Delhi on 16-18 February, 1999; "Delivering the Right to Development, ESCR and NGOs," keynote address delivered at the workshop on ESCR in Kathmandu, Nepal, 26 September 1999, published in *Economic & Political Weekly* in October 1999; *The Right to Development as a Human Right*, Working Paper No. 7, FXB Center for Health and Human Rights, Harvard School of Public Health, December 2000; "Development Policy and the Right to Development," Ninth Dharm Narain Memorial Lecture of the Institute of Economic Growth, New Delhi, in November 2000 - published in "Frontline" of 2 March 2001; "Right to Development as a Human Right," *Economic and Political Weekly*, July 2001; "The Right to Development as a Human Right," in honour of Mahbub ul Haq, in *The South Asian Challenge*, Oxford University Press, London, 2002; "Globalization and the Right to Development" (in French), in *What Globalization?*, Académie Universelle des Cultures, Paris, 2002; "Implementing the Right to Development," in Nico Schrijver (ed.), *Sustainable Development and Human Rights*, International Law Association Publication, Kluwer Publishers, December 2002.

section to RTD, although not surprising since Philip Alston, one of the most prolific authors on RTD, is one of the co-editors.³⁰ Dr. Sengupta and I co-teach a course at Harvard on Development and Human Rights, in which we devote several sessions to the right to development. The topic is not likely to merit much attention in the classroom of other institutions unless and until there is some empirical basis for linking RTD to concrete settings of developing countries.

The challenge of bringing the abstract concepts of the 1986 Declaration down to the level of development practice requires an in-depth understanding of what happens in developing countries, how decisions are made, what pressures influence priority-setting and how stakeholders determine the process. Since 1981, the Commission on Human Rights has mandated every working group on RTD to focus on implementation. The first working group drafted the Declaration but had not proposed much implementation by its expiration in 1989.

In accordance with Commission resolution 1989/46 of 6 March 1989, the UN convened a Global Consultation on the Realization of the Right to Development as a Human Right. The Consultation, chaired by the Chair of the Working Group of Governmental Experts on the Right to Development, took place in Geneva from 8-12 January 1990.³¹ The purpose of the Consultation “was to focus on the fundamental problems posed by the implementation of the Declaration; to look at the criteria which might be used to identify progress and to identify mechanisms for evaluating and stimulating such progress.” Some thirty leading experts from all regions presented papers and participated in the discussion, along with representatives of specialized agencies, concerned units of the UN Secretariat, international trade, development and financial institutions and 36 NGOs, although disappointment was expressed at the absence of several intergovernmental organizations dealing with trade (GATT, the UN Center of Transnational Corporations) and specialized agencies (WHO, FAO, UNEP, WIPO, UNESCO). The conclusions of the Consultation focused on the content of RTD, appropriate development strategies, obstacles to implementation and criteria to measure progress. The Consultation made a number of substantive recommendations that merit consideration now, as they did twelve years ago. With respect to States’ obligations, the Consultation recommended that “national policy and development plans should contain explicit provisions on the right to development and the realization of all human rights.”³² The participants also recommended that UN development activities “should have explicit guidelines, appraisal criteria and priorities based upon the realization of human rights, including human rights impact assessments.”³³ These should include “participatory mechanisms for monitoring and evaluation.”³⁴ A specific mechanism to improve the implementation of RTD was proposed to the Secretary-General, who “should appoint a high level committee of independent experts . . . with relevant direct experience in human

³⁰ See, for example, Henry Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals*, 2nd ed., pp. 1315-1326.

³¹ “The Realization of the Right to Development” *Global Consultation on the Right to Development as a Human Rights*, HR/PUB/91/2, United Nations, New York, 1991.

³² *Id.*, para. 182.

³³ *Id.*, para. 190.

³⁴ *Id.*

rights and development, and serving in their personal capacities, to report annually to the General Assembly through the Commission on Human Rights and the Economic and Social Council, on progress made in the implementation of the Declaration at the national as well as international levels, based on information requested from Governments, intergovernmental bodies and non-governmental organizations, as well as information received from all other sources.”³⁵ This recommendation further called for the Committee to have “the effective participation of non-governmental organizations and groups active in development and human rights, including indigenous peoples, workers’ organizations, women’s groups and other organizations.”³⁶ Finally it “should give priority to the formulation of criteria for the assessment of progress in the realization of the right to development; recommendations for a global strategy to achieve further progress in the enjoyment of this right; examination of reports and information regarding internal and external obstacles to its enjoyment, including as appropriate the role of transnational corporations; the identification of activities which may be incompatible with the right to development; and promoting wider knowledge and understanding of the right to development as a human right.”³⁷

Another recommendation related to indicators, which the Consultation felt should be developed “in co-operation with the Commission on Social Development, United Nations Research Institute for Social Development, International Labor Organization, other UN bodies and specialized agencies with relevant expertise and national universities.”³⁸ Finally, the Consultation recommended “a program of development education with particular emphasis on reaching grass-roots organizations working in the field of development at the community and local levels.”³⁹

The second Working Group, which met from 1993 to 1995, was asked to look at obstacles to implementation and in 1994 submitted preliminary guidelines and a checklist.⁴⁰ The aim of the checklist was to facilitate discussion between the Working Group and governments and international bodies on issues pertaining to the role and function of RTD in policies and programs relating to development. A summary of some of the issues that the Working Group hoped to raise in such dialogues are listed below:

On National Policies and Programs:

1. “What status has RTD including the Declaration been given in national development programs and policies?”
2. “What measures have been undertaken to implement the Declaration in actual practice?”
3. “Has the Declaration been disseminated among the general public as well as national institutions . . . if so, in what ways and in which languages?”

³⁵ *Id.*, para. 194.

³⁶ *Id.*

³⁷ *Id.*, para. 194.

³⁸ *Id.*, para. 196.

³⁹ *Id.*, para. 199.

⁴⁰ Commission on Human Rights Resolution 1993/22, adopted on 4 March 1993 by a roll-call vote of 36 to 1, with 13 abstentions. The guidelines are contained in annex 1 to the report of the Working Group on the Right to Development on its first session, UN doc. E/CN.4/1994/21 and Corr.1.

4. "What obstacles have been encountered in the implementation and realization of the Declaration and what ways and means can be suggested towards the realization of the development through national policies and programs?"
5. "What role does popular participation play in the realization of the right to development?"
6. "Are there specific policies and programs to achieve equality of opportunity and full participation for all, in particular women, minorities and indigenous people, and vulnerable groups?"
7. "Are there national institutions specialized in development policies and programs which have been given responsibilities in the realization of the right to development?"

On development cooperation:

1. "Does the RTD . . . play a specific role in the planning, carrying out and evaluation of the development cooperation programs and projects . . . If so, what obstacles have been encountered in this respect?"
2. "Could the Declaration be given an enhanced role in strengthening the links between democracy, human rights and development, as suggested in the Vienna Declaration and Program of Action?"

On international and regional programs:

1. "Has the right to development, including the Declaration on RTD been raised and discussed in your organization, in particular in the context of development policies and programs? If it has, how would you propose to effect its implementation in practice and what are the resources that could be allocated for this purpose?"
2. "Is there a special administrative unit in place or under consideration to further the implementation of the right to development in the programs of your organization?"
3. "What are the main obstacles to the implementation and realization of the Declaration on the right to development and have there been any recent changes in this respect, including the elimination of old obstacles?"
4. "Can you suggest ways and means in which progress in achieving the right to development could be assessed?"

A further attempt was made in 1996 to 1998 with the Intergovernmental Working Group of Experts charged with elaborating an implementation strategy for RTD.⁴¹ Finally in 1998 the current Open Ended Working Group was mandated "To monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analysing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration..."⁴²

Thus, the implementation of RTD has been acknowledged as a priority for more than two decades with little progress beyond the Global Consultation of 1990 and the guidelines and checklist of 1994. A heavy burden therefore rests with the Independent Expert and the Open Ended Working Group. Because the Working Group is a political body that meets once a year for two weeks, it is really the Independent Expert who must provide fresh ideas. Using the mandate that the OEWG has expanded to a large palate of concerns, he has been able to select key issues and venture new ideas, which are considered by the Working Group according to political inclinations rather than on the merits. Nevertheless, as an expert he must back up his reports with careful research.

To help in this process, the Right to Development Project (RTDP) was launched in 2001 with the support of the Government of the Netherlands to provide research

⁴¹ Report of the Intergovernmental Group of Experts on the Right to Development on its second session, Geneva, 1997, UN doc. E/CN.4/1998/29.

⁴² Commission on Human Rights Resolution 1998/72.

support to the Independent Expert for all tasks assigned by the Commission. The project is carried out in consultation with the Office of the High Commissioner for Human Rights through three components. The hub is at the François-Xavier Bagnoud Center for Health and Human Rights of the Harvard School of Public Health in Boston, Massachusetts (USA), where Sengupta is a fellow and adjunct professor. The second component is at the Center for Development and Human Rights in New Delhi, India, which Sengupta created in 2001 to coordinate the South Asian studies and provide a permanent setting for research on this and related subjects. The third component is at the Office of the High Commissioner for Human Rights in Geneva, Switzerland, where an Indian economist, Rajeev Malhotra, works in particular on the question of indicators. The RTDP is directed by Sengupta and the present author and is guided by an International Advisory Committee consisting of eminent specialists from the academic, NGO and UN worlds.⁴³

The objectives of the project are “to study how to realize the right to development in practice beginning with the rights to food, education and health” through “empirical studies in selected countries of the needs and potential elements of the right to development as they relate to the three above-mentioned rights.” A related objective is “to explore approaches to the planning and implementing of development efforts with local partners in light of such needs within a human rights-based approach to development.” The essential rationale of the project is, therefore, “to translate the general propositions of the Declaration on the Right to Development, the resolutions of the Commission on Human Rights and the General Assembly on the right to development, and the reports of the Independent Expert into meaningful applications in the social and economic realities of Member States.”

The country studies are useful to develop a practical understanding of the potential for the right to development only to the extent that they deal with the actual process of development as pursued by the country concerned. They also have to be written by knowledgeable people within the country who can get beyond official declarations of policies and program of government and learn what happens in practice. They also need to know what non-governmental organizations and bilateral and multilateral partners may be doing to integrate human rights into the development process. Such studies should not assume that any program of poverty reduction, civil society participation, or promotion of equity is a right to development program but should rather focus on how such programs are or could be part of an explicit RTD policy. Since RTD is not yet an explicit dimension of the development policy of most countries, the country studies will propose ways in which RTD can be translated into meaningful and

⁴³ Amartya Sen, Nobel-Laureate in Economics and Professor at Harvard; Lincoln Chen, John F. Kennedy School of Government; Clarence Dias, Director, International Center for Law in Development; Asbjørn Eide, Director of the Oslo Project on The Right to Food in Development, former Special Rapporteur on the Right to Food and Nutrition; Michael Reich, Director, Center for Population and International Development Studies; Alan Hill, demographer, Professor at Harvard School of Public Health; Henry Steiner, Professor and Director, Human Rights Program, Harvard Law School; Stephanie Grant, former Chief, Research and Right to Development Branch, OHCHR; Sakiko Fukuda-Pahr, Director of the Human Development Report Office of UNDP, and Thord Palmund, HURIST Director, UNDP.

implementable development practice. Thus the studies assess the following three themes for each country:

- The current situation of human rights and RTD in the development process,
- Possible increased attention to human rights and RTD in the development process, and
- The means for achieving the increased attention to human rights and RTD.

Each country team is pursuing its research and writing according to its sense of what is important to understand regarding the current situation of human rights, including RTD, in the development process and the potential for enhancing the relevance of these rights in the practice of government and development partners, with most of the examples and details relating to the three rights to health, food and education, in accordance with the Commission Resolution 2002/69. It has been emphasized from the beginning that the rights most directly at stake in the development process include not only health, food and education, but also the right to adequate housing and rights relating to work, as well as the civil and political rights that are necessary for participatory, equitable and fair development. Thus, each study is premised on a holistic approach to human rights, stressing the interconnections of all human rights.

In the course of the country analysis, the authors will address the following questions:

1. What in the current development efforts in the country reflect a human rights approach, including RTD, and what can be learned from the explicit use of human rights concepts in the development process?
2. To what extent have health, education and food/nutrition been dealt with in human rights terms?
3. What has been the government's position on RTD; what practical steps have been taken to transform the presumed commitment to RTD into development policy; and what is the level of willingness to establish explicit policies to integrate RTD into development planning and implementation?
4. What human rights related discussions and projects have taken place in cooperation with bilateral and multilateral development partners?
5. What specific ways can the authors recommend that RTD principles be integrated into existing development cooperation, such as PRSPs, CDFs, UNDAFs, and development cooperation agreements, and how useful would a new mechanism, such as the Development Compacts proposed by the Independent Expert⁴⁴ be, given the way development is funded and managed in the country?

These questions are aimed at keeping the study focused on RTD, rather than merely duplicating country assessments, PRSPs, country human development reports, and the like. At the same time, each study will be sufficiently similar in analytical structure and policy relevance to the other country studies to allow for comparative assessment.

⁴⁴ See Fourth Report of the Independent Expert, UN Doc. E/CN.4/2002/WG.18/2.

An essential part of the preparation of the country studies is the involvement, through consultations and workshops, of relevant ministerial staff, the UN country team, bilateral donor representatives, and local NGOs and think tanks. In addition, the authors are expected to meet on technical matters at the sectoral level with the poverty team of UNDP, NGOs running operational projects, and selected ministerial staff. Teams of four to six authors are working on in-depth country analyses, several of which will probably be published as separate monographs. The principal product of the project will be one or more volumes containing the overview study for each country prepared by the country coordinator and integrated into the final report the RTDP directors will submit. The countries currently under study are Bangladesh, Cambodia, Ghana, India, Mali, the Philippines, and Sri Lanka. Visits are planned to Latin American and some Arab states, as the RTDP will hopefully extend beyond the initial seven countries.

The RTDP does not claim by any means to be in a position to produce a definitive study on RTD. It is rather a first step at establishing an empirical basis for making RTD a meaningful dimension of national and international decision-making on development priorities and financing.

The practice of the right to development

A third obstacle to the realization of the right to development is the absence of practice of RTD, resulting from the absence of policies at the national and international levels that go beyond lip service to the concept and that set priorities and allocate resources based on the right to development. The challenge here is to make the right to development a priority in development policy as reflected in national and international strategies, programs, and practice.

At the national level, the current situation is that ministries of foreign affairs of most countries instruct their delegates to the Commission on Human Rights and the General Assembly to vote for the right to development and support the concept in speeches. However, it is unlikely that the reference to RTD in these foreign policy positions has much significance as a matter of national development policy and practice. Bridging this gap will take leadership at the inter-ministerial level and changes in the incentives and consciousness at the sub-ministerial level. Neither is likely to occur without changes in priority setting and training of key officials. The RTDP cannot transform the way governments conceive and implement their development policies. The project does, nevertheless, attempt to involve government, NGOs, and bilateral and multilateral partners in the preparation and evaluation of each country study, and especially to encourage them to consider the application of the recommendations of the study once it is completed. A major difficulty each country team is addressing is to define mechanisms for the systematic consideration of projects and policies that introduce RTD into the development process. We do not anticipate dramatic results at first. However, until such changes do take place at the national level, RTD will continue to be supported by national policy in rhetoric only.

At the regional level, both donor and recipient countries have policies for development cooperation without reference to RTD. Priority has been given to Africa in

the UN through the United Nations New Agenda for the Development of Africa in the 1990s (UN-NADAF) and the African States' New Partnership for Africa's Development (NEPAD), also without an explicit reference to RTD.⁴⁵ OECD/DAC deals with human rights-related issues, such as governance, through its Network on Good Governance and Capacity Development (GOVNET), and conflict, peace and development co-operation through the Network on Conflict, Peace and Development Co-operation (CPDC Net). The Organization has also elaborated a set of strategies for sustainable development, defined as "a co-ordinated set of participatory and continuously improving processes of analysis, debate, capacity-strengthening, planning and investment, which integrates the economic, social and environmental objective of society, seeking trade offs where this is not possible."⁴⁶ While many of the same fundamental RTD principles of equity, non-discrimination, participation, transparency and accountability may be found throughout its development programs, strategies and themes, neither human rights nor RTD is explicitly part of DAC's approach to development cooperation. The European Community signed in Cotonou on 23 June 2000 a Partnership Agreement with the African, Caribbean and Pacific states providing for € 25 billion through 2007, which includes a political dimension calling for a dialogue to assess "developments concerning the respect for human rights, democratic principles, the role of law and good governance."⁴⁷ However, that provision is only a small part of the political dialogue and neither human rights nor the right to development appears among the objectives of the partnership nor its fundamental principles. Nevertheless, RTD is, as the EC representative stated to the OEWG at its 4th session in 2003, compatible with the ACP-EU Partnership.

International policy setting is equally problematic. Development strategies have been decided upon in recent years in meetings of the Bretton Woods Institutions, the United Nations Department of Economic and Social Affairs, OECD's Development Assistance Committee (DAC), UNDP and others. The policies that have far greater visibility than RTD and command the attention of decision makers as well as access to resources are the World Bank and IMF's Poverty Reduction Strategy Papers (PRSPs), the World Bank's Comprehensive Development Framework (CDF), and the Common Country Assessment and United Nations Development Assistance Framework (CCA/UNDAF) for each country. Although each of these approaches contains elements and principles that overlap with RTD,⁴⁸ the effort that goes into conceiving, funding and monitoring them is done outside of the RTD framework.

⁴⁵ Arjun Sengupta, *Frameworks for development cooperation and the right to development*, Fifth Report of the Independent Expert on the Right to Development, E/CN.4/2002/WG.18/6, 18 September 2002, paras. 18-24.

⁴⁶ OECD, *Strategies for Sustainable Development: Practical Guidance for Development Co-operation*, DCD/DAC(2001) 9, 21 March 2001, p. 8.

⁴⁷ Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the One Part, and the European Community and its Member States, of the Other Part, signed in Cotonou on 23 June 2000, Consolidated text, Article 6, reprinted in *The ACP-EU Courier, Special issue: Cotonou Agreement*, September 2000, p. 8.

⁴⁸ See Arjun Sengupta, "Development Cooperation and the Right to Development: An Essay in Honour of Professor Asbjørn Eide," manuscript of a chapter to appear in a Festschrift for Asbjørn Eide in 2003.

World summits and conferences tend to make a single mention of RTD in the declaration, but neglect it in the plan of action. For instance, following the United Nations Millennium Summit of September 2000, the General Assembly adopted the Millennium Development Goals (MDGs), which mention "...making the right to development a reality for everyone and to freeing the entire human race from want."⁴⁹ However, in reports by Secretary-General following the summit, the role of RTD in the MDGs is not mentioned. Perhaps the appointment of Philip Alston as special advisor to the High Commissioner for Human Rights on the MDGs and member of the advisory team under Jeffrey Sachs will help introduce human rights and RTD more explicitly into this generally human rights-blind exercise.

Another example is the UN Conference on Financing for Development, which brought together in March 2002 in Monterrey, Mexico, 50 Heads of State or Government, 200 delegates at the ministerial level, as well as leaders from the private sector, civil society, and all the major intergovernmental financial, trade, economic, and monetary organizations. Thabo Mbeki, President of South Africa, was one of the few to mention RTD, but he only recalled the commitment he had made to RTD at the Millennium Summit.⁵⁰ At the Monterrey Conference, President Bush launched an idea that is not far removed from the right to development and even the development compact, as proposed by the Independent Expert. In his 22 March 2002 speech to the conference he said, "Developed nations have a duty not only to share our wealth, but also to encourage sources that produce wealth: economic freedom, political liberty, the rule of law and human rights."⁵¹ He went on to propose a \$5-billion annual increase of ODA through a new Millennium Challenge Account (MCA), "devoted to projects in nations that govern justly, invest in their people and encourage economic freedom."⁵² As subsequently elaborated, the MCA will provide funds to developing countries strongly committed to three goals defined as follows:

Good governance: Rooting out corruption, upholding human rights, and adherence to the rule of law are essential conditions for successful development.

The health and education of their people: Investment in education, health care, and immunization provide for healthy and educated citizens who become agents of development.

Sound economic policies that foster enterprise and entrepreneurship: More open markets, sustainable budget policies, and strong support for individual entrepreneurship unleash the enterprise and creativity for lasting growth and prosperity.⁵³

There are clear similarities with the Right to Development-Development Compact (RTD-DC) approach, especially with respect to the first two MCA goals. Sengupta defines a development compact as "a mechanism for ensuring that all stakeholders

⁴⁹ General Assembly Resolution 55/2. United Nations Millennium Declaration, adopted 8 September 2000.

⁵⁰ Text of the speech by President Thabo Mbeki is available at <http://www.un.org/ffd/statements/southafricaE.htm> (accessed 20 December 2002).

⁵¹ Remarks by Mr. George W. Bush, President, at the International Conference on Financing for Development, Monterrey, Mexico, 22 March 2002, available at <http://www.un.org/ffd/statements/usaE.htm> (accessed 20 December 2002).

⁵² *Id.*

⁵³ USAID, Millennium Challenge Account Update, Fact Sheet, 3 June 2002, available at http://www.usaid.gov/press/releases/2002/fs_mca.html (accessed 20 December 2002).

recognize the ‘mutuality of obligations,’ so that the obligations of developing countries to carry out rights-based programs are matched by the reciprocal obligations of the international community to cooperate to enable the implementation of the programs.”⁵⁴ The mutuality of obligations is clearly in the MCA and even in the concept of “challenge.” The focus on governance, including human rights, and on health and education certainly overlap with the RTD-DC approach defined by the Independent Expert.⁵⁵ This similarity is all the more intriguing considering that the US was not behind the inclusion of RTD in the Monterrey Consensus for sustainable development. Those elements were good governance, sound economic policies, solid democratic institutions and “freedom, peace and security, domestic stability, respect for human rights, including the right to development, and the rule of law, gender equality, market-oriented policies, and an overall commitment to just and democratic societies.”⁵⁶ It is difficult to interpret this text as attaching much importance to RTD for policy purposes. The real thrust of the document comes in the next paragraph, which states that “appropriate policy and regulatory frameworks” should be pursued in ways that “foster a dynamic and well functioning business sector,” adding that this must be done “while improving income growth and distribution, raising productivity, empowering women and protecting labor rights and the environment.”⁵⁷ In sum, the Monterrey Conference was another missed opportunity to introduce RTD into the policy priorities for development.

A third example is the World Summit on Sustainable Development, held in Johannesburg, South Africa, from 2-4 September 2002. The human rights language was removed entirely from the Declaration of Johannesburg and the brief reference in the draft to the importance of human rights, including the right to development, was replaced by this sentence: “We commit ourselves to build a humane, equitable and caring global society cognizant of the need for human dignity for all.”⁵⁸ The expression “human rights” is not even mentioned once in the Declaration. In the Plan of Implementation, the Summit mentioned RTD in several places. In the introduction to the Plan, the Summit merely noted:

Peace, security, stability and respect for human rights and fundamental freedoms, including the right to development, as well as respect for cultural diversity, are essential for achieving sustainable development and ensuring that sustainable development benefits.⁵⁹

With respect to sustainable development in Africa, the Summit said that

⁵⁴ Arjun Sengupta, *Frameworks for development cooperation and the right to development*, Fifth Report of the Independent Expert on the Right to Development, E/CN.4/2002/WG.18/6, 18 September 2002, para. 14 (c).

⁵⁵ The four elements of RTD-DC are a rights-based development program, poverty reduction and social indicator targets, development compacts, and monitoring mechanism. *Id.*, Box. 1.

⁵⁶ Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002, UN Doc. A/CONF. 198/11, Resolution 1, Monterrey Consensus of International Conference on Financing for Development, Annex, para. 11.

⁵⁷ *Id.*, para. 12.

⁵⁸ The Johannesburg Declaration on Sustainable Development, 4 September 2002, United Nations, New York, 2002, *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August- 4 September 2002*, A/CONF.199/20, Resolution 1, Political Declaration, Annex, para. 2.

⁵⁹ Plan of Implementation of the World Summit on Sustainable Development, A/CONF.199/20, Resolution 2, Plan of Implementation of the World Summit on Sustainable Development, Annex, para. 5.

“achieving sustainable development includes actions at all levels to:

(a) Create an enabling environment at the regional, subregional, national and local levels in order to achieve sustained economic growth and sustainable development and support African efforts for peace, stability and security, the resolution and prevention of conflicts, democracy, good governance, respect for human rights and fundamental freedoms, including the right to development and gender.”⁶⁰

With respect to the institutional framework for sustainable development, the Summit affirmed

Freedom, peace and security, domestic stability, respect for human rights, including the right to development, and the rule of law, gender equality, market-oriented policies, and an overall commitment to just and democratic societies are also essential and mutually reinforcing.⁶¹

A particularly disappointing retrogression was the refusal of the Summit to encourage the very modest interaction that had begun between the Office of the High Commissioner and the United Nations Environment Program (UNEP). Pursuant to Commission decision 2001/111, OHCHR and UNEP organized a joint expert seminar in Geneva on 16 January 2002 "to review and assess progress achieved since the United Nations Conference on Environment and Development in promoting and protecting human rights in relation to environmental questions and in the framework of Agenda 21." Its conclusions were submitted to WSSD and the draft paragraph would have encouraged OHCHR and UNEP to continue this collaboration. Instead, WSSD merely acknowledged

the consideration being given to the possible relationship between environment and human rights, including the right to development, with full and transparent participation of Member States of the United Nations and observer.⁶²

Among a rather dismal exercise gutting human rights from the policies of sustainable development, the Summit did move in the right direction with respect to health, when it agreed that a goal of sustainable development is to:

Strengthen the capacity of health-care systems to deliver basic health services to all in an efficient, accessible and affordable manner aimed at preventing, controlling and treating diseases, and to reduce environmental health threats, in conformity with human rights and fundamental freedoms and consistent with national laws and cultural and religious values, and taking into account the reports of relevant United Nations conferences and summits and of special sessions of the General Assembly.⁶³

⁶⁰ *Id.*, para. 62 (a).

⁶¹ *Id.*, para. 138.

⁶² *Id.*, para. 169.

⁶³ *Id.*, para. 47.

However, the Summit seemed to give with one hand (“in conformity with human rights...”) and take away with the other (“consistent with national laws and cultural and religious values”), presumably comforting countries that oppose abortion or condone harmful traditional practices. However, the reference to human rights and to UN conferences and summits—added after much lobbying by NGOs—suggests that a proper interpretation of the text would favor reproductive freedom and using human rights to challenge harmful practices. In any case, this text merely opens a small door towards a human rights approach to one critical development objective, without dealing with the process of development from an RTD perspective.

The United States Government has tended to be behind the efforts to remove references to human rights at conferences and summits, like WSSD, the Children’s Summit, the GA Special Session on HIV/AIDS and the Food Summit. The GA recently recognized—over US opposition—that the realization of RTD “is critical to achieving the objectives, goals and targets of major United Nations conferences, summits and special session and those undertaken by the Millennium Assembly.”⁶⁴

Similar observations can be made about the Specialized Agencies (WHO, ILO, FAO, UNESCO, etc.) and UN funds and programs (UNDP, UNIFEM, UNICEF, etc.), whose approaches to development cooperation rarely include human rights and almost never RTD. Among the Specialized Agencies, ILO and UNESCO have the most explicit mandates on human rights and UNICEF has adopted the Convention on the Rights of the Child as its normative framework. However, the level of development assistance is relatively modest and the policies of international cooperation are not yet attuned to RTD. One part of the UN system where RTD has an acknowledged place of prominence is the Office of the High Commissioner for Human Rights (OHCHR), which includes a Research and Right to Development Branch. When that Office was created, the General Assembly required the High Commissioner to “Recognize the importance of promoting a balanced and sustainable development for all people and of ensuring realization of the right to development, as established in the Declaration on the Right to Development,” and included among the responsibilities of the Office “To promote and protect the realization of the right to development and to enhance support from relevant bodies of the United Nations system for this purpose...”⁶⁵ However, this area, like many others falling within the responsibilities of the High Commissioner, is understaffed and under-funded.

The Independent Expert concluded his sixth report by noting that the right to development has not been realized during this period of accelerated globalization “because appropriate policies for realizing the right to development have rarely been adopted.”⁶⁶ To remedy this situation, he makes a number of recommendations. For

⁶⁴ General Assembly Resolution 57/223 on the Right to Development; adopted 18 Dec. 2002 by a vote of 133-4-47.

⁶⁵ General Assembly Resolution 48/141, *High Commissioner for the promotion and protection of all human rights*, adopted 20 December 1993, paras. 3(c) 4(c).

⁶⁶ *Preliminary study of the independent expert on the right to development, Mr. Arjun Sengupta, on the impact of international economic and financial issues on the enjoyment of human rights*, submitted in accordance with Commission Resolutions 2001/9 and 2002/69, UN doc. E.CN.4/2003/WG.18/2, 10 December 2002, para. 39.

example, “in designing and implementing the appropriate policies, the objectives should be clearly set at realizing the rights-based process of development.”⁶⁷ He further recommends that national policies maximize the benefits of globalization rather than opting out⁶⁸ and be coordinated in such a way that specific rights to food, health, etc., can be part of policies aimed at sustainable and participatory development.⁶⁹ The policies of donor countries and international organizations should aim at removing barriers to exports from developing countries,⁷⁰ and at modifying the functioning of the various trading agreements under WTO, the Multilateral Agreement on Investment, safeguards and special treatment and dispute settlement mechanisms in order that trade and liberalization policies “realize a rights-based process of development,” for which he proposes setting up a group of experts from WTO and the Commission on Human Rights.⁷¹

The absence of clear national and international policies integrating the RTD approach into the development process is a formidable obstacle. If it cannot be overcome it may be because the commitment to RTD is merely rhetorical and governments and intergovernmental organizations do not genuinely expect their support for the concept of RTD to have consequences. If this is the case, the insights and recommendations of the Working Group and the Independent Expert will fall on deaf ears.

Conclusion

The future of RTD will depend on the extent to which these political, intellectual and practical obstacles are addressed. The political obstacles appear in the tone and substance of the deliberation and decisions of the Commission and the General Assembly. It is up to those governments that take RTD seriously to shift the discourse away from posturing and towards specific programs and mechanisms that will assist governments in meeting their reciprocal obligations in this area. The intellectual obstacles should be met with more clarity of concepts and philosophical grounding, which would enhance the political debate as it would the setting of national and international policy. That challenge will be met when more universities, professional associations and scholarly publications engage in extensive inquiry into the meaning and value of RTD. The most important obstacle to implementation of RTD is the practical one, due to the lack of incentives to modify the formal policies of the international agencies and national governments and to incorporate meaningful approaches to this right in the practice of development. The response to that challenge resides in careful, detailed discussion and modification of programs and projects at the country level.

The right to development is too often a slogan used to make politicians, diplomats and bureaucrats feel good. The process begun in 1998 with the appointment of the Independent Expert has the potential of changing the politics, epistemology and practice

⁶⁷ *Id.*, para. 40.

⁶⁸ *Id.*, para. 41.

⁶⁹ *Id.*, para. 42.

⁷⁰ *Id.*, paras. 43-44.

⁷¹ *Id.*, para. 45.

of RTD, and thus changing the ways in which governments and their development partners understand and implement strategies for development and poverty eradication. Such an outcome would add impetus to efforts to integrate human rights-based approaches to development, while requiring innovative rethinking of the process of development in terms of allocation of resources in the national budget, negotiations with development partners and policies of trade and investment. The obstacles to such rethinking briefly outlined here are formidable but not insurmountable.