

# The Right to Development: From Policy to Practice

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- Good afternoon Honourable Ministers, Excellencies, Ladies and Gentlemen, Madame President,
- I would like to thank the President of the Council, Laura Lassere, and her staff for having invited me. It is an honour to be on this podium with an opportunity to address you in my capacity as President of The North-South Institute, Canada's oldest independent development policy think tank.
- I would like to begin my remarks on the subject of "The way Forward: Between Policy and Practice" by quoting from Harvard University's Professor Stephen Marks's paper on "The Politics of the Possible". "There is general agreement on the added value of the right to development as it places human well-being, rather than growth at the center of the development process...Yet up to now this right has been essentially a political claim that has had little impact on development practice".
- One of the objectives of this panel therefore, is to reflect on how the right to development can be progressively implemented in the context of contemporary political, social, economic, financial and environmental challenges, many of which are unprecedented in nature.
- This is no easy task, as you well know. Indeed as the High Level task Force noted in January 2010, "the greatest challenge for the implementation of the right...in theory and practice, is to reconcile a holistic vision of human rights ...aimed at maximising the well-being of all individuals and peoples, with development, which requires sound economic policies that foster growth with equity. It is easier to affirm their mutually reinforcing nature in principle, however, than to apply this principle to decisions of policy and resource allocation."
- Research being undertaken at The North-South Institute is exploring this nexus between economic growth, and social, cultural and

economic outcomes. We are seeking to identify how the holistic vision of human rights, state obligations to progressively realize economic, social and cultural rights, and real world government resource allocation decisions can best be reconciled. In doing so, we are also mindful of the fact that as a global community we are increasingly confronted by the environmental, social and economic consequences – both positive and negative - of historically unprecedented economic and demographic growth. But as an increasingly informed and affected public is recognizing, many of the emerging negative “global externalities” are telling us that we can no longer do business as usual or we risk producing existential threats not only to our economic and political systems, but to the planet as a whole (UNDESA World Economic and Social Survey 2011).

- Recognizing, however, that national policy makers will rarely make decisions based on rights alone, NSI has pursued research that not only seeks to support indigenous people’s rights through empowering them, but also demonstrates to policy makers that failure to provide such rights comes with potentially high economic and political cost for both home and host governments, as well as the companies concerned.
- Free, Prior and Informed Consent (FPIC) is clearly established as a right of indigenous peoples in international human rights instruments like the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), in international financial governance norms and in the judicial decisions of bodies like the Inter-American Court of Human Rights. As a principle, and as a consequence of rights to self-determination, property, health, and others, FPIC is also recognized as best practice for other, non-indigenous peoples and communities.
- Based on the collective right of peoples to development, which includes their right to self-determination and the “inalienable right to full sovereignty over all their natural wealth and resources”, NSI has made the right to self-determined development in practice a major focus of our research over the past decade.

- Critically, we are working with indigenous peoples, ethnic minorities and their representative organisations to better understand how the right to FPIC can be effectively used as a tool for exercising “active, free, and meaningful participation” as called for in the Declaration, while at the same time contributing to responsible forms of economic, social and cultural development.
- What we have learned through our research is that mere consultations are not enough and that for participation in development decisions to be beneficial and not result in egregious violations and conflict, the right of indigenous peoples to say yes or no to projects and policies that will affect their traditional territories should be respected.
- To address the staggering power imbalances between indigenous peoples on the one hand, and corporations, host and home governments on the other we have prioritized empowerment, through capacity strengthening, so that communities are able to effectively advocate for their rights, to be informed about impacts of proposed developments, and benefit from activities on their territories where consent is agreed.
- In Guyana we worked with the Amerindian Peoples Association to draft comprehensive and country-specific plain language “how-to” guides on Free, Prior and Informed Consent, indigenous participation in environmental and social impact assessment, and negotiating benefit-sharing agreements in the context of large-scale mining. In Colombia, where we are working with indigenous and Afro-descendant communities, we are likewise collaboratively creating appropriate resource guides and protocols that set out the decision-making processes that states, corporations and other actors should consider following.
- At the request of a number of African institutions and international funders we have been asked to adapt these lessons to the sub-Saharan African context.

- Our indigenous partners have told us time and again that they are not anti-development, but that development, especially holistic development, comes in many forms. Some indigenous peoples and tribal communities will prioritize smaller-scale and more sustainable activities, like farming or artisanal mining, over potentially high-risk large-scale developments. These livelihood activities can contribute to local *and* national development. Others will support large-scale exploitation if their rights are upheld, and if they conclude they will share fairly in the benefits.
- National, international and ODA funds should be more frequently used to support alternative forms of resource exploitation thereby limiting increasing dependence on those large-scale activities that carry high social and environmental risks. Where these activities are deemed necessary we need to put in place stronger protections to ensure that they contribute to development and respect for all human rights, especially the rights of those who are most vulnerable.
- What our research has clearly demonstrated in the case of mining companies is that while corporate social responsibility (CSR) and self-regulation may be necessary, they are far from sufficient for ensuring responsible and sustainable development. Recent academic research from two of the world's leading business schools, the Harvard Business School and the University of Toronto's Rotman School of Management have concluded likewise, with Professors Michael Porter and Mark Kramer concluding that failure to recognise CSR's limitations will put the market system as we know it at even greater risk than it currently is, while failing to protect the rights of the poorest and most marginalized.
- The acceptance of FPIC by the International Finance Corporation and the ongoing review of their standards by other major international institutions is an implicit acknowledgement that we, as an international community, must go further than CSR if we are to effectively reconcile the rights to self-determined development with the needs of responsible economic, social and cultural development.

It is time today that governments and corporations get to that same page.

- In this respect, NSI is broadening its research to look at how community consent protocols can guide inclusive decision making at the state and corporate levels and by doing so pave the way for more responsible development processes. We are also examining how private sector frameworks can lead to better outcomes.
- Finally, in a parallel effort to examine the development potential of economic and social rights, NSI is also collaborating with Professors Sakiko Fukuda Parr (a former member of the RTD High Level Task Force) and Susan Randolph of the University of Connecticut in an effort to measure quantitatively, a country's success in progressively realising their obligations on economic and social rights. As an index of Social and Economic Rights Fulfilment (SERF), essentially calibrates a country's progress on social and economic rights with their GDP and their maximum available resources.
- Using the index, we should be able to identify where countries are deploying available financial resources to progressively meet, or not meet, their service provision obligations to citizens. At NSI we are using the SERF index to explore why countries at similar income levels perform very differently when it comes to the progressive provision of rights. What can we learn from countries with lower levels of GDP which perform well on the SERF index? Why are countries with higher levels of GDP performing poorly?
- By examining these questions, we are identifying lessons and strategies for supporting the fulfillment of economic and social rights at different levels of national income. These results can be used by citizens to assess their country's own performance and hold their governments to higher levels of accountability in realizing the right to development and providing certain basic services which also happen to be human rights.
- As this Council and the Intergovernmental Working Group consider the recommendations of the Task Force, you may want to consider

using the SERF index to assist states in taking “all necessary measures for the realization of the right to development” as per Article 8 of the DRD, and as regards FPIC in relation to participation in Article 2 of the Declaration.

- As more developing countries have more resources available, with some crossing the middle-income threshold, we are confident that NSI’s work will be useful in identifying concrete lessons on how, given a country’s human rights obligations as well as their resource constraints, human rights can best be realized. This is critical to reconciling the holistic vision of human rights with real-time constraints that countries face in terms of policy and resource allocation decisions, and in so doing, operationalizing the right to development.

Thank you Madame President.

