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Session: Contribution of development and human rights to the global commitment to leave no one behind

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As we try to identify a positive way forward for development and human rights, we should remember how far we have travelled.

For example, we should remember the 1970s and the call for a New International Economic Order (NIEO).

Human rights featured in the proposed NIEO but the profile of human rights was low. This is unsurprising because, in the 1970s, international human rights were still in their infancy. Also, they were held hostage by the Cold War.

In 1972, the brilliant Senegalese jurist Keba M'Baye was the first to articulate the right to development.

In 1979, the General Assembly recognised the right to development.

In 1981, the African Charter on Human and Peoples' Rights, a binding treaty, included the right to development.

Also in 1981, the UN Human Rights Commission established a working group on the right to development.

And in 1986 the General Assembly adopted the Declaration on the Right to Development.

Only 14 years from a lawyer's idea to the UN's adoption of a new international human rights instrument is a miracle!

As the NIEO proposal failed in the 1970s and 80s, the right to development gathered momentum and became an established feature of the international code of human rights.

But the relationship between the NIEO, the right to development and human rights was seriously underdeveloped.

¹ Speaking in his personal capacity.

Since the end of the NIEO -- and since the end of the Cold War -- international human rights have been transformed. Now they constitute a battery of institutions, instruments, processes, cases, and a huge literature.

The degree to which international human rights are *effective* is a different matter for another occasion.

After the NIEO, the focus shifted to development.

But development proceeded down one track and human rights proceeded down a parallel track.

Development and human rights didn't intersect.

The relationship between development and human rights was only dimly understood.

We needed a way of bridging - connecting - development and human rights.

Nobel Laureate Amartya Sen built the conceptual bridge between development and human rights.

Published in 1999, his book, *Development as Freedom*, recognised that development and human rights are animated by the same idea: freedom.

Freedom from fear, freedom from want, freedom from discrimination, and so on.

At last, we had a coherent understanding of the relationship between development and human rights.

In 2000, UNDP's annual Human Development Report was called *Human Rights and Human Development*. I served on the Report's Advisory Panel and can confirm it was inspired by Amartya Sen's conceptual breakthrough.

In recent years, the UN has established a range of different mechanisms to advance the right to development, such as the:

- UN Working Group on the right to development (1998 to present);
- the High-level task force on the implementation of the right to development (2004-2010);
- the Expert Mechanism on the right to development (2020 to present);
- the UN Special Rapporteur on the right to development (2017 to present);
- and so on.

Some of these mechanisms are *political*.

Some focus on *implementation*.

In 2019, for example, the UN Special Rapporteur on the right to development published *Guidelines and recommendations on the practical implementation of the right to development*.

My point is that in the 1970s and 80s, we did not have a firm grasp of the common conceptual ground between development and human rights.

Nor did we know what, in practical terms, human rights bring to development.

But now, thanks to the hard work of many people and bodies, in the United Nations and beyond, we now have a firm grasp of the common ground between development and human rights, and we know what, in practical terms, human rights bring to development.

I am not going to summarise here what human rights bring to development.

Instead, I confine myself to four short observations which are well-known and must not be overlooked.

First, human rights demand special attention is given to those who are left behind – the disadvantaged, marginalised and vulnerable. The poorest in society. This human rights preoccupation with those who are left behind is in the DNA of human rights.

Second, human rights demand as much bottom-up, lived-experience participation as possible. A Human Rights Council resolution puts it neatly, calling upon all States “to realise people-centred development of the people, by the people and for the people”.²

There is overwhelming evidence that bottom-up participation is associated with positive impacts and outcomes.³

Third, the human rights preoccupation with those who are left behind, and bottom-up participation, is required by binding international human rights law, in relation to which duty-bearers must be held accountable.

I am not talking about accountability as blame, sanction, and punishment. I favour ‘constructive accountability’ which identifies what works, so it can be repeated, and what is not working, so it can be amended.

As I have described elsewhere, ‘constructive accountability’ requires monitoring, independent review in relation to commitments, and remedial action.⁴

Monitoring alone is *not* accountability it is just one step towards accountability.

Fourth, countries must have information systems that collect data about those who are left behind. Without such data we do not know if the poorest are being reached, and this makes ‘constructive accountability’ impossible.

The role of national human rights institutions

Human rights have to be folded into all national development policies and initiatives.

They have to be on the policy table at the beginning of policy-making processes, not at the end as part of a compliance tick-box exercise.

Economists, educationalists, environmentalists, health professionals, family planners, town planners, development experts, and so on, have to take human rights seriously.

Officials and governments have to be willing to reach out to national human rights institutions for human rights training and advice.

And national human rights institutions have to be ready to present human rights in a non-legalistic way that is practical and meaningful to policy makers and practitioners.

² Res 47/11, 27 July 2021.

³ Bustreo, Hunt et al., chapter 3 in *Women’s and Children’s Health: Evidence of Impact of Human Rights*, 2013, WHO.

⁴ Williams and Hunt, “Neglecting Human Rights: Accountability, Data and SDG3”, *International Journal of Human Rights*, 2017.

In my experience, all of this is extremely challenging.

But there is no alternative.

Colonisation

This month, the NZ Human Rights Commission published two reports on the continuing impact of colonisation in New Zealand.⁵

The data demonstrate that the indigenous peoples of New Zealand, and Pacific peoples in New Zealand, are disproportionately represented among those left behind.

They routinely experience racism.

We have to address the continuing impact of colonisation at the national *and* international levels.

Driven by numerous countries that had recently won their political independence, the NIEO aimed to dismantle colonial economic structures at the international level.

The NIEO failed – but it is time to revisit the issues the NIEO sought to address.

Today, we have something to help us that was unavailable in the 1970s - we have a mature understanding of development and human rights, as well as the right to development.

So, we should apply human rights to development at the national *and* international levels.

At both levels, we need to address the continuing legacy of colonisation.

As we do that, we have to consider whether the currently prevailing understanding of human rights is equipped to dismantle colonialism.

Or has the time come to revisit and strengthen human and indigenous peoples' rights, so they are effective tools for realising decolonisation?

Whichever way we go - whether by re-affirming the currently prevailing understanding of human rights – or by revisiting and strengthening human and indigenous peoples' rights – the commitment to leave no one behind must be front and centre.

END

⁵ *Maranga Mai!* and *Ki te Whaiao*, NZ Human Rights Commission, 2023.