

Inputs for the 2023 Reports of the UN Special Rapporteur on the Right to Development

Submission by IT for Change

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The United Nations (UN) Special Rapporteur on the right to development has recognized that the individual is at the center of the development process, and the right to development “is not only a human right in itself, but also necessary for the full realization of all other human rights”.

IT for Change welcomes the [call for inputs/information](#) for the Special Rapporteur’s upcoming reports on seeking to revitalize the discussion around the right to development. As the UN Secretary-General has highlighted in his May 2023 [policy brief](#) on the Global Digital Compact, the data and innovation divides of the current digital epoch threaten to permanently entrench the unequal geographies of development unless urgent action is taken to build the infrastructural capabilities of the Global South. Similarly, the data extractivist models of transnational digital corporations – that have now diffused to every corner of the globe through the acceleration of the digitalization of the world economy post-pandemic – threaten to intensify labor exploitation and economic inequality within and between countries, and backsliding of progress towards the sustainable development agenda.

From this standpoint of evaluating specific challenges for the right to development in the current digital conjuncture, we are submitting inputs to the following questions under Sections B and C of the questionnaire.

B. UN General Assembly report (October 2023) – ‘Role of Businesses in Realizing the Right to Development’

1. What laws, policies, and incentives are in place (or should be introduced) to encourage businesses to contribute to the effective realization of the right to development?

Elimination of massive and flagrant violations of human rights by transnational digital corporations:

Digital transnational firms are [amongst the most powerful corporate actors](#) in the world today, and many have sought to capitalize on this status with a brutal disregard for the vastly damaging externalities that they generate. From [predatory financial applications](#) exploiting desperate citizens, to rapidly [deteriorating conditions for workers](#), to the increasingly [inhospitable and violent online environment](#) created for women and other marginalized identities; there is ample evidence today of substantial human rights violations taking place with growing impunity.

While assessing the regulatory structures that can ensure businesses conform to development needs in the digital sphere, the Special Rapporteur should examine the following points:

- **Women's rights:** Transnational corporations (TNCs) [cannot be allowed](#) to continue shirking accountability for the rapid proliferation of online gendered violence on social media platforms. Such forms of harassment are clear violations of women's human rights, and they are perpetuated through platforms' continued [prioritization of profit](#) and reluctance to countenance serious interventions to curb their tide.
- **Workers' rights:** As the [Fairwork reports](#) and several other [independent studies bear witness](#), platform workers face increasingly [inhumane conditions](#), where they are unfairly treated as independent contractors and denied employment benefits whilst remaining at the mercy of the unaccountable management control of labor platforms. They are also subject to [opaque algorithmic diktats](#), forms of [potential wage theft](#), and [intrusive surveillance and monitoring](#). Such a state of affairs must be seen as antithetical to the right to development.
- **Data harms:** The harvesting and mass-utilization of 'data' which underpins much of today's digital economy has gone largely unchecked and also spawned instances of blatant abuse. This has led to outcomes like [predatory finance](#), [algorithms that perpetuate inequality](#), and [extractivist economic arrangements](#).
- **Environmental concerns:** One of the most important negative externalities of digital TNCs has to do with their [environmental impact](#). From the extraction of minerals, to the use of mammoth amounts of energy and the creation of vast quantities of waste, the digital economy needs urgent reform. For only in [being recalibrated for sustainability](#) can it be part of a '[right to development](#)' vision.

Whilst there have been attempts by some countries to evolve regulatory frameworks in some of these areas – and successful examples ought to be emulated – there are many aspects of these problems that remain outside the scope of current legislation. There is thus a strong imperative to update global standards and national laws to incorporate measures that can confront these issues.

The need to expand and update frameworks and processes at the multilateral level: Building upon the points mentioned above, it is also worth exploring the ways in which the current regime of multilateral relations – and embedded treaties and standards – [functions as constraints](#) on the policymaking and governance capacities of developing countries and impede their economic progress. The digital economy is particularly significant in this regard, given the degree of centralization therein. What results is that international agreements end up perpetuating [skewed value chains](#) and [asymmetries of power](#), ultimately counteracting a more equitable and inclusive mobilization of digital technologies toward development. In particular, the Special Rapporteur ought to look at:

- **Trade regimes:** As civil society researchers have diligently reported, the '[digital trade rules](#)' agenda currently pushed by the likes of the US and Europe seek to institutionalize the status quo. They give legal sanction to practices that, amongst other things, shroud algorithm code in secrecy, prevent developing countries from claiming sovereignty over their data, and make it easier for TNCs to avoid

taxation and evade liability for local legal violations. Such an agenda is a clear suppression of developing countries' aspirations and justifiably invites charges of [renewed neo-colonialism](#).

- **Development financing regimes:** The currently pervasive models of blended finance and 'multistakeholder partnerships' have come under [significant critique](#) in recent years. These models not only often [fail to generate sufficient levels of investment](#), but also make the achievement of development goals contingent on congruence with the profit imperatives of corporate actors and can end up allowing the private sector [disproportionate influence and control](#) over foundational infrastructure and data commons. Development finance needs an overhaul towards new autonomous infrastructural models – physical and digital – that allows the authority to accrue to developing nations themselves and preserve their development sovereignty.
- **Instituting robust international taxation frameworks:** A [2019 analysis](#) conducted by the Fair Tax Foundation of the Silicon Six (Facebook, Apple, Amazon, Netflix, Google, and Microsoft) unveiled a tax gap of approximately USD 100 billion for the years 2011-2020. The problem is dire and, unfortunately, recently proposed multilateral frameworks such as the Organization for Economic Co-operation and Development's (OECD) two-pillar solution falls [significantly short](#), particularly from the point of view of [developing countries](#). As [critical interventions](#) have pointed out, for Pillar One, both the high thresholds for taxation and the fact that only 25% of the residual profit is to be allocated to market jurisdictions run counter to the demands made by the developing countries. Moreover, provisions around the second pillar, [critics note](#), are designed in ways that consolidate the power of the developed world. In contrast to this, the [UN Tax convention](#), recently proposed to the General Assembly by the union of African member states, represents a more [robust and fair](#) approach to the problem.
- **Preserving democracy and protection against the corporate capture of multilateralism:** Underpinning all of these issues is the key requisite of preserving the multilateral order and institutions of the UN. As the [people's working group on multistakeholderism](#) has pointed out, there is a growing [encroachment of corporate influence](#) within the UN under the auspices of the multistakeholder model. This is deeply concerning, as it jeopardizes the potential for reforming the inequities in international law that serve as the basis for the impunity of TNCs and the incapacity of the Global South to curtail their power. Thus, there is an urgent need to arrest this trend and institute clear procedural norms that prevent the democratic credentials of multistakeholderism from becoming a shell for entrenching corporate interests.

C. Thematic Priorities for 2023-26

1. What issues should the Special Rapporteur focus on during the next three years of his mandate for the effective realization of the right to development at the local, national, regional, and international levels?

To ensure the effective realization of the right to development, a focus on the following issues is vital for developing and least developed countries (LDCs):

i. Narrowing the technological gap

Significant deficiencies in meaningful and affordable access to the internet [remain across the developing world](#), which are further accentuated for [women from the Global South](#). Such digital exclusions need to be surmounted so that the catalyzing potential of these technologies is universally distributed, and the Special Rapporteur should certainly consider strategies for moving in this direction.

However, as we work towards this goal, it is crucial that we also contend with the connectivity paradox. As more and more people come online, the [development divide seems to be widening](#). Owing to the stark asymmetry in [infrastructural and economic capabilities](#), a handful of states and corporations are able to [seize control of the value chains](#) evolving around digital technologies. As the Secretary-General also acknowledged in his [recent brief](#) on the Global Digital Compact, there are significant innovation and data divides that must be understood in conjunction with the connectivity divide. These divides threaten to create a scenario where most of the world is relegated as a provider of raw data, dependent on the technological prowess of a handful of platforms for access to the actual value-generating layers of the stack – from cloud infrastructure to artificial intelligence-powered analytics and software solutions, to end-user service platforms.

In order to counter the forces that are engendering this unequal terrain, it is important that we invest now in augmenting the [capabilities and infrastructures of LDCs](#). This would require measures such as allocating a dedicated quantum of Official Development Assistance towards the development of national digital infrastructure, with additional remits given to international development banks to provide financing for such projects. It would also require an overhaul of current intellectual property regimes to ensure that corporations are not exercising an over-broad application of trade secrets to unfairly enclose data resources in perpetuity. Furthermore, while we need the creation of digital public goods and data commons that can be leveraged for shared projects, such as the pursuit of the SDGs, it is imperative that adequate governance regimes are built around them within the UN system. In the absence of such oversight, such resources are likely to be usurped by today's dominant corporate actors at the expense of the longer-term development trajectories of the developing world.

ii. Human-centered approach to the future of work

Algorithmic discrimination, non-payment of minimum/living wage to platform workers, and constant surveillance by businesses impede workers' right to development in the digital epoch. As [acknowledged](#) by

the International Labor Organization, social justice requires the development of a “human-centered approach to the future of work, which puts workers’ rights, and the needs, aspirations, and rights of all people at the heart of economic, social, and environmental policies”. Further, Article 3 of the [second draft of the convention on the right to development \(Draft Convention\)](#) provides that States shall be guided by the principle of human rights-based development in implementing the provisions of the Draft Convention “as development is a human right that is indivisible from and interrelated and interdependent with all other human rights, the laws, policies, and practices of development, including development cooperation, must be normatively anchored in a system of rights and corresponding obligations established by international law”.

The Special Rapporteur’s focus on this issue will bring to light the challenges faced by workers and encourage States to catalyze local platform economies embodying a human capabilities approach as a counter to the monopolistic practices of Big Tech. Additional focus on global supply chains in a digitalizing economy will also ensure that sustainable labor models are followed, enabling countries residing in downstream portions of these chains, usually Global South countries, to have fair practices. This will ensure there is no race to the bottom for the cheapest labor from the most vulnerable communities in these countries.

iii. Sustainable technological development

The growing footprint of digitalization poses a challenge to the environment and brings to the fore the need for [sustainable solutions](#). As Big Tech is not committed to reducing its full [value chain emissions](#), there is an exigency for the Special Rapporteur to focus on the issue of sustainable technological development to ensure businesses are held to high accountability standards. At the most basic level, this means assessing current [supply chains](#), [energy-consumption](#) channels, and [waste-disposal](#) systems to set standards that shape industry practices into being organized more sustainably.

However, in taking the full measure of the forces and dangers of climate change, what is required is a much more comprehensive re-configuration of our digital economies. We need to move away from the huge-scale, highly concentrated arrangements of today to platform economies that consist of modular, decentralized applications geared to specific local interests. Such a ‘small-is-beautiful’ principle can help refashion our use of digital technologies away from profit maximization and towards regenerative interventions in local ecosystems and economies. From [platform cooperatives](#), to [municipally-owned digital infrastructures](#), to tailored digital tools for [smallholder agroecology](#), there are a variety of experiments already underway to facilitate such an alternative path for digitalization. What they require is an alleviation of the systemic pressures that impede their replication and long-term sustainability.