

Call for information: Special Rapporteur on the right to development

Submission from Reality of Aid-Asia Pacific (RoA-AP) (<http://www.realityofaid.org/>)

A. HRC Report (September 2023) – “Reinvigorating the right to development: A vision for the future”

1. What have been the most important achievements for the implementation of the right to development at the national, regional and international levels in the past decade?

The *Agenda 2030* and the Sustainable Development Goals (SDGs) remains to be the basis and indicator for the fulfillment of development actors to the right to development. As it provides measurable indicators on how development actors have contributed to the achievement of the 17 goals, it is able to highlight where progress is made and where further attention must be given to. Meanwhile, the *Addis Ababa Action Agenda* (AAAA) details the commitment and responsibilities of development actors in providing adequate and quality financing for the goals. The *UN Common Agenda* takes heed of the shortcomings of Agenda 2030 and proposes additional commitments to address the multidimensional crises the world faces today.

While these can serve as a basis to measure progress on the goals, civil society has continued to highlight how the *Agenda 2030* and its accompanying frameworks are not able to encapsulate the realities and demands of the people on ground, as indicators and reporting are determined by multilateral and government institutions. Both the AAAA and the *UN Common Agenda* fail to address systemic inequalities in the global economic framework while allowing for the corporate capture of development processes.

The Global Partnership for Effective Development Co-operation (GPEDC) monitors commitment of countries to the four effectiveness principles – country ownership of development priorities, focus on results, inclusive partnerships, and mutual transparency and accountability. The commitment of development actors to development effectiveness is also renewed with the *Geneva Summit Declaration*. Furthermore, the *Kampala Principles for Effective Private Sector Engagement Through Development Cooperation* also aims to ensure how the private sector can contribute to effective development co-operation. However, these principles are hardly upheld in the implementation of development projects and development actors are rarely held accountable in their violation of these.

In addressing conflict and shrinking civic space, the OECD-DAC has passed the following recommendations on the triple nexus approach and enabling civil society. The *DAC Recommendation on the Humanitarian-Development-Peace Nexus* highlights the imperative to integrate humanitarian, development and peace initiatives in addressing protracted crises in conflict-affected, fragile states. As a novel approach, there is still a lack of awareness and support for these initiatives.

The *DAC Recommendation on Enabling Civil Society* recognizes civil society as development actors in their own right and ensures donor countries contribute in providing an CSO enabling environment. While the recommendation recognizes that having inclusive and meaningful development partnerships and processes is crucial in realizing the right to development, much is to be done to address the shrinking of civic space.

2. What are the key remaining challenges in the effective realization of the right to development at different levels?

The multi-dimensional crises, and the structural inequalities where these are rooted in, serve as a major impediment to achieving the right to development. Worsening poverty, increasing debt, continuing conflict and the climate emergency is faced by developing countries and disproportionately impacts the marginalized and vulnerable. As Official Development Assistance (ODA) remains to be lacking in quantity and quality, developing countries are forced to incur onerous debts and the private sector is given a larger role in financing development. Donor countries have also used aid to forward their own political, military, and economic interests.

With this, Asia-Pacific countries are on the verge of debt distress, forced to adopt policy conditionalities from international financial institutions (IFIs) such as the International Monetary Fund-World Bank (IMF-WB), the Asian Development Bank (ADB) and the Asian Infrastructure Investment Bank (AIIB), that implement austerity measures and further privatization of social services. Along with IFIs, private sector entities are being promoted to address the financing gap, without sufficient oversight, regulatory mechanisms and safeguards for its adverse impacts. This also facilitates the corporate capture of development, where profit is prioritized over addressing people's needs, upholding their rights, and protecting the environment.

With limited and conditional financing, there is inadequate support for countries and communities to respond to persisting development challenges, conflict, and the climate emergency. In addition to the lack of access to financing, some [development projects negatively impact people's lives, livelihoods and environment](#), as these are not aligned with their development needs and priorities. While CSOs and affected communities raise issues regarding the adverse impacts of projects, they are subjected to threats and attacks from armed forces. The shrinking of civic space has violated people's rights and hindered people from meaningfully participating in processes and dialogues on the right to development.

3. How could the right to development be mainstreamed and integrated into other relevant agendas (including the 2030 Agenda) at the national, regional and international levels?

Relevant agendas should be pursued based on a human rights and feminist-based approach, as well as the development effectiveness principles. Pursuing a locally-led agenda as an approach can facilitate the participation of local actors and the mainstreaming of the right to development in relevant agendas. Anchoring and aligning frameworks on these principles ensure that development priorities are democratically-owned and are determined through inclusive processes, with an emphasis on upholding people's rights. This also entails that various actors have their own roles and responsibilities in promoting development and in leaving no one behind.

4. What steps have been taken to realize the right to development of vulnerable or marginalized individuals and communities? Have these been effective?

Civil society continues to assert their rights and for the reversal of shrinking civic space. In light of repressive regimes in the region, protests and actions are organized by social movements to reject anti-people policies and to highlight their demands for a people-centered and rights-based development. For example, [CSOs and community-based organizations in Indonesia](#) mobilized against the pandemic response of their government, role of the IMF-WB in rising debt with loans for COVID-19 response, and the corporate capture of food systems.

Marginalized communities and sectors have also undertaken collective action to provide mutual aid, especially during the pandemic, as they mobilize much-needed assistance. In Manipur, India, [Indigenous Peoples gathered their agricultural products and shared it](#) with nearby villages, quarantine centers, and hospitals during the lockdown. In the Philippines, community pantries were set-up across the country to provide immediate food assistance to the marginalized. However, these initiatives were seen as a form of dissent by anti-people regimes and governments and have subjected civil society actors to threats, attacks and retaliation.

5. How can the role of actors such as development agencies, international financial institutions, businesses, universities, civil society and the media be harnessed to contribute to the realization of the right to development?

Donor countries must uphold their 0.7% Gross National Income (GNI) commitment for ODA in the form of grants, in order to provide adequate financing for developing countries to implement initiatives. [IFIs should stop imposing onerous loans and policy conditionalities](#) in providing development finance. [Private sector entities](#), when providing financing or partnering for development projects, should adhere to international human rights and labor norms and standards, including the *Kampala Principles*. States must be able to effectively regulate and monitor private sector intervention in development.

Financing should be made available for [local actors](#) that forward democratically-owned projects, in order to maximize efficiency and impact of development initiatives. Civil society must continue to develop its capacity in monitoring commitments to the right to development, and seek accountability from development actors. People's movements, through their continued resistance and collective action, have exposed systemic injustices and continued to pursue a rights-based and people-centered development for all. Development actors must

facilitate the inclusion of civil society in development processes and stand with the people's movements that forward social change. Universities and the media can support and amplify calls of communities through research and communications.

6. What more should be done to strengthen cooperation among States as well as collaboration with various non-State actors in realizing the right to development?

For cooperation among states to contribute to the right to development, states must condemn repressive regimes, seeking accountability and justice for their anti-people policies and rights violations and demanding that they repeal restrictive laws and policies that lead to attacks on the people.

In collaboration with non-state actors, states must provide an enabling environment for civil society as they ultimately uphold people's interests, and a regulatory environment for private sector actors, especially with their history of harming people and the environment through their business activities. For civil society, solidarity and support must be extended to them especially in countries where their freedoms and rights are threatened. In this manner, states must ensure their commitment to and implementation of the *DAC Recommendation on Enabling Civil Society*, reversing the shrinking of civic space and respecting people's rights. Development actors should facilitate the participation of communities and organizations in SDG-related processes, such as Voluntary National Reviews (VNRs) and the Integrated National Financing Frameworks (INFFs).

For the private sector, states should effectively regulate their profit-oriented and development activities. States should have robust oversight and regulatory mechanisms that ensure that corporations uphold international human rights and labor norms and standards. Governments, along with multilateral institutions, should be able to make businesses accountable for their adverse impacts on development.

B. UNGA 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?

The *Kampala Principles for Effective Private Sector Engagement Through Development Cooperation* provides a normative guidance on how private sector entities can contribute to national sustainable development priorities. These anchor private sector interventions on the development effectiveness principles, international human rights and labor norms and standards. However, the Kampala Principles remain to be non-binding and voluntary for businesses. Coupled with the lack of robust oversight and regulatory mechanisms of states in developing countries, private sector intervention can remain unchecked and negatively impact people's rights, livelihoods, lives and environment.

Private sector initiatives should contribute to long-term development plans and priorities defined by the people, especially the marginalized sectors of society. Private sector financing must be channeled to the least targeted SDGs, support governments' gender-responsive budgeting initiatives and provided to

climate-resilient and community-based actions. In partnering with businesses, the government must not abandon its role in providing essential goods and services for the people.

There is also a need to unleash and build the potential of micro, small and medium enterprises (MSMEs), social enterprises (SEs) and local entrepreneurs as private sector partners for development cooperation. This entails providing the necessary support, assistance and resources to these private sector entities. They should be provided greater government support, protection and access to financing tools. Public finance must be channeled into partnering with MSMEs, SEs and local entrepreneurs for development initiatives. Development actors must ensure genuine representation of these entities in social dialogues and partnerships, in order to maximize their potential contribution to domestic development and local employment.

2. What steps are being taken to ensure that businesses provide adequate living wages to their employees/workers throughout their operations and adopt responsible purchasing practices?

In global South countries, governments have weak regulatory and oversight mechanisms over business activities. With this, businesses have exploited the natural and human resources of developing countries, violating people's rights and contributing to environmental degradation. Governments have further colluded with large private sector entities, leading to the violation of labor rights, attacks on workers, and unrestricted access to the country's resources. As peoples' interests are sidelined in favor of corporate interests, this leaves farmers, fisherfolk, workers and migrants in precarious working conditions and with inadequate and below living wages.

3. How do businesses ensure that development projects do not result in environmental pollution and/or forced displacement of communities, including indigenous peoples?

The profit-seeking nature of businesses often presents a conflict with development objectives and actors, including the civil society and communities that are at the receiving end of these efforts. [Business activities have often led to the exploitation of natural resources and labor especially in developing countries and Indigenous Peoples communities for profit.](#) The pursuance of large infrastructure projects introduced disputes in affected communities over land rights and ownership, as well as threats of displacement of Indigenous Peoples from their ancestral lands, loss of livelihood sources and cultural sites, and negative impacts on the environment and biodiversity in these affected areas.

There is a general lack of access to relevant information on private sector activities and intervention in development projects. The necessary safeguards to prevent, mitigate and address the adverse impacts of private sector operations are absent. At the same time, the private sector is disinclined to engage in genuine monitoring or assessment of the impacts of their business and development activities. Weak state mechanisms allow for the lack of oversight over human rights violations over business activities through the use of bribery by private sector actors. Furthermore,

corrupt governments will find ways to restrict peoples' freedom of expression and association, as they highlight the violations conducted by private sector entities. This hinders civil society from exacting accountability for rights violations by the state and its private sector partners.

4. Are the existing regulatory frameworks at the national, regional and international levels adequate to ensure that businesses do not evade paying taxes to States?

Neoliberal policy conditionalities imposed by IFIs on developing countries have effectively weakened state capacities to oversee and regulate private sector activities. With this, businesses are not being monitored properly and are not held accountable. As the government's capacity to regulate the private sector is weakened, this leads to the collapse of local industries and MSMEs, privatization of goods and services, threat to food systems, loss of livelihoods, low wages and worsening poverty. The [IMF-WB's loans for COVID-19 response had accompanying reforms](#), which allowed for further rice importation in the Philippines, promotion of the Omnibus Law that relaxes labor and environmental protection in Indonesia, as well as passing of austerity measures and tax relief for businesses in other Southern countries.

Business activities of multinational corporations in developing countries are also susceptible to illicit financial flows, which deprives revenue, enables corruption and undermines democratic institutions in the region. This can be seen in mining activities of transnational corporations like [OceanaGold in the Philippines and El Salvador](#). OceanaGold has illegally grabbed lands from Indigenous Peoples, harassed and threatened communities, destroyed the environment, caused pollution and health risks. The corporation has not been held accountable for these violations due to the Investor-State Dispute Settlement (ISDS) provisions in El Salvador, which allows corporations to bypass national judicial mechanisms and policies.

5. What are the good practices about businesses trying to bridge the digital divide and/or ensure the safe use of technologies by vulnerable populations such as children, elderly and minorities?

Contrary to multinational and large domestic corporations who have been accused of violating labor rights and allowing for precarious working conditions, social enterprises, with their social mission-driven goals, ensure inclusive and sustainable development in its operations. Social enterprises aim to respond to poverty, worsening inequality and continuing failure of state and market failures to serve the needs of the poor. These entities also contribute to the broader movement for social inclusion and societal transformation, through sustainable livelihoods and sustainable consumption and production technologies. Social enterprises undertake innovative and alternative approaches to engage the poor and to distribute wealth among the marginalized.

Communities and civil society organizations in the Asia-Pacific region have forwarded alternatives to extend rural electrification. In different communities, energy cooperatives and community-funded renewable energy systems are set-up to provide energy access to the people. Pooled finances, resources and labor enabled the people to set-up energy systems that are affordable, democratically-owned and maintained, and allows for capacity development and economic opportunities. The

community-maintained plants allowed for flexible payment terms, participatory decision-making and economic activities.

6. How can States and other actors (e.g., national human rights institutions, development finance institutions and businesses) provide effective remedies to individuals and communities alleging breach of the right to development?

Businesses must put an end to the conduct of human rights violations by complying with international labor standards, applying responsible business conduct instruments and adopting guidelines and binding regulations, underpinned by these tools and the Kampala Principles. Businesses must also adopt strong safeguard and accountability mechanisms. Projects should have an established feedback, grievance and redress mechanisms that are available and accessible for affected communities. Development actors should ensure access to adequate and timely remedies when human rights violations do take place.

Development partners must establish platforms for genuine multi-stakeholder dialogues and consultations, providing spaces for CSOs, local and community-based groups, affected communities and micro, small and medium enterprises (MSMEs). There must be necessary space for CSOs to monitor and assess development outcomes, and to present policy recommendations based on their monitoring initiatives. Furthermore, states and businesses must ensure that people's right to association, expression, political participation, peaceful assembly and information should be respected and upheld.

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?

The Special Rapporteur must be able to recognize and address persisting challenges of conflict and fragility, the worsening climate crisis, and their impacts on the world's marginalized. Given that these crises multiply threats and risks for the poor and vulnerable, there is a need to mobilize support and commitment in addressing these. This entails mobilizing sufficient public financing from donor countries, based on their historical commitments, for Triple Nexus and climate initiatives for frontline communities.

In ensuring efficient and impactful use of aid, the localization of development is crucial. This allows for communities to dictate their development priorities and provides capacity to implement their own solutions and approaches to the challenges they face. The right to development can only be fully realized if marginalized communities and sectors are at the center of development and they have democratic ownership over their needs and priorities.

2. What are the main challenges faced in realizing the right to development? Are there any good practices and effective strategies in overcoming these challenges?

The main challenge developing countries face in realizing the right to development is limited financing to provide adequate services, development projects and climate initiatives for its people. ODA, which is meant to address this gap, has been decreasing in its quality and quantity. With this, there is stress on private sector financing and the disbursement of ODA in loans, despite the worsening debt distress, rights violations and lack of accountability from these. IFI conditionalities also force governments to privatize essential goods and services, as well as implement austerity measures, in order to pay off loans.

There is also a lack of political will from states to stop war and conflict, with the Russian invasion of Ukraine, and continuing conflict in Afghanistan, Palestine and Myanmar. Continuing security alliances and funding for armed forces have only intensified tensions and led to increased attacks on marginalized communities. There is also a lack of holistic humanitarian, development and peace responses to fragile, conflict-affected states.

In Asia-Pacific and the rest of the global South, anti-people regimes have violated people's rights, shrunk civic spaces and exacerbated inequalities. Due to the imposition of neoliberal policies, people face increased taxes, rise in commodity prices and privatized social services. With this, the pandemic pushed millions of people into extreme poverty. Furthermore, civic space continues to be threatened as people are excluded from development processes and governments facilitate attacks towards CSOs, people's organizations and communities that expose the anti-people policies of the government.

3. What actions should be taken to ensure the integration of the right to development in other agendas such as the Sustainable Development Goals, business and human rights, protection of the environment, climate change, discrimination, migration, peace and security, development finance, trade and investment agreements, new technologies, civic space, and access to justice?

The right to development can only be attained if people are able to determine their development needs and priorities, and they are meaningfully included in development processes. Relevant agendas should be pursued based on a human rights and feminist-based approach, as well as the development effectiveness principles. Anchoring and aligning frameworks on these principles ensure that development priorities are democratically-owned and are determined through inclusive processes, with an emphasis on upholding people's rights. This also entails that various actors have their own roles and responsibilities in promoting development and in leaving no one behind.

[Financing for development](#) must primarily come from public resources in the form of grants, as donor countries meet their historical commitments to the global South. Donor countries, IFIs and the private sector must not utilize aid to forward their own interests, but must be used for initiatives that will genuinely contribute to inclusive, sustainable development. In ensuring the [right to development is upheld in private sector interventions](#), governments must not abandon their role in providing services and goods, regulating businesses, promoting the role of MSMEs and upholding people's rights.

In addressing conflict and fragility, the [Triple Nexus approach](#) must be utilized to respond to immediate needs, address root causes of conflict and contribute to just,

lasting peace. Addressing [climate change and its accompanying development challenges](#) can only be possible with the adoption of a climate justice framework that demands reparations from developed countries and corporations, and that promotes [people-powered climate action](#).

In using [digital technologies for development](#), these initiatives must contribute to the establishment of democratically-owned digital infrastructure and technologies, ensure data justice that upholds peoples' collective rights over data, and overcome the digital divide that disproportionately impacts women, Indigenous Peoples, and rural communities.