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**Interrelationship between the Right to Development and International Covenant on
Civil and Political Rights**

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Good afternoon!

I would like to begin by thanking the colleagues in the Right to Development department of the Office of the UN High Commissioner for Human Rights for inviting me to share my thoughts with you on the interrelationship between the right to development and the 1966 International Covenant on Civil and Political Rights.

I am happy to be back in Geneva which feels like a second home to me. I spent a lot of time here during the six years as the UN Special Rapporteur for human rights in Cambodia and then during the two years as an expert member of the task force on global investment policy of the World Economic Forum, known as the Davos Forum, which is located on the beautiful hill across the Geneva Lake.

My academic interest in the right to development was heightened in 2014 when reviewing the manuscript of Tahmina Karimova's book titled '*Human Rights and Development in International Law*'. Karimova's scholarly analysis of the interface between human rights and the right to development in international law impressed me and so the book was published in 2016 in the series 'Human Rights and International Law' that I edit for Routledge.

As a sidenote, some 16 high-quality monographs on different aspects of human rights and international law have been published thus far by Routledge under my editorship in this series and if any of you have ideas for a good book on any aspects of human rights and international law, please do not hesitate to contact me.

The right to development enunciated in the UN General Assembly Declaration of 1986 is the result of a natural progression from the two 1966 Covenants – one on civil and political rights and another one on economic, social, and cultural rights, the UN General Assembly resolutions on the right to both political and economic self-determination, the UN Declaration on the permanent sovereignty of States over their natural resources of 1962, the Stockholm Declaration 1972, and the Charter of Economic Rights and Duties of States of 1974. The 1986 Declaration is one more step in the process of advancing human rights, realising the rights guaranteed under the 1966 Covenants and a welcome addition to the set of human rights needed to make the world a fairer place.

As more and more developing countries joined the UN in the 1950s and 1960s, thanks to accelerated decolonisation, they started to assert their economic independence and champion a more just and fairer world economic system. The 1960s was an exciting decade, raising human expectations and ambitions. People saw that it was possible to go to outer space and reach the moon, and towards the end of the decade the world came to know that there was a huge reserve of mineral resources in the deep seabed. It was during this decade that a large number of states gained independence – many of them with little or no bloodshed. It was a positive and progressive time in many respects, but it was also tumultuous.

The Cold War reached new heights, the two superpowers of the day came close to an all-out nuclear war during the Cuban missile crisis and developing countries sought to restructure the world economy through the UN. During this decade the gap between rich and the poor widened dramatically. The nations that had gained independence from their colonial rulers realised that the existing world economic order was not conducive to their economic development.

Encouraged by the numerical majority that they had now acquired within the UN General Assembly and the solidarity that they enjoyed, the developing countries decided to pursue a proactive policy aimed at strengthening not only political but also economic sovereignty of States through the UN. It was against this political and economic background that the 1986 Declaration on the Right to Development was adopted by the UN General Assembly proclaiming in Article 1(1) that the right to development is an inalienable human right. The Declaration goes on to state Article 1(2) that:

The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

The Declaration makes the exercise of full sovereignty of peoples over their natural wealth and resources subject to the relevant provisions of the two 1966 International Covenants on Human Rights. The common Article 1 of these two Covenants reads as follows:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

There are two main concepts which are interrelated – the right of self-determination and economic sovereignty. While traditional international law speaks of sovereignty or economic sovereignty of States, the 1966 Covenants widen the scope of this concept to include the sovereignty or economic sovereignty of peoples as well, stating that all peoples too have the right to freely dispose of their natural wealth and resources. Thus, the realisation of the right of self-determination of both states and peoples includes the right to exercise full sovereignty over all their natural wealth and resources. The 1986 Declaration adds the right to development as part of this process of full realisation of the right of self-determination.

While the 1962 UN General Assembly resolution on permanent sovereignty of States over their natural resources and wealth and the 1974 Charter of Economic Rights and Duties speak of such sovereignty of states, the 1966 Covenants go further to include the sovereignty or economic sovereignty of peoples as well, and the 1986 Declaration establishes a connection between the right of self-determination and economic sovereignty in defining the human right to development, implying that the right of self-determination includes both political and economic self-determination. In other words, the 1986 Declaration applies the principles embodied in the 1966 Covenants to the right to development of both peoples and individuals.

The 1986 Declaration fleshes out the provisions in Article 1 of the 1996 International Covenant on Civil and Political Rights and seeks to empower States and peoples to develop themselves through the exercise of their right of political and economic sovereignty by virtue of their right to self-determination.

While the 1986 Declaration draws some authority from the UN Charter and the 1966 Covenants, the 1986 Declaration itself implies the supremacy of the 1966 Covenants when it comes to the exercise of sovereignty in relation to the right to development. No exercise of the right enunciated in the 1986 Declaration can undermine the scope of the rights guaranteed under Articles 6-27 of the 1966 Covenant on Civil and Political Rights. Article 9 (2) of the Declaration on the Right to Development reads as follows:

Nothing in the present Declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, group or person has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights and in the International Covenants on Human Rights.

This also means that the exercise of sovereignty should not affect the non-derogable status of certain rights guaranteed under Article 4 of the 1966 Covenant on Civil and Political Rights or other limitations imposed under Article 5 of the 1966 Covenant. This all makes the right to development a qualified right rather than an absolute right.

That said, the 1986 declaration establishes equity, equality and justice as primary determinants of development, thereby heralding a new rights-based approach to development. It has laid the foundation to advance the UN agenda designed to integrate development into human rights. It has been a catalyst for the recognition of the right to development in a number of subsequent regional and international instruments dealing with human rights and sustainable development.

The UN Declaration provides a framework for the adoption of measures to ensure that the development process is respectful of human rights and of the process in which all human rights and fundamental freedoms can be realized. Read together, the provisions of the 1986 Declaration can be regarded as stipulating a legal requirement according to which the development process would be regulated by human rights norms. Accordingly, development interventions by national and international agencies would have to follow the priorities set by human rights.

The General Assembly Declaration firmly places the right to development within the legal framework of international human rights and links the realization of this right to international cooperation in the realms of economic development and social justice. The challenge ahead is to translate the provisions of the Declaration into concrete obligations. Another challenge is to conceptualise the right to development legally, since the Declaration does not unequivocally specify obligations flowing from the right to development.

Since the term ‘development’ is a multidimensional and shifting concept, sensitive to time and place, it is an unsettled, or a relative idea, depending on the context to which it applies. In a wider sense of the term, every country is developing in different ways and in different areas of human activity. Many economically less developed countries have a more advanced and sophisticated cultural, philosophical, and spiritual heritage than many economically advanced countries.

To conclude, the aim of the Declaration on the Right to Development is to develop and integrate the right to development into human rights within the framework of the UN Charter and the two 1966 International Covenants on Human Rights. It provides a set of normative prescriptions to be reflected in development policies and practices as it seeks to ensure that development policies and practices do not interfere with the enjoyment of human rights. The aim should be to revisit certain fundamental questions in light of new directions developed in legal thinking to better understand the relationship between development and human rights.

The 1986 Declaration does not prescribe any specific course of action by which the right to development has to be realised. This leaves the UN and its member states to work out the processes and modalities required for doing so. It is against this background that I welcome the endeavours to negotiate a treaty to concretise the right to development in the list of important human rights and wish the Intergovernmental Working Group on the Right to Development every success in its endeavours to this effect.