



## The Right to Development as a Human Right: An International and Indian Constitutional Perspective

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### Abstract

*The Right to Development (RTD) marks a significant shift in human rights discourse, redefining development as a human-centred process rooted in dignity, equality, and justice rather than mere economic growth. Recognized as an inalienable human right by the United Nations General Assembly in the Declaration on the Right to Development, it integrates civil, political, economic, social, and cultural rights within a unified framework. The RTD emphasizes equity, participation, accountability, and sustainability. In India, although not explicitly stated in the Constitution, its essence is reflected in Article 21 and the Directive Principles of State Policy, with judicial interpretation expanding the right to life to include livelihood, health, and environmental protection. Despite normative recognition, challenges such as global inequality, climate injustice, and digital disparity hinder realization, underscoring the need for stronger international cooperation and inclusive governance.*

### Keywords

*Right to Development, Human Rights Law, Sustainable Development, Article 21 (Indian Constitution), Global Justice, Climate Equity*

### Introduction

The concept of development has evolved from a narrow focus on economic growth and GDP to a broader, multidimensional understanding that includes education, healthcare, social justice, and overall quality of life, recognizing that economic indicators alone cannot address inequality and social exclusion. The shift toward a human-centred understanding of development was significantly influenced by Amartya Sen, who argued that development should be viewed as



the expansion of substantive freedoms and human capabilities rather than mere economic accumulation.<sup>1</sup>

This transformation marked a movement from a welfare-oriented model, in which the state acted as a benefactor, to a rights-based approach that recognizes development as an entitlement rooted in human dignity and equality.<sup>2</sup> The Right to Development (RTD) emerged prominently within post-colonial and Global South discourse as newly independent states demanded a more equitable international economic order and fair distribution of global resources.<sup>3</sup>

Against this backdrop, this paper pursues three primary objectives: first, to analyse the normative foundations of the RTD under international law; second, to examine its reflection within Indian constitutional provisions and judicial interpretation; and third, to evaluate contemporary challenges that impede its effective implementation at both domestic and international levels.

### **Concept and Meaning of the Right to Development**

The Right to Development (RTD) was formally articulated in the Declaration on the Right to Development, adopted by the United Nations General Assembly in 1986. The Declaration defines development as a comprehensive economic, social, cultural, and political process aimed at the constant improvement of the well-being of the entire population and of all individuals.<sup>4</sup> Article 1 of the Declaration proclaims that the right to development is an *inalienable human right* by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy development.<sup>5</sup> This recognition elevates development from a policy aspiration to a legal entitlement grounded in human dignity.

The RTD has both individual and collective dimensions. Individually, it ensures equal access to opportunities, education, health, resources, and participation in decision-making. Collectively, it affirms peoples' rights to self-determination and sovereignty over natural

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<sup>1</sup> Amartya Sen, *Development as Freedom* (Oxford University Press, 1999)

<sup>2</sup> Stephen P. Marks, "The Human Right to Development: Between Rhetoric and Reality," *Harvard Human Rights Journal* 17 (2004): 137–168.

<sup>3</sup> United Nations General Assembly, *Declaration on the Right to Development*, G.A. Res. 41/128 (4 December 1986).

<sup>4</sup> United Nations General Assembly, *Declaration on the Right to Development*, G.A. Res. 41/128 (4 December 1986), Art. 2.

<sup>5</sup> *Ibid.*, Art. 1.



resources, reflecting post-colonial demands for economic justice and structural equity globally.<sup>6</sup>

Core elements of the RTD include active and meaningful participation in development policies, equality of opportunity for all, the realization of self-determination, and the principle of permanent sovereignty over natural resources.<sup>7</sup> The RTD also reinforces the indivisibility and interdependence of rights, integrating civil and political rights with economic, social, and cultural rights. Development, therefore, cannot be achieved in the absence of political freedom, nor can liberty be meaningful without socio-economic justice.<sup>8</sup>

## **International Legal Framework**

### *Foundational Instruments*

The normative foundations of the Right to Development (RTD) can be traced to the Charter of the United Nations, which commits member states to promote social progress, higher standards of living, and international cooperation in solving economic and social problems.<sup>9</sup> Although the Charter does not explicitly mention a right to development, its emphasis on sovereign equality and collective advancement laid the groundwork for later recognition.

The Universal Declaration of Human Rights advanced this vision by recognizing social security and essential socio-economic rights under Article 22, and affirming a just social and international order under Article 28, thereby implicitly linking development with the realization of human rights.

The twin covenants—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—strengthen this framework. Both recognize the right of people to self-determination under Article 1 and obligate states to respect, protect, and progressively realize enumerated rights.<sup>10</sup> The principle of progressive realization under the ICESCR is particularly significant in linking state responsibility with developmental obligations.

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<sup>6</sup> *Ibid.*, Arts. 1(2) & 3.

<sup>7</sup> *Ibid.*, Arts. 2 & 8

<sup>8</sup> Stephen P. Marks, “The Human Right to Development: Between Rhetoric and Reality,” *Harvard Human Rights Journal* 17 (2004): 137–168.

<sup>9</sup> United Nations, *Charter of the United Nations* (1945), Arts. 1 & 55.

<sup>10</sup> United Nations General Assembly, *International Covenant on Civil and Political Rights* (1966), art. 1; United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights* (1966), Arts. 1 & 2.



### *Explicit Recognition*

The RTD received explicit articulation in the Declaration on the Right to Development, which proclaimed development as an inalienable human right and emphasized international cooperation as a duty of states.<sup>11</sup> Although declaratory and non-binding, it marked a major normative milestone. The United Nations Human Rights Council subsequently established a Working Group on the Right to Development to monitor and promote its implementation, reflecting continuing institutional engagement.<sup>12</sup>

### *Right to Development and Sustainable Development*

The adoption of the 2030 Agenda for Sustainable Development reaffirmed the interdependence between human rights and development.<sup>13</sup> The Sustainable Development Goals (SDGs) operationalize RTD principles by targeting poverty eradication, reduced inequalities, gender equality, and climate action. Climate justice debates further highlight development equity, emphasizing that vulnerable and developing nations disproportionately bear environmental burdens despite minimal historical responsibility.

### *Regional Recognition*

At the regional level, the African Charter on Human and Peoples' Rights explicitly recognizes the right to development under Article 22, affirming that all peoples shall have the right to their economic, social, and cultural development with due regard to freedom and identity.<sup>14</sup> This binding recognition represents one of the strongest legal affirmations of the RTD in international human rights law.

### **Theoretical Foundations**

The Right to Development (RTD) is deeply rooted in natural law philosophy, which recognizes human dignity as the foundational value underlying all rights. Natural law theorists argue that certain rights are inherent and inalienable by virtue of being human, and development—understood as the flourishing of human potential—forms an essential component of that

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<sup>11</sup> United Nations General Assembly, *Declaration on the Right to Development*, G.A. Res. 41/128 (4 December 1986).

<sup>12</sup> Human Rights Council, *Report of the Working Group on the Right to Development* (various sessions).

<sup>13</sup> United Nations General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, G.A. Res. 70/1 (2015).

<sup>14</sup> African Union, *African Charter on Human and Peoples' Rights* (1981), Art. 22.



dignity.<sup>15</sup> The RTD thus derives legitimacy from the moral claim that individuals and peoples are entitled to conditions necessary for a life of freedom and equality.

The RTD is commonly categorized as a third-generation or solidarity right, emerging after civil-political and socio-economic rights. Unlike earlier rights that focus primarily on state obligations toward individuals, solidarity rights emphasize collective responsibilities and international cooperation.<sup>16</sup> They require joint efforts by states to address structural inequalities, poverty, and global imbalances.

The capability approach advanced by Amartya Sen further strengthens the theoretical basis of the RTD by conceptualizing development as the expansion of substantive freedoms and human capabilities rather than mere economic growth.<sup>17</sup> Complementing this perspective, global justice theory highlights redistributive obligations among nations and critiques the structural disadvantages faced by developing countries.<sup>18</sup> Additionally, the principle of self-determination—enshrined in international law—connects the RTD with decolonization movements, affirming the right of peoples to freely determine their political status and pursue their economic, social, and cultural development.<sup>19</sup>

### **Right to Development in the Indian Perspective**

#### *Constitutional Framework*

Although the Constitution of India does not expressly recognize the Right to Development (RTD), its spirit is deeply embedded in the constitutional scheme. Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. Through expansive judicial interpretation, the Supreme Court has transformed Article 21 into a repository of socio-economic entitlements, including livelihood, health, shelter, and environmental protection.<sup>20</sup> This dynamic interpretation aligns closely with the core objectives of the RTD.

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<sup>15</sup> John Finnis, *Natural Law and Natural Rights* (Oxford University Press, 1980).

<sup>16</sup> Karel Vasak, "A 30-Year Struggle: The Sustained Efforts to Give Force of Law to the Universal Declaration of Human Rights," *UNESCO Courier* (1977).

<sup>17</sup> Amartya Sen, *Development as Freedom* (Oxford University Press, 1999).

<sup>18</sup> Thomas Pogge, *World Poverty and Human Rights* (2nd ed., Polity Press, 2008).

<sup>19</sup> International Covenant on Civil and Political Rights (1966), art. 1; International Covenant on Economic, Social and Cultural Rights (1966), art. 1.

<sup>20</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.



The Directive Principles of State Policy (DPSPs) further reinforce developmental commitments. Article 38 directs the State to promote a social order in which justice—social, economic, and political—shall inform all institutions of national life. Article 39 mandates policies aimed at securing adequate means of livelihood and preventing concentration of wealth. Article 41 recognizes the right to work and education within the limits of the State’s capacity, while Article 47 imposes a duty upon the State to improve public health and standard of living. Although non-justiciable, these principles guide legislative and executive action toward inclusive development.

Fundamental Duties under Article 51A, particularly the duty to protect the environment and promote harmony, complement developmental goals by encouraging citizen participation in nation-building and sustainable progress.

### *Judicial Interpretation*

The Supreme Court of India has played a transformative role in constitutionalizing development. In *Maneka Gandhi v. Union of India*, the Court expanded the interpretation of Article 21 to include substantive due process, thereby broadening the scope of fundamental rights.<sup>21</sup> This decision laid the foundation for recognizing socio-economic entitlements as integral to the right to life.

In *Olga Tellis v. Bombay Municipal Corporation*, the Court explicitly recognized the right to livelihood as part of Article 21, affirming that deprivation of livelihood would amount to deprivation of life.<sup>22</sup> Similarly, in *Subhash Kumar v. State of Bihar*, the Court acknowledged the right to a pollution-free environment as a fundamental right.<sup>23</sup>

The tension between large-scale infrastructure projects and environmental or displacement concerns was examined in *Narmada Bachao Andolan v. Union of India*. While upholding the construction of the dam, the Court emphasized rehabilitation measures and participatory processes, reflecting an attempt to balance developmental imperatives with human rights and environmental protection.<sup>24</sup> Collectively, these decisions demonstrate judicial expansion of

<sup>21</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

<sup>22</sup> *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545

<sup>23</sup> *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

<sup>24</sup> *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664.



Article 21 and the evolving balance between economic growth, environmental sustainability, and social justice.

### *Policy Framework*

India's developmental vision has historically been shaped by Five-Year Plans, which aimed at planned economic growth and poverty alleviation. In recent years, the establishment of NITI Aayog has aligned national policy objectives with the Sustainable Development Goals (SDGs), integrating global development commitments into domestic governance.

Rights-based legislations further operationalize developmental guarantees. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) provides a statutory right to employment; the Right of Children to Free and Compulsory Education Act, 2009 ensures universal elementary education; and the National Food Security Act, 2013 guarantees subsidized food grains to vulnerable populations. These enactments translate constitutional directives into enforceable entitlements, strengthening the realization of the RTD within India.

### **Contemporary Challenges**

Despite normative recognition, the RTD faces major structural challenges, particularly the widening Global North–South divide. Developing nations argue that colonial legacies, unequal trade systems, and financial imbalances continue to limit their autonomy<sup>25</sup>, reinforcing the urgent need for a more equitable international economic order.

Climate change further complicates developmental equity. Developing countries, though contributing minimally to historical greenhouse gas emissions, disproportionately suffer the consequences of climate-related disasters, food insecurity, and resource scarcity.<sup>26</sup> The principle of “*common but differentiated responsibilities*” reflects the need to reconcile environmental protection with the developmental aspirations of poorer nations. Balancing economic growth with sustainability remains a core tension in implementing the RTD.

Another pressing issue is the mounting debt burden of developing states, which constrains public spending on health, education, and infrastructure. Debt servicing obligations often limit the fiscal space necessary for rights-based development policies.<sup>27</sup> In parallel, digital inequality

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<sup>25</sup> Stephen P. Marks, “The Human Right to Development: Between Rhetoric and Reality,” *Harvard Human Rights Journal* 17 (2004): 137–168.

<sup>26</sup> United Nations General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, G.A. Res. 70/1 (2015).

<sup>27</sup> Thomas Pogge, *World Poverty and Human Rights* (2nd ed., Polity Press, 2008).



has emerged as a new dimension of exclusion, with disparities in internet access, digital literacy, and technological infrastructure exacerbating socio-economic divides.

Corporate accountability poses challenges as multinational corporations shape resource use, labour conditions, and environmental practices in developing regions. Weak regulation often causes environmental harm and displacement, particularly in India, where infrastructure and mining projects have adversely affected tribal and indigenous communities.<sup>28</sup>

Collectively, these challenges underscore that realization of the RTD requires structural reforms at both international and domestic levels to ensure inclusive, sustainable, and accountable development.

### **Critical Evaluation**

The RTD holds an ambiguous status in international law. As a General Assembly resolution, it is non-binding, leading many developed nations to treat it as aspirational, limiting its translation into enforceable international obligations. Enforcement mechanisms at the global level remain weak. Although the United Nations Human Rights Council has established a Working Group on the Right to Development, its role is largely promotional and advisory, lacking coercive authority.<sup>29</sup> Political resistance from developed countries often centers on concerns about redistributive responsibilities and potential constraints on economic policy autonomy.

Nevertheless, the growing integration of development within binding human rights treaties, sustainable development frameworks, and climate agreements suggests that the RTD may be evolving toward normative consolidation.<sup>30</sup> Repeated reaffirmations in international forums contribute to its gradual crystallization as a principle of customary international law. For meaningful realization, however, stronger global governance mechanisms and equitable international cooperation remain indispensable.

### **Suggestions and Way Forward**

Realizing the RTD requires coordinated international and domestic action. Globally, stronger cooperation, equitable resource distribution, and transparent multilateral mechanisms are essential to address trade, finance, and climate inequalities. Domestically, integrating RTD

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<sup>28</sup> *Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664.

<sup>29</sup> Human Rights Council, *Report of the Working Group on the Right to Development* (various sessions).

<sup>30</sup> Stephen P. Marks, "The Human Right to Development: Between Rhetoric and Reality," *Harvard Human Rights Journal* 17 (2004): 137–168.



principles into legislation can ensure enforceability. In India, Article 21 provides a strong base, but clearer statutory frameworks and balanced judicial activism are necessary to enhance accountability and protect socio-economic rights.

A climate justice framework recognizing differential responsibilities is essential for sustainable development. Aligning policies with the 2030 Agenda ensures balance between environmental protection and growth.<sup>31</sup> Inclusive local governance, transparency, digital inclusion, and data-driven decision-making can strengthen accountability and promote equitable, people-centred development.

Furthermore, data-driven governance, transparency in public spending, and digital inclusion can strengthen accountability and equitable resource allocation. Ultimately, the RTD can be realized only through people-centred, participatory, and sustainable development strategies.

## Conclusion

The Right to Development represents a transformative vision of human rights that integrates economic progress with human dignity, equality, and justice. While international recognition has been significant, effective realization requires political will, equitable global cooperation, and robust domestic implementation. In India, constitutional jurisprudence has expanded developmental rights, yet persistent socio-economic inequalities highlight the continuing need to harmonize growth with human-centred development.

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<sup>31</sup> United Nations General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, G.A. Res. 70/1 (2015).



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