

Human rights in Africa: Prospects for the realisation of the right to development under the New Partnership for Africa's Development

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DECLARATION

I declare that this thesis is my original work and that it has not been submitted for the award of a degree at any other University.

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SUMMARY

The point of departure of this dissertation is that notwithstanding the controversy about the right to development (RTD), the African human rights system expressly recognises it as a human right of a collective nature. The content of this right is a bundle of rights (civil and political as well as economic, social and cultural) which should be understood in their interdependency and interconnectedness. In addition, the RTD is a claim for a global justice characterized by a fair and equitable redistribution of the world's resources.

The purpose of this dissertation is to critically investigate the extent to which the RTD can be realised under the New Partnership for Africa's Development (NEPAD). NEPAD is the economic and development arm of the African Union which is compelled by its human rights mandate to 'promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights including the RTD. The dissertation looks at how NEPAD could be used to realise the RTD in Africa.

After clarifying the theoretical and contextual links between NEPAD and the RTD, explaining the concepts pertaining to RTD, its nature and after locating its existence in the African human rights system, the dissertation examines the prospects for the realisation of this right through NEPAD. In doing so, it analyses NEPAD from a human rights perspective. It then goes on to look at the extent to which NEPAD's programmes on vulnerable groups and participation, are integrated into national development policies in Africa through case studies of Cameroon and South Africa. The dissertation also examines whether the new global partnership as prescribed by NEPAD is conducive to the realisation of the RTD.

The basic conclusion is that although NEPAD's plan to foster the provision of goods and services is not defined in terms of legal entitlements, with legal mechanisms to claim such entitlements, NEPAD's objectives and purposes are to improve human welfare, which is also the objective of the RTD. However, to enhance the prospects for the achievement of the RTD in Africa, NEPAD should establish and strengthen mechanisms for a full domestication and ownership of its plans and standards in African states. It should also strengthen the African Peer Review Mechanism (APRM) institutions at both continental and national levels. Further, it should involve the African Commission on Human and Peoples' Rights, which has

expertise in human rights, in its APRM. At the global level, among others, NEPAD should not only strive to be economically self-reliant, but its member states should speak with ‘one voice’ and present the African Union/NEPAD’s position at international fora and consistently ensure that Africa’s development contracts and agreements are informed by international human rights standards

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ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
ACP-EC	African, Caribbean and Pacific Partnership Agreement with the European Community
ADB	African Development Bank
AFT	Aid-For-Trade
ANC	African National Congress
AoA	Agreement on Agriculture
APRM	African Peer Review Mechanism
AU	African Union
AUC	African Union Commission
CAADP	Comprehensive Africa Agriculture Development Programme
CDHR	Centre for Development & Human Rights
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CEMAC	Economic and Monetary Community of Central Africa
CEO	Chief Executive Officer
CERD	Convention on the Elimination of all Forms of Racial Discrimination
CERDS	Charter of Economic Right and Duties of States
CESCR	Committee on Economic, Social and Cultural Rights
CHR	Comission on Human Rights
CRC	Convention on the Rights of the Child
CSO	Civil Society Organizations
DFID	Department for International Development
DFL	Doctor For Life
DID	Droit international du développement
EAC	East African Community
EC	European Community
ECA	Environmental Conservation Act
ECOSOC	Economic Social and cultural Council
ECOWAS	Economic Community of West Africa
EDF	European Development Fund
EEC	European Economic Community
EPA	Economic Partnership Agreements
EU	European Union
FAO	Food and Agriculture Organisation
FDI	Foreign Direct Investment
FIDH	International Federation of Human Rights
FRA	Fuel Retailers Association
GATT	General Agreement on Tariffs and Trade
GM	Genetically Modified
GNP	Gross National Product
GRD	Global resources dividende

HFA 2000	Health for all 2000
HIPC	Heavily Indebted Poor Country
HSGIC	Heads of State and Government Implementing Committee
IBD	Inter-American Development Bank
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
ICJ	International Court of Justice
IFI	International Financial Institutions
IMF	International Monetary Fund
INGO	International Non Governmental Organisation
MAP	Millennium Africa Recovery Plan
MDG	Millennium Development Goals
MINATD	Ministry of Territorial Administration and Decentralisation
MOU	Memorandum of Understanding
NAI	New African Initiative
NALEDI	National Labour and Economic Development Institute
NAM	Non-Aligned Movement
NEO	National Election Observatory
NEPAD	New Partnership for Africa's Development
NGO	Non Governmental Organizations
NGP	New Growth Path
NIEO	New International Economic Order
OAU	Organisation of African Unity
ODA	Official Development Assistance
ODA	Official development assistance
OECD	Organisation for Economic Co-operation and Development
POA	Programme of Action
POW	Panel of the Wise
PRSP	Poverty Reduction Strategy Paper
PSC	Peace and Security Council
REC	Regional Economic Communities
RTA	Regional Trade Arrangements
RTD	Right to Development
SADC	Southern African Development Community
SSA	Sub-Saharan Africa
TAC	Treatment Action Campaign
TRIPS	Trade Related Intellectual Property rights
UN	United Nations
UNDP	United Nations Development Programme
UNDRTD	UN Declaration on the Right to Development
UNECA	United Nations Economic Commission for Africa
UNESCO	United Nations Educational, Scientific and Cultural Organisation
URA	Uruguay Round Agreements
USA	United States of America

USAID	United State Agency for International Development
WHA	World Health Assembly
WHO	World Health Organisation
WIPO	World Intellectual Property Organization
WTO	World Trade Organisation