

Editorial

The Quest to End Poverty in Africa The Implementation of the Right to Development

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After the Second World War, global institutions such as the United Nations (UN), the World Trade Organisation (WTO), the World Bank and the International Monetary Fund (IMF), among others, were established to drive development processes and ensure a better life for all. However, the advent of these institutions ignored providing adequate protection against continuous marginalisation and abusive exploitation of the African continent and its resources by global powers. This has resulted in levels of underdevelopment currently experienced in Africa. On the contrary, most of these institutions failed the African continent. For instance, the General Agreement on Tariffs and Trade (GATT) and later the WTO became the venues for advancing the proliferation of unfair trade rules and practices to the detriment of Africa. Similarly, the international financial institutions with their excessively biased debt repayment arrangements have systematically ensured the exclusion of Africa from the global economy.¹

It is against this backdrop that African countries, through the Non-Aligned Movement and the Group of 77 (currently made up of 132 developing countries), advanced the claim that development is a human right. In other words, development is conceptualised as an entitlement guaranteed to all human beings. The right to development (RTD), drawn from this understanding, is conceived as inalienable and as such non-negotiable.² This view did not receive universal approval and remains a matter of contention in the human rights discourse. For some, the RTD is an illusion,³ but for others, it is the most important human right of our time.⁴ This controversy is also prominent at the UN where most Western industrialised countries, under the leadership of the US, generally vote against resolutions on the RTD, while developing countries of the Global South, including China, have remained strong proponents of the right.

However, notwithstanding the controversy at the global level, the importance of the RTD in Africa is well established as a legally binding provision in the Africa Charter on Human and

Peoples' Rights (Article 22). The binding nature of the RTD in Africa cascades down to other African instruments such as the African Charter on the Right and Welfare of the Child (Article 5), the African Youth Charter (Article 10) and the African Protocol on the Right of Women in Africa (Article 19). The RTD is also included in numerous African subregional instruments as well as in many African constitutions. Furthermore, the RTD has been the subject of numerous communications at the African Commission on Human and Peoples' Rights and was adjudicated on 26 May 2017 by the African Court on Human and Peoples' Rights through the *Ogiek* case.⁵ In addition to this broad recognition of the RTD in Africa, the adoption of the UN declaration on the RTD in 1986⁶ and its universal recognition at the World Conference on Human Rights, held in Vienna in 1993, also shed more light on the right that has now been characterised as a *fait accompli* that more or less needs implementation.⁷ It is within this context that from 27 to 30 September 2017, the Thabo Mbeki African Leadership Institute, based at the University of South Africa (Unisa), and the Centre for Human Rights at the University of Pretoria, jointly organised an international conference on 'Regional Perspectives on the Right to Development'. The conference explored diverse perspectives relating especially to the implementation of the RTD in different regions around the world and more importantly in Africa. The articles from the conference papers, focusing on the implementation of the RTD in Africa, have been collated for this special issue of *Africa Insight*.

By focusing on the implementation of the RTD, this special issue of *Africa Insight* offers new perspectives in seeking solutions to eradicating poverty in Africa. In this respect, unlike numerous publications that explore Africa's development problems from an economy or African political-economy, public policy or development studies point of view, this contribution interrogates issues relating to poverty and development from a human rights perspective. The articles in this special issue highlight the relevance of the RTD in redressing the development challenges in Africa and the measures that need to be taken to give practical effect to this key entitlement, which is conceived not only as an inalienable human right, but importantly, also as a development model suited to Africa.

This special issue opens and sets the scene with an article by Ngang and Kamga who explore the possibility of eradicating poverty in Africa by focusing on the RTD paradigm rather than through global partnership as established under international law. In interrogating prospects for achieving Goal 1 of the Sustainable Development Goals (SDGs), which aims at the eradication of extreme poverty by the year 2030, they contend that global partnerships for development do not provide a suitable model to developing countries in their poverty eradication efforts. They argue that poverty is not a global problem but a livelihood phenomenon that is more localised in developing countries, needing to be addressed through a human rights-based approach to development in an RTD model. In other words, recognition of the RTD for developing countries and African countries in particular amounts to allowing them to formulate their own development policies and set up their own development priorities without constraints or undue external influences. This approach will enable them to address extreme poverty and achieve the SDGs.

In the next article, Ozoemena aptly highlights the need to 'shine the light' on Africa for the RTD to become a reality. In her view, the energy crisis facing Africa is one of the main constraints on the realisation of the RTD. Accordingly, while the path to the RTD goes through people as main actors, it also passes through the provision of energy in Africa.

Ozoemena's article is followed by Rukare's who examines the RTD in East Africa through a review of the constitutional and policy frameworks in Uganda, Kenya, Tanzania and Rwanda. He finds that only Uganda explicitly provides for the RTD in its constitution. While Rukare calls on other East African countries to incorporate the RTD in their constitutions, his view is also that the weapons to defeat poverty include a visionary leadership working through functional institutions supported by a development-friendly legal framework.

Also focusing on policy and the RTD, but within the South African context, Teleki looks into policy framing in South Africa to determine how the RTD plays out in the policy landscape. Teleki's concerns revolve around the fact that the South African Constitution is silent on the RTD, even though it has a progressive Bill of Rights that enshrines an extensive range of civil, political and socio-economic rights. Hence, he underlines the need for South Africa to reframe its policy landscape by affirming the indivisibility of the human rights elements of the RTD.

Moving from policy and the RTD, Saungweme, Agejoh and Cornelius examine the RTD from the perspective of indigenous peoples' rights. Firstly, Saungweme argues that indigenous peoples are still far from having their RTD achieved. In fact, according to her, the indigenous populations in Africa are still a long way from enjoying the RTD. Saungweme provides a cursory analysis of global and regional instruments and their applicability to indigenous peoples. She then argues that for these marginalised groups the RTD is hindered by the conflicting interests and power dynamics exercised by global, regional and local actors in dealing with matters relating to their livelihood and existence. In building her argument, she relies on case law as well as the profiling of indigenous groups in a number of African countries. Ultimately, she calls on other African states to emulate the example of the Central African Republic, the first African country to ratify the International Labour Office (ILO) Convention No 169. She also underlines the case of the Democratic Republic of Congo for being the first country to enact national legislation that guarantees protection and recognition of indigenous peoples.

Secondly, Agejoh and Cornelius examine the 'legal justification to innovation of indigenous knowledge and the right to development in Africa'. To this end, they argue that as a result of colonialism, the Western concept of innovation is perceived to be superior to indigenous ones that are generally not recognised under intellectual property standards. Consequently, indigenous knowledge or innovation is now heavily appropriated by Western firms in order to gain protection or incentives out of Africa. Such innovation is central to realising the RTD for indigenous communities. Against this backdrop, Agejoh and Cornelius call on African states to enact suitable legislation to provide recognition or protection of innovation in indigenous knowledge in Africa as a guarantee to protecting indigenous peoples and their RTD. In this light, they recommend the protection of local innovations and the development of an African model that considers socio-economic development as a fundamental right. Ultimately, the article argues that the RTD creates a link between economic growth and human rights, where economic growth represents the freedom to introduce innovations based on indigenous knowledge, with the onus being on states to provide legal protection or recognition for any such innovation.

Fayokun explores the debate on the RTD in Africa, considering the legal regime for biotechnological research and application, legal control of genetically modified organisms (GMOs) and their cross-border movements (as commodities or aid). This article discusses the ethico-legal, scientific,

political and economic controversies that the arrival and consumption of GMOs have generated in Africa and elsewhere. It concludes that while biotechnological techniques and products could contribute to Africa's development, they could also adversely affect individuals and the environment. Accordingly, Foyakun highlights the need for the regulation of the application of the technologies. Noting that meaningful regulation requires quality information on the advantages and disadvantages of biotechnology research and their adaptability to Africa's development context, the article decries the insufficiency of literature on the subject, with particular relevance to the continent. It, therefore, concludes that there is a need for more studies on biotechnology applications in Africa to properly inform policymakers and regulators with the aim of promoting the benefits associated with technology while restraining its possible dangers. Essentially, understanding the advantages and disadvantages of biotechnology will contribute to advancing the RTD in Africa.

Oloruntoba examines 'Africa and the Dilemma of Transformation' with an exploration of how trade can lead to the RTD. The article argues that the structural composition of trade in post-independent Africa has not departed significantly from the colonial structure. Most exports are still dominated by primary products, and the direction of trade is mainly towards the West and increasingly Asia. Apart from the domestic challenges that have continued to hamper the prospects of exploring the potentials of trade for development, there are global rules that affect the realisation of these potentials. According to Oloruntoba, trade holds great potential for realising the RTD. Nevertheless, to enable trade to achieve its potential, both domestic and global rules need serious revisions. Relying on the European Union, African, Caribbean and Pacific Group of States (EU-ACP) economic partnership agreements as points of inquiry, the author establishes the predominant influence that trade agreements have in determining the extent to which trade can lead to the achievement of the RTD in Africa.

The last article in this special issue examines options and prospects for actualising the RTD in Africa. Kamga and Fombad argue that the progress in the entrenchment constitutionalism are essential for the RTD. Amongst others, this entails the effective participation of the people in constitutional building and legislative processes, to provide some scope for transforming the RTD from the realms of a rhetorical and abstract legal concept into a practical reality. The authors find that to actualise the RTD in African states, it is essential to lay down a solid constitutional framework, to make people's participation central to all development initiatives and to rely on international and regional cooperation.

Notes and References

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