The 10th session of the Expert Mechanism on the Right to Development

Item 5 of the Provisional Agenda
Consideration of thematic studies
Palais des Nations, Room XXI, Geneva

Individual and collective dimension of the right to development

Monday 28 October 2024, 16:30 PM to 18:00 PM

Introductory remarks
Presented by Bonny Ibhawoh

Background to the Study

This study was jointly conducted by me and my colleague on the Mechanism, Mihir Kanade.

The Mechanism initiated this study in the context of an expressed need by stakeholders. During its eighth session held from 30 October to 1 November 2023, this Mechanism was called upon by participating stakeholders to address these questions. Specifically, the Mechanism received requests to conduct a study exploring the individual and collective dimensions of this right and their practical implications on the duties of States and other duty-bearers.

The purpose of the study, therefore, is to explore the following themes:

- The nature, scope, and content of the right to development as both an individual right of all human beings and a collective right of all peoples;
- The definition of peoples in international human rights law, including in its application to the right to development;
- The nature, scope and content of the duties of States and other stakeholders in their application to the right to development both as an individual right of all human beings and a collective right of all peoples;
- The mutual relation between the right to development as an individual right and a collective right, including when realising one may conflict with the realisation of the other;
- Practical good practice illustrations of how to balance any such perceived or actual conflicts.

The study methodology included desk research and consultations with diverse stakeholders including representatives of states, international organizations, academics, and civil society organizations.

Key Findings of the Study

The study proceeds from the premise, outlined in the Declaration on the Right to Development, that the right to development as both an individual right of all human beings and a collective right of all peoples. The Declaration defines the right to development as "an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised".

While the individual dimension centres on the aforesaid, the collective dimension also centres on self-determination, referring to the right of peoples to determine their own political status, and economic, social, and cultural development agendas. This study elaborates on the nature, scope, and content of the right to development as both an individual right of all human beings and a collective right of all peoples. It explores the mutual relation between the two.

The Declaration on the Right to Development recognises that States have obligations to realise the right to development of all individuals as well as peoples, including by eliminating obstacles thereto. Despite this clear emphasis, there remains a lack of clarity among some stakeholders on the precise nature, content, and scope of this right and the corresponding duties in their application to individuals and peoples.

Indeed, some States and non-State actors continue to contend that they recognise this right only as an individual right and even question the existence of the rights of peoples in international human rights law. Some stakeholders seek to justify this position on the ground that recognising development as a collective right may be abused by States as a pretext to deny individual rights. Some others agree with the collective nature of this right but are not always clear on the definition of "peoples", especially in its application to the right to development.

Queries are often raised whether "peoples" refers to the entire population of a State or also to specific groups thereof, and if the latter, what criteria should be used to determine which groups constitute a people for the purpose of the right to development. Related to this issue is whether States can be construed as rights-holders in the context of the international obligations regarding the right to development.

This study affirms a comprehensive and integrated approach to human rights envisioned in the Declaration on the Right to Development and other related instruments. The essence of the right to development lies in its integrative approach, which seeks to amalgamate development with human rights, positioning the individual at the core of developmental processes while also recognising that individual well-being is intrinsically connected to communal welfare.

While theoretical literature often distinguishes between individual and collective rights, practical application suggests that the separation is not so clear-cut. The realisation of collective human rights is fundamentally linked to safeguarding individual human rights. This is especially true given that individuals exist within the fabric of communities, and any suppression of collective rights invariably impacts individual rights.

The Mutuality of Individual and Collective Rights

The outcome of development endeavours ought to enhance a wide array of rights, including those in civil, political, economic, social, and cultural domains. Holistic and inclusive development is crucial for safeguarding both individual and collective rights since the fulfilment of many rights depends on the accessibility of resources of people as constitutive of individuals and as members of communities.

The debate over individual and collective rights and the tendency of some countries to limit human rights only to their individual dimensions extends to the measurement of development. Some stakeholders consulted for this study critiqued approaches to measuring development that rely on abstract metrics and statistics to gauge progress. These approaches can fail to reflect genuine advancements in human rights and quality of life for individuals and communities.

Stakeholders consulted for this study also called for a more integrated approach to the right to development that accommodates both individual and collective rights dimensions. Such an approach acknowledges the legitimacy and importance of diverse cultural perspectives on development and human rights, advocating for international policies and practices that are inclusive and reflective of global diversity.

A nuanced understanding of the right to development can pave the way for more effective and universally acceptable development policies and practices. For example, while individual rights lay the foundation for specific economic and social rights entitlements, the right of peoples to sovereignty over natural wealth and resources must be exercised for the collective benefit of all individuals.

In scenarios involving individual rights, the rights-holder directly benefits from their assertion. Conversely, with collective rights such as self-determination or development, although the right may be held by a people, its exercise must ultimately serve the interests of individual members.

The mutuality of the individual and collective dimensions of the right to development becomes more evident when illustrated with specific rights provisions. ***For example, while the right to health is an individual right, its full realisation is deeply connected to a nation's development policies, which are collective in nature. Similarly, the right to education is not just about individual access to schooling but also about the availability and quality of educational infrastructure, which is a product of collective investment and policy.***

The collective dimension of the right to development adds value by acknowledging that individual empowerment often depends on broader social, economic, and cultural advancements. Development projects such as building infrastructure or improving public health systems illustrate how collective action can lead to the individual enjoying a higher quality of life.

Furthermore, collective rights like those of Indigenous peoples to maintain their cultural heritage or of workers to form unions illustrate the necessity of the collective dimensions of the right to development. These rights often require group recognition and action for their realisation, highlighting how the development of a community can enhance the capabilities and rights of its individual.

The collective right to a healthy environment and the recent recognition of the right to a clean, healthy, and sustainable environment serve as prime illustrations of the mutuality of individual and collective rights. Individual health and well-being hinge on the community's right to an environment that can sustain life. This shared right secures the essentials of a healthy ecosystem — clean air, unpolluted water, and productive soil — which, in turn, directly contribute to the well-being of each community member.

The study addresses the question of conflict between the individual and collective dimensions of the rights to development. Drawing on extant international law instruments and regional case law, the Expert Mechanism takes the position that in case of conflict between an individual's right to development, and the collective right to development of a people, existing international law principles on limitations of human rights must be employed in line with the essence of article 20 of the draft Convention.

The study addresses the scope of Peoples' Rights within the Right to Development agenda. It affirms the recognition of peoples as rights-holders are recognized in several international instruments.

The study also takes on **the debate over the right of states in relation to the right to development.** The Mechanism takes the position that in the context of the right to development and, specifically, the obligations of States to act through international cooperation in realizing

the right, there is a compelling argument for recognising that States also have certain rights under international human rights law. To be sure, States do not, on their own, have the human right to development. The human rights-holders are always individuals and peoples. However, under international human rights law, States do hold certain *derivative rights* on behalf of their citizens and peoples.

Conclusion

In conclusion, this study affirms the comprehensive model of development that values the intricate relationship between individual and collective rights. This model posits that individual freedoms and societal advancement are not competitive but complementary. The development of one feeds into the other, creating a synergy that propels both forward.

Thank you for your attention.