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**“Young People at the Centre of Sustainable Development”**

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## **Post 2015 Development Agenda: Putting Rights into Development**

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## Statement of Main Recommendation

Past development and economic policies have allowed pockets of prosperity to bloom, but failed to create lasting and inclusive solutions that realise the economic rights of citizens in the Commonwealth to jobs, security, food, land and the proceeds of the resources of their nations. Rather than being a by-product of sustainable development, a convergence of events and re-emerging debates affirm the hypothesis economic rights are crucial to it. This paper calls on the nations of the Commonwealth to act on their repeated commitments to human rights and the 'right to development', by creating the framework and structures for civil society to challenge for these rights, whilst ensuring that donors and investors abide by these structures through adjustments to development policies, trade and investment agreements, and transnational legal bodies. As youth engagement is crucial to delivering thoughtful and lasting development solutions, the Commonwealth must act to open up the legal gateways to participation and accountability as it has committed to do in the past.

## Background to the Proposal

The nations party to the Vienna declaration of 1993 have for long accepted the link between, and therefore the indivisibility of, human rights and development. Since then, the majority of organisations and institutions working in development have allowed the discourse of human rights to dominate their policies (Uvin 2007). Successive human rights agreements and the declarations of international institutions have established the right to development as an increasingly binding legal norm. As a result, international trade agreements often contain non-trade elements linked to the economic rights of the individual, and international investors often defend their activities along these lines.

The idea of the right to development is broad to the point of criticism, but contains several prescriptive elements that call for action. These form part of a normative legal basis for citizens to challenge policies that discriminate against economic rights such as the right to work and job security, food and water, along with the social human rights considered essential to a vital and prosperous society. These rights should be progressively pursued by governments, meaning that plans must be made to ensure that the right to development is extended to the next generation. A crucial part of the right to development is the need for participation and transparency in development and investment actions.

However, in practice, these binding legal norms have been enacted in reverse. Rather than allow human rights to inform the creation of sound development policies aimed at the realisation of these rights, they have instead been used to assert the moral correctness of a set of pre-defined development policies from the past. These policies have been variously defined as the neo-liberal approach, aimed at structural adjustment measures designed to improve investor confidence (Uvin, 2007). It is assumed, but has not been proven, that human development rights will flow from these measures as a matter of course. As a result, participation has been closed off, along with the legal avenues that would promote a stable and inclusive development policy. The results of this failure are readily observed today.

## The Challenge

Although economic growth in the Commonwealth prior to 2008 has reduced absolute poverty, mostly due to success among the Asian nations, income inequality has risen (Martins *et al* 2012). This suggests that development in the Commonwealth has been more successful in raising GDP levels than spreading the right to share in this development through social and economic rights. Now that this growth has stalled, these failures risk being thrown into sharper relief, threatening the economic potential of the next generation and the ability of nations to face the coming challenges.

The effects of the 2008 global recession and failures in the Millennium development goals have placed the idea of more state involvement in development and trade at the highest levels of

policymaking once more (Martins *et al* 2012; CFMC Chair's Summary, 21/09/2011). The 2013 World Development Report focused on reversing the backwards thinking of old, arguing that jobs and social security lead to both growth and a decline in extreme poverty, not the other way round.

The challenge is to ensure that growth can be restarted before even greater inequalities develop and the social harms of unfulfilled economic rights become a threat to development and stability. The commitments made to the right to development are the firmest base on which to guide this process, and there is little point in trying to engage the youth unless these avenues of participation are finally opened to them.

Further establishment of these rights on paper is not required at this point, and has not been for some time. The commitments made to the right to development have established a firm legal obligation for states to put the pursuit of these rights beyond other concerns in an active and progressive manner, with adequate accountability and participation mechanisms (Sengupta 2002; McCorquodale 2009; Balakrishnan and Elson 2011). This is also a moment for change, in which development orthodoxies are facing their strongest challenges yet and new policies are being programmed for 2015. What is required is action on these commitments. If not, there is little scope for participation in the process, and society will be cut off from a development that fails to live up to the standards that the international community has set itself.

The first challenge in this regard is the empowerment of civil society organisations to be heard and challenge for their rights. This can be through the provision of resources, tools or education where needed, but most of all in the creation of fora at the Commonwealth level in which communities can access such authority. The importance of the input of the youth should be recognised here if the right to development as a long-term vision of progression is to be realised; education in rights and citizenship is vital to both this and the project of development itself.

The second is for NGOs, donors, and investors to take this agenda and ensure that it is applied to their actions, so that the empowerment of civil society and youth involvement might be meaningful. This can be done by subjecting development, trade and investment projects that are considered important to national development to judgement based on whether they will harm or fail to pursue the right to development, and not just promise an increase in GDP. This involves making a commitment to the future citizens of the Commonwealth through each act of development or investment, opening the door for the youth to challenge for this right.

Doing so will not only set development projects in the right direction and provide a means of monitoring their success, but it will demonstrate to the youth of the Commonwealth that participation and the pursuit of common aims is worthwhile, that the world promised them through successive international commitments has not been abandoned. The benefits of tapping into this unquantifiable source of energy cannot be predicted by GDP forecasts.

There are several ways in which existing development practices can be seen to be in direct contradiction to the right to development, that suggest immediate opportunities for the youth agenda to be incorporated into programming, and a direction for the future.

Firstly, current rules governing investment discriminate against the realisation of transparency and participation; deals are made under the principle of investor confidentiality in order to maintain fair competition in the markets. This clearly violates the legal requirement that states take the necessary measures to ensure that development is participatory and accountable, which should take a higher priority than improving investor confidence.

International investors are aware of this; for example, during a secretive land purchase in Tanzania, that would cause the relocation of 160,000 people, the AgriSol group claimed that it would invest in

the local economy and social services (Oakland Institute 2011). However, Agrisol's claims were doubted by locals, who expressed dismay at not being consulted as the right to development demands. In practice, corporate responsibility is not binding, and investor confidentiality is open to abuse, whilst making it difficult to determine if an investment deal is made legally and without corruption. Therefore, this element of investment is in fact detrimental to investor confidence.

### Policy Recommendations and Implementation

A clear policy prescription for the Commonwealth would be an agreement to subject large development and investment deals to a review process that would open up accountability and participation to civil society. The youth agenda must be included by considering the long term impact in terms of economic rights and the results that must be obtained if the exploitation of their natural resources is to be considered beneficial. As the youth will experience these effects both immediately and into the distant future, they can provide an essential insight into the balance required, acknowledging their ultimate responsibility for shepherding proposals into reality. Central to this approach should be an assurance that the proceeds of development and investment are fed back into education and the rule of law, so that the youth can benefit from and eventually assume control of these projects.

Experience shows that by leaving this responsibility only in the hands of national governments, opportunities are created for the international system to be abused. Therefore, although the responsibility for upholding rights will always lie firstly with national governments, this should be open to challenge within other nations and at the Commonwealth level. This policy could be implemented by a legal body governing development projects, legal aid and youth outreach programmes. Establishing this would be difficult given the restrictions on negotiating trade agreements in the Commonwealth, but both possible and legally defensible.

It is possible to hold transnational actors to account in even a fragmented legal system. In a recent case, a group of Nigerian farmers affected by the activities of the Shell oil group have achieved recognition of their claims only by holding the company to account in Holland, as their claim would not have been recognised in their country (*Financial Times*, 30/01/2013). Though only one of their challenges was upheld, it shows how Royal Dutch Shell can be held responsible for the actions of a foreign subsidiary through lack of due diligence. The protection requirement contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR) makes it obligatory for states to ensure that all other bodies within their control respect the enjoyment of rights in the other countries, and it is possible for the Commonwealth to do so and to aid communities to demand justice before the relevant authorities.

Therefore, agricultural policy should be looked from the perspective of whether it will deliver the entitlement to food in the future. Large-scale investment in export monocultures can create capital and jobs, but also insecurity through dispossession, environmental degradation, water and mineral depletion. Similarly, resource rents can provide important capital flows that might aid the pursuit of human rights, but have been strongly linked to bad governance, inequality and conflict.

Another important issue is that of land rights. As post-colonial entity, the Commonwealth is vulnerable to the problems arising from when poorly-defined and contested land rights are exposed to foreign investment. A strong effort needs to be made to resolve competing land claims, traditional and modern, into a strong national system that can function for the protection of economic rights into the future. Setting up a Commonwealth body to codify land practices and determine on such issues would do much for the issues of citizenship, nationhood and sustainable development that continue to blur visions of the future in the Commonwealth. A blunter policy being explored in Tanzania is to limit the scale of land sales; the Commonwealth could establish a body to put such large sales of land and

resources under review to allow challenges from society, and a space for young people to reclaim and negotiate the terms of their citizenship.

To put the necessity of guaranteeing the right to development for future generations into context, the many island nations of the Commonwealth offer a unique view of what is to come. For the nation of Kiribati, now buying land elsewhere after failing in all legal challenges to prevent or receive legal recognition of the damage caused by rising sea levels, climate change is no distant concern. The difficulties that they faced in holding others to account speak to the necessity of establishing a rights-based approach to the regulation of trade, development and investment, so that future citizens of the Commonwealth will not find themselves in similarly hopeless situations. Ultimately, only bodies of international cooperation such as the Commonwealth will be able to offer the leadership for this change, and the prime stakeholders in this must be the youth.

The wealth of new tools and methods emerging for societies to organise, connect with others and criticise power speaks to the great opportunities of this time. The Commonwealth should take steps to boost these possibilities by boosting aid to increase youth participation in development, but must first open the legal avenues so that this input might have some authority. Large-scale development and investment projects should be subjected to a body that would adjudicate on its fulfilment of the right to development as articulated in its entirety. As none have a greater stock in a more progressive future than those set to inherit it, this would afford the youth of the Commonwealth a faith in participation that has been lost through previous generations. All development projects should also contain a strong focus on developing and empowering their abilities as a part of the process.

Ultimately, any number of youth initiatives will achieve little unless the states of the Commonwealth look seriously at how to deliver their legal commitments. If no meaningful avenues are provided for this force, then its potential will be spent in a struggle against the limitations of the current system, as is seen in the growing youth protest movements in the world today. A successful post-2015 development agenda that can include the essential perspective of the youth can only be built on the scaffold of the right to development.

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