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## THE RIGHT TO DEVELOPMENT: BRICS' UNDERSTANDING OF THE HUMAN RIGHTS

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**ABSTRACT**

This article analyses the BRICS countries' understanding of the right to development through the prism of this political entity's internal structure, declarations, and official legal documents. The authors conclude that implementing and applying this right in international law is necessary to further develop society and social relations. The article also identifies the problems of understanding human rights in civilisations, which results from different historical, social, economic, and political developments. The article shows regional unions' understanding of human rights in this regard. Developing countries' defence of this right to development. It also analyses the idea of the President of the People's Republic of China, "Brighter Shared Future for the International Community" for a new world order, which has become a key idea for the BRICS countries.

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## 1. INTRODUCTION

In August 2023, the leaders of Brazil, Russia, India, China, and South Africa, collectively known as the BRICS group of countries, came together for the XV. BRICS Summit in Johannesburg, South Africa. In their joint final declaration, the Johannesburg II Declaration, the most important developing and emerging nations pledged to promote and protect human rights, including the right to development.

The right to development or development as a human right? Some divergent views have emerged in human rights literature regarding the scope of protection, the addressee of the norm or legal classification. The focus is on the determinability of development and how it relates to other human rights. With the *Declaration on the Right to Development*, development was recognised as a human right for the first time and a deterministic approach was introduced. At the same time, the regional levels of human rights protection have developed specific understandings of the right to development.

With the change in the significance of the BRICS, which will represent almost half of humanity and a third of the global economy with their member state expansion, their commitment to the right to development represents a possible paradigm shift in the international human rights discourse. Based on the BRICS-genuine concept of development, which was most recently laid down in the Johannesburg II Declaration, the right to development could also be subject to a changed definition in terms of content.

In the following, the evolution of the right to development at the international and regional levels is used to examine how it can be classified in the context of human rights. The first part explains the genesis of the right to development and its relationship to human rights. This is followed by examining regional conventions that contain the right to development. The second part presents the concept of development of the BRICS countries. To this end, it is necessary to consider how participation in regional conventions and the countries' understanding of the right to development have affected the right to development. The third part of the article examines the BRICS development concept. The focus here is on presenting the human rights concept and the nexus to the BRICS-genuine development concept. To this end, the development goals and implementations are analysed. Finally, the article examines the relationship between the right to development and the BRICS development concept.

## 2. ASSUMPTION OF HUMAN RIGHTS AND FOR THE RIGHT OF DEVELOPMENT: INTERNATIONAL APPROACH

Human rights are an integral part of modern international law. They serve to ensure that people's living conditions are protected and improved. However, the scope of many rights is uncertain, including the relatively new right to development. This has led to controversy among legal scholars and state

representatives since it was established under human rights law. As a result, various approaches to defining the right to development have emerged at both the international and regional levels of human rights protection.

## 2.1. Key Assumption of the Human Rights

The Universal Declaration of Human Rights, adopted in 1948, marked the beginning of universal human rights standards. In its preamble, the UN General Assembly proclaimed the Declaration "*as a goal to which all peoples and nations should aspire*"<sup>1</sup>. The preamble of the Declaration emphasises the importance of a universal understanding of the nature of human rights and freedoms for their full implementation [1] (p. 60).

The Universal Declaration of Human Rights was not intended as an exhaustive catalogue of rights but should be subject to constant further evolution and expansion. In this regard, Eleanor Roosevelt, being part of the Universal Declaration of Human Rights drafting, stated: "We must remember that we are writing a bill of rights for the world and that one of the most important rights is the opportunity for development. As people grasp this opportunity, they will be able to demand new rights if they are broadly defined" [2] (p. 5). The relationship between human rights and development has evolved into a legal nexus over time and has emerged in regional human rights protection systems [4] (p. 55).

## 2.2. Key Assumption of the Right of Development

Ascertaining the subject of the right to development can prove difficult due to its process-oriented nature. This paragraph aims to define the legal purpose and subject of this right while also analysing its impact on social, economic, and political relations among people and its role in advancing human rights and freedoms.

### 2.2.1. Legal Definition and International Legal Sources of The Right to Development

Oxford Dictionary defines development as the action or process of bringing something to a fuller or more advanced condition<sup>2</sup>. Accordingly, development consists of two features: 1. a process; 2. aimed at an improved condition.

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<sup>1</sup> United Nations General Assembly. (1948). Universal Declaration of Human Rights, preamble.

<sup>2</sup> Oxford University Press. Oxford English Dictionary. [Electronic source]. URL: <https://www.oxfordlearnersdictionaries.com/definition/english/development>

The right to development has not been given due attention in international documents. However, the fundamental components of this right can be discerned in the provisions set forth in paragraphs "a" and "b" of Article 55 of the UN Charter: "The United Nations will promote higher standards of living, full employment, and conditions of economic and social progress and development; solutions of international economic, social, health, and related problems; and international cultural and educational cooperation"<sup>3</sup>.

The category of development is also reflected in Article 22 of the UDHR, which states that: "Everyone [...] has the right to social security and is entitled to realisation, through national effort and international co-operation and by the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality"<sup>4</sup>.

The first far-reaching changes occurred in the 1950s. More and more peoples invoked the principle of self-determination to free themselves from their colonial constraints [15] (p. 87). The emergence of new states, which were swiftly admitted to the UN, faced the challenge of establishing state, social, economic and cultural structures [3] (p. 8). As a result, there were in-depth discussions in the international community about whether peoples should have a right to development.

This new pressure was considered with the Tehran Proclamation (1968), which recognised the interconnection between the realisation of human and economic development<sup>5</sup>.

For the first time, the right to development was enshrined in 1986 in the Preamble and Article 1 of the Declaration on the Right to Development<sup>6</sup>.

The preamble of the Declaration on the Right of Development implemented the following definition:

*：“...development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom...”*<sup>7</sup>. This concept of the right to development revolves around improving living

<sup>3</sup> United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, Article 55.

<sup>4</sup> United Nations General Assembly. UDHR, article 22.

<sup>5</sup> International Conference on Human Rights. (1968). Final Act of the International Conference on Human Rights: Tehran, 22 April - 13 May 1968. New York: United Nations.

<sup>6</sup> United Nations General Assembly. (1986). Resolution 41/128: Declaration on the Right to Development. Adopted by the General Assembly on 4 December 1986.

<sup>7</sup> Ibid, preamble.

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conditions while protecting all human rights. This involves the promotion of economic, social, cultural, and political progress through collaborative national and international efforts. Each country is expected to contribute to this process based on its available resources.

This is presupposed by Art. 1 of the Declaration: *“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 economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised”*<sup>8</sup>.

The Declaration states that the right to development is a fundamental human right, which every individual and community are entitled to take part in, contribute to and enjoy the benefits of development. It acknowledges that development is about economic growth and social, cultural, and political progress. Thus, development cannot be measured solely by economic indicators such as GDP or per capita income." [15] (p. 89). Furthermore, it emphasises that the human right to development is crucial for attaining other human rights and freedoms.

According to Felix Kirchmeier, Arjun Sengupta, the right to development is understood as: 1) the right of everyone to participate in the development, regardless of its nature; 2) to manage natural wealth and resources within a framework of self-determination; 3) collectively on the individual as well as collectively on the community to promote and protect an appropriate political, social and economic order for development [3] (p. 8).

Another view argues that the right to development is a collective right [9] (p. 18). However, this view does not recognise its interdependence with individual civil, political and socio-economic rights. A holistic approach is therefore needed to distinguish the substantive content of the right to development. Generally, the Declaration on the Right to Development reflects such a holistic approach. It takes into account both the conflicting rights of people and the individual right to development [15] (p. 88). Nevertheless, it is argued that the right to development has no binding effect on states and should, therefore be categorised as soft law [3] (p. 11).

Over the past two decades, it was persistently sought to enshrine the right to development in a separate new convention, or at least in an international legally binding standard [15] (p. 89). The adoption of the 1986 Declaration was landmark, with many states disagreeing with the text of the document

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<sup>8</sup> Ibid, article 1.

(Source) However, consensus was first reached at the World Conference on Human Rights in Vienna in 1993, where the right to development was described as "an integral part of fundamental human rights" and human rights were reaffirmed as interdependent, indivisible, and mutually reinforcing<sup>9</sup>.

Industrialised and developing countries had thereby committed themselves to the right to development. The right to development is an integral part of international human rights protection. Nevertheless, its scope and content remain controversial.

### ***2.2.2 Structural Intrinsicity and Shortcomings of Right to Development***

The right to development is closely linked to the principles of human rights. Nevertheless, states cannot guarantee all human rights gradually due to a lack of resources or economic, social, cultural and political reasons. States, therefore, have to continuously improve human rights standards, which requires a right to development of the citizen to be effectively implemented.

The right to development refers to a process of development that aims to achieve the realisation of each human right and all of them together. This process should be carried out according to international human rights standards and in a participatory, non-discriminatory, accountable, and transparent manner. The process should also ensure fairness in decision-making and sharing of the outcomes [17] (pp. 845-846.).

Many authors consider this definition to be tautological and seriously flawed. For example, they argue as follows: "The right-based process of development is precisely the one that produces human rights realisation, and human rights realisation is necessarily based on international human rights standards" [9] (p. 20). A significant criticism and shortcoming of the right to development is that "it is a right about everything and nothing at the same time". For example, Noel G. Villaroman quotes David Beetham as saying that the right to development in literature has "gone beyond its traditional understanding; lost its clear focus; lost its normative force" [9] (p. 18) [22].

However, the right to development can be understood in both broad and narrow legal sense: The right to development, the process of development, and human rights are closely interrelated. At the same time, the development process should be carried out with respect for human rights and freedoms and other necessary conditions. [17] (p. 845-846). Other authors adhere to the same position. So argues Marks S.P.

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<sup>9</sup> World Conference on Human Rights. (1993). Vienna Declaration and Programme of Action. World Conference on Human Rights, para. 10

that “development and human rights are mutually reinforcing strategies for the improvement of human well-being”, hinting at the close connection between the two definitions [5] (p. 169). Therefore, the right to development is the driving force behind the evolution of human rights.

At the same time, demarcation problems can hardly be avoided; as Beetham D. points out, "the more the terminological meaning of the right to development expands to include new aspects of the right, the more difficult it is to determine what aspects of the right are being violated. As it encompasses virtually everything. Also, the responsibility for such violations becomes increasingly vague and imprecise" [22]. This is accompanied by the problem of implementing and realising development [5] (p. 168).

The legal structure of the right to development remains indeterminate. While political and civil rights presuppose a state, process structures are ongoing and cannot be finalised. In particular, the argument that the right to development guarantees purely objective rights has been consolidated in the literature.

The nature of development is not the achievement of a state but the maintenance of the continuous improvement of living conditions by raising minimum human rights standards. This is also confirmed by Nico Shriver's references to the words of Mohammed Bedjaoui, former President of the UN International Court of Justice, that "the right to development is a prerequisite for freedom, progress, justice and creativity" and "the first and last human right, the beginning and the end, the means and the end of human rights" [15] (p. 85).

The right to development creates opportunities for States to ensure human rights and freedoms and create new rights and freedoms for citizens, generating further development.

### **3. REGIONAL APPROACHES TO THE RIGHT TO DEVELOPMENT**

Within the various regional human rights regimes, consider how other civilisations' experience, culture, history, social, political, and economic relations influence the understanding of the right to development and its relationship to human rights and freedoms.

### 3.1. Different Understandings of Human Rights Due to Civilizations Socio-Historical Approach

In recent decades, since the end of the Cold War, a process of legalisation of international agreements has been underway. Nevertheless, economic and political contradictions are fraught, which also impact international law and the protection of human rights. With the 2030 Agenda of Sustainable Development and Rio+20 of the UN Conference on Sustainable Development (hereinafter referred to as the RIO+20 Conference)<sup>10</sup> these adversities within the international economic system should have been overcome. Nevertheless, most developing countries “face unfair foreign trade restrictions, unstable commodity markets, constant changes in interest rates in global financial markets, and weak inflows of foreign investment and technical assistance” [13] (p. 28).

At the stage of drafting the Declaration on the Right to Development, specific differences in the interpretation of certain rights emerged between those States representing different political and religious systems and sociocultural traditions. The voting pool shows 146 States voted in favour (including the Netherlands), one against (USA under the Reagan Administration) and eight abstentions [18] (p. 26).

Three different theories of this outcome of the vote to adopt the Declaration have been noted in the literature: 1) The tense and distrustful relationship of the NATO and Warsaw Pact countries to each other, the confrontation between the socialist bloc countries and the capitalist bloc countries. US distrust of the proposals of “*potentially communist countries*” [3] (p. 8); 2) Suspicion on the part of Western developed countries to the formulation of human rights to development by developing countries. According to that position, developing countries may abuse this right if they fail to provide their people with the necessary opportunities. At the same time, the developed states feared to lose their dominant economic position [15] (pp. 85-86).

It has established an overly broad understanding of the right to development, ranging from its complete negation to the fact that it is an inalienable human right and should be legally binding and central to human rights and freedoms [5] (p. 170).

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<sup>10</sup> UN Conference on Sustainable Development RIO+20. Outcome document “The Future We Want” dated 19 June 2012. A/CONF.216/L.1 // URL: <https://sustainabledevelopment.un.org/rio20>



Moiseev N.N. notes that "the concepts of human rights and human values are closely connected in the minds of people with those features of civilisation to which they belong and which have determined for many hundreds of years the conditions of their existence and behaviour" [6] (pp. 105-106).

The fact that the objectively determined processes of globalisation have not automatically led to the emergence of a universal world culture plays a vital role in the fact that globalisation is essentially Westernisation, i.e. the expansion of the Western model of society, and the adaptation of the world to the needs of this model. In contrast, a significant part of the world's population - above all the Muslim Middle East and Confucian China - lives according to systems other than the Western one.

For example, in the Islamic concept of human rights lie the individual's duties and, above all, his submission to authority. Many authors have observed that "Islamic conceptions of freedom, equality and justice do not coincide in many respects with their European understanding" [12] (p. 37).

In contrast to the Western concept, where the purpose of enshrining human rights is their protection by the state, Muslim jurists consider the state power as an institution linked to Shariah and playing the leading role in the implementation of its prescriptions [16] (pp. 320-321). Therefore, in this paradigm, the state plays the leading role in implementing human rights and freedoms.

Human rights must be interpreted within the historical and cultural context of nations and people, influencing their understanding of such rights. This is especially relevant in the context of globalisation and intercultural exchange between countries.

### **3.2. Regional Legal Regimes on the Right To Development**

Each nation has a different understanding of human rights for historical, social, cultural, economic and political reasons. This applies to the understanding of the right to development.

Moreover, regional unions adopt legislation compatible with their national customs and establish special bodies and mechanisms to protect human and civil rights and freedoms.

Many countries from regional unions participate in BRICS or have applied for this formation. For example, Egypt, Saudi Arabia and Syria have used to participate in BRICS and are members of the Arab Charter of Human Rights. Brazil is a member of BRICS and the American Convention on Human Rights, and the same is the South Africa - African Charter on Human Rights.

Just as we know, the main objective of the BRICS is the reformatting of international relations to increase the influence of new centres of power of "rising" countries [18] (p. 34).

Some scholars indicate that regional defence of human rights has long been unpopular in the UN, for such 'deviant movements' were seen as a threat to the universal protection of human rights because of their low standards. [8] (p. 132). Only after the adoption of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) the UN began to support the idea of regionalism of human rights and freedoms.

The American Convention on Human Rights<sup>11</sup> was adopted in 1979 and is the second implementation of a regional human rights union after the European Convention on Human Rights<sup>12</sup> implemented in 1953. This was followed by the African Charter on Human Rights<sup>13</sup> adopted by the African States in 1981—the Arab Charter of Human Rights<sup>14</sup> in 2008.

In each regional convention, there is a right to development, but it is interpreted differently everywhere. Literature comparing the right to development focuses on the following characteristics: 1) rights holder; 2) obligation holder; 3) active right; 4) objective content [7] [10].

### ***3.2.1. American Convention on Human Rights***

The American Convention on Human Rights was one of the first to be adopted after the European Convention on Human Rights. The progressive right to development is referred to here in Article 26, which is found in Part One on State obligations and protected rights and Section Three on economic, social and cultural rights.

The text of the article on "progressive development" [26] contains the following provision: "The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, to achieve progressively, by legislation or other appropriate means, the full realisation of the rights implicit in the economic, social, educational, scientific,

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<sup>11</sup> Council of Europe. (1950). Convention for the Protection of Human Rights and Fundamental Freedoms. Rome: Council of Europe.

<sup>12</sup> Organization of American States. (1969). American Convention on Human Rights. Treaty Series, No. 36, Organization of American States.

<sup>13</sup> African Union. (1981). African Charter on Human and Peoples' Rights.

<sup>14</sup> League of Arab States. (2004). Arab Charter on Human Rights.

and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires"<sup>15</sup>.

The participating countries focus in the convention on terms such as the obligation of the state party to take measures, both individually and through international cooperation, to fully achieve the realisation of the rights derived from the economic, social, educational, scientific and cultural standards set out in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires (hereinafter OAS Charter).

Based on the definition of the right to development in the Declaration on the Right to Development, which is discussed in paragraph 3.2.1, it can be analysed whether the right to progressive development is similar in meaning to the term right to development. This can be seen in the realisation of social, cultural, and economic standards process. It also indicates that the State party and State parties are obligated to adopt such measures.

As for the active right, or the holder of this right, of development in the political sphere, these categories are not reflected in this norm and refer us to the Charter of the Organisation of American States as amended by the Protocol of Buenos Aires (hereinafter OAS Charter)<sup>16</sup>.

The OAS Charter in Article 17 and Chapter 7 also contains norms on the right to development. Article 17 includes the provision that "the State has the right to develop its cultural, political and economic life freely and naturally", and it also states that the State is obliged to respect the rights of the individual and the principles of universal morality in such development<sup>17</sup>.

Chapter 7 deals with integral development. As the authors note, there are two understandings of the right to development: (1) "Development is a primary responsibility of each country"; (2) Development "should constitute an integral and continuous process for the establishment of a more just economic and social order that will make possible and contribute to the fulfillment of, the individual" (Art. 33) [7] (p. 65)<sup>18</sup>.

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<sup>15</sup> American Convention on Human Rights, article 26.

<sup>16</sup> Organization of American States. (1948). Charter of the Organization of American States.

<sup>17</sup> Ibid, article 17.

<sup>18</sup> Ibid, article 33.

Based on the mentioned, it can be subsumed that an individual's right to development is to be intended by the OAS [7] (p. 69). Instead of portraying holistic development as a means of achieving self-actualisation, it should be perceived as a fundamental right of individuals.

In the case of states, it can be concluded that they have the right to develop their cultural, political, and economic life as stated in Article 17<sup>19</sup>. The system concerning the right to development in this document is rather intricate. The terms "progressive right to development" and "integral right to development" are utilised perplexingly, and there is a dearth of comprehension concerning the specific right holder and the import of the active right.

### ***3.2.2. African Charter on the Human Rights***

The 1981 African Charter on Human and Peoples' Rights (hereinafter African Charter) enshrines the right to development in Article 22<sup>20</sup>.

The first part of this article deals with the subject of the right, the active right. It is reflected as follows: "All peoples have the right to economic, social and cultural development with due respect for their freedom and identity and to enjoy equally the common heritage of mankind".

Accordingly, the subject of the law here is all peoples. "Peoples" is also found in other parts of the treaty, but this category remains undefined in the African Charter. According to the authors, the concept of peoples is used quite clearly here and does not include the right of the individual [10] (p. 57).

The components of the right to development are economic, social and cultural development. The active right of peoples is to "enjoy equally the common heritage of mankind".

The second part of the article refers to the obligation holder: "States have an obligation, individually or collectively, to ensure the realisation of the right to development". It is easy enough to deduce from it that the obligation holder is a State (individually or collectively). The authors emphasise that the collective obligation includes only parties to the Charter [10] (p. 59).

The authors of the articles also emphasise that the African Charter does not make the availability of resources to an actor conditional on responsibility. This is often an even more significant economic, social and political loss to the State party [10] (p. 61). The authors believe it is necessary to slow down

<sup>19</sup> Ibid, article 17.

<sup>20</sup> African Charter on Human and Peoples' Rights, article 22.

the process and realise the right to development gradually so that it does not turn against itself. Ensuring a state's capacity to implement the right to development is a crucial step in preventing economic crises and upholding accountability. Failure to adequately test this capacity may lead to undesirable outcomes, such as the inability to realise this fundamental right.

### *3.2.3. Arab Charter on the Human Rights*

The Arab Charter on Human Rights is considered the youngest instrument in this field, adopted in 2008 (hereinafter ACHR). As reflected in other conventions, the ACHR also has its particularities.

The right to development is specified here in Article 37 of the ACHR<sup>21</sup>. This norm is one of the most detailed to date. The first two sentences of this article state that "The right to development is a fundamental human right and all States are required to establish the development policies and to take the measures needed to guarantee this right. They must give effect to the values of solidarity and cooperation among them and at the international level to eradicate poverty and achieve economic, social, cultural and political development".

The first thing that strikes one is the reference to the right to development as a fundamental human right. Even from this sentence, we can deduce that the right holder is "All States". The components of the right to development are economic, social, and political development and the goal of poverty eradication.

Here, as in the African Charter, it is not stated that the responsibility of the State should depend on the availability of the necessary resources. This may also complicate the realisation of the right to development.

The second part already states that "... every citizen has the right to participate in the realisation of development and to enjoy the benefits and fruits thereof". The right holder is a citizen of a member state. In this Charter, the term citizen appears quite often and does not have a specific definition. If we analyse the treaty for other subjects, we will see that there are such subjects as "peoples", "human beings", and "individuals". However, the tr has deliberately used a narrowed subject composition. Compared to other regional agreements, it is somewhat reduced.

The ACHR also specifies an active right to "participate in the realisation of development" and "enjoy the benefits and fruits thereof". There are still uncertainties with the realisation of the right to

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<sup>21</sup> League of Arab States. (2004). Arab Charter on Human Rights, article 37.

development, and they are also related to regional peculiarities of historical and socio-economic development.

### ***3.2.4. Results of Analysis of The Right To Development from Regional Conventions***

The right to development is considered an inalienable human right that entitles all human persons and peoples to participate in, contribute to, and enjoy economic, social, cultural, and political development. It is closely linked with other human rights and enables their full realisation.

The broad nature of the right has led to criticism that it tries to cover too much ground and lacks specificity on how development should be achieved. There is ambiguity around subjects, content, and responsibilities.

Regional human rights regimes have incorporated the right to development but show differences in interpretation: 1) The American Convention focuses more on state responsibilities and ties it to existing OAS principles. The subject and content are not clearly defined; 2) The African Charter specifies "peoples" as the subject and shows obligation is on states individually/collectively. Does not condition responsibility on resources; 3) The Arab Charter also does not drill responsibility on resources but specifies citizens as the critical subject and their rights to participate and benefit.

In summary, while some common elements exist, there remains ambiguity and regional differences around subjects, content, responsibilities, and implementation of the Right to Development.

## **4. BRICS – HUMAN RIGHTS CONCEPT**

Under the title "*BRICS and Africa: Partnership for Mutually Accelerated Growth, Sustainable Development and Inclusive Multilateralism*", the state cooperation BRICS presents a comprehensive development concept.<sup>22</sup> Therein, the member states are committed to the protection of human rights, including the right to development:

*We agree to continue to treat all human rights, including the right to development, in a fair and equal manner, on the same footing and with the same emphasis. [...] We reaffirm our commitment to ensuring the promotion and protection of democracy, human rights and fundamental freedoms for all with*

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<sup>22</sup> BRICS, XV BRICS Summit, Johannesburg II Declaration, 23.8.2023, para. 2.

*the aim to build a brighter shared future for the international community based on mutually beneficial cooperation.*<sup>23</sup>

By emphasising the right to development as a human right, different questions arise about the understanding of human rights and development and a possible nexus of both in the legal understanding of BRICS.

#### **4.1. Methodology of the BRICS development concept**

The BRICS cooperation of states is not an international organisation under international law. Based on the informal political consultations of the G7 and G20, BRICS coordinates policies in various fields. The annual rotating *pro tempore* presidencies set political priorities, negotiated at the joint summits of the heads of state and government. The BRICS Summits end with a declaration that serves as a joint agreement on the political, economic and strategic objectives of BRICS cooperation under the respective presidency.

The BRICS have adopted implementation frameworks adapted to the various policy areas to realise the goals set in the declarations. The BRICS members undertake to realise these goals, while preserving their national sovereignty. Separate implementation guidelines are provided for the various goals. The BRICS have *defined* this implementation process as a *determination to jointly address new global challenges, including macroeconomic shocks and financial volatility, and draw up a positive, balanced, and clear economic agenda, including intra-BRICS cooperation.*<sup>24</sup>

Although BRICS is a loose association of states, the first structural elements that could promote future institutionalised strengthening can be identified. The focus is on the development path across various political and social domains.<sup>25</sup> To this end, the states use the instrument of the Summit Declaration to set themselves political goals to be realised with the help of the implementation and strategy frameworks.

#### **4.2. BRICS Human Rights Perspective**

The BRICS are committed to the promotion and protection of human rights and fundamental rights as part of *the Partnership for Inclusive Multilateralism* under the international system of the UN.<sup>26</sup>

<sup>23</sup> *ibidem*, para. 6.

<sup>24</sup> BRICS, Strategy for BRICS Economic Partnership 2025, November 2020, available: <http://www.brics.utoronto.ca/docs/2020-strategy.html>

<sup>25</sup> cf. Fn. 21, Partnership for Mutually Accelerated Growth, para. 26-51.

<sup>26</sup> *ibidem*, para. 3.

Concerning the goals of the UN Charter, BRICS refers to Art. 1 No. 2, 3, in which the respect for the principle of equal rights and self-determination of peoples and human rights and for fundamental freedoms is enshrined. By strengthening the UN General Assembly and the Human Rights Council as well as multilateral fora, human rights are to be strengthened in a non-selective, non-politicized and constructive manner.<sup>27</sup> The BRICS thus want to counter the possible instrumentalisation of human rights, which is described as the prevention of double standards.

By referring to the UN system, regional systems and the national level, the BRICS adopt a multidimensional human rights approach and commit themselves to a universal understanding of human rights. Consequently, the member states agreed that all human rights, including the right to development, should be promoted and protected in a fair and equal manner, on the same basis and with the same emphasis.<sup>28</sup>

Except for the UN international system, the BRICS do not make any reference to existing human rights regimes. Given the different levels of ratification between the member states, this leads to factual questions of determination. Since the BRICS have agreed to treat human rights with equal emphasis based on inclusive multilateralism, it can be assumed that all member states' human rights treaties signed and ratified will be considered.<sup>29</sup> Particularly noteworthy are<sup>30</sup> International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women and Convention on the Rights of Persons with Disabilities as well as customary international human rights law.

Furthermore, the BRICS states have agreed to recognise the right to development as a human right. This recognition took place at the XIII BRICS Summit in New Delhi<sup>31</sup>. Since then, the human rights passage has been adopted in unchanged form in the Beijing<sup>32</sup> and Johannesburg II Declarations. The human rights passage was placed in front of the specific policy areas for the first time at the XV BRICS Summit. It is thus closely linked to the development agenda pursued by the BRICS and therefore has a concretising character about policy goals.

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<sup>27</sup> *ibidem*.

<sup>28</sup> *ibidem*, para. 6.

<sup>29</sup> *Ibidem*.

<sup>30</sup> Ratification status of Brazil, Russia, India, China and South Africa available: OHCHR Dashboard, [https://indicators.ohchr.org \[4.12.2023\]](https://indicators.ohchr.org [4.12.2023]).

<sup>31</sup> BRICS, XIII BRICS Summit: New Delhi Declaration, 9.11.2021, para. 49.

<sup>32</sup> BRICS, XVI BRICS Summit Beijing Declaration, 23.06.2022, para. 9.



### 4.3. BRICS Development Concept

BRCIS formulates development goals whose implementation is aimed at building a "brighter shared future for the international community". The following section describes the BRICS development concept, how it is to be implemented, and the concept of a brighter shared future for the international community.

#### 4.3.1. BRICS development terminology

The word *development* is used 78 times in the Johannesburg Declaration in substantive form. The most frequent combination occurs 21 times as with the adjective "sustainable". Sustainable development has been defined as three-dimensional by the BRICS since the Brazilia Declaration concerning the UN Sustainable Development Goals 2030 Agenda for Sustainable Development.<sup>33</sup> According to this, development should encompass economic, social and cultural fields.

The 2030 Agenda for Sustainable Development<sup>34</sup> sets out 17 goals and 169 targets aimed at achieving a comprehensive improvement in the global basis of life. These goals range from social, political and economic areas to multifaceted environmental protection. This broad concept of development has two characterisations: 1. universality, which is aimed at the comprehensive development of humanity, and 2. sustainability, which is aimed at the sustainable development of humanity [21].

Sustainable development is specified within the framework of the BRICS concept concerning workers' rights and the achievement of social justice.<sup>35</sup> First and foremost is the fight against child labour and improving the quality of work. Workers should develop skills to ensure resilient recovery, gender-responsive employment and social protection policies, including workers' rights.<sup>36</sup> To improve access to relevant and quality skills for workers in the informal economy and workers in new forms of employment.

The reference to the 2023 Agenda is supplemented by another BRICS-specific development program. In the Johannesburg II Declaration, the *Partnership for Mutually Accelerated Growth* section

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<sup>33</sup> Fn. 21, para. 31, 52.

<sup>34</sup> United Nations (2015). A/RES/70/1. Resolution adopted by the General Assembly on 25.9.2015, Transforming our world: the 2030 Agenda for Sustainable Development.

<sup>35</sup> Fn. 21, para. 39.

<sup>36</sup> *ibidem*, para. 38

lists various policy areas under the BRICS development agenda. In light of the experience of the COVID-19 pandemic, the focus is on the recovery of the global economy and pandemic prevention.<sup>37</sup>

The BRICS want to concentrate their efforts on the following non-exhaustive areas: poverty and hunger reduction, access to energy, water and food, fuel, fertilisers, health services, as well as mitigating and adapting to the impact of climate change, education, health as well as pandemic prevention, preparedness and response.<sup>38</sup>

BRICS also addresses industry and micro, small and medium-sized enterprises (MSMEs).<sup>39</sup> Not as a means of realising development goals, but also as a development goal, eliminating constraints such as lack of easily accessible information and financing, skills shortage and network effects.<sup>40</sup> The application of development measures to industry should lead to the overcoming of social, economic and structural imbalances. To this end, women, young people and older people should be involved in the economic process.<sup>41</sup>

In the area of finance, long-term financial stability, robust creditor rating and preferred creditor status are to be achieved. This area, which is aimed at the development of international structures, has no internal development orientation. The BRICS have formulated national and international development goals for all policy areas. The focus here is on strengthening multilateralism and existing international organisations.<sup>42</sup>

### ***3.3.2. Development Implementation***

The Johannesburg II Declaration can be derived from a matrix of five development areas: Finance,<sup>43</sup> Macroeconomics<sup>44</sup>, Agriculture<sup>45</sup>, Trade<sup>46</sup>, and Digital Technology<sup>47</sup>. Based on this, topic-specific frameworks have been developed to determine implementation principles.

<sup>37</sup> *ibidem*, para. 26.

<sup>38</sup> *ibidem*, para. 28.

<sup>39</sup> *ibidem*, para. 36.

<sup>40</sup> *ibidem*, para. 37.

<sup>41</sup> *ibidem*, para. 38.

<sup>42</sup> *ibidem*, para. 3.

<sup>43</sup> *ibidem*, para. 27.

<sup>44</sup> *ibidem*, para. 28-31.

<sup>45</sup> *ibidem*, para. 32.

<sup>46</sup> *ibidem*, para. 33.

<sup>47</sup> *ibidem*, para. 33,36.

The BRICS are focusing on macroeconomic measures. The aim is to promote MSMEs and strengthen intra-BRICS investments and trade as well as science, technology and innovation capabilities.<sup>48</sup> A key focus here is on digital transformation, which should reach all areas, from business and education to administration. In addition to traditional areas such as road construction and urban development, the expansion of infrastructure also includes social infrastructure.<sup>49</sup> The improvement of healthcare is closely linked to the fight against the pandemic and health research. The expansion of technological capabilities is to be achieved through the promotion of science.<sup>50</sup>

As part of *The Strategy for BRICS Economic Partnership*, the BRICS countries want to grant each other simplified market access and strengthen economic exchange. Furthermore, the business conditions for market participants from BRICS countries are to be improved. The improvement of poly-lateral relations will significantly serve to combat poverty.<sup>51</sup> The BRICS consider the national, regional and international levels of economic development. In the area of trade, intra-BRICS exchange should be strengthened, and any form of protectionism should be avoided in accordance with WTO rules.<sup>52</sup>

The BRICS attaches great importance to food security. Measures are to be introduced to ensure the production and processing of agricultural products. In the *Implementation Framework Action Plan 2021-2024 for Agricultural Cooperation of BRICS Countries*, these measures are expanded to include securing food supply, combating hunger, and protecting biodiversity and the climate.<sup>53</sup> In addition to improving supply chains, the BRICS are focusing on investments in biological and ecological production conditions, which should consider the changing conditions in the context of climate change on the one hand and promote sustainable production conditions on the other.<sup>54</sup>

Implementing the development goals for the financial sector relates to the framework of measures of the G20 Common Framework for Debt Treatment.<sup>55</sup> To this end, financing security is to be achieved

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<sup>48</sup> *ibidem*, para. 3.

<sup>49</sup> *ibidem*, para. 48

<sup>50</sup> Fn. 24.

<sup>51</sup> *ibidem*, Ch. III.

<sup>52</sup> *ibidem*, Ch. Implementation; BRICS, BRICS Framework for Cooperation in Trade and Services, 2016, available:

<https://brics2023.gov.za/wp-content/uploads/2023/07/BRICS-Framework-for-Cooperation-in-Trade-in-Professional-Services-2021.pdf> [4.12.2023].

<sup>53</sup> BRICS, XII BRICS Summit in Russia Action Plan 2021-2024 for Agricultural Cooperation of BRICS Countries, Preamble, available: <http://www.brics.utoronto.ca/docs/210827-agriculture-action-plan.pdf> [4.12.2023].

<sup>54</sup> *ibidem*.

<sup>55</sup> Fn. 21, para. 27.

by creating a Multilateral Development Bank. This will be supplemented by strengthening international financial situations and improved crisis prevention systems.

### 3.3.3. *Development Perspective*

The expansion and defence of human rights aim to create a shared future for the international community based on mutually beneficial cooperation. The BRICS declarations and documents do not provide any further explanation of this concept.

The concept of *a global community of shared future* was first introduced in Chinese President Xi Jinping's speech at the Moscow State Institute of International Relations, which was elaborated on at the 70th session of the UN General Assembly in 2015. In it, President Xi outlined an international order based on peace through dialogue and consultation, common security and prosperity through win-win cooperation, mutual exchange and learning, and a clean and beautiful world through CO2 reduction. These ideas of reforming the international order should also encompass economic and social reorientation areas. Through a new type of economic globalization, the People's Republic of China aims to narrow the gap between rich and poor, between developing and developed countries and within developed countries.

This principle, which is anchored in Chinese human rights thinking, goes back to Deng Xiaoping's theory "Development is the absolute principle" [20] (p. 5). According to Oud M.: "The right to development has been a centrepiece of official Chinese human rights policy ever since China issued its first white paper on human rights in 1991" [11] (p. 70). Also, many authors putting our attention that from 1991, Chiha stated that "development is a top priority". China has formed a complete set of new development theory systems; namely, it adheres to the five new development concepts of innovation, coordination, ecology, openness and sharing to provide sufficient motivation to improve human rights potential continuously. China uses the right to development in international human rights law to promote its idea of multilateralism centred on states' rights, not only concerning economic development but increasingly to "political development".

The milestone of the global community is the creation of a global civilisation. From China's perspective, this should consist of four components: Respect for diversity, advocacy of shared values of humanity, advocacy of the importance of continuity and evolution of civilisations, and advocacy of closer people-to-people exchanges and cooperation.

Therefore, the peaceful interaction of different civilisations can only be achieved and guaranteed through a comprehensive development dynamic. In this concept, development is not synonymous with the international right to development. The understanding of development goes beyond the scope of human rights. It becomes the guiding principle of international law and, thus, of civilizational development.

#### **3.3.4. Interim conclusion**

The BRICS are committed to the promotion and protection of human rights based on economic development. From the Johannesburg II Declarations and Implementation Framework, a concept of development is to be derived that should cover multidimensional national, intra-BRICS and international areas. The right to development is realised through economic measures and intergovernmental cooperation. These measures are aimed at strengthening social, economic, cultural and collective human rights, particularly about a clean and healthy environment. The implementation of the law is to be achieved through economic measures. It is not determinable from the BRICS documentation whether subjective rights are to arise from the right to development. From the development perspective, the BRICS represents a global community of shared futures in a model that understands the right to development as a prerequisite but goes beyond human rights. It has been demonstrated that development should extend to the strengthening and further development of international organisations and cooperation.

### **5. HUMAN RIGHT TO DEVELOPMENT OR DEVELOPMENT AS HUMAN RIGHT**

The right to development is an elementary component of international and regional human rights protection. Since the Declaration on the Right to Development, both the World Conference on Human Rights in its Vienna Declaration of 1993 and the United Nations with the 2030 Agenda for Sustainable Development and Rio+20 have recognised the right to development. Accordingly, development is a human rights paradigm, which is the prerequisite for developing human rights for all. Regardless of whether human rights justify subjective claims or which dimensions they are assigned to, development is related to the areas of participation, economy, social affairs, culture and politics.

The right to development can also be found in the regional human rights regimes discussed here, to which the member states of the BRICS or their future members belong and to which they have committed themselves. Using the example of the American Convention on Human Rights, it was possible to show that subjective rights can arise from the right to development.

As a co-operation of states, the BRICS is in itself a development project; consequently, its members states have committed themselves to the right to development. Therefore, the BRICS have set themselves goals and implementation steps to drive development forward. This development concept is based on a holistic approach that requires national, regional and international cooperation.

Nevertheless, the development approach of BRICS and the international right to development are not consistent. In their development concept, the BRICS include economic, social and collective rights and, in particular, environmental rights. Although civil and political rights are not excluded, they could not be given equal consideration in the BRICS declarations and frameworks. Based on the understanding, the right to development is determined simultaneously as a human right and a right *suis generis*. In this regard, Development is an engine that develops the entire international order in and of itself.

About the realisation of development, the BRICS places considerable emphasis on economic implementation processes. Development is generated by initiating economic processes. The BRICS, therefore, represents a right to economic development, a prerequisite for overall development and thus for the protection of human rights. For the BRICS, the right to development is a prerequisite for human rights. However, no direct right can be derived from the development at present.

The right to development needs to be reassessed in the context of international human rights protection.

## REFERENCES

- [1] Aksenov, A. B. (2018). The Universal Declaration of Human Rights and the problem of universalisation of human rights. *Vestnik of Economics, Law and Sociology*, 1(1), 59-62.
- [2] Alston, P. (1988). Making Space For New Human Rights: The Case Of Right To Development. *Harvard Human Rights Year Book*, 1(4), pp. 14.
- [3] Felix Kirchmeier. (2006). The Right to Development: where do we stand? *Dialogue on Globalisation*, 23 (July), pp. 28
- [4] Ghai, Y. (2001). Human Rights and Social Development Toward Democratization and Social Justice. *Democracy, Governance and Human Rights Programme Paper*, 5 (October), pp 55.
- [5] Marks, S. P. (2010). Human rights and development. In S. Joseph & A. McBeth (Eds.), *Research Handbook on International Human Rights Law* (p. 167-195).
- [6] Moiseev, N.N. (1998). The Fate of Civilisation. The Path of Reason. MNEPU. pp. 228.

- [7] Negro, D.M. (2008). Article 17 and Chapter VII of the revised OAS Charter and relevant experience of OAS institutions. In S.P. Marks (Ed.), *Implementing the Right to Development, The Role of International Law* (pp. 64-71).
- [8] Pavel, N. A. C. (2022). THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS AS THE MOST SIGNIFICANT HUMAN RIGHTS INSTRUMENT IN AFRICA: DEVELOPMENT HISTORY. *International Journal of Humanities and Natural Sciences*, 4-3 (67), 132-137. DOI:10.24412/2500-1000-2022-4-3-132-137.
- [9] Villaroman, N. G. (2011). Rescuing A Troubled Concept: An Alternative View of The Right to Development. *Netherlands Quarterly of Human Rights*, 29(1), 13–53.
- [10] Okafor, O.C. (2008). “Righting” the Right to Development: A Socio-Legal Analysis of Article 22 of the African Charter on Human and Peoples’ Rights. In S.P. Marks (Ed.), *Implementing the Right to Development, The Role of International Law* (pp. 52-63).
- [11] Oud, M. (2020). Harmonic Convergence: China and the Right to Development. *The National Bureau of Asian Research, NBR Special Report #87*, P. 69-84.
- [12] Polenina, S.V. (2008). The problem of national-cultural identity in the light of the interaction of legal systems of modernity. *State and Law*, (1), 37-43.
- [13] Pomazan, A.S. (2015.) International legal regulation of assistance to developing countries in the system of international economic relations. *Journal of the Higher School of Economics*, No. 3, P. 27-41.
- [14] Saalaev, O. (2016). Human rights and the history of their development. *Problems of modern science and education*, 162-165.
- [15] Schrijver, N. (2020). A new Convention on the human right to development: Putting the cart before the horse? *Netherlands Quarterly of Human Rights*, 38(2), 84-93. doi:10.1177/0924051920924547.
- [16] Syukiyainen, L.R. (2002). Islamic concept of human rights. In E.A. Lukasheva (Ed.), *Human Rights: results of the century, trends, prospects*, P. 448. (pp. 320-321).
- [17] Sengupta A. (2002). On the Theory and Practice of the Right to Development. *Human Rights Quarterly*, Vol. 24, No. 4, Pp. 837–889.
- [18] Rivers, L. (2015). The BRICS and the Global Human Rights Regime: Is An Alternative Norms Regime in Our Future? *Honors Theses*, 383. <https://digitalworks.union.edu/theses/383>.
- [19] Vandenbogaerde, A. (2013). The Right to Development in International Human Rights Law: A Call For Its Dissolution. *Netherlands Quarterly of Human Rights*, 31(2), 187-209.
- [20] Wang, X. (2023). Evolution and Prospect of How Development has Contributed to the Enjoyment of All Human Rights. In *ASIA AND THE PACIFIC REGIONAL SEMINAR Contribution of Development to the Enjoyment of all Human Rights*. Pp. 1-7.
- [21] Luo, Y. (2017). The 2030 agenda for sustainable development sets action targets for realizing the right to development in the new era. *Journal of Human Rights*, 16(1), pp. 24-29.
- [22] Beetham, D. (2017). *The Right to Development and Its Corresponding Obligations*. In *Development Ethics*, pp 283-299. Routledge.

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