

“Under the Aegis of Man”: The Right to Development and the Origins of the New International Economic Order

On September 23, 1966, the Senegalese foreign minister Doudou Thiam gave an impassioned speech to fellow delegates assembled in New York for the opening of the 21st Session of the United Nations General Assembly.¹ It began as a reflection on the preceding twenty years of UN history. Despite some modest progress that the UN had achieved in meeting its three primary objectives—the maintenance of peace; the liberation of colonized peoples; and the economic and social development of mankind—this period was more notably exemplified by failures and setbacks: the war in Southeast Asia; the failure of decolonization in Southern Rhodesia and South Africa; and the failure to meet the goals of the UN’s first “Development Decade.”²

It was on this third point that Thiam ruminated for the remainder of his speech. The achievement of political and legal sovereignty by newly decolonized states did not resolve the existing imbalance of power between the developing and developed worlds. Thiam cited growing inequality in the share of global income between developed and underdeveloped countries: in 1938, the income disparity was 15:1; by 1966 it was 35:1, and projected to be 40:1 by 2000.

Thiam insisted that this phenomenon of underdevelopment was not determined by geography or race; it was mobile, moving about in time and space. Western prosperity vis-à-vis the Middle East, India, and China was historically recent, and the so-called poor nations were not as poor as they were said to be: in 1963 they held 50 percent of the world’s petroleum, nearly half the copper and manganese ore, and 70 percent of the world’s diamonds. The same was true of their share of agricultural commodities.

The problem, Thiam argued, lay in the inequitable international division of labor and deterioration in the terms of trade since 1950. In the postwar global economy, the underdeveloped countries had taken on the role of producers of raw materials and importers of finished goods: “In theory, the old colonial pact was doubtlessly abolished at the end of the last century, but in practice it has been maintained for a long time . . . An actual pillage of the developing countries has been organized on a world-wide scale.”³

Thiam called upon developing countries to act: the time had come to organize an “economic Bandung Conference”—a reference to the 1955 Afro-Asian summit that exemplified a newly emerging spirit of postcolonial unity and solidarity. The last part of Thiam’s speech is worth reproducing in its entirety, for it introduced a novel and revolutionary concept:

What is our task? We must lay the foundations for a new world society; we must bring about a new revolution; we must tear down all the practices, institutions and rules on which international economic relations are based, in so far as these practices, institutions and rules sanction injustice and exploitation and maintain the unjustified domination of a minority over the majority of men. Not only must we reaffirm our *right to development*, but we must also take the steps which will enable this right to become a reality. We must build a new system, based not only on the theoretical affirmation of the sacred rights of peoples and nations but on the actual enjoyment of these rights. The right of peoples to self-determination, the sovereign equality of peoples, international solidarity—all these will remain empty words, and, forgive me for saying so, hypocritical words, until relations between nations are viewed in the light of economic and social facts. From this point of view, the facts contradict the principles. The new world vision which the Charter of the United Nations held out to us is still only a vision. It has not yet become an international reality. The economic Bandung Conference that we are proposing should enable us to formulate a new world economic charter. We shall attend, not in order to present a list of complaints, but to demand and claim what is ours, or, more precisely, what is due to man, whatever his nationality, his race or his religion. We must define a new revolutionary attitude which, starting with the somber realities of today, will guide us toward realities that are more in keeping with the ethics of the United Nations. This means that the Bandung we are proposing will not be a Bandung of hatred; it will be a Bandung of justice, balance and reason; it will be a Bandung held under the aegis of man.⁴

Thiam's speech was the first official articulation of the concept of the "right to development" in the history of the United Nations. The language of rights is closely tied to demands for justice: in the case of the right to development, economic justice. Pleas for global economic justice began to gain traction in the late 1950s; they rose to the level of a "demand" by the mid-1970s, expressed in the Declaration on the Establishment of the New International Economic Order, its accompanying Program of Action, and their companion, the Charter of the Economic Rights and Duties of States (CERDS), all of which the United Nations adopted with overwhelming majority (indeed lopsided) votes in 1974.⁵ This essay explores the normative origins of the NIEO and especially CERDS, as they first appeared in the form of the "right to development." It will explore the emergence of the rhetoric, how it was deployed, and how it eventually transformed into what I would argue was a milder "demand" for a new charter of economic rights and duties of states.

Paradoxically, while the right to development rhetoric grew and gained more adherents during various United Nations Conference on Trade and Development (UNCTAD) summits, outcome documents from those meetings failed to embrace its principles in any robust fashion. By the early 1970s, advocates for the right to development were insisting upon its legal basis. But the NIEO and CERDS were largely devoid of normative, humanitarian rhetoric or principle. At the same time, just as the right to development gave way to the somewhat staid and boring sphere of international negotiations over trade and development, the idea of a right to development

“jumped the tracks” from the NIEO process into the very willing arms of the UN’s Commission on Human Rights, where it was embraced with enthusiasm in the late 1970s. This essay focuses primarily on the first part of this story.

The NIEO and CERDS were the culmination of nearly twenty years of conference diplomacy spearheaded by newly independent postcolonial states (organized into the “Group of 77”) that exerted their emerging majority power in the UN system to fundamentally transform what they viewed as the unjust global trading and development order. The right to development—which was very closely associated with the right to self-determination and its economic constituent, the right to permanent sovereignty over natural resources—had animated many within the G-77, shaping its economic goals throughout the 1960s and early 1970s. The final resting place of this strand of the “right to development” was the 1974 Charter on the Economic Rights and Duties of States.

Preludes

Most historical accounts of the right to development locate its key origin in an inaugural lecture given by the Senegalese jurist Kéba M’Baye to the International Institute for Human Rights (Strasbourg, France) in 1972 and then jump to the “reiteration” of the right by the Commission on Human Rights in 1979, starting a process which eventually culminated in the 1986 UN Declaration on the Right to Development.⁶ Some of the very early literature on the right to development fills out the story a bit more, but most accounts largely dispense with historical questions and begin with the formation of the Working Group on the Right to Development in 1981.⁷

On its face, this is not surprising, given that the original “right to development” was clearly *not* a human right (indeed, some argue that the contemporary version fails on that score as well).⁸ As articulated by Doudou Thiam in 1966, the right to development was framed within an emerging postcolonial critique of the dominant strand of development thinking after World War II—“modernization theory”—which was first fully articulated in W.W. Rostow’s “take-off” model of economic growth published in 1960.⁹ This development paradigm, in which national economies pass through various stages—from preindustrial “traditional” society toward high-consumption, fully industrialized modernization—was challenged by many Third World states that were influenced by dependency theorists (such as Raúl Prebisch, who was UNCTAD secretary-general from 1963 to 1969). Dependency theory maintained that declining terms of trade thwarted developing countries from moving out of production and trade of primary goods. While critical of this dominant development model, challengers nevertheless still subscribed to the notion that trade was the primary engine of development, a stance that remained a centerpiece of development policy throughout this period (as, indeed, it continues to be today). It was a central goal of the NIEO to fundamentally alter this trade model—not to replace it.

As a matter of justice, a fundamental root of the right to development (and, incidentally, its link to human rights) was the right to self-determination. While this “right” appears in many foundational constitutional documents of the postwar international order (especially the UN Charter), it was the identical articulation of the

right to self-determination as Article 1 of the two human rights Covenants that clearly defined the scope and content of the right:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Including the right to self-determination in the Covenants was difficult. In 1954, the Commission on Human Rights had proposed language on this right, but after handing off the draft Covenants to the General Assembly, its Third Committee spent two years debating its scope and content—or whether it should be included as a *human* right at all.¹⁰ By 1956, the final draft article was approved, but discussions continued about how the right could be realized and/or enforced, especially in its economic instantiation: the right to “permanent sovereignty over natural resources.” Chile in particular was obsessed with this issue and took the lead in the Commission on Human Rights to urge the UN to further elaborate the scope and content of this right.

In 1959, the UN General Assembly established a nine-country Commission on Permanent Sovereignty over Natural Resources (PSONR) to study the issue.¹¹ It met in three sessions from 1959 to 1961. Its first session outlined the scope of a study to be prepared by the Secretariat, with a wide range of views expressed. Chile was most interested in the issue as it related to resource extraction—it wanted sovereign control over its precious copper resources but acknowledged the need for outside technical assistance and cooperation to do so. The USSR believed the Commission should report and uncover violations of the right as evidence of “neocolonialism.” Western states were concerned about nationalization against the dictates of international law. The Secretariat’s report was discussed and debated during the Commission’s second session, and the Commission suggested further revisions.¹² Deliberations at the third session led to the draft resolution on PSONR that was adopted by the UN General Assembly in December 1962.¹³ While not formally considered to be a “Declaration,” the resolution does declare certain principles with respect to various aspects of the right and how it should be interpreted, while not actually defining the right’s scope or content. The resolution does not outline any specific obligations (beyond respecting the right itself), nor does it establish any machinery to monitor the right. Its language is straightforward, sober, and fairly technical—it does not cite ongoing colonialism, exploitation, or injustice as animating its goals or content.

Another key genealogical root (perhaps the first) in the establishment of a common Third World stance on development policy was the 1962 Conference on the Problems

of Economic Development, held in Cairo. The “Cairo Declaration of Developing Countries,” issued at the end of the Conference, was subsequently endorsed by the UN General Assembly.¹⁴ The basic seeds of the NIEO program are featured in the Declaration, albeit the tone of the document is quite sober, as was the rhetoric on display at the Conference.¹⁵ Dominating the deliberations were the international obstacles to “development,” with many delegations preferring the phrase “underdeveloped countries” to “developing countries” to underscore the idea that structural obstacles were thwarting the process of development itself. The Conference records reflect the human impact of underdevelopment: some Head-of-Delegation speeches are peppered with references to poverty, human dignity, and the well-being of people—language that would all but disappear by the time the NIEO and CERDS were adopted in 1974. The Cairo Conference was instrumental in the UN’s decision to establish the Conference on Trade and Development (UNCTAD), which held its first summit in Geneva in 1964.

The Right to Development Emerges: The Algiers Summit and UNCTAD II

Doudou Thiam’s “right to development” speech in the General Assembly in 1966 came as frustration grew over the failure of the international community to meet the goals established by the resolution declaring the 1960s as the UN’s “Development Decade” and the trade commitments (as modest as they were) that were hammered out in Geneva two years earlier.¹⁶ In October 1967, the Group of 77 held its first Ministerial Meeting in Algiers to chart a common agenda in advance of UNCTAD II, which would be held in New Delhi the following year. Many of the discussions revolved around the attitude the G-77 should take relative to the developed countries, especially about trade, aid, and development assistance. The summary records indicate a fairly large divide about these questions. Most of the statements were sober about the agenda, sticking largely to technical trade-related issues that they believed the G-77 should emphasize. Others offered their unvarnished views about the power struggles between the developed and developing worlds—Algeria’s Houari Boumediene was a notable archetype:

While the imperialist powers kept wars going on in various parts of the Third World [for example, Vietnam] . . . the colonialists and segregationist regimes kept up a relentless struggle against those countries which had not yet attained their independence . . . By their violent reaction, the imperialist and neo-colonialist countries had betrayed their fears lest the peoples of the Third World should decide their own economic future and achieve development based on genuine social justice. Those countries were mobilizing vast resources in order to entrench their political and economic dictatorship through regional agreements [i.e., the European Economic Community] concluded at the developing countries’ expense.¹⁷

Although less strident, Nigeria agreed that developing countries should not “fall over one another to invite the neo-colonialists to come to their territories to preside over their fortunes.” Doing so would only allow “poverty, ignorance, and disease” to persist.¹⁸

Others disagreed. Ethiopia believed the purposes of UNCTAD II should not be misunderstood as “involving the compilation of unreasonable demands to be forced upon the advanced countries.”¹⁹ Morocco urged the G-77 not to go to New Delhi as “beggars or accusers but as interlocutors fully aware of their own position”; they should not go there to “wring money” out of the developed countries.²⁰ F. Ribeiro-Ayeh of Ghana acknowledged that while there had been colonial exploitation in the past, the G-77 needed a unified, solutions-based approach to their negotiations with the developed world, achieved through “objective examination” rather than confrontation, “which was usually characterized by impulsive attacks and apportionment of blame.”²¹ While Ribeiro-Ayeh agreed that developed countries needed to make concessions in the spirit of mutual cooperation, the G-77 needed to make reasonable and practical requests that took into account the real interests of those from whom “sympathy and concessions” were sought:

In the past, some developing countries had adopted the attitude that because the developed countries had exploited their ancestors, they were obliged to return some part of the spoils to the developing countries. That was tantamount to a demand for the payment of conscience money . . . that was no longer a realistic approach to the problem. It would be better [for the developing countries] to make great efforts to catch up . . . with the developed countries instead of approaching them hat in hand.²²

In between the firebrands and the conciliators were other sharp yet somewhat circumspect positions. Concerning the duties and obligations of the developed countries toward the Third World, especially with regard to aid, Jacques Rabemananjara of Madagascar remarked,

It should not be forgotten that many of the developed countries had grown rich largely by exploiting the developing countries for decade after decade. Surely they should return in a gesture of friendship what they had taken by force. For that reason [Madagascar] felt no loss of dignity in accepting aid: quite the contrary, developing countries should ask for even more in view of the blood shed by their forefathers—though no financial payment could really compensate for human values lost.²³

Arguing that “the continued under-development of one half of the world constituted a grave threat to peace and to the future of mankind generally,” Senegal’s Thiam echoed a sentiment that was oft-repeated during the summit: that while the “first” responsibility for development rested with Third World governments themselves, meeting those responsibilities must be tied to the fulfillment of duties held by developed countries:

Action at the national level against under-development was a matter for the developing countries alone; but some questions called for international action—for instance, relations between nations, primary commodities, technical assistance and the financing of development aid. Once those questions had been discussed at the New Delhi conference the developing countries would be able to judge whether

or not the developed countries had accepted their responsibilities. Underdevelopment was a new form of twentieth-century slavery and it should be rapidly abolished, once and for all.²⁴

After a few weeks of deliberations, the Conference adopted the “Charter of Algiers,” the second significant normative ancestor of the NIEO.²⁵ Compared to the 1962 Cairo Declaration, which was much shorter and focused mostly on setting guidelines for the first UNCTAD conference, the Charter of Algiers was a more robust document that established the pattern and structure that the NIEO outcome documents would take in 1974. The Charter of Algiers begins by proclaiming that “the lot of more than a billion people of the developing world continues to deteriorate as a result of the trends in international economic relations.” Those trends relate to declining terms of trade; a drop in the share of exports of the developing world in the global economy, and thus of their purchasing power; growing indebtedness of the Third World; the inability of most countries to take advantage of improvements in technology; and the “virtual stagnation” in food production, which, coupled with population increases, “aggravated the chronic conditions of under-nourishment and malnutrition.”

Part II of the introductory section of the Charter outlines the failures of the agreements reached at UNCTAD I to materialize—again, with an emphasis on the worsening conditions of trade relative to the early 1960s. Part III underlines the *obligation* of the international community to “rectify these unfavorable trends and to create conditions under which *all nations* can enjoy economic and social well-being, and have the means to develop their respective resources *to enable their peoples* to lead a life free from want and fear.” These key words and phrases reflect the normative dimensions of the concerns of developing countries, although these passages are the only ones to refer to “obligations” and “peoples” in the Charter. Despite some of the more pointed discussions during the General Debate at Algiers, there is not a single reference to colonialism or neocolonialism, imperialism, exploitation, poverty, or the “right to development” in the Charter.

Nevertheless, the Charter of Algiers was the “new world economic charter” that Doudou Thiam envisioned in his 1966 General Assembly speech. He was thus determined to drive home the sense of *moral* obligation reflected in the Charter. After its formal adoption at Algiers, Thiam praised the spirit of unity of the developing countries, which had repudiated “the Cartiers of this world” who believed that the Charter would “point an accusing finger at the great Powers,” or that the Algiers summit would turn out to be “a beggar’s conference”:

The Charter was not a mere tale of woes; it was a genuine *declaration of rights of the under-developed countries*. It bore witness to the change in ideas and in facts that had now been taking place for almost two centuries. For a long time prior to their independence, the developing countries had been seduced by the idea of the class struggle; but today they realized that the essential problem for them was the *elimination* not so much of the proletariat classes as *of the proletarian nations*. They realized too that political rights not accompanied by economic and social conditions favorable to the free exercise of those rights were a myth, and that for that

reason they must *win their sovereign rights* in the economic and social spheres. The obligations imposed on the Third World since colonial times were well known; they must produce only raw materials, import the finished products, engage in monoculture and produce only what the metropolitan countries required, allowing the latter to fix prices without having the right to discuss them.

The whole thing was based on a particular concept of law—the law of conquest. . . . [T]he present situation was a prolongation of the old colonial pact that must be denounced and replaced by a new type of juridical right: the *right of the countries of the Third World to development*. Such was the profound significance of the Charter of Algiers. The right to development demanded the denunciation and rejection of all practices, all rules, and all institutions that governed international economic relations wherever and whenever they hampered the smooth development of mankind.

Bearing in mind the harm done over a long period to the countries of the Third World . . . [aid constituted] more properly an act of restitution of property of which it had been despoiled over several centuries; and again ways and means must be found to bring the situation into line with the right to development.

Finally, the sum total of those measures [found in the text of the Charter of Algiers] taken together must be as such to allow of a minimum rate of growth to enable the countries of the Third World to attain the necessary degree of growth within a specified period . . . Those principles, amplified and codified, *could constitute the nucleus of a legal right to development*. Development and aid must no longer be regarded as moral issues or matters of charity; they constituted a juridical obligation.²⁶

Thiam carried this sentiment to the 1968 UNCTAD II summit in New Delhi, India. For the developing world, the Charter of Algiers represented “the most important political event of the second half of the twentieth century.”²⁷ He urged member-states to adopt the Charter of Algiers as a *universal declaration of the rights of the developing countries*—a complement to the Universal Declaration of Human Rights. Furthermore, he argued, UNCTAD II should not merely “state certain fundamental principles” but also translate those principles into binding law. “The New Delhi Conference must see to it that millions of men and women of the developing world did not hope in vain.”²⁸

Thiam’s proposal for this new “declaration of rights” was beginning to gain some traction: Louis Nègre of Mali, Beshir El Bakri of Sudan, and Zouheir Khani of Syria specifically endorsed the idea.²⁹ Sisouk Na Champassak of Laos asserted that the declaration should include a right to receive financial and technical assistance from the developing world.³⁰ And, of course, the Soviets felt that the Conference would be justified in “proclaiming the right of the newly independent States to receive compensation” for the damages suffered under colonialism.³¹

Despite support from some corners, it was not enough. The outcome documents of UNCTAD II failed to formally endorse Thiam’s idea. The language of the “right to development” did not appear anywhere in the official statements or the resolutions,

declarations, and other decisions adopted by the Conference. Even the anticolonial rhetoric was minimal: Algeria, Hungary, Syria, and the USSR were the only delegations to describe the current state of affairs as evidence of “colonialism” or “neocolonialism.” In the conference documents, the word “imperialism” appears only three times—and one of those is in a resolution condemning South Africa.³²

Thus, the outcome documents seemed devoid of normative language. They do not reflect the marked increase in talk about rights and justice during the deliberations in New Delhi, where references to the human dimensions of underdevelopment were on the rise. Twenty-five representatives spoke of poverty in their official statements; other references appeared in letters received by the Conference. The inaugural address, delivered by Prime Minister Indira Gandhi of India, was framed around the problem of poverty.³³ But the word “poverty” appears *only once* in the official outcome documents of the second session of UNCTAD. The official, sober tone of these documents indicates a still narrowly defined “economic growth” model of development within the context of existing global institutions.

UNCTAD III: The “Right to Development” becomes “the Rights and Duties of States”

By 1971, a group of Latin American states began to embrace the concept of the “right to development,” but it had taken on a more concrete character—articulating not only a number of development-related rights held by developing countries but now also including corresponding obligations of developed countries and the international community as a whole. Prior to the second G-77 Ministerial Meeting (which met in Lima, Peru from October 28 to November 7, 1971), its Special Committee on Latin American Coordination (CECLA) adopted its “Consensus of Lima,” which included as Principle No. 1 the “Right to Develop”:

Economic development is both a duty and a right. The developing countries solemnly undertake to mobilize all their efforts to change their structures with a view to ensuring the economic progress and social well-being of their peoples. Economic development is also a right: developing countries are *entitled to demand* from the international community *the elimination of any impediments* to development and the creation of a world economic environment conducive to its promotion and acceleration.³⁴

For many Latin American states, the most important “impediment” to their development involved their ability to extract and exploit their own natural resources. Hence, “Principle No. 2” of the Consensus of Lima addressed “Sovereignty over natural resources,” in particular emphasizing that any “external political or economic pressure” restricting this right would violate the right to self-determination and constitute “economic aggression” against the country concerned.³⁵

The Latin American states brought this new instantiation of the right to development into their discussions at the Second Ministerial Meeting of the G-77 in Lima. Growing economic injustice and the emergence of “neocolonialism” drove the need for this new “right.” Peru’s General Velasco Alvarado framed the matter thus:

Despite the bitter reality of imperialist domination and of contemporary neocolonialism, it must not be forgotten that it was possible that the profound

changes through which mankind was at present passing would give rise to a new doctrine of international relations based upon a new code of values. That was no illusion, for the utopias of the past now represented a realism which was the only thing capable of enduring the survival of civilization and perhaps even of the human race.³⁶

For Bolivia, while the “right to development” had both domestic and international dimensions, the realization of the former was clearly dependent on the latter:

Bolivia, like a few other countries, had over a period of years adopted various measures designed to guarantee that right, and had long subscribed to the doctrine of economic equality among nations. However, the fact that radical structural changes could not be achieved without help from more powerful nations and from international organizations must also be recognized. The Bolivian Government was at present engaged in carrying out the structural changes which would guarantee full exercise of the right to development.³⁷

Colombia focused on the dependency dimensions of underdevelopment: the G-77 ministers had come to Lima to demand “satisfaction of their rights and not ask for gifts.” The right to development would be a new principle that the Third World would defend at the third session of UNCTAD. It was “inadmissible that three quarters of the world’s population should still lack the basic necessities of life. The countries of the Third World were justified in calling on the international community to eliminate any obstacle to development and in pressing for the creation of a world economic order that would lead to the progress desired for their peoples.”³⁸

While the language on the right to development that appeared in the “Consensus of Lima” never made it into the outcome document of the Second Ministerial Meeting of the G-77 (the “Declaration and Programme of Action of Lima”), the idea was still alive. But the language had begun to change as greater numbers of developing countries sought to turn the abstract “right to development” into a more concrete instrument on “the economic rights and duties of states,” which many wanted to be legally binding. This move materialized at the third session of UNCTAD, held in Santiago, Chile, from April 13 to May 21, 1972.

The Mexican president, Luis Echeverría Álvarez, formally called for a Charter on the Economic Rights and Duties of States at the 92nd plenary meeting of the Santiago conference.³⁹ Mexico had been working closely with other Latin American states, especially Chile and Brazil, to generate a general consensus on the principles to be included in the Charter.⁴⁰ At the following plenary meeting, Hernán Santa Cruz of Chile—one of the early architects of the UN human rights system—rose in support of the proposal, making the case that by virtue of its inclusion in the two human rights covenants, the right to self-determination and especially permanent sovereignty over natural resources was *legally binding*:

At Lima . . . the members of the Group of 77 had deemed it necessary to propose new principles to the Conference in order to take account of certain situations whose gravity had not been apparent in 1964. In Chile’s opinion, the most important principle was the one which stated that every country had the sovereign

right freely to dispose of its national resources in the interests of the economic and social development of its own people, and any external political or economic measure of pressure brought to bear on the exercise of that right was a flagrant violation of the principles of self-determination and non-intervention, and, in the last analysis, a threat to international peace and security. All countries were legally bound to strict observance of that principle, since it was enshrined in the International Covenants on Human Rights and had been reaffirmed in several resolutions of the General Assembly, particularly resolution 1803 (XVII) ["Permanent Sovereignty over Natural Resources"].⁴¹

Jorge Valencia Jaramillo of Colombia remarked that the developing countries were not at UNCTAD to "seek aid" but to "claim their rights," including the *right to development*, the realization of which requires the elimination of "unfavorable conditions in trade, finance, technology, shipping as well as all vestiges of colonialism or products of neo-colonialism which were preventing the *mobilization of developing countries' internal resources*."⁴²

The connections between "the well-being of peoples" and the demands of the Third World were noticeably evident during the deliberations at Santiago. At the 108th plenary meeting on May 12, Ethiopia introduced a draft resolution on behalf of the G-77, calling for the establishment of a working group to draft a Charter of Economic Rights and Duties.⁴³ Santa Cruz pointed out that the Universal Declaration had included economic, social, and cultural rights, and that Article 28 had recognized that the realization of those rights was intimately linked to the existence of a just social and economic order.⁴⁴ Mexico made the next link in the overall argument: the best way for the developed world to prove its "true desire" for economic cooperation, and its respect for the political and economic autonomy of developing states, would be to "accept the duties and rights [that were] indispensable for a just order and stable world."⁴⁵ Antonio Álavarez Restrepo of Colombia took the argument a step further: such a charter "could be even *more important* than the Universal Declaration of Human Rights, because it would defend the interests of mankind, not at the level of the individual, but at the level of whole peoples."⁴⁶

At the 115th plenary meeting, the Conference adopted resolution 45 (III), "Charter of the Economic Rights and Duties of States," which called for the establishment of a thirty-one-country working group to report a draft charter to the UNCTAD's Trade and Development Board after the Conference.⁴⁷ No doubt as a result of the lobbying of the Latin American states, the sixth recital of the resolution read:

Recalling that the Universal Declaration of Human Rights and the International Covenants on Human Rights make the full exercise of those rights dependent on the existence of a just international order and respect for the principle of self-determination of peoples and of the free disposition of their natural wealth and resources . . .⁴⁸

If we consider the arguments made by Chile, Mexico, and Colombia during these discussions, the emergence of a discourse of priorities seems evident. The first duty for development lies with each state—this had always been true, and the principle

appeared in every one of the outcome documents resulting from the G-77 and UNCTAD summits. For the Latin American states (especially Chile), this duty was dependent upon developing countries' effective use of their right to permanent sovereignty over their natural resources, which is part of the "right to development," now recast in the language of "economic rights and duties of states." In that formulation, there are at least three situations in which the right of *peoples* to development might be violated: the absence of permanent sovereignty over natural resources, unjust trade policies, and tied aid. The sixth recital of the CERDS resolution adopted by UNCTAD III binds all of this up within the framework of human rights. However, that recital's element of prioritization does not actually exist: neither Article 28 of the Universal Declaration, nor the articles on self-determination in the two covenants, come anywhere near suggesting that the realization of enumerated human rights is "dependent" upon "the existence of a just international order and respect for self-determination."

Nevertheless, the deliberations and discussions at UNCTAD III would be the last within the process leading to the NIEO and CERDS where the significant moral and normative dimensions of underdevelopment, bound up with the "right to development," would find expression. The CERDS Working Group met in four sessions between 1972 and 1974 to draft the Charter, which was finally submitted by UNCTAD to the UN General Assembly in 1974.⁴⁹ On December 12, 1974, the General Assembly adopted the Charter on the Economic Rights and Duties of States on a 120–6–10 vote.

Thus, the "right to development," as a general appeal for economic justice, found its final expression in the Charter of Economic Rights and Duties of States. While drafting of the Charter was part and parcel of the broad program of the G-77 that led to the 6th Special Session of the General Assembly, where the NIEO outcome documents were adopted, the CERDS was not part of that process. The words "human rights" appear nowhere in the Declaration on the Establishment of a New International Economic Order, and there are only two references to "the well-being of peoples." The CERDS contains a few more of these human-centered references, but there is only one specific reference to human rights—and that was because the United States insisted upon its inclusion.⁵⁰

Postlude: Toward a Human Right to Development

As it was first articulated by Doudou Thiam in the late 1960s, and later appropriated by Latin American states, the right to development introduced a moral imperative to Third World demands for global economic justice *as a right*. It was rooted generally in the right to self-determination, and especially its economic constituent, the right to permanent sovereignty over natural resources. That right, as it related to development, had meaning only insofar as developing countries were able to actually extract and exploit those resources in order to trade in the global economy and to have independent and autonomous control over that process. The right to development was deployed as a broadly held right of underdeveloped states, and the developed world and the international organizations they effectively controlled were clearly the duty-bearers responsible for the right's realization.

Even though it was a normative claim of justice, the right to development was decidedly *not* framed as a human right—the attempts at forging links with, for example, the Universal Declaration of Human Rights and the Covenants notwithstanding. But this does not diminish the importance or meaning of framing the inequitable trade and development arrangements within the global economy with reference to justice. What is illuminating about this is that while the rhetoric of the right to development and references to the human dimensions of underdevelopment were on the rise throughout this period, outcome documents do not reflect those imperatives. Almost paradoxically, while the idea of development as a right was gaining some traction, the outcome documents became ever more sterile and devoid of any significant normative language. While themes of human-centered justice and even some glimpses of human rights make brief, even impassioned, appearances, they never became unifying or foundational themes in the NIEO/CERDS project. A *real* link between development and human rights was never forged—at least, not through the G-77/NIEO process.

The resurrection and reappropriation of the “right to development” as a human right would occur through a process that, at first, was wholly separate from what was going on in the G-77 and UNCTAD. While the NIEO never referred to human rights, the Commission on Human Rights would eventually come to embrace the NIEO program as a *prerequisite* for the realization of all human rights, through the redeployed “right to development.” While the UNCTAD II summit was underway in 1968, the Commission was turning its attention to addressing obstacles to the enjoyment of economic and social rights in developing countries. The Commission requested a special report on the topic, which was prepared by the Iranian diplomat Manouchehr Ganji and delivered to the Commission in 1973. A revised version was delivered to the Commission in 1974, just as final preparations were underway for the General Assembly’s Sixth Special Session that adopted the NIEO. Whereas the first version of the Ganji report (“The Widening Gap”) emphasized internal domestic obstacles to the enjoyment of economic and social rights, the NIEO frame in the revised version was clearly evident: much more emphasis was placed on the unfair global economic climate that the NIEO intended to address.

During the discussions on the revised Ganji report, a number of Commission members cited its findings as evidence of the need for the Commission to prioritize the attainment of economic and social rights over civil and political rights: the ongoing and persistent condition of underdevelopment demanded it. It was another Senegalese statesman and jurist, Kéba M’Baye, who would lead the charge and resurrect the right to development as a human right. But the content of the right—that it was a right of developing countries (or “peoples”) held against the rich countries—had not changed. Indeed, it was a reflection of this new hierarchy of rights—a prioritization that flew in the face of the concept of the indivisibility of human rights.

Unfortunately, space does not permit a full recounting of what was a pivotal and watershed moment in UN human rights history. We can conclude that this remarkable period in the late twentieth century was marked by a number of competing, sometimes contradictory, and sometimes conciliatory trends as the world

came out of its long period of postwar decolonization, where the concepts of development, justice, rights, sovereignty, autonomy, cooperation, and solidarity were contested on the world stage. The right to development—whatever it was meant to be—was part of that drama, and it continues to be with us to this day. It reminds us that we have long been hectored by questions about global economic and social justice—especially with regard to the duties and obligations of all countries and the international community for the a kind of “development” commensurate with human dignity and justice.

NOTES

1. United Nations General Assembly, Official Records, Twenty-first Session, 1414th Plenary Meeting, September 23, 1966.
2. Ibid., paras. 180–230.
3. Ibid., para. 223.
4. Ibid., para. 228.
5. Declaration on the Establishment of a New International Economic Order, Gen. Ass. Res. 3201 (S-VI), May 19, 1975, NIEO Programme of Action, Gen. Ass. Res. 3202 (S-VI), May 1, 1974; Charter on the Economic Rights and Duties of States, Gen. Ass. Res. 3281 (XXIX), December 12, 1974.
6. Kéba M'Baye, “Le droit au développement, comme un droit de l'homme,” *Revue des Droits de l'homme* 5, no. 2/3 (1972): 503–34.
7. For an early account, see Philip Alston, “The Right to Development at the International Level,” in *The Right to Development at the International Level*, ed. René-Jean Dupuy (Alphen aan den Rijn: Sijthoff & Noordhoff, 1980), 99–114. For a standard account, see Bård-Anders Andreassen and Stephen P. Marks, eds., *Development as a Human Right: Legal, Political and Economic Dimensions* (Cambridge, MA: FXB Center for Health and Human Rights, Harvard University, 2007).
8. See, for example, Jack Donnelly, “In Search of the Unicorn: The Jurisprudence and Politics of the Right to Development,” *California Western International Law Journal* 15 (1985): 473–509.
9. W.W. Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto* (Cambridge: Cambridge University Press, 1960).
10. Daniel J. Whelan, *Indivisible Human Rights: A History* (Philadelphia: University of Pennsylvania Press, 2010), 139–41.
11. The members of the Commission were Afghanistan, Chile, Guatemala, Netherlands, Philippines, Sweden, the Soviet Union, the United Arab Republic, and the United States.
12. UN Doc. A/AC.97/5.
13. Gen. Ass. Res. 1803 (XVII), December 14, 1962, adopted on a vote of 87–2–12.
14. Gen. Ass. Res. 1820 (XVII), December 18, 1962, adopted on a vote of 78–0–2.
15. Partial proceedings (Head-of-Delegation and Conference organizing speeches) can be found in United Republic of Egypt, *Conference on the Problems of Economic Development* (Cairo: General Organization for Government Printing Offices, 1962). There were no summary records of sessional meetings.
16. “United Nations Development Decade: A Programme for International Economic Co-operation,” Gen. Ass. Res. 1710 (XVI), December 19, 1961; “Final Act and Report of the First

United Nations Conference on Trade and Development—UNCTAD I (23 March–16 June 1964),” UN Doc. E/CONF.46/141, June 16, 1964.

17. G-77 Doc. MM.77/I/SR.1, October 10, 1967, reprinted in Karl Sauvant, *The Third World without the Superpowers*, second series, *The Collected Documents of the Group of 77*, 20 vols. (New York: Oceana Publications, 1981-), 1: 218.

18. G-77 Doc. MM.77/I/SR.6, October 14, 1967, repr. in Sauvant, *The Third World*, 1: 245–6.

19. Ibid.; Doc. MM.77/I/SR.9, October 16, 1967, repr. in Sauvant, *The Third World*, 1: 269.

20. Ibid.; Doc. MM.77/I/SR.11, October 17, 1967, repr. in Sauvant, *The Third World*, 1: 292.

21. Ibid.; Doc. MM.77/I/SR.6, October 14, 1967, repr. in Sauvant, *The Third World*, 1: 251.

22. Ibid.

23. Ibid., 1: 247–48.

24. Ibid., 1: 246–47.

25. Full text of the Charter of Algiers can be found online, <http://www.g77.org/doc/algier~1.htm> (accessed July 2, 2014).

26. G-77 Doc. MM.77/I/SR.14, October 25, 1967, repr. in Sauvant, *The Third World*, 1: 311–12.

27. “Summary of Statement Made at the 58th Plenary Meeting, 14 February 1968, by Mr. Doudou Thiam, Minister of State in Charge of Foreign Affairs and Acting for the President of the Republic of Senegal,” repr. in United Nations Conference on Trade and Development (UNCTAD), *Proceedings of the United Nations Conference on Trade and Development, Second Session, New Delhi, 1 February–29 March 1968*. (New Delhi: United Nations), 163.

28. Ibid., 164.

29. UNCTAD, *Proceedings of the United Nations Conference on Trade and Development, Second Session*, 141, 169, 174.

30. “Statement by Sisouk Na Champassak, Minister of Finance of Laos,” *ibid.*, 133.

31. “Statement by Nikolai Patolichev, Minister for Foreign Trade of the USSR,” *ibid.*, 184.

32. The other two references appeared in the statements by Cambodia and the USSR.

33. “Address by Mrs. Indira Gandhi, Prime Minister of India, at the Inaugural Ceremony, 1 February 1968,” *ibid.*, 409–11.

34. G-77 Doc. MM/77/II/Misc.3 and Add.1 and Corr.1, reprinted in Sauvant, *The Third World*, 2: 556.

35. Ibid.

36. G-77 Doc. MM/77/II/SR.1, October 28, 1971, *ibid.*, 33.

37. G-77 Doc. MM/77/II/SR.4, October 30, 1971, *ibid.*, 89.

38. G-77 Doc. MM/77/II/SR.8, November 2, 1971, *ibid.*, 154–55.

39. UN Doc. TD/180/SR.92, April 17, 1972, in UNCTAD, *Proceedings of the United Nations Conference on Trade and Development, Third Session, Santiago (Chile), 13 April–21 May 1972* (Santiago: United Nations, 1972), 184–86.

40. Robert F. Meagher, *An International Redistribution of Wealth and Power: A Study of the Charter of Economic Rights and Duties of States* (New York: Pergamon Press, 1979).

41. “Summary of Statement Made at the 93rd Plenary Meeting (20 April 1972) by H. E. Mr. Hernán Santa Cruz, Ambassador with Rank of Minister of State, Chile,” in UNCTAD, *Proceedings of the United Nations Conference on Trade and Development, Third Session*, 57–58.

42. Ibid., 65 (emphasis added).

43. UN Doc. TD/L.62

44. UNCTAD, *Proceedings of the United Nations Conference on Trade and Development, Third Session*, 124.

45. *Ibid.*, 125.

46. *Ibid.*, 153 (emphasis added).

47. The resolution was adopted on a vote of 90–0–19. All the abstentions were from the OECD countries. Luxembourg, Netherlands, Portugal, Belgium, France, and Greece voted yes. Most of the abstentions were over technical matters, including the position that drafting of such a charter should be handled by the UN General Assembly or ECOSOC. The United States remarked, simply, that it had “serious reservations about a number of features” of the resolution. See Sauvant, *The Third World*, 1: 309–34.

48. UNCTAD, *Proceedings of the United Nations Conference on Trade and Development, Third Session*, Annex 1, 58.

49. Full drafting history of the Charter can be found at <http://legal.un.org/avl/ha/cerds/cerds.html> (accessed December 1, 2013).

50. Under Chapter I, “Fundamentals of International Economic Relations,” one of the “governing principles” is “respect for human rights and international obligations.” It is the eleventh principle listed out of fifteen.