

HUMAN RIGHTS COUNCIL
The Social Forum
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Agenda item 2

Measures and actions needed to make the right to development a reality for everyone at the local, national, regional and international levels, including the role and contribution of civil society and non-governmental organizations

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of the Global Initiative for Economic, Social and Cultural Rights**

Compare against Delivery

Thank you,

The Global Initiative for Economic, Social and Cultural Rights welcomes this opportunity to discuss the important and crucial right to development. One means by which to promote the right to development is to ensure that the human rights-based approach to development continues to move from rhetoric to reality. As we know, the human rights-based approach to development includes links to human rights standards, non-discrimination and the prioritization of marginalized or vulnerable groups, empowerment and participation of rights-holders, and accountability to those human rights standards when they are not met.

Strategic litigation and other forms of legal advocacy lend strong support to the human rights based-approach to development. This support is not limited to just the accountability element, but also provides a means by which rights holders can shape jurisprudence from the perspective of marginalized or vulnerable groups and thus help define the very human rights standards that should guide development.

The defining of human rights standards has great importance in and of itself. The *Endorois* case illustrates the effectiveness of litigation, but the success of the *Endorois* case was in part due to the jurisprudence developed in the inter-American human rights system and some years earlier in the African Commission's *SERAC v. Nigeria* case which resulted in the right to adequate housing, and the right to food, being held to be implicit within the Africa Charter on Human and Peoples' Rights. And while the *SERAC* decision has unfortunately yet to be fully implemented, the jurisprudence from that case has had beneficial impact in Kenya and beyond.

The Berea (51 Olivia Road) case in South Africa provides yet another example of using social rights to ensure that development both meets human rights standards and is sustainable and for the benefit of all. There, hundreds of poor families were slated to be forcibly evicted from their homes to make way for development in the City of Johannesburg. While their housing conditions were indeed poor, and considered uninhabitable even by them, these families were to be forcibly evicted and displaced to

the periphery of the city and thereby cut off from access to schools, health care facilities and livelihood opportunities. In other words the urban development of Johannesburg as originally planned would result in further impoverishing the poorest of the poor.

Using the human rights framework, however, these families and their allies in the non-governmental organization (NGO) sector ultimately gained empowering knowledge of their rights and held powerful authorities accountable to human rights standards, including the right to adequate housing. At the end of the day, in 2008, the Constitutional Court of South Africa enforced their right to have human rights standards respected, protected and fulfilled, including not only the right to adequate housing, but also to benefit from development schemes and to participate meaningfully in all relevant decisions related to that development. In this case, the human rights-based approach to development was used effectively to equalize power dynamics between poor families facing forced eviction and governmental authorities, so that the families could be the architects of their own development solutions. The Court decision allowed for the families to engage actively and meaningfully with government to arrive at the provision of alternative, adequate housing. So that today, these families are living in improved housing near the same schools, health care facilities and livelihood opportunities they came very near to losing.

We have many ways to use strategic litigation and other forms of legal advocacy to make the right to development a reality for everyone. The obvious would be for universal ratification of human rights treaties and in particular the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. Indeed, we can better use the treaty-bodies, both the periodic reporting and individual complaint mechanisms, to monitor development using human rights standards, as well as to hold actors accountable when they fall short of those standards.

However, we can also do more to lay the foundation for the use of the human rights-based approach to development within the dominant development paradigm. In 2015, the Millennium Development Goals (MDGs) will be replaced with the next phase of that dominant paradigm. While the MDGs have had some very positive results, they fail to incorporate the human rights based-approach and that omission has resulted in serious failures in furthering meaningful and sustainable human development. For instance, some States have met the MDG goal related to access to water by improving water delivery infrastructure. Although meeting the MDG standard, that method of course ignores the most marginalized and vulnerable communities ó those without access to water delivery infrastructure in the first place. And those communities ó the poorest of the poor ó would have been prioritized under the human rights-based approach to development, thus leading to more meaningful and sustainable human development.

So, to truly promote the right to development, we all need to ensure the next phase of the MDGs expressly incorporates the human rights-based approach to development as an explicit and central pillar of the post-2015 development paradigm.

Thank you.