

Development as a Human Right: Translating Law and Policy into Action for Sustainability in Africa

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Abstract

This paper critically examines the right to development from an African perspective. It observes that the right to development has been recognised as a fundamental human right to in Africa both at the continental and national levels. The paper discusses the salient elements of the right to development in Africa. Despite its recognition, the paper notes that attaining the right to development remains a challenge for Africa. It explores some of the factors undermining progress towards the right to development in Africa. In light of these challenges, the paper argues that there is need to translate law and policy into action in order to foster and achieve the right to development as a human right to Africa. The paper suggests reforms towards attaining this ideal for sustainability in Africa.

1.0 Introduction

The right to development is a fundamental human right. According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), the right to development is the right of every human being to participate in, to contribute to, and to benefit from economic, social, cultural and political development¹. It has been argued that the right to development puts people at the center of all development processes in order to ensure that development improves the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in

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¹ Office of the United Nations High Commissioner for Human Rights., 'About the right to development' Available at <https://www.ohchr.org/en/special-procedures/sr-development/about-right-development> (Accessed on 01/03/2026)

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development and in the fair distribution of the resulting benefits². Attaining the right to development is vital for equity, equality and justice for present and future generations especially due to sustained and historical economic and social inequalities between the Global North and the Global South³.

The *Declaration on the Right to Development*⁴ was adopted by the United Nations Commission on Human Rights to provide a global blueprint towards fostering and achieving the right to development as a human right. According to the Declaration, the right to development is a fundamental and inalienable human right by virtue of which every 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 realized⁵. The Declaration further notes that human beings are central subjects of all development processes and priorities and should therefore be active participants and beneficiaries of the right to development⁶. In order to attain this right, the Declaration requires all states, individually and collectively, to create national and international conditions favourable to the realization of the right to development⁷. The Declaration sets out the key elements under the right to development including people-centred development, a human rights-based approach to development, active, free and meaningful participation of individuals and populations in development policies and processes, equity and non-discrimination in development, and self-

² Office of the United Nations High Commissioner for Human Rights., 'Development and Human Rights' Available at <https://www.ohchr.org/en/development/development-and-human-rights#:~:text=Sharing%20the%20benefits%20of%20development,of%20the%20Sustainable%20Development%20Goals>. (Accessed on 01/03/2026)

³ Global Policy Forum., 'Right to development, the duty to cooperate' Available at <https://www.globalpolicyforum.net/futureofglobalgovernance/index/d-right-to-development-the-duty-to-cooperate/> (Accessed on 01/03/2026)

⁴ United Nations General Assembly, Declaration on the Right to Development : Resolution adopted by the General Assembly, A/RES/41/128, 4 December 1986,

⁵ Ibid, article 1

⁶ Ibid, article 2 (1)

⁷ Ibid, article 3 (1)

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determination for people and nations including full sovereignty over natural wealth and resources towards development⁸.

The right to development is therefore a core human right whose realisation is key in expanding the capabilities and choices for individuals and societies⁹. It has been argued that fostering the right to development is vital for all countries regardless of their level of development¹⁰. However, it has been observed that socio-economic inequalities and injustices undermine the attainment of the right to development especially in the Global South¹¹. It is therefore necessary to tackle such barriers in order to foster the right to development for present and future generations.

This paper critically examines the right to development from an African perspective. It observes that the right to development has been recognised as a fundamental human right to in Africa both at the continental and national levels. The paper discusses the salient elements of the right to development in Africa. Despite its recognition, the paper notes that attaining the right to development remains a challenge for Africa. It explores some of the factors undermining progress towards the right to development in Africa. In light of these challenges, the paper argues that there is need to translate law and policy into action in order to foster and achieve the right to development as a human right to Africa. The paper suggests reforms towards attaining this ideal for sustainability in Africa.

2.0 Development as a Human Right in Africa: Status and Challenges

Fostering the right to development is a fundamental agenda for Africa. It has been observed that due to prevailing socio-economic challenges in the continent, pursuing a human rights-based approach to development is the only way to ensure prosperity for

⁸ Ibid

⁹ Office of the United Nations High Commissioner for Human Rights., 'About the right to development' Op Cit

¹⁰ Ibid

¹¹ Ibid

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individuals and communities in the continent¹². Most African countries are struggling to address challenges such as poverty, widening economic inequalities, hunger and food insecurity, conflicts, high rates of unemployment, and gender inequalities which undermine the right to development¹³. In light of these challenges, it has been suggested that a rights-based model is a practical approach towards redressing the challenges that have held Africa back for many decades¹⁴.

Africa has in place an effective legal and policy framework that recognises the right to development as a fundamental human right. For instance, the *African Charter on Human and Peoples Rights*¹⁵ is the only human rights instrument, at either the global or regional level, that recognises the right to development as a legally-binding, inalienable and enforceable right. The Preamble of the Charter notes that it is essential to pay a particular attention to the right to development in Africa and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception¹⁶. The Charter explicitly acknowledges that all people in Africa shall have the right to their *economic, social and cultural development* with due regard to their freedom and identity and in the equal enjoyment of the common heritage of humankind¹⁷. In addition, the Charter notes

¹² Office of the United Nations High Commissioner for Human Rights., 'Africa and the Right to Development' Available at <https://www.ohchr.org/Documents/Issues/Development/SR/AddisAbaba/Atuguba.R.pptx> (Accessed on 03/03/2026)

¹³ United Nations Development Programme., 'Inequality intensity and poverty drive conflicts in sub-Saharan Africa' Available at https://www.undp.org/sites/g/files/zskgke326/files/migration/africa/undp-rba_Income-Inequality-in-SSA_Chapter-10.pdf (Accessed on 03/03/2026)

¹⁴ Ngang. C.C., 'Right-to-Development Governance: An Alternative Development Model for Africa' Available at <https://www.cambridge.org/core/journals/journal-of-african-law/article/righttodevelopment-governance-an-alternative-development-model-for-africa/9637E682F61FC35DEFDB4600959E44FA> (Accessed on 03/03/2026)

¹⁵ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights* ("Banjul Charter"), CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), 27 June 1981

¹⁶ Ibid, Preamble

¹⁷ Ibid, article 22 (1)

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that all people in Africa have the right to a general satisfactory environment favorable to their development¹⁸.

The African Charter on Human and Peoples Rights therefore establishes the legal basis for the right to development in Africa. It has been observed the inclusion of the right to development in the Charter acknowledges the unique development challenges the continent faces and provides a legal basis towards enforcing this fundamental right¹⁹. Consequently, the African Commission on Human and Peoples' Rights, vide a *Resolution*²⁰, has acknowledged that the right to development in Africa 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 realized. The Resolution notes that the principles of the right to development in Africa require that equal opportunity be given to all peoples to have access to basic education, health services, food, housing, employment and fair distribution of income²¹. According to the Resolution, implementation of the right to development is the primary responsibility of states²². It requires all states in Africa to put in place necessary measures towards actualising the right to development for current and future generations²³.

Jurisprudence emanating from the African Commission on Human and Peoples' Rights also shows that the right to development is a fundamental and enforceable right for all individuals and communities in Africa. For instance, in one of its landmark decisions, the

¹⁸ Ibid, article 24

¹⁹ Office of the United Nations High Commissioner for Human Rights., 'Africa and the Right to Development' Op Cit

²⁰ African Commission on Human and Peoples' Rights., 'Resolution on the preparation of a General Comment on the right to development in Africa - ACHPR.Res.586 (LXXIX) 2024' Available at <https://achpr.au.int/en/adopted-resolutions/resolution-preparation-general-comments-right-development> (Accessed on 03/03/2026)

²¹ Ibid

²² Ibid

²³ Ibid

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Commission found that the eviction of the Endorois, an indigenous community in Kenya, from their ancestral land around Lake Bogoria to establish a game reserve violated their rights to culture, property, religion, and the right of access to natural resources and *development*²⁴. The Commission upheld the right of all indigenous peoples in Africa to utilize natural resources including ancestral land for development²⁵.

Fostering the right to development is therefore a fundamental agenda in Africa. It has been argued that as the only region with a human rights system that incorporates the right to development, Africa has made positive steps towards actualising this right²⁶. However, it has been observed that the right to development is yet to be fully realised in many African countries²⁷. In particular, it has been observed that challenges such as poverty, hunger, food insecurity, drought, wars and conflicts, water scarcity, climate change, poor governance, unemployment and inequalities contribute to underdevelopment in Africa²⁸. As a result, there is need to translate law and policy into action in order to realise the right to development as a human right in Africa for sustainability.

3.0 Towards Development as a Human Right in Africa

Achieving the right to development is vital for peace and prosperity in Africa. As the only region with a legally-binding framework on the right to development, Africa has the potential to shape discourse and narratives on the right to development and be a global leader towards full realisation of this right. However, challenges such inequitable

²⁴ Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya, 276/2003, African Commission on Human and Peoples' Rights, 4 February 2010,

²⁵ Ibid

²⁶ Office of the United Nations High Commissioner for Human Rights., 'Africa and the Right to Development' Op Cit

²⁷ African Commission on Human and Peoples' Rights., 'Resolution on the preparation of a General Comment on the right to development in Africa - ACHPR.Res.586 (LXXIX) 2024' Op Cit

²⁸ African Development Bank., 'The way Forward to Achieving Sustainable Development in Africa.' Available at

https://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/ADR15_chapter_8.pdf

(Accessed on 03/03/2026)

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distribution of resources, poor governance, economic inequalities, poverty, hunger and food insecurity, and gender inequalities continue to impede progress towards the right to development in Africa²⁹. Consequently, there is need to translate law into policy and action towards achieving the right to development as a human right in Africa.

It has been observed that states are the traditional duty bearers in respect of human rights, including the right to development³⁰. Consequently, there is need for African states to put in place relevant measures towards attaining the right to development³¹. In particular, it has been observed that fostering food security is necessary towards ensuring that the people of Africa lead healthy and productive lifestyles towards fulfilling the right to development³². In addition, tackling gender, income and other dimensions of inequality is necessary towards achieving social justice as a pillar of development in Africa³³. It is also necessary to enhance access to decent work and employment opportunities for the people of Africa, with focus on vulnerable groups including women, the youth, persons with disabilities, and indigenous peoples, in order to empower citizens towards achieving the right to development³⁴. Further, it has been suggested that investing in education is vital in empowering the people of Africa with the knowledge, skills, values, attitudes and behaviors that are vital for economic development, social cohesion and environmental conservation towards development³⁵.

²⁹ African Development Bank., 'The way Forward to Achieving Sustainable Development in Africa.' Op Cit

³⁰ Office of the United Nations High Commissioner for Human Rights., 'Africa and the Right to Development' Op Cit

³¹ Ibid

³² African Union., 'Food Security' Available at <https://au.int/en/auc/priorities/food-security> (Accessed on 03/03/2026)

³³ International Labour Organization., 'Advancing Social Justice: Shaping the future of work in Africa' Available at https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_728052.pdf (Accessed on 03/03/2026)

³⁴ Ibid

³⁵ United Nations Educational, Scientific and Cultural Organization., 'Education for Sustainable Development' Available at <https://www.unesco.org/en/sustainable-development/education> (Accessed on 03/03/2026)

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Tackling the prevalence of wars and conflicts is also key towards fostering development in Africa. According to the United Nations, conflicts and wars have been a major hindrance in the quest towards development in Africa by fuelling instability, leading to destruction of social amenities, undermining governance systems and causing humanitarian crises³⁶. Addressing the root causes of conflicts and wars in Africa is therefore important towards ensuring peace, security and development. African countries have also been urged to harness their abundant natural resources in order to drive development³⁷. It has been observed that Africa has abundant natural resources including arable land, water, forests, minerals, oil and gas, and renewable sources of energy which provide immense opportunities to achieve development³⁸. Putting in place measures that ensure sound governance, sustainable extraction and use, and equitable benefit-sharing arrangements is therefore necessary towards harnessing Africa's natural capital for development³⁹.

Through the foregoing approaches, it is possible to translate law and policy into action towards attaining development as a human right in Africa.

4.0 Conclusion

The right to development is a fundamental human right that entitles every person to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized⁴⁰. This right has been recognised in Africa with the *African Charter on Human and Peoples Rights*⁴¹ being the only legally-binding human rights instrument explicitly

³⁶ United Nations., 'Promotion of Durable Peace and Sustainable Development in Africa.' Available at https://www.un.org/osaa/sites/www.un.org.osaa/files/docs/2109875_osaa_sg_report_web_new.pdf (Accessed on 03/03/2026)

³⁷ African Development Bank Group., 'Green Growth' Available at <https://www.afdb.org/en/topics-and-sectors/initiatives-partnerships/green-growth-initiative/background> (Accessed on 03/03/2026)

³⁸ Ibid

³⁹ Ibid

⁴⁰ United Nations General Assembly, Declaration on the Right to Development' Op Cit

⁴¹ Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights* ("Banjul Charter") Op Cit

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capturing the right to development⁴². However, achieving the right to development remains a challenge for Africa due to prevailing high levels of underdevelopment in the continent. It is therefore necessary to translate policy into action including through fostering food security, investing in education at all levels, ensuring decent work and employment opportunities for all, addressing conflicts and wars, tackling income and gender inequalities, and harnessing Africa's natural capital in order to foster and achieve development as a human right in Africa⁴³. Advancing development as a human right is prerequisite towards prosperity and sustainability in Africa. There is need to fast-track this agenda for current and future generations.

⁴² Ibid

⁴³ African Development Bank., 'The way Forward to Achieving Sustainable Development in Africa.' Op Cit

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