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“THE VALUE OF THE RIGHT TO DEVELOPMENT AS A FUNDAMENTAL HUMAN RIGHT”

Synthesis and Critical Discourse Analysis of discourses about the meaning and
value of the Right to Development

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Mag. Phil. Nina Radovic

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Betreuerin: Univ.- Prof. Dr. Petra Dannecker, MA

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THE VALUE OF THE RIGHT TO DEVELOPMENT AS A FUNDAMENTAL HUMAN RIGHT

Synthesis and Critical Discourse Analysis of discourses about the meaning and value of the Right to Development

I INTRODUCTION

In the year 2011 the adoption of the Declaration on the Right to Development celebrated the 25th anniversary. The Declaration was signed in 1986 by the General Assembly of the United Nations. But despite 25 years of existence, one might have the impression that the Declaration is not really referred to and applied in development practice nor is it considered in decision making processes on behalf of development and the well-being of the world's population. So the question arises if the anniversary of the Right to Development (RTD) really is a reason to celebrate or rather to be worried about as inequality, poverty and human rights violations still hinder thousands of people to have a free and fulfilled life? The reflections about the Right to Development shall start by the anniversary statement of Navi Pillay, High Commissioner for Human Rights:

We must end discrimination in the distribution of the benefits of development. We must stop the 500,000 preventable deaths of women in childbirth every year. We must free the millions of children from hunger in a world of plenty. And we must ensure that people can benefit from their country's natural resources and participate meaningfully in decision-making. These are the kind of issues addressed by the Declaration, which calls for equal opportunity and a just social order. (High Commissioner of Human Rights, 25th anniversary statement, 2011)

This statement is quite disillusioning, as one might have the impression that nothing has changed since the adoption of the Declaration on the Right to Development or that the situation has even changed for the worse, meaning that more and more people are affected by poverty and discrimination and that the gap between the rich and the poor increases constantly. Also, the economic crisis affecting not only countries of the South, but also of the North, leads to the conclusion that something went wrong. New worries, despair and poverty affect the most vulnerable groups of societies worldwide. In the words of Navi Pillay, "[i]t's not an act of nature that leaves more than one billion people around the world locked in the jaws of poverty. It's a result of the denial of their fundamental human right to development." (High commissioner of Human Rights, 25th anniversary statement, 2011)

The meaning and value of the Right to Development are exactly the topic of this paper. The question whether the Right to Development can be considered as a fundamental human right or not shall serve as a basis for the further analysis and conclusions. But before opening the debate about the Right to Development, the emergence of this right as well as the formulation and adoption of its Declaration shall first be mentioned. Also, an insight shall be given how the present paper will be structured and how the way of proceeding will look like.

According to some sources (Mansell/Scott, 1994; Donnelly, 1985), the first time that the Right to Development has been mentioned is in 1972 by an eminent jurist and chief justice of the Republic of Senegal who also became member of the UN Commission on Human Rights, Mr. K. M'Baye, in his paper "Le droit au développement comme un droit de l'homme" (M'Baye, 1972). According to other sources the Right to Development was mentioned even earlier, right after World War II, during the process of the creation of the Universal Declaration of Human Rights in 1948 as Eleanor Roosevelt, the head of the U.S. Delegation stated that those who gathered together to write the Bill of Rights "[...] will have to bear in mind that [they] are writing a bill of rights for the world and that the one of the most important rights is the opportunity for development." (Johnson, 1987:19) She also stated that "[a]s people grasp that opportunity, they can also demand new rights if these are broadly defined." (Johnson, 1987:19) As ironically as it is, several years later, the United States were the only country voting against the adoption of the Declaration on the Right to Development in 1986.

Looking back in history, the principles of indivisibility and inalienability of rights fell apart as the world politics changed, resulting in another war, namely the Cold War, bringing along two major concepts and approaches to human rights. Consequently, (i) the Covenant of Civil and Political Rights and (ii) the Covenant of Economic, Social and Cultural Rights (1966) emerged out of the different understandings of the world, one model putting emphasis rather on individual rights and the other on collective rights and life in community with others.

The political background at the time when the idea of the Right to Development started to emerge was characterized by a rather negative attitude towards economic and social rights in general under the pretext to be harmful to other human rights. The Reagan

Administration for example stated that “[...] the idea of economic and social rights is easily abused by repressive governments,” (Department of State to the Senate and House Committees on Foreign Relations and Foreign affairs, 1982, in: Alston, 1985:518). The reason for this attitude wasn’t to be found in economic and social rights themselves, but in the denial of the socialist and communist ideas based on common social rights and community interests.

In 1977 the UN Commission on Human Rights adopted a resolution containing the first explicit mention of a right to development in an UN Resolution (UN Doc. E/5927):

The Economic and Social Council endorses the recommendation made by the Commission on Human Rights in paragraph 4 of its resolution 4 (XXXIII) and consequently invites the Secretary-General, in cooperation with the United Nations Educational, Scientific and Cultural Organization and the other competent specialized agencies, to undertake a study on the subject ‘the international dimensions of the right to development as a human right in relation with other human rights based on international co-operation’, including the right to peace, taking into account of the New International Economic Order and the fundamental human needs’ and to make this study available for consideration by the Commission on Human Rights at its thirty-fifth session.” (UN Doc. E/5927,1977; underlined for the purposes of the present paper)

According to opponents of the RTD, the cited paragraph underlines the “[...] peculiarly brusque yet oblique entry of the right to development into the UN human rights arena [...],” because prior to this resolution, such a right had never been discussed in the UN system and academic literature on this topic was rather silent. (See Donnelly, 1985: 475)

In 1978 the Right to Development was referred to in two further declarations:

(i) Declaration on the Preparation of Societies for Life in Peace, adopted by General Assembly Resolution 33/73 stating that:

[...] in the era of modern scientific and technological progress, mankind's resources, energy and creative talents should be directed to the peaceful economic, social and cultural development of all countries, should promote the implementation of the new international economic order and should serve the raising of the living standards of all nations. (Gen. Assembly Resolution A/RES/33/73)

(ii) UNESCO Declaration on Race and Racial Prejudice. Article 1, Paragraph 4 and 5 provide that:

4. All peoples of the world possess equal faculties for attaining the highest level in intellectual, technical, social, economic, cultural and political development.

5. The differences between the achievements of the different peoples are entirely attributable to geographical, historical, political, economic, social and cultural factors. Such differences can in no case serve as a pretext for any rank-ordered classification of nations or peoples.

Especially Article 3 of this declaration might be understood as a full recognition of the need for the Right to Development as a fundamental human right:

Any distinction, exclusion, restriction or preference based on race, colour, ethnic or national origin or religious intolerance motivated by racist considerations, which destroys or compromises the sovereign equality of States and the right of peoples to self-determination, or which limits in an arbitrary or discriminatory manner the right of every human being and group to full development is incompatible with the requirements of an international order which is just and guarantees respect for human rights; the right to full development implies equal access to the means of personal and collective advancement and fulfilment in a climate of respect for the values of civilizations and cultures, both national and world wide. (UNESCO Declaration on Race and racial Prejudice, 1978; underlined for purposes of the present paper)

However, it is not before 1979 that the Right to Development became more prominent internationally. It was recognized by the General Assembly as a human right in Resolution 34/46 stating that:

[...] the right to development is a human right and that equality of opportunity for development is as much a prerogative of nations as of individuals within nations. (A/RES/34/46, 1979) (Donnelly, 1985, 475)

Also in 1979 the Secretary General's Report asked for in the abovementioned Resolution 4 was published. However, critique came up that it is rather superficial and poorly reasoned, which also points to the lack of progress in the discussion and conceptualization of the Right to Development. (See Donnelly, 1985: 475) Nevertheless, in 1981 a special Working Group of Government Experts on the Right to Development started to work on the Declaration on the Right to Development. Also the literature on this new right expanded and became a subject at academic meetings and seminars of international organizations.

Furthermore, the Right to Development was incorporated into the African (Banjul) Charter on Human and People's Rights, reflecting the requests of the South for a new international economic order, underlying that it is essential "[...] to pay a particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as

universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;" (Banjul Charter, 1981)

Especially Article 22 and 24 provide that:

All peoples 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 mankind. (Art. 22)

States shall have the duty, individually or collectively, to ensure the exercise of the right to development. (Art. 22)

All peoples shall have the right to a general satisfactory environment favorable to their development. (Art. 24)

It wasn't but during the 1990ies that the integration and indivisibility of human rights was reaffirmed by the Vienna Declaration and Programme of Action, as a result of the World Conference on Human Rights in 1993 during which the Right to Development was adopted and reaffirmed as an universal and inalienable right, and established in Article 72. In this context the thematic working group on the Right to Development was appointed by the UN Commission on Human Rights, which in consultation and cooperation with other organs and agencies of the United Nations system, had the task to formulate comprehensive and effective measures to eliminate obstacles to the implementation and realization of the Right to Development by all States. (See Vienna Declaration and Programme, 1993: Art.72)

It should also be mentioned that prior to the Vienna Declaration, the Rio Declaration on Environment and Development (1992) proclaimed that "[h]uman beings are at the centre of concerns for sustainable development [...]" (Principle 1), that "[...] [t]he right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations [...]" (Principle 3), and that "[...] [a]ll States and people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world." (Principle 5) (Rio Declaration on Environment and Development, 1992)

Considering the last 10 years, the Right to Development was reaffirmed in 2007 in the United Nations Declaration on the Rights of Indigenous Peoples. Article 23 provides that:

"Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples

have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.” (Declaration on Indigenous Peoples, 2007:Art.23)

Having considered this, the question comes up what the main foundations of the Right to Development are? As shall be elaborated below, *participation* and *global partnership* are considered as the main pillars for the realization of this right. This may be fine as far as the theory is concerned. However, the question comes up in how far the Right to Development is referred to in the new development approaches which aim to enhance aid effectiveness and eradicate poverty and what the criteria to measure the implementation of the RTD look like?

When speaking about the RTD, it is important to take three dimensions into account: (i) the personal dimension, (ii) the national dimension and (iii) the international dimension. However, it is the human being who always stands in the center of development. So, the Right to Development is the right which enables people to develop themselves in every sense of their being aiming to increase their wellbeing and protect their dignity and freedom. This is only possible in a healthy environment and functioning society including the economic, social, cultural and spiritual dimension.

Thus, the realization of the RTD is both a precondition and a goal: it is a precondition to achieve development in its entire sense, based on respect of human dignity and well-being and at the same time it is a goal in the sense of effective implementation of development approaches and strategies. This standpoint might appear both, as promising and not grounded, as the implementation of the Right to Development has had many obstacles.

The goal of this master thesis is (i) to create an overview of the main discourses about the Right to Development in order to understand why the debate caused a lot of controversies which are highly polarized and politicized; (ii) to find an answer why the RTD has not yet been fully recognized as a human right and (iii) to think about possible recommendations how to turn theory into practice, which means how to make the implementation of this right more operational. The interest of research is therefore defined by the following question: What is the meaning and value of the Right to Development and in how far has it changed in the past 25 years through the adoption of new development approaches?

To find an answer, the following way of proceeding will be applied: First of all, in Chapter II, the methodological approach will be defined, namely the Critical Discourse Analysis (CDA).

Chapter III, “The Right to Development and its value”, which is the main part and the core of the considerations of this paper, will be divided into two big components: Chapter III.1 “Value of the Right to Development – Synthesis and Critical Discourse Analysis of discourses about the RTD” and Chapter III.2 “Need for a Human Right to Development”.

The intention of Chapter III.1 is to find more about the meaning and value of the Right to Development during the past 25 years. For this matter, Chapter III.1 will be divided into two units:

- (i) The first unit is a synthesis and critical discourse analysis of academic discourses about the Right to Development at its beginnings.
- (ii) The second unit deals with original documents of the UN Commission on Human Rights. Thereby one older document (Global Consultation on the Right to Development, 1989/1990) shall be analyzed as well as recent UN documents in order to find out if and in which way the value of the RTD has experienced a transformation of its meaning and value, especially in relation to new development concepts and frameworks which are incorporated in the Millennium Development Goals (2000), the Paris Declaration (2005) and the Accra Agenda for Action (2008).

The other important component of the main part is Chapter III.2, “Need for a Human Right to Development and obstacles for its realization”. The question why it is important to recognize the RTD as a fundamental human right despite the controversies and polarizations it had provoked lies in the focus of this chapter. Thereby three questions are important:

- Subchapter III.2.1: elaborates the question why the Right to Development is a fundamental Human Right by analyzing the textual nature of the Declaration on the Right to Development of 1986.
- Subchapter III.2.2: summarizes obstacles which stood and are still standing in the way to accept the Right to Development as a fundamental human right.

- Subchapter III.2.3 brings forward two main arguments in favor of the Right to Development despite all its obstacles and controversies.

Concluding remarks and recommendations shall be elaborated in the last chapter. Due to ineffective attempts to realize the values of the Right to Development and to turn them into practice, there still is and maybe more than ever, a need for the implementation of the Right to Development understood as “[...] 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.” (Declaration on the Right to Development, 1986: Preamble)

Whatever the expectations of the present paper may be, one more thing must be mentioned: Even though development is a practical process happening in real life situations within and between communities, peoples, nations, and states, it is also a procedure happening in our minds. Development also happens through discourses as they play a crucial role in the creation of our worldviews and mindsets. Discussing polarized theoretical discourses about human rights is equally important for the achievement of a different, more inclusive human rights approach in which the Right to Development will find its equal place in the internationally recognized human rights system, and finally be implemented in practice. This means that development is a political issue as well, containing a number of moral questions about what is right and wrong, or in other words different values. This is exactly the main content of this paper. To put it differently, what follows is a theoretical discussion about discourses on the Right to Development, because it is important to know what kind of discourses exist about this issue and how and why they have evolved.

The master thesis is therefore a discourse itself and does neither propose practical solutions nor empirical analysis of concrete field studies.

II. METHODOLOGICAL APPROACH

II.1 Critical Discourse Analysis (CDA) as a method to reveal the meaning and value of discourses

The methodological approach used in this paper and especially in part III is the Critical Discourse Analysis (CDA). By analyzing discourses about the Right to Development which have emerged in the last 25 years, the meaning and value of this shall be revealed.

Discourses and notions contain different interests and implicit hierarchical power relations, which are not obvious at first sight. The semantics of discourses is often disguised and obscured through the application and use of unclear, ambivalent and ambiguous terms and notions which makes them not understandable and inaccessible to laics:

The aid institutions differ, other reflecting national idiosyncrasies, they 'think' differently, and they are apparently always changing. Moreover the policies of agencies tend to be inaccessible to outsiders, their language is often intractable, using a large number of acronyms. (De Haan, 2009:18-19)

It can be assumed that discourses are used to achieve certain political goals through different mechanisms. This is also true for development related issues especially when it comes to important decisions and human rights concerns. Restricted approach to information i.e. to certain discourses leads not only to the exclusion of individuals but also of groups and peoples out of important decision making processes which take place behind close doors. This of course is an important obstacle when it comes to decisions which directly affect the lives of people worldwide. These assumptions shall be elaborated in the subsequent part, which deals with language, power and the main principles of the Critical Discourse Analysis (CDA).

First of all, the question arises how to define discourses? According to Siegfried Jäger, a German linguist and proponent of the Critical Discourse Analysis, discourses not only shape our opinions, but also constitute the society in which we live in, because discourses produce and reproduce certain worldviews and truths. The way in which discourses function determines our historical understanding and perception of the

world. (See Jäger, 2008:142ff.) Therefore, discourses and their semantic meaning are much more than pure linguistics because they produce meanings and ideological concepts through time and shape the individual. This means that discourses determine what is perceived as “the reality”, whereby the individual acts as a co-producer and agent. (See Jäger, 2008:147) Jäger defines discourses as “means of production of social relations”. At the same time discourses are produced by individuals living and acting together in society. However, final products of discourses, meaning all sorts of written and spoken statements must not be understood as individual products but rather as part of a big social discourse. (See Jäger, 2008: 173)

To be true, discourses must be socially accepted and recognized. This means that discourses are the consolidation of socially recognized and legitimized *knowledge*. (See Jäger, 2008:148-169) A circle between individuals - discourses - ideological concepts - knowledge - society - power is thus being created, meaning that it is very difficult to break it with new insights, as certain knowledge becomes unquestionable and part of our self-consciousness and our social embedment. Hence, discourses also contribute to the structuring of power relations in a society:

[...] discourse is socially constitutive as well as socially conditioned – it constitutes situations, objects of knowledge, and the social identities of and relationships between people and groups of people. It is constitutive both in the sense that it helps to sustain and reproduce the social status quo, and in the sense that it contributes to transforming it. (Wodak 2002, 8)

However, discourses not simply “happen”. According to Foucault, in every society the production of discourses is at the same time controlled, selected, organized and channeled through certain procedures which curb the powers and dangers of the discourse in order to circumvent its serious and threatening materiality. (See Foucault, 1970: 10f.) Therefore, power can be exercised indirectly by legitimizing certain discourses. Consequently, discourses are powerful and dangerous as they can be used as weapons in favor or against someone or something. This means that discourses fulfill a function. They are fundamental to the constitution of socio-political power, “[...] by e.g. ignoring, mitigating, excluding or denying inequality.” (Van Dijk, 1993: 254) Thus, inequality can be produced and reproduced through discourses creating unequal power relations at different individual, political, economic and social levels.

How it is possible that discourses can have such a strong influence and power hidden within them? In general, political, economic and social paradigms can only prevail if they have discursive confirmation. According to Foucault, the legitimacy of discourses happens slowly through time. It is only possible through direct and indirect imposition of certain power discourses by so-called socially recognized authorities, i.e. groups interested to uphold or enforce unequal power structures for their benefits. Thus, language and discourses are not a neutral medium, but a context-sensitive instrument to create realities and enforce power in order to push for certain interests. In the words of Foucault: "[...] the discourse is something to fight for, and the tool to fight with, it is the power which one is sought to seize." (Foucault, 1970, 11[translated]) This means that opinions are formed on the basis of production and reproduction of certain legitimized discourses, until they are naturalized, and as such become no longer questionable. As will be shown below, legitimizing paradigms means establishing hegemonic discourses which constitute specific power relations and roles. (See Adamson, 1980: 141ff)

The aim of the Critical Discourse Analysis (CDA) is to reveal the production and reproduction of knowledge through time (see Jäger, 2008:156). Thereby, the value and meaning behind discourses shall become evident in order to uncover power relations.

[...] CDA might be defined as fundamentally interested in not only analyzing opaque but also transparent structural relationships of dominance, discrimination, power and control as manifested in language. In other words, CDA aims at investigating critically social inequality as it is expressed, constituted, legitimized, and so on, by language use (or in discourse). (Wodak, 2002, 11)

Van Dijk defines the Critical Discourse Analysis as an instrument dealing with abuse of power: "[...] CDA should deal primarily with the discourse dimensions of power abuse and the injustice and inequality that result from it." (Van Dijk:1993, 252) But before developing this idea, it shall be noted that there is no clear definition about the Critical Discourse Analysis. CDA must rather be understood as a program with different methods and approaches. It is crucial however, that it is always about the relations between discourse, society and power. Consequently, the methods of analysis are very different due to the multi-disciplinary demands of the CDA:

Theories, descriptions, methods and empirical work are chosen or elaborated as a function of their relevance for the realization for [...] a sociopolitical goal. Since

serious social problems are naturally complex, this usually also means a multidisciplinary approach, in which distinctions between theory, description and 'application' become less relevant. (Van Dijk, 1993, 252)

II.2 Enforcing power and legitimizing domination

The perception of realities alters with the changing hegemonic knowledge produced and reproduced by discourses through time. In this context, power is derived from intentions and goals which are incorporated in discourses, constituting unequal i.e. hierarchical positions at all levels of political, economic and social life between peoples and groups. (See Jäger, 2008:149ff) Hierarchical positions are constituted through unequal power-relations, which means relations of difference:

Power is about relations of difference, and particularly about the effects of differences in social structures. The constant unity of language and other social matters ensures that language is entwined in social power in a number of ways: language indexes power, expresses power, is involved where there is contention over power and where power is challenged. (Wodak 2002: 10)

According to Teun A. Van Dijk dominance is defined as the enforcement of power aiming to impose certain interests, which often results in economic, social and cultural inequality at cost of the most vulnerable and weak groups. (See Van Dijk, 1993: 250f.) In the same context Ruth Wodak speaks about ideological effects producing unequal positions and power relations:

Since discourse is so socially consequential, it gives rise to important issues of power. Discursive practices may have major ideological effects – that is they can help produce and reproduce unequal power relations between (for instance) social classes, women and men, and ethnic/cultural majorities through the ways in which they represent things and position people. (Wodak 2002, 8)

Deconstruction of ideologies is seen as the core principle of the Critical Discourse Analysis. CDA thus aims to reveal and consequently reduce inequalities through its critical approach which helps to display hierarchical positioning and power relations created through discourses by those in power:

For CDA, language is not powerful on its own – it gains power by the use powerful people make of it. This explains why CDA often chooses the perspective of those who suffer, and critically analyses the language use of those in power, who are

responsible for the existence of inequalities and who also have the means and the opportunity to improve conditions.” (Wodak, 2002, 10)

In this context there can only be proponents or opponents of different discourses and consequently power relations behind discourses. Those who maintain power are often defined as „western, middle-class, white, male, heterosexual, etc. power elites” who aim at upholding unequal power relations as long as possible (See Van Dijk, 1993: 255):

[The] social, political and cultural organization of dominance also implies a hierarchy of power: some members and dominant groups and organizations have a special role in planning, decision-making and control over the relations and processes of the enactment of power [...] they are literary the ones who have the most to say [...] as measured by the extent of their discursive and communicative scope and resources [in terms of their symbolic power]. (Van Dijk, 1993: 255)

Foucault spoke in this sense about closed discourse-societies playing an ambiguous game of confidentiality and dissemination of knowledge, i.e. of certain discourses. (See Foucault, 1970: 28f.)

Social power is based on privileged access to socially valued resources, such as wealth, income, position, status, force, group membership, education or knowledge. [...] Power involves control, namely by (members of) one group over (those of) other groups. Such control may pertain to action and cognition: that is a powerful group may limit the freedom of action of others, but also influence their mind. (Van Dijk, 1993: 254)

Modern exercise of power is thus cognitive, because by using a variety of discursive strategies and manipulation, the opinion of the broad population is influenced and ultimately shaped: "[...] managing the mind of others is essentially a function of text and talk." (See Van Dijk, 1993: 254) But discourses must not be *explicitly* manipulative. It is much more dangerous if they are transmitted in a *subtle and indirect way* and if they are internalized as something natural and evident:

[...] dominance may be enacted and reproduced by subtle, routine, everyday forms of text and talk that appear ‚natural’ and quite ‚acceptable’. Hence CDA also needs to focus on the discursive strategies that legitimate control, or otherwise ‚naturalize’ the social order, and especially relations of inequality. (Fairclough, 1985, in: Van Dijk, 1993: 254)

This becomes a major problem if people, certain groups, states or even groups of states are excluded from discourses and don’t have access to information and

knowledge. Consequently, they are in a disadvantageous position when it comes to decision making processes which influence their lives:

[...] the more discourse genres, contexts, participants, audience, scope and text characteristics they (may) influence, the more powerful social groups, institutions or elites are. [...] Similarly, lack of power is also measured by its lack of active or controlled access to discourse. (Van Dijk, 2002: 256)

Foucault defined the inequality created by the imposition of certain discourses or through exclusion from discourses as the *shortage of the speaking subject*. (See Foucault: 1970, 26f) This means that only the privileged individuals or groups have access to certain discourses. No one is allowed to enter into the order of the discourse, if he/she doesn't fulfill the requirements and conditions to do so, which means if he/she isn't qualified from the beginning and doesn't belong to the group of the privileged ones. In other words, not all domains of discourses are open and accessible for everyone; some discourses are inaccessible and closed, while others are open for everyone or appear to be accessible by every speaking subject without restrictions. (See Foucault: 1970, 26f) This can be interpreted in the way that weak groups are marginalized through the restricted access to information and discourses i.e. reduced participation in society, but also through exclusion from decision making processes. Examples are numerous and in first place manifested through dichotomies: inequality between men and women, between national majorities and minorities, between hetero and homosexuals, or between the North and the South which is relevant for the further considerations of this paper.

II.3 CDA as a tool for liberation and emancipation

The CDA means in first place to obtain distance to information, knowledge, the truth and world views taken as natural and evident. CDA encourages the speaking subject to put the socially approved knowledge in relation to contexts out of which its symbolic forms had been produced and reproduced. „One of the aims of CDA is to 'demystify' discourses by deciphering ideologies.“ (Wodak, 2002:10) Thus, "[...] critical discourse analysis is specifically interested in power abuse, that is in breaches of laws, rules and principles of democracy, equality and justice by those who wield power." (Van Dijk, 1993: 25-50)

Power relations shall be broken down in order to reveal the discursive construction of the meaning and value of certain paradigms and positions. Thus, the CDA is able to exert emancipatory effects:

[...] CDA often chooses the perspective of those who suffer, and critically analyses the language use of those in power, who are responsible for the existence of inequalities and who also have the means and the opportunity to improve conditions. (Wodak, 2002, 10)

Insights and long-term analysis of the causes, conditions and consequences of political and social inequality and unequal power relations hidden within them shall finally become visible which is a precondition to initiate positive changes: „[...] [the] success [of CDA] is measured by its effectiveness and relevance, that is, by its contribution to change.” (Van Dijk, 1993, 253)

As already mentioned, the methods of the Critical Discourse Analysis are numerous. Thus, there is no universal recipe as how to apply the CDA. According to Foucault exercising criticism means examining the procedures of control, i.e. in the first place the procedures of exclusion i.e. prohibitions, institutionalized rejections of certain discourses and what is considered to be true or not true. (See Foucault, 1970, 42f.) However, it is not enough to analyze discourses in their exclusion, but also to encompass them entirely so that both, mechanisms of limitation and control have to be analyzed, as well as their development, including the context out of which they emerged.

If there is no recipe for the CDA, how is the CDA going to be applied in this paper? According to Siegfried Jäger in his work “Critical Discourse Analysis – An introduction”, the CDA can be applied through five steps which serve as general guidelines. Therefore, the main ideas of Siegfried Jäger will be used for the analysis of the changing value of the Right to Development in part III of this paper bearing in mind the above mentioned considerations about discourses and unequal power relations. Thereby it is especially important to capture the overall context and the relation between the production of discourses and the political, economic, social and cultural background, which condition each other.

It shall be noted that it is not mandatory to apply every step on every text-form. The application depends on the sort of the text and the goal of the discourse analysis. The

following are steps for applying a Critical Discourse Analysis on a text (See Jäger, 2009:175ff.):

- (1) Institutional framework: every fragment of a discourse is embedded in an institutional context. What is therefore the background out of which the discourse emerged? To be considered is: the medium, author, developments which have influenced the production of discourses, special occasions which conditioned the production of certain discourses ect.
- (2) Text- surface: structure of the text, its titles and subtitles, as well as its fragmentation in paragraphs, semantic units, topics etc.
- (3) Linguistic and rhetorical tools: these steps refer to the micro-analysis of the discourse, its strategies for argumentation, logic and composition, implications and code words, collective symbolism, figures of speech, vocabulary, stile, actors, references etc.
- (4) Meaning of its content and ideology: what kind of ideology and ideas stand behind the discourses? What is the idea of mankind and the society/ the world implicated by the discourse? What kind of ideas for the future can be derived from the ideological concepts incorporated in the discourse?
- (5) Interpretation: Step 1-4 are to be considered as preparatory work for the systematic analysis and interpretation of fragments of the discourse, incorporating all previous steps.

During the CDA the following questions shall be answered:

- *What is the main message of the discourse (motive and aim of the discourse?)*
- *What kind of linguistic tools have been applied in the discourse and what is their impact on the perception of people? (Propaganda, manipulative tools)?*
- *What are the target groups the discourse refers to?*
- *What is the intended effect of the discourse in regard to changing of dominant or subordinated discourses?*
- *In which ideological context is the discourse embedded?*

The purpose of the following Chapter is to create a synthesis and critical analysis of discourses about the RTD which reveal the transforming value of the RTD depending on different political standpoints and clashing interests. Thereby the Critical Discourses

Analysis will be applied on three sorts of texts: In subchapter III.1.1 the texts in focus will be academic discourses, especially academic articles of Philip Alston and Jack Donnelly, two opponents who initiated the debate whether the Right to Development is a human right or not. In subchapter III.1.2 the CDA will be applied on documents of the UN Commission on Human Rights dealing with the RTD. Thereby the following questions shall be answered: what kinds of discourses were predominant in the late 80ies, meaning at the initial phase of the RTD? In how far have the discourses about the RTD changed through time and has the RTD experienced a transformation of its value?

The method of analysis has been described above. For the purposes of this paper the model of Siegfried Jäger shall be modified and adopted as outlined below. The described steps shall be used as a general framework in order to analyze and interpret the discourses in relation to the meaning and value of the Right to Development.

(1.) Institutional framework:

- Institutional context of the discourses about the RTD: nature of the medium/discourse;
- Author: who is the author of the medium?
- Developments (political/economic/social/cultural) and special circumstances which have influenced the production of discourses about the RTD? Out of which context did the discourses emerge?

(2.) Text surface:

- Structure and order of the medium: fragmentation/ paragraphs/ semantic units/ topics;
- Titles and subtitles;

(3.) Linguistic and rhetorical tools:

- Microanalysis of the medium: analysis of the argumentation considering the meaning of the RTD;
- Logic and composition;
- Implications/ code words referring to the meaning and status of the RTD in the medium;
- Collective symbolism/ meaning about the RTD as a human right;

- Figures of speech pointing to the meaning and value of the RTD;
- Vocabulary: positive or negative implications concerning the RTD and its acceptance as a human right in society/politics;
- Actors: to whom does the RTD refer? Active/passive actors of the RTD?
- References: on which discourses is the RTD based upon? How does this refer to the value and acceptance of the RTD in politics/society? Legal/political foundations of the RTD (documents, agreements, contracts)?

(4.) Meaning of the content/ideology

- Ideology and ideas behind the concept of the RTD as a human right;
- Idea of mankind/society/world and therefrom resulting ideology about human rights and the RTD as part of the human rights system;
- Ideas for the future considering the further development and acceptance of the RTD and its application in development practice/ consequences on power relations between the North and the South;

(5.) Interpretation

- Systematic analysis of the meaning of the RTD and its value incorporation the previous steps;

(6.) Conclusion

- Implications on the value of the Right to Development;

III. THE RIGHT TO DEVELOPMENT AND ITS VALUE

III.1 Value of the RTD – Synthesis and Critical Discourse Analysis of discourses about the Right to Development

III.1.1 Synthesis and Critical Discourse Analysis of academic discourses

III.1.1.1 Introduction

The recognition of discourses in society and their power and value depend on different factors as has been shown in chapter two. Discourses are considered to be true or false depending on the power they have as means of production of social realities. (See p.11 of this paper and Jäger, 1999:147) Especially relevant for this master thesis is the question what kind of realities and truths about the Right to Development had been constituted out of different discourse positions and why?

The clashes of the different discourse positions considering the meaning and power of the RTD already came up in the mid 80s and influenced the concept and value of this right. In the following, the question about the different meanings and values of the RTD and its power to initiate changes as a human right shall be discussed by analyzing:

- The academic article: *“In search of the Unicorn: the Jurisprudence and Politics of the Right to Development”* written by Jack Donnelly in 1985, who is one of the most important opponents of the RTD, initiating a large debate about the non-existence of such a right.
- The academic article: *“The shortcomings of a ‘Garfield the cat’ approach to the Right to Development”* of his main counterpart, Philip Alston, who took position against Donnelly.

III.1.1.2 The Right to Development as a meaningless concept

A rather negative approach to the RTD as a human right is to be found in Jack Donnelly’s discourses contained in the abovementioned article.

Before analyzing and interpreting the meaning and value of the RTD, it is important to know, what kind of human rights ideology is standing behind. Jack Donnelly is a defender of the “weak cultural relativist position” characterized by two assumptions, namely:

(i) Human rights are rights that one has simply because one is a human being. Human rights are therefore equal rights, meaning that every human being has the same human rights, and human rights are inalienable rights, meaning that one can not stop being human no matter how badly one behaves or how barbarously one is treated. Human rights are thus universal rights because they belong to all human beings. (See Donnelly, 2009:10)

(ii) A set of universal human rights must be recognized everywhere in the world. Rare or strictly limited cultural/local variations of the universally recognized human rights can be allowed, depending on the cultural background, meaning that limited deviations from Universal Human Rights standards are permitted, but only considering their form and interpretation in a specific cultural context. The Universal Declaration on Human Rights and the two Covenants must be understood out of this framework. (See Donnelly, 1984: 402)

From this perspective, the so called “weak cultural relativist approach to human rights” can only be defeated by demonstrating that the interpretation and value of human rights don’t depend on anything else but the cultural context. This means that one has to demonstrate “[...] either that the anticipated violation [of a universally recognized human right] is not standard in that society, that the value is (justifiably) not considered basic in that society, or that it is protected by an alternative mechanism,” which means that “[...] one would have to show that the underlying cultural vision of human nature or society is both morally defensible and incompatible with the implementation of the ‘universal’ human right in question.” (Donnelly, 1984:417) As this is hardly possible, the weak cultural relativist approach is based upon the assumption that it is not the cultural background, but the human dignity which defines human rights, whatever the cultural background may be. The human dignity is the core substance of human rights, meaning that human rights had been formulated in order to protect the human dignity.

According to Donnelly, human rights can be classified into (i) basic personal rights, which have to be recognized by any form of social organization and in any cultural

background, as are the right to life, liberty and security of the person, the guarantee of legal personality, protections against slavery, arbitrary arrest, detention or exile, inhuman and degrading treatment, all clearly connected with the preservation of human dignity and (ii) civil, economic and social rights which, on the other hand can be more relative, depending on the cultural background: "Basic human rights are, to use an appropriately paradoxical phrase, relatively universal." (Donnelly, 1984:419)

However relative rights may be or not, from this position, human rights can only be individual rights. Consequently, collective rights do not belong into the category of human rights. This implies that rights constituting the International Bill of Human Rights are entirely individual rights, which however doesn't mean that the society is of no importance, because the realization of all rights requires collective action. (See Donnelly, 1985: 496)

Transferring these considerations to the Right to Development, the argument comes up that in order to be understood as a human right, the RTD must be an individual and not a collective right:

If human rights arise from the inherent dignity of the human person – are the rights one has simply as a human being – then it would seem undeniable that the human right to development, assuming that it exists, is an individual right. (Donnelly; 1985:495)

This is exactly the point where the question comes up, if the Right to Development does exist, which is the core issue of Donnelly's considerations. According to Donnelly's argumentation, the Right to Development is a valueless concept, because it is neither legally, nor morally grounded as a human right. The main argument against the Right to Development is its problematic conceptualization. Due to the fact that the substance, the content and the definition of right-holders/duty-bearers of the RTD are not clear, the RTD has no real basis meaning that the existence of such a right is doubtful. The author even goes so far to state that the RTD doesn't exist at all and that it doesn't serve any real purpose, but instead may even hinder the implementation of universally recognized human rights:

The right to development is not just a charming delusion, but a threat to human rights, and a particularly insidious threat because it plays upon our fondest hopes and best desires, and diverts attention from more productive ways of linking human rights and development. (Donnelly, 1985:508)

A number of rhetoric figures emphasize this position and even the title of the article “In search of the Unicorn” is an indirect metaphor considering the substance of the RTD. It namely contains a reference to a mythological creature, the Unicorn, which is seen as something good, pure and desirable we wish and search for, but which doesn’t really exist. The metaphorical use of the Unicorn already indicates the core meaning of Donnelly’s message: the Right to Development might be something good, something we are looking for or wish to find, but we can’t prove that it really exists, which is a very strong and provocative discourse position:

“[...] when we look at what advocates of the right to development have brought forward, we find little more than a run-down horse with a plastic horn glued to its head – or rather a series of pretenders, one more ludicrous and mishappen than the next.” (Donnelly, 1985:508)

The same message is transmitted through the metaphor which describes the search of a non-existent black cat in a dark room:

A philosopher is a person who goes into a dark room on a moonless night to look for a nonexistent black cat. A theologian comes out claiming to have found the cat. A human rights lawyer, after such an on-site visit, sends a communication to the Commission on Human Rights; and a member of the Commission leaves the room drafting a resolution on the treatment of black cats. This in a nutshell, is uncomfortably close to the history of the so-called human right to development. (Donnelly, 1985:473)

Discourses exercise an important impact on the value and acceptance of ideologies and worldviews. Bearing this in mind, the question arises what kind of realities and values of the RTD had been constituted through the above mentioned discourse position and in which way?

To defend his main discourse position, namely that the RTD doesn’t exist as a human right, Donnelly develops a very strong strategy of argumentation:

As the existence of a right requires justification through four aspects, namely: (a) the specification of the source of the right, (b) its content or object, (c) the right holder or active subject, (d) the duty bearer or passive subject and (d) the right’s correlative obligations (See Donnelly, 1985: 480-482), the definition of the RTD is not clear due to its missing legal justification in relation to all of the mentioned aspects. Namely, the only two possibilities to justify the existence of such a right seem to be the Right to Self-determination and Article 28 of the Universal Declaration of Human Rights, providing that “[e]veryone is entitled to a social and International order in which the rights and freedoms set forth in this declaration can be fully realized.” (Universal Declaration of

Human Rights, 1948: Art.28) However, Donnelly argues that Article 28 has no power as it has not been reaffirmed by a parallel provision in the Covenants, which, “[...] were drafted precisely to give the force of treaty law to the standards of the Universal Declaration.” (Donnelly, 1985:486)

In order to reaffirm the above mentioned argument Donnelly mentions the example of Article 17 of the Universal Declaration which provides that “[e]veryone has a right to own property alone as well as in association with others.” (Universal Declaration of Human Rights, 1948: Art. 17) The fact that this Article has also not been reaffirmed in the Covenants leads Donnelly to the conclusion that this right is being denied internationally. According to the author the same logic is true for the Right to Development. However, the fact that some rights were not reaffirmed in the both Covenants does not automatically mean that they have no value.

In addition, to underline his position Donnelly claims that not everything that is good or desirable is itself a right:

It may be desirable that A have a right to x. Justice or morality may even demand that A ought to have a right to x. Nonetheless, the instrumental necessity of x for the enjoyment of A's right r simply does not establish that A has a right to x. (Donnelly, 1985:485)

In other words, despite the fact that development might be an important topic in international law, “[i]t simply is not the case that all forms of legal regulation bestow substantive rights- let alone human rights. [...] For example, there are international laws of nationality, recognition and fisheries, but they do not imply (human) rights to nationality, recognition or fisheries.” (Donnelly, 1985:489) In addition, the legal justification of the RTD as a human right is not granted because individual development is understood as a goal or a consequence of the enjoyment of human rights, rather than a human right itself:

Individual development is an object or consequence of respect for, and exercise of all human rights. [...] Individual development is a likely (although not a necessary) consequence of respect for economic and social rights. In fact, all human rights, civil and political as well as economic, social and cultural, aim at the development of individual personality and the protection of inherent human dignity. [...] [D]evelopment is one of the primary objectives of all human rights, not a right in itself. (Donnelly, 1985:484)

Not only has RTD no legal foundations, it is also questionable in terms of moral grounds. Out of Donnelly's discourse position, reemphasizing the moral importance of

development does not imply that there really is a human right to development. (See Donnelly, 1985:494) Rights must not be confused with righteousness, meaning that “[t]he logical gap between obligations (or morality) and rights (a special type of moral practice) is a major one, which far too many arguments for a right to development do not even attempt to bridge.” (Donnelly, 1985:491) Out of this perspective, arguments of solidarity, which are usually being used to justify the RTD, are not grounded:

[...] solidarity cannot logically serve as a source of *human* rights, as they have ordinarily been understood. Human rights, as the Covenants put it, ‘derive from the inherent dignity of the human person.’ Civil, political, economic, social and cultural rights all clearly arise from the idea of innate personal dignity. Solidarity, however is a *relation among* persons or groups. Any rights that might arise would be quite different kinds of rights; even if we were to allow that solidarity gave rise to rights, they would not be *human* rights. (Donnelly, 1985: 492f.)

This viewpoint and arguments not only diminish the legal value of the Right to Development, but also cast doubt upon its moral necessity and justification, which reveals the destructive power inherent in discourses. Thus, discourses have the power to devalue a concept or ideology, which is also true for the Right to Development:

The value of the Right to Development is especially questioned and doubted when it comes to the subjects and the substance of this right: *is it an individual or a collective right, is development a right or a duty, is the primary right holder the individual or the state*, are only some of the questions shattering the foundations of the RTD by creating a negative image and perception of it. Donnelly comes to the conclusion that the recognition of the RTD as a universal human right would result in misusing this right for (i) human rights abuses by repressive regimes and (ii) for claiming more development assistance. This image is especially stressed when speaking about the State as the primary right holder:

The danger here is that the state is thereby placed in a position to use its ‘human rights’ to deny the human rights of individuals, while still plausibly claiming to be pursuing human rights. ‘Human rights’ are thus transformed into but another mechanism of political tyranny and social oppression. (Donnelly, 1985: 499f.)

Also, the Right to Development understood as a synthesis of all human rights or as a precondition to realize human rights is dangerous, because “[...] stress on the whole will divert attention from the parts; that is from internationally recognized civil, political, economic, social and cultural human rights [...]”, leading to “[...] an increasing detachment from the realities of implementation in particular cases; that is it is likely to

obscure the central fact that progress in realizing the whole must be achieved by hard work in implementing the 'parts', the separate civil, political, economic, social and cultural rights already recognized internationally." (Donnelly, 1985:502)

This means that the RTD is not only presented as a meaningless, but even as a dangerous concept: "[t]he problem is that the defensible interpretation [of the RTD], as an individual right to full personal development in all areas of human life, is rather innocuous, while the indefensible interpretations are quite dangerous. In other words, the dangers posed by the right to development far outweigh its benefits." (See Donnelly, 1985:507)

It can be concluded that a very negative perception of the Right to Development was created through discourses. As shown above, discourses determine the power of the RTD, making out of it either a powerful or weak tool to initiate changes in the national and international political and economic order, depending on the interest behind. Donnelly's vision of the RTD is rather negative, as he apparently finds no interest in promoting the RTD, sharing a rather conservative, individualistic and narrow approach to human rights, which might find its explanation in the political and economic power-relations of that time. Power can be attributed to or removed from certain rights through discourses and their acceptance and legitimacy in society, depending on the political will and interest at a certain moment. A good example how the meaning of certain concepts, ideologies or rights can be determined or changed through powerful discourses is the value of the Right to Self-determination, which is closely connected to the Right to Development and which is considered to be the only right of *peoples*.

The Right to Self-determination was usually interpreted as a right to be free from alien political domination and as a right of states against foreign economic control. (See Donnelly, 1985: 485) This interpretation is however different from the interpretation of the value which the Right to Self-determination has today. Namely, 25 years ago the Right to Self-determination could have never been interpreted as a right of peoples or sub-national groups against "their own" sovereign states, while in some cases this is possible today. For example, value was attributed to the Right to Self-determination in the case of Kosovo-Albans against Serbia, justified by the violation of human rights of Kosovo-Albans by Serbia, resulting in the creation of a new country, Kosovo. Considering this context, the question comes up, why political power is being attributed to some rights, while it is denied to others? Why isn't it possible to attribute more value

to the RTD, especially in cases when human rights are being violated due to repressive national as well as international regimes which hinder development in its every sense? Finally, to add political value and power to rights means enabling rights to serve as a tool to initiate changes at the national and international level and to create new power-relations. In other words, the meaning, value and power of a right depend on its political, economic and social justification created and determined through the legitimacy of discourses behind.

III.1.1.3 The Right to Development as a vehicle to initiate collective action

Another example to show in how far discourses can influence the meaning and value of a right and its perception shall be demonstrated by analyzing the academic article “The shortcomings of a ‘Garfield the Cat’ Approach to the Right to Development” which was also published in the California Western International Law Journal, Vol.15 in 1985 and which is a response to Donnelly’s discourse position.

To define the nature of the Right to Development, Alston takes over Donnelly’s metaphorical approach by adding a rather humoristic note and referring to it as a “Garfield the Cat” approach. Thereby the nature of the RTD is metaphorically captured as an unpleasant cat:

Donnelly makes it very clear that he prefers to see things in exclusively black and white terms. The cat is either there or it’s not; the light is either on or it’s not. There is no place for subtlety, for any intermediate positions. As a result, he emerges from the room (see above mentioned description of the search of a non-existent black cat in a dark room, p.24f.), although he does not quite admit to this, having smelt a rather unpleasant cat, and worse still, one he suggests might be slightly pink colored. (Alston, 1985:511)

The Right to Development is compared to Garfield the Cat, because it is a rather unusual, sometimes unpleasant and provocative, even a problematic cat which can’t be described in black and white terms:

But Garfield, like all cats, and probably all rights, is neither all good nor all bad. [...] The point is that the presence of a few characteristics which we perceive to be unpleasant should not deter us from wanting to get to know the animal better and from developing a fuller appreciation of its good points (ideally, while trying to modify its worst). (Alston, 1985:511)

The Right to Development is hereby presented from another perspective, meaning not in black and white terms, but as a multi-facetted right of a complex nature. Thereby, a shift has been initiated from a very negative perception of this right towards a more positive, i.e. more promising one by new discourses, based on another approach to human rights. Contrary to Donnelly, Philip Alston is a proponent of an approach to human rights which goes beyond legal positivism. Legal positivism can be summarized as follows: "In any legal system, whether a given norm is legally valid, and hence whether it forms part of the law of that system, depends on its [legal] sources, not its merits." (Gardner, 2001:199). Contrary to this, Alston is against a narrow positivist understanding and for a more open human rights approach:

We should never assume that talking about human rights requires us at all times to get into deeply legalistic analysis. Voluntary acceptance of such a positivist strait-jacket will cause us all too often to find ourselves at the mercy of the vagaries of legal interpretation which can on occasion be used to confirm the image or rhetoric but deny the substance of a given right. (Alston, 1985:513)

This understanding also foresees the possibility to create new human rights, that is to say that no set of human rights formulations can retain its full validity and adequacy over an extended period of time unless it is revised and renewed to reflect changing circumstances, perceptions and needs of people. (See Alston, 1982:321)

However, this doesn't mean that there is no strong burden of proof lying on new conceptual approaches and rights. New human rights must ensure not to "[...] devalue existing rights by discouraging their progressive development, by blurring the foci of human rights concerns and by making the notion of human rights less comprehensible to those for whose benefit it exists." (See Alston, 1982:321) Mechanisms for ensuring quality control must be applied on emerging rights, and especially on so called "solidarity rights". Those who propose new rights- including the Right to Development- have to show:

- (i) That the new approaches are compatible with and do not devalue existing rights;
- (ii) That the achieved result cannot be achieved through the progressive development of already existing norms;
- (iii) That the approach and terminology employed are in keeping with the various requirements of the human rights tradition. (See Alston, 1982: 321)

In other words, more reflection and coordination must be ensured when new human rights are adopted. The legalization and implementation of new human rights, including the Right to Development are only possible through a more inclusive and comprehensive human rights approach.

However, considering the adoption of the Right to Development, Alston criticized that “[i]n fact, neither the Commission nor the Assembly has ever formally held a debate on whether or not the right to development should be considered a human right and neither body has specifically acknowledged that an entirely new right or at least a new formulation of existing rights was being proclaimed.” (Alston, 1984: 612) This is true for the Right to Development, the Right to a Clean Environment, the Right to Peace and the Right to Popular Participation:

[...] there has been no prior discussion, not to mention analysis, of the major implications of the proposed innovation; there has been no attempt to seek comments from governments, specialized agencies or nongovernmental organizations; [...] there has been no explicit recognition of the fact that a new human right was being proclaimed; and there has been insufficient debate on the basis of which to ascertain, with some degree or precision, the real intentions underlying the affirmative votes of states. (Alston, 1984: 612)

Nevertheless, the RTD is considered to be a promising new human right created out of the need to respond to new threats to human dignity and well-being resulting from the global world order which has emerged from neo-liberal hegemonic discourses, legitimizing economic liberalization, free trade, open markets, de-regulation, whereby already existing unequal power-relations between “developed” and “developing” countries have been reemphasized.

To insist on the importance of the RTD, Alston responds to Donnelly’s argument that Article 28, which provides a social and international order in which the rights and freedoms can be fully realized, is not a legal foundation to recognize the RTD as a human right. Contrary to Donnelly who seeks to dismiss the relevance of that Article, Alston underlines its potential which can be realized through the RTD:

Article 28 of the Universal Declaration is a fact of fundamental importance in establishing the principle that respect for human rights is not a narrowly focused obligation applying only within strict limits to relations between individuals and their States, but rather is an open-ended obligation applying to all societal relations whether at the local, national or international level. In many respects the right to development is an endeavor to give greater operational context to this latter interpretation. (Alston, 1985: 515)

According to Alston, the reason why the RTD could not find recognition as a human right isn't its missing legal or moral foundation, but the status of the international human rights debate, which was based on a too limited and exclusive human rights approach. Three aspects of that debate had produced a rather negative attitude towards the RTD in the past (see Alston, 1985:515f.):

- (i) The ignorance of the importance of economic, social and cultural rights by the international community;
- (ii) The failure to concede that the rights which are accepted at the national level imply certain obligations at the international level;
- (iii) The insistence that human rights are almost exclusively of an individualistic nature;

However, according to Alston, this attitude began to change because more and more importance was added to economic and social rights so that they became more relevant. Also, many human rights observers began to question if the individualistic approach to human rights is really a productive one, considering that our lives in communities and our fate as individuals is bound up with the fate of people living elsewhere. As a consequence, more significance was also added to the Right to Development:

Thus, it is only in the light of growing recognition of the need for (1) more attention to economic rights, (2) greater recognition of the international implications of a national commitment to human rights and (3) a less atomistic approach, that the full significance of the right to development can be appreciated. (Alston, 1985:516)

This means that new discourses about human rights added a new meaning and value to the RTD, understood as an effective vehicle to connect human rights with all three dimensions, namely the individual, the national and international. From this point of view, the RTD is understood as a tool applied to ensure that the human dignity and well-being become a common concern at both, the national and international level:

While it could be argued (with some justification) that this agenda could have been pursued without requiring recognition of the right to development, the reality is that this emerging right is probably a more effective, if less easily controlled, vehicle for doing so than any other that might have been used. (Alston, 1985:518)

Thus, the focus on human dignity and well-being initiated a transformation of the perception and the rather skeptic attitude towards the Right to Development in the mid

80ies and created a more positive image of this new right. Its effectiveness was above all to be found in two aspects:

- (i) Its power to mobilize people in support of a particular goal, namely the protection of the human dignity and well-being;
- (ii) Its ability to empower people to use legal enforcement mechanisms to fight for respect of human rights and development. Recognizing development as a human right and codifying it in the language of rights, would facilitate the access to a range of legal norms and enforcement mechanisms in favor of development. The single most significant feature of the RTD is therefore [...] its potential mobilizing power; its instinctive appeal to a wide range of people for whom development (in its comprehensive sense) is a matter of the utmost priority. (Alston, 1985:513)

Finally, contrary to Donnelly, Alston argues that the dangers of the RTD are nowhere near as dire as Donnelly would have us believe when he suggested that the concept posed an “insidious threat” to human rights, that it could have “frightening” consequences and result in a “genuine tragedy”. (See Alston, 1985:517f. and Donnelly, 1985:508). Considering the new discourses, the RTD is rather understood as a new concept which has much to offer, or in metaphorical terms, as a right which is “[...] neither the black cat which Donnelly portrays it to be, nor the white cat which some commentators might apply. In fact, at this stage of its emergence into the domain of international law it is no more than a kitten. If it grows as it should, it will become not a pure white Angora cat but a multicolored one, with its good and bad points and perhaps a rather mixed pedigree.” (Alston, 1985:518)

III.1.2 Synthesis and Analysis of UN Documents and development related approaches and declarations

III.1.2.1 Introduction

After the idea of a Right to Development was launched by the Senegalese jurist Keba M'Baye in 1972 the concept has been the subject of an academic, but rather theoretical discussion. In the 80ies the RTD entered the UN System, deepening the theoretical discussions and at the same time introducing the question how to transfer theory into

practice. In the following, old and actual UN Documents shall be analyzed in order to reveal the value of the RTD as perceived within the UN System today: the Global Consultation on the Right to Development as Human Right – Report prepared by the Secretary-General pursuant to Commission on Human Rights resolution 1989/45 and actual considerations of the Commission on Human Rights including the High-level Task Force on the Implementation of the Right to Development from 2010-2012. Documents have been chosen which clearly reflect on the value of the RTD showing in which way the discourses about this issue are evolving. In concrete, the following texts are going to be reviewed:

- Human Rights Council (2010): Fifteenth session. Consolidation of findings of the high-level task force on the implementation of the right to development, Geneva, 14-22 January 2010;
- Human Rights Council (2010): Fifteenth session. Right to Development. Report of the high-level task force on the implementation of the right to development on its sixth session. Right to development criteria and operational sub-criteria, Geneva, 14- 22 January 2010;
- Human Rights Council (2011): Nineteenth session. Report of the Open-ended Working Group on the Right to Development on its twelfth session (Geneva, 14- 18 November 2011);
- Human Rights Council (2012): Nineteenth session. Joint written statement submitted by non-governmental organizations in general and special consultative status;

The aim of this chapter is to analyze these documents in regard to the meaning and value of the RTD and to put the recent discourses in relation to development approaches and concepts which became relevant since 2000: the Millennium Development Goals (2000), the Paris Declaration (2005) and the Accra Agenda for Action (2008). The main question is how these approaches, goals and principles influence the meaning and value of the RTD and vice versa.

III.1.2.2 The Right to Development as both, an individual and collective right

During the 80ies the Right to Development was slowly introduced in the discussions of international organizations and the United Nations. Discourses about the new emerging right became part of the agenda of the UN Commission on Human Rights which established a Working Group on the Right to Development in 1981. The Working Group's task was to study the scope and content of the Right to Development and the most effective means in order to ensure the realization of the economic, social and cultural rights guaranteed by different international instruments. The WG was asked to particularly pay attention to the obstacles of developing countries in regard to their efforts to secure the enjoyment of human rights. (See Commission on Human Rights, 1989:3)

After the Declaration on the Right to Development was adopted in 1986, the Commission on Human Rights requested the Secretary General to distribute the Declaration to all governments, United Nations organs and specialized agencies and other governmental and non-governmental organizations and invited them to provide their comments and opinions about its implementation. (See Commission on Human Rights, 1989:3) Five years later, In 1989 the Working Group was convened to study the analytical compilation and replies received from the above mentioned parties and to prepare its final recommendations in order to contribute to the further enhancement and implementation of the Declaration at the individual, national and international level. Out of this reason the Working Group recommended to the Commission on Human Rights to invite the Secretary General to organize a Global Consultation on the Realization of the Right to Development involving representatives of the United Nations system and its specialized agencies, regional intergovernmental organizations and interested non-governmental organizations, especially those active in development and human rights, to concentrate on the fundamental problems considering the implementation of the Declaration, the criteria which might be used to identify progress and possible mechanisms for evaluating such progress. (See Commission on Human Rights, 1989:8) The aim was to contribute to the drafting process of an evaluation system for the enhancement and implementation of the Right to Development:

The Working Group reiterates its previous recommendation that there is a need for continuing evaluation mechanisms; as the Declaration on the Right to Development is of very recent origin, its place in the family of human rights needs and

development processes needs to be promoted, encouraged and strengthened. (Commission on Human Rights, 1989:9)

The Global Consultation on the Right to Development as a Human Right was held in 1990 with ca. twenty invited experts, several representatives of different UN programs and agencies, forty nongovernmental organizations and more than fifty governments. (See Commission on Human Rights, 1990:52 and Barsh, 1991:322-323):

Special efforts were made to avoid a sterile theoretical debate among legal scholars from the North by seeking out experts and NGOs from the South with expertise in economics and development strategy, and by encouraging the participation of development agencies and financial institutions such as the UN Committee for Development Planning, the International Monetary Fund, and the World Bank. This nontraditional format made it possible for the meeting to achieve some nontraditional results. (Barsh, 1991:323)

The focus of the report was to deal with practical problems of the implementation of the Declaration on the RTD and to overcome the theoretical discussions which the Working Group was not able to achieve. According to some critiques, the Global Consultation was held because the Working Group of Governmental Experts on the Right to Development failed to come up with concrete recommendations for the implementation of the Declaration on the Right of Development. It was understood as something of a tactical gamble:

To obtain a consensus, delegations from the South had to agree to let the mandate of the Working Group lapse. Delegations from the North hoped that this one-time meeting of independent experts would be as unsuccessful in formulating concrete measures as the Working Group had been, putting an end to any further talk of implementation. (Barsh, 1991:322)

However successful or not, fact is that during the Global Consultation new concepts have been introduced into the debate about the Right to Development, which also changed the significance and value of this right through new discourses. Especially two concepts are of utmost importance, namely (i) that participation and implementation of the RTD are interconnected and (ii) that the RTD is both, an individual and collective right. Through the application of these two aspects in development practice, the main obstacles for the implementation of the RTD can be overcome, which are defined as follows:

- Non-respect of the Right to Self-determination of peoples, their right to permanent sovereignty over natural resources which has also an impact on the realization of the Right to Development;
- Violations of human rights, racial discrimination, apartheid, foreign occupation;
- Undermined economic conditions important for development which can appear in form of diversion of resources for military or police forces, capital flight, demobilization of human resources, increased national dependence, indebtedness, involuntary emigration and environmental destruction caused by lacking respect of human rights and fundamental freedoms and in especially the Right to Development which can cause conflict and instability;
- Failure to implement and respect the principles of democracy and democratic governance;
- Inappropriate or destructive development strategies which sacrifice human rights in order to achieve economic development; domination of financial rather than human considerations; limitation of the human dimension to questions of productivity which causes social tensions and inequalities in power;
- Corruption;
- Transfer of control of resources from developing countries to developed countries especially in the 80ies;
- Indebtedness and structural adjustment strategies;
- Ignorance of the principles of the Right to Development in agreements between States, the World Bank, the International Monetary Fund and commercial banks with regard to external debt repayment and structural adjustment;
- Prevailing terms of trade, monetary policy, conditions tied to bilateral and multilateral aid established through unequal decision making processes; policy of protectionism favoring industrialized countries;
- Concentration of power in the most industrialized countries, unequal division of labour and the way how the Bretton Woods institutions function;
- Brain drain due to the large disparities in wages and income levels between countries, as well as restrictions on transfers of technology;
- Consumption patterns of the more industrialized countries;
- Lack of communication between different stakeholders: UN agencies and programs, specialists in human rights, national governments, the academic

community, non-governmental organizations; (See Global Consultation, 1989:43-44)

According to the Global Consultation, the best possibility to overcome the abovementioned obstacles is democratization through active participation. Thereby, the RTD is not so much understood as a right to the improvement of material conditions, but as the right to have a voice in and control over the social, political and economic environment. (See Barsh, 1991:326) This message is especially transmitted through the main discourses of the Global Consultation, underlining the role and value of participation:

Participation is a condition for the exercise of many other human rights, and may be of particular importance among people with traditional cultures in which individual rights tend to be defined in relation to the community. (Global Consultation, 1989:32)

Special reference was made to countries with weak national constitutions and excessive bureaucratization, including very limited rights to actively take part in decision-making processes. Thereby, the relationship between political participation, the right to work and equal access to resources was underlined, stressing out the importance of popular organizations, the power of which had to be recognized not only at the national, but also at the international level. (See Global Consultation, 1989:32) This means that equal opportunity is created through participation, the concept of which must be understood both, as a means to an end and as an end in itself (see Global Consultation, 1989:41), whereby a distinction must be made between active and passive forms of participation: "Passive' participation is merely a managerial technique, while 'active' participation involves empowerment and [...] depends on awareness raising and organization building." (See Global Consultation, 1989:33)

Significance was added to the organization of the most vulnerable groups, which always face the greatest obstacles to development. Popular organization increases their effective participation, leading to democratization and improvement of their living conditions.

Where powerful economic, ethnic or regional interests interfered with the democratic functioning of the State, popular organizations often played a crucial role in assuring access to essential services such as health care. (Global Consultation, 1989:32)

Thus, promoting participation means implementing measures which promote the implementation of the RTD and the creation of new power-relations for the benefits of the most vulnerable groups in society:

Measures formulated to promote the right to development must focus on the democratic transformation of existing political, economic and social policies and structures which are conducive to the full and effective participation of all persons, groups and peoples in decision-making processes. Special measures are required to protect the rights and ensure the full participation of particularly vulnerable sectors of society, such as children, rural people, and the extremely poor, as well as those which have traditionally experienced exclusion or discrimination, such as women, minorities and indigenous people. (Global Consultation, 1989:41)

By putting emphasis on participation, the individual was shifted into the center of the debate about the RTD, but not to emphasize the individualistic approach to human rights, but in contrast to this to justify the RTD as a human right. Making the individual the central subject of development, means breaking up the dichotomy between the individual and the state as the primary right-holder:

The human person is the central subject rather than a mere object of the right to development. The enjoyment of all civil, political, economic, social and cultural rights is both the necessary condition and the aim of the right to development. (Global Consultation, 1989:41)

This means that the “[...] primary importance of the right to development lies in its understanding of development as a comprehensive social process which leads to the full realization of human rights through a process that respects individual human rights. [...] Measurement of the realization of the right to development should, therefore, include the utilization of precise and objective criteria of achievement in the field of civil, political, economic, social and cultural rights.” (Global Consultation, 1989:26)

Having defined the individual as the primary right holder, the conclusion drawn from the Global Consultation’s report is that the State is the primary duty-bearer in order to create condition favorable to development:

Since the individual is the central subject of development, the individual must take responsibility for her or his own welfare to the extent possible. To implement the right to development, States have a responsibility first to respect the freedom of the individual to take action; second, to protect individuals and their resources against other, more assertive or aggressive actors; and third, to assist in the fulfillment of welfare needs by providing assistance to create equal opportunities for individuals or groups, and through the direct provision of resources. (Global Consultation, 1989:33)

Thus, the role of states is clearly defined as they are asked not only to take concrete steps “[...] to improve economic, social and cultural conditions and to facilitate the efforts of individuals and groups for that objective, but must do so in a manner that is democratic in its formulation and in its results”, meaning that states “[...] must also ensure the means for the exercise and enjoyment of these rights on a basis of equal opportunity.” (Global Consultation, 1989:41)

The discourses of the Global Consultation also put forth another meaning of the RTD, namely that this new right is both, an individual right as was elaborated above, and at the same time a collective right, the concept of which added a new dimension to the understanding of human rights and the creation of new power relations between the center and the periphery:

The ideal of the right to development, which is based on the collective rights of peoples, nations and other forms of collectivities, could well be in contradiction with the structure of the global market which tends to benefit the centre at the expense of the periphery, that is the poorer countries. (Global Consultation, 1989:36)

With regard to people as “collective beneficiaries”, the Global Consultation concluded that “[...] the term people should encompass groups within the State, such as indigenous peoples and minorities as far as the right to development was concerned.” (Global Consultation, 1989:23) Also, adding value to the collective dimension of the RTD does not put in question the integrity of the human person as the center of development (See Global Consultation, 1989:22)

This means that considering the meaning and value which was attributed to the Right to Development through new discourses, the main message of the Global Consultation is that development is not only a fundamental right, but a human need in order to fulfill the aspirations of all people to achieve the greatest possible freedom and dignity, both as individuals and as members of the societies in which they live. (See Global Consultation, 1989:40) Thereby, the value of the Right to Development was characterized through a subjective component:

What constitutes “development” is largely subjective, and in this respect development strategies must be determined by the people themselves and adapted to their particular conditions and needs. (Global Consultation, 1989:42)

Finally it can be concluded that new discourses attributed a new significance and value to the Right to Development understood both, as “[...] the right of individuals, groups and peoples to participate in, contribute to and enjoy continuous economic, social,

cultural and political development, in which all human rights and fundamental freedoms can be fully realized.” (Global Consultation, 1989:40) This definition incorporates the following rights: the right of effective participation in all aspects of development and all levels of decision-making processes; the right of equal opportunity and access to resources; the right of fair distribution of the benefits of development; the right to respect for civil, political, economic, social and cultural rights; and the right to an international environment in which all these rights can be fully realized. (See Global Consultation, 1989:40) All these rights and aspects are complementary and interdependent and they apply to all human beings regardless of their citizenship. (See Global Consultation, 1989:40)

III.1.2.3 The Right to Development as a legally binding instrument?

Since the proclamation of the 1986 Declaration on the Right to Development and the Global Consultation in 1989/90 a lot of events and conferences took place which opened the path for the evolvement of new development approaches bringing along new development discourses considering development and the significance of the Right to Development.

In 1993, the Vienna Declaration and Programme of Action was adopted reaffirming the RTD as an “[...] universal and inalienable right and an integral part of fundamental human rights.” (See Vienna Declaration, 1993: Art.10) At least at this moment the discussion between Donnelly and Alston considering the question whether the RTD is a human right or not became obsolete. Considering the discourses about the Right to Development in the UN system today, the RTD is understood as both, a human right of individuals and a right of peoples. Thereby, human well-being and global responsibility stand in the center of the discussions:

The right to development is the right of peoples and individuals to the constant improvement of their well-being and to a national and global enabling environment conducive to just, equitable, participatory and human-centered development respectful of all human rights. (Human Rights Council, 2010:8)

A milestone for development policies is the year 2000 when 189 nations made a commitment to free people from extreme poverty and to foster development by agreeing upon eight Millennium Development Goals to be achieved by 2015. It is since

the Millennium Development Goals that the discourses about development and mutual responsibility were shifted to a more global level. This means that the responsibility to create conditions favorable to development does not exclusively lie within the nation-states, but must be considered globally. The Millennium Development Goal 8 “Develop a global partnership for development” is of particular importance for the implementation of the RTD because of the introduction of new development concepts, namely “global partnership” and “shared responsibility” which are considered as essential for the realization of this right. The Millennium Development Goal 8 consists of the following goals:

1. Develop further an open, rule-based, predictable, non-discriminatory trading and financial system;
2. Address the special needs of least developed countries, landlocked countries and small island developing states;
3. Deal comprehensively with development countries’ debt;
4. In cooperation with pharmaceutical companies, provide access to affordable, essential drugs in developing countries;
5. In cooperation with the private sector, make available benefits of new technologies, especially ICTs; (See United Nations Summit, 2010)

Linking the MDG 8 to the realization of the RTD means that they are both based on the same principles, namely the “creation of national and international conditions”, “friendly relations and co-operation among States” which have the duty to “co-operate with each other in ensuring development and eliminating obstacles to development”, as provided by Article 3 of the Declaration on the Right to Development. Linking the MDG 8 to the realization of the RTD also means that the targets of MDG 8 as presented above can be understood as a precondition to achieve a new international economic order, reaffirmed in Paragraph 3, Article 3 of the Declaration on the Right to Development:

“[...] States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.” (Declaration on the RTD, 1986: Art.3)

Thus it can be concluded that the content and value of the Right to Development and the Millennium Development Goal 8 are interconnected and mutually reaffirmed.

Five years after the proclamation of the Millennium Development Goals, the Paris Declaration was adopted in 2005. It is built upon five pillars, namely: Ownership, Harmonization, Alignment, Results and Mutual Accountability. The goal of the Paris

Declaration was to achieve more aid effectiveness by strengthening partner countries' national development strategies, increasing alignment of aid with partner countries' priorities, systems and procedures, by helping to strengthen partner countries' capacities and by enhancing donor's and partner countries' respective accountability to their citizens and parliaments for their development policies. (See Paris Declaration, 2005) Especially Ownership, meaning that partner countries exercise more leadership over their development policies and strategies and co-ordinate development actions shall reduce discrimination in decision-making processes and promote equality between donor countries, the international community and partner countries. Here, the question comes up in which way active participation of the non-governmental sector, the civil society and the most vulnerable groups is guaranteed by the Paris Declaration? The Declaration clearly didn't foresee this aspect.

To solve this issue, three years later, the Accra Agenda for Action (AAA) adopted in 2008, was created to strengthen and deepen the implementation of the Paris Declaration. In order to make the global partnership concept more comprehensive and inclusive, the AAA particularly highlights the importance of inclusive partnerships, which means that all counterparts, i.e. donor countries, international development institutions, associations and recipient countries, as well as the NGO sector and the civil society fully participate in development processes.

All of the above mentioned approaches to development, goals and principles as defined by the MDGs, the Paris Declaration and the Accra Agenda for Action are connected to the Right to Development, indirectly or directly influencing its significance and value. However, although the principles of the Paris Declaration for more aid effectiveness can be considered as inherent to the Right to Development, the critique was brought up that human rights, including the RTD, were not explicitly referred to in this document. (See Human Rights Council, 15th session, 2010:8) After strong critique had been brought up, reference to human rights was subsequently made in the Accra Agenda for Action. But also this time the Right to Development remains unmentioned, which obviously diminishes the importance and value of this right.

Another issue concerning the Paris Declaration as noticed in the 15th Session of the Human Right Council in 2010 is the fact that it does not explicitly focus on development outcomes, which makes it less useful as a framework for enhanced development

effectiveness, human rights realization, gender equality and environmental sustainability. These important aspects, including the main causes of ineffective aid, in terms of tied aid and unpredictable aid flows, do not seem to be properly addressed and pose a problem from the Right to Development perspective, especially in light of ownership of partner countries and policy coherence. (See Human Rights Council, 15th session, 2010:8) To solve this, the High-level task force on the implementation of the right to development, created in 2004 within the mandate of the open-ended Working Group on the Right to Development by the UN Commission on Human Rights, developed criteria and sub-criteria for the implementation of the RTD, the inclusion of which into all relevant documents and national and international development approaches and global partnerships would enhance the value and importance of the RTD:

Right to development criteria and human rights percepts and practice could reinforce the [Paris] [D]eclaration's principles of ownership and mutual accountability [...]. The right to development can add value to aid effectiveness by framing the debate without overemphasizing aid efficiency or introducing conditionality language. [...] There is considerable congruence between the principles of aid effectiveness and those underlying this right." (Human Rights Council, 15th session, 2010:8)

The above mentioned standards (attributes, criteria, sub-criteria and indicators) have been developed from 2004 till 2010 aiming to make the RTD more operational:

[...] the standards are intended to provide clear, action-oriented guidance as to the responsibilities of decision makers in States, international institutions, and civil society as they plan, implement, monitor and assess development-related policies, projects and processes. (Human Rights Council, 2010:5)

As indicated in the Task Force's report, the criteria and sub-criteria are meant to be "relatively long-lasting and suitable for inclusion in a set of guidelines or a legally binding instrument". (See Human Rights Council, 2012:5) The criteria are created to be used by development actors and decision makers over the long term while assessing whether they act in accordance to their own responsibilities or not. Thus, the criteria, sub-criteria and indicators were designed to "[...] assess the extent to which States are individually and collectively taking steps to establish, promote and sustain national and international arrangements that create an enabling environment for the realization of the right to development." (See Human Rights Council, 2010:8)

Before discussing their importance, it will be useful to describe the criteria and indicators by which the implementation of the RTD can be measured. The Task Force created a table which is structured around three components/attributes which consist of criteria, sub-criteria and indicators which shall be applied in different social contexts. The components/attributes are the following: (i) comprehensive and human rights centered development policy; (ii) participatory human rights processes; and (iii) social justice. (See Human Rights Council, 2010:6)

The first attribute is about the commitment to development and includes the following criteria:

- (a) In how far the improvement in socio-economic well-being has been promoted;
- (b) Whether stable national and global economic and financial systems have been maintained;
- (c) If national and international policy strategies supportive of the right to development have been adopted;
- (d) In how far an economic regulatory and oversight system to manage risk and encourage competition has been established;
- (e) Whether an equitable, rule-based, predictable and non-discriminatory international trading system have been established;
- (f) In how far access to adequate financial resources has been promoted and ensured;
- (g) In how far access to the benefits of science and technology has been promoted and ensured;
- (h) Whether environmental sustainability and sustainable use of natural resources has been promoted and ensured;
- (i) What steps have been taken in order to contribute to an environment of peace and security;

The second attribute is about rules and principles, meaning human rights, participation, accountability and transparency, and includes the following criteria:

- (a) If a legal framework supportive of sustainable human-centered development has been established;

- (b) In how far relevant international human rights instruments have been incorporated in elaborating development strategies;
- (c) Whether non-discrimination, access to information, participation and effective remedies have been ensured;
- (d) In how far good governance at the international level and effective participation of all countries in international decision-making has been promoted;
- (e) Whether good governance and respect for rule of law at the national level has been ensured;

The third attribute is about distributional outcomes, which means fair distribution of the benefits and burdens of development and includes the following criteria:

- (a) Whether fair access to and sharing of the benefits of development has been provided;
- (b) If fair sharing of the burdens of development has been ensured;
- (c) In which way social injustices through economic and social reforms have been guaranteed;

These criteria are further broken down to a set of operational sub-criteria to be measured by different indicators. The goal is to achieve development committed and human rights centered policy, respect for rules and principles and social justice. However, this is only possible if the criteria and sub-criteria become internationally binding for all stakeholders and decision makers at all national and international levels of governance. The list of the criteria and sub-criteria will be added as Annex 2 to this paper because they represent the latest outcomes of the discussion about the Right to Development.

Considering the operational level, the reaction of countries in regard to the criteria and operational sub-criteria for the implementation of the RTD is diverse. The general impression is that countries of the South believe that the importance of this right is self-evident and that hesitations and controversies need to be put at rest after 25 years of its existence as a human right. The African Group underlined the importance to take pragmatic and concrete steps in order to implement this “dormant right”. Morocco added that national and international responsibilities and local development needs could only be met through co-operation, capacity-building and technical assistance from

the international community. Algeria pointed out that there still is missing political will to take into account the normative implications of the right. (See Human Right Council, 19th session, 2011:5)

Countries of the North, especially the European Union and the United States of America objected the idea of international legal standards of a binding nature in regard to the implementation of the RTD. Instead, the EU stated that it is willing to support the operationalization of this right only through the elaboration of benchmarks and indicators for individual States to empower individuals as active agents in the development process. (See Human Right Council, 19th session, 2011:5) This means that some States want to avoid duties and responsibilities to be imposed on them, and are especially reluctant to the idea of a new international economic order. This is the reason why some countries of the North do not accept the proposed criteria and sub-criteria, constantly criticize them and find shortcomings and flaws. Representatives of the EU commented on this matter:

Only when the criteria and sub-criteria had been properly assessed and refined should appropriate instruments, such as guidelines, templates or checklists be developed, in order to help all relevant stakeholders and human rights mechanisms and procedures to assess progress in the implementation of this right and to mainstream right to-development considerations in their work, policies and programmes. (See Human Right Council, 19th session, 2011:5)

In addition, representatives of the United States of America reiterated that they were not prepared to join consensus on the possibility of negotiating a binding international agreement on this topic. (See Human Right Council, 19th session, 2011:5)

It is evident that there is missing political will to increase the value of the RTD by making its implementation a binding legal matter implying consequences and sanctions when it comes to violations of RTD principles. Thus, the first obstacle which needs to be eliminated for paving the way for the realization of this right is the removal of the actual polarization and politization:

The time has come for Member States of different coalitions to go from rhetoric to action bearing in mind that the life, well-being and respect of the human rights of billions of people around the world, depend on the implementation of the right to development and the establishment of an international social order (see article 28 of the UDHR) founded on justice, development and peace. (Human Rights Council, 19th session, 2012:3)

However, it is true that there is a need for further clarification in terms of accountability and responsibility at all levels as well as on the issue of global partnerships for development. (See Human Rights Council, 19th session, 2011:5) As stated by the NGO sector (NGOs in general and special consultative status before the UN), the criteria and operational sub-criteria developed by the High-level task force [...] do not entirely reflect the peculiarity, the richness, and the vision of the right to development.” (Human Rights Council, 19th session, 2012:2) Thereby the NGO sector especially underlined the richness of the RTD by pointing out the core principles of the Declaration on the Right to Development, namely:

“[...] unity of origin and a shared destiny of the human family; equality among all persons and communities based on human dignity; the universal destination of the goods of the earth; the notion of integral development; and the centrality of the human person and solidarity.” (Human Rights Council, 19th session, 2012:2)

Another issue is the fact that the criteria and sub-criteria are not written in appropriate human rights language and concentrate more on the agenda of MDGs: Terms like “food security”, “health” etc. were used instead of “right to food” or “right to health”. (See Human Rights Council, 19th session, 2012:2) This means that the explicit reference to human rights is missing. Furthermore, it was brought up that the criteria and sub-criteria mainly focus on the social and economic dimensions and less on cultural and spiritual development which is equally important for the full realization of an individual. (Human Rights Council, 19th session, 2012:2) The implementation of the RTD must however be centered on the entire human person including all dimensions.

Nonetheless, the creation of the criteria and operational sub-criteria for the implementation of the Right to Development is an important step forward and needs to be recognized as such. The creation of the criteria and sub-criteria certainly contributes to the recognition of the value of the RTD and can be considered as the starting point for the process of legalizing this right at national and international level.

III.2 Need for a Human Right to Development

III.2.1 Meaning of the Declaration on the Right to Development

Despite the widespread critique concerning the ambiguity of the RTD, the adoption and ratification of this right is important because it introduced new hope into the development debate. In the following, the question shall be answered what the Declaration on the Right to Development really is about and why it is important to bring the RTD into development practice?

The Declaration on the Right to Development was adopted by the General Assembly resolution 41/128 on 4 December 1986. It consists of a Preamble and 10 Articles, some of them containing two or three Paragraphs.

The main concept of the RTD, as described in the Preamble, is that development is understood as a “[...] 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.” (See UN General Assembly Resolution A/RES/41/128, 1986)

The Preamble recalls that under the provisions of the Universal Declaration of Human Rights and the provisions of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights, “[...] everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized”. (See UN General Assembly Resolution A/RES/41/128, 1986)

The Preamble refers further to “[...] the relevant agreements, conventions, resolutions, recommendations and other instruments of the United Nations and its specialized agencies concerning the integral development of the human being, economic and social progress and development of all peoples, including those instruments concerning decolonization, the prevention of discrimination, respect for and observance of human rights and fundamental freedoms, the maintenance of international peace and security and the further promotion of friendly relations and co-operation among States.” (See UN General Assembly Resolution A/RES/41/128, 1986) This means that the RTD is not an isolated new right, adopted only because of the pressure of the South. The RTD is

incorporated in other internationally recognized declarations, covenants and instrument and must be understood out of this context.

As the Preamble goes on, it reveals the reasons for inequalities and human rights violations: they result from colonialism, neocolonialism, apartheid, racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity as well as war. (See UN General Assembly Resolution A/RES/41/128, 1986)

The language used in the Preamble and throughout the whole Declaration is typical for UN Declarations, meaning that there is room for broad interpretations which can be both, positive and negative. It might not be clear from the beginning who the right holders and duty bearers are, which can easily result in ambiguous interpretations and be used against the recognition of the RTD as an inalienable human right. Thus, it is not surprisingly that the question emerged whether states or individuals are those who are responsible for development, which is only one of the issues which laid obstacles for the recognition of the RTD as a fundamental human right, as shall be elaborated later. Also, it might not be clear whether the RTD is in the first place an individual or collective right? If it is understood as a collective right, can it be a human right, considering the fact that human rights belong to individuals and not collectives? These are only some of the questions which posed a lot of problems. Anyway, by carrying on with the analysis of the Declaration, some of those questions shall be clarified.

Why is the Right to Development a Human Right?

Considering Article 1, Paragraph 1 of the Declaration, the concept of the RTD can easily be revealed:

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 realized. (UN General Assembly Resolution A/RES/41/128, 1986: Article 1)

Article 1 defines that the RTD is a human right and that this right is inalienable, meaning that it cannot be bargained away as it belongs to every human being. As human beings are part of a community, together they constitute peoples. Nevertheless, it is the individual human being who is in the center of development, which means that the

individual human being is the primary right holder, even though *Article 1, Paragraph 2* and *Article 5* refer to the right of peoples to self-determination. This means that even though the Right to Development is an individual right, it can also be interpreted as a right of peoples, understood as a collective of individuals. However, “[...] this doesn’t mean that ‘peoples rights’ can be seen as countering to or in contradiction from an individual’s or ‘every human person’s right’.” (Sengupta, 2000:3) To clarify the debate which emerged considering individual vs. collective rights, *Article 2, Paragraph 1* categorically provides that it is the human person who is the central subject of development, meaning the “active participant and beneficiary of the right to development.” (See UN General Assembly Resolution A/RES/41/128, 1986: Article 2) Every human person is therefore entitled to enjoy the Right to Development, but also to fulfill certain duties.

Clarification about the duty-bearers of the Right to Development

Considering the above, it is clear that the right-holders of the Right to Development are individuals. The question about duty-bearers is a bit more difficult. As defined by *Article 3*, “States have the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development.” (Declaration on the Right to Development, 1986: Article 3) However, as the Article goes on, it becomes evident that the responsibilities to create conditions for the realization of the RTD must be borne by all stakeholders concerned. This shall be clarified by reconsidering the three dimensions of the Right to Development:

- (i) The individual dimension: First of all, *Article 2, Paragraph 2* provides that “[a]ll human beings have a responsibility for development individually and collectively” and that they must take appropriate actions, maintaining “[...] full respect for the human rights and fundamental freedoms as well as duties to their community”. (Declaration on the Right to Development, 1986: Article 2) As Arjun Sengupta put it, “[...] [h]uman persons thus are recognized to function both individually and as members of collectives or communities and to have duties to communities that are necessary to be carried out in promoting the process of development.” (Sengupta, 2000:3)

- (ii) The national dimension: As *Article 3* provides, states have the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development. (See Declaration on the Right to Development, 1986: Article 3) Given the fact that states represent the people, their responsibility is to create conditions for their people to develop themselves in every sense of their being in a favorable environment. This means that states have a responsibility to create conditions for development within the national borders. Consequently, states are the primary duty-bearers. However, the RTD can not be realized by States, but only by individuals. (See Sengupta, 2000:3)

At this point the question comes up what exactly the role of the states is and in which way states are supposed to create conditions for the enjoyment of the RTD? *Article 2, Paragraph 3* provides that "States have the right and the duty to formulate appropriate national development policies that aim 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 the benefits resulting therefrom." (Declaration on the Right to Development, 1986: Article: Article 2) These duties are reaffirmed in *Article 6, Paragraph 3* providing that "States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights." (Declaration on the Right to Development, 1986: Article 6) *Article 8, Paragraph 1* reaffirms that States shall ensure "[...] equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and fair distribution of income", and that "[...] effective measures should be undertaken to ensure that women have an active role in the development process." (Declaration on the Right to Development, 1986: Article 8) Also, "[...] appropriate economic and social reforms should be carried out with a view to eradicating all social injustices." (Declaration on the Right to Development, 1986: Article 8)

The fact that the primary actors to actively realize the RTD are not states but individuals, whereby the role of the states is to ensure that equal opportunity to actively take part in decision-making processes is provided to all individuals, is once again emphasized by *Article 8, Paragraph 2* providing that "States should encourage popular participation in all spheres as an important factor in

development and in the full realization of all human rights.” (See UN General Assembly Resolution A/RES/41/128, 1986: Article 8)

- (iii) The international dimension: States have also international responsibilities which are based on global partnership i.e. international cooperation as provided by *Article 3, Paragraph 3*: “States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development.” (Declaration on the Right to Development, 1986: Article 3) The international cooperation must be based on “[...] sovereign equality, interdependence, mutual interest and co-operation among all States [...]”, as well as on the “[...] observance and realization of human rights [...]” which will finally result in a new international economic order. (Declaration on the Right to Development, 1986: Article 3) But in which way are states supposed to cooperate internationally?

This question is referred to in *Article 6, Paragraph 1* providing that “[...] all States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion.” (Declaration on the Right to Development, 1986: Article 6) Also, all states are responsible for the promotion, establishment, maintenance and strengthening of international peace and security, also including disarmament. (Declaration on the Right to Development, 1986: Article 7)

Especially Article 3, Paragraph 3 which provides that states have the duty to “[...] promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights,” (Declaration on the Right to Development, 1986: Art.3) caused a negative attitude towards the RTD and resulted in rejections from countries of the North to recognize this right as a human right.

The idea of a new international economic order (NIEO) was already mentioned in 1974 in the UN Resolution adopted by the General Assembly asking for “[f]ull and effective participation on the basis of equality of all countries in the solving of world economic problems in the common interest of all countries, bearing in mind the necessity to ensure the accelerated development of all the developing countries,

while devoting particular attention to the adoption of special measures in favor of the least developed land-locked and island developing countries as well as those developing countries most seriously affected by economic crises and natural calamities, without losing sight of the interests of other developing countries;" (UN Doc. 1 May 1974, A/RES/S-6/3201)

Also *Article 4, Paragraph 2* caused some problems as it provides that "[...] sustained action is required to promote more rapid development of developing countries" meaning that "[...] international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development." (Declaration on the Right to Development, 1986: Article 3 and 4)

However, the fear of the so called developed countries of the North that the RTD could be used to claim more development assistance can easily be withdrawn, as shall be elaborated in the next chapter. Of course, the arguments in favor of a new international economic order are far more difficult to defend. Missing political will and rejections of this idea are still standing in the way to change the persisting unequal power relations between the North and the South. However, the concepts of shared responsibility and legal cosmopolitanism could initiate rethinking about this issue and thereby increase the value of the RTD.

Finally, the Right to Development must be understood today in a more comprehensive way, which also applies to the definition of duty-bearers. Considering the complexities and interrelations of our complicated world, this means that the concept of duty-bearers must go beyond the nation-state, as indicated by the United Nations:

The right to development is not about charity, but enablement and empowerment. The Declaration identifies obstacles to development, empowers individuals and peoples, calls for an enabling environment and good governance at both national and international levels, and enhances accountability of duty bearers - governments, donors and recipients, international organizations, transnational corporations, and civil society.(UN, 2011:URL: www.un.org/en/events/righttodevelopment/background.shtml)

Clarification about international co-operation and global partnership

In the following the idea of shared international obligations and responsibilities shall be elaborated by referring to the concept of "Legal Cosmopolitanism". (See Margot Salomon, 2008)

States do not only have internal obligations towards their own citizens, but also external obligations towards people living elsewhere:

Given the consensus on the growth of inter-state inequality and the growing gap between rich and poor, the burden of proof should not fall on a developing state to show that it is unable to meet the basic rights of its people before the responsibility of the international community is engaged. Rather the current state of world poverty with its substantive and systemic inequality requires that the burden of proof is reversed: it should be for the developed states to demonstrate *prima facie* that their policies and decisions – whether taken individually or collectively – are not hurting the world's poor. (Salomon, 2008:225)

International cooperation must follow the principles of legal cosmopolitanism based on the idea of shared responsibilities and common moral values for reaching equal development. The external obligations of states and the international community are defined as “[...] positive obligations to fulfill and cooperate in fulfilling socio-economic rights elsewhere. Thus the lack of formal recognition of socio-economic rights or of the Right to Development does not detract from the fact that the international community as a whole has shown itself to be committed to the advancement of these rights”. (Salomon, 2008:227)

Until now, the concept of global partnership was largely understood as a secondary obligation which became relevant only in case the developing country was unable to ensure the enjoyment of human rights in its own society by itself although it has explored all its possibilities and used the maximum available resources. The scenario that only in this case other countries should react stands in contradiction to the concept of global cosmopolitanism, which is based on the principles of interconnection and common consequences. These principles call for the recognition of the ideas of global partnership and shared responsibility.

Although it shall not be taken for granted that all states have the same responsibilities towards other states, the idea of global partnership and shared responsibility may nevertheless be favorable for the further moral development of the world we live in and for future generations. This means that an international moral dimension must be added to development approaches. In this context, O'Manique stated already in 1992 that “[...] as the interdependent community expands to global proportions, the need to universalize this respect for the rights of others increases.” (O'Manique, 1992:92)

Thus global partnership as understood in this paper means to create equal conditions for development in all its dimensions, not only within the borders of the nation-state,

but worldwide. However, this does not mean that there is only one valid single concept of development which must be imposed on different contexts. On the contrary:

It is up to all peoples and States, given their cultural and historical specificities, to choose the economic, political and social systems in which they want to live, work, and realize their full creative potential. International solidarity and cooperation represent a shared responsibility of States to create the conditions that are necessary to make that right a reality. (Human Rights Council, 19th Session, 2010:3)

This idea was further developed at the 19th session of the Human Rights Council which took place in February 2012. NGOs in general and consultative status insisted on the concept of solidarity and introduced another aspect, namely the concept of subsidiarity. Subsidiarity means that authority is pushed down to the lowest level possible thereby enabling and ensuring participatory decision-making processes at all levels of society. Both, solidarity and subsidiarity must be considered as complementary. This is especially important in order to get to the core of the society by enabling popular participation of traditionally excluded, marginalized and vulnerable groups. While solidarity “[...] relates to the mobilization of financial and human resources for development and to fairness and sustainability in international relations, the latter helps to identify the most appropriate level of decision-making and intervention. The principle of subsidiarity, therefore, can be seen as a cross-cutting criterion for the creation of an enabling environment to facilitate fulfillment of the right to development and as the dividing line between national and international responsibilities.” (Human Rights Council, 19th Session, 2010:3)

III.2.2 Recalling obstacles to accept the Right to Development as a human right

The Right to Development has provoked a large amount of comments against or in favor of it and has resulted in vivid discussions, as has been shown in detail in Chapter III.1. In the following, the obstacles and impediments standing in the way to fully recognize the value of the Right to Development shall be summarized and discussed.

As already mentioned before, one of the main obstacles to recognize the Right to Development as a fundamental human right arises from the dichotomy between the individual and the collective or duty-bearers and right-holders. The reason for this is,

according to O'Manique, the "[w]estern liberal emphasis on the isolated, competitive individual, often in conflict with the state and even with society." (See O'Manique, 1992: 91) As opposed to this argumentation, widely accepted by the countries of the North, the individual must be seen holistically, namely in his or her full relation with the total environment/society. Only then the individual can grow and build up his or her true identity. This means that it is important to rethink the relation between the individual on one side and the society on the other: The idea that the society belongs to the individual and that consequently the concept of society is included within the concept of the individual, rather than the other way around (as argued by O'Manique referring to the concepts of Karl Marx), shall lead to the following conclusion: The Right to Development is in itself a fundamental human right which refers to the human being living in society.

Another obstacle is the controversial political interpretation of the RTD which contributed to the unwillingness to recognize it as a human right. While partner countries from the South and the Non Aligned Movement (NAM) advocated for the adoption of the Declaration on the Right to Development in 1986 and made an effort to contribute to its value, some of the donor countries from the North, international institutions and corporations were quite reserved or even reluctant to recognize it as a human right.

The Right to Development as interpreted by some powerful countries (especially the USA and the EU) is often understood as a restriction of developed states in their economic and political decisions. Out of this perspective, partner countries and their governments are authorized to demand development or even claim damages caused by inefficient development policy or unequal economic or political decisions of donor countries and international development agencies. This fear created a negative attitude towards the recognition of the Right to Development as a human right and resulted in abstentions in voting from the side of the most powerful countries, mainly the USA and the countries of the EU. (See Human Rights Council, 2011)

However, the fear that the Right to Development might be interpreted as a "right to everything" or a right to demand other rights from the side of partner countries and their governments can be relieved out of the following reason:

The responsibility to create conditions favorable for development does not lie within donor countries and the international community alone. This means that the realization of the RTD is not about fulfilling the claims and demands of developing countries which might request “everything”, but the Right to Development must foremost be ensured by partner countries themselves by creating favorable conditions enabling every human being to develop his or her potentials. Governments of developing states are accountable to enable the enjoyment of human rights including the Right to Development in their own states:

“In a perfect world, societies not only would recognize all fundamental rights, but they also would have governments that would allocate resources and provide opportunities so as to enhance the exercise of all rights.” (O’Manique, 1992:98)

However it must be underlined that the personal, national and international dimensions of the North and the South are always interconnected and relevant for the realization of all human rights including the Right to Development.

Other barriers to recognize the Right to Development are ineffective or missing attempts to transform political discourses into practice. Theoretical concepts and so called expert thinking about the RTD are of course important, but theory and practice are two different things. Criticism has been brought up that the interventions of delegations at the UN Commission on Human Rights conferences and expert meetings in general are rarely substantive and often reflect political rhetoric that is far removed from the good intentions expressed in resolutions. (See Paul, 1992:50ff.) To achieve that political discourses are transformed into real development practice, the needs of those directly affected by results of development activities must be taken into account. According to James Paul, an innovative thinker about the RTD in the late 80ies, the RTD understood as a part of human rights only comes into real existence when rights are claimed and exercised by the very people who need those rights the most and not by reproducing and commenting on the same discourses over and over again without real implications on the RTD in practice:

Thus enforcement of the HRD [Human Right to Development] will depend on the efforts of popular organizations, NGOs, activists, scholars and others – *ejusdem generis* – acting, more or less along parallel lines, at local, national and international levels. (Paul, 1992:53)

In addition, the problem concerning the ambiguity of the RTD and its different interpretations would become less significant, if clear national and international policies existed integrating the RTD approach into development practice and clearly defining duties of all the stakeholders involved. Therefore, the lack of clear policies on the implementation of the RTD is seen as another impediment concerning the RTD. Clear structures and definitions of obligations, responsibilities and tasks must be explicitly determined and ensured through respective institutions:

“[t]he broad range of fundamental rights, the added specific and derived rights, variations in the exercise of rights, and competition over the resources required for the exercise of rights - even within one small community - these factors demand some degree of order if there is to be development. The community must, therefore, create institutions to ensure this order and thereby assist the members of the community in carrying out their duties to others. The establishment and support of government could be seen as the first duty responding to the community member's needs for development.” (O'Manique, 1992:93)

Contrary to this, policies on how to implement the RTD had not been clear enough or rhetorically vague and too visionary, not proposing clear guidelines or steps how to include the RTD into development practice, till the recent creation of criteria and operational sub-criteria on the implementation of the Right to Development by the High-level Task Force in 2010. In other words, clear definitions and guidelines on national and international level remained absent for a long time. As Francis Stewart already claimed in 1989, what is needed is an international discussion and agreement on these questions, so that what it means to achieve or not to achieve human rights is well-defined in a way that is widely acceptable. (See Stewart, 1989: 360) This also means that governments and intergovernmental agencies did - and still do not genuinely expect serious consequences or sanctions by not ensuring or protecting the enjoyment of the RTD (or other human rights). (See Marks: 2003: 19)

Adding to this, discussions about the Right to Development are not really present in everyday and professional discourses. This obstacle is defined as “weak epistemology of the RTD”. (See Marks, 2003). Beside the weakness of conceptual thinking in the human rights and development literature, also a lack of empirical knowledge about the RTD has been identified. Thus, the creation of a knowledge base about the RTD and its application in the field is crucial. This shall be achieved through moving the literature to a new level, characterized by “[...] conceptual rigor and compelling policy relevance by

introducing RTD issues into the teaching of economics, international law and related fields". (Marks, 2008: 6) In other words, it is important to transfer the abstract concepts of the RTD to the level of development practice. In order to achieve this, an in depth understanding of processes, i.e. how decisions are made, what pressures influence priority setting and how the different stakeholders determine the process, is required. (See Marks, 2003:6-8.)

III.2.3 Why to insist on a Human Right to Development?

After the meaning and value of the Right to Development have been defined and after its main obstacles have been summarized, the next subchapter deals with the following question: Why it is important to continue to lobby for the realization of the Right to Development despite its controversial nature?

The introduction of the Right to Development into the Human Rights System caused a vivid discussion between governments of the North and the South, as well as within international development agencies and development practitioners from its beginning. While the ideological concept of the RTD was welcomed by developing countries, it was critically examined and partly refused by the North:

Like the New International Economic Order, [...] [the Declaration on the Right to Development] was an expression of South frustration in the face of intransigent North power, but seemed to lack a workable program." (Barsh, 1991: 322)

Whatever the attitude towards the RTD had been, the debates and discourses remained for a long time largely theoretical without any implications to the real development practice or the persisting unequal power relations. (See Barsh, 1991:320ff.) Even the adoption of the Right to Development by the UN General Assembly did not change much. On the contrary, the adoption of this right ended up in new speculations and interpretations, depending on the interest behind. This again resulted in disagreements and different polarized positions about the significance and value of the RTD so that the central message of the Declaration could easily be ignored. The main critique considering the linguistic nature of the Declaration is that the text is rather "uninspiring, sloppy, loaded with UN jargon and platitudes", as well as vague abstractions and code words. (See Paul, 1992:31ff.) Nevertheless, it has been

recognized that the Declaration had the potential to be interpreted in a way to positively influence some crucial propositions considering human rights law.

At the time when the Right to Development was adopted, the opinion circulated that "[...] notions of development have facilitated economic, cultural, and environmental degradation in the name of progress [...]," because this so called 'progress' was seen as "[...] inherently Euro-centric and [...] required the acceptance of mono-cultural ends in which the desirable fate for all is in terms of achieving the status of wage-earners and consumers." (Mansell/Scott, 1994:180) Also, the critique came up that previous notions of development didn't question the superiority of the developed countries over others, taking the superiority of the developed as granted:

Because of underdevelopment, it becomes clear that the developed understand the problem better than the underdeveloped and they (the developed) are in a better position to take decisions about development. Because of this, the active participation of underdeveloped people in their own development could only be welcome or even tolerated when the central goal of economic growth was accepted as the priority by would-be participants. (Mansell/Scott, 1994:182)

Further it was argued that the attempts and programs of the international community and international development agencies, the IMF and the World Bank lost their credibility because it has been recognized during the late 80ies that there is no absolute or necessary link between economic income and the increase of the quality of life:

In countries which have followed the IMF's structural adjustment policies, one demonstrable effect has been to transfer wealth away from the poor to the entrepreneurial class. Under such circumstances, while it may appear that a country is reaching development targets, the true effect will be increased economic impoverishment. (Mansell/Scott, 1994:184)

Thus, the Right to Development was especially welcomed by countries of the South as a possibility to change the definition of development and more important, to change the hegemonic relations between the "developed world" and the "developing world". Despite the impediments concerning the implementation of this right, it was also regarded as a new hope to change the unequal power relations between the North and the South:

The new 'right' involved a rearticulation, in the language of rights, of long-standing claims which have been evident both throughout much of the period of colonialism and the years immediately following liberation. (Mansell/Scott, 1994:173)

The Right to Development was considered to be a tool against the historically conditioned inequality created through colonial and post-colonial structures and the one-way conditionality of powerful countries as a direct consequence:

The scope of such a right and the obligation it imposes on states operates to deny the credibility of the one-way 'human rights conditionality' of the North regarding the South, evident increasingly in bilateral, regional and international aid relationships. It demands, rather, an equally stringent assessment of the human rights implications inherent in the act of giving. (Mansell/Scott, 1994:190)

From this perspective, the RTD was seen as an ability to overcome western concepts of international law which secured the dominant trading position of the developed and their power to define rules:

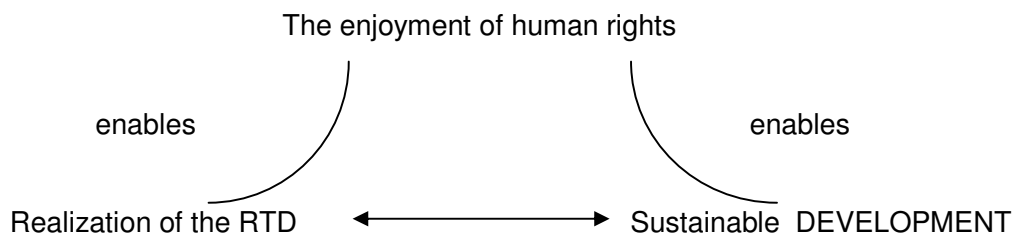
The existence of such a right, as currently defined, acts as a point of resistance to a conception of rights which has its origins in western legal theory and which serves the interests not only of the developed world but also of state élites in the so called underdeveloped world. (Mansell/Scott, 1994:189)

In the late 80ies and during the 90ies the RTD was in especially understood as an opportunity for the empowerment of people at the expense of states. At this moment participation was already seen as crucial and understood as the ability of people to determine the nature of the obligations implied by the right in their social context:

Participation implies that the very people to be directly affected by the 'development' must be the ones who determine its desirability, subject only to clear and overriding needs or considerations of the population as a whole. Participation implies more than representative democracy and extends also to 'grass-roots' involvement, granting power to ordinary people enabling them to assess and evaluate their own priorities. (Mansell/Scott, 1994:188)

Finally it can be concluded that the need to recognize the RTD as a human right is given out of two reasons today:

(1.) First, the realization of the Right to Development is the precondition for the enjoyment of human rights and at the same time a goal for effective development practice. Only if a person is able to fulfill his or her Right to Development, a life in peace and freedom can be achieved. Consequently, sustainable development is only possible through the realization of the RTD, understood as a human right:



If the Right to Development is understood as a precondition for the enjoyment of human rights, the idea comes up that it claims for the creation of a legal basis for the establishment of an environment which guarantees holistic and sustainable development of all human beings. Holistic and sustainable development is a fundamental need for the realization of the well-being and freedom of every person. So, the Right to Development must be understood as a precondition to the exercise of fundamental needs. As explained by O'Manique, the moral foundation for fundamental needs and consequently for the claim to recognize the RTD as a human right is the virtually universal belief that development is good. (O'Manique, 1992: 87) In other words, the need for the Right to Development exists because recognizing the RTD means recognizing the fundamental needs which are crucial for development. Thereby development is understood as the ability of all people to determine their own personal development and to create and realize themselves in every sense of their being in an environment favorable to development:

The exercise of human rights is, therefore, doing or having what is required for development and, as such, can be identified with the development process itself. The human being is a social being; individual development is (and hence, rights are) intimately interrelated with the development of the community and its various aspects: economic development, political development, technological development, etc. (O'Manique, 1992: 82)

Therefore it can be concluded that human rights and development are interconnected. O'Manique already stated in 1992 that human rights are much more than simply something that should be incorporated into development, or considered as criteria for development. Human rights are rather the claims to the process itself. The social contract that guarantees the exercise of rights is based on an implicit desire to develop. (See O'Manique, 1992:83) In other words, human rights are claims to something that is necessary in order to achieve development in a broader sense. The acceptance of this claim itself is part of the development process.

(2.) The second reason why there is a need for the Right to Development is the fact that all development activities have an impact on human rights of people who are directly affected by these activities. (See Paul, 1992: 18) This argument became relevant right after the adoption of the Declaration on the Right to Development. As indicated by Paul, most development actors were authorized to considerable legal and political autonomy when it came to justifying their decisions before those directly affected through them. The accountability of those in power had been reduced to a minimum during a long period of development practice resulting in unequal power relations between donors and international development agencies (IDAs) on one side, and developing countries and the population on the other.

According to Paul, it is very important to understand and acknowledge in how far different types of development activities carried out in legal and political autonomy of development actors, influenced and still influence the lives of people directly affected by those activities. Ineffective and interest driven development provoked negative consequences and caused different kinds of harms as it has been proven through several negative examples. Some can be enumerated without going much into detail: displacement, negative social consequences, environmental and ecological harms, negative affects on culture and traditions, spiritual life and habits of people who were directly affected by ineffective results of projects and programs (See Paul, 1992: 23ff.) The one-sided autonomy and decision making processes not only provoked unequal power relations at political, economic and social levels within states and between states but also caused negative structural consequences within societies and communities at root level.

Out of these reasons it is crucial that the RTD becomes an integral part of the development practice incorporating active participation and decision making of the people directly affected by development practice. Thus, the main goal of the RTD is to empower people to actively take part in decisions which directly affect their lives. Empowering people means preventing unequal power relations at cost of the most vulnerable groups:

[...] benefits have flowed to the more powerful at cost to the more vulnerable; local facilities and institutions put in a place to provide services have withered because they lacked a participatory foundation and were not sustainable; women have often

been the victims of exclusion, discrimination and sometimes exploitation due to failures to provide for their participation and thus failures to incorporate protections from inequitable treatment. (McGlynn in Paul, 1992:27)

In the words of Paul, knowing about the negative consequences of development practice and decisions at political levels means that the infliction of those consequences becomes a serious legal wrong. (See Paul, 1992: 28) The harms caused by unequally made decisions on development practice due to unequal power relations, must be understood as a violation of inalienable human rights of those directly affected:

Harms threatened or imposed by projects [or development policies] should not simply be seen as 'social costs' to be 'ameliorated' where possible. These harms, when inflicted, do damage to those fundamental, universally recognized interests of people which are now protected by international human rights law. (Paul, 1992: 28)

Thus, the recognition of the Right to Development as a human right by all states would mean that human beings affected by negative consequences of political or economic decisions resulting in violations of the fundamental rights of the people, would become a possibility to claim against the violation of their rights by referring to the Right to Development. This right namely contains the need to make those who engage in development activities more accountable to generally recognized standards protecting human rights of every person as well as environments. (See Paul, 1992:17)

However, this does not mean that the responsibility to create conditions favorable to development lies only within the international community and developed countries. On the contrary, developing states are also obliged to introduce legal reforms in order to empower their people. This is a very difficult process which requires a lot of efforts especially in developing countries themselves which often have to face serious problems within their political and economic systems. Corruption, ineffective policies, and governments serving the interests of a very small but powerful elite aiming to uphold the status quo in their country in order to gain profits, are only some general problems in many developing countries worldwide. According to James Paul, this is the reason why independent critical civil and non-governmental organizations sometimes have to operate under regimes of law enforcing discretionary, arbitrary and also repressive regulation of this kind of collective action. Consequently, sometimes the essence of rights of participation unfortunately remains "not much but lip service". (See Paul, 1992:37)

These problems can only be solved if more value is attributed to the Right to Development understood as a possibility to engage both, governments of the so called developing states and developed states, as well as the international development agencies to strengthen their joint efforts to promote development through participation. Out of this context the RTD is seen as a possibility to claim the fundamental rights of people to be respected by those who perpetuated them by unequal decisions or behavior which was “[...] limiting or threatening to limit, the exercise of the rights of others in the society before any restrictions were justified.” (O'Manique, 1992:96)

In concrete, this implies that everyone has the right to demand and also to receive all information necessary to analyze the advantages and disadvantages of development policies, strategies and projects, i.e. to calculate the risks through development:

[...] development actors must not only protect human rights implicated by their activities, they must encourage efforts to enable people affected by these activities to understand, assert and secure their rights. The imposition of these obligations (as a matter of law, not just as a discretionary policy objective) goes to the essence of the HRD [Human Right to Development]. (Paul, 1992: 30)

Finally it can be concluded that the Right to Development means empowerment of traditionally vulnerable groups as women, children, indigenous peoples, migrants, refugees ect. to demand the protections that particular international instruments offer them through their organizations. (Paul, 1992: 34ff.) The Right to Development also means creating conditions which allow people to criticize and influence development policies at national and international level. So, recognizing the Right to Development means democratizing the business of development, both at national and international level based on principles of global solidarity, participation and subsidiarity.

IV. CONCLUSION

Inspired by the 25th anniversary of the existence of the Right to Development, the aim of this master thesis was to create a synthesis and analysis of the main discourses about this right in order to understand why it caused so many controversies and above all, why it still isn't fully accepted as a human right. The discussion about the RTD is characterized by clashing discourse positions resulting in different meanings and values of the RTD which are highly politicized and polarized.

Right after the adoption of the Declaration on the Right to Development in 1986, different discourse positions emerged, especially in academic circles: From one side the value of the RTD was seen as minimal and non-existent because it apparently had no real legal or moral foundation (Donnelly). Contrary to this, the value of the RTD was to be found in its mobilizing power and its open-ended obligation to be applied to all societal relations, so that its recognition enforced a greater operational context considering the protection of the human dignity and well-being (Alston).

The discussion about the Right to Development was not only vivid in academic circles, but also in the United Nations System: During the Global Consultation on the Right to Development in 1989, a subjective component was added to development. This means that participation gained on importance in development related decision-making. In this context the RTD was understood as both, an individual and collective right, whereby states were defined as the primary duty-bearers responsible to create conditions favorable to development. Of course, this caused a big polarization considering the recognition of the RTD as a human right. Especially the so called developed countries rejected the idea of states to be the primary duty bearers out of the fear that so called developing countries could misuse the RTD as a "right to everything". On the other side, countries of the South insisted and still insist on the implementation of the RTD and especially on the creation of a new international economic order as foreseen by the Declaration.

Since the introduction of new development concepts, defined by the Millennium Development Goals (2000), Paris Declaration (2005) and Accra Agenda for Action (2008), new principles for development became relevant, especially sustainability, accountability, global partnerships, harmonization and ownership. Nevertheless in none of the abovementioned concepts explicit reference was made to human rights, or the

value of the Right to Development. However, the principles on which the RTD is based upon are indirectly incorporated in all of them, as becomes especially evident by considering MDG 8. Only the Accra Agenda explicitly mentions the importance of human rights, after strong critique of human rights proponents had been brought up.

In 2010 the High-level Task Force on the implementation of the RTD developed criteria and operational sub-criteria in order to translate theory into practice and to contribute to the acceptance of the RTD and the recognition of its value as a human right. Although some of the participating states, especially countries of the North, were not satisfied with the criteria and rejected the idea of creating legally binding international agreements on this topic, the creation of the same can nevertheless be considered as a starting point to initiate the process of legalizing the RTD both, at national and international level.

Throughout the discussions during the last 25 years, it is always the role of states which caused the most controversies and clashing discourse positions, resulting in undermining the value of the RTD. One of the main arguments against the Right to Development is (i) that it could be misused by countries of the South to claim more development assistance and (ii) that the RTD puts certain obligations upon countries of the North towards countries of the South. It is true that the Declaration on the Right to Development provides that states should take steps to eliminate obstacles to development. This however relates to both, developing states and developed states which should cooperate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms. (See Declaration on the Right to Development, Art. 6) The duty of states is not towards other states, but towards individuals living in communities, as human beings are the primary right-holders of the Right to Development.

The goal of this master thesis was also to clarify the meaning and value of the Right to Development. The RTD is understood as a basis for creating conditions for the realization of fundamental human rights and freedoms through participation and equal opportunities for all individuals in their access to services and resources, as well as personal growth and realization, based on the principles of solidarity and subsidiarity, ensured at all three dimensions: the personal, the national and international.

Recognizing the Right to Development is the first step to create a legal basis for an environment which guarantees fundamental human rights and freedoms. Recognizing this right means recognizing human needs which are crucial for development. Thus, recognizing the Right to Development also means recognizing that human rights and development are interconnected.

Although the primary right holders of the Right to Development are individual human beings, it can't be denied that this right also has a dualistic nature because human beings live in communities and constitute peoples. The RTD can therefore be invoked by entire peoples, although it can only be realized at the personal level.

Although States have the duty to ensure conditions favorable to development in first place, the concept of duty-bearers must be understood today in a more comprehensive way including governments, donors and recipients, international organizations, transnational corporations, and civil society. Also, it must be stressed that different states have different responsibilities in order to ensure development both, within their national borders and elsewhere. Recognizing and implementing the Right to Development doesn't mean putting all the responsibilities and duties on stakeholders of the North. This also means that the approaches and strategies to achieve development vary from country to country, context to context. Nevertheless, they all must be based upon shared moral values i.e. global solidarity in order to create conditions for participation and equal opportunity for all human beings in the world, as the world belongs to everybody in the same way.

The Declaration on the Right to Development teaches us the need for a shared responsibility, a system of partnership, a moral contract for deploying concerted efforts to combat poverty and destitution, illiteracy and disease thanks to the phenomenal discoveries in science and technology amassed by human knowledge. (See Sene, 1989 in: U.N. Commission on Human Rights, 45 Session: 11)

The RTD shall therefore be understood (i) as a political demand to create conditions for the realization of fundamental needs for self-realization as the basis for development; and (ii) as a political demand for international cooperation and global solidarity with the aim to ensure prosperity of individual freedom, self-realization, self esteem and social and cultural progress as common goods for everyone.

The final question is which steps must be undertaken in order to shift the discourses from the theoretical level to practical application?

First of all, it is important to enable and strengthen inter- and cross-cultural dialogue enabling an open approach and discourses between individuals or communities coming from different cultural backgrounds in order to define and acknowledge the different needs to achieve development in all its dimensions.

Second, actors, duties and obligations need to be clearly defined and institutionalized at all levels, i.e. at the community, state and international level, clearly determining tasks and duties of all stakeholder involved in order to promote development.

Third, the Right to Development needs to become a legal obligation for all stakeholders, clearly defining responsibilities and duties, but also sanctions in case the RTD is not being implemented.

Fourth, the Right to Development must define criteria for enabling development and creating an environment favorable for development and the protection of human rights in accordance with the different cultural backgrounds and possibilities of different states. This means that criteria how to implement the Right to Development in different circumstances depends on the needs and possibilities of a certain background. No generally valid criteria must be imposed in order to achieve development, but needs-based criteria defined through active participation of all members of a society.

Fifth, the Right to Development must be implemented through reference to and use of already existing and internationally recognized human rights instruments as the Declaration on Human Rights, the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights and other mechanisms for the protection of human rights, well-being, dignity and freedom, as all human rights are interconnected. Enabling conditions favorable for development means enabling the enjoyment of human rights and vice versa.

Sixth, the protection of rights of the most vulnerable, marginalized and historically excluded groups as women, children, the poor, national or other minorities etc. must be linked to the development of communities, societies, regions, and states. This means

that these groups must be empowered to actively decide about their lives and destinies and thus actively contribute to their personal and social development, contributing to the benefit of their whole country.

The Criteria and operational sub-criteria created by the High-level Task Force are the first step towards a more concrete implementation and measurement of the impact of the Right to Development, even though they must be further elaborated and more precisely defined. The following are general recommendations for a more practical approach towards the RTD (See Human Rights Council (2010), Fifteenth session: Consolidation of findings of the high-level task force on the implementation of the right to development:

- Transfer political commitment into development practice;
- Incorporate human rights standards in national and international development policies;
- Include human rights standards into social impact assessments. Social impact assessments are means of determining the consequences of specific interventions in a society and the impact on people's well-being;
- Raise awareness about shared cosmopolitanism based on shared moral values and solidarity;
- Widen the principle of accountability which is based on human rights standards and their protection;
- Include human rights standards in political and economic decisions and trade at the national and international level;
- Increase equal participation of all parties in important decision-making processes including the negotiation of modifications of the rules governing trade, foreign direct investment, migration and intellectual property, as well decisions affecting the flow of capital and labor;
- Strengthen global partnerships and international cooperation as defined in international responsibilities outlined in the Millennium Development Goal 8 and the Declaration on the Right to Development; Clarify the diverse responsibilities of partnerships;

- Strengthen the participation of people at all government levels, and especially within their communities considering activities affecting their well-being; (principle of subsidiarity)
- Elaborate more precise definitions about indicators which measure empowerment on the basis of human rights standards and clearly define the obligations inherent in the RTD for all stakeholders;
- Integrate and make explicit reference to the Right to Development in new development approaches and goals;
- Increase local ownership;
- Eliminate legal constraints considering the implementation of the RTD;
- Lobby and advocate for the RTD in order to increase the political will for comprehensive development which means that the individual, national and international dimension must be understood as complementary and not conflicting;

After all, it can be concluded that the Right to Development finds its justification in the “moral obligation to demonstrate solidarity, the lack of which might be fatal to the survival of mankind”, as already stated in 1989 by Alioune Sene, chairman of the open-ended working group of governmental experts on the Right to Development. (See Sene 1989 in: U.N. Commission on Human Rights, 45th Session: 11ff.) This statement is still valid and must finally be taken seriously so that well-being and development of all people in the world become a reality, and not an exception and privilege.

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A/RES/41/128. Declaration on the Right to Development

United Nations, General Assembly, 4 December 1986, 97th plenary meeting

41/128. Declaration on the Right to Development

The General Assembly,

Having considered the question of the right to development,

Decides to adopt the Declaration on the Right to Development, the text of which is annexed to the present resolution.

Declaration on the Right to Development

The General Assembly, Bearing in mind the purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing that 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,

Considering that under the provisions of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized,

Recalling the provisions of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights,

Recalling further the relevant agreements, conventions, resolutions, recommendations and other instruments of the United Nations and its specialized agencies concerning the integral development of the human being, economic and social progress and development of all peoples, including those instruments concerning decolonization, the prevention of discrimination, respect for and observance of, human rights and fundamental freedoms, the maintenance of international peace and security and the further promotion of friendly relations and co-operation among States in accordance with the Charter,

Recalling the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development,

Recalling also the right of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources,

Mindful of the obligation of States under the Charter to promote universal respect for and observance of human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Considering that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind,

Concerned at the existence of serious obstacles to development, as well as to the complete fulfilment of human beings and of peoples, constituted, inter alia, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms,

Considering that international peace and security are essential elements for the realization of the right to development,

Reaffirming that there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries,

Recognizing that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development,

Recognizing that the creation of conditions favourable to the development of peoples and individuals is the primary responsibility of their States,

Aware that efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order,

Confirming that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,

Proclaims the following Declaration on the Right to Development:

Article 1

1. 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 realized.
2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

Article 2

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development.
2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.
3. States have the right and the duty to formulate appropriate national development policies that aim 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 the benefits resulting therefrom.

Article 3

1. States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development.
2. The realization of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.
3. States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.

Article 4

1. States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.

2. Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.

Article 5

States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.

Article 6

1. All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion.
2. All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights.
3. States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights.

Article 7

All States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries.

Article 8

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.
2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.

Article 9

1. All the aspects of the right to development set forth in the present Declaration are indivisible and interdependent and each of them should be considered in the context of the whole.
2. Nothing in the present Declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, group or person has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights and in the International Covenants on Human Rights.

Article 10

Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.

Annex 2

Right to Development criteria and operational sub-criteria developed by the high-level task force on the implementation of the right to development from 2004 – 2010 (Source: Human Rights Council, Fifteenth Session, 2010, A/HCR/15/WG.2/TF/2/Add.2)

Attribute 1: Comprehensive and human-centred development policy

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
1 (a) To promote constant improvement in socio-economic well-being ^d	1 (a) (i) Health	Public expenditures on primary health; ¹ life expectancy at birth; ² access to essential drugs; ³ low birthweight babies; ⁴ child mortality; ⁵ HIV prevalence; ⁶ births attended by skilled personnel ⁷
	1 (a) (ii) Education	Public spending on primary education; ⁸ school enrolment rates; ⁹ school completion rates; ¹⁰ international scores for student achievement ¹¹
	1 (a) (iii) Housing and water	Public expenditure on public service provision; ¹² access to improved drinking water and sanitation; ¹³ homelessness rate; ¹⁴ cost of housing relative to income; ¹⁵ slum populations ¹⁶
	1 (a) (iv) Work and social security	Long-term unemployment; ¹⁷ involuntary part-time employment; ¹⁸ public expenditure on social security; ¹⁹ income poverty rates below national and international lines ²⁰

^a See General Assembly resolution 41/128, annex, second preambular paragraph, art. 3.

^b Ibid., art. 4.

^c Ibid., art. 2.

^d Ibid., second preambular paragraph and art. 2.3.

	1 (a) (v) Food security and nutrition	Child stunting rates ²¹
1 (b) To maintain stable national and global economic and financial systems ^e	1 (b) (i) Reducing risks of domestic financial crises	National regulatory framework; ²² domestic price stability; ²³ stability of investments ²⁴
	1 (b) (ii) Providing against volatility of national commodity prices	National food price volatility; ²⁵ mechanisms for mediating price swings for food staples; ²⁶ food production volatility; ²⁷ agricultural share in total investment ²⁸
	1 (b) (iii) Reducing risks of external macroimbalances	Debt sustainability; ²⁹ foreign exchange reserves ³⁰
	1 (b) (iv) Reducing and mitigating impacts of international financial and economic crises	International macroeconomic policy coordination; ³¹ counter-cyclical financial flows; ³² stability of private capital flows; ³³ policies to avert adverse impact of domestic macropolicies on other countries ³⁴
	1 (b) (v) Protect against volatility of international commodity prices	International commodity prices for food staples; ³⁵ international price stabilization mechanisms; ³⁶ non-agricultural commodity prices ³⁷
1 (c) To adopt national and international policy strategies supportive of the right to development ^f	1 (c) (i) Right to development priorities reflected in national development plans and programmes	Availability of disaggregated socio-economic data as element of right to development content in key national development strategy documents ³⁸
	1 (c) (ii) Right to development priorities reflected in policies and programmes of IMF, World Bank, WTO and other international institutions	Equity, non-discrimination and right to development objectives in IMF, World Bank and WTO programmes and policies ³⁹
1 (d) To establish an economic regulatory and oversight system to manage risk and encourage competition ^g	1 (d) (i) System of property rights and contract enforcement	Rule of law governance measures ⁴⁰
	1 (d) (ii) Policies and regulations promoting private investment	Regulatory quality governance measures ⁴¹

^e Ibid., fourteenth and fifteenth preambular paragraphs and arts. 2.2, 2.3, 3.1, 3.3 and 10.

^f Ibid., third preambular paragraph, arts. 2.3, 3.1, 4 and 10. See also the report of the International Conference on Financing for Development (A/CONF.198/11), para. 11.

^g See General Assembly resolutions 41/128, fourteenth preambular paragraph, arts. 2.2, 2.3 and 3.1; 63/303, para. 37; and the Monterrey Consensus (A/CONF.198/11), paras. 20 and 21.

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
1 (e) To create an equitable, rule-based, predictable and non-discriminatory international trading system ^b	1 (e) (i) Bilateral, regional and multilateral trade rules conducive to the right to development	Human rights impact assessment of trade agreements ⁴² aid for trade ⁴³
	1 (e) (ii) Market access (share of global trade)	Agricultural export subsidies that adversely affect low-income countries; ⁴⁴ agricultural imports from developing countries; ⁴⁵ tariffs on manufactured goods; ⁴⁶ tariffs on developing country exports; ⁴⁷ tariff peaks; ⁴⁸ manufactured exports ⁴⁹
	1 (e) (iii) Movement of persons	Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families ⁵⁰
1 (f) To promote and ensure access to adequate financial resources ⁱ	1 (f) (i) Domestic resource mobilization	Effective taxation policies that ensure mobilization of maximum available resources for fulfilment of human rights ⁵¹
	1 (f) (ii) Magnitude and terms of bilateral official capital flows	Net ODA flows relative to donor national incomes with 0.7 per cent MDG benchmark and recipient national incomes; ⁵² programme-based aid; ⁵³ quality of aid ⁵⁴
	1 (f) (iii) Magnitude and terms of multilateral official capital flows	Proposals for innovative sources for financing international development ⁵⁵
	1 (f) (iv) Debt sustainability	External debt relative to exports ⁵⁶
1 (g) To promote and ensure access to the benefits of science and technology ^j	1 (g) (i) Pro-poor technology development strategy	Existence of policy framework for technology development targeted at poor people's needs ⁵⁷
	1 (g) (ii) Agricultural technology	Improvement in agricultural technology; ⁵⁸ aid allocation to agriculture ⁵⁹
	1 (g) (iii) Manufacturing technology	Technology component of exports; ⁶⁰ performance requirement provisions in trade agreements ⁶¹

^b See General Assembly resolution 41/128, fifteenth preambular paragraph, and arts. 3.3 and 4; General Assembly resolution 64/172, ninth preambular paragraph and para. 26; and Human Rights Council resolution S-10/1, para. 7.

ⁱ See General Assembly resolution 41/128, fourteenth and fifteenth preambular paragraphs, arts. 4.2 and 8; General Assembly resolution 63/303, paras. 10, 11 and 14; and the Monterrey Consensus (A/CONF.198/11), para. 15.

^j See General Assembly resolutions 41/128, third, tenth and sixteenth preambular paragraphs, arts. 2.3, 3.3 and 4; 55/2, para. 20; and 60/1, para. 60.

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
1 (h) To promote and ensure environmental sustainability and sustainable use of natural resources ^k	1 (g) (iv) Technology transfer, access and national capacity	Electricity consumption; ⁶² Internet coverage; ⁶³ intellectual property and licensing; ⁶⁴ intellectual property and technology transfer provisions in trade agreements ⁶⁵
	1 (g) (v) Green energy technology	Development cooperation for green technologies; ⁶⁶ use of TRIPS flexibilities to acquire green technologies ⁶⁷
	1 (g) (vi) Health technology	Aid allocations to health technologies; ⁶⁸ use of TRIPS flexibilities and price discounts to expand access to HIV antiretroviral drugs ⁶⁹
	1 (g) (vii) Information technology	Access to telecommunications infrastructure ⁷⁰
	1 (h) (i) Prevent environmental degradation and resource depletion	Ratification of environmental conventions; ⁷¹ consumption of ozone-depleting substances; ⁷² fishing subsidies; ⁷³ tropical timber imports; ⁷⁴ gasoline taxes ⁷⁵
	1 (h) (ii) Access to natural resources	Value of natural capital; ⁷⁶ consultative process for respecting the rights of indigenous peoples over natural resources ⁷⁷
	1 (h) (iii) Sustainable energy policies and practices	Renewable energy supply ⁷⁸
1 (i) To contribute to an environment of peace and security ^l	1 (i) (i) Reduce conflict risks	Transparency in extractive resources trade; ⁷⁹ socio-economic disparities between ethnic and other groups; ⁸⁰ adoption of international arms control measures; ⁸¹ implementation of international schemes to restrict marketing of natural resources that fuel conflicts ⁸² Index ⁸³
	1 (i) (ii) Protecting the vulnerable during conflict	Civilian deaths and internally displaced during conflict; ⁸⁴ commitment to participation of women in peace processes ⁸⁵
	1 (i) (iii) Post-conflict peacebuilding and development	Mechanisms for transitional justice; ⁸⁶ aid allocations for disarmament; ⁸⁷ rehabilitation and integration directed specifically at vulnerable groups ⁸⁸
	1 (i) (iv) Refugees and asylum-seekers	Contribution to hosting refugees ⁸⁹

^k See General Assembly resolution 41/128, arts. 1.2 and 3.1; General Assembly resolution 60/1, para. 10; and the Monterrey Consensus (A/CONF.198/11), paras. 3 and 23.

^l See General Assembly resolutions 41/128, ninth, eleventh and twelfth preambular paragraphs, arts. 3.2 and 7; and 60/1, paras. 5, 69–118.

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
1 (j) To adopt and periodically review national development strategies and plans of action on the basis of a participatory and transparent process ^m	1 (i) (v) Personal security not in times and zones of armed conflict	Homicide rates ⁹⁰ (preferably disaggregated); political stability and absence of violence ⁹¹
	1 (j) (i) Collection and public access to key socio-economic data disaggregated by population groups	Disaggregated socio-economic indicators ⁹²
	1 (j) (ii) Plan of action with monitoring and evaluation systems	Existence of systems ⁹³
	1 (j) (iii) Political and financial support for participatory process	See attribute 2 list below

Attribute 2: Participatory human rights processes

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
2 (a) To establish a legal framework supportive of sustainable human-centred development ⁿ	2 (a) (i) Ratification of relevant international conventions	Ratification of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and conventions relating to environment, ⁹⁴ disadvantaged and marginalized populations ⁹⁵ and labour standards ⁹⁶
	2 (a) (ii) Responsiveness to international monitoring and review procedures	State reporting, acting upon findings and recommendations and views of treaty bodies and cooperation with special procedures and the universal periodic review process ⁹⁷
	2 (a) (iii) National legal protection of human rights	Constitutional and legislative guarantees, ⁹⁸ national human rights institutions protecting human rights ⁹⁹
2 (b) To draw on relevant international human rights instruments in elaborating development strategies ^o	2 (b) (i) Human rights-based approach in national development strategies	Human rights in national development plans and PRSPs; ¹⁰⁰ responsibility for extraterritorial infringement of human rights including by business enterprises ¹⁰¹

^m See General Assembly resolution 41/128, second preambular paragraph, arts. 1.1, 2.3, 3.1 and 8.2.

ⁿ Ibid., fifth, eighth and thirteenth preambular paragraphs, arts. 1.1, 2.1 and 10.

^o See *ibid.*, eighth and tenth preambular paragraphs, arts. 3.3, 6 and 9.2; and General Assembly resolution 64/172, para. 9.

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
2 (c) To ensure non-discrimination, access to information, participation and effective remedies ^p	2 (b) (ii) Human rights-based approach in policy of bilateral and multilateral institutions/agencies	Institutional policy on human rights; ¹⁰² human rights impact assessments of WTO agreements and IMF and World Bank programmes ¹⁰³
	2 (c) (i) Establishment of a framework providing remedies for violations	Percentage of core human rights for which there are constitutional or legal protections and adjudicatory mechanisms; ¹⁰⁴ existence of legal protections for human rights defenders ¹⁰⁵
	2 (c) (ii) Establishment of a framework to facilitate participation	Provision of sufficient political and financial support to ensure effective participation of the population in all phases of the development policy and programme design, implementation, monitoring and evaluation; ¹⁰⁶ percentage of national and subnational ministries and other public service providers with published procedures to support public participation in the different stages of assessment, planning, implementation and evaluation of programmes and policies; ¹⁰⁷ existence of a legal or administrative standard requiring free, informed prior consent by indigenous communities to the exploitation of natural resources on their traditional lands ¹⁰⁸
	2 (c) (iii) Procedures facilitating participation in social and economic decision-making	Freedom of assembly and association; ¹⁰⁹ freedom of speech; ¹¹⁰ voice of rights holders, accountability of duty bearers ¹¹¹
	2 (c) (iv) Establishment of a legal framework supportive of non-discrimination	Percentage of core human rights for which there are constitutional or legal protections specifically for women; ¹¹² percentage of core human rights for which there are constitutional or legal protections ensuring equal rights for citizens regardless of race or ethnicity ¹¹³
	2 (c) (v) Establishment of assessment and evaluation system supportive of non-discrimination	Percentage of sectoral ministries that can provide all of the following for each of its core programmes and projects: assessment of relevant vulnerable groups in the context of the programme or project, including groups that are vulnerable to discrimination and groups that are vulnerable for other reasons; ¹¹⁴ baseline assessment data of the current state of access to relevant services disaggregated to reflect relevant vulnerable groups; ¹¹⁵ monitoring systems for the programme or policy that

^p See General Assembly resolutions 41/128, second and eighth preambular paragraphs, arts. 1.1, 5, 6 and 8.2; and 64/172, paras. 9 and 29.

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
		provide disaggregated information about relevant vulnerable groups ¹¹⁶
	2 (c) (vi) Indicators reflecting likelihood of differential treatment of marginalized groups	Ratio of socio-economic indicators for marginalized groups to the national average; ¹¹⁷ ratio of percentage of population with advanced HIV infection with access to antiretroviral drugs for marginalized groups to the national average – tracks Millennium Development Goal indicator 6.5; ¹¹⁸ share of the population of marginalized groups incarcerated relative to their share in the population ¹¹⁹
	2 (c) (vii) Mechanisms for transparency and accountability	Percentage of providers of core public services, whether public or private, for which there exist functional administrative or judicial means of complaint and remedy if standards are violated ¹²⁰
2 (d) To promote good governance at the international level and effective participation of all countries in international decision-making ^q	2 (d) (i) Mechanisms for incorporating aid recipients' voice in aid programming and evaluation	Percentage of donor support provided through nationally defined coordinated programmes: Paris Declaration indicator 4 ¹²¹
	2 (d) (ii) Genuine participation of all concerned in international consultation and decision-making	IMF voting shares compared to share in global trade; ¹²² representatives for country participating in negotiations ¹²³
2 (e) To promote good governance and respect for rule of law at the national level ^r	2 (e) (i) Government effectiveness	Government effectiveness measures ¹²⁴
	2 (e) (ii) Control of corruption	Corruption control measures ¹²⁵
	2 (e) (iii) Rule of law	Rule of law measures ¹²⁶

Attribute 3: Social justice in development

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
3 (a) To provide for fair access to and sharing of the benefits of development ^s	3 (a) (i) Equality of opportunity in education, health, housing, employment and incomes	Income inequality; ¹²⁷ disaggregated outcome data by population groups, for example, male-female, rural-urban, ethnic/racial and social-economic status (see indicators for 2 (c) (vi)) ¹²⁸

^q See General Assembly resolution 41/128, arts. 3 and 10; General Assembly resolution 64/172, para. 10 (a); the Monterrey Consensus (A/CONF.198/11), paras. 7, 38, 53, 57, 62 and 63; and Human Rights Council resolution S-10/1, para. 3.

^r General Assembly resolutions 41/128, arts. 1.1, 2.3, 3.1, 6.3, 8.1 and 10; and 64/172, paras. 9, 10 (e), 27 and 28.

^s General Assembly resolution 41/128, first and second preambular paragraphs, arts. 1.1, 2.3 and 8.

<i>Criteria</i>	<i>Sub-criteria</i>	<i>Indicators</i>
3 (b) To provide for fair sharing of the burdens of development ^t	3 (a) (ii) Equality of access to resources and public goods	Public expenditures benefiting poor households ¹²⁹
	3 (a) (iii) Reducing marginalization of least developed and vulnerable countries	Global gaps in income and human well-being; ¹³⁰ mitigating differential bargaining power and adjustment costs of trade liberalization ¹³¹
	3 (a) (iv) Ease of immigration for education, work and revenue transfers	Flow of skilled and unskilled migrants from poor to rich countries; ¹³² flow of remittances ¹³³
	3 (b) (i) Equitably sharing environmental burdens of development	Availability of climate change funds for developing countries; ¹³⁴ multilateral agreements to reduce negative environmental impacts; ¹³⁵ distribution of contributions to climate change ¹³⁶
	3 (b) (ii) Just compensation for negative impacts of development investments and policies	Hazardous industries, dams, natural resource concessions ¹³⁷
3 (c) To eradicate social injustices through economic and social reforms ^u	3 (b) (iii) Establishing safety nets to provide for the needs of vulnerable populations in times of natural, financial or other crisis	Domestic emergency response funds; ¹³⁸ international humanitarian and reconstruction aid; ¹³⁹ counter-cyclical official financial flows ¹⁴⁰
	3 (c) (i) Policies aimed at decent work which provide for work that is productive and delivers a fair income, security in the workplace and social protection for families	Growth rate per GDP of person employed, employment to population ratio, proportion of people living on less than a dollar a day ¹⁴¹
	3 (c) (ii) Elimination of sexual exploitation and human trafficking	Ratification of the protocol to prevent, suppress, and punish trafficking in persons especially women and children ¹⁴²
	3 (c) (iii) Elimination of child labour	Extent of child labour; ¹⁴³ ratification of the convention on the worst forms of child labour ¹⁴⁴
	3 (c) (iv) Eliminate slum housing conditions	Proportion of urban population living in slums; ¹⁴⁵ access to improved sanitation; ¹⁴⁶ and secure tenure
	3 (c) (v) Land reform	Access to land; ¹⁴⁷ secure land rights; ¹⁴⁸ and remedies against land grabs ¹⁴⁹

^t See *ibid.*, arts. 2.2 and 8.1 and Human Rights Council resolution S-10/1, para. 5.

^u See General Assembly resolution 41/128, art. 8; and the Monterrey Consensus (A/CONF.198/11), para. 16.

Summary in English

In 2011 we celebrated the 25th anniversary of the adoption of the Declaration on the Right to Development, signed in 1986 by the General Assembly of the United Nations. But despite its 25 years of existence, one might have the impression that the Declaration is not really referred to and applied in development practice nor is it considered in decision making processes on behalf of development and the well-being of the world's population. So the question arises if the anniversary of the Right to Development (RTD) really is a reason to celebrate or rather to be worried about as inequality, poverty and human rights violations still hinder thousands of people to have a free and fulfilled life?

In order to realize the Right to Development (RTD), 3 dimensions must be taken into account: (i) the personal dimension, (ii) the national dimension and (iii) the international dimension. However, it is the human being who stands in the center of development. The Right to Development is therefore a right which enables people to develop themselves in every sense of their being, which is only possible in a healthy and functioning society. The Right to Development is understood as a fundamental human right and even more than that. It is a precondition for the realization of human rights and a goal in the sense of effective development practice. This standpoint might appear both, as promising and not grounded, as the implementation of the Right to Development has had many obstacles. The debate why the RTD finds proponents as well as opponents and why it still is not fully accepted as part of the Human Right System stands in the center of the discussion of the diploma thesis.

The main question of the paper is hence the following:

What is the value of the Right to Development and in how far has it changed through the adoption of new development approaches?

To answer this question, the Critical Discourse Analysis is applied to break down discourses into their semantic components in order to display the meaning and value they really contain in regard to the Right to Development. The assumption is that different discourses shape our opinions and constitute different realities. So, discourses can have both negative as well as positive effects on the implementation of the Right to Development.

The main part of the diploma thesis is divided into two big units, each containing three sub-chapters:

The first part contains an analysis of discourses about the RTD and is devoted to the meaning and value of the Right to Development right after its adoption and 25 years later. The CDA as understood by Siegfried Jaeger shall be applied on discourses from different counterparts: international academic discourses, original documents of the UN Commission on Human Rights as well as new development approaches as defined by the Millennium Development Goals, the Paris Declaration and the Accra Agenda for Action. By analyzing these discourses, the question shall be answered in which way the discourses reflect on the value and the realization of the Right to Development as an

inalienable Human Right. What was the value of the Right to Development right after its adoption and in how far has the value of the Right to Development changed after 25 years of existence?

The second part deals with the question why it is important to recognize the Right to Development as a fundamental human right and what the obstacles for its realization are. Thereby the meaning of the Declaration on the RTD shall be clarified by identifying the right holders and duty bearers and their responsibilities and obligations implied by the RTD.

The goal of the master thesis is (i) to create an overview of the main discourses about the RTD in order to understand why the debate caused a lot of controversies which are highly polarized and politicized, (ii) to find an answer why the RTD has not yet been recognized as a human right and (iii) to think about possible recommendations how to turn theory into practice, which means to operationalize its implementation.

Summary in German

In 2011 wurde der 25. Jahrestag seit der Verabschiedung der Erklärung über das Recht auf Entwicklung gefeiert, die im Jahr 1986 von der Generalversammlung der Vereinten Nationen unterzeichnet wurde. Doch trotz ihres 25 jährigen Bestehens, bleibt der Eindruck, dass auf die Erklärung nicht wirklich eingegangen wird und dass kein Bezug zu ihr in der entwicklungspolitischen Praxis besteht. Auch wird sie in Entscheidungsprozessen, die angeblich im Namen von Entwicklung und des Wohlbefindens der Weltbevölkerung getroffen werden, nicht berücksichtigt. So stellt sich die Frage, ob der Jahrestag der Erklärung über das Recht auf Entwicklung tatsächlich ein Grund zum Feiern oder eher Grund zur Sorge ist, wenn man bedenkt, dass Ungleichheit, Armut und Menschenrechtsverletzungen tausende von Menschen immer noch daran hindern ein freies und erfülltes Leben zu führen?

Um das Recht auf Entwicklung zu realisieren, müssen drei Dimensionen in Betracht gezogen werden: (i) die persönliche, (ii) die nationale und (iii) die internationale Dimension. Doch ist es immer der Mensch, der im Zentrum von Entwicklung steht. Das Recht auf Entwicklung ist also ein Recht das Menschen ermöglicht sich zu entfalten, was nur in einer gesunden und funktionierenden Gesellschaft möglich ist. Das Recht auf Entwicklung wird hierbei als ein fundamentales Menschenrecht und noch mehr als das verstanden. Es ist eine Voraussetzung für die Ausübung von Menschenrechten und gleichzeitig ein Ziel, im Sinne einer effektiven Entwicklungszusammenarbeit. Dieser Standpunkt kann beides, als vielversprechend und als nicht begründet erscheinen, weil die Implementierung des Rechts auf Entwicklung mit vielen Hindernissen konfrontiert war. Die Debatte warum dieses Recht viele Befürworter und Gegner hat und warum es immer noch nicht als Teil des Menschenrechtssystems anerkannt wurde, steht im Zentrum der Diskussionen der vorliegenden Arbeit.

Daher liegt der vorliegenden Arbeit die folgende Forschungsfrage zugrunde:

Was ist der Wert der dem Recht auf Entwicklung zugrunde liegt und inwiefern hat sich dieser Wert durch neue entwicklungsrelevante Zugänge verändert?

Um diese Frage zu beantworten wird die Kritische Diskursanalyse angewandt, wodurch Diskurse in ihre semantischen Komponenten zerlegt werden, um aufzuzeigen, welche Bedeutung und Wert in ihnen tatsächlich enthalten sind hinsichtlich des Rechts auf Entwicklung. Dabei wird angenommen, dass Diskurse unsere Meinung und unser Wahrheitsverständnis konstituieren. So können Diskurse sowohl negative als auch positive Effekte auf die Umsetzung des Rechtes auf Entwicklung haben.

Der Hauptteil der Arbeit ist in zwei große Einheiten geteilt, die beide jeweils drei Unterkapitel enthalten:

1. Der erste Teil beinhaltet die Diskursanalyse über das Recht auf Entwicklung und widmet sich der Bedeutung und dem Wert dieses Rechtes unmittelbar nach dessen Verabschiedung, wie auch 25 Jahre danach. Dabei wird die Kritische Diskursanalyse nach Siegfried Jaeger auf unterschiedliche Diskurse angewandt: internationale akademische Diskurse, Dokumente der UN Menschenrechtskommission und neuere entwicklungsrelevante Prinzipien, die in

den Millennium Development Goals, in der Paris Declaration und Accra Agenda for Action verankert sind. Anhand der Analyse soll festgestellt werden in welcher Weise diese Diskurse den Wert und die Ausübung des Rechts auf Entwicklung als fundamentales Menschenrecht beeinflussen. Was war dessen Wert unmittelbar nach der Verabschiedung der Deklaration und inwiefern hat sich jener nach 25 Jahren verändert?

2. Der zweite Teil beschäftigt sich mit der Frage warum es wichtig ist das Recht auf Entwicklung als ein fundamentales Menschenrecht anzuerkennen und welche Hindernisse dem im Wege stehen. Dabei soll die Bedeutung der Deklaration klargestellt werden, indem die Rechteinhaber und Pflichtenträger, sowie deren Verpflichtungen festgestellt werden, die durch das Recht auf Entwicklung impliziert werden.

Das Ziel der Diplomarbeit ist also (i) einen Überblick über die wichtigsten Diskurse zu verschaffen, um zu verdeutlichen warum die Debatte über das Recht auf Entwicklung hoch polarisierte und politisierte kontroverse Standpunkte hervorgerufen hat, (ii) eine Antwort zu finden warum dieses Recht immer noch nicht als ein fundamentales Menschenrecht angesehen wird und (iii) über mögliche Vorschläge nachzudenken, wie Theorie in Praxis umgesetzt werden kann, das heisst, wie die Implementierung der Rechts operationalisiert wird.

Curriculum Vitae

Personal information

Surname, First name	RADOVIC, Nina, Mag.Phil.
Date of birth	08 May 1983
Gender	Female
Contact	nina.radovic@gmail.com

Education

University Development	University of Vienna, Institute for International
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Dates	2007 – 2012
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Principal subjects	International Development Studies: <u>Main fields of study:</u> sociology of countries in development/transition, economics and politics of countries in development/transition, history of North-South relations, trans-disciplinary development research, development planning and management, intercultural communication, culture and development;
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Master thesis:

The value of the Right to Development as a fundamental human right. *Synthesis and Critical Discourse Analysis of discourses about the meaning and value of the Right to Development*

University	University of Vienna, Romanistik Université Sorbonne Nouvelle, Paris III (Erasmus 2006)
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Dates	2002 – 2007
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Principal subjects	French Philology (Romanistik):
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- Main fields of study: French literature and linguistics, language studies (grammar, phonetics, terminology and stylistics), media studies, cultural studies;
- Additional elective subjects: Pedagogy and Translation;
Master thesis :

*La liberté existe-t-elle dans une société démocratique?
Political semantics or critical analysis of the (political) use
of language by analyzing the concept of the term
"freedom" [translated]*

Secondary School	AHS Draschestraße 90-92, A-1230 Vienna
Mother tongue	Serbo-croatian
Second language	German
Other languages	English, French