

The BRICS And The Global Human Rights Regime: Is An Alternative Norms Regime In Our Future?

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Abstract

Since the end of World War II, the ‘West’ has enjoyed economic and ideological dominance in the international arena due to institutions built around favorable multilateral agreements. This position has allowed the ‘West’ to craft an international system rooted within the individualistic norms of democracy and capitalism. However, the BRICS [Brazil, Russia, India, China, South Africa] – a global unit of states with increasing economic power – views this international system as unfair. Accordingly, these states have increased their cooperation to advocate for a developmental-multipolar world order. But what implications does this shared interest by the BRICS have on the existing global human rights regime? Will these countries’ strong emphasis on the “right to development” undermine prevailing human rights norms? Could the BRICS challenge the current norms regime with an alternative one focused on development? Concentrating on the existing labor regime, this paper will examine how China, the self-proclaimed leader of the developing states, employs the “right to development” as a means of circumventing fundamental labor rights in Chinese-owned companies in Africa. In the end, this paper seeks to determine whether the BRICS’ newfound economic power and cooperation will allow these states to promote an alternative norms regime that exists concurrently with the prevailing one. *

Keywords: BRICS, human rights, right to development

1. Introduction

The twenty-first century will undoubtedly be characterized by the economic, philosophical, and geopolitical trends emanating from the rise of the global South. Accelerated achievements on many fronts have caused these trends to emerge as new issues and actors, permeating the existing international system and global landscape. Countries like Brazil, Russia, India, China, and South Africa – a group that has been coined by analysts as the ‘BRICS’ – have been at the forefront of these achievements, with unprecedented levels of growth and increased multilateral interactions.

G. John Ikenberry takes notice of the greater influences these emerging issues and actors have begun to have on the existing order by exclusively focusing on the rise of China. In his *Foreign Affairs* piece, “The Rise of China and the Future of the West: Can the Liberal System Survive?” Ikenberry depicts the East Asian giant’s extraordinary economic growth as “one of the great dramas of the twenty-first century.”¹ Referencing the possible decline of what he refers to as the “American era” in global politics, Ikenberry addresses the conventional belief that the reorientation of the world – from the existing Western-centered order to one focused on the East – is inevitable. In response to this seemingly inexorable global phenomenon, Ikenberry proposes the following question: “Will China overthrow the existing order or become a part of it?”

The existing order Ikenberry references finds its roots in the years following the conclusion of World War II, when the Western world – specifically the US – possessed a preponderance of economic power and influence within the international structure. Yet this newfound influence was not solely utilized for the establishment of the US as a leading world power, but also for the creation of universal institutions that reflected the “interests of a liberal world economy.”²

As Ikenberry states, these universal institutions “not only invited global membership but also brought democracies and market societies closer together[;] [they] built an order that facilitated the participation and integration of both established great powers and newly independent states.”³ Institutions like the United Nations (UN), the International Monetary Fund (IMF), and the World Bank embodied the desires and interests of the Western world and combined these with rules that would “facilitate the expansion of the dominant economic and social forces.”⁴ The intrinsic values and individualistic norms of democracy and capitalism found a platform in which they could be realized within the global context.

Embedded within these individualistic norms of the Western-centered world order is the global human rights regime. The Universal Declaration of Human Rights (UDHR), adopted in 1945 in response to the atrocities of the Holocaust, established the discourse for the human rights norms that pervade the existing international system. By virtue of the current world order, human rights are granted to all individuals for purposes of protection from the actions of the state. The contemporary human rights regime is a mélange of international treaties, multilateral agreements, strong domestic standards, and scholarly interpretation that has since become the theoretical cornerstone of international law. Given this, Ikenberry’s question – will China overthrow the existing order or become a part of it? – still remains unanswered. According to Ikenberry, there are two possible answers to this question: 1) China will overthrow the world order and associated institutions that have been created in recent decades; or 2) China will assimilate into the structures and institutions of the current Western-led order. But is Ikenberry’s dichotomous approach truly appropriate for the multidimensional rise of China? Likewise, when contextualized with the remainder of the global South, is this binary approach accurate for the circumstances we see in today’s international system? Perhaps China will not overthrow the norms regime of the existing world order nor assimilate to it. Instead, what if China – in cooperation and collaboration with the other BRICS nations – will offer an alternative to the contemporary norms regime of the international structure?

This paper argues that Ikenberry’s dichotomous approach does not appropriately consider the existing world structure when characterizing the rise of the global South. While Ikenberry does engage with elements of power and institutions, his suggestion that China’s rise will follow a path of either destruction or assimilation falls short, failing to engage with the importance of identities and norms in the international context. When these components are considered, it can be suggested that a third possibility arises: the rise of the global South – specifically the BRICS – signals the emergence of a new set of norms and, consequently, a new norms regime with concomitant institutions. This new ordering, it is argued, has the potential to act as an alternative to the existing regime. In contrast to the current norms regime, this alternative regime emphasizes the rights of the states over the rights of the individual by claiming that the “right to development” is the most fundamental human right.

This paper seeks to elaborate on the global phenomenon that is the rise of the BRICS by exploring the possibility of whether or not these states’ rise will impact the existing human rights regime and, if so, in what ways. The BRICS’ cooperation with each other is not only a rare example of life-imitating research, but also a substantial shift within the existing international context that posits new interpretations of international politics. I argue that Ikenberry’s dichotomous approach to China’s rise is too stark, particularly when the BRICS countries are taken into consideration. This third possibility focuses on China’s willingness to cooperate with other states – as the leader of the developing world and the guiding force in the institutionalization of the BRICS – to pursue its desires and establish a new norms regime centered on the notion of the right to development (RTD). This norms regime, by virtue of its focus on the RTD, emphasizes the right of the state over the individual, which contradicts and undermines the discourse present in the current regime. Due to the global rise and increased economic and political cooperation among the BRICS states, there now exists the possibility for these new norms to be supported via international institutions – similar to the paradigm that followed the creation of the UN and the Bretton Woods institutions. On par with this example, this institutionalization of power among the BRICS has been made possible by these states’ augmented economic capacity in recent years.

The RTD is inherently contradictory to the individualistic norms that are present within the existing human rights regime, and it becomes impossible to ignore this contradiction in light of China’s abusive labor practices present in Africa today. That being said, the BRICS states have relied on and utilized the language of the existing human rights regime to substantiate and promote their claims regarding the RTD. The focus on the RTD by the BRICS states has received increased multilateral support from the developing world, largely because the institutionalization of the BRICS has been made possible due to these states’ increased economic power. Given this, a claim can be made that the BRICS states could in fact create an alternative norms regime, focused on the RTD and the right of the state, that exists concurrently with the prevailing regime.

2. The BRICS

2.1. 'Who' & 'What' Are The BRICS?

The rise of the international economy as a principal influence on nations, governments, and people all around the world will inevitably trademark the politics of this century. O'Neill's 2001 article illustrates this phenomenon in a way that not only positions four key countries at the forefront of this global economic focus, but also as safe havens for investors in the upcoming century. The "BRICs" – as first imagined – were merely a forecast of "a healthier outlook in some of the larger emerging economies compared to the G7."⁶ This transformative statement on the future of the international economy was concentrated on the idea that the "relative positions of key countries in the world are changing,"⁷ insomuch that these countries are fated to become global leaders and engines of growth.

The BRICs are, indubitably, the most important of the developing states in today's global arena. Such prominence is chiefly due to one particular characteristic of these four states – their *size*. When juxtaposed to the rest of the developing world, Brazil, Russia, India, and China demonstrate how their geographic, demographic, and economic size are tremendous advantages. Therefore, when attempting to contextualize the BRICs in the framework of global development and the international economy, it is important to discuss three particular features: 1) their geographic size and location; 2) their population; and 3) the size of their economy.

What is crucial in understanding the BRICS as a global phenomenon is to first understand each of the states' respective position as a regional power. And with the addition of South Africa in 2010 by the four original BRIC countries, the 'BRICS' now represent powerful state entities in all of the principal corners of the planet: Brazil in the Americas, Russia in Eurasia, India in South Asia, China in East Asia, and South Africa on the African continent. Moreover, each of these states – with the exception of South Africa – possesses a preponderance of land within each of its respective regions. Considering every country in the world, the four of the five BRICS states are in the top ten geographically 'largest' – Russia (first), China (second), Brazil (fifth), and India (seventh). And according to World Bank indicators, the BRICS' total land encompasses 26% of the world's geographical area – 38,308,501 total square kilometers.⁸

The second feature of the BRICS is the rather substantial populace they each boast. China and India each possess not only the BRICS' most substantial population sizes, but are the first and second most populated countries in the world, respectively. Together, the BRICS embody almost 43% of the world's population – a tremendous and overwhelming statistic that truly bespeaks to the importance and capacity of the BRICS countries.⁹ The greater human capital a country has at its disposal, the greater economic output it is likely to experience due to its sizeable labor force. Given this, it is appropriately suggested that the BRICS "will supply the majority of the world's new workers and consumers in the years ahead."¹⁰

The third – and certainly most definitive feature of the BRICS – is their economic size and involvement in the global economy. As a unit, the BRICS states each boast unique economic histories before their conversion to free markets. Nonetheless, the capitalist system each BRICS country possesses is a critical component of their current cooperation, particularly given the fact that "each stood partly or entirely outside the globalized international economic order after World War II."¹¹ This specific point provides an accurate foundational approach to understanding the varying economic circumstances these states have recently endured.

In Jim O'Neill's original conception, the BRICs states were emphasized in accordance with their economic size, most notably by measuring their real GDP growth in both 2001 and 2002. However, the most recent data provided by the World Bank regarding the BRICS' GDP in current US dollars and GDP annual growth dictates that the aggregate GDP of the four original BRIC countries "quadrupled between 2001 and 2011."¹² In 2013, the BRICS share of the world GDP continued on the same upward trend as years past and ultimately superseded \$15 trillion. This number, regardless of the apparent slowing of economic growth that has impacted these countries in recent years (though not a substantial amount), is, according to IMF estimates, "predicted to surpass the G7 in or around 2020."¹³ More importantly, a 2011 prediction by economist Arvind Subramanian forecasts that by 2030, China, the United States, and India will be the three most economically dominant countries in the world, each boasting 18.0%, 10.1%, and 6.3% share of global economic power respectively.¹⁴

In a 2011 *Foreign Affairs* piece, Subramanian states that, "...economic dominance is the ability of a state to use economic means to get other countries to do what it wants or to prevent them from forcing to do what it does not want."¹⁵ In this regard, the BRICS have established themselves as a critical component of global politics – with increased economic capacity comes economic dominance, and with economic dominance comes the ability to impact global politics in a significant way. Because of this paradigm, O'Neill's original conception of the BRICs as solely economic engines of growth has shifted into a political organization. The BRICS have recognized that their

cooperation isn't exclusively based on economic patterns of GDP growth. Instead, these states have begun to realize the strong political implications of their collective economic power via institutionalization and cooperative organizations. Consequently, the BRICS have presented themselves in global politics as a robust and potentially omnipotent political reality with the potential of altering the existing international system and world order.

2.2. The BRICS As A Political Reality

As just seen discussed, the BRICS are substantively characterized and defined by economic power. For that reason, assuming that these states boast a significant amount of political influence may seem a bit troublesome – after all, economics and politics have fundamental differences in terms of objectives, outcomes, institutions, and actions. Nevertheless, on June 16, 2009, the original BRICS met in Yekaterinburg, Russia for the first of what would become an annual summit dedicated to the interests and cooperation of the four nations. Henceforth, the BRICS had personified O'Neill's claims into an international organization with concrete annual summits surrounding policy efforts, national interests, and “developmentalism.” In a rare example of life imitating research, the original BRIC states went from “four countries destined to become global leaders in economic growth,”¹⁶ to a permanent organization bringing together the leaders of four – later five – rising economic giants.

The cooperation of these states in formalized summits has proven to be beneficial in the promotion of common interests and objectives. As per the 2014 summit in Fortaleza, Brazil, a joint announcement by the BRICS resulted in the establishment of a formal international organization funded and led by these states – the BRICS New Development Bank for: “purpose[s] of mobilizing resources for infrastructure and sustainable development projects in BRICS and other emerging and developing economies.”¹⁷ Brought to fruition by the economic cooperation and the agendas of Brazil, Russia, India, China, and South Africa, this multilateral finance-based organization is posed to address and circumvent the disadvantages each country feels in regard to the existing structures of international trade and finance, while simultaneously pursuing a strong focus on development. Additionally, the “BRICS New Development Bank makes its intentions clear as far as the global economic architecture is concerned...[coming together to] fund infrastructural development in each other's countries...and other countries from the developing world.”¹⁸ In many respects, this Bank has been established as a tool and resource for the pursuit of the right to development in the international context. This cooperation has also resulted in newfound economic and political collaboration emanating from the establishment of this Bank. Together, this international organization of developing states has institutionalized their increased economic capacity to augment their global political power.

This recent institutionalization of the BRICS has many international relations scholars puzzled. The current international system – wholly directed by the Western states through their creation of international institutions – was founded on the convergence of both interests and identities. In terms of the latter, a state's identity as a liberal democracy was essential and of the utmost importance for full integration and influence within the international institutions. Yet the BRICS have engaged and cooperated with one another regardless of this previously crucial idea of political ‘identity.’ While these states do in fact relate to one another on the basis of a mutual identity as developing states and rising economic powers, a shared political system is not of primary concern. Unlike its Western predecessors, the BRICS – boasting both democratic and authoritarian political systems – have not focused on similar political identity as a prerequisite for cooperation in the international arena. As a result, questions regarding the capability of five countries with foundationally different political identities to merge into what appears to be an increasingly important political group have developed. But how can states with fundamental variances in histories, cultures, and political systems converge into a united political entity?

The BRICS' predominate focus instead lies in their combined and common *interests* as they relate to the current international system and perceived unfairness of the current world order. This overarching set of interests in relation to the existing international system is “a shared view among the BRICS that has contributed to their emergence and consolidation”¹⁹ as an economic and political entity. This strong sentiment is exemplified in the statement that has been repeated at every BRICS summit since its formation: “We are committed to advance the reform of international financial institutions, so as to reflect changes in the global economy. The emerging and developing economies must have a greater voice and representation in international financial institutions.”²⁰

In a recently published article, Fabiano Mielniczuk does an exceptional job in compiling recent United Nations speeches of representatives from each of the BRICS states to illustrate this common interest – what he refers to as a “developmental-multipolar set of social claims...that position development and multipolarity as the cornerstones of the BRICS initiative.”²¹ This paper helps present a portrayal of the BRICS' amalgamation for what they believe to be a fairer world order – a transition from a liberal-unilateral international system to one representative of the demands of developing countries and a stringent focus on the right to development as the most fundamental human right.

In Brazilian President Luiz Inácio Lula da Silva's 2008 United Nations General Assembly (UNGA) address, he endorsed a strong commitment and stance on development by unveiling a resilient "assessment of the new world geopolitics,"²² particularly as they relate to existing international relations. "Gradually, countries are moving beyond old conformist alignments with traditional centers...developing countries have stepped into new roles in designing a multipolar world."²³ Yet, while Brazil emphasizes both development and multipolarity, Russian twenty-first century diplomacy is predominately characterized by the "denial of unipolarity and the affirmation of different poles."²⁴ Unlike Lula, the leaders of Russia give little reference to development or developmentalism – though a "countries' right to development"²⁵ is mentioned in Minister of Foreign Affairs Sergey Lavrov's 2007 speech to the UNGA. In this speech, he states how "an essentially new geopolitical situation has been developing in the world, one that is primarily defined by emerging multipolarity...due to the newly emerging centers of global growth."²⁶ The Minister further affirmed that today's world community needs a "collective leadership of major states that should represent the geographical and civilizational dimensions"²⁷ of the emerging developing states.

More than a decade before these statements by both Brazil and Russia were made, India's then Minister of External Affairs – and current President – Pranab Mukherjee stood before the UNGA and asserted that development was "the single most important task for the international community."²⁸ And while India certainly stresses development as crucial to its national interests, criticism of the unfair existing international system is also evident. Starting with Mukherjee's claims that the UN represents the "privilege of a few rather than the interests of the many,"²⁹ Indian rhetoric has since been characterized by the need and desire for "collective multilateralism"³⁰ and a restructuring of the international system – a sentiment often shared with the Chinese. In 1993, China's Foreign Minister, Qian Qichen, addressed the UNGA with an insistence that the Security Council "should take due account of the principles of equitable geographical distribution [by accommodating] the interests of the developing countries which make up the overwhelming majority of the membership."³¹ An unfair economic order forbade the developing countries – like China – to "equal participation in world economic decision-making and the formulation of relevant rules."³² In the interest of such, China works to promote "the interest[s] of other developing countries in an international context marked by the transition to multipolarity."³³ Finally, although it was not included in the BRICS until 2010, South Africa has demonstrated similar multilateral tendencies compared to its organizational counterparts in recent years. For example, in a speech given by Foreign Minister Dlamini-Zuma, the call for a reform of the Western-crafted Bretton Woods institutions was vividly apparent.³⁴ "Decisions are taken outside the UN and other global structures by developed and rich countries when these decisions have a great impact on the poorer countries and directly affect the lives of billions of poor people."³⁵

Thus, the BRICS – originally presented as merely an economic phenomenon in the international economy – has since transformed into a political entity with mutual interests and paralleled intentions. These states have personified O'Neill's research into an international organization with enough political and economic clout to establish international institutions dedicated to these very interests. Similar to the ways in which the West – particularly the US – used its economic capacity after WWII to craft international organizations and governance in a way that reflected its interests, the BRICS have begun to utilize *their* increased economic power to craft institutions that bolster their political power. But what effects – if any – does this have on the existing international structure?

The BRICS, through their mutual interests of development and increased multipolarity, view the current world order as unfair and in need of desperate change.³⁶ One particular statement, made by China in the 46th session of the UNGA in 1991, alludes to this paradigm regarding human rights norms and developing states' national interests. Throughout his speech, Foreign Minister Qian Qichen continuously references the interests of developing states and their well-deserved position in a "new international order that will make our world a better one to live in,"³⁷ again echoing statements mentioned earlier in this section. But in terms of human rights norms, Qian offered a particularly interesting and significant statement on behalf of the world's developing states: "In the field of human rights, equal importance should be attached to civil and political rights, as well as to economic, social, cultural and developmental rights. *For the vast number of developing countries, the most fundamental human right is the right to subsistence and development* [italics added]."³⁸ Therefore, concerning human rights standards, China believes that consideration should first be given to a country's various circumstances or position and then applied appropriately – especially for developing states. But what is most intriguing is the belief advocated for by China that *subsistence* and *development* are the most fundamental human rights. While these rights currently exist within the international human rights framework, developed states with a preponderance of global economic and political power often disregard their importance and presence.

This new institutionalization and political reality of the BRICS provides a new platform for Chinese interests to be entertained with greater authority and validation than traditional international forums, particularly China's aforementioned interpretations of international human rights standards. Therefore, we are presented with the following questions: Will the BRICS' institutionalization of power help advocate for an alternative norms regime

characterized by the unique interests of developing states? How will the BRICS' increased cooperation promote a stronger emphasis on what they perceive as the fundamental right to development?

2.3. The Right To Development And The BRICS

The “right to development” [RTD] finds itself at the cornerstone of one of the more controversial debates in human rights discourse. Despite its entrance into the conversation almost thirty years ago, the notion of the “right to development” remains farfetched and neglected in many states around the globe. Established within the 1986 Declaration on the Right to Development, this contested right “emphasizes collective rights, the right of peoples to choose their own development model, and insists on international cooperation among countries”⁴⁰ in order to pursue a just world order where all rights are realized.

2.3.1. *establishing a right to development discourse*

Two critical documents exist within the existing international system that position the right to development within the human rights discourse – the 1986 Declaration on the Right to Development (DRD) and the 1993 Vienna Declaration and Programme of Action. Together, these two statements address the concerns of many members of the international community regarding “the existence of serious obstacles to development”⁴¹ and declare that the RTD is a fundamental and inalienable human right “which aims at the constant improvement of the well-being of the entire population and of all individuals...[in] a social and international order in which the rights and freedoms set forth in [the UDHR] can be fully realized.”⁴²

The DRD was adopted by the United Nations General Assembly on December 4, 1986, claiming that the RTD “entitles every human person and all persons to participate in, contribute to, and enjoy development, in which all human rights can be fully realized.”⁴³ Although the RTD had surfaced in international political dialogue some thirty or forty years prior primarily by the global South, it was not until the 1986 Declaration that an official statement on its supposed inalienability was made.⁴⁴ That being said, the DRD provides one of the first definitions of development within the United Nations system in its first two articles, proclaiming their inalienable characteristics and fundamentality.⁴⁵ This definition, as established by the DRD, is thus comprised of several elements: “the right to self-determination, the right to an international economic order, [and] the right to sovereignty over resources...”⁴⁶ But what is most important of the right to development is that both individuals and states have a prerogative and responsibility to ensure that this very right is realized. Stated in the last line of the DRD’s Preamble, “...equality of opportunity for development is a prerogative both of nations and of individuals who make up nations.”⁴⁷ Hence, the DRD establishes that the individual is not only the subject and agent of the RTD, but its beneficiary as well.⁴⁸ States, however, have the sole responsibility of creating favorable and justifiable conditions for its recognition.⁴⁹

Yet the DRD was met with distinct opposition. Although adopted by the United Nations with a vote of 146 in favor, there were eight abstentions and one vote against – the United States. The abstentions comprised of countries conventionally considered under the umbrella of the “West” – Denmark, Finland, Germany, Iceland, Israel, Japan, Sweden, and the UK. However, with the adoption of the Vienna Declaration and Programme of Action in 1993, some argue that a broader global consensus regarding the RTD has been reached. “The right to development,” the Vienna Declaration reiterates, “requires effective development policies at the national level, as well as equitable economic relations and a favorable economic environment at the international level.”⁵⁰ The motivation behind the RTD lies in the notion that within the unjust international economic system of today’s global structure, people are prevented from working out their development policies, further perpetuating inequality and deteriorating any hopes of development on all levels.⁵² Nonetheless, it can be assumed that the states who had opposed or abstained from the DRD had simply adopted the Vienna Declaration due to its overall advancement of UN efforts, reinforcement of international principles, and affirmation of the indivisibility and universality of all human rights. In a statement made on the 20th anniversary of the Vienna Declaration’s adoption, the current UN Secretary-General Ban Ki-moon referred to it as an “important milestone in humanity’s quest for universal human rights.”⁵²

While the discourse surrounding the RTD is overwhelmingly present and important in both of these Declarations, an additional component of the RTD is referenced: the “right to subsistence.” The “right to subsistence,” conventionally interpreted as the right to a basic living standard and the ability to have access to basic means of existence, is advocated for by developing countries.⁵³ As discussed in the following subsection, China does in fact actively promote for this specific right’s inclusion within existing human rights discourse, characteristically alongside the RTD. Within the DRD, Article 8 alludes to this right to subsistence with the following: “equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.”⁵⁴ Moreover, we see this right reiterated in the International Covenant on Economic, Social, and Cultural

Rights, where it is mentioned as “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions.”⁵⁵ Throughout the remainder of this paper, the RTD will include the right to subsistence.

The DRD is the target of fierce criticism from scholars, politicians, and governments – predominately from the United States and the West – regarding the validity and definition of the principles it represents. Therefore, while the DRD was adopted into the international human rights discourse, it has predominately remained at the outskirts of the human rights regime due to disagreements from the prevalent global players regarding its implementation and necessity. The following section turns to this debate between Western powers and developing states surrounding this right to development, focusing primarily on the US and China.

2.3.2. the right to development debate

The DRD remains a document of general principle rather than legally binding obligations.⁵⁶ Over the years, critical and skeptical views have emerged from scholars and politicians regarding its content, definition, and legitimacy within international relations. Most notably, the United States has staunchly remained reluctant and opposed to the idea of recognizing development as an international human right. Statements by US ambassadors, presidential administrations, and UN delegations all suggest a strong disagreement with developing states regarding their interpretation of what ‘the most fundamental human right’ is, while maintaining “consistently negative [policies] on the RTD in the political setting of the Commission on Human Rights and the General Assembly.”⁵⁷ This section will be dedicated to the dialogue used between those states strongly in favor of the international recognition of the RTD within human rights discourse – namely China, with supporting evidence from India – and those strongly against – most notably the US.

Before delving into the discourse used by these states, however, it is crucial that the RTD debate is contextualized within existing human rights scholarship. “While a human rights approach to development refers to all human rights and thus emphasizes the interrelation and interdependence of human rights, it pays special attention to economic and social rights as special concerns of development policy.”⁵⁸ Thus, within the existing international human rights understanding, there exists two classifications that have subsequently divided human rights scholarship: civil and political rights – the “first generation” – and economic, social, and cultural rights – the “second generation.” While these classifications were originally meant as a simple means of categorization, they have since been understood and utilized by many as a ranking that puts economic, social, and cultural rights after civil and political.⁵⁹ Therefore, much of the debate surrounding the RTD is grounded within the idea that is most often promoted by Western states – that economic, social, and cultural rights do not necessarily deserve equal attention and emphasis as civil and political rights.

Yet this device within the human rights discourse did not always exist in the international framework. In fact, during the crafting of the UDHR, Eleanor Roosevelt, the head of the US delegation at that time, identified the RTD as a cornerstone of international human rights. “We are writing a bill for the rights of the world, and...one of the most important rights is the opportunity for development.”⁶⁰ However, this unified consensus on the equal importance of civil and political rights with economic, social, and cultural rights was dismantled following the spread of the Cold War, during which the Soviet Union noted the “importance of basic rights and freedoms for international peace and security, but [emphasized] the role of the state.”⁶¹ This focus placed on the state, as mentioned in Article 3 of the DRD, is the foundation for the RTD’s recognition. “States have the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development.”⁶² Whereas the Western approach to human rights places emphasis on the individual, the RTD instead focuses solely on the role of the state. This dichotomy between the centrality of the state and the individual gives rise to the competing notions of civil and political rights against economic, social, and cultural rights.

At its core, the RTD relies on a different approach to human rights norms than what currently dominates the global sphere. The individual rights that are primarily promoted within the Western-led international system are safeguards in place to protect citizens from oppression by the state. The RTD, however, requires a strong emphasis on the right of the collective, bestowing this as a right of the state rather than the individual. Therefore, the RTD presents a strong philosophical contradiction to the individualistic norms that dominate the existing framework.

This philosophical disagreement manifests itself as a political disagreement as well, most notably one utilized by global powers. China, the self-proclaimed leader of the developing states, uses its Government White Papers to strongly assert its belief that the RTD and the right to subsistence go hand-in-hand as interrelated and interconnected fundamental human rights. “It is a simple truth that, for any country or nation, the right to subsistence is the most important of all human rights, without which the other rights are out of the question.”⁶³ This belief on behalf of the

People's Republic of China is echoed in a statement made to the 46th session of the UN General Assembly in 1991 by then Foreign Minister Qian Qichen. In his speech, Qian continuously references the interests of developing states and their well-deserved position in a “new international order that will make our world a better one to live in,”⁶⁴ mimicking statements mentioned in the previous section. But in terms of the RTD and its place within existing human rights discourse, Qian offers a particularly interesting and significant statement on behalf of the world's developing states:

We [Chinese government] believe that in order to effectively guarantee and promote human rights and fundamental freedoms of all mankind, it is necessary to recognize the various countries' different features – their different political, economic and social systems and their different historical, religious, and cultural backgrounds. In this regard, all countries based on the principles of respect for each others' sovereignty and non-interference in each others' internal affairs, should strive to achieve mutual understanding, seek common ground while putting aside differences, and replace cold war with international cooperation... In the field of human rights, equal importance should be attached to civil and political rights, as well as to economic, social, cultural and developmental rights. *For the vast number of developing countries, the most fundamental human right is the right to subsistence and development* [italics added].⁶⁵

Chinese national discourse, as it relates to norms surrounding human rights, positions the RTD and the right to subsistence at the forefront of the existing discourse. In a separate White Paper, China proclaims that its “basic [stance] on the development of human rights is: placing top priority on people's right to subsistence and development, making development the principal task, and promoting political, economic, and social and cultural rights to achieve their all-round development.”⁶⁶ India reflects similar sentiments toward the RTD in India's Declaration and Recommendations Adopted at the Colloquium on Population Policy (2003). This Declaration recognizes that “policies ought to be a part of the overall sustainable development goals, which promote an enabling environment for attainment of human rights of all concerned.”⁶⁷

The United States, however, wholly asserts that development is not deserving of the term “right.” Whereas developing countries often incite development as a right to be safeguarded by states and granted to individuals, the US and many Western counterparts strongly contest. Instead, the US delegation has often claimed that the RTD is used by the Third World and developing countries to disregard civil and political rights and “distort the issue of human rights by affirming the equal importance of economic, social and cultural rights,”⁶⁸ a sentiment established during the Reagan Administration. This perspective is expressed in a statement made by the United States to the UN Commission on Human Rights in 2003:

...the right to development is not a “fundamental,” “basic,” or “essential” human right. The realization of economic, social and cultural rights is progressive and aspirational. We do not view them as entitlements that require correlated legal duties and obligations. States...have no obligation to provide guarantees for implementation of any purposed “right to development.”⁶⁹

Whereas developing states urge the inclusion of development within human rights discourse due to its fundamentality and obligatory nature, the US has also previously asserted that development is a consequence of “economic liberties and private enterprise.”⁷⁰ The RTD is claimed by the US to rely on elements of capitalism to drive development. Free enterprises and free trade internationally not only contribute to a country's economic position, but to the level of development its citizens enjoy.

Economic liberty as a conduit for development, however, is not the only contention the US has with the RTD. Ambassador Nancy Rubin, a Clinton appointee, expressed the belief that development would only ensue when all necessary freedoms were guaranteed. In 1991, Rubin told the UN Commission on Human Rights that “her delegation believed that it would be useful to focus the debate on the role of individual freedom in fostering development and the role that transparency, good governance and the effective rule of law played in promoting natural growth and prosperity.”⁷² Ambassador George Moose echoed this belief advocated by Rubin in 2000 with:

...it was the protection of individual liberties which unleashed a people's creative and entrepreneurial spirit. Governments had an overriding responsibility to their citizens, and genuine and sustainable development was fostered primarily by expanding individual human rights.⁷³

Thus, in the US' perspective, development requires favorable domestic environments through good governance and respect for fundamental civil and political rights. "We [US] cannot accept the view that before civil and political rights can be fully accorded to a people, an ideal economic order must first be established."⁷⁴

The RTD remains contested within the existing human rights framework and international community. Although the right has hypothetically been established within the existing human rights norms regime, the reluctance of the US and many Western states to recognize this has caused it to lie on the outskirts of the existing norms regime. As mentioned in an earlier part of this chapter, China is the self-proclaimed leader among the developing states. This position of guidance proves particularly important within the BRICS and their desires to transform the international system, specifically in regard to the RTD and subsistence. Whereas China claims such rights to be the most fundamental and inalienable human right, the US firmly believes that "states...have no obligation to provide guarantees for implementation of any purported 'right to development.'"⁷⁵

For this reason, there exists a disagreement among the leader of the developed states – the US – and the leader of the developing world – China. And this sentiment held by China is reiterated and reinforced by the institutionalization of the BRICS, especially through their joint interests in addressing the injustices of the Washington Consensus and the obstacles it presents to the realization of the RTD.⁷⁶ At the 2014 BRICS Summit, the nations made a joint statement in the Fortaleza Declaration regarding their perspective on the RTD in the face of the current international economic order:

We agree to continue to treat all human rights, including the right to development, in a fair and equal manner, on the same footing and with the same emphasis. We will foster dialogue and cooperation on the basis of equality and mutual respect in the field of human rights, both within BRICS and in multilateral fora – including the United Nations Human Rights Council where all BRICS serve as members in 2014 – taking into account the necessity to promote, protect and fulfill human rights in a non-selective, non-politicized and constructive manner, and without double standards.⁷⁷

3. Conclusion

The new institutionalization and political reality of the BRICS provides a new platform for developing states' interests – especially China's – to be entertained with greater authority and validation than traditional international forums. This is especially witnessed through the aforementioned interpretations of the right to development and subsistence as a fundamental international human right. Therefore, we are presented with the following question: How will the BRICS' economic rise, increased political cooperation, and emphasis on the RTD present an opportunity for an alternative norms regime to be created? To answer this, attention must be given to the global human rights regime and the foundations for the existing norms regime. From there, we must examine the elements of the global labor regime and using China's role in Africa to demonstrate the ways in which focusing on the RTD emphasizes state rights and consequently undermines individual rights.

4. Acknowledgements

* Due to length requirements and limitations, the text reproduced in this journal includes only chapter one. The remaining three chapters can be requested from the Union College (NY) Schaffer Library (www.union.edu/library) or the author at riversl0425@gmail.com.

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