

DEVELOPMENT DISRUPTED: THE GLOBAL SOUTH IN THE 21ST CENTURY

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I. PROLOGUE: THE REMARKABLE LEGACY OF PROFESSOR HENRY J. RICHARDSON III

When I was a very young lawyer—that is many, many moons ago—I sat at the feet of the brilliant Gay McDougall, an extraordinary woman who led the Southern Africa Project of the Lawyers’ Committee for Civil Rights Under Law, and who helped set my career path. Like all remarkable women, Gay knew other remarkable people: the man who would become her husband, the late John Payton, and the man we honor with this festschrift—Professor Henry J. Richardson III. We were assisting the people of South Africa in their struggle for the liberation of their country, during its darker (of which there were many) days. We, or perhaps I should say they—with me just being glad to be in the room—were plotting, trying to figure out how to damage and eventually terminate that brutal, murderous regime. Ultimately, I believe we played some role in the success of that struggle; indeed, the Southern Africa Project, and many others, helped the brave men and women of South Africa liberate themselves.

I was able to work with Gay, who eventually pointed me in the direction of London and the London School of Economics and to Professor Richardson, who would later welcome me to the legal academy in the finest mode possible. He introduced me around—and that would be many introductions for Henry is truly one of the great men of international law, a true giant, and thus his introduction meant something. Yet, perhaps even more importantly, Henry helped guide me towards themes I might explore in my scholarship. My first article on the “United Nations’ (U.N.) Intervention in Internal Conflicts”¹ was a hit and while I *think* it was my idea, it surely could have been Henry’s. I am absolutely certain, however, that my second and third articles, where I explored the failed state phenomena as an object of international law and then through the lens of colonialism and neo-colonialism, were unquestionably at Henry’s suggestion.² It set the stage for my life’s work, work that I truly love. For this, I will always be grateful to Professor

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1. See Ruth Gordon, *United Nations Intervention in Internal Conflicts: Iraq, Somalia, and Beyond*, 15 MICH. J. INT’L L. 519, 523–27 (1994) (discussing domestic and international jurisdiction and suggested changes for their sustainability and strength).

2. This study began as one article and ultimately ripened into two. See Ruth Gordon, *Some Legal Problems with Trusteeship*, 28 CORNELL INT’L L.J. 301, 303 (1995) (discussing different proposals under the U.N. Charter and international law to bring back trusteeship); Ruth Gordon, *Saving Failed States: Sometimes a Neocolonialist Notion*, 12 AM. U. J. INT’L L. & POL’Y 903 (1997) (examining the concept of failed nation states in Africa).

Henry Richardson, and I am so pleased to have this opportunity to put my gratitude in print.

I would like to begin with reflections on a few of Henry's texts that I have written about or used directly in articles and essays. These writings focused on Henry's interest in the liberation of African-Americans and in vindicating and linking the rights and struggles of people of color, the poor, and the oppressed of all races and nationalities. His focus has been on defining and claiming these rights within an international legal construct, and this essay will briefly focus on his exploration of African-American interests in, and intersection with, the international sphere. I will then return to where my studies of the colonial, neo-colonial, and post-colonial periods have led me, with a sneak peek at my upcoming book, tentatively titled *Development Disrupted: The Global South in the 21st Century*.

II. A SAMPLING OF THE GENIUS OF HENRY J. RICHARDSON III

For the 60th anniversary of the Villanova Law Review, I wrote an essay about a series of lectures delivered at Villanova University and later published by the Villanova Law Review.³ It was a great project, where I was able to read and then pontificate about eleven excellent lectures; among those lectures was a 2007 essay by Professor Henry Richardson that decisively established Dr. Martin Luther King Jr. as an international actor and a human rights leader.⁴

In the process of placing Dr. King in a "globalized Black International Tradition,"⁵ Henry gives a masterful summary of 20th century "equality struggles," where he chronicles the intersections, parallels, and overlay between the international struggle against colonialism and the African-American struggle for civil rights.⁶ While some of the catalysts were significant international events, such as the Versailles Peace Conference, the Second World War, or the founding of the U.N., it is clear that the forces for equality were in sync, utilizing these events to advance their purposes.⁷ Some parallels are striking, such as the founding of the National Association for the Advancement of Colored People (NAACP) in America and the African National Congress (ANC) in South Africa both in 1910.⁸ Still others indicate that the parties were keenly aware that they were engaged in an international struggle, even if international law had yet to catch up by protecting

3. See Ruth Gordon, *Essays in Honor of Dr. Martin Luther King, Jr.*, 61 VILL. L. REV. 537, 537–39 (2016) (discussing and addressing the effects of lectures on Dr. Martin Luther King published by the Villanova Law Review).

4. Henry J. Richardson III, *Dr. Martin Luther King, Jr. as an International Human Rights Leader*, 52 VIL. L. REV. 471, 471–73 (2007).

5. *Id.* at 473.

6. *Id.*

7. W.E.B. DuBois presented an anti-colonialism petition to the Versailles Peace Conference on behalf of various peoples of color, for recognition of their right to self-determination against European colonialism. Richardson, *supra* note 4, at 474. While European and American powers rejected the petition, self-determination was recognized for the people of Eastern Europe. *Id.*

8. See *id.* at 473 (discussing the abbreviated timeline sketching the Black International Tradition through the twentieth century).

the human rights they were trying to vindicate. Thus, in 1919, W.E.B. DuBois convened a second Pan-African Congress in Paris and presented an anti-colonial petition to the Versailles Peace Conference, which concluded the First World War.⁹ United States (U.S.) actor and singer Paul Robeson was an international civil rights leader, so much so that the U.S. government seized his passport,¹⁰ while A. Philip Randolph successfully persuaded President Roosevelt to desegregate U.S. war production plants during the Second World War.¹¹

Hence, when the 1955 Montgomery bus boycott thrust Dr. King onto the national stage,¹² it also propelled him onto an international stage that had been shaped by Mahatma Gandhi, Marcus Garvey, W.E.B. Dubois, A. Philip Randolph, Paul Robeson, and others. King became aware of the tactic of employing non-violence against deadly violent segregation in 1955, while studying Mahatma Gandhi's struggles against British colonialism.¹³ In the same year, the Bandung Conference, convened in Bandung, Indonesia, declared that there was a "Third World" comprised of "all developing states, colonial peoples and peoples of color."¹⁴ Dr. King condemned the 1960 South African Sharpeville Massacre and friendly U.S. policies towards the Apartheid regime, thereby linking the struggle against Apartheid in South Africa with the struggle in the U.S. against Jim Crow and the subjugation of Black Americans—that is, American Apartheid.¹⁵ In 1964, Dr. King traveled to Oslo, Norway to accept the Nobel Peace Prize awarded for his leadership of the Black American struggle for civil rights.¹⁶ This honor firmly linked the struggle for civil rights in the U.S. and the international peace movement, and again elevated the Black struggle for civil rights onto the international stage.

Professor Richardson then turned his focus to Dr. King's famous Riverside Church speech¹⁷ where he condemned the U.S. war in Vietnam.¹⁸ The Vietnam War

9. *Id.* at 474.

10. *See Paul Robeson Loses Appeal Over His Passport*, HISTORY, <http://www.history.com/this-day-in-history/paul-robeson-loses-appeal-over-his-passport> (last visited Mar. 8, 2017) (discussing Robeson's losing appeal during the Cold War due to condemning remarks on segregation and discrimination in America).

11. Richardson, note 4, at 472.

12. *Id.* at 474.

13. *Id.*

14. *Id.* at 475. Professor Richardson explains that Indian Prime Minister Nehru created the independence principle, meaning a Third World that was separate and distinct from the industrialized, capitalist first world and the socialist, communist second world. *Id.* He also notes that American Blacks such as Congressman Adam Clayton Powell attended the Bandung Conference. *Id.* Prior to his election, and as pastor of Abyssinian Baptist Church, Powell had organized civil rights marches in Harlem. *Id.* For more on the term "Third World" and its current usage as a disparaging expression, see Ruth Gordon, *Katrina, Race, Refugees, and Images of the Third World*, in HURRICANE KATRINA AMERICA'S UNNATURAL DISASTER (Jeremy Levitt, Matthew C. Whitaker eds., 2009).

15. Richardson, *supra* note 4, at 475.

16. *Id.*

17. *Id.* at 475–77.

deeply divided the American people and triggered widespread debate, demonstrations and deep rancor among its citizens.¹⁹ Still, for an African-American to actually speak out against the war was a radical step and risked a hostile response towards African-Americans generally and the Civil Rights Movement in particular; Dr. King's advisors counseled against it.²⁰ Still, Dr. King forged ahead, believing the issue was too important to ignore.²¹ Professor Richardson used this speech to outline King's vision of international law.²²

Although, Professor Richardson identified four objectives, I will only note two here. First, Dr. King linked political and civil international human rights to economic, social and cultural rights,²³ a construct I have pursued in my work where I have focused on economic human rights, a topic I will return to in the second part of this essay. Second, "King defined and upheld the general right of Black people to take international positions on major issues," following in the tradition of DuBois and others.²⁴ Surprisingly, this has been a privilege denied to African-Americans, who are unfailingly urged to stick to civil rights for Black Americans and presumably leave international affairs to White people or perhaps, for most of American history, to White men.²⁵ Nevertheless, it has been part of Henry Richardson's brilliant scholarship to document and analyze the long-standing involvement and interests of African-Americans in international affairs and

18. Martin Luther King, Jr., *Beyond Vietnam*, Address Delivered to the Clergy and Laymen Concerned about Vietnam at Riverside Church in New York City (Apr. 4, 1967), http://kingencyclopedia.stanford.edu/encyclopedia/documentsentry/doc_beyond_vietnam/.

19. See *Vietnam War Protests*, HISTORY, <http://www.history.com/topics/vietnam-war/vietnam-war-protests> (last visited Mar. 10, 2017) (describing the development of protests against the Vietnam War in the U.S.).

20. Richardson, *supra* note 4, at 475. Many urged Dr. King to stick to the Negro struggle for civil rights and keep out of international affairs of any kind. See *id.* at 476 (noting the criticism from within the U.S. on Dr. King's Riverside Church speech on America, foreign policy, and domestic policy).

21. King, *supra* note 18.

22. Richardson perceived four objectives in the Riverside Church Speech. Richardson, *supra* note 4, at 475–76. Other objectives included seeking parity between rights and justice in U.S. foreign and domestic policy, believing peace and justice were indivisibly linked, and internationalizing the American Civil Rights Movement. *Id.* at 476–77.

23. *Id.* at 473.

24. *Id.* at 476. Prof. Richardson also discusses the anti-Iraq War movement and projects how Dr. King would respond to our current challenges, including international terrorism. *Id.* at 478–83.

25. Perhaps an African-American secretary of state, Condoleezza Rice in the George W. Bush administration, and then an African-American President, Barack Obama elected in 2008, have somewhat ameliorated this expectation. 21 *Notable African-American Firsts in Politics*, WASH. POST, https://www.washingtonpost.com/politics/21-notable-african-american-firsts-in-politics/2017/02/15/be64d774-f0cb-11e6-9973-c5efb7ccfb0d_gallery.html?utm_term=.065401cd73aa (last visited Mar. 8, 2017). America has also had a string of female Secretaries of State, including Madeline Albright in the Clinton administration and Hillary Clinton in the Obama administration. See *Find U.S. Cabinet Members*, INSIDE GOV, <http://cabinet-members.insidegov.com/> (last visited Mar. 10, 2017) (listing all past and present U.S. Cabinet Members, including the female Secretaries of State).

international law.²⁶

Perhaps the ultimate testament to this project is his monumental work, *The Origins of African-American Interests in International Law*,²⁷ where he explored African-American interests in international law from the moment they landed on American shores until around 1814; hopefully he will complete this project and bring it into the 21st century. I will not even pretend to examine the multiple contours of this epic work—it is simply too rich, as Henry would put it; indeed, I wrote a book review on this volume and even there I could not explore the contours of the entire book.²⁸

If you want a taste of its breadth and depths, however, the book review will give you some idea, as Professor Richardson explores, *inter alia*, the slave trade, slave petitions, black pirates, treaty interpretation, and in the process also explains international law in the eighteenth and nineteenth centuries.²⁹ He details the lives of slaves and free Blacks in an intensely racist America,³⁰ and analyzes many more topics than can be discussed here. His basic thesis is that African heritage people³¹ needed to rely on outsider law, namely, international law, to vindicate any modicum of human rights in America, where domestic law was unavailable for this purpose; and he sets out to demonstrate as much.³² It is an amazing volume. Perhaps my favorite highlight, and the one that has most influenced my teaching and writing, will do it some justice.

Chapters nine, ten, and eleven discuss what Professor Richardson deems were African-American interests in drafting the international law provisions of the U.S. Constitution.³³ I teach international law, which always includes a unit on U.S. law and international law and, invariably, the U.S. Constitution and international law. Thus, I am familiar with the need for various constitutional clauses, such as the Supremacy Clause, that made treaties part of the supreme law of the land,³⁴ and Article II, which divides the treaty making power between the President and

26. See, e.g., Henry J. Richardson, III, *The International Implications of the Los Angeles Riots*, 70 DENV. U. L. REV. 213 (1993); Henry J. Richardson, III, *The Gulf Crisis and Afro-American Interests Under International Law*, 87 AM. J. INT'L L. 42 (1993); Henry J. Richardson, III, *Two Treaties and the Global Influences of the American Civil Rights Movements, Through the Black International Tradition*, VA. J. SOC. POL'Y & L. 59 (2010).

27. HENRY J. RICHARDSON, III, *THE ORIGINS OF AFRICAN-AMERICAN INTERESTS IN INTERNATIONAL LAW* (2008).

28. See Ruth Gordon, *The Origins of African-American Interests in International Law by Henry J. Richardson III*, 104 AM. J. INT'L L. 313, 313 (2010) (reviewing Professor Richardson's book). By the way, epic is an understatement—after 472 very dense pages, Professor Richardson was only up to the war of 1812! *Id.* at 472.

29. See generally *id.*

30. *Id.* at 316–17.

31. Professor Richardson employed a variety of terms to refer to the people who would eventually become African-Americans. Gordon, *supra* note 28, at 313, n.1.

32. RICHARDSON, *supra* note 27, at xli–xlii.

33. *Id.* at 181–303.

34. U.S. CONST. art. VI, para. 2.

Senate.³⁵ I also teach international trade, where the Foreign Commerce Clause looms large.³⁶ Professor Richardson, clearly a student of American history, emphasizes entirely new aspects of these and other clauses from the perspective of “African heritage” people. He notes that African slaves were clearly at the Constitutional Convention, at least in the minds of the drafters, and slavery and the slave trade obviously influenced the deliberations.³⁷ Professor Richardson then articulates what he believes African-Americans themselves would have said if they had been able to speak at the Convention. For example, he contends that they would have been particularly interested in the Foreign Commerce Clause as they themselves were articles of foreign commerce.³⁸ The Piracy Clause would have been of interest, as there were Black pirates.³⁹

The Supremacy Clause was essential to enforce the international obligations of a fledgling U.S., as the young nation sought international recognition and respect.⁴⁰ Professor Richardson’s examination of its origins is a masterful analysis that weaves the ambitions, needs, and problems of the new republic into a narrative that also, unlike most inquiries, incorporates how this process took into account America’s entrenchment in the international slave system, an envelopment the founders fully intended to protect.⁴¹ There were also terms that particularly applied to slaves, such as the “2/3 rule” and the 1808 Clause, which set the terms for ending the importation of African slaves.⁴² As the Thirteenth Amendment abolished slavery,⁴³ I will put these provisions aside, although Henry’s extensive analysis, especially of the 1808 Clause, sheds new and interesting light on these provisions. Rather, I would like to conclude by briefly focusing on his discussion of the Foreign Commerce Clause.⁴⁴

Professor Richardson begins by putting the Foreign Commerce Clause in

35. *Id.* art. II, § 2, cl. 2.

36. *See id.* art. I, § 8, cl. 3 (“To regulate commerce with foreign nations, and among the several states, and with the Indian tribes[.]”).

37. *See* RICHARDSON, *supra* note 27, at 228–29 (“However, we have discussed previously how much African-Americans and African slaves ‘were in the room,’ the fears and concerns of the Founders, and the meaning of slavery as an institution for preserving the American Union.”).

38. RICHARDSON, *supra* note 27, at 235.

39. *Id.* at 246–60.

40. *See* U.S. CONST. art. II, § 2, cl. 2. (“[The President] shall have power, by and with the advice and consent of the Senate, to make treaties[.]”). During the colonial period, and for many decades thereafter, states were extraordinarily powerful as opposed to the newly formed federal government. Dennis M. Cariello, *Federalism for the New Millennium: Accounting for the Values of Federalism*, 26 *FORDHAM URB. L.J.* 1493, 1524 (1999). Some state courts refused to enforce U.S. treaty obligations, such as those contained in the Treaty of Paris, the peace treaty with England that formally ended the Revolutionary War. *See id.* at 1523 (identifying that states had such strength they had to be listed independently on the Paris Treaty, granting each one international recognition).

41. RICHARDSON, *supra* note 27, at 205–11.

42. *See id.* at 211–215 (discussing the negotiation of art. I, § 9, cl. 1 (the 1808 Clause) and explaining how the rule counting slaves as 2/3 of a person in determined the proportion and number of state representatives to the House of Representatives from free and slave states).

43. U.S. CONST. amend. XIII.

44. U.S. CONST. art. I, § 9, cl. 1.

historical context.⁴⁵ He explains how and why trade was crucial to colonial America, the tendency of states to enter into their own trade treaties with foreign powers, the rivalries between the states, and the inability of the Continental Congress to enforce American international treaty obligations.⁴⁶ Meanwhile, southern states were intent on insuring that any system that emerged protected the trade in African slaves, a consideration most studies usually ignore, but a consideration, Professor Richardson maintains, that profoundly affected the debates.⁴⁷ Indeed, southern delegations feared federal control over state commerce could threaten their economic interests and particularly the “institution of slavery.”⁴⁸ Thus, they sought provisions that would take this power out of federal hands, or at least seriously check it.⁴⁹ He also demonstrates that the Convention discussed issues of domestic and foreign commerce, which were linked with slavery and its preservation; slavery figured prominently in the compromises ultimately reached on these issues.⁵⁰ When I teach international trade, I point out that foreign commerce meant human beings and the power over foreign commerce was placed in Congressional hands, a Congress amplified by the 2/3 Clause, which increased the representation of southern states. This analysis certainly puts a different gloss on the Clause.

I would like to conclude my discussion of Professor Richardson’s work with how commerce figured into African-American interests in international law. This wide-ranging volume is about many things; yet, at least to this reader, at its core is the enslavement and subjugation of African peoples. At the core of slavery is commerce—signifying business, trade, markets, and all that commerce entails. Extreme racism and belief in the inhumanity of African peoples were tangible and necessary to justify the enslavement of human beings.⁵¹ Nevertheless, the rationale for holding slaves in the first place was to obtain a source of labor, which also became a source of property and thus even greater wealth.

Colonialism has similar roots. The colonial enterprise rested on racial subordination, but it began and remained an economic enterprise. Europeans were

45. RICHARDSON, *supra* note 27, at 225–28.

46. *Id.* at 225. He also notes that foreign and interstate commerce were intertwined in many minds and sometimes viewed as the same thing. *Id.*

47. *Id.*

48. *Id.* at 226.

49. *See id.* at 226–28 (discussing the lack of a distinction between foreign and domestic commerce during the debates, although U.S. obligations regarding foreign trade were also a function of the country’s capacity to enforce its treaty obligations).

50. RICHARDSON, *supra* note 27, at 227–28. Professor Richardson remarks that (1) the founders drew no “bright-line distinction between foreign commerce and commerce among the thirteen states”; (2) the new Congress needed more power vis-à-vis the States to deal with issues of foreign commerce than did the Continental Congress; (3) Congress could decide and make national policy on foreign and domestic commerce without needing a super-majority; (4) the federal government would control decisions in the name of all States regarding treaties with foreign states. *Id.*

51. Indeed, Professor Richardson notes the division of indentured servitude by race with Blacks becoming slaves and Whites eventually buying out their contracts. *Id.* at 29.

in search of raw materials to fuel and supply their factories and machines;⁵² that they found them in Sub-Saharan Africa and other Global South locations was immaterial in and of itself. They would have done whatever was necessary to obtain them wherever they were found. True, there happened to be people there, but they conveniently had no rights; indeed for most of its history, only European states could be subjects of international law.⁵³ Hence, therein lies deep-seated racism as the Black, Brown, and Asian people of the Global South became disposable—and indeed, they were forced, sometimes in unimaginably brutal ways, to work or were simply eradicated and their lands and riches appropriated.⁵⁴

As previously noted, Professor Richardson pointed me in the direction of exploring colonialism, and I ended up studying the location of the Third World⁵⁵ within the international legal paradigm and the international economy,⁵⁶ with a few segues along the way.⁵⁷ My exploration of colonialism eventually led to interrogating neo-colonialism and then to thinking and writing about its more benign cousin, development. This eventually led to my latest project: *Development Disrupted*.⁵⁸

52. *Id.* at 8 (describing the European need of labor to conduct local manufacturing and farming in the New World).

53. *See generally id.*

54. *See generally id.*

55. I am pleased that we now use Global South and Global North rather than developed and undeveloped or its euphemism developing. There has been criticism of the terms “developing” or “undeveloped.” *See, e.g.,* Ruth Gordon & Jon H. Sylvester, *Deconstructing Development*, 22 WIS. INT'L L.J. 1, 4–5 (2004) [hereinafter Gordon, *Development*].

56. *See, e.g.,* RUTH GORDON, *Unsustainable Development, in* INTERNATIONAL ENVIRONMENTAL LAW AND THE GLOBAL SOUTH (Shawkat Alam, Sumudu Atapattu, Carmen Gonzales, Jona Razzaque eds., 2015); Ruth Gordon, *Panama and the Specter of Climate Change*, 41 U MIAMI INTER-AM. L. REV. 129 (2014); Ruth Gordon, *Climate Change and the Poorest Nations: Further Reflections on Global Inequality*, 78 U. COLO. L. REV. 1559 (2007); Ruth Gordon, *Katrina, Race, Refugees and Images of the Third World, in* HURRICANE KATRINA: AMERICA'S UNNATURAL DISASTER (Dr. Jeremy Levitt, Matthew Witaker, eds., 2009); *see generally* Ruth Gordon, *Mandates, in* MAX PLACK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW (Oxford Univ. Press 2013) [hereinafter Gordon, *Mandates*].

57. *See, e.g.,* Ruth Gordon, *The Dawn of A New, New International Economic Order?*, 72 L. & CONTEMP. PROBS. 131 (2009); Ruth Gordon, *On Community in the Midst of Hierarchy (And Hierarchy in the Midst of Community, in* PRESUMED INCOMPETENT, THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gabriella Gutierrez y Muhs, Yolanda Flores Niewmann, Carmen Gonzalez, Angela Harris eds., 2012).

58. Gordon, *Development, supra* note 55. This critique, co-authored with Professor Jon Sylvester, essentially conveyed a flourishing critical development literature, which began with a seminal article by Arturo Escobar. ARTURO ESCOBAR, *ENCOUNTERING DEVELOPMENT: THE MAKING AND UNMAKING OF THE THIRD WORLD* (1995). These theories were first raised in legal journals by Professor Tayyab Mahmud. Tayyab Mahmud, *Postcolonial Imaginaries: Alternative Development or Alternatives to Development?* 9 TRANSNAT'L L. & CONTEMP. PROBS. 25 (1999). We simply took up his call to explore this literature further. Gordon, *Development, supra* note 55, at 8. Law has been supportive of the development paradigm, even when it was purportedly being critical. Thus, there is a law and development literature that purports to be critical. *Id.*

III. DEVELOPMENT DISRUPTED

A. Introduction

In 2004, I co-authored *Deconstructing Development*, which critically examined international development in theory, practice, and as part of international legal discourse.⁵⁹ The article contended that despite its relatively recent pedigree, “development” had become the defining and fundamental organizing principle for low-income countries (LICs) in the Global South.⁶⁰ Yet, development dogmas were inconsistent, often highly intrusive, paternalistic, frequently onerous, and usually ineffective, and what began as a mission to eradicate poverty ultimately evolved into a much larger and more comprehensive project with pronounced suggestions of neo-colonialism.⁶¹ Rather than analyzing numerous and often quite futile development policies, however, the article relied on critical development theory to interrogate the entire premise of development.⁶² The article demonstrated that development was the product of a distinctly Western and, in the second half of the twentieth century, a predominantly American imagination and ideology.⁶³ As Professor Richardson has repeatedly demonstrated, the Western political and cultural vision often disparaged and devalued people of color, local and indigenous cultures, and views of self; unsurprisingly, development theory and practice often reflected these views.⁶⁴ Indeed, it is not coincidental that development did not exist

59. Gordon, *Development*, *supra* note 55, at 2 (“[D]evelopment is the most important concept in the international system, for it is development that defines and locates the Third World within the international community.”); *id.* at 22 (stating that development became the objective of every nation in the Third World).

60. *Id.*

61. *See id.* at 6 (concluding that the development project continues the colonial civilization mission).

62. The critiques discussed in *Deconstructing Development* examined and critically assessed the entire development project, including its place in post-colonial discourse and its negative view of formerly colonized peoples. *See generally* Gordon, *Development*, *supra* note 55. It began at the very beginning of the development enterprise, which is in the lifetime of many. *Id.* Before that, of course, many Third World peoples were simply colonial subjects and the most they could hope for was a benevolent colonizer or perhaps mandate or trusteeship status where there was at least a semblance of an obligation to bring them to the level of civilization. *See generally* Gordon, *Mandates*, *supra* note 56.

63. It challenged and probed the theory of development itself, contesting the view that development is a neutral, universal concept. Rather, it has been “directed and controlled by national and international institutions that reflect the views and interests of particular countries that in turn reflect particular communities, societies and cultures.” Gordon, *Development*, *supra* note 55, at 8. In the second half of the 20th century, this meant development was a product of the American imagination, reflected American ideology and precepts and was directed by American-controlled institutions, such as the World Bank and the International Monetary Fund (IMF). The President of the World Bank has always been an American, while the director of the IMF has always been European. Accordingly, development doctrines tended to follow whatever theories and ideologies were current in American political and economic discourse. *See e.g.*, Gordon, *Development*, *supra* note 55, at 29–37.

64. The article concluded that to be undeveloped essentially meant to be dysfunctional in some respects and hence in need of transformation; that most of the “underdeveloped” are people

until after the Second World War.⁶⁵ Development could only follow the formal demise of colonialism, because most populations deemed in need of development were former colonial subjects, and the most colonized people could have hoped for was mandate or trusteeship status.⁶⁶

More than ten years have passed since Jon H. Sylvester and I wrote *Deconstructing Development* and perhaps it is time to revisit the topic, as there have been significant changes in the international development landscape, including a relative decline in American hegemony that is due at least in part to the rise of “the Rest.”⁶⁷ Indeed, one of the most momentous changes in the international community has been the emergence of middle-income nations as influential members of the international community; that is, some of the undeveloped have developed, albeit with little help from the development edifice.⁶⁸ This repositioning towards a multi-polar world⁶⁹ has affected development theory, practice, and funding, as previously dominant traditional donors have receded somewhat, while emerging middle-income countries have become more prominent.⁷⁰ Private entities with considerable funds and different perspectives have also entered this domain.⁷¹ These bodies, such as the Bill and Melinda Gates Foundation, work in conjunction with traditional donors, but are essentially

of color dwelling in the Global South only comported with broader American views of Black and Brown people (particularly in the pre-civil rights era) and with the European civilizing mission that was part of the colonial project. *See id.* at 5 (discussing how the concept of development privileges certain societies and cultures; that it defines those outside these societies as incompetent and in need of transformation; and that most underdeveloped people are people of color, which comports with Americans’ views of race in the U.S.).

65. *Id.* at 10.

66. *See generally* DEBORAH BRAUTIGAM, *THE DRAGON’S GIFT, THE REAL STORY OF CHINA IN AFRICA* (2009); Gordon, *Development*, *supra* note 55, at 5. The League of Nations Mandate system encompassed the notion of a ‘sacred trust’ undertaken by the mandatory power which played a role in shaping the relationship between the mandatory and its subjects and perhaps foreshadowed the relationship between the developed and undeveloped. Gordon, *Mandates*, *supra* note 56, ¶ 6; *see also* ANTONY ANGHIE, *IMPERIALISM, SOVEREIGNTY AND THE MAKING OF INTERNATIONAL LAW* 190 (Cambridge Univ. Press 2004) (describing the evolution of countries being categorized as uncivilized to then being economically backwards). The U.N. Trusteeship system replaced the League’s Mandate system, upon the founding of the U.N. and the concomitant demise of the League of Nations. *See generally* U.N. Charter art. 75–85.

67. This term was coined by Dambiso Moyo in 2011 to describe the rising nations of China, India, Brazil, Russia, South Africa and other emerging nations. DAMBISO MOYO, *HOW THE WEST WAS LOST FIFTY YEARS OF ECONOMIC FOLLY—AND THE STARK CHOICES AHEAD* 7 (Farrar, Straus and Giroux, 2011).

68. *See id.* at 134–38 (describing how emerging countries are creating their own economic organizations, such as BRICS, and calling for a multi-polar world).

69. *See e.g.*, Dennis Chesley, Miles Everson & John Garvey, *Global Power Shift: Winners, losers, and strategies in the new world economic order*, STRATEGY+BUSINESS (Apr. 4, 2016), <http://www.strategy-business.com/article/Global-Power-Shift?gko=d56bb>.

70. *See id.* (discussing how the emergence of new countries, including China, has dispersed economic power). *See generally* MOYO, *supra* note 67.

71. *See* Chesley, *supra* note 69 (noting that technology leaders are carving out positions of influence, such as the partnership between Bill Gates and Mark Zuckerberg).

independent and are employing technology in new and innovative ways.⁷²

Perhaps the most profound, exciting, and potentially disruptive factor on the horizon is the quickly developing technology that is rapidly changing our world. Technology has the potential to solve previously unsolvable problems and to create new systems that provide goods and services with innovative techniques and methods. As middle-income countries (MICs) collaborate with LICs, there is even the potential to leap over more established industrialized high-income countries (HICs), at least in some arenas, as HICs have economies and infrastructure designed and built for the 20th century, while industrializing countries can build 21st century systems from the outset.⁷³ Innovative systems and methods also face less resistance from legacy industries in middle-income and low-income countries, simply because there are fewer legacy industries to protest.

Still, technological disruption also looms large, as the trajectory for modernization thus far has been the industrial model. When we analyze countries that have recently modernized, such as Mexico, China, South Korea, and others, they built a manufacturing base as a product of industrial policy, via investment by multi-national enterprises or some combination of both.⁷⁴ Yet, manufacturing and services increasingly utilize robotics and other forms of artificial intelligence, and thus manufacturing involving large numbers of human beings may disappear in the high income Global North and the commonly lower income Global South.⁷⁵ A

72. See *What We Do*, BILL & MELINDA GATES FOUNDATION, <http://www.gatesfoundation.org/What-We-Do> (last visited Mar. 6, 2017) (providing information on the Foundation's latest activities).

73. See Brautigam, *supra* note 66, at 10–12 (discussing how Chinese foreign aid is simpler than Western strategies and emphasizes infrastructure, productivity, and university scholarships); Fiona Harvey, *Developing countries could leapfrog west with clean energy, says Hollande*, GUARDIAN (June 3, 2015), <https://www.theguardian.com/environment/2015/jun/03/developing-countries-could-leapfrog-west-with-clean-energy-says-hollande> (highlighting statements from the French president describing how developing countries can leapfrog technologically over fossil fuels and straight to clean technology, similar to how the use of mobile devices negated a need to build conventional fixed line phones).

74. See Sebastian Heilmann & Lea Shih, *The Rise of Industrial Policy in China, 1978–2012* 5 (Harvard-Yenching Inst. Working Paper Series, 2013), https://www.harvard-yenching.org/sites/harvard-yenching.org/files/featurefiles/Sebastian%20Heilmann%20and%20Lea%20Shih_The%20Rise%20of%20Industrial%20Policy%20in%20China%201978-2012.pdf (“For achieving rapid industrial development, China’s post-Mao leaders from the late 1970s on actively sought policy advice, advanced technology and investment capital from abroad.”).

75. See Tim Worstall, *Memo to Trump: It’s Not Walmart Or China Killing Manufacturing Jobs – It’s The Robots*, FORBES (July 27, 2016), <https://www.forbes.com/sites/timworstall/2016/07/27/memo-to-trump-its-not-walmart-or-china-killing-manufacturing-jobs-its-the-robots/#7b8981cd4ec1> (providing data on the impact of automation); Claire Cain Miller, *The Long-Term Jobs Killer Is Not China. It’s Automation*, N.Y. TIMES (Dec. 21, 2016), https://www.nytimes.com/2016/12/21/upshot/the-long-term-jobs-killer-is-not-china-its-automation.html?_r=0 (providing information on the impact of automation); Vivek Wadhwa, *Why China won’t own next-generation manufacturing*, WASH. POST (Aug. 26, 2016), https://www.washingtonpost.com/news/innovation/wp/2016/08/26/why-china-wont-own-next-generation-manufacturing/?utm_term=.1416fdb6f69f (noting that China will no longer have the edge as robots and 3D printing are implemented).

shrinking number of jobs may be at the core of the current discontent among some inhabitants of the U.S. and Europe and it is an issue that eventually will confront the Global South.⁷⁶ *Development Disrupted* will address all of these issues and much more. This essay, however, offers a few thoughts on emergent state and private development actors, and both the beneficial and the disruptive aspects of technology.

B. New Partners, New Paradigms

One of the most momentous changes over the last ten years has been the advent and rise of middle-income nations as powerful global participants in the international community. Whereas traditional development discourse posed the West as the future of the undeveloped and the model that poor nations were to aspire to,⁷⁷ this belief may be in the process of change.⁷⁸ Indeed, if the 20th century was the American century, crowning more than 500 years of western dominance,⁷⁹ then perhaps the beginning of the 21st century marks the dawning of the rise of “the Rest.”⁸⁰ Brazil, Russia, India, and China are now termed “BRICs,” and in 2010 when South Africa joined their ranks, they became “BRICS.”⁸¹ These nations

76. See Les Roopnarine, *Africa's rising population and youth unemployment challenge*, GUARDIAN (July 11, 2013), <https://www.theguardian.com/global-development-professionals-network/2013/jul/11/africa-kenya-population-youth-unemployment> (noting that out of 200 million 15 to 24 year-olds in Africa, 75 million are unemployed).

77. Developers posed the West as the future for poorer nations, meaning unindustrialized nations were always a step behind. Development was the process whereby they would eventually reach Western ranks; although of course by then Western nations would now be at the next stage—i.e., by the time lower income countries industrialized, the West would be post-industrial. Thus, Western society was the template and the undeveloped could never quite catch up. Gordon, *Development*, *supra* note 55, at 15–17.

78. See Joshua Cooper Ramo, *The Beijing Consensus*, FOREIGN POL'Y CTR. 15–21 (May 11, 2004), <http://fpc.org.uk/fsblob/244.pdf> (discussing China's use of innovation in its quest for modernization); *but see* Scott Kennedy, *The Myth of the Beijing Consensus*, 19(65) J. CONTEMP. CHINA 461, 469 (maintaining that China is not a technological leader).

79. After World War II, a shattered Europe and Japan relinquished dominance to a robust U.S. that was still physically intact and economically unmatched. America created the global economy that still governs the international system, making long desired international institutions and an American led global political and economic system a reality. The nations of Europe joined in what eventually became the European Union, and Japan became an economic powerhouse at the center of South East Asia. See generally Gordon, *Development*, *supra* note 55.

80. MOYO, *supra* note 67, at 16–20. See FAREED ZAKARIA, POST AMERICAN WORLD 18–27 (2008) (discussing the rise of ‘the Rest’ and unparalleled growth rates in many countries); *see e.g.*, Michael Spence, THE NEXT CONVERGENCE: THE FUTURE OF ECONOMIC GROWTH IN A MULTISPEED WORLD (2011); *see, e.g.*, Dick Nanto, *The U.S. Financial Crisis: The Global Dimension with Implications for U.S. Policy* CONG. RESEARCH SERV. (Nov. 10, 2008).

81. The term ‘BRIC’ was devised in 2001 by Jim O’Neill, chief economist for Goldman Sachs. Gillian Tett, *The Story of the Brics*, FIN. TIMES, (Jan. 15, 2010), <http://www.ft.com/cms/s/2/112ca932-00ab-11df-ae8d-00144feabdc0.html#axzz1BJZV2QF4>; *see also* Alan Beattie, *BRICS: The Changing Faces of Global Power*, FIN. TIMES (Jan. 17, 2010), <https://www.ft.com/content/95cea8b6-0399-11df-a601-00144feabdc0> (providing information regarding the changing global economic powers).

have formed an alliance of sorts⁸² and are rapidly becoming major economic forces in the global economy.⁸³

The evolution towards a multi-polar international system is still in progress, but it has had multiple and profound consequences across the international system, including how to accomplish the modernization of pre-industrial societies. This evolution has meant new and different modernization partners and paradigms; accordingly, the near monopoly enjoyed by the Global North as donors and theorists is weakening.⁸⁴ In several important respects, many of these new state actors differ markedly from traditional state actors and international financial institutions (IFIs) such as the World Bank and International Monetary Fund (IMF).⁸⁵ To begin with, many have relatively recent memories of colonial and other forms of economic, political, and social dominance and may still be in the midst of modernization and poverty reduction themselves. This has undoubtedly shaped the newly emerging development discourse.

Global South-Global South collaborations have encountered different views and receptiveness regarding both the content and execution of the modernization project. Countries from the Global South have become donors, but they are much more likely to view their relationship with other Global South nations as a collaboration or partnership, versus one of donor and recipient—signaling the first

82. There have been BRICS summits and BRICS leaders have met on the sidelines of multilateral meetings such as the UNGA debate each fall. *About BRICS*, BRICS, <http://www.brics5.co.za/about-brics/> (last visited Mar. 6, 2017). There are also meeting below the head of state level, such as ministers and department heads. *Id.*

83. BRICS make up 43% of the global population, generally have rapidly growing economies and increasingly recognize benefits in cooperating with each other. Whereas Western power and dominance meant Europe and its offshoots dominated international political affairs, BRICS are a more diverse group with nations from three continents with a much broader demographic group that represents a more expansive segment of the international community. See R. Raghuramapatruni, *Revealed Comparative Advantage and Competitiveness: A Study on BRICS*, 5 ARABIAN J. BUS. MANAG. REV. 5 (2015) (concluding that BRICS countries are complementary rather than competitive to each other and could evolve into a powerful regional ground).

84. Jonathan Couturier, *The Changing Nature of Development*, GLOB. POL'Y J. (Dec. 20, 2012), <http://www.globalpolicyjournal.com/blog/20/12/2012/changing-nature-development>. The term Global North denotes high-income industrialized nations generally found in the West. This paper also uses the terms Global North or high-income countries (HICs) when possible in lieu of the phrase developed countries. *Deconstructing Development* questioned the idea of finding people under or undeveloped and attempted not saddle nations and peoples with a term that could be construed as derogatory; it also avoided its opposite—developed. See generally Gordon, *Development*, *supra* note 55. Whether this argument is accepted or not however, the concept of 'developing' countries is increasingly becoming unstable as a growing number of countries do not fit either description, and it collapses widely differing countries (e.g. China and South Sudan) under the same moniker. Thus, I will use the more precise terms middle-income countries (MICs) or low-income countries (LICs) instead of "developing" or "undeveloped" countries.

85. Couturier, *supra* note 84. Traditional development donors have been OECD countries, namely the U.S. and the nations of Western Europe. *Id.* Historically, these nations have dominated international institutions, such as the World Bank, IMF and their affiliates. *Id.*

distinct change.⁸⁶ This is somewhat expected, as most middle-income countries (MICs) were once recipients of bilateral or multilateral assistance.⁸⁷ Many were either colonies, objects of some other form of subjugation, or some combination thereof.⁸⁸ Thus, having recently been in the situation of many lower-income countries (LICs), MICs are more likely to have a different perspective concerning the LICs they are assisting. Unsurprisingly, their attitudes, assumptions, conventions, and the entire nature of their collaboration are different from those of traditional donors. Global South partners have eliminated many of the conditions imposed by traditional donors, as they view their relations with LICs more as partnerships and mutually beneficial relationships, as opposed to charity.⁸⁹

There are also differences in the nature and substance of development assistance itself. MICs are still grappling with the problems and complexities of modernization and the elimination of poverty. Accordingly, they are sharing their experiences, expertise, and accomplishments with each other, and these interventions are often more appropriate than those by Global North initiatives, whose encounters with modernization are more far removed.⁹⁰ While Global North ideological dominance, and U.S. dominance in particular, remains, it is diminishing as Global South LICs scrutinize other Global South successes for ideas and potential models they might utilize in their quest to industrialize. After all, emergent MICs recently achieved what development has urged for the last seventy years; it is only natural that LICs would investigate and perhaps contemplate modeling their efforts on what seems to be a proven course.

In the not too distant past, MICs were on the receiving end of development interventions by the Global North.⁹¹ This may account for their different approaches and attitudes towards LICs, their notion of partnerships rather than donors and recipients, and the overall lack of arrogance and condescension that has often characterized the traditional donor—LIC recipient undertaking. While a genuinely level playing field is probably impossible between broadly asymmetrical partners, there is greater understanding and more of a sense of collaboration in Global South-Global South interventions, as opposed to the rather stark hierarchy of poor recipient to rich powerful donor that dominates the traditional development relationship.⁹²

Development discourse has had an amazing tendency to absorb and dilute

86. *See id.* (discussing Mexico, India, and Brazil's regional partnerships to promote technological and economic cooperation with neighbors).

87. *See id.* (discussing Brazil, Russia, India, China, and South Africa and their roles as both donors and recipients of aid).

88. *See id.* (discussing Brazil, India, and South Africa, which are former colonies).

89. *Id.*

90. *Id.* It may be as simple as recently engaging in an activity and then sharing these experiences, versus the more necessarily theoretical machinations of HICs and IFIs.

91. *See id.* (discussing Brazil, Russia, India, China, and South Africa as both donors and recipients of aid).

92. *See. e.g.*, FORUM ON CHINA-AFRICA COOPERATION, <http://www.focac.org/eng> (last visited Mar. 3, 2017).

almost all critiques of the concept and all possible alternatives to its pursuit.⁹³ Hence, it is exciting that an original and different prototype is evolving that, at least thus far, is defying the customary ability of the development project to absorb it and thereby dilute criticism.⁹⁴ MICs have operated outside of traditional development institutions, which now claim that they are having trouble competing with MICs.⁹⁵ Despite attempts by traditional donors to control and take ownership of this expanding paradigm, at least thus far, nascent development partners are refusing to let traditional donors guide or control their efforts.⁹⁶ For confirmation, one need look no further than the maneuvers and evolution of the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD). The OECD⁹⁷ launched the DAC in 1961 as a “consultation forum for national aid donors.”⁹⁸ DAC donors are not a uniform group, but its members are responsible for the vast majority of bilateral assistance, and in many respects are quite similar.⁹⁹ DAC approaches have tended to parallel IFI views and methodologies, approaches that have also been widely criticized.¹⁰⁰ However, with

93. Gordon, *Development*, *supra* note 55, at 4–5.

94. This is uncharacteristic of the usual course observed in *Deconstructing Development*. See *id.* (discussing the influence of the West on global development).

95. See Couturier, *supra* note 84 (discussing competition between the Global North and emerging powers to provide development assistance and gain influence in the Global South).

96. See *id.* (discussing the Global South’s development projects that do not have formal conditions typical of development projects from the Global North).

97. The Organization for Economic Cooperation and Development (OECD), created in 1960, reflects the orientation, concerns, and needs of its initial members, the high-income western countries that make up the Global North. The OECD has expanded somewhat to include a broader segment of the international community. *Id.* The OECD describes itself as follows:

Our origins date back to 1960, when 18 European countries plus the United States and Canada joined forces to create an organisation [sic] dedicated to global development. Today, our 34 member countries span the globe, from North and South America to Europe and the Asia-Pacific region. They include many of the world’s most advanced countries but also emerging countries like Mexico, Chile and Turkey. We also work closely with emerging giants like China, India and Brazil and developing economies in Africa, Asia, Latin America and the Caribbean. Together, our goal continues to be to build a stronger, cleaner, fairer world.

Members and Partners, OECD, <https://www.oecd.org/about/membersandpartners/> (last visited Mar. 3, 2017).

98. HELMUT FUHRER, THE STORY OF OFFICIAL DEVELOPMENT ASSISTANCE; A HISTORY OF THE DEVELOPMENT ASSISTANCE COMMITTEE AND THE DEVELOPMENT CO-OPERATION DIRECTORATE IN DATES, NAMES AND FIGURES 8–9 (1996) The OECD Development Assistance Group became the Development Assistance Committee in 1960. *Id.*

99. See *id.* at 8 (listing DAC members who are all large aid donors). DAC members ascribe to the same standards, have similar perceptions of what development assistance entails, and increasingly are willing to collaborate with each other. See *id.* at 15 (discussing DAC’s formulation of terms of aid for DAC members).

100. FUHRER, *supra* note 98, at 25. Like IFIs, DAC donors at first focused on infrastructure type projects that over time led to an emphasis on policy conditionality. *Id.* at 30–31. Like multilateral assistance paradigms, there has been much criticism of DAC models that has also included, for example, fragmentation and a bewildering range of modalities. May Tan-Mullins, Giles Mohan, & Marcus Power, *Redefining ‘Aid’ in the China-Africa Context*, 41 DEV. &

the emergence of Global South donors, who generally operate independently of multilateral institutions and Global North prescriptions, the development mosaic is now more complex. Since the turn of the millennium, LICs have increasingly viewed China and other Global South nations as attractive alternatives to more traditional DAC donors.¹⁰¹ DAC strategies have sought to neutralize Global South initiatives and bring Global South donors under the DAC umbrella.¹⁰² DAC has also attempted to “reform the aid architecture,” through various proposals, albeit with limited success.¹⁰³ Although Global South nations participated in formulating these strategies, it was clear DAC believed that it should be the focal point for bilateral foreign aid, whether from its members or from Global South non-DAC nations, but Global South nations have refused to play along.¹⁰⁴

I would contend that overall, this state of affairs is a positive outcome for LICs; it is not a cure-all—but then panaceas do not exist in this context. If nothing else, it offers LICs a choice in how they want to proceed with their modernization efforts. The state of affairs may also foster a level of competition between traditional donors and MIC newcomers that leads to modifying conditions and curtailing some traditional donor overreach, as having competitors may force traditional donors to rethink and perhaps modify their policies. Finally, new donors like China have lifted more than half a billion people out of poverty; perhaps they have something to teach others engaged in similar efforts.¹⁰⁵

C. The New Philanthropists

Contemporary donors now include mega philanthropists that sometimes work with, but nonetheless are independent of and separate from, national governments and traditional development institutions. Definitions of “philanthrocapitalism” include “the use of business and the market to transform philanthropy and foreign

CHANGE 857, 860 (2010). Perhaps most damningly, aid seemed to be ineffective at best and sometimes seemed to have adverse effects on its recipients. *Id.* at 860–61.

101. *Id.* at 859–60.

102. Julie Walz & Vijaya Ramachandran, *Brave New World: A Literature Review of Emerging Donors and the Changing Nature of Foreign Assistance* 23–24 (Ctr. for Global Dev., Working Paper No. 273, 2011). DAC has attempted to coax and entice emerging donors to join the DAC establishment and adopt DAC policies and it has established working groups to increase dialogue with these states. *Id.*

103. *Id.* at 8, 22. Initiatives included the Paris Declaration on Aid Effectiveness, and, when that proved ineffective, other disappointing plans such the Accra Agenda for Action and the Busan Partnership for Effective Development Co-operation. *Id.*; *The Busan Partnership for Effective Development Co-operation*, OECD, <http://www.oecd.org/dac/effectiveness/busanpartnership.htm> (last visited Mar. 3, 2017). For even more detail on this complex process, see Tan-Mullins, Mohan, & Power, *supra* note 100, at 860, 866.

104. Walz & Ramachandran, *supra* note 102, at 21.

105. China’s success on Millennium Development Goals provides an example for others to follow for the post-2015 development agenda, says new UNDP report. <http://www.undp.org/content/undp/en/home/presscenter/articles/2015/02/17/china-s-success-on-millennium-development-goals-provides-an-example-for-others-to-follow-for-the-post-2015-development-agenda-says-new-undp-report0.htm>.

aid.”¹⁰⁶ Also termed “impact investing,” “catalytic or strategic philanthropy,”¹⁰⁷ and “high engagement philanthropy,”¹⁰⁸ the common theme is the use of “private financial resources . . . for public good.”¹⁰⁹ Silicon Valley technology-based wealth has fostered new approaches and perspectives on philanthropy.¹¹⁰ Large private foundations are utilizing techniques and models employed in venture capital finance and business management to structure foreign assistance.¹¹¹ Philanthropy itself is not new, but venture philanthropy professes to differ from the traditional philanthropic model because of a greater willingness to experiment and try new approaches.¹¹² The goal is to furnish financial, intellectual, and human capital while focusing on more on “capacity building,” rather than specific programs or general operating expenses, and to employ more leveraging of “financial and non-financial resources.”¹¹³

Venture philanthropists presume they can generate sufficient resources to offset declines in traditional government and non-governmental (NGO) support for development.¹¹⁴ They believe market forces can and will facilitate “economic and social change.”¹¹⁵ Venture philanthropists are convinced that their methods will surpass the outcomes of traditional aid, and that their support will be more “sustainable.”¹¹⁶ The Bill & Melinda Gates Foundation (BMGF or the Foundation) is a trailblazer in development funding and an excellent example of the potential of

106. Michael Edwards, *Gates, Google, and the Ending of Global Poverty: Philanthrocapitalism and International Development*, BROWN J. WORLD. AFF., Spring/Summer 2009, at 35.

107. OECD, VENTURE PHILANTHROPY IN DEVELOPMENT: DYNAMICS, CHALLENGES, AND LESSONS IN THE SEARCH FOR GREATER IMPACT 3 (2014) [hereinafter VENTURE PHILANTHROPY IN DEVELOPMENT]. It goes by other names, including “venture philanthropy,” “social venture philanthropy,” “the new philanthropy,” and “social venturing” among others. *Venture Philanthropy: The New Model*, KIRSCH FOUND., <http://www.kirschfoundation.org/why/venture.html> (last visited Mar. 3, 2017). These principles are also used in U.S. projects. *See id.* (listing U.S. organizations involved in venture philanthropy).

108. MARIO MORINO & BILL SHORE, HIGH ENGAGEMENT PHILANTHROPY: A BRIDGE TO A MORE EFFECTIVE SOCIAL SECTOR (2004).

109. VENTURE PHILANTHROPY IN DEVELOPMENT, *supra* note 107, at 3.

110. *See* MORINO & SHORE, *supra* note 108 (profiling the relationships between funders and organizations they support).

111. Edwards, *supra* note 106, at 37–39; *see also* *Venture Philanthropy: The New Model*, *supra* note 107 (listing organizations involved in venture philanthropy).

112. For example, it might entail a more “hands on approach” where donors are more involved with grantees. VENTURE PHILANTHROPY IN DEVELOPMENT, *supra* note 107, at 9.

113. *Id.*; *see also* Tara Weiss and Hannah Clark, ‘Venture philanthropy’ is New buzz in Business, NBC NEWS, <http://www.nbcnews.com/id/13556127/> (last updated June 26, 2009) (discussing popularity of venture philanthropy); Roger L. Martin & Sally Osberg, *Social Entrepreneurship: The Case for Definition*, STAN. SOC. INNOVATION REV., Spring 2007, at 20 (discussing how social entrepreneurship, with its imperative to drive social change, is getting a lot of funding).

114. Edwards, *supra* note 106, at 36.

115. *Id.*

116. *Id.*

current efforts in this realm.

The BMGF set its sights on attaining the U.N. Millennium Development Goals and decided to focus on improving health outcomes with impressive results.¹¹⁷ Indeed, in the U.S., BMGF efforts raised the profile of global health issues to such an extent that the National Institute of Health (NIH) modified its funding priorities to focus more on BMGF initiatives.¹¹⁸ Indeed, some critics believe the Foundation is having a “disproportionate influence on public health policy.”¹¹⁹

Besides additional funding, however, what may be most exciting is the potential for innovation and technology imparted by these unconventional entities, and a BMGF initiative is a case in point. The Foundation sought to induce the primarily Global North-based scientific community to shift some of its focus from researching the diseases and maladies that affect the 10% of the world’s population residing in the Global North, to diseases that affect the other 90% of humanity that lives in the Global South.¹²⁰ An additional objective was to “attract new scientists to the field.”¹²¹

Rather than focusing on specific diseases, however, the Foundation began by assembling a team of experts to determine the most vexing and persistent research conundrums affecting multiple diseases.¹²² It then invited grant applications from the scientific community to resolve these challenges.¹²³ Critically, applicants had to include plans detailing how their product would be made “available and

117. The 2000 U.N. Millennium Development Goals enunciated eight objectives that included reducing child mortality, improving maternal health, and combatting “HIV/AIDS, malaria and other diseases.” *Goals, targets and indicators*, MILLENNIUM PROJECT, <http://unmillenniumproject.org/goals/gti.htm> (last visited Mar. 6, 2017). The BMGF decided to focus on health issues, and in 2003 introduced the Grand Challenges for Global Health (GCGH) initiative. The Foundation has funded many health related projects in LICs. See *Financing Global Health 2010*, INST. FOR HEALTH METRICS & EVALUATION 17, http://www.healthmetricsandevaluation.org/sites/default/files/policy_report/2010/financing_global_health_report_chapter1_IHME_110_0.pdf (last visited Mar. 6, 2017) (displaying a chart of contributions by source from 1990 to 2010). The BMGF contributes more to Development Assistance for Health than all other foundations combined. *Financing Global Health 2012: The End of the Golden Age?*, INST. FOR HEALTH METRICS & EVALUATION, 14 (2012), www.healthmetricsandevaluation.org/sites/default/files/policy_report/2011/FGH_2012_chapter1_IHME.pdf [hereinafter *Financing Global Health 2012*].

118. The NIH switched some of its focus from domestic issues, such as bioterrorism preparedness, to increasing funds for the diseases and issues the BMGF was addressing. Kristin R.W. Matthews & Vivian Ho, *The grand impact of the Gates Foundation*, 9 EMBO REP. 409, 411 (2008). NIH eventually supplemented BMGF efforts with a billion U.S. dollars in funding. *Id.* at 412.

119. *Id.*

120. *Id.* at 410 (also noting that \$70 billion is spent on medical research each year, with 90% spent on Global North diseases and 10% on those affecting the Global South).

121. *Id.*

122. *Id.*

123. For example, goals included improving childhood vaccines and challenges included vaccines that do not require refrigeration, are needle free and can be administered in one dose. Matthews & Ho, *supra* note 118, at 410.

affordable” to people in the Global South.¹²⁴ There were over a thousand applicants and over forty grants.¹²⁵ Of course, the ultimate test is how effective these efforts prove to be in eradicating diseases in the Global South. Yet, there is also something to be said for innovative approaches to solving very difficult problems.¹²⁶

Thus far, assessments of philanthrocapitalism have been mixed.¹²⁷ Evident criticisms are transparency concerns and the inordinate influence of a few individuals regarding funding, strategy, and objectives.¹²⁸ There is also some fear that philanthrocapitalism could “encourage the privatization of foreign policy and international policy-making.”¹²⁹ Indeed, although these foundations are relatively recent and are somewhat contested and untested additions to the development edifice, traditional donors already view private funders and investors as “an important and growing part of the global development architecture.”¹³⁰

Not all potential philanthropists believe this undertaking is completely praiseworthy.¹³¹ Nonetheless, philanthrocapitalism has been praised as bringing “new energy and thinking into the international arena” even if it only “privilege[s] certain views and voices.”¹³² This quote would suggest that perhaps we should say

124. *Id.*

125. *Id.*

126. The Foundation received more than one thousand applications from seventy-five countries and ultimately awarded forty-three five-year grants to researchers from thirty-three countries. *Id.* Also, it filled the unaddressed niche of “high risk, high-impact projects in the context of infectious diseases.” *Id.* at 412.

127. *See* Edwards, *supra* note 106 (discussing the influence of business and the market on philanthropy and foreign aid). The BMGF has invested in research and testing to reduce drug prices and to transform the HIV/AIDS vaccine delivery system; these efforts appear to have been of some effect. *Id.* at 38.

128. Complaints of a lack of transparency and unrivaled clout and authority have been leveled against the BMGF, which reflects and ultimately executes the views of Bill Gates and perhaps a few BMGF directors. Some have referred to Gates as “playing God in Africa.” David Reiff, *A Green Revolution for Africa?*, N.Y. TIMES MAG. (Oct. 12, 2008), www.nytimes.com/2008/10/12/magazine/12wwin-shah-t.html?pagewanted=all&_r=0. Others contend there is little evidence that “technology plus science plus market brings results” while in a similar vein, others maintain that such efforts will not produce a “vaccine against poverty and inequality, violence and alienation, corruption, and lousy governance.” Edwards, *supra* note 106, at 39.

129. Edwards, *supra* note 106, at 40–41.

130. VENTURE PHILANTHROPY IN DEVELOPMENT, *supra* note 107, at 9 (noting that while philanthropists have been engaged in development for quite some time, an increasing number have begun to experiment with more novel methods and set broader ambitions to achieve impact on a larger scale).

131. For an especially thoughtful analysis by a would-be philanthrocapitalist, see Peter Buffet, *The Charitable-Industrial Complex*, N.Y. TIMES (July 26, 2013) (noting what he termed “philanthropic colonialism”, where donors with very little knowledge of a place believe they can solve a local problem by transporting what worked in one setting directly into another, and observing that philanthropy in the wake of rising inequality and shrinking public budgets assuages the consciousness of the rich).

132. Edwards, *supra* note 106, at 40.

that philanthrocapitalism adds another set of privileged voices, as development discourse already privileges some voices over others, which is part of the problem. This conversation is likely to continue as these entities will probably have some staying power. It remains to be seen whether philanthrocapitalism is merely an adjunct to traditional aid paradigms or truly disruptive and transformative. At least thus far, however, it appears to incorporate elements of both possibilities.¹³³

D. Development Disrupted: The Role of Technology

Technology will play an even larger role in the evolving modernization enterprise than the transformations posed by new philanthropists, even if we cannot predict the exact contours of these changes any more than we can predict exactly how technology will affect the Global North. In industrialized countries such as the U.S., disruption is constant, as technology immeasurably alters or extinguishes one industry and profession after another.¹³⁴ Perhaps a few examples will assist, although younger readers may not appreciate the astounding advances that has transpired in just the last twenty years.

Personal computers replaced typewriters, which revolutionized white-collar workplaces, while tablets and smartphones are in the process of overtaking personal computers.¹³⁵ Telephone cords once connected telephones to lines in offices or residences.¹³⁶ Telephones became mobile in the 1990s, and then in 2000 they became “smart”, meaning phones became computers that are capable of previously unimagined tasks, and are broadly available to almost everyone.¹³⁷ Indeed, smartphones have become a major source of disruption, disrupting or decimating many industries, including, to name just a very few: cameras; the film

133. *See id.* (inquiring whether philanthrocapitalism is a complement to traditional assistance or will bring new sources of funding, strength, and invention to the cause).

134. Disruptive innovation has been described as follows:

A disruptive innovation gains traction by initially offering simple, more affordable, or more convenient products or services to nonconsumers— people for whom the alternative is nothing. Individuals would rather have some service, which is infinitely better than the alternative— nothing at all—even if the service provided by the disruptive innovator appears initially to be of lesser quality than the dominant service, as judged by the historical measures of performance. Yet, over time, the disruptive innovations continue to improve in quality and, soon enough, can take over a larger segment of the market by providing solutions capable of handling more complex problems that are simpler, more affordable, or more convenient than the dominant solutions that the incumbent providers offer. As a result, customers begin to migrate from incumbents to the disruptive innovator. At this point, even if the incumbent wants to respond by emulating the disruptive innovation, it is often too late, and the former leaders in the industry typically cannot catch up.

Michele R. Pistone & Michael B. Horn, *Disrupting Law School: How Disruptive Innovation Will Revolutionize The Legal World*, CLAYTON CHRISTENSEN INST. FOR DISRUPTIVE INNOVATION 5, <http://www.christenseninstitute.org/wp-content/uploads/2016/03/Disrupting-law-school.pdf>

135. *Id.*

136. *See* ERIK BRYNJOLFSSON & ANDREW MCAFEE, *THE SECOND MACHINE AGE WORK, PROGRESS IN A TIME OF BRILLIANT TECHNOLOGIES*, ch. 3–6 (2014) (describing technological innovation).

137. *Id.*

industry; GPS devices; the taxi industry; personal computers; toys; and the delivery of music, including MP3 players, which themselves were not available until the late 1990s.¹³⁸ E-mail replaced hard mail, thereby decimating “snail mail” and perhaps dealing a fatal wound to the U.S. postal service. E-mail has now become the new “snail mail”, as it is surpassed by even newer forms of communication.¹³⁹

Disruption has also come to books, magazines, and almost anything else in print. One can now purchase books in hard copy or online in a digital format. Thus far, paper books have survived and are thriving, despite the advent of electronic books.¹⁴⁰ Yet, disruption takes many forms. Amazon.com, Inc., which began as Amazon Books, put Borders, the largest pre-internet bookseller, out of business.¹⁴¹ Thus, even when consumers purchase the non-digital version of a book, it is usually via the Internet rather than from a brick and mortar bookstore.¹⁴² Amazon not only introduced electronic books, but also used books to debut an entirely new means to sell books and then to market almost every kind of merchandise imaginable.¹⁴³ As for music, film, and other forms of entertainment, we need not start with vinyl records or tapes, but can begin with the CDs and DVDs that replaced vinyl and that are now themselves in the process of displacement by digital formats where physical devices to store data are no longer necessary.¹⁴⁴ Indeed, the same can be said of computer software, which initially came on discs that were purchased in boxes and is now downloaded from the Internet in the form of programs and “apps.”¹⁴⁵ This smattering of life-altering changes does not adequately account for the Internet itself, which is critical to much of what is transpiring. Nor does it sufficiently account for cloud computing, social networking, digitization, crowd sourcing, artificial intelligence, and other advances underlying these technological changes, nor the amazing advances being made in medicine or transportation.¹⁴⁶

Several observations are particularly salient, beginning with the rate of

138. See, e.g., Megan Marrs, *14 Apps That Completely Disrupted their Industries*, LOCALYTICS (Oct. 22, 2015), <http://info.localytics.com/blog/industry-disrupting-apps>; Abayomi Baiyere & Hannu Salmela, *Review: Disruptive Innovation & Information Technology – Charting a path*, RESEARCHGATE (Dec. 6, 2013), https://www.researchgate.net/publication/282287073_Review_Disruptive_Innovation_Information_Technology_-_Charting_a_path.

139. BRYNJOLFSSON & MCAFEE, *supra* note 136.

140. *Id.*

141. Pistone & Horn, *supra* note 134, at 4.

142. *Id.*

143. See *id.* (describing how Borders Bookstore ignored the on-line market at its peril). Borders put many small bookstores out of business and was then put out of business by Amazon.com. *Id.* Barnes & Noble is the last large bookseller with brick and mortar locations. David Sax, *What Barnes & Noble Doesn't Get About Bookstores*, NEW YORKER (Oct. 21, 2008), <http://www.newyorker.com/business/currency/what-barnes-noble-doesnt-get-about-bookstores>.

144. BRYNJOLFSSON & MCAFEE, *supra* note 136.

145. *Id.*

146. *Id.*

technological change. Most of these means, methods, and tools were devised in the last twenty years, and even in that very short period, many have already been replaced or have metamorphosed into something else yet again.¹⁴⁷ Today, technology is evolving at an exponential pace, although up until now it appeared to be evolving in a linear manner and quite slowly.¹⁴⁸ A famous parable may assist in demonstrating and understanding this evolution which is about to become a revolution. Recall the inventor who developed a great invention that so pleased the Emperor that the Emperor wanted to reward him. The inventor requested his reward in grains of rice (or wheat or whatever grain one wants to imagine), beginning with one grain of rice on day one and doubling the quantity each day for each square on a sixty-four-square chessboard. At first, the quantities of rice were miniscule, illustrating the rate of technological change thus far; it seemed to be linear because it was evolving so slowly. Nevertheless, at some point the quantity of grain became enormous, and then almost unquantifiable.¹⁴⁹ Such is the case with the rapidity of technological change. Around 2006, we reached about midpoint on the chessboard, which explains, at least in part, why everything seems to be changing so swiftly.

The second significant observation, for our purposes, is technology's rapid and unprecedented dissemination. The spindle, a relic of the first industrial revolution, took 120 years to migrate beyond Europe.¹⁵⁰ The Internet, a driver of the current technological revolution, permeated the world in less than a decade.¹⁵¹ Still, despite the Internet cafés found in nearly every country, half the world's population still lacks access to the Internet.¹⁵² Moreover, millions of people have yet to acquire electricity and thus have yet to experience the first industrial revolution.¹⁵³ Nevertheless, cell phones are ubiquitous and a cell phone is a computer.¹⁵⁴ Accordingly, the technological revolution is bound to have multifaceted and profound consequences in the Global South, consequences I would term the good, the bad, and the ugly.¹⁵⁵ I would like to briefly address them here, beginning with "the good."

147. *Id.*

148. *Id.*

149. See *Wheat Chessboard with lines*, WIKIPEDIA, https://upload.wikimedia.org/wikipedia/commons/thumb/e/e7/Wheat_Chessboard_with_line.svg/800px-Wheat_Chessboard_with_line.svg.png (last visited Mar. 5, 2017) (providing a visual representation of the grain of rice parable).

150. BRYNJOLFSSON & MCAFEE, *supra* note 136.

151. KLAUS SCHWAB, *THE FOURTH INDUSTRIAL REVOLUTION*, WORLD ECONOMIC FORUM 38 (2016).

152. Adam Taylor, *47 Percent of the World's Population Now Use the Internet, Study Says*, WASH. POST (Nov. 22, 2016), https://www.washingtonpost.com/news/worldviews/wp/2016/11/22/47-percent-of-the-worlds-population-now-use-the-internet-users-study-says/?utm_term=.6c4ee3010c1e.

153. Todd Lindeman, *1.3 Billion Are Living in the Dark*, WASH. POST (Nov. 6, 2015), <https://www.washingtonpost.com/graphics/world/world-without-power/>.

154. Christina Bonnington, *In Less Than Two Years, A Smartphone Could Be Your Only Computer*, WIRED (Feb. 10, 2015), <https://www.wired.com/2015/02/smartphone-only-computer/>.

155. THE GOOD, THE BAD AND THE UGLY (Produzioni Europee Associati 1966).

1. The “Good” possibilities for the Global South

Just as technology has made our lives easier, it will likely do the same in the Global South, although it will probably be quite different from the impact in the Global North, as both needs and capabilities differ widely.¹⁵⁶ The Global South is comprised of many countries that are at many levels of economic development.¹⁵⁷ Thus, not all countries need the following initiatives, nor do they necessarily need them to the same extent. Nonetheless, we can commence with a long list that are requisites for many of the poorest countries that do need access to medical care, basic infrastructure, running water, rudimentary sanitation, and electricity. Technology, especially albeit not exclusively, in the hands of middle-income actors and the new philanthropists, may mean solutions to problems that have vexed the international community for decades; it may make undertakings cheaper and easier. We may find innovative methods to realize infrastructure, running water, medicines, sanitation, and to bring electricity to the many.¹⁵⁸

Moreover, because of technology, some infrastructure may be unnecessary, completely different, and less costly. For example, there may be no need to wire cities and towns because we now send information wirelessly and thus a tower may be sufficient to achieve the same goal. The U.S. electrical grid is unsuitable, or at least not optimal, for clean energy such as wind and solar power.¹⁵⁹ Eventually we may have to rebuild, while MICs are building for the 21st century from the outset. We probably would not build gas stations or rely on gas-powered vehicles if we were building anew, and thus countries such as China and Brazil are emphasizing electric vehicles and ethanol.¹⁶⁰ Moreover, poorer countries are

156. I do not contend that there will not still be a digital divide of sorts; there may still be many differences between the richest and poorest nations. I believe technology has the potential to bridge this gap by raising living standards quite dramatically in the Global South and easing the global footprint of the Global North. In other words, the international community may verge towards a better middle ground where the distinctions between populations are much less pronounced and where everyone enjoys a basic minimum of shelter, food, clothing, electricity, running water, access to medical care and other minimums of modern life. If we could get to this point, it would be much less problematic if some have more than this minimum.

157. See Tatiana Didier, *Rise of the South: the New Masters of the Global Economy*, HUFFINGTON POST (May 18, 2015), http://www.huffingtonpost.com/tatiana-didier/rise-of-the-south-the-new_b_7308414.html (noting that Southern countries like China, Brazil, Russia, South Africa, and Turkey have moved toward the center of the global trade network).

158. See Olufunmilayo B. Arewa, *Constructing Africa: Chinese Investment, Infrastructure Deficits, and Development*, 46 CORNELL INT’L L.J. 101, 110 (2016) (noting that China has established an infrastructure bank and is constructing infrastructure throughout Africa); see also Ruth Gordon, *The Environmental Implications of China’s Engagement With Sub-Saharan Africa*, 42 ENVTL L.J. 11109, 11110 (2012) (finding that China has also engaged in clean energy projects on the sub-Saharan continent).

159. See generally GRETCHEN BAKKE, *THE GRID: THE FRYING WIRES BETWEEN AMERICANS AND OUR ENERGY FUTURE* (2016).

160. *Optimism Aside, Chinese Ethanol Imports Will Not Jump*, FORBES (Sept. 15, 2015), <https://www.forbes.com/sites/stratfor/2015/09/15/optimism-aside-chinese-ethanol-imports-will-not-jump/#562d908e7cd4>.

increasingly utilizing these nations as modernization models.¹⁶¹

Finally, as is the case in the Global North, there are bound to be innovations we simply cannot predict or envision. Few would have anticipated Uber and its disruption of the taxi industry, and perhaps soon the car rental business.¹⁶² The Kenyan mobile banking system, which relies on smart phones instead of brick and mortar branches, is a good example of an unlikely innovation from the Global South.¹⁶³ It may be beyond our imaginations to contemplate such transformations, but not beyond that of the brilliant young people gathering in those Internet cafés found throughout the world; innovation is a certainty.

2. The “Bad”

Unfortunately, negative aspects will inevitably be part of the future facing the international community, including the Global South. There are bound to be many, including those that are impossible to conceive or foresee.¹⁶⁴ My focus here, however, is technology’s role in an unfolding disaster the international community will unquestionably have to confront—climate change. Technology cannot reverse climate change, at least not thus far.¹⁶⁵ Nonetheless, perhaps it can help us slow the rate of climate change and can assist humanity in coping with its consequences.

I recently published a book chapter entitled *Unsustainable Development*; it was about us—the Global North—whose global footprint is so large it has left insufficient ecological space for the rest of humanity.¹⁶⁶ We in the Global North

161. Ian Johnston, *Developing World Invests More in Renewable Energy Than Rich Countries for First Time, New Study Says*, INDEPENDENT (May 31, 2016), <http://www.independent.co.uk/environment/climate-change/renewable-energy-investment-developed-world-developing-world-ren21-report-a7058436.html>.

162. Tracey Line, *Uber Partners with Hertz to Expand Short-Term Car Rental Program*, L.A. TIMES (June 23, 2016), <http://www.latimes.com/business/technology/la-fi-tn-uber-hertz-20160623-snap-story.html>.

163. See *Dial M for Money: Can Mobile Banking Lift People Out of Poverty?*, NPR (Dec. 9, 2016), <http://www.npr.org/sections/goatsandsoda/2016/12/09/504540392/dial-m-for-money-can-mobile-banking-lift-people-out-of-poverty> (detailing the M-PESA in Kenya, which allows individuals to bank entirely by phone).

164. One very negative aspect of technology, at least thus far, includes the use of social media by entities such as ISIS to recruit the young and disaffected. See Dorian Geiger, *This is How ISIS Uses Social Media to Recruit American Teens*, TEEN VOGUE (Nov. 20, 2015), <http://www.teenvogue.com/story/isis-recruits-american-teens> (discussing ISIS recruitment of young Americans).

165. Damon Beres, *Can Tech Stop Climate Change? We Asked an Expert*, HUFFINGTON POST (Dec. 14, 2015), http://www.huffingtonpost.com/entry/tech-climate-change_us_566f2719e4b0fcee16f7215.

166. Gordon, *Unsustainable Development*, *supra* note 56, at 50. A population’s ecological footprint is an area of land and water required to produce the resources that the population consumes and to assimilate the waste that it produces. For instance, the residents of the North require an average of five to ten hectares (the equivalent of twelve to twenty-five acres) of productive land and water to support their lifestyles, while the citizens of the world’s poorest countries require less than one hectare (the equivalent of 2.47 acres). *Id.* at 67. An ecological footprint analysis also makes clear that the present human population is already exceeding earth’s ecological carrying capacity. Although earth has twelve productive hectares, humanity currently

must find a way to make do with less. Yet, this proposition has always been a non-starter—no one, including the inhabitants of the Global North or the elites of the Global South, is willing to give up very much of anything. However, perhaps advancing technology will help us do just that without feeling the pain of losing something. In *Unsustainable Development*, I cite the possibilities of the sharing economy, with Uber as a prime example.¹⁶⁷ If one can obtain door-to-door transportation, on demand, and without the expense or hassle of owning a car, at least some people will take advantage of this opportunity. Eventually, there may no longer be a need for as many cars and in time this may change the culture surrounding the car where, at least in America, driving a car has been a rite of passage. There are already signs this sensibility is evolving, as at least some teenagers are eschewing, or are at least postponing, learning how to drive.¹⁶⁸ Innovations such as smart cities may also help slow the rate of climate change and, of course, there is always the hope that advancing technology will help humanity confront the effects of a changing climate.

3. Finally, The “Ugly”

If developers have based development on an industrialization model, what happens when robots operate factories, or, indeed, when most types of work can and will be done by robots and other forms of artificial intelligence? The road to development meant industrialization through attracting manufacturing. Poor countries have an abundance of cheap labor and the goal was to put them to work in factories.¹⁶⁹ This in turn raises wages and standards of living, builds skills, and draws people to cities; those cities are escalators for development.¹⁷⁰ China is the textbook example, although one can also observe this model in Japan, South Korea, and the other “Asian miracles.”¹⁷¹ Yet, the changing technological landscape may make China the last success story employing this development rubric.

Technology’s downward pull on the job market, and at least some wages, has been dramatic and, in the coming decades, is set to be an even greater challenge to

has a total eco-footprint of almost 17 billion hectares. *Id.* at 68.

167. *Id.* at 50.

168. See Judy Mollen Walters, *Should You Force Your Teen to Learn to Drive?*, HUFFINGTON POST: THE BLOG (Feb. 10, 2015), http://www.huffingtonpost.com/judy-mollen-walters/should-you-force-your-teen-to-learn-to-drive_b_6644618.html (describing how teenagers no longer seem eager to learn how to drive); see also Randy Hoder, *Teenagers Postpone Learning to Drive, and That’s Not Good*, N.Y. TIMES: FAMILY (Nov. 4, 2013), http://parenting.blogs.nytimes.com/2013/11/04/teenagers-postpone-learning-to-drive-and-thats-not-good/?_r=0 (stating that fewer teenagers than ever are getting driver’s licenses).

169. David Whitford, *Where in the World is Cheap Labor?*, FORTUNE (Mar. 22, 2011), http://archive.fortune.com/2011/03/22/news/international/fair_labor_china.fortune/index.htm.

170. *Arrested Development*, ECONOMIST (Oct. 4, 2014), <http://www.economist.com/news/special-report/21621158-model-development-through-industrialisation-its-way-out-arrested-development>.

171. George Magnus, *Is Asia’s Economic Miracle Over?*, GLOBALIST (May 2, 2013), <https://www.theglobalist.com/is-asias-miracle-over/>.

workers throughout the world.¹⁷² This is a very complex subject, but the impact on manufacturing in the Global North is already quite stark, as factories, making everything from computer chips to cars, are increasingly operated by robots and the nature of the remaining manufacturing tasks require technical skills.¹⁷³ Disruption confronts entire industries and professions, which does not necessarily mean the end of a profession or trade, but usually does mean a need for fewer workers.¹⁷⁴ Technology may enhance, if not replace, a particular type of labor, such as the work performed by lawyers.¹⁷⁵ Technology has not eliminated the legal profession, but it has augmented the legal skill set, and thus, we need fewer lawyers.¹⁷⁶ We could probably say the same regarding many professions.¹⁷⁷ Arenas and careers that seemed immune to technological disruption, such as driving a car or truck, are suddenly vulnerable, and could put many people out of work.¹⁷⁸ Thus,

172. EXEC. OFFICE OF THE PRESIDENT, ARTIFICIAL INTELLIGENCE, AUTOMATION, AND THE ECONOMY, (Dec. 20, 2016), <https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/Artificial-Intelligence-Automation-Economy.PDF> [hereinafter Report on Artificial Intelligence]. Of course, such predictions have always met with resistance, arguing that the loss of jobs due to technological advances are temporary and will be counterbalanced by new technologies creating new opportunities in new sectors. Indeed, just because we cannot foresee these new jobs, does not mean they will not materialize. As one scholar notes, no one living 100 years ago could have predicted many of the jobs we currently have. David Autor, *Will Automation Take Away All Our Jobs?*, TED (Sept. 2016), https://www.ted.com/talks/david_autor_why_are_there_still_so_many_jobs.

173. See Report on Artificial Intelligence, *supra* note 172 (“Routine-intensive professions focused on predictable, easily-programmable tasks—such as switchboard operators, filing clerks, travel agents, and assembly line workers—were particularly vulnerable to replacement by new technologies.”).

174. Examples of technology replacing workers or various tasks abound. It is easy to think of many instances from our own lives. For example, as late as 2008, there was an administrative assistant for every four members of the Villanova Law School faculty. Now there are two for the entire faculty of 30—and those that have retired or passed away are not missed, at least not professionally.

175. Brad Merrill, *8 Skilled Jobs That May Soon Be Replaced by Robots*, MAKE USE OF (Jan. 8, 2015), <http://www.makeuseof.com/tag/8-skilled-jobs-may-soon-replaced-robots/>.

176. See generally Pistone & Horn, *Disrupting Law School*, *supra* note 134.

177. Professions include doctors, professors, pharmacists, medical technicians, dock workers, and warehouse workers. See, e.g., *21 jobs where robots are already replacing humans*, MSN (Oct. 7, 2016), <https://www.msn.com/en-us/money/careersandeducation/21-jobs-where-robots-are-already-replacing-humans/ss-BBv6yiU#image=1>; John Lippert, *On This Waterfront, Robot Longshoremen Are the New Contenders*, BLOOMBERG TECHNOLOGY (April 25, 2016), <https://www.bloomberg.com/news/articles/2016-04-25/on-this-waterfront-robot-longshoremen-are-the-new-contenders>; Natalie Kitroeff, *Warehouses promised lots of jobs, but robot workforce slows hiring*, L.A. TIMES (Dec. 4, 2016), <http://www.latimes.com/projects/la-fi-warehouse-robots/>.

178. See John Markoff, *Want to Buy a Self-Driving Car? Big-Rig Trucks May Come First*, N.Y. TIMES, (May 17, 2016), <https://www.nytimes.com/2016/05/17/technology/want-to-buy-a-self-driving-car-trucks-may-come-first.html> (detailing the movement towards automated trucks in the commercial trucking industry); see also Scott Santens, *Self-Driving Trucks are Going to Hit Us Like a Human-Driven Truck*, MEDIUM (May 14, 2015), <https://medium.com/basic-income/self-driving-trucks-are-going-to-hit-us-like-a-human-driven-truck-b8507d9c5961#bbd1x02zf> (noting that thus far services such as Uber and Lyft have shifted employment from one group of drivers to another; this will not be the case with self-driving trucks, even as trucking is

it is impossible to say what the future portends, but I would posit that the possibilities are endless and, given the rate of technological change thus far in the industrialized world, and the reaction to it, societies may have a difficult time adjusting.

The same may be true in the Global South, which may necessitate a new model of development. Industry will require fewer and more skillful jobs. There also may be increasing political pressure to keep the dwindling number of positions in the Global North—at least in the short term. In addition, producing goods for export has shrunk as a percentage of global trade, as trade shifts towards exporting services.¹⁷⁹ In sum, there is likely to be a dearth of manufacturing jobs in the Global North and Global South. In the Global North thus far, it has meant declining incomes, social insecurity and political upheaval as exemplified by Brexit in the United Kingdom and the election of Donald Trump, a political outsider in the U.S.¹⁸⁰ For the Global South, it may mean envisioning a new path to modernization as traditional avenues wane.

Technology will also foster complications for the modernization construct. Technology includes artificial intelligence and automation, which will eventually mean the end of countless jobs, including those where people actually make goods or perform services.¹⁸¹ Technology is destroying numerous white-collar jobs, while automation is having a devastating impact on the blue-collar workforce.¹⁸² Many jobs are disappearing and not enough are materializing to take their place, and it is an open question whether they ever will. This state of affairs will eventually find its way to MICs and LICs.

The road to development was paved with becoming like the already

one of the largest employers in America).

179. *Arrested Development*, *supra* note 170. While goods accounted for 83% of world exports in 1980 and 80% in 2008, in terms of value added, goods have dropped from 71% in 1980 to 57% in 2008. This change is due to the increasing importance of services. *Id.*

180. See Barack Obama, *The Way Ahead*, *ECONOMIST* (Oct. 8, 2016), <http://www.economist.com/news/briefing/21708216-americas-president-writes-us-about-four-crucial-areas-unfinished-business-economic> (discussing the spread of populist views in the U.S. and Britain and the causes). Although rarely discussed, automation accounts in large part for the disquiet underlying the current discontent among working people in industrialized HICs. *Id.* Unfortunately, this anxiety has taken the form of hate, racism, xenophobia and anti-immigration sentiments that have been growing uglier by the day. *Id.* Nonetheless, people are not imagining that their means to make a living are diminishing, nor that their political leaders have fewer answers to address this quandary.

181. Todd Wasserman, *10 Jobs That Are Being Replaced by Machines*, *MASHABLE* (Jan. 26, 2014), <http://mashable.com/2014/01/26/10-jobs-replaced-by-machines/#HlpJTSeilaqf>. The disappearance of service jobs is very likely to escalate. *Id.* Think parking attendants, cashiers, or even lawyers. *Id.*; Merrill, *supra* note 175. As is often the case, not all jobs in a field disappear only some. The legal field is a prime example of this phenomenon. Merrill, *supra* note 175. Many tasks have been automated, meaning fewer computer-assisted attorneys can complete a task or potential clients can rely on software to augment or replace the use of legal services. *Id.*

182. Ritika Shah, *Industrial Revolution 2.0? Experts Debate Robotic Threat to Jobs*, *CNBC* (Dec. 13, 2015), <http://www.cnbc.com/2015/12/11/robots-a-threat-to-white-and-blue-collar-jobs.html>.

developed, even as the developed moved on to brighter, more advanced lives and forms of labor. We, the industrialized Global North, were the future poor countries aspired to. Hence, we no longer engaged in manufacturing low-tech goods as that production has moved to LICs, while HICs manufactured machinery, cars, and the like where HIC labor was more skilled and highly paid.¹⁸³ As HICs became post-industrial, jobs tended to focus on services and innovation.¹⁸⁴

However, there may be no manufacturing jobs in LICs or HICs, thus subtracting a rung from the development ladder. Moreover, many services are also on the verge of mechanization as computers increasingly do rote white-collar jobs, such as writing documents.¹⁸⁵ Increasingly, the Internet is shrinking time and space in the white-collar arena; indeed, nothing could be easier or faster to send than a piece of paper electronically. Moreover, machines are increasingly able to do more than send the paper and are taking over the tasks of the more creative, middle-income white-collar worker, as machines more and more can do the work itself.¹⁸⁶ There is now software to do such jobs of editing, copywriting and analyzing all kinds of data.¹⁸⁷ While experts in HICs are beginning to discuss the repercussions of these changes,¹⁸⁸ most have neglected to focus on the implications for MICs and LICs; I hope *Development Disrupted* will fill this gap. For if the path to development is manufacturing the things HICs no longer want to make, what happens when it is even cheaper and easier to rely on automation instead of workers in LICs?

IV. CONCLUSION

If the initial reaction to technology in the Global South is that poor countries and poor people do not have access to technology or computers, think again. Pretty much everyone on Earth already has a smartphone, and a smartphone is a

183. Peter Whoriskey, *U.S. Losing High-Tech Manufacturing Jobs to Asia*, WASH. POST (Jan. 17, 2012), https://www.washingtonpost.com/business/economy/us-losing-high-tech-manufacturing-jobs-to-asia/2012/01/17/gIQA9P1S6P_story.html?utm_term=.a220eba02570.

184. *See The GATT Years: From Havana to Marrakesh*, WORLD TRADE ORGANIZATION, https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm (last visited Mar. 9, 2017) (detailing the establishment of the World Trade Organization (WTO) and its predecessor, GATT focused on trade in goods. Both organizations created multilateral agreements between countries that focused on the trade of goods and services); *see also Intellectual Property: Protection and Enforcement*, WORLD TRADE ORGANIZATION, https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm7_e.htm (last visited Mar. 9, 2017) (noting that the WTO created TRIPs to protect intellectual property such as patents, trademarks, and copyrights related to goods and services).

185. *See* Yves Eudes, *The Journalists Who Never Sleep*, GUARDIAN (Sep. 12, 2014, 6:17 AM), <https://www.theguardian.com/technology/2014/sep/12/artificial-intelligence-data-journalism-media> (describing how there are “robot writers” who can interpret data and write stories).

186. Olivia Goldhill, *Robots Are Taking Our White Collar Jobs, Too*, QUARTZ (Oct. 14, 2015), <https://qz.com/521848/robots-are-taking-your-white-collar-jobs-too/>.

187. *See id.* (noting that robots could eventually retrieve legal documents, build complex constructions, mark students’ work, and diagnose patients).

188. *See, e.g.,* ERIK BRYNJOLFSSON, RACE AGAINST THE MACHINE: HOW THE DIGITAL REVOLUTION IS ACCELERATING INNOVATION, DRIVING PRODUCTIVITY, AND IRREVERSIBLY TRANSFORMING EMPLOYMENT AND THE ECONOMY (2011).

computer. Technology has already penetrated the Global South and it is bound to have extraordinary consequences, both positive and negative. The Kenyan mobile banking system demonstrates that the Global South may finally have tools to bring an acceptable standard of living to its inhabitants.¹⁸⁹ Technology may prove to be a true game changer; at least the possibility is worthy of profound study; a study I plan to take up.

Finally, it is the intellect, guidance, and wise counsel of my good friend and colleague, Professor Henry Richardson that set me on this path. He has demonstrated to this African American how we can rely on and utilize international law to assist those at the bottom of a very hierarchical world. In a word, Henry and the likes of Gay McDougall and John Payton taught me how to use international law to vindicate the rights of the oppressed, both at home and abroad. I have never forgotten those lessons and they have informed my life's work. Henry also helped me understand just how much African Americans have been part of a global community that has struggled in concert, for hundreds of years, even if at times that struggle could only be in spirit. We were and still are not alone. I hope to continue this proud tradition by taking our continuing quest for justice and human dignity to the next level, as we endeavor to seize and thrive in the twenty-first century.

189. See T.S., *Why Does Kenya Lead the World in Mobile Money?*, *ECONOMIST* (Mar. 2, 2015), <http://www.economist.com/blogs/economist-explains/2013/05/economist-explains-18> (explaining the Kenyan mobile banking system).