

RIGHT-BASED APPROACH TO DEVELOPMENT

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Abstract: Under the provision of the Universal Declaration of Human Rights (UDHR), "Everyone is entitled to a social and international order in which the rights and freedoms set forth in that declaration can be realized". Vienna Declaration and program of action [1] examined the relationship between development and human rights and recognized the right to development as a universal and inalienable right and integral part of all fundamental human rights.

In this article, interrelationship between human rights and development and the deferent approaches about the concept and content of the subject-matter has been analyzed and the notion of right to development as it is crystallized in the Declaration on the Right to Development (1986 Declaration) [2] has been criticized.

I think, there are three viewpoints about the relationship between human rights and development: first of all, development is realized when the human rights can be realized (Correlation); secondly, development is a process by which the human rights can be realized (Instrument); eventually, development is a human right and "the human person is the central subject of development and should be the active participant and beneficiary of the right..." [3] (Right-based approach)

I choose right-based approach and essentially, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. This approach includes the principles such as universality, indivisibility, non-

discrimination, participation and accountability that must be applied to development work.

Keywords: Right-Based Approach, Development, fundamental rights, UDHR

INTRODUCTION

In the 1986 Declaration, the right to development defined as "an inalienable human rights by virtue of which every human person and all people are entitled to participate in, contribute, and enjoy economic, social cultural and political development, in which all human rights and fundamental freedoms can be fully realized."

From this point of viewed, development is not purely defined in terms of growth in per capita gross domestic product (GDP) [4], but it has greatly expanded concept as UNDP provided: there are five aspects to sustainable human development- all affecting the lives of the poor and vulnerable: (a) Empowerment---the expansion of men and women's capabilities and choices increases their ability to exercise those choices free of hunger, want and deprivation. It also increases their opportunity to participate in, or endorse, decision-making affecting their lives. (b) Co-operation---with a sense of belonging important for personal fulfillment, well-being and a sense of purpose and meaning, human development is concerned with the ways in which people work together and interact. (c) Equity---the expansion of capabilities and opportunities means more than income---it also mans equity, such as an educational system to which everybody should have access. (d) Sustainability---the needs of this generation must be met without compromising the

right of future generation to be free of poverty and deprivation and exercise their basic capabilities. (e) Security--- particularly the security of livelihood. People need to be freed from threats, such as disease or repression and from sudden harmful disruptions in their lives [5].

So, "The concept of human development itself is a substantial improvement of the earlier concept of development based on the expansion of wealth and material output or of gross domestic product (GDP). Aggregate human development indicators, such as the human development index propagated by UNDP, usually combine GDP with some simple measures of health and education such as life expectancy and literacy or years of schooling. They do not, however, show how these indices are raised or how they fulfill human rights"[6].

Realization of the right-based development, however, goes far beyond improving human development. Thus, while the fundamental human needs are the basis of human rights there are some notable differences between needs and rights. Human rights go beyond the notion of physical needs and include more holistic perspective of human beings in terms of their civil, political, social, economic, and cultural roles. "Human development and human rights are close enough in motivation and concern to be compatible and congruous, and they are different enough in strategy and design to supplement each other fruitfully," according to the Human Development Report 2000 [7].

Development as human right

As state above, development is a human right by virtue of which every human person and all people are entitled to participate in, contribute, and enjoy economic, social cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

There are some questions about this approach: if it is a human right, who are the principal right-holders? Is it an individual right or collective right? Who are duty-bearers? Is it a right against the state?

1986 declaration considered that "every human person and all people are entitled to..." then, from this point of view, right to development is both individual and collective right. The proclamation of collective rights has led to a heated debate on the meaning, nature and justifiability of collective rights, and their compatibility with individual human rights. Especially the question whether collective rights may be viewed as human rights has received a lot of attention.

Notwithstanding the fact that in the last few decades, growing interest has been shown to the topic of collective rights number of human rights instruments

in the context of the United Nations, in the ILO and UNESCO as specialized agencies within the context of the UN and the Council of Europe, OSCE, OAU and OAS as regional organizations [8], development is realized when all human person live a life in dignity and respect." the granting of rights to collectivities seems to be obligatory in order to ensure such a life of dignity and respect for the individual members of some groups".

So, because of reliability and inalienability of individual rights, the individual aspect of right to development has great importance than collective aspect and could define the right-holders and duty-bearers.

Human person is central subject of development and all plans, policies and processes of development ought to carry out in a way promoting capabilities and freedoms of human beings. But who has duty?

Article 2 of 1986 declaration provides that:

All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfillment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.

States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting there from.

It is inferred that all human beings and states have responsibility and duty for development: what is the role of human person for development? Is it similar to states?

Human persons have to take into account the need for respect for their human rights and fundamental freedoms for development. Responsibility for development is similar to all other human rights because development is a human right. But, what kind of duty do they have? Is it positive or negative?

States have duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals. Is it positive or negative? Is it obligation of conduct or obligation of result?

It seems that obligation of persons is just non-intervention. (Negative) but states have both affirmative duty to improvement of the well-being

and realization of fundamental freedoms and negative duty to non-intervention.

Development as process

The 1986 Declaration also specifies the nature of the right that is claimed as a human right in article 1, as a particular process of development: " Development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from"(preamble of the Declaration)

Under the provision, development is a comprehensive process that has economic, social, cultural and political aspects and its basic goal is promotion of well-being of human person." It is only that process of development in which all human rights and fundamental freedoms can be fully realized which can be the entitlement of every human person as universal human right"[9]

This approach has been described in several articles of the 1986 Declaration as objectives of development policies or measures to realize the right to development. So, "it is integrally connected with the fulfillment of civil and political rights and the freedom to participate in both the decision-making processes and the enjoyment of the fruits of development in all spheres, which cannot be realized without the fulfillment of civil and political rights."[10]

Development as process can expand the capabilities or freedom of individuals to improve their well-being and to realize what they value. It is possible for individuals to realize several of the rights separately, such as the right to food, the right to education or the right to housing. It is also possible that those rights are realized separately following the human rights approach, that is, with transparency and accountability, in a participatory and non-discriminatory manner, and even with equity and justice. This approach connects the human development with human rights and makes human rights as central subject of development.

Denial of civil, political, economic, social and cultural rights is obstacle to development. So, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms.

Realization

There are some methods, as stated by independent expert on the right to development, for realization of this approach (a) Development should be seen as an overall plan or programme whereby some or most of the rights are realized while no other rights are violated. In addition, there should be sustained overall growth of the economy, with increased provision of resources for the realization of those rights and with improved structure of production and distribution facilitating that realization. The last point about improving the structure of production and distribution may be important to ensure improved equity in a growing economy. (b) Implementation of any of the rights cannot be an isolated exercise, and plans or projects for the implementation of the other rights should be designed taking into account consideration of time and cross-sectorial consistency. (c) The exercise of implementing the overall plan and realizing individual rights must be carried out according to the human rights approach to development, that is, with transparency, accountability and in a non-discriminatory and participatory manner and with equity and justice.

Furthermore, the realization of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations and States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.(Articles 3 and 5 of 1986 declaration).

States also should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion and should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic social and cultural rights (article 6).

CONCLUSION

I propose, a rights-based approach, essentially, integrates the norms, standards and principles of the

international human rights system into the plans, policies and processes of development. "A rights-based approach has as its basic goal the achievement of human rights as a means to promote more effective, sustainable and just development." [11] This approach "puts people first and promotes human-centered development, recognizes the inherent dignity of every human being without distinction, recognizes and promotes equality between women and men, promotes equal opportunity and choices for all, promotes national and international systems based on economic equity, equity in the access to public resources, and social justices, and promotes mutual respect between people..." [12]

I believe that a rights-based approach has the potential to be highly effective and sustainable because it strengthens the intangible structure of a law that surrounds any project as it advances a particular intervention. "This approach includes in the list of basic principles that must be applied to development work. The principle of universality and inalienability, indivisibility, interdependence and inter-relatedness, non discrimination and equality, participation and inclusion, accountability and the rule of law. [13].

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