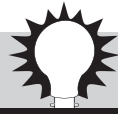


HUMAN RIGHTS vision



LAWSCAPE



Human rights and development

Making the 'right to development' a reality

A.H.MONJURUL KABIR

"Poverty eradication without empowerment is unsustainable. Social integration without minority rights is unimaginable. Gender equality without women's rights is illusory. Full employment without workers' rights may be no more than a promise of sweatshops, exploitation and slavery. The logic of human rights in development is inescapable." - Mary Robinson, United Nations High Commissioner for Human Rights.

DEFINING development in terms of growth in per capita gross domestic product (GDP) or equating development solely with economic growth or economic development was a common phenomenon existed with domination in the last century. Most of the development projects were designed to achieve objectives whose success was measured primarily in economic terms. Traditional analyses primarily looked at economic indicators, the state of infrastructure, agricultural output, demographic data and so on. The term 'right to development' has been too long a prisoner to political controversy.

Linking human rights with development

The links between human rights and development are illustrated by the normative and operational guidance that human rights instruments, and the mechanisms established by the United Nations to monitor their implementation, provide on the right to development, rights-based approaches to development, poverty eradication, human rights mainstreaming, good governance and globalization. International cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all is one of the purposes of the United Nations set out in Article 1 of the UN Charter.

The Declaration on the Right to Development (DRD) 1986 is one of many declarations and international instruments that stress the indivisibility and interdependence of human rights. By placing the individual at the centre of development activities and proclaiming an integrated vision of human rights, the Declaration becomes a vehicle for the indivisibility and complementarity of different categories of human rights and for recognising the promotion and protection of all human rights as the basis and measure of sustainable development. Article 1 of the Declaration on the Right to Development states that "the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized." The right includes:

- full sovereignty over natural resources
- self-determination
- popular participation in development
- equality of opportunity

the creation of favourable conditions for the enjoyment of other civil, political, economic, social and cultural rights

The human person is identified as the beneficiary of the right to development, as of all human rights. The right to development can be invoked both by individuals and by peoples. It imposes obligations both on individual States to ensure equal and adequate access to essential resources and on the international community to promote fair development policies and effective international cooperation.

The DRD regards human rights as both a condition and objective of

development; its aim was to respond concerns regarding 'the existence of serious obstacles to development, as well as to the complete fulfillment of human beings and of peoples, constituted, inter alia, by the denial of civil, political, economic, social and cultural rights'.

Narrowing down the gap

From the last few decades of the 20th century there has been a number of initial efforts underway seeking to explore the human face of development. One major mainstream response to concerns over blocked or distorted development has been to emphasise sustainable growth. More radical alternatives to growth-based concept of development have emphasised equity or social justice. A growing process of convergence in the theory and practice of human rights and development particularly as they relate to the lives of people living in poverty and social isolation has been reflected in the

Efforts to narrow the gaps both in action and in understanding between human rights organisations and development agencies are also noted. One significant expression of this is the work of the United Nations Development Programme (UNDP) in its annual Human Development Report. Moreover, in 1998, UNDP also announces its policy document 'Integrating human rights with sustainable human development', which is viewed as a major shift in its approach towards development.

series of recent UN Conferences. The 1993 World Conference on Human Rights acknowledged, "Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing." Heads of State and Government at the 1995 World Summit for Social Development pledged themselves "to a vision for social development" based on, among other things, "human dignity, human rights and equality".

The 1995 World Summit for Social Development and the Copenhagen Declaration it adopted established a new consensus on placing people at the centre of sustainable development, eradicating poverty, promoting full and productive employment, and fostering social integration in order to achieve stable, safe and just societies for all. The collective message of all the UN summits and conferences of the 1990s may be summed up as a call for greater recognition of human rights in development.

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"UNDP advocates the realisation of human rights as part of sustainable human development, an approach that places people at the centre of all

development activities. The central purpose is to create an enabling environment in which all human beings lead secure and creative lives. Sustainable human development is directed towards the promotion of human dignity and the realisation of all human rights, economic, social, cultural, civil and political."

The World Bank Group lately recognised that it had an express role to play in the promotion and protection of human rights. In its recent publication 'Development and Human Rights: The Role of the World Bank', the Bank asserts: "The world now accepts that sustainable development is impossible without human rights. What has been missing is the recognition that the advancement of an interconnected set of human rights is impossible without development."

Major international donor agencies now refocus their international development efforts to reduce poverty. They now support policies, which create sustainable livelihoods for poor people, foster human development, promote human rights and conserve the environment (e.g., Eliminating World Poverty: A Challenge for the 21st Century - A DFID White Paper).

Making the right to development meaningful

Pursuant to resolution 1998/72, the Chairperson of the Commission appointed Dr. Arjun Sengupta as Independent Expert on Right to Development. He has submitted three reports to the Open-ended Working Group on Right to Development, another concrete initiative of UN Commission on Human Rights. He considers the right to development as a right to a particular development process, which enables all fundamental freedom and rights to be realized, and expands the basic capacities and abilities of individuals to enjoy their rights. The overriding theme of his reports is equity and justice, which he recognizes as being at the heart of all human rights. In terms of a tangible programme for the realization of the right to development, the independent expert suggests a step-by-step approach aimed at achieving three basic rights:

- the right to food
- the right to primary education
- the right to health

This approach should form part of a development plan in which no human rights are violated but at least some come closer to realization. According to the independent expert, the right to development should be realized through a programme of coordinated action. His proposed development compacts provide a good context and opportunity to develop thinking on many of these issues. The Independent Expert has proposed a method for implementing the right to development immediately based on national development programming using a participatory model and international cooperation through development assistance. This model will elevate to the multilateral level what is already happening at the bilateral level.

Part of this continuing research on 'human rights and development' was presented in the Asia Pacific Forum Regional Workshop on the 'Role of Human Rights Institutions and Other Mechanisms in Promoting and Protecting Economic, Social and Cultural Rights'. Source of Information: Law Watch, A Center for Studies on Human Rights Law, UN Office of the High Commissioner for Human Rights, Human Rights Center at the University of Essex, UK.

RIGHTS corner



State of women and female children in 2001

ODHIKAR

The state of women and children in the country has always taken a backseat, preceded by the 'more important' issues of political power and things related to its misuse including 'tit for tat' criminal cases. One forgets that vital issues of economic stability, development and education all directly involve women's participation and ensuring their safety and safeguarding their rights as citizens is important for the country's being. Apart from empty promises, which are a mandatory part of election manifestos, the lot of women is, for the most part, monitored by non-government organisations and women's groups. Given below is a brief description of various issues of violence against women that took place in the last year.

Rape

Incidents of rape in Bangladesh can be counted in the hundreds every year. Only a fraction of the incidents are reported in the newspapers, as prevailing social norms dictate that the subject remains taboo. The society should wake up to the fact that the more rapists apprehended and punished, the safer is the society. In small areas of the country, the criminal is generally recognised by his victim, but corrupt police, negligent doctors and vested interest groups almost always manage to keep the incident under wraps. During the year 2001, Odhikar documented 765 reported incidents of rape where 138 of the victims were children, eight women were raped by law enforcing agents and four women were from the Chittagong Hill Tracts.

Acid throwing

Acid throwing has become an effective method of revenge and vengeance in Bangladesh today. It is so popular, that even men are now becoming victims. Cases of acid throwing occur over land disputes, political rivalry, spurned affections and proposals of marriage and jilted affairs. Children are also sometimes caught in the crossfire, usually because they are with the adult victim at the time of the incident. In 2001, Odhikar documented 206 incidents of acid throwing where 33 of the victims were children.

Jail	No of female inmates	Actual Capacity
Dhaka Central Jail	248	84
Comilla Central Jail	77	22
Rajshahi Central Jail	105	41
Jessore Central Jail	139	45

Dowry related violence

Despite laws banning the practice, social and traditional norm helps families decide to demand and give dowry. According to the Dowry Prohibition Act, both giving and receiving dowry is a punishable offence. Like rape, dowry related violence is helped by 'society' and members of it who demand that dowry be given or voluntarily give dowry. In rural Bangladesh and even in families in the urban areas, incessant demands for dowry after marriage cumulate in both mental and physical torture and even in murder. There were 163 reported cases of dowry



Every year the number of such impaired faces increases - can stern law stop the trend?

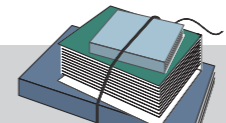
Women in prison

As part of Odhikar's current investigation work, the organisation has investigated the condition of female inmates in Dhaka, Jessore, Rajshahi and Comilla Central Jails. Needless to say, female prisoners are among the most neglected group of people in Bangladesh. The conditions in the jail cells were deplorable. There was only one toilet in the grossly overcrowded cells and that was in an unhygienic condition due to excessive use. The food given is little in quantity and very poor in quality. Norms laid down in the Jail Code are not adhered to and there is hardly any medical treatment for female inmates and none at all for the pregnant women. In October 2001, alone there were 248 female inmates in Dhaka Central Jail (actual capacity 84), 77 in Comilla Central Jail (actual capacity 22), 105 in Rajshahi Central Jail (actual capacity 41) and 139 in Jessore Central Jail (actual capacity 45).

Corruption, vested interest, non-implementation of existing laws and family pressure and the fear of social ostracisation all contribute to acts of violence against women. Certain social values need to change and effective measures taken to ensure that the rights of women are safeguarded and that perpetrators get their just desserts.

Prepared for Odhikar, a human right organisation, by Saira Rahman Khan

REVIEWING the views



Autocratic imposition on freedom of speech

NASER ALAM

FREEDOM of expression and of speech is a fundamental right accepted and allowed by all the democratic nations of the world. The rationale behind the recognition of this right may best be described this way that not only for good governance but also to respect human dignity.

Men and women are born to express themselves freely. It is, however, not unknown when individuals, groups, society and state unreasonably interferes with our fundamental rights. In the volatile history of our nation, we had been subjected on many occasions to unreasonable taking of our precious and respected rights. We had even been told in the sixties to change our medium of expression. We got rid of those nonsensical acts with brevity. We took our mission further to achieve 'independence'. We became victorious over oppressive, autocratic and shameless regimes. Our notion of independence has been to free ourselves from the shackles of deceit and establish a society where we would be able to achieve 'independence' from treachery in every respect of life.

The whole nation observed that the previous government passed 'The Father of the Nation Portrait Preservation and Exhibition Act 2001' so that we cannot for the rest of our life express our genuine and honest feelings about a particular matter. The effect of the law could be seen to deny our next generations the right to research properly and express their opinions freely on the historical aspects of the father of the nation. Why should we be denied of our right of freedom of thought, conscience and expression? Why should we throttle the legitimate expectation of our future generation to have their view expressed properly, be it adverse to some, but factual?

We have to recognise that it is shameful for a nation not to respect its great leaders. A nation should take pride in the people who contributed the most towards its struggle for independence and justice. We have to remember also that we did not have to legislate to keep our respect for the martyrs of the language movement, the saheed intellectuals and the great sons of the soil who achieved our independence through their sacrifice. No government had to pass any legislation to that effect. I ask myself, why not? The answer is simple- there was no need for it. We duly respect our national heroes and undoubtedly the Father of the Nation is one of our great national. It is understandable that political divergence after the independence resulted in bitter criticisms of the post-71 government. Even independent observers from

around the globe spoke of mal-administration and poor-governance. Every citizen and a reasonable bystander have a legitimate right to participate in genuine criticisms of any authority. This should not, however, be viewed only as disrespect.

We are all well acquainted with the abuse of law and the legal process by all the previous governments. The way this law was passed with far reaching effect to prevent any adverse criticisms of the Father of the Nation, it is a hindrance to the legitimate right of every citizen of the country to their freedom of expression. It should also be viewed as a design to prevent the post-71 rule under legitimate and careful scrutiny, as any minute criticism would necessarily involve discussions about the role of Bangabandhu. The previous government or its spin-doctors may have thought that a political battle could be won by way of oppressive laws. This law is liable to be abused to bring undue and unreasonable sufferings to any conscious citizen of the country.

A few days earlier, the media worldwide reported that the Zimbabwean president Robert Mugabe took an ill-calculated step to pass a law making it an offence to

criticise or disrespect him. Well, it is needless to say that such an action only speaks of the autocratic nature of Mr. Mugabe. If he were a decent man, it would have been unnecessary for him to force his citizens to show him respect. It may be that in his country he is popular to a section of people because of his active step for what he describes as 'to secure land rights for his own black people against the whites'. But such support does not make him less vulnerable to harsh criticism for his overall undemocratic actions including of course the unreasonable taking of land rights of the white nationals. This is the reality, which might haunt Mr. Mugabe for the rest of the future; it does not matter whether he passes more laws to protect him. It is obvious; force under the veil of law will result in more disrespect.

I am sure the effort of the former Awami League government naturally backfired and it created a bad but rectifiable example of violation of our fundamental rights. There is always time for such a loss of right to be reinstated and for the sake of democracy, ensuring good governance and enhancing our practice of human rights, we have to come forward to abort further autocratic practices of any governments and re-examine the fate of this legislation.

Naser Alam, a Barrister-at-law, is an advocate, Supreme Court of Bangladesh

Corruption-Cambodia's main menace?

SHAHIDUZZAMAN back from Cambodia

Cambodia has seen many changes since France vacated the impoverished Asian nation a half century back, but what has remained unchanged is its endemic corruption. When a peace agreement was signed among different armed and political groups of the country in 1997 in Paris, the people had thought that it was finally time to live in peace and drive out poverty. But their dreams turned sour due to political hostility, widespread corruption, lawlessness and disregard for human rights.

"Once Phnom Penh on the bank of river Tonle Sap was a beautiful city. Now our capital has lost the charm," said a 50-year-old cab driver while taking some tourists from Phnom Penh to a slaughterfield at Pol Pot, 11kms from the capital city. It is the place where over 17,000 people were massacred. Tourists hardly miss this spot despite bad road communication. "None cares about the country's development. Ministers and bureaucrats are eating up all the money," the driver lamented.

Donor agencies like World Bank, ADB, UNDP, USAID and Transparent International have also identified corruption as the main stumbling block to Cambodia's progress and poverty reduction. They were also forced to suspend funding to some important development projects because of widespread corruption. According to information provided by officials, the IMF cancelled amounting 60 million US dollars in the country's timber industry in 1997 prompting the World Bank to decline to renew its budgetary support. Over the three years, the support had mounted to roughly 85 million dollars.

A low-paid government employee at the Immigration office said, "we are trapped in a vicious cycle of corruption. I'm doing this job for the survival of my family." His monthly salary is 30 US dollars but he has to spend about 300 dollars a month. Women account for 52 percent of the country's 11.9 million people. According to a recent UNDP report, Cambodia's GNP is about 3 billion US dollars while GNP per capita annual growth rate is 260 US dollars.

Its Human Development Index (HDI) rank is 136, the sixth poorest country of the world. The average life expectancy in Cambodia is only 50 years. The inflation rate is about 20 percent. But few people are aware of all this because they don't bother about their own currency, Riel. They deal more with the US dollar. Ministers and high officials receive their salaries in dollar. The US dollar has virtually replaced the Riel. Everywhere in the country, from city shopping malls to small rural stores, the dollar is more acceptable than the Riel. "The dollar has not only outweighed our Riel, it also outshines our heritage and culture day by day," commented a schoolteacher.

An NGO leader working against corruption said, the draft was changed 11 times since the 90s for enacting a new law aiming to combat corruption, but the law could not yet be passed. "The lawmakers talk more than taking any concrete action to pass the bill," he said.

"The judiciary is subject to influence by the executive branch and is marred by inefficiency, a lack of training, a shortage of resource and widespread corruption related to low wage," said a US State Department report published in 2001. The report said, "Politically related crimes were rarely prosecuted. Citizens without defense counsel often effectively were denied the right to a fair trial. ----- The ethnic Vietnamese minority continued to face widespread discrimination by the Khmer majority, and this enmity was exploited by the political opposition."

An official at a leading NGO working for ensuring good governance said, "corruption causes major misallocation of scarce resources. Instead of meeting basic needs such as food, health and education, resources are sometimes used to finance purely prestige projects with no economic value. Corruption is at the root of underdevelopment and poverty."

"Corruption costs Cambodia more than 100 million US dollars. Country's 84 percent people believe that bribery is the normal way of doing things," said a survey report conducted in 1998 by Center for Social Development (CDS), a Phnom Penh-based non-government organisation working against corruption since 1994. It said 79 percent of the people think that the popular and effective way of ending corruption is to raise civil servants' salaries while 57 percent believe that the country needs to formulate a counter-corruption law to eradicate corruption. Twenty-seven percent respondents of the survey were in favour of establishing an anti-corruption commission, 16 percent said government officials need to declare their assets and liabilities, 11 percent laid emphasis on more press freedom, 6 percent stressed publishing government contracts and 5 percent favoured auditing of government departments.

An investor from UK in Cambodia said, the Hun Sen government has lost its popularity for its failure to address the problem of corruption. The corruption issue will definitely dominate the election campaign as people are now politically more aware than ever before.

A News Network Feature