

# DEVELOPMENT AS A HUMAN RIGHT AN ECONOMIC ANALYSIS FROM THE THIRD WORLD PERSPECTIVE

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## Introduction

The international recognition of human rights derives its sustenance from the common interest of humankind to promote a minimum condition for a dignified human survival and existence. There exists an inseparable link and complementarity between civil and political rights on the one hand, and economic, social and cultural rights on the other, which has repeatedly been affirmed by a body of growing human rights instruments of the United Nations (UN). It is axiomatic that just as these two sets of rights are inter-woven, so do freedom and development. Julius Nyerere, former President of Tanzania once analogised: "without freedom you get no development; and without development you soon lose your freedom". International human rights movement has matured from the earlier struggles of the 1950s to secure civil and political rights for all and its subsequent emphasis on the realisation of economic, social and cultural rights. Springing from these rights is the right to development, "the synthesis of all human rights".<sup>1</sup> In this sense, the right to development appears to be conglomeration of a large number of pre-existing human rights, which are constantly expanding their frontiers to keep pace with the changing circumstances and the shared expectation of the world community.

The UN has adopted a Declaration on the Right to Development in 1986 as a response to mounting and glaring international economic disparity. The Declaration is yet another concerted attempt by the third world UN members, who emerged as independent states through the process of decolonisation, to claim some political control over international economic management, particularly affecting their own development. As it turns out, the Declaration suffers from the North-South conflict of interests. The competing claims of third world countries for substantive reforms and of developed countries for the preservation of the *status quo* have obscured the marginalised economic plight of the powerless and voiceless poor people of the world. The Declaration may not be seen differently from similar past attempts. The 1964 UN Conference on Trade and Development (UNCTAD), the 1966 UN Covenant on Economic, Social and Cultural Rights (UNCESCR) and the 1974 UN New International Economic Order (NIEO) serve a smokescreen to camouflage the inability or unwillingness of the UN to redress the mounting worldwide economic injustice. The Declaration purports to please third world countries by embodying certain desirable changes in the instrument, which are formulated in such a vague and imprecise manner that developed countries can support them by taking comfort from the fact that no real and concrete change will emerge. For whose economic interest is the right to development pleaded in the Declaration? The pressing problem of world poverty stultifying third world development has once again been conveniently ignored in the Declaration.

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### Right to Development in International Legal Discourse

The on-going international discourse surrounding development as a human right owes its origin in international economic cooperation under chapter IX of the UN Charter. It requires the realisation of certain human rights that develop the basic conditions of life and living standards. All UN members have *pledged* themselves to implement those rights in their territories for their nationals. Such rights are reflected in the 1948 Universal Declaration of Human Rights in the form of economic, social and cultural rights. It was subsequently elaborated and endorsed in the 1966 International Covenant on Economic, Social and Cultural Rights, adopted in the form of a multilateral treaty by the UN General Assembly with precise legal obligations. Relying on these prescriptions of rights, Keba M'Baye, the then President of the International Court of Justice (ICJ) in his inaugural address to the International Institute for Human Rights in 1972, referred to *development* as a right of every human being, who has a right to live and right to live better.<sup>2</sup> Karel Vasak later classified the right of development as a third generation right.<sup>3</sup>

All these developments culminated into greater public awareness of the issue and a formidable consciousness-raising campaign, which brought it to the forefront of the North-South debates on the economic emancipation of the third world. The right to development was legitimately viewed as a pressing need for the overwhelming majority of third world countries, who have emerged from prolonged colonial exploitation of their economies.<sup>4</sup> To these countries, the right to development meant a right to develop free from any external control or interference. Implicit in this right was the recognition of political sovereignty over their territories and economic sovereignty over their national and natural resources pursuant to the 1962 UN Declaration on the Permanent Sovereignty over Natural Resources. Development was perceived as the key to unlocking the inequitable distribution and utilisation of resources, which had characterised the global economy for so long to the grave detriment to the third world.<sup>5</sup> The right to development was also thought to be more than an economic process. It entails "not only the idea of economic betterment but also of greater human dignity, security, justice and equity".<sup>6</sup>

### The UN Declaration on the Right to Development

The demonstrated quest of the third world for development was eventually recognised in the 1986 UN Declaration on the Right to Development, subsequently reaffirmed by the 1993 Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights. This Declaration was adopted at the peak of its popularity, following years of political pressure from third world countries. It purports to identify the relevance of development to economic, social, cultural and political spheres and gloss over the major developmental concern of third world countries. It covers as its key objectives, the human rights to life and inviolability of the person; an adequate minimum of food, clothing, housing, medical care, security, freedom of thought, conscience and religion; and the right to participate in civil and political life. These rights are held to be indivisible and so any attempt to separate them in order that they are to be met at different stages in a country's life would be ultimately unsuccessful.<sup>7</sup>

The Declaration includes both the individual and the state as the bearers of the right to development, which causes a conceptual problem. If it is a human right, only the human beings, not the state, can



be its beneficiaries. This jurisprudential anomaly remains, which is not necessarily irreconcilable.<sup>8</sup> It may be argued that the UN, being an inter-state political organisation, has yielded to the interest and pressure of its members, which have extracted a right in the form of a human right that does not belong to them. The Declaration has left the door wide open for anyone to argue that the removal of economic disparity between states should come first before human rights for individuals within those states could be guaranteed. In this sense the right to development is a prerogative of a state and a reflection of its territorial sovereignty. It may also be argued that the right to development applies to individuals within states in the form of having their rights against their errant states, which infringe their individual right to development. Indeed, any state in pursuit of development impinges upon the right of an individual to that development transgresses the Declaration itself (Art. 2.3). The Declaration recognises human dignity as the fundamental norm of international economic cooperation. This explains why it describes in broader than economic terms the right to development as "a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals"(preamble).

Nonetheless, the Declaration seems to emphasise the economic aspect of development as the primary vehicle for the promotion of human well-being. The idea of constant improvement entails the western capitalist perception of unlimited needs and greed and the maximum possible utilisation of limited resources available in order to make headway into infinite human desires. Perpetual accumulation of wealth for better than ever well-being is at odd with many non-western traditional insular communities operating on the basis of a kind of equilibrium. The pervasiveness of capitalist construction of society has long threatened or destroyed many equilibrium societies (tribal and indigenous) and is a primary cause of poverty. It is a great pity that the idea, which has been instrumental in the creation of poverty, is now enshrined in the right to development. Right to development in the Declaration is not necessarily the right to freedom from poverty. It is not solely the right of the poor to develop and prosper. The world's wealthy have as much right to seek constant improvement of their well-being through development as do the world's poor. Obviously the wealthy are in a better position than the poor to attain the objective of the Declaration. Whilst the equality of access to resources at the national level is stressed (Art. 8), there is no mention of the urgent need for global equality in the distribution of resources. Thus the most basic and obvious causes of intractable under-development, namely inequality in the distribution of financial and material resources resulting in gross economic and political power imbalances, remains unaddressed. It seems to allow the wealthy to continue to be wealthy and force the poor to remain in poor. The granting a right of development to individuals, peoples and nations without addressing the reasons why so many of them cannot exercise their right, the Declaration has fallen into the familiar trap of basic contradictions which produce poverty.

The right to development, like all other human rights, has an element of utopianism because of their normative standard that cannot readily be enforced. Its imprecision, like other third generation rights, has made it more radically utopian. If this right implies continual improvement in the standard of living and economic development, it is also a goal of the UN and in many member countries. The idea of development has now become a goal of human rights and a human right itself, both an end and a means. It may confuse the goal of human rights with rights themselves in that if there were universal fulfilment of the rights to an adequate standard of living, to a fair conditions of work, to free and full



participation in political processes, then development would most certainly be the outcome. Implicit in this dual role of the right to development is the danger that some third world countries may argue that if a given level of development is essential for the enjoyment of all other rights, they may be excused from respecting those rights during their pursuit of development.<sup>9</sup>

The Declaration shares the duty to develop between the individual and the state (Arts. 2.1 and 3.3). However, the rights and the duties in the Declaration do not directly relate to each other, which compromises its internal cohesion. It does not spell out the extent to which there is a corresponding duty to facilitate or at least not to hinder development and whether this duty is owed by individuals and states only or also by non-state entities, such as the multinational corporations (MNCs) and non-governmental organisations (NGOs). MNCs are the mechanism by which the resources of the third world are exploited for the benefit of the developed world, where most if not all MNCs are incorporated. The duty of states to provide development assistance is quite strong in the 1966 ICESCR, although several developed countries have insisted that development assistance cannot be mandatory.<sup>10</sup> This explains why the Declaration has placed relatively weak emphasis on development assistance (Art. 4). Its text treats the right to development as a right of people against their own government rather than against foreign governments. Such a duty on the part of MNCs is bleak in international law.<sup>11</sup>

The Declaration is a General Assembly resolution and as such its legal status has caused some consternation. And this is so despite the fact that the idea of a right to development was not something new. It was rather emerging in international legal discourse with sufficient strength for quite some time prior to the Declaration. Viewed from this perspective, the Declaration appears to be a prospective or teleological instrument that warrants adherence. It is a plan of action to achieve development for both states and individuals. It requires states to provide access to development and cooperation between states as a primary objective in achieving development (Arts. 6, 7 and 8). Even the title of the Declaration views "development" as a continuing process, which is determinable in the future. It is this prospective quality of the Declaration that makes it short of a predictable treaty law. It is somehow less than a binding law that exists "in *statu nascendi* operating in the grey area between non-binding political claim and undeniable fully binding law".<sup>12</sup>

### **The Pressing Issue of World Poverty**

Seemingly the right to development as embodied in the Declaration cannot overcome the worldwide fundamental economic and political disequilibrium, which causes poverty. It is the poverty and grossly unequal distribution of wealth, resources and opportunities, which are the underlying problems. The nebulous concept of under-development, which implies that the problems of third world countries is that they are not as developed as the wealthy countries, only glosses over the real causes of poverty. The manner in which the world's wealthy have developed has been extremely destructive in terms of resources utilisation and the environment. It is as much their over-development as the third world's under-development that ought to appear in any remedial measure. Unless war is waged against undue economic enrichment and intrinsic political inequalities, it is difficult to appreciate how the challenge of poverty could be faced meaningfully. If the Declaration is not meant to eliminate poverty and economic inequality, then the appropriateness and substantive meaning of



the right to development is questionable. Poverty and its consequential under-development is an economic and political issue, which has proved virtually intractable. The Declaration on the right to development is at best superfluous to existing human rights and at worst an odious example of political fudge on the economic emancipation of the third world. Neither its form nor substance indicates a genuine mood among states to address the underlying causes of the pressing issue of poverty.

Worldwide poverty is the gravest challenge for the UN to remain vibrant. The theme of the 2000/2001 World Development Report of the World Bank is "attacking poverty". Notwithstanding successive wars against poverty, it continues to reign in the 21st century. This failure is due to a misplaced emphasis. The real issue is the lopsided distribution of wealth that causes poverty. The prevention of poverty is better than curing it. In so doing, war must be waged against undue enrichment, both globally and locally. Wealth begets wealth, which fosters its own lopsided distribution in the absence of any credible distribution mechanism. Wealth distribution is thus directly linked to the objective of global economic development. If wealth is concentrated in few hands, the education, health and productive capability of the remainder are undermined. In a poverty stricken country where the primary concern is the basic needs, the motivation for creative entrepreneurship is simply not available. The World Bank and the IMF must bear in mind that they can contribute to the eradication of poverty only by expanding the global economy, not just by guarding the wealth of the G-7.

The world produces more food than it consumes. The volume of world trade is going from strength to strength every year along with the growth of the world economy. All these improvements have not brought about any real economic benefit to the overwhelming majority of third world countries, who are indisputably encountering a crisis in economic development. The third world poverty amid plenty of wealth is attributable to certain limitations of the system through which the world community governs its economic affairs. Some of these limitations are explained below.

### **Economic globalisation**

The ongoing process of market liberalisation in the wake of economic globalisation has brought to bear many new challenges for the third world. New challenges warrant new strategies. Instead of reforming the post-world war legal framework of international economic order, the development agenda of the UN in the 21st century has opted to work more effectively within the system of status quo. The supporters of the system, mostly developed countries, urge to intensify implementation efforts rather than to reassess its policy direction. The main forces impelling free-market restructuring in third world countries have been the external extra-market pressures. This restructuring is of negligible benefit to these countries due to the lack of certain national economic factors and forces that are indispensable to derive gains from economic globalisation. As a result, economic globalisation has not been to the equal benefit of them all and has created obstacles for them affording unequal, yet limited, access to the world economy. Economic interdependence created by economic globalisation is therefore asymmetrical. The growing trend of deepening interdependence among the major industrialised countries is not taking place in third world economies, which show a considerable degree of dependence on the former.

Economic globalisation is perhaps the neo-liberal version of the free-market economy patronised by few industrialised powers, particularly the US, who emerged as dominant economic powers



following the Second World War. It involves the global adoption of market liberalism as the dominant economic model. This explains why the major beneficiaries of economic globalisation are the US, Europe and Japan. Through the creation of a peripheral third world market, culturally specific liberal economic theories were engineered to intellectually justify their competitive advantage necessary for the post-war economic expansion of the US and the economic recovery of Europe. The lure of profit maximisation and the threat of competition in the market propelled the idea, not by an epistemological understanding of world economic conditions. The marginalised economic plight of the third world was not in the minds of post-war economic policy-makers, who dominated the Bretton Woods Conference in 1944. Third world economies have subsequently been slotted into the slots of world economy controlled and managed primarily for the benefit of developed industrialised countries.

The benefit of economic globalisation has been taken for granted and the strategies and tactics of its adoption everywhere is constantly evolving. Third world countries are particularly urged, if not pushed, to believe that they no longer need to protect their economies from full blast of international competition by imposing capital controls and delaying trade liberalisation. They are being persuaded to implement privatisation and liberalisation as catalysts for the flow of foreign corporate interests in exports and investments to fill up development gaps in their economies. They are led to believe that economic globalisation is like a tide that raises economic prosperity for all who participate in the process. This belief is not necessarily borne out by real life experience in the third world. There, it is propelled partly by misleading, if not false, expectations and partly by the hegemonic politico-economic domination of the industrialist west. The IMF, UNCTAD and UNDP studies in the late 1990s reveal that income distribution during the last 25 years has worsened. They show an alarming increase in economic inequalities and income disparities between developed and third world countries and between rich and poor people within countries, developed and third world alike. According to the World Development Report 2000/2001 of the World Bank "the average income in the richest 20 countries is 37 times the average in the poorest 20, a gap that has doubled in the past 40 years".<sup>13</sup>

Economic globalisation has introduced the idea that the common welfare of all is best served by the pursuit of self-interest, a covert ideology of 'the survival of the fittest'. Competition has been accepted as the disciplining agent in a free market environment, where each country is in competition, 'a race to the bottom', with the next at the expense of international economic cooperation enshrined in Chapter 9 of the UN Charter. The cherished ideal of comparative advantage has been replaced by the quest for competitive advantage. There is no restraining force to intervene on the side of the poor and weak in order to hold back the fierce competitiveness in the marketplace. In a system where economic rationalism is the decisive policing factor and free market competition is its final arbitrator, the interests of poor and weak are trampled under the unmitigated avarice and high-profit margins. The UN agenda of international development can alleviate poverty only when it becomes beneficial to the poor people and countries. It must ensure greater access of the third world to the global market, resource bases and its economic decision-making process. It must create conditions in which third world countries do not have to yield to overwhelming external market and extra-market pressures at the expense of their 'best interests'.



The foregoing critical analysis is not intended to undermine the process of globalisation but to stress the point that its benefits and costs are uneven and limited. It has created new opportunities and benefits for some countries, but new risks and threats for others, thereby creating its winners, mostly in the North, and losers, mostly in the South. The winners are those who are technologically advanced and industrialised, having surplus capital to export and lend, strong physical and human infrastructures flexible enough to withstand the profound changes brought about by economic globalisation. The losers are the capital borrowers and technology importers, possessing rudimentary physical and human infrastructures too insufficient to cope with the momentum of economic globalisation. The former has not only increased their surplus capital's rate of return by availing the expanded investment opportunities in the latter, but also strengthened their capital's bargaining power over third world labours through threats of capital flight.

### **The trading regime of the World Trade Organization (WTO)**

The normative legitimacy of international trade law has recurrently been dubbed as 'fair trade'. The existence of diverse and unequal trading partners calls for fair competition rules and a playing field diversified enough to afford equal participatory opportunities for all. But the failure of the regime became apparent right from its very inception. The Most Favoured Nation (MFN) and national treatments are the governing principles of free and fair trade. They are thought to be ensuring non-discrimination and equality of competition in world trade. All trading countries, irrespective of their economic status, are entitled to identical and homogeneous treatment in international trade. These treatments were conceived to prevent chaos and domination of national interest in international trade during the inter-war period. International trade as a means of economic progress in third world countries was never in the minds of the free and fair trading policy makers, who never realised that, in an international trading community with unequal partners, treating unequals equally itself constitutes an act of discrimination and unfair competition. This has precisely happened and the regime has made a piece-meal effort through the Generalised System of Preferences (GSP) to address the problem.

The GSP is a discretionary and ad hoc system of tariff concessions granted to the products of third world countries by developed countries, which dictate its terms. It is not well targeted. The newly industrialised developing countries receive its lion's share. Many third world countries lack the necessary infrastructure and expertise to take its full advantage. The GSP has exacerbated the bargaining power of major trading partners, which have been creating pyramid of preferences and discriminatorily selecting their beneficiaries largely on the basis of political and strategic considerations.<sup>14</sup> It is a permissible bargaining lever that excludes or threatens to exclude certain third world countries from preferential access to markets. The rule that GSP is voluntary for developed countries and cannot be claimed by third world countries as a matter of right is a clear indication yet of its self-benefiting nature, which still continues unabated.

The regime has been incomplete in its coverage and partial in its operation. The selective trade liberalisation rules of the WTO are overtly in favour of developed countries and are prejudicial to the trading interests and performance of third world countries. The liberalisation of trade in industrial goods, as opposed to agricultural commodities, raw materials and primary products, has boosted the



earnings of industrialised countries and skilled workers at the expense of commodity producing third world countries and unskilled workers. The mobility of capital has augmented profits for capital owners, but the immobility of labours has suppressed the wages and bargaining power of labours. The exclusion of agriculture and other primary products from liberalisation has consistently been causing sluggish economic down turn in many third world countries. The persistent downward-fluctuating commodity prices and excessive protectionism in agricultural trade through subsidies in developed countries have but added to this problem. Despite their demonstrated interests in agricultural trade liberalisation, third world countries managed to achieve it in the Uruguay Round but only through a delayed arrangement and at a very high price. Developed countries came up with new proposals for the protection of Trade-related Intellectual Property Rights (TRIPs) in third world countries and the liberalisation of trade in services. These two sectors involve multi-billion dollar trade in intellectual property, biotechnology, banking, insurance, telecommunications and e-commerce, where developed countries enjoy virtual monopoly.

### **Transfer of technology**

Technology has become a crucial catalyst for enhanced economic development. The use of modern technology can break the under-development cycle in third world countries in a relatively short period. Unfortunately these countries, which need the new technology most, have the least access to it. There appears to be no international law that allows third world countries to gain access to technology as a matter of right. Nor is there any international law that imposes a duty on developed countries to transfer their technology to third world countries. The WTO Agreement on TRIPs is too preoccupied with the protection of MNCs' technology and profit making in the third world. Technology is owned and controlled by MNCs, who use it to prey on the economies of third world countries for extracting maximum possible financial gains within a short period. Profit therefore plays an important role, which not only increases price but also determines where, how and which technology is to be transferred. This inherent motivation of MNCs benefits developed countries more in terms of a rich source of revenue than developing countries. The weak bargaining power of third world countries due to their lack of political and economic leverages has serious adverse impact on technology selection. Their inadequate technical information and expertise often compel them to rely on the only advice they receive from the MNC trying to sell its technology and be captive acquirers of obsolete and inappropriate technology under very strict protectionist conditions.<sup>15</sup>

The TRIPs Agreement places the burden of implementation on third world countries but the benefits remain with developed countries. It provides mandatory protection to TRIPs at a level equivalent to western standards. The WTO strict enforcement measures and dispute resolution mechanisms apply only in cases of TRIPs violation but not in cases that undermine technology transfer, which is left to the goodwill of developed countries and their MNCs. Its provisions on the transfer of technology from developed to third world countries are only voluntary guidelines. The latter cannot gain their access to the former's technology as a matter of right. The GSP is inapplicable in TRIPs. Third world countries have received only an extended time frame for compliance, upon the expiry of which they must perform their TRIPs obligations with no special or favourable treatment. Third world economies are bound to suffer undue hardship in the absence of GSP. The TRIPs Agreement clearly disadvantages third world countries in that all of their basic needs, such as foodstuffs, pharmaceuticals, farming



chemicals and seeds, are now patentable. The TRIPs Agreement has failed to address the technology concern of the third world. Instead of reforming the existing highly monopolistic technology market, it has sought to reinforce the ongoing technological dependence of third world countries on developed countries. It serves as a protectionist device that prevents technology transfer from MNCs to third world countries. The net outcome for the technology importing countries is the reinforcement of the ongoing culture of technological dependence and neo-colonialism, militating strongly against the development of domestic technological capabilities in third world countries and their economic development.

### **Trade in services**

Trade liberalisation in services received priority in the Uruguay Round and an agreement was concluded, opening up the service sector of third world economies. The General Agreement on Trade in Services (GATS) permits differential, presumably favourable, treatment and minimum commitments for third world countries in implementing GATS obligations (Art IV). But GATS deals with only skilled, semi-skilled and professional services, rather than labour services in general. The cross-border movement of natural persons (semi-skilled and ordinary labour) from third world countries to developed countries is subject to many conditions and restrictions. It is the developed countries with their cutting-edge information technologies and MNCs, which are the real beneficiaries of GATS. National borders are irrelevant to the flow of trade and capital, but are strictly maintained to restrict the flow of technology and labours. These discriminatory rules for more openness in some spheres and less in others have serious economic consequences for third world countries. They are required to open their markets to developed countries without gaining a corresponding access to technology and to accept the free movement of capital without any provisions for labour mobility.

In all these WTO arrangement developed countries are clear-cut winners, which are the 'rule-makers' and have the authority to set and implement the rules of world trade. Third world countries are merely the 'rule-takers' with very limited power to invoke and implement them in their favour. All WTO agreements have been presented as a package deal. For third world countries to stay out of the package was tantamount to committing trade suicide. They had to comply and cooperate with the system in order not to lose their limited gains and be targets of retaliation and trade sanctions. This process of Northern economic leverage in third world economies is further aided by the IMF and the World Bank setting conditionality rules only for borrowers, mostly third world countries. They are invariably required to pursue structural reforms through industrial and financial deregulation, privatisation and trade liberalisation to enhance the degree of market openness. No such rules are prescribed for non-borrowing and lending countries, mostly developed. The implication for creating these rules for some and not for others is that the market-controlling role of third world countries is diminished, whilst developed countries retain their controlling competence. This is a perfect recipe for developed countries' unfettered and cheap access to third world natural resources, labour and markets without any reciprocation.

### **Non-tariff and technical barriers**

The limited market access of third world countries is attributable to various non-tariff and technical barriers in developed countries. UNCTAD estimates that third world countries could export US \$700



billion more a year by 2005 if developed countries did more to open their markets.<sup>16</sup> Textiles and clothing are the major exports of third world countries because of their highly labour intensive-based production, giving them a significant comparative advantage. It is this sector where developed countries are particularly protectionist through the Multi-fibre Arrangement (MFA) since 1974, which is in the process of phasing out by 2005. The rules of origin and/or regional value contents of a product required in some developed countries and their inward-looking regional trading blocs, notably North American Free Trade Agreement (NAFTA) and the European Union (EU), render access to GSP exceedingly difficult for third world countries.

The imposition of anti-dumping duties on the cheap imports from third world countries is rampant. The WTO Anti-Dumping Agreement takes into account only the effects of dumping on the domestic producers of the like product. It does not consider the economy-wide impact of anti-dumping duties and their effect on existing users of imports or on the state of competition in the domestic markets. It does not exempt perishable primary commodities from all forms of anti-dumping measures. Exporters acting in a predatory way should not be exempted. The lack of this exemption often lead to perishable products being wasted, which aggravates the existing suffering of third world farmers, already caused by uncertain and low world commodity prices. Taking these factors into account would help third world countries, which are often the subject of anti-dumping actions against their agricultural products.

### MNCs

Economic globalisation is perceived as a means to an end of achieving efficiency, growth and development in the world economy. Free-market is conceived to be inherently more efficient, and a better achiever of these objectives, than protectionist governments. Governments should play only a minimalist role. For they are incapable of intervening efficiently in the markets and the self-adjusting ability of free-market leaves hardly any room for them to intervene. In other words, national economies become much less governable and the global economy is left almost ungoverned. The national allocation and utilisation of resources must be pursued in a manner responsive to market forces, irrespective of domestic socio-political need and economic priorities. Thus, an economic system is developed to function almost independent of a political base. This minimisation of governmental power has maximised the power of MNCs and international economic institutions in the market place. MNCs dominate world trade, production and investment pursuant to the free trade agenda of the WTO. The World Bank and the IMF control global capital movements and have increased their financial clout over heavily indebted third world countries encountering successive debt crises. These financial institutions and developed countries overtly discriminate against those third world countries, which have a record of strict control over MNCs.

The unfettered control of MNCs over market forces in the absence of any international regulatory regime and government intervention has rendered markets more monopolistic than competitive. The whole process may be seen as "a form of market colonialism...[which] subordinates people and governments through the seemingly neutral interplay of market forces".<sup>17</sup> The reality is that market forces have never been neutral. Powerful market players can always manipulate these forces. The growing power of corporate interests has resulted in the erosion of interventionist power of less-powerful governments in the marketplace.



### **Trade deficit and foreign debt**

The ever-increasing trade deficit, balance of payment problem and foreign debt has been a serious hindrance to third world development. While third world deficit countries with their soft currencies and raw materials are tied to the status of debtor, developed countries utilise their surpluses to become creditor countries. Whilst the former lacks ability, the latter lacks willingness, to reduce or eliminate trade imbalances. As a result, the per capita GDP, commodity prices and access to the world market of third world countries have steadily been declining. With their falling income, precarious balance of payment and mounting interest on foreign debts, many third world countries are now trapped in a vicious circle of trade deficit and foreign debts. They are sandwiched and suffocated between radical, liberalised, deregulated and export-driven industrial economies on the one hand, and the IMF-World Bank structural adjustment program on the other. This situation is symptomatic of the market maladjustment and unfairness of so-called fair trade under the WTO, which seems to be running contrary to the third world needs.

The IMF receives substantial amounts of payment from third world countries by way of repayments and interests on its loans. The net transfer of funds from third world debtor countries to developed creditor countries is higher than that the IMF provides. The net transfer of resources to third world countries by the IMF since its inception has always been negative, which is so big that, despite the World Bank's positive transfer, the two institutions together provide a net negative transfer.<sup>18</sup>

### **Third world participation in economic decision-making**

The creation of international trade law has been dominated by a powerful coalition and vested self-interest of developed countries. Consistent complaints that third world countries were precluded from the GATT decision-making process went unheeded. The GATT era of trade liberalism gradually eroded the global economic dominance of the US, and made the US, Japan and the EC the economic super powers, which engaged in both managed trade and trade wars among themselves, particularly after the 1979 Tokyo Round, beyond the GATT multilateral trading system. This aggressive trade policy diminished the credibility of GATT even further, a situation where third world countries had the most to lose for want of their subsidising and retaliatory powers. In this backdrop, there was a major surge in their activities to resuscitate and strengthen the multilateral trading system that led to the commission of the Uruguay Round. Third world countries once again complained of being sidelined in setting the Uruguay Round agenda, which was reiterated in the First WTO Ministerial Conference in Singapore in 1996.<sup>19</sup> The overall level of third world participation in the WTO remains limited. The limited financial and human resources and institutional weaknesses predicate such a circumscribed third world presence in the WTO. This partial alienation has created a subservient position for third world countries requiring them more often than not to sacrifice their legitimate trading interests in favour of northern interests. The current position of trade liberalisation in manufactured goods, services, agriculture and TRIPs are clear examples.

It is unrealistic to expect third world countries to indefinitely accept economic arrangements that require them to make the most compromises and concessions, yet offer a limited participation in the WTO and the global market place. If the liberalisation of trade is unable to deliver positive economic and welfare benefits for them soon, the likelihood of socio-political reactions will increase. The deep-



seated dissatisfaction with the lopsided outcomes of liberalisation at the grass-root level has gathered momentum in developed countries. Organised protests took place in the WTO Seattle Conference in November 1999, in the World Bank and IMF joint meetings in Washington in early 2000 and in Prague on 26-28 September 2000, in London on 18 June 2000, and in the World Economic Forum's Asian Summit Meeting in Melbourne in late 2000.

Global economic management must be pursued in a manner beneficial to all, particularly third world countries and poor people. The institutions responsible for such management must be accountable to the countries and the people they affect directly. No economic system can operate effectively without basic socio-political support. The capitalist market and its values must not take precedence over socio-political values. If it does, it will suffer from a legitimacy crisis. This is precisely the message sent loud and clear through a chain of public reactions referred to. Through this negative route, the powerless mass is trying to reclaim some control over external economic forces that often dictate statist development. Further spread of such socio-political backlash, particularly in the third world, is fraught with the possibility of tempering, if not reversing, the process. Socio-political reactions to these pernicious trends are gathering momentum in the third world. Should this position eventuate, it would be to the grave detriment of trade-induced economic growth in the third world. Such a situation would not be helpful for developed countries either. It would restrict their market access and reinforce apologists' argument that the North will never allow the South to economically prosper. It is therefore in the best interest of both groups to cooperate in launching a process of real, not just cosmetic, reforms in the status quo and generating sufficient political will in support of those reforms.

### **Escalating arms race**

The maintenance of international peace and security through ever escalating arms race is silently killing millions through hunger and disease. The feeling of security and order is often caused by misinformation to justify over-investment in armaments. It is indeed the arm races that fuel insecurity and then insecurity results in further expansion of armaments, a kind of vicious cycle. International public opinion is in order and imperative to launch a consciousness raising campaign that only economic development and prosperity can reduce insecurity, tensions and confrontations that have engulfed the world today. As General Eisenhower once said: "every gun that is made, every warship launched, every rocket fired, signifies in a final sense a theft from those who hunger and are not fed, from those who are cold and are not clothed".<sup>20</sup> The vision of the UN controlled by a unipolar power base is obscured by the fact that war breeds under-development and economic hardship and development brings peace and prosperity.

### **Western mass media**

In this era of information super-high way, information is disseminated through mass media in a manner that defeats rather than promotes the urgent need for development in the third world. The multinational mass media of the western world holds a monopolistic control over information, which is channelled in a desired direction in order to shape the views and impressions of the rest of the world. The third world invariably receives a very poor press by way of displaying their natural calamities (earthquakes, famines and floods) and inability to self-manage their economic development and political destiny. As such, these countries are surely destined to perpetual poverty. The dissemination of information in such a manner obscures the understanding of the way in which developed countries



still benefit from the poverty-infested third world, of various artificial barriers that developed countries have erected on the path to third world development and, most importantly, of the persistent attempts by many third world countries to get out of poverty and economic dependence, the left over of colonialism.

### **Historic legacy of exploitation**

The economic prosperity of developed countries who were at similar level of development with developing countries 150 years ago, was achieved through the exploitation of natural and human resources of their colonies. The institution of colonialism and its resultant industrial revolution created massive economic disparity by using colonies as cheap sources of raw materials for industrial goods sold at artificially inflated prices in captive colonial markets. Developed countries never took into consideration the environmental concern of the present day in their process of industrialisation. Third world countries have no extra-territorial resources and markets for their exclusive control and exploitation. On the contrary, they inherited economies that have already been exploited by their colonial powers for the benefit of metropolitan territories. As a result, third world countries encounter serious resource constraint in pursuit of their development. The existing economic order is based on the historic legacy of a period when most third world countries did not exist. The maintenance of the *status quo* is inherently discriminatory against third world countries who are forced to compete with developed countries who have accumulated wealth and prosperity through an illegal method no longer available to the former.

### **Third world ruling elites**

It is true and intuitively appealing to point the finger of accusation for third world poverty to foreign domination and exploitation. But one must not lose sight of the role of the ruling-elites of third world countries in impeding development in their own countries and supporting the status quo in international economic cooperation. They are mostly rich peoples who have a vested interest in the status quo as it is personally rewarding for them. Many of them are overtly committed to the cause of change but covertly prioritise their personal enrichment over the national interests. Such self-serving and sectarian attitudes make it easier for interested developed countries and their MNCs to form alliance with local politics in order to prey on an artificially destabilised political economy. This has precisely happened in the Republic of Congo and Angola, where foreign governments and their corporations interfered with local politics and fomented civil wars for the sole purpose of gaining access to local natural resources of diamond and uranium.

The lack of accountability in the exercise of financial powers is acute in many third world countries. Strategies for development require a reduction of budgetary burden by reducing unproductive expenditures and the size of the government. Public spending, purchases, procurements, contract awarding and tender floating by governments and their corporations are matters of national interest and involve substantial amount of public money often funded by foreign aids, grants and loans. This is one of the major sources of political patronage, nepotism, bribery and corruption, which are widespread in many third world countries. It is a real obstacle to development, as it diverts limited and valuable resources to unproductive purposes rather than to the common benefits of all.

All dealings with financial matters of national significance must be ascertained with a reasonable degree of transparency and the rule of fair play. But the willingness of some public servants and



ministers to carry out self-serving illegal acts on their own initiatives for personal gains is rampant, which has multifarious and multi-dimensional stultifying effects on development. Some audit reports on World Bank funded procurements in Bangladesh have recently been returned because of non-transparent biddings and poor procurement policies, causing the country to lose "hundreds of millions of dollars a year" and its people to pay "for this through higher costs and inferior goods and services".<sup>21</sup> Successive governments in Bangladesh are notoriously famous for their corrupt financial dealings, particularly with foreign companies. Their impropriety and mismanagement in the utilisation of national revenues and natural resources contribute to poverty.<sup>22</sup> According to a recent World Bank report, Bangladesh can increase its per capita income by between 2.1 and 2.9 per cent per annum by arresting financial corruptions in public offices. Such an increase in per capita income will decrease poverty from current 36 to 11 per cent by 2020.<sup>23</sup> The venture for the oil exploration in Haripur (Sylhet) and the sale of gas is a current case in point, which has caused serious controversy widely reported in the mass media. The people of Bangladesh has permanent sovereignty over their natural resources and is entitled to know whether the government has pledged priority to its own self-interest and those of MNCs in exploring and selling their natural resources.

### Conclusion

The right to development, being initially posited as a right of those states emerging from long colonial domination and deprivation, has gradually extended to become identified both with states and individuals, a concurrent right. In other words, it springs from human rights at the individual level and applied collectively to states at the international level. The Declaration on the Right to Development may be seen as a reflection of this new approach of the UN, which places the underlying duties towards development in a balanced and even manner between individuals and states.<sup>24</sup> The Declaration once again underscores the ongoing problem of international economic injustice inflicted on the third world members of the UN and renders a half-hearted attempt to address it. The purpose for which the Declaration was necessary remains in existence. The economic gap between rich and poor has steadily been widening and perpetuating. The contents of the Declaration may well be relied upon as a further basis of international economic cooperation with the passage of time and repetition in the UN system. Its potential as a tool of maximising transformation in the society and minimising poverty may not be gainsaid altogether. For this potential, third world countries should now focus on the implementation of the Declaration by harnessing the enthusiasm and clout with which it was adopted.

Opposition to its value by western developed countries is not surprising but needs to be understood in the historical context of politics of international economic cooperation. Despite their rhetorical commitments to free trade, all industrialised and newly industrialised countries have developed through the actions of a strong state. They have implemented national policies that create comparative and competitive advantages in key industries by way of subsidies, import restrictions and investment regulations. If conducted properly, these inward-looking policies are demonstrably better in sustaining economic growth and allocating resources into the future than outward-oriented export growth through free markets. This is precisely because governments usually promote development and social stability, whilst MNCs and market forces always pursue profit maximisation and exclude those who have no asset or purchasing power.

It is therefore prudent for third world countries to pursue a strategic development approach with a humane face. This slowdown statist development approach is not meant to be reversing the process of economic liberalisation but to contemplate correctives that would reflect domestic needs and render the process more third world-friendly. Most third world countries bear the full brunt of social



instability caused by excessive consumerism, environmental pollution, drug trafficking, ethnic tensions, sex tourism, transfer pricing and flexible labour laws. State intervention has no substitute in minimising these social costs. Cross-regional surveys of experience on privatisation, monetary and fiscal reform, and trade liberalisation clearly suggest that third world countries should liberate their market *slowly and selectively* to create economic space for the national development objectives and to equitably share the adjustment burdens of restructuring.<sup>25</sup>

The right to development exists in international law with a valuable and desirable *raison d'être*. There are numerous international expressions of interest in third world development, which warrants specific measures for achievement. The international community and its forum, the UN, have failed to achieve third world development both by what they have done and what they have failed to do. Most promises so far are merely lip services that often fall short of appropriate resource allocation and programs of action. Under these circumstances, third world countries must concentrate on development within their own available means and resources. Internationally, they must pursue relentlessly their fundamental economic interests and issues in the UN. In this venture, they are likely to be left with a stark choice. They should either combine their resources collectively to take the bull by the horns, or accept further expansion of international economic policies skewed against their development. Should these economic policies, once engineered to combat the 'beggar thy neighbour' policy of the inter-war period, continue unabated, they are fraught with the danger of making beggar the entire third world.

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# DEVELOPMENT-FREEDOM-EMPOWERMENT : IN THE CONTEXT OF POVERTY AND DEPRIVATION IN BANGLADESH

Abul Barkat \*

## 1. Introduction

The subject of this paper is complex, but my purpose is straightforward: Argue **empowerment** as a necessary precondition for development, whereby 'development' is a freedom-mediated phenomenon. Arguments in all possible cases – are substantiated either by empirical evidences or by logical inferences. The theoretical framework has been heavily drawn from two works: Amartya Sen's most recent elegant work "Development as Freedom" and Dr. Mahbub ul Haq's brilliant work "Reflections on Human Development". This paper, while arguing that development is freedom-mediated which must be able to create the basis for accelerated empowerment, clearly assumes the current deplorable status of the distressed and deprived persons in our societies. These distressed and deprived persons can be featured as: person without a face; a subjugated identity; a lost identity; a redundancy; an appendage; a person born to eat last and least; a person born to live on left overs; a person born to be uneducated; a person first to be fired and last to be hired; a person to be born and brought-up in an adverse environment Or, in other words, a person who is "**less than equal**". I think that a real attitudinal change is needed; traditionally fixed mind set needs to be changed; whole 'ethics' needs to be revisited – to create an enabling environment for empowerment<sup>1</sup>. This paper attempts to extend these views and put those in a framework, which would be beneficial to all of us participating in this Human Rights Summer School and involved in Community Law Reforms, and those who focus development as a freedom-mediated process of empowerment.

## 2. Development – a freedom-mediated process of empowerment

To me, **development** is equivalent to ensuring opportunities for a full life to people, especially to poor, women, and deprived. Development is a process of expanding the real freedoms that people enjoy (Amartya Sen 1999). Thus, 'development' inherently assumes "integration" and beyond just "wealth"; requires removal of all sources of un-freedom; necessitate pro-active participation (not tokenism) of un-empowered in the process of substantive empowerment.

Focusing on human freedom contrasts with narrower views of development, such as identifying development with the growth of gross national product, or with the rise in personal incomes, or with industrialization, or with technological advance, or with social modernization. Growth of GNP or of individual incomes can, of course, be very important as *means* to expanding the freedoms enjoyed by the members of the society. But freedoms depend also on other determinants, such as social and

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economic arrangements (for example, facilities for education and health care) as well as political and civil rights (for example, the liberty to participate in public discussion and scrutiny). Similarly, industrialization or technological progress or social modernization can substantially contribute to expanding human freedom, but freedom depends on other influences as well. If freedom is what development advances, then there is a major argument for concentrating on that overarching objective, rather than on some particular means, or some specially chosen list of instruments. Viewing development in terms of expanding substantive freedoms directs attention to the ends that make development important, rather than merely to some of the means that, *inter alia*, play a prominent part in the process (Sen 1999).

Thus, true development is freedom-mediated, which requires the removal of major sources of unfreedom: poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over activity of repressive states. Despite unprecedented increases in overall opulence, the contemporary world denies elementary freedoms to vast number – perhaps even the majority – of people. Sometimes the lack of substantive freedoms relates directly to economic poverty, which robs people of the freedom to satisfy hunger, or to achieve sufficient nutrition, or to obtain remedies for treatable illness, or the opportunity to be adequately clothed or sheltered, or to enjoy clean water or sanitary facilities. In other cases, the unfreedom links closely to the lack of public facilities and social care, such as the absence of epidemiological programs, or of organized arrangements for health care or educational facilities, or of effective institutions for the maintenance of local peace and order.

Actually, what people can positively achieve is influenced by economic opportunities, political liberties, social powers, and the enabling conditions of good health, basic education, and the encouragement and nourishment of initiatives. The institutional arrangements for these opportunities are also influenced by the exercise of people's freedoms, through the liberty to participate in social choice and in the making of public decisions that accelerate the progress of these opportunities. Realization of these interconnections is important to put 'people' and 'distressed' and 'deprived' in the centre of development.

Basically, there are five distinct types of freedom. These include (1) **political freedoms**, (2) **economic facilities**, (3) **social opportunities**, (4) **transparency guarantees**, and (5) **protective security**. Each of these distinct types of rights and opportunities helps to advance the general capability of a person. They may also serve to complement each other. All these five types of freedom are linked with one another, and in-integrity produces synergy. Political freedoms – in the form of free speech and elections – help to promote economic security. Social opportunities – in the form of education and health facilities – facilitate economic participation. Economic facilities – in the form of opportunities for participation in trade and production – can help to generate personal abundance as well as public resources for social facilities. Ensuring free play of all these five types of freedom, in a most visible way, must be viewed as a natural precondition for empowerment.

From empowerment perspective, the challenge of true human development includes both the elimination of persistence and endemic deprivation and the prevention of severe destitution, which



emanate from **lack of substantive freedom**. Here, as stated above, freedom implies all five broad types of instrumental freedoms. Political freedoms refer to the opportunities for the people to determine governing bodies and principles of governance, to criticize authorities, to have the right to penalize for undemocratic governance, to have freedom of expression and an uncensored press. The intensity of economic needs adds to - rather than subtracts from - the urgency of political freedom (Amartya Sen 1999). The second form of freedom — economic facilities refer to the opportunities that individuals enjoy to utilize economic resources for the purpose of production, or exchange, or consumption. The economic entitlements that a person has will depend on the ownership of resources (land and other assets) as well as on the conditions of exchange. The third form of freedom — social opportunities are the arrangements that society makes for education, health and so on, which accelerate the capability of individual's substantive freedom to live better. Political and economic oppressions substantially reduce the positive effect of social opportunities on individuals or on certain groups of people who are oppressed. The fourth form of freedom — transparency guarantees are related to the openness, i.e., the freedom to deal with one another under guarantees of disclosure and lucidity. Transparency guarantees are based on trust, violation of which adversely affects people's lives. Unfounded enactments, rules and regulations, contradictory official memos, keeping people uninformed about their rights, among others, are some of the good examples of lack of transparency guarantees which pave the way for oppressing people, promoting corruption, underhand dealings, mis-governance, and perpetuation of endemic deprivation. The fifth form of freedom — protective securities are important so long there are people who are vulnerable, fragile and deprived as a result of material changes that adversely affect their lives. The need for protective security can emerge as a consequence of economic structure itself and/or as a consequence of alienation from political and other freedoms. Ensuring protective securities implies the need for strong institutional arrangements. All these freedoms reflect distinct types of rights and opportunities which help to advance the general capability of a person, or a community characterized by some common identity (class, gender, culture, ethnicity, geographic location etc). Denial of these freedoms produces and reproduces serious imbalances in terms of social, economic, cultural, demographic, political and psychological life in our society.

### **3. Bangladesh economy and politics: setting the stage**

Bangladesh's development is a mosaic of some achievements but many disappointments. Certain reduction in population growth and fertility rates, rise in literacy levels, gender parity in school enrollment rates – all represent important gains. Bangladesh has continuously strengthened its disaster management capabilities. This enhanced capability, as well as the resilience of its long suffering people, was in ample evidence during the country's resolute and effective people's response in 1998 to one of the century's worst floods.

The Government has made use of Bangladesh's sizeable and globally respected NGO community to bring opportunities, services and social awareness to its poor millions. NGOs have introduced such renowned innovations as micro-credit and much acclaimed non-formal model of school education and promoted social mobilization. NGOs role and contribution to grassroots empowerment is



acknowledged by practitioners.

Nevertheless, many daunting development challenges remain. First, despite some gains, massive poverty persists, particularly in the rural areas and urban slums; and the basis for un-empowerment – inequality has broadened and increased. GDP growth rates averaging 5 percent per annum appear to be well below Bangladesh's potential. Second, confrontational politics weakens the political will and social stamina needed to challenge the self-serving elite, bureaucracy, military, labor unions and corrupt business forces that block the potentials of progress critical for accelerating and broadening development. Third, poor governance, weak institutions and public resources, sector performance inhibit development and reduce the access of the poor to public services and benefits. Fourth, foreign aid has been less effective than it could be, reducing its impact on growth and poverty reduction<sup>2</sup>.

Economic progress is slow. Bangladesh, with a GNP per capita of only \$390, remains one of the world poorest countries, 145th out of 175 in UNDP's Human Development Index. Growth with inequity certainly aggravates the poverty situation. Assuming that 4 percent growth followed the pattern of current income distribution, the extreme poor would have to wait 23 years or more to rise above the poverty line. Only growth of at least 8 percent can drive Bangladesh forward with any sustained momentum, which is difficult to achieve. Moreso, the question of equitable distribution remains. Thus, economically speaking, the country seems to be caught in a low-growth and low-income trap.

This low-growth and low-income trap is attributable, among others, to the legacy of anti-poor political economy and crisis in governance. This nature of crisis in governance should be assessed from three inextricably linked dimensions of humane governance: economic, political, and civic. Economic governance consists of absolute and relative spending on social priority sectors reflected through extent of priority assigned to public goods, extent of compliance of allocation with the national needs, and equity considerations. Political governance includes the factors associated with the use of institutions by the government to govern, among which the major ones are accountability and transparency, and compliance with rules and regulations. The essence of civic governance is the right and responsibility of the governed quarters to participate in and promote good governance. So far the economy is concerned the crisis is evident in the following, among others:

1. Criminalization of economy and politics.
2. Huge drain of national resources due to inefficient public sector
3. Non-accountable banking sector (unpaid loans of Tk.200 billion).
4. Low investment - both public and private (including FDI).
5. Low priority assigned to human development expenditure, and high priority to unproductive sectors.
6. Liquidity crisis due to high government borrowing.
7. Inefficient financial institutions.

The garment industry, one of Bangladesh's most striking successes, has succeeded largely by bypassing the banking system, getting most of its working capital from family contacts or from



companies overseas via back-to-back letters of credit. But industry as a whole appears to have stalled – the current growth in manufacturing will be little more than 3 percent. WTO's impact on this sector, after withdrawal of quota, according to the experts, will be negative. This sector is already experiencing a sharp downfall due to the recent event of international terrorism and rapid market changes in the developed economies. These imply a possibility of life threatening situation for millions of female workers in the garments, and consequent sharp decline in export earnings.

Some of the weaknesses of local investment could be compensated for by foreign capital. But neither foreign portfolio nor investment has made much impression. Foreign investors have moved funds into the Dhaka Stock Exchange but they have also moved them out again – in 1995-96 there was a \$23 million net outflow. And foreign direct investment has proved no more positive in the same year it was only around \$5 million. The most consistent flow of foreign investment has gone into the country's two export processing zones in Dhaka and Chittagong, which between 1983 and 1999 had accumulated investment of \$300 million and given employment to 55,000 people.

Foreign investors, like national ones, are frequently discouraged by political instability and particularly by a seemingly endless sequence of hartals (national strikes). A survey of US-based businesses, for example, placed hartals at the top of the list of problems, followed by electricity supplies and corruption – along with the familiar problems in the financial sector. They together with local enterprises, are also nervous of a legal system that offers scant protection for property rights or enforcement of contracts.

Even if foreign companies do step up investment in industry, this is unlikely to fulfill the country's growth needs, especially for the attack on poverty. Agriculture will remain the backbone of the economy, with around 30% of GDP. But average growth here, even with diversification, is unlikely to be much more than 3 percent per year, so non-farm rural or semi-urban activities in manufacturing and services will have to expand at two or three times that rate to make up the difference. But finance remains difficult. While NGOs are skilled at offering micro-credit to poor households, and banks are willing to finance larger enterprises, small business in the middle have to fall back on their own savings or sometimes remittances from Bangladeshi workers overseas.

Bangladesh has taken many important steps, officially, to reform its economy. But it still has long way to go to build a vigorous domestic economy that offers people the prospect of working their way out of poverty.

Bangladesh is struggling hard to restore democracy and institute larger norms. Successive elections have been conducted under Interim Governments, and parliament is broadcast live on TV and radio. But while the flesh of democracy is vigorous, the spirit is still weak. Bangladesh remains a highly centralized and bureaucratic state. At the top, political debate often reverts quickly into party confrontations – divisions that are mirrored in many other institutions, and can too easily spill over into violence on the streets. While at the bottom, millions of people are marginalized by their poverty from genuine participation in national life.

Part of the problem can be explained through the long period of autocratic rule that enshrined a strong



executive that still tends to sideline Parliament. There has been some developments in this front, which include non-chairing of Parliamentary committees by Ministers; plans to strengthen the Election Commission, by enacting new codes of conduct, changing electoral laws and raising the voters' awareness of their rights and duties; and the establishment of Human Rights Commission etc.

The legacy of autocratic government has also steadily concentrated power in Dhaka, reducing officials at the district and thana levels to functionaries carrying out centrally ordained directives. There has been proposal to institute local government at four levels: Gram (village), Union, Upazila (sub-district), and District. There will, however, only be direct elections to the top three tiers – the Gram Parishad would consist of nominations from local groups and be chaired by the person elected as member of the Union Parishad. But many vexed issues remain to be worked out – particularly around local taxation – and there may be a risk of overcrowding the administration. Care will also need to be taken to avoid political discrimination: although such elections would not officially take place along party political lines, affiliations will be known and central government may be tempted to discriminate against local bodies controlled by opposition parties.

The current democratic vacuum at various levels of government has been filled with layers of officialdom. Since independence, the Civil Service in Bangladesh has been growing at an average rate of 3.6% per year – considerably faster than the overall population. Currently, there are over one million civil servants in 35 ministries and 221 departments and directorates. These include many knowledgeable public servants, nevertheless the system as a whole is persistently unresponsive and unaccountable. Few people have high expectations in their contact with government servants – indeed they are pleasantly surprised if they receive the service to which they are entitled.

In these circumstances those who suffer most are the perennially distressed and deprived poor and illiterate – especially women who find themselves dealing primarily with male officials. But even the largest enterprises have trouble dealing with officialdom and a dense thicket of regulations. One survey of exporters, for example, found that most of them had to employ someone full time to deal with government officials and that dealing with export and import delays cost them of average 8 percent of their sales revenue.

The deficiencies in democratic accountability and public administration have left huge gaps, many of which have been filled by NGOs. Bangladesh has some of the most innovative and enterprising NGOs in the world. The country now has upwards of 1,000 foreign-funded NGOs of all shapes and sizes spending about \$400 millions per year. Originally they got most of their funds from charities. But in recent years they have also been funded by official aid donors who see NGOs as an effective and relative way of reaching the poor and use them as a channel for more than 10% of the country's official development assistance.

While NGOs in the past have concentrated on service delivery, many more are now engaged in social mobilization and advocacy. Many have been serving as a bridge between local communities and government.

Bangladesh is a long way from fully integrated system of governance. Democracy occurs sporadically. Voter turnout at elections is high: about 70 percent in the 2001 parliamentary election, and often



higher in Union Parishad election. But, after that, possibilities for participation remain limited—particularly for women and the poor.

Finally, the issue of crisis in governance which reproduces disempowerment is a reality beyond doubt. The public sector's allocative priorities show a clear bias towards the non-poor. In the context of governance, this bias points to the skewed balance of political power in favour of the more affluent segments of the population. The skewed balance of political power in favour of the affluent (and against the poor) is clearly evident from policy level non-compliance with human welfare-orientation depicted in the pattern of public sector spending. Increasing military expenditure reduces the speed of poverty reduction and social-welfare activities. This is because, arms spending undermines human security, eating up precious resources that could have been otherwise used for human development. The lack of humane governance here is simply evident from the fact that, during the 1985-1999, the military expenditure in Bangladesh increased by about 70 percent -- from US \$ 341 million in 1985 to US \$ 580 million in 1999, whereas during the same period, the NATO military expenditure fell by 25 percent. The lack of sensibility toward any humane governance is evidenced in the pattern of scarce resource allocation where military expenditure comprises at least 40 percent of the combined expenditure in public health and education. The real expenditure must be much higher than this official figure (Islam and Barkat, 2001). Bangladesh has bought 8 Mig-29 fighter aircrafts at a cost of US \$ 150 million. The lack of humane governance is evident from the above purchase of 8 Mig-29 fighter aircrafts at a cost (US \$ 150 million) that could have been otherwise used for the total eradication of TB and leprosy from Bangladesh, or that could have been used to drastically reduce the unacceptably high maternal mortality (from 4.33 to 2.0 per 1000LB), or that could have been used to reduce the infant mortality rate to 35 per 1000 LB from the current level of 67, or that could have been used to deploy at-least 30,000 primary school teachers for 20 years, among others.

#### **4. Empowering women: key developmental front**

Bangladesh as a patriarchal, patrilocal and patrimonial society has a lot to do with the position of women and their access to resources, employment and opportunities to improve their situation. There is an interesting paradox regarding gender relations in the country. There is a unclear understanding of empowerment of women as a process of awareness and capacity building leading to greater participation in decision making and control over her own life, although women as mothers are held in high respect at the individual level.

In terms of ownership of lands and assets, men at all levels of society are better off than women. It is estimated that significant majority of the people living in absolute poverty are women, and women-headed households are among the poorest in the country. Although theoretically, the implications of poverty are same for both sexes, women are more vulnerable due to social norms and customs prevailing in the society, which tend to degrade their position from early childhood.

Disempowerment emanated from non-entitlement is evident in the fact that women of Bangladesh suffer from the vicious cycle of malnutrition. They eat last and least. Because of food deprivation malnutrition starts from infancy through childhood and continue up to later years. Poverty is not the only cause. Social prejudice and food deprivation leads to maternal and child mortality at high rate.



Her ill health implies the ill health of the future generation. Early marriage leads to early pregnancy. Almost all low-income pregnant women in Bangladesh weigh less than 50Kg. This condition leads to miscarriage, high morbidity and shorten women's life.

Women's (poor) health in Bangladesh is a major area of neglect. Illness and deaths from complications of pregnancy, childbirth, unsafe abortion, from reproductive tract infection and from improper use of contraceptive methods top the list of health threats to women. The health of both a pregnant woman and her fetus, for example can be severely compromised by reproductive tract infections. On the other hand, women may contract such infections or as the result of poor handling of childbirth or abortion procedures. Poor women are ill prepared for childbearing, an activity in which they will almost certainly engage repeatedly. And from one pregnancy to other they may never receive medical care. Lack of access to timely and effective basic maternal health care is a critical empowerment issue for women of Bangladesh, and contributes considerably to maternal mortality and morbidity. Every year about 30,000 women die in Bangladesh due to pregnancy related complications.

Son preference in Bangladesh is widespread. Women in Bangladesh are still pressured to give birth to a son. If they do not they have to go through several pregnancies in order to try to produce one, draining their bodies of nutrition and strength. In rural Bangladesh, a majority of people is ignorant of the fact that it is the male genes, which determine the sex of the child, and if a young woman cannot produce a son, various forms of punishment await for her. She is either ill-treated, divorced or finds herself sharing kitchen with a co-wife. If the young women cannot give birth to a child she is one to be blamed without any medical investigation of the husband.

Women in the rural areas carry heavy workload in the agricultural sector. Rural women participate in farming crops, horticulture, live-stock husbandry, paddy boiling, husking and drying, rearing cows, goats, chickens, ducks, fishing and carrying water, milking, collecting eggs. Unfortunately because of patriarchal society women's workload is not counted as agriculture work. They are not included in the decision making about the allocation of material and economic resources. Though they are overburdened by household work the prevailing cultural norm of domestic work is not ascribed as work at all. There is no reliable and comprehensive information about women's economic activity. These are very basic indicators showing status of disempowerment.

The major factor leading to non-valuation of women's domestic work is women are treated as inferior to men from the socio-economic, cultural and religious context. The patriarchal society regards household work as natural female work. Rural women work 10-14 hours a day in various economic activities. At present women's participation in the agricultural labor force is 54.4%. Yet this is not recognized.

The female adolescent is engaged in nursing of the elderly young members of the house. The caring labor is also non-valued. But when they fell sick they are most neglected and remain un-cared. This is amply evident in the sickness reporting statistics by gender.

In Bangladesh, a large number of women are participating in wage labor migrating from rural area. Most of them live in city slum areas and work in the garment industry. Most of the garment is in Dhaka. Nearly 1.5 million women work in the garment sector. 80% of the total garment workers are female, of whom 50% are adolescent girls. Studies on the situation of garment workers revealed low energy and nutrient intake by the working girls. They work for 12 hours on average.



According to the UNFPA State of the Women Population Report, 47 percent of the women in Bangladesh testify to having been physically assaulted by a male partner. Such result and the fact that Bangladesh would rank second in a list of twelve countries with a high rate of violence against women caused quite a stir in the media.

Dowry is a major cause of violence. Dowry remains at the core of marriage negotiations and a frequent bone of contention. Here the choice of a wife is being determined by the husband's need for money. Violence is often associated with the failure to pay a promised dowry. A recent study revealed "rank ordering of different types of VAW: verbal abuse is the most prevalent and alarming one. The second most widely occurring type of VAW is battering while the third position goes to dowry related violence; marital rape is also quite noticeable" (Barkat et. al 1999).

##### **5. Dimensions of poverty and human deprivation: areas of empowerment**

There is no way to ensure development without addressing the issue of empowerment of the poor. This is because poverty is much more than a lack of income. Deprivation is more than just lack of physical necessities, assets, and income. Other dimensions of deprivation are physical weakness, isolation, vulnerability and powerlessness. Poverty is not only a state of deprivation, it is also a process of vulnerability. The vulnerabilities in our context are routine rather than exceptional in nature and serve to constrain opportunity frontiers, impair social identities or impose tangible economic losses. Most frequently, routine vulnerability generates a critical problem of income erosion, which may overshadow efforts at income generation (Barkat and Ahmed 2000).

Around 65 million (out of 130) Bangladeshis live in absolute poverty, and they are amongst the world's poorest. Poverty eradication should be the paramount thrust within the overall goal of promoting sustainable human development in Bangladesh. Here it would be very important to internalize that human development is essentially a freedom-mediated process, whereby freedom as a condition for development includes political freedom, economic facilities, social opportunities, transparency guarantees, and protective security (explained in section 2).

The concentrated expression of all five types of freedom is the urgent need for poverty alleviation. This point was powerfully made by half a million of Bangladesh's poor when they assembled outside Parliament on 1 January 1996: "Poverty alleviation should be the primary objective of all irrespective of rich or poor, Government or NGOs, class or profession and ruling party or opposition party". Thus, in order to ensure true "humane development" poverty eradication (not alleviation) has got no alternative, and this implies the need to institutionalize the processes and mechanisms of empowering people.

Informal economy is the home for functioning of a vast majority of Bangladesh's population. These people have very limited access to jobs created by growth. Their poverty is deep-rooted, pervasive and multi-faceted, relating not just to the absence of reliable incomes and productive assets, but also to feed, safe water, education, shelter, injustice, lack of power and to continuing daily vulnerability to disaster and disease – again implying the five dimensions of development as freedom-mediated process of empowerment.

With 900 people per km<sup>2</sup> and a population size of around 130 million (in 2000), Bangladesh is the most densely populated country (except some non-city state) in the world. Over the last two decades



Bangladesh's average per capita income has grown by almost 2 percent a year. Average per capita income remains very low at around US\$390 in 2000. It is estimated that about 50 percent of the population (around 65 million people) regularly consume less than 2,122 kilo calories per day, while around half of these are considered to be in extreme poverty consuming less than the equivalent of 1,805 kilo calories per day. It is worthwhile to note that, Bangladesh has the highest incidence of poverty in South Asia and third highest number of poor in the World after China and India. These deprived people in Bangladesh are amongst the world's poorest by any standard of development.

Since the values for human development are consistently and significantly low, the human deprivation profile in Bangladesh is bound to be prominent. According to our estimates shown in the Table below the absolute number of population "deprived" from access to 'humane' living is extremely huge. The vast absolute extent of some of the key 'deprivation' measures in our context (with 130 million population) is as follows:

- 65 million people (with 54 million in rural area) are in the below poverty line;
- 90 million people do not have access to adequate sanitation;
- 72 million people do not have access to primary health care services;
- 56 million adults are illiterate;
- 20 million children are not enrolled in primary and secondary school;
- 12 million children under 5 years of age are malnourished;
- 3 million births (each year) are not attended by trained personnel;
- 2 million infants are low birth weights;
- 1.6 million children die before reaching 5 years of age; and
- 1.7 million children (12-23 months) are not fully immunized.

The above facts are sufficient enough to indicate that millions in Bangladesh lack the most basic requirements of dignified life – food, education, health care, adequate sanitation, and a safe environment. These indicate that the predominant majority of our people is increasingly denied to the opportunities for full-life. Even worse, as would be evident later in this section that the human deprivation trend is on the rise. Thus, the humane development challenge of Bangladesh in the 21st century is formidable.

In addition, we are experiencing a spatial shift in the incidence of poverty, with the migration of poor people from rural to urban areas. People with reliable sources of income in rural areas are less likely to migrate. The most recently published official data show that, while there has been slight reduction in the percentage of poor people over the last decade, absolute numbers in both rural and urban areas have grown since the last Household Expenditure Survey (HES) in 1988-89. Also, taking a longer historical perspective, the absolute numbers of both the poor and the extreme poor have risen significantly in the last century. The challenges posed by this mass poverty are enormous. The population continues to grow by about 2 percent a year and this is putting additional strain on a natural resource base that in many areas is already showing signs of breakdown. The magnitude of the challenges of human development indicated through the various dimensions of the extent of human deprivation is evident from the information contained in Table 2.



**Table 1: Human Deprivation Profile of Bangladesh: 2000 (Total population 130 million in 2000)**

Deprivation measures	People (in million)
People living below poverty:	
Both urban and rural	65
Rural	58
Children not in primary or secondary schools	
Both sex	20
Girls	14
Illiterate adults	56
Without access to primary health care services	72
Without access to adequate sanitation	90
Children dying before age 5	1.6
Malnourished children under age 5	12.2
Low birth weight infants (up to 1 year)	2.3
Annual births not attended by trained personnel	3.1
Children 12-23 months who are not fully immunized	1.7

*Source: Estimated by Abul Barkat based on most recent available data.*

Considering the national levels of life expectancy, education, and per capita income, the global HDI ranked Bangladesh 147 out of 175 countries in 1999. Bangladesh's HDI ranking since 1990, as reported in the global HDRs of UNDP, has dropped further down and remained always near the bottom. A similar picture is depicted in the World Bank's new system of measuring the "real wealth of nations," in which Bangladesh ranks 12 from the bottom among 192 countries. Bangladesh's 'wealth' endowment is only 3.6 percent of the global average and attributes 79 percent of the country's wealth to human resources, compared to a global average of 64 percent. This indicates the significance of the human factor in Bangladesh, particularly given the limited natural capital and scarce produced assets. These estimates correspond with the commonsense impression that Bangladesh continue to be a country with significant relative deprivation in terms of human development.

It may be concluded based on the above analysis that whatever achievements have been made in the past, poverty continues to be deep and pervasive. These aggregated analyses inevitably conceal considerable differences in the distribution of human development within Bangladesh. When account is taken of the unequal distribution of development, at least as it relates to income, education and longevity, Bangladesh's aggregate HDI would be reduced significantly. And, more importantly, such inequities are greatest for gender.

The distribution of ownership of assets and income distribution – both are highly skewed in Bangladesh. There is no evidence to suggest that the gaps between haves and have nots are decreasing. The opportunities to earn and control over assets are the main determinants contributing to income inequities. The most important asset in this context is land. Around two-thirds of the rural



poor are landless. Between 1988 and 1995, there was little change in the 2 percent proportion of land held by the bottom 40 percent, while the top 10 percent owned around 50 percent of the land (Barkat and Ahmed, 2000). In addition, a huge share of the government owned land and water-bodies known as *khas* land (amounting 3.3. million acres) is illegally occupied by the richer segment of the population (Barkat, Zaman, Raihan 2001).

'Market' is a predominating force determining the inequity in income and related gaps. Market distortions aggravated such gaps further. Widening gap between the poor and non-poor is indicated through the fact that employment has increased by 36 percent for the non-poor compared to 27 percent for the extreme poor and only 22 percent for the moderate poor. Among other gaps significant are: primary school enrollment rate rises with land ownership, access to safe drinking water facilities is positively related with land ownership, and access to sanitary toilets even more so; landless, functionally landless and marginal farmers suffer more from diseases and sickness. The extent of disease and sickness induced vulnerability is much higher among poor than among the non-poor. Disease and sickness-mediated deprivation not only perpetuates poverty, but also further aggravates the extent of impoverishment.

It is important to note here that seven health conditions termed as diseases of poverty (by WHO) – tuberculosis, malaria, maternal and perinatal conditions, childhood illness including measles, acute respiratory infections, diarrhoea, and STDs are responsible for two in three deaths among children and young adults in Bangladesh. The impact of these diseases on death and morbidity is disproportionately high for the poor compared to non-poor. The impact of the above diseases on poor occurs through the following channels (Barkat and Majid, 2001):

1. It creates consumption shocks which adversely affect the nutrition status of children and women.
2. It deteriorates the capability of the income-poor, directly.
3. It forces the poor to pay for health services (even to the public sector)

**Essence and implications of poverty-mediated disease and  
disease-mediated poverty:**

"A rickshaw driver in Khulna, Bangladesh may well know that the lives in a place where the risk of tuberculosis is high. But his poverty deprives him of the choice to live somewhere else. When he gets infected, he cannot compete so well for work. His income goes down. This sends the family into a spiral of debt and increasing poverty. His children – particularly the girls – may be kept from school. The family may have to cut out fish from their meals most days. Their malnutrition increases vulnerability, risk of illness – and death.

"Being too poor to go to an ordinary bank, the family has to borrow from loan sharks who charge crippling interest, in order to pay for, medicines. With such costs, our rickshaw driver understandably chooses to cut the treatment as soon as he feels better. It is likely that the infection will return, the next time may be resistant to the normal drugs used for treatment. The health of others, who live nearby, is in real danger."

Dr. Gro Harlem Brundtland  
Director General, WHO



Table 2 : Human deprivation in Bangladesh: Selected indicators of population, economy, education, access to health, child health, women's health, structure of dwelling household, and gap with North.

Indicators	Value	Indicators	Value
<u>Human Development/Deprivation Index</u>		<u>Child Health</u>	
Human development index rank (out of 175 countries)	147	% 12-23 mo's children fully immunized (1996)	46.9
HDI value '99	0.371	% 12-23 mo's children taken measles (1996)	78.0
Gender related Dev. index rank	140	Prevalence of diarrhea (<3yrs old in the last 2 weeks) (1997)	13.0
Gender empowerment measure rank	80	#under 5 deaths from diarrhea (1996)	110.000
Public expenditure on health (% GDP) '98	1.4	ORT use rate(+HH Solution) (1998)	96.0
Public expenditure on education (% GNP) '95	2.3	% of children >3 yrs) with ARI (during last 2 weeks) (1996)	24.0
<u>Population</u>		Low birth weight infants (%) (1996)	50.0
Population size (mid'99, million)	125.7	Under weight children (% <5 yrs. who are under weight) (1997)	56.0
Population density: person/km <sup>2</sup> (1999)	873	Stunting-moderate & severe (% children <5 yrs) (1997)	55.0
Total fertility Rate (1997)	3.03	Vit A prevalence of children (1997)	59.0
Life expectancy at birth	60.1	Infant mortality rate (1997)	66.0
<u>Economy</u>		U-5 mortality rate (1997)	112.0
Per-capita annual income: Urban (in \$) (2000)	390	<u>Women's Health</u>	
Poverty level: Hard core poor (1998)	25.0	% Pregnant women receiving antenatal checkup (1996)	23.2
\$1 a day (%) (1998)	30.0	Birth attended by trained health personnel	14.0
Human Poverty Index (1995)	47.0	Teenage (15-19 yrs). fertility (1999)	147
Child labor as % of total civilian labor force (1995)	11.7	Contraceptive Prevalence Rate (1997)	49.2
<u>Education</u>		% married women of reproductive age who knew about 3 signs/ symptoms of HIV/AIDS/STD	33.1
Literacy rate (7 yrs+) (1997)	47.0	% married women who know about at least one means to prevent HIV/AIDS/STD	41.9
Adult literacy rate (15 yrs+) (1995)	49.0	<u>Structure of dwelling HH(%) (1997)</u>	
Female adult literacy	26.1	Jhupri/Tong/Chhai	30.2
Primary school gross enrolment ratio (1997)	82.0	Tinshed	58.7
Secondary school gross enrolment ratio (1997)	28.0	Semi-pucca and for pucca	11.1
<u>Access to Health</u>		<u>Gap with North (North=100)</u>	
Access to health facilities (1995)	45.0	Life expentancy '95	77
Access to safe drinking water (1997)	97.3	Adult literacy '95	39
Access to adequate sanitation (1997)	30.5	U-5 mortality '96	14
% HH use iodized salt (1998)	78.0		

Sources: Barkat A and S Akhter (2000), BDHS, HES-BBS, SYB-BBS, GOB (1999), WB, UNICEF, SPB-BBS, INFS, UNFPA, UNDP



In every aspect of human well being, women in Bangladesh are significantly worse off than men. The female-headed households are generally much more deprived and destitute than the others. The prevalence of extreme poverty is far higher amongst female-headed households whose total population may exceed 5 million. Over 95 percent of these female-headed households fall below the poverty line, of which a third are amongst the hard core poor. Their incomes on average are about 50 percent less than male-headed households even amongst the extreme poor.

For centuries, predominant socio-cultural norms and perceptions in this region have disadvantaged women. Eating last and least is an all-too-common example. As many as one-third of the major illnesses of rural women of reproductive ages are due to child birth problems. UNICEF data show that more boys are treated at health centres, while self-treatment is more prevalent among girls; that girl babies are breast fed for shorter period and that the incidence of malnutrition is higher among girls.

The adult literacy rate for the females is 76 percent of that for the males. The mean years of formal education for females averages about 30 percent less than males. Wages are lower for women even for the same work. In the manufacturing, female wage is 50% less than that of male (UN, The world's women 2000). Women face discrimination in inheritance, child custody and marriage. Violence against women continues at high levels and that laws to protect women are not enforced.

Increasing 'slumization' is a glaring example of mass impoverisation in the urban areas. Medium term projection shows that urban population will share for 38 percent of total population and will exceed 85 million in 2020, which is almost equivalent to the 1981 population of the whole country (Barkat A 2000).

The urban centres in Bangladesh have significantly increased over the past two decades. The main reason for the rapid growth of population in the cities is the heavy inflow of migrants from rural areas. The vast majority of these migrants are extremely poor. Because of the interaction of rural push and urban pull factors, cities are being flooded with people looking for a job. Most of these people moving into the cities have no other places but only the slums and squatter settlements to reside. In fact, the slums and squatters are growing at an alarming rate. The estimated total number of slums and squatter settlements (cluster) in the four metropolitan cities in Bangladesh is 3431 with about 88 percent in the Dhaka city alone.

Increasing landlessness, under-employment in the rural areas and the increasing job prospect in the urban areas as perceived by the rural people are the main factors to cause ceaseless migration of the rural poor to the urban informal sector and growth of slum population as well as inflationary raise in urban population. Besides, various natural disasters also influenced to this migration.

With the expansion of the urban centers and increase in the urban population, the number of slums and slum dwellers are also rapidly increasing. In the city area, migrated poor people preferred slum areas for their initial colony due to income scarcity and poverty of opportunity (POPI). In Dhaka city alone, there are 3007 slums and squatters. The Dhaka population in 2010 will be about 17.6 million, up from the current about 10 million. This projected Dhaka population is almost equivalent to the current population size of the world's second largest urban agglomeration - Sao Paulo of Brazil. According to some projections on urbanization, about 50 percent of the total urban population will be struggling for survival in the low income settlements-referred to as slums and shanty-towns. The nature of urbanization is such that at least 50 percent of this Dhaka urban population will be living



in the slums and squatters. The size of these population being so large and the rate of growth of slums and squatters being so high have important economic, social, political, demographic and public health implications.

The slum dwellers are largely the distressed migrants from the rural areas and, more importantly, most of them live below the poverty line. The problem is aggravated by the fact that the development efforts of the government targeted to the slum population are highly inadequate -- in most cases they are 'served' less even than the rural population en masse. The slum dwellers do not have sufficient access to the education, employment and health facilities of the formal sector. Consequently, the health and nutritional status of the urban poor is even worse than that of the rural poor. Fewer than 20 percent of school age children in Dhaka slums attend school. The infant mortality rate and maternal mortality rate in the slums are also quite high compared to the national rates. It might be mentioned here that in Bangladesh, about 300 thousand children under 5 die of diarrhea every year, out of which one-third die in city slums and squatter settlements. The overall infant mortality rate (IMR) in Bangladesh appears relatively more favorable for urban areas than for rural areas; however, once that is disaggregated, the urban slums not only reach the highest IMR in the country but also show important gender differentials (Barkat and Akhter 2000).

The high extent of human deprivation of the dwellers of slum and squatter settlements is clearly evident in all dimensions of life, namely life expectancy, economy, education, access to health, child health and women's health status. Although the lack of human opportunity is highly pronounced for most of the people in Bangladesh, the relevant values are unacceptably high in case of the slum and squatter population. In this connection, the scenario of urban slum as compared to the national situation is deplorable, and the gaps are significantly high and unacceptable in terms of the following indicators: population density, life expectancy at birth, level of poverty, prevalence of child labor, literacy, access to health facilities and sanitation, under 5 deaths due to diarrhea and prevalence of diarrhea, prevalence of acute respiratory infections, infant mortality rate, pregnant women's access to antenatal check-up, teenage fertility, and women's knowledge about STD/HIV/AIDS. The extent of gaps in all the human development indicators between the urban slums and the national data are indicative enough to conclude that life in the slums are full of misery, deprivation and destitution, by any standard, showing "poverty of opportunity" which is not the effect but the cause of poverty. Thus, the urbanization in Bangladesh, which essentially takes the form of slumization, which in turn showing an upward trend, is a clear evidence of growing urban impoverishment in Bangladesh. The above analysis implies that through so-called 'urbanization', if 'poverty of opportunity' continues, then the national level poverty will concentrate increasingly in the urban areas, especially in the urban slums and squatter settlements.

There is no denying the fact that the rapid growth of urban slums is adversely affecting the overall human developmental efforts. Even if the urban formal sector as well as the rural sector substantially develops, the overall rate of economic growth and human development may not appreciably increase and the incidence of poverty may not decline if the slum population continues to grow at the existing rate. Again, even increase in the growth rate and considerable human development will not ensure improvement in the social welfare function leaving a large segment of the population, called the slum-dwellers, in deplorable socio-economic conditions. Thereby the overall national human development will be at jeopardy and will fail to meet the genuine developmental aspirations. Apart from economic



there are also social implications of the rapid growth of slums and squatter settlements. Therefore, appropriate interventions are urgently needed to combat the growth of slums, integrate the slums with the modern sector, and improve upon the life and living of slum population through all-out efforts of transforming human deprivation into human development in the slums and squatter settlement. Thus, the increasing number of poor people and adverse poverty situation can be tackled only through vigorous implementation of rural poverty and urban poverty targeted massive interventions.

#### 6. Limits to poverty eradication and possibilities of empowering the poor

After having analysed the major dimensions of poverty and nature of human deprivation in Bangladesh, now it would be absolutely appropriate to delve in to the issue of "ways out of poverty through freedom-mediated environment process", which is the central theme of this paper. The use of word "Limit" in this section is consciously chosen implying that it is possible to eradicate poverty and empowering the poor, but that is condition bound. Therefore, I hold a mix view about the possibilities and non-possibilities, based on the nature of the boundaries set i.e., the conditions. I think the following would be important in conveying my views on the subject.

1. I am optimist, but sceptic about the possibilities of significant improvement in the poverty and deprivation situation in Bangladesh; for many reasons, the foremost ones are:

- Human Development is a freedom-mediated process, which is essentially an issue of structure; and pro-elite government's possible role within this structure will be subordinate to vested interest biased towards rich and mighty.

Poverty – both absolute and relative – is structural. Under the present structure "nursing poverty" by certain class under certain social-economic-political structure is not accidental, rather a rule of the structural-game – an inherent outcome of the structure itself. So, what we can at best do is – we can talk about poverty, we can put our sincere efforts to alleviate some dimensions of poverty and it is possible to make some dent.

- The limit is due to the fact that governance is the monopoly of the minority - rich, who have full control and command over resources; where the significant distance between the promises (in terms of pro-poor policies declared in the Five Year Plans) and realities is obvious; where due to the operation of the process of adverse inclusion the poor themselves are caught into the trap of extensive rent-seeking behaviour; where reliance on market under a free market economy is obvious which itself is never poor-friendly. All these imply that the limit to poverty eradication (absolute poverty) and poor people's empowerment are attributable to the structure itself.

2. Although the boundary for poverty eradication is set, I would strongly argue that whoever (individual person, political party, NGO, CBO) is with the poorest of the poor, is struggling for the development of the poor and closely with them, is ready to learn from the poor (get rid of professional ego and 'vanity') and to carry forward poor-people's agenda – would be able to accelerate the process of poverty alleviation, and thereby contribute to the process of human development in Bangladesh through empowering poor and ensuring five types of freedom.

3. I would very much like to avail this opportunity to stress that the change needed is essentially philosophical and practical. By philosophy, I mean the philosophy of "human development as



a freedom-mediated empowerment process"; and by practical, I mean the need for replacement of culture of dominance (of various types) by the culture of respect (to the poor).

Development, as I believe, is a process of expanding the real freedoms that people enjoy. Development requires the removal of major sources of un-freedom: poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over activity of repressive states. Therefore, by addressing these major sources of unfreedom we, in fact, accelerate process of human development.

4. Since we are in search of understanding "development – empowerment" interactions and interdependencies, I think it would be appropriate to delineate the essence of four major aspects of human development paradigm — equity, sustainability, productivity and empowerment as practical inputs in our efforts to transform human deprivation. These can also be viewed as principles to follow in our work with poor people.

- Equity is a powerful concept that lies at the heart of the human development paradigm. If development is to enlarge people's choices, people must enjoy equitable access to opportunities. Development without equity means a restriction of the choices of many individuals in a society.

Equity should be understood as equity in opportunities, not necessarily in results. Equity in access to political and economic opportunities must be regarded as a basic human right in a human development paradigm.

Equity in access to opportunities demands a fundamental restructuring of power. In our context, this might include (but not be limited to) the following:

- ◇ The distribution of productive assets may need to be changed, especially through land reform.
- ◇ The distribution of income may require a major restructuring through progressive fiscal policy, aimed at transferring income from the rich to the poor.
- ◇ Credit systems may need an overhaul so that poor people's potential enterprise is regarded as sound collateral and the allocation of bank credit is not guided only by the existing wealth of the affluent.
- ◇ Political opportunities may need to be equalized through voting rights reform, campaign finance reform, and other actions aimed at limiting the excessive political power of minority elites and plunderers.
- ◇ Social and legal barriers that limit the access of women, certain minorities or ethnic groups to some of the key economic and political opportunities need to be removed.
- The concept of sustainability is sometimes confused with the renewal of natural resources, which is just one aspect of sustainable development. It is the sustainability of human opportunities that must lie at the centre of our concerns.
- Sustainability does not mean sustaining present levels of poverty and human deprivation. Since the present is miserable and unacceptable to the majority, it must be changed before it is sustained. In other words, what must be sustained are worthwhile life opportunities, not human deprivation.



- An essential part of the human development paradigm is productivity, which requires investments in people and an enabling macroeconomic environment for them to achieve their maximum potential. In view of the increasing public sector investment in military and unproductive administration – invest in people should be redefined.

Some recent models of development are based primarily on human capital – but this unfortunately treats people only as a means of development. Productivity should be treated only as one part of the human development paradigm – with equal importance given to equity, sustainability and empowerment.

- In terms of the empowerment dimension, the human development paradigm is neither paternalistic nor based on charity or welfare concepts. Its focus is on development by the people, who must participate in the activities, events and processes that shape their lives.

The worst policy prescription for poor people is to place them on permanent charity. Such a strategy is neither consistent with human dignity nor sustainable over time. That is why the human development paradigm envisages full empowerment of the people.

Empowerment means that people are in a position to exercise choices of their own free will. It implies a political democracy in which people can influence decisions about their lives.

Empowerment presupposes decentralization of power so that real governance is brought to the doorstep of every person. It means that all members of civil society participate fully in making and implementing decisions.

The empowerment of people distinguishes the human development paradigm from other development concepts with which it is normally confused. As investment in people is required as a prelude to equal access to market opportunities, human development models are not basic needs models which require only the provision of basic social services, normally by the state. Moreover, the human development paradigm embraces all choices – particularly political, social and cultural – while the basic needs concept is generally limited to economic choices.

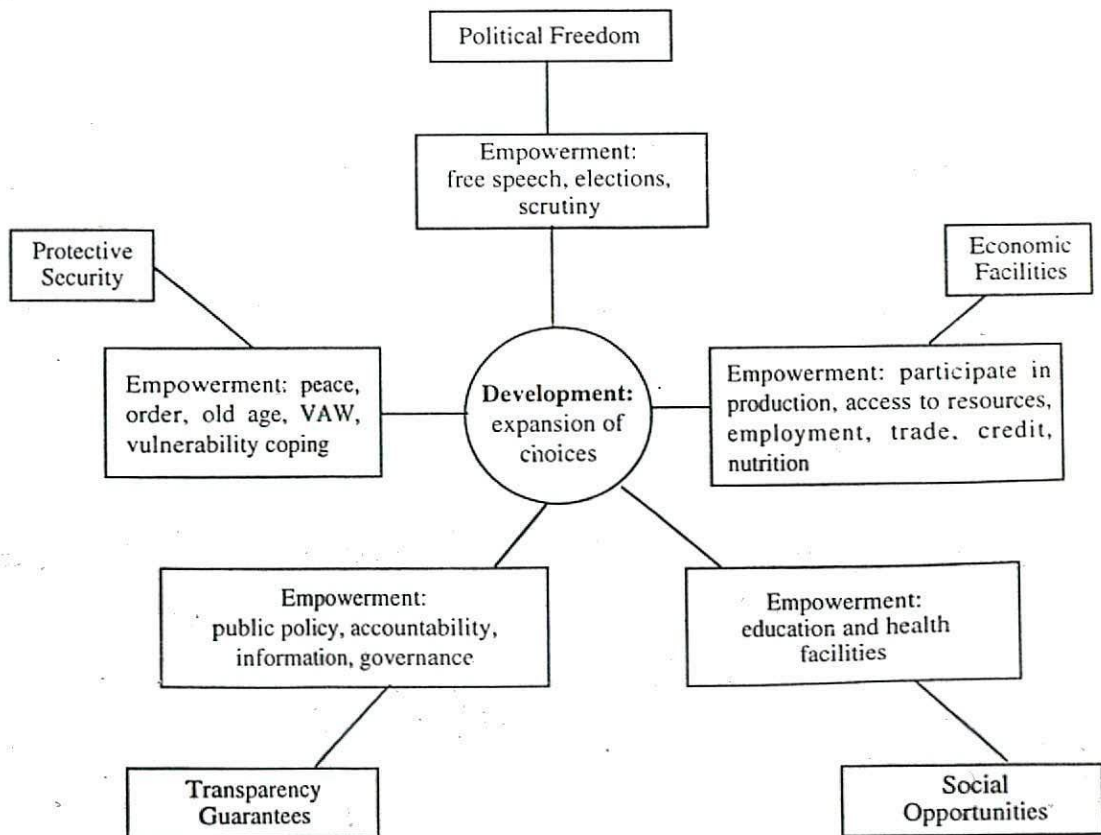
Finally, in terms of ensuring equality, equity and empowerment of women, exclusive concentration on just 'well-being' aspects is not enough to ensure development mediated through women's empowerment. Now it is time to broaden the so-called "welfarist" focus to incorporate – and emphasize – the active role of women's agency. To me, this is the spirit of both Cairo '94 and Beijing '95. The whole effort of bringing about women's empowerment should be targeted to transform women from 'less than equal' to at least "equal to one". And in our efforts to and designs of women development programmes, women should no more be seen as passive recipients of welfare-enhancing help, they should rather be seen as active agents of change – the dynamic promoters of social transformations that can alter the lives of both women and men.

Now let me come close to my concluding points. In Bangladesh, the extent of human deprivation with all its dimensions is not only huge, but also the trend in terms of absolute size is on the rise. The successes of past efforts officially directed towards alleviation of human deprivation are highly questionable. The efforts of the pro-poor NGOs (INGOs and



NNGOs) and private individuals are only encouraging in the sense of understanding and setting of some of the possible pathways for transforming human deprivation into human development. What we have learned from the deprived is – despite many vulnerabilities the poor people survive and they have their own coping strategy. Lack of access to financial, political, natural and information sources leaves most of these people at the margins of subsistence. It is obvious that a greater say in the decision-making processes would release poor people's talent and latent potentials for positive transformation. What the deprived people require is more opportunity, not welfare handouts.

Now, let me recapitulate the key message that "development" as a process of expanding choices should be mediated through real freedoms that people enjoy, in which poor people's empowerment has a central role to play. Thus, "development" should be freedom-mediated and empowerment-mediated. "Development" needs to be viewed as a process mediated through five distinct types of freedom -- political, economic, social, transparency, and protective security -- and all associated dimensions of empowerment (shown below):





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#### NOTES :

1. The discourse on empowerment is a complex one involving many dimensions of individual and social rights. Empowerment cannot be reduced to legal rights or economic bargaining power only, because it has personal and cultural dimensions.
2. A recent National Seminar of the Bangladesh Economic Association reported that 75% of the total aid (loan and grant) flow to the government, during the last 30 years, was misappropriated and misused (BEA, Dhaka: February 10, 2001).

# ACCESS TO SOCIAL JUSTICE

Prof. N. R. Madhava Menon\*

## Human Rights and Social Justice: Concept and Concerns

Universal endorsement of human rights as a dominant concern in governance is a major accomplishment of the twentieth century. The adoption of several international instruments on human rights and the obligations they put on State Parties found quick reflections on the Constitutions of the countries in the form of enforceable Bill of Rights. The Indian Constitution is a supreme example of this development. The ideals of the Freedom Movement also necessitated a qualitative change in the pattern of governance towards equality and social justice.

While civil and political rights received special treatment for effective enforcement through judicial intervention wherever necessary, social and economic rights for understandable reasons were left as Directive Principles for Governments to implement progressively through legislative and executive action. Fifty years are a sufficiently long period to take stock of the progress in implementation of socio-economic rights and to inform the people what they have by way of rights in terms of education, health, work and environment. Furthermore, It is important to remember that the world has acknowledged the inter-relatedness of the two sets of rights and the Indian Supreme Court did translate that principle into Indian human rights law through interpretation of Parts III and IV of the Constitution. However, that is at the level of Constitutional law and is in an inchoate form awaiting legislative articulation and governmental action. As such, the people are still ignorant of what they have in actual terms by way of socio-economic rights. This study attempts to explore the status and scope of these rights from the perspective of the citizens and the NGOs who seek to advance the realization of these rights.

There are still differences of opinion on the nature of socio-economic rights and the appropriateness of adjudicative-type processes as tools of implementation of these rights. The core elements and consequent obligations are not yet precisely defined as was done in the case of civil and political rights. The obligation in the Covenant is progressive realization which is not a concept easily amenable to adjudication, in that standards will vary according to circumstances. The Indian Constitution carries the expression that the Directives are "fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws" (Article 37). They are expressly stated to be non-enforceable by any court. This leaves the standards of compliance vague and nature of obligations ambiguous. Different governments have different approaches to resource allocation and management of their economics which would make It difficult to apply a common standard to study the extent of implementation. For example, does the right to work (Article 6 of the Covenant and Article 41 of the Constitution) oblige the Government to eliminate all

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unemployment? What is the acceptable level of unemployment? Is there a violation whenever unemployment is proved to exist? Is the individual's inability to obtain a remunerative job equivalent to the State's violation of his right to work?

The conceptual problems and consequent inability to evolve standards for assessing compliance have left social justice at the mercy of politicians and bureaucrats whose commitment to human rights is shallow to say the least. Under the Constitution human rights are a serious undertaking and cannot simply be an expression of good intentions. Therefore some writers are even inclined to deny the status of rights to health, education, work, etc. and treat them as benefits or entitlements under a welfare State. While the interventions of the Supreme Court have to some extent brought about clarity of obligations and standards of compliance in this regard, there are still difficulties to articulate the nature and scope of these rights which individuals can claim against the governments.

This study on the status of access to social justice therefore necessarily had to depend on stray judicial opinions occasional legislations and policy statements, General statements of Central and State Governments, Comments of the U. N. Committee on Economic, Social and Cultural Rights, the indicators and parameters evolved by U.N.D.P., ILO, WHO, UNICEF and similar agencies and the norms and standards set by the Planning Commission in respect of poverty eradication and empowerment of the under-privileged sections of society. The method employed to study the problem was essentially to look at the policies and programmes of the Central and State Governments in the social sector and to survey the benefits which accrued to the people under such developmental activities. The gulf between the promise and the performance in respect of education, health, work and environment is attempted to be brought out in order to determine the status of these rights after 50 years of democratic governance. Some insights into the directions of change and prospects for better implementation emerged as a result of the study. These findings are repeatedly discussed at a series of Conferences and Seminars in which NGOs and NGDOs as well as government representatives gave their critical reactions and comments. Structured in the jurisprudence of rights, these findings are presented for what they are in order to enable citizens and human rights activists to know what is available and from whom in the matter of education, health, work etc. The object is increased awareness, enhanced capacities and better access to minimum needs which constitute the core of social justice and human rights.

Due to constraints of time and resources, the study focused only on few States in South India. There are obvious difficulties in suggesting them to be reflective of the rest of the country as well. Therefore, the conclusions are tentative though the pattern is unlikely to be different in view of Central policies, Constitutional framework and the influence of the Planning Commission.

### **Enforcement of Social and Economic rights at the International Level**

Chapter IX of the U. N. Charter deals with international economic and social co-operation and article 55 therein directs the U.N. to *promote "higher standards of living, full employment and better conditions of economic and social development"*. In pursuance of this mandate the General Assembly set up the Economic and Social Council which, in turn, constituted human rights commissions and committees. The Covenant on Economic, Social and Cultural Rights codified the socio-economic



rights including right to work, right to education, right to health, right to food and shelter, right to social security etc. (Articles 6-12). Because civil and political rights by and large put negative restrictions on State power, the violations are immediately recognizable and remediable through judicial interventions. However, this is not the case with socio-economic rights which participates the nature of group rights and whose violations are not easily discernible. It is expressly stated to be realizable progressively depending on resources availability. Though the two sets of rights are said to be integral, inter-related and are of equal validity, there are practical difficulties in fixing the exact nature of positive obligations socio-economic rights cast on the State at a given point of time. Hence there is little accountability on the part of State parties and the U.N. itself is unhappy at the tardy progress of implementation. All that could probably be monitored relates to discrimination in governmental policies and practices in relation to socio-economic justice (rights). As such, no serious breach of the Covenant was either reported or noticed despite the prevalence of extreme poverty conditions in many countries who are signatories to the Covenant. In other words, large-scale violations of socio-economic rights do occur almost with impunity despite the presence of U.N. human rights mechanisms. The situation is better in those countries who have incorporated these rights into their Constitutions and developed enforcement systems to detect and remedy violations.

In 1985 the U. N. established a Committee on Economic, Social and Cultural Rights consisting of 18 independent experts. The Committee meets every year in Geneva for three weeks to review reports on implementation of the Covenant received from State Parties. In 1990 the Committee issued guidelines for submission of reports every five years. The Committee entertains additional information from NGOs and encourages participation of NGOs in the preparation of country reports. The reports are examined at public hearings in which reporting States are required to be present for defending their position. Specialized agencies of the U.N. system also provide information on the state of social justice to the Committee. The Committee makes General Comments and recommendations. It can make observations of non-compliance by any country of the obligations under the Covenant. It helps in standard setting and educating the parties concerned through "*constructive dialogue*". It does play a useful watch dog role though without any coercive power of enforcement.

In 1986, the International Commission of Jurists, a voluntary organization with consultative status with U.N. attempted to activities the implementation of socio-economic rights and evolved some principles (Limburger Principles) under which some rights could be made justifiable immediately while others progressively. Full participation of all sections of society was found indispensable for realization of these rights. Special attention is to be given to the standard of living of the poor and disadvantaged groups. The obligation of States to progressively achieve the rights requires, according to Limburg Principles (a) ensuring respect for minimum subsistence rights of all irrespective of adequacy of resources and (b) equitable and effective use of and access to available resources. On legislative action, the Principles say that immediate legislative action would be required if existing legislation is in violation of the obligations under the Covenant.

Regarding violation of rights, the Limburg Principles say that a State will be in violation of the Covenant, if :-

- (i) it fails to take a step which it is required to take;



- (ii) it fails to remove obstacles which it is under a duty to remove promptly for enjoyment of a right;
- (iii) it willfully fails to meet a generally accepted international minimum standard of achievement, which is within its powers to meet;
- (iv) it applies a limitation to a right otherwise than in accordance with the Covenant; or
- (v) it fails to submit reports as required under the Covenant.

The Commission on Human Rights and the Economic and Social Council have adopted different strategies from time to time for better implementation of social and economic rights. These include the attempt to carve out an omnibus right to development as a major concern of the U.N., the proposal to have an Optional Protocol to the Covenant enabling individuals to prefer complaints before the Human Rights Committee regarding violations of socio-economic rights and evolving a strategy within the Human Rights framework to fight "extreme poverty". Some comments on each one of these initiatives will be necessary to appreciate the status of enforcement of these rights internationally.

### Right to Development

In 1981, a Working Group of government experts was constituted by the Economic and Social Council to study the scope of the right to development as the most effective means for the realization of socio-economic rights. A Declaration on the Right to Development was adopted by the General Assembly on 4 December 1986 based on the Committee's recommendations. Recognizing the indivisibility and inter-dependence of all human rights, Article 6 calls for urgent implementation of social and economic rights along with civil and political rights. In Article 8, States are directed to ensure equality of opportunity for all in their access to basic needs, education, health, food, housing and work. Effective measures should be undertaken to ensure that women have an active role in the development process.

In 1993, the World Conference on Human Rights (Vienna) gave a push to the Development Agenda by endorsing the need to recognize the right to development and the need for an Optional Protocol to the Covenant for putting in place a Complaints System. This was closely followed by the World Social Summit (Copenhagen, 1995) in which Heads of States expressed grave concern at the continuing prevalence of poverty and deprivation despite technological progress and economic growth. The Summit came up with Ten Commitments which included :-

- (i) creation of a proper environment which will enable people to achieve social development;
- (ii) eradication of poverty through decisive national action and international co-operation;
- (ii) promotion of full employment as a basic priority of economic policy;
- (iii) universal and equitable access to quality education and health;

A Plan of Action was also announced to implement the Summit Commitments so that basic needs of all people are met by the year 2000. Again a special session of the General Assembly was held in 2000 to review the implementation of the Summit Commitments in respect of eradication of poverty.

The latest initiative of the U. N. in this regard is to focus on extreme poverty and to link it with human rights violation. The Office of the High Commission for Human Rights evolved the following definition of poverty as-



**"a human condition characterized by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other fundamental civil, cultural, economic, political and social rights"**

In short, extreme poverty is total inability to access basic survival needs. It recognizes that right to development is the starting point of any poverty reduction strategies. The challenge is to find a legal means of guaranteeing the disaggregation of the collective right to development, once it is satisfied, into individual rights of the extremely poorer sections in society. A right-based approach to the eradication of poverty advocates the principles of participation, accountability, non-discrimination and empowerment. A Declaration on Human Rights and Extreme Poverty is being organized by the U. N. High Commissioner for Human rights. The Declaration seeks to provide a tool for community organizations, NGOs, policy makers in governments and institutions responsible for trade, development and environment issues.

The message that emerges from the latest U. N. effort through its High Commissioner on Human Rights is to find a viable strategy for implementation of social justice which suggests the following:

- (i) Violation of human rights is both a cause and a result of extreme poverty;
- (ii) Extreme poverty is not only a deprivation of economic or material resources, but is a violation of human dignity;
- (iii) In order to eradicate extreme poverty, and thus fulfill human rights, it is essential to develop a machinery for participation of the poor in the definition of their problems, the planning of projects, their implementation and their evaluation.

Poverty studies have hitherto not adequately reflected the human rights linkages. The independent expert (Ms. A. M. Lizin) appointed by the Human Rights Commission in 1999 as a follow-up of the Copenhagen World Summit for Social Development inter alia identified some of the best practices in the fight against poverty and emphasized the need to integrate anti-poverty programme with human rights. Extreme poverty is a denial of all human rights. The lack of political commitment remain a major obstacle in the struggle against extreme poverty. The weakness of the State and its administrative and economic structures in many countries also contribute to the perpetuation of extreme poverty. Armed conflicts, national disasters and financial crises are other causes for the situation.

Legislation establishing a guaranteed minimum income is one of the most effective weapons for fighting extreme poverty. Micro-credit approach, especially for women is found to be an effective means of structuring the informal market in favour of the poor. Local bodies and NGOs have more effective means than States to combat extreme poverty. The contribution of social workers and NGOs will be crucial; they can provide a platform, identify legitimate demands, and ensure a hearing for people who have no voice. These workers and NGOs need to be trained in the human rights dimension of their work.

The independent expert regretted that national human rights institutions very rarely incorporate the dimension of social and economic rights. Decentralization and recognition of the role of local authorities in fighting poverty is significant. A local consciousness is crucial; when it exists it can achieve far more than the available resources would seem to allow.



The Millennium Report (2001) of the Commonwealth Human Rights Initiative argues that **"development policies and allocations of resources which are not based on the framework of human rights are unlikely to advance human welfare or enhance social stability. The rights discourse refuses to treat the condition of poverty as acceptable and sees the presence of poverty as rights violation that demands immediate accountability. The separation of development and human rights is also artificial because human rights must be both the means and the end of development"**.

In the Human Development Report, 1997, UNDP has introduced a methodology for calculating Human Poverty Index (HPI) based on the degree of deprivations in basic human needs. The major contribution of the human development reports is in sensitizing nations on the need to accord greater priority to basic needs like nutrition, primary education, primary health, sustainable livelihoods and gender and social equity. In fact, in India at least four State Governments have now published State level human development reports creating a climate for better social sector policies and priorities. There is need to develop indicators to rank States in terms of human well being. There are well-defined indicators to measure success in achieving demographic transition to low birth and death rates. Similarly there are indicators to measure gender equity in terms of sex ratio, female literacy, maternal mortality rate and the incidence of low birth weight children. According to Dr. M. S. Swaminathan, among the many possible indicators to measure human well being, food, water, education, shelter, health care and sustainable livelihoods based on opportunities for work constitute the bottom line from the perspective of human rights.

The Human Development Report 2000 (UNDP) has as its theme human rights and human development. A good part of the Report is a critical evaluation of the socio-political arrangements necessary for the realization of the human rights-human development combine. Democracy, it is agreed, is the only form of political regime compatible with respecting all categories of human rights. But democracy if it is not inclusive and participatory is counter-productive. However, the Report is silent on the role of social systems promoted by capitalist mode of production in maintaining human rights-human development combine. Capitalism cultivated poverty, inequality and marginalisation of people even in affluent capitalist countries. The Report carries evidence to show that it is a basic feature of capitalism that it simultaneously generates affluence for the few and deprivation for the many. In this sense as an economic system it is not inclusive. Generating inequalities is part of its dynamics. Professor C. T. Kurlen of the Madras Institute of Development Studies argues: -

**"Capitalist organization of production also has innate features that are not compatible with human rights and human development. In capitalist production, ownership of resources is the decisive factor. Owners or their agents decide, on the basis of the desires of other owners expressed through the market, what gets produced. In the organization of production, workers contribute essentially a cost item, again, determined in the final analysis by the strength of ownership. If a residue is left after costs are met, that again goes to owners in proportion to ownership, not to workers on the basis of their contribution. Indeed, the rationale of production in the capitalist system is the quest for this surplus. An economic system whose essential feature is of this kind, surely, is not compatible with human rights, human development or human**



dignity. .... This is not a call to return to socialism as it was, but to suggest that one of the human struggles necessary for the realization of human rights and human development is to move towards new social arrangements beyond apparently triumphant capitalism."

Despite all the initiatives during the last two decades to declare that economic and social rights stand on the same footing and form part of a larger indivisible set of human rights, it has not yet become part of popular consciousness. If on the lines of the Human Development Report human rights can be projected as functional duties and obligations of society and Governments to guarantee basic needs, then it is possible to assess the degree of success in improving human development. How human development can be put to use in the fulfillment of human rights is more difficult to discern, but there is a real and functional connection. Does this need prioritization of human rights, especially social and economic rights, given the resource constraints? Such a prioritization need not imply that one right is superior to the other. The pace at which human development expands and its composition at each "stage of development" would reflect these choices. For, fulfillment of rights involves not only a set of judicial, administrative and social arrangements for securing these rights but also expenditure of resources, some by individuals and many by Governments. What people have "are claims to a set of social arrangements - norms, institutions, laws and an enabling economic environment - that can best secure the enjoyment of these rights". Taking the example of right to housing, Government's duties are not to construct and distribute houses for all. Its duty is to forbid mass evictions, prevent discrimination in housing, provide security of tenure, and evolve policies promoting construction of houses. Similarly in the case of right to education, Governments' obligation is to establish schools and provide salaries to teachers. This is the trend of thinking internationally in this regard.

### Freedom and Needs

There is some evidence to suggest that some countries which have greater achievement in economic rights have poor record on the civil and political rights (Singapore, Malaysia, China, some countries of Middle East). This does not necessarily mean that absent civil and political rights, faster economic growth will result. Disputing the thesis that political rights correlate negatively with economic growth, Amartya Sen attributes a positive role for political rights in removing deprivations. Political rights provide incentives and information towards the solution of economic privation. He illustrates the point with reference to famine which he argues is avoided better in a situation where there are greater liberties including the liberty of free expression. No substantial famine has ever occurred in a country with a democratic form of government and a relatively free press, whereas in authoritarian regimes they do occur relatively easy. Democracy would spread the penalty of famine to the political leadership and the ruling group.

Of course, democracy and free press would not by themselves deliver freedom from economic needs. This depends on how political rights are exercised. Thus, India's success in eradicating famine is not matched by similar success in eliminating non-extreme hunger, reducing persistent illiteracy or in relieving inequalities in gender relations. While the plight of famine victims is easy to politicise other deprivations call for deeper analysis and more effective use of mass communication and political participation - in sum, for a fuller practice of democracy. Sen concludes by saying that political rights



are important not only for the fulfillment of needs, they are crucial also for the formulation of needs. The importance of political rights for the understanding of economic needs turns ultimately on seeing human beings as people with rights to exercise, not as parts of a population that passively exists and must be looked after.

### **Questions of Core Obligations and Justiciability**

The Committee on Economic, Social and Cultural Rights of the U.N. attempted to delineate a core obligation to ensure the satisfaction of, at the very least, minimum essential elements of each of the Covenant rights. These include essential food items, primary health care, primary education and basic housing. In this regard, there is the particular duty imposed on State Parties to protect all the vulnerable groups which include women, children, disabled, older people.

The Committee in this regard identified many elements of the right to education which includes an obligation :

- (i) to ensure the right of access to public educational institutions on a non-discriminating basis;
- (ii) to ensure that education conforms to the objectives set out in Article 13( 1) of the Covenant;
- (iii) to provide primary education for all;
- (iv) to adopt and implement a national educational strategy; and
- (v) to ensure free choice of education without interference from the State or third parties, subject to compliance with minimum educational standards.

Similarly, in respect of right to health, the core obligations which may be justiciable under relevant national laws are:

- (i) to ensure the right of access to health facilities, goods and services on a non- discriminatory basis, especially for vulnerable or marginalised groups.
- (ii) to ensure access to the minimum essential food which is nutritionally adequate and safe to everyone.
- (iii) to ensure access to basic shelter, housing and sanitation, and adequate supply of safe and potable water;
- (iv) to provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;
- (v) to ensure equitable distribution of all health facilities, goods and services;
- (vi) to adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy to include right to health indicators and benchmarks by which progress can be closely monitored; the strategy to give particular attention to vulnerable groups.

Incorporating the Covenant in the domestic legal order thereby making them justiciable rights will significantly enhance the scope and effectiveness of remedial measures. This will help adjudicating agencies to address violations of the Covenant rights or at least of the core obligations corresponding

to that right by direct reference to the Covenant. Thus through General Comments, the Committee on ESC Rights has delineated the contours of many rights and obligations, elaborated their content and proposed possible remedies.

### **Globalisation and International Human Rights Laws**

The initial results of Globalisation during 1990, indicate some distressing reports on the human rights front. The National Sample Survey details of the economy after the launching of reforms in 1991 unambiguously point to a deterioration of the poverty situations in rural India, a marginal improvement in urban centres and an overall increase in both the number and proportion of people living below the poverty line. At the same time, the over all growth in the economy during the period was impressive. Mere acceleration of economic growth without social justice can be dangerous for human rights and democracy. Re-orientation and correction of policies are called for if development (globalisation) is not to happen at the cost of the right of the poor and the vulnerable. Broad-based (not focused on export-based manufacturing industry and urban oriented service sector) and labour intensive growth is essential for a substantial reduction of poverty. Transformation in agricultural production is central to such a growth process. Secondly, excessive concern with the reform of fiscal, industrial and trade policies and the corresponding neglect of rural development policies would not help the cause of poverty eradication and empowerment. Administration of anti-poverty programmes more responsibly is the key to improve the human rights situation of the masses.

In this context, the debate on poverty assumes special significance for future economic reform and protection of basic human rights of the underprivileged sections of people.

Two more aspects deserve attention in this regard, one relating to the role of governments and the other on the role of multi-national corporations in a liberalised, globalised economic regime. Governments' role is supposed to be mainly adoption of policies to correct market failures and allow free competition. There is a problem here in economies of developing countries where basic needs of vast masses of people are still not met and are in precarious condition. The way economies behave in modern times depend largely on availability and accessibility of information. Simple economic models which assured reasonable perfection of information to all participants in economic transaction are found to be irrelevant in most developing countries. Even small imperfections of information could have profound effects on how the economy behaved. (Joseph Stiglitz, Nobel Laureate in Economics, 2001). The theory of information asymmetry argues that different people in a market know different things (for example, a seller of a car may know more about his car than the buyer; a worker may know more about his ability than a prospective employer; a borrower may know more about his prospects for repaying a loan than the lender). All of these can have large consequences which demand-supply mantra cannot explain. The information economists challenge Adam Smith's view that competitive market led "as if by an invisible hand" to efficient outcome (i.e. market fundamentalism). They point out that the "invisible hand" just does not exist. Therefore they argue that it is critical for government to intervene not only to correct market failures, but also in redressing the asymmetries of economic information and power.



Economists have long recognised that in the face of "externalities" to economic activity, such as air and water pollution, market solutions are often inefficient. The information asymmetry advocates claim that as soon as one recognises that information is imperfect then these externalities are pervasive, and that market failures are similarly pervasive. International economic institutions like IMF and World Bank refuse to recognize this fact with the result developing countries are exposed to serious risks of market failures and consequent human rights violations.

Another related issue which warrants consideration in the context of globalisation is the application of human rights discipline and obligations to multinational corporations (MNCs). It is now common knowledge that MNCs do cause environmental degradation even to the extent of causing death of people. They can violate basic human rights of workers and get away with minor remedies provided under conventional labour laws. Sometimes Government agencies collude with MNCs in violating human rights. The development debate has already taken on board human rights as basic concerns. The natural corollary is that those who exercise economic power in violation of human rights, whether included in the definition of State or not, should be accountable for such violations internationally. Governments and multi-national enterprises argued that foreign investment and trade were likely to foster socio-political developments responsive to human rights goals; but today it is becoming increasingly difficult to keep above a safety net for the poor that was inconsistent with the capital flow.

There are strong movements to evolve a code of ethics for MNCs and recommend best practices in relation to trade and foreign investment. However, the manner in which TRIPS and TRIMs were put in place and being enforced in disregard to the implementational problems of developing countries create misgivings on the prospects of human rights protection of marginalised sections in poor countries. As such, human rights should become an important value in trade and investment and individual victims should be able to get remedies for violations from the corporations concerned, whether native or multi-national. It is for the U.N. Human Rights agencies to work out the modalities so that social and economic rights will not be further marginalised with the advent of market systems in economies of poor countries.

## II

### SOCIO-ECONOMIC RIGHTS AND CONSTITUTIONAL GOVERNANCE

Access to social justice to ordinary citizens depends not so much on international enforcement systems of Covenant rights, but on the socio-political and legal arrangements in the Constitution and laws of the country. Policy and legal reforms particularly directed at the poor people in India has a long history commencing with the Freedom Movement and firmly entrenched after the adoption of the Constitution.

The aspirations of the people and the promises of the Constitution are well articulated in the Preamble, in Part III (Fundamental Rights) and in Part IV (Directive Principles of State Policy) of the

Constitution. Certain basic civil and political rights are stipulated in Part III and are made judicially enforceable. In fact, right to Constitutional remedies for violation of Fundamental Right is itself made a guaranteed right. Equality, Freedom and Liberty which imply some aspects of social justice are part of the fundamental rights. The State is prevented from unfair discrimination on the basis of sex, caste, race, religion etc. and is enabled to make laws to achieve social justice to vulnerable sections like S. C.s, S.T.s, Women, Children and other backward classes. In short, Part III envisages the State to dismantle the old order and act towards an equitable and egalitarian social system to enable all citizens to enjoy the fruits of Freedom. Life with dignity is what is aimed at by the Indian Bill of Rights.

For understandable historical reasons, the framers of the Constitution put most of the social and economic rights in Part IV, made it not judicially enforceable though; nevertheless, they are made fundamental in the governance of the country (Article 37). Some of them (right to free and compulsory education for all children - Article 45) are to be achieved within a prescribed time limit of ten years from the commencement of the Constitution. Unfortunately, though well-intentioned, this duality of approach in the implementation of basic human rights did create avoidable confusion about the status of socio-economic rights and obligations arising therefrom. The expression "**fundamental in governance**" and the exclusion of judicial enforceability resulted in the implementation dependent on executive fiat, legislative disposition and vote bank politics of parties and groups. No doubt attractive policies were announced from time to time and even substantial sums of money spent on implementation of these policies. But poor governance and widespread corruption led to denial of rights to many of the intended beneficiaries. There have been some positive results in some sectors like literacy in Kerala, land reform in West Bengal and employment in Maharashtra, Haryana and Punjab. But even here, many individuals were left out of the development net keeping socio-economic rights nothing more than benefits conferred by a welfare government rather than obligations performed to honor rights of individuals. This view of the matter has serious consequences in law in terms of equality, freedom and dignity.

### **Bad Governance Endangers Human Rights**

The Judiciary read the exclusion of judicial enforcement of Part IV almost literally for almost 25 years and adopted an approach of helplessness even when gross violation of Directive Principles was brought to its knowledge. It was taken for granted that no viable legal claims against the State can arise for non-fulfillment of obligations under Part IV. The dominant view has been that the courts are ill-equipped to adjudicate socio-economic rights, because-

- (a) these rights are not precise for judicial enforcement;
- (b) they involve complex question of social policies and priorities which the judicial processes are inadequate to capture;
- (c) they require substantial resources the allocation of which only elected bodies can decide; and
- (d) the adversary system of adjudication is ill-suited for organizing public goods and services in the best public interest.



The issue was further confounded by ideological positions under which an impression was created that governments alone are expected to provide social and economic rights free of charge to all citizens. Parties made their cadres believe that by capturing political power, it would be possible to achieve social justice. However, a young Prime Minister discovered in the 1980s that the problem is lack of political will and entrenched corruption which led to poor governance and denial of social justice to the people. He realised that the remedy lies in participatory governance, decentralized administration and technological applications using private enterprise wherever needed. He launched constitutional amendments and policy changes accordingly. Another Prime Minister adopted a shortcut to achieve social justice by extending reservations to wider classes of people in government jobs which were not there.

A third Prime Minister was shrewd enough to understand the real malady and ventured to dismantle government from certain economic activities and allowed market systems to take them over. Governance took a full circle from the State operating from "commanding heights of the economy" to a position in which the State is only a strategic partner regulating the market place for private enterprise to manage the economy. This is a process now under way in which social and economic rights particularly of the marginalised sections are feared to suffer grater erosion than before!

The Commission appointed to renew the working of the Constitution have circulated at least five Working Papers in which the implementation of social justice has come for special consideration. One can discuss the following proposals and strategies for better implementation of social justice :

(a) Good governance is the key for achievement of social justice. Governance in the social sector involves development of appropriate policies transparently in partnership with community groups, allocation of budgetary provisions and integration of policies with projects in the delivery of services. Mindlessly spending money on projects assuming that expenditure is equivalent to achievement is not welfare administration. Institutions of governance and quality of leadership are key inputs in organizing the administration.

There is no development possible by keeping the people outside the system. This is the lesson that planned development experience of over 40 years gave to Indian administration. Therefore, Parliament in its wisdom amended the Constitution (73rd and 74th Amendments) and established Panchayat Raj Institutions for local self-governance both in urban and rural areas. Some State Governments took the amendments seriously, introduced structural adjustments through appropriate legislations at the State level, delegated powers to the elected panchayats and transferred projects and resources for localised implementation by participatory mechanisms. The result has been quite encouraging as the experience of Kerala, West Bengal, Karnataka and Madhya Pradesh seem to suggest. Poverty is less pronounced in States where panchayat administration is seriously taken up.

Nobel Laureate Amartya Sen has talked about "the Kerala Model of Development" characterized by achievements in social indicators such as literacy (98 per cent), life expectancy, infant mortality and birth rate and by striking performance in raising living standards and in providing access to basic facilities. These achievements are comparable to those of the advanced countries. Redistribution of wealth and alternative development "without having to wait for large scale economic growth" that



Kerala demonstrates is attractive for better implementation of social justice according to the Directive Principles. The uniqueness of the Kerala model at least in concept, is its people-centered, decentralised, need-based approach to planning and the active involvement of the community in the implementation of social and economic welfare projects, regardless of party in power. It is a mindset which looks at decentralisation not as an option but as the principal means for relating development to the people at the grassroot level. It may, in principle, even be called a Gandhian approach to development, a process under which the formal State gradually withdraws from activities which belong to the people themselves. It is a process of empowerment of the people which is what democracy is all about.

### **Land Reform and Social Justice**

(b) Another policy which tend to help achieve social justice is land reform including prohibition of alienation of tribal lands. Available evidence indicates that poverty is better controlled in those States where land reforms have been implemented, even though not fully. Right to work, food and livelihood are closely related to access to land (in an agrarian society like India where 2/3rds of the population live and work on agriculture-based activities). Absentee landlords, skewed distribution, gender inequality in land ownership, alienation of tribal land, land records manipulations, denial of social security to agricultural workers and related problems which were addressed soon after independence are yet to be implemented in many parts of the country. This has resulted in aggravating problems of the rural poor. Access to productive land gives capacities to the poor to escape from oppressive power relations and consequent exploitation. Development displacement is another land and livelihood related problem.

In West Bengal, implementation of land ceiling laws reportedly resulted in land transfer to over 1.5 million people. Another 2 million people benefited from Operation Barga, a legislative measure launched in 1978 to fix the share of the harvest that could be claimed by the land lords by providing security to land tenure and end to arbitrary evictions. It is said that nearly half of all households in the State benefited from these reforms and reduced the rural population below poverty line by 15%. At the same time food grain production in West Bengal increased substantially as compared to the national average. Human development indicators did also show positive signs of improvement. Peoples participation ensured success of the legislative programme and sustained the livelihood of large masses of people. In a smaller scale, land reform measures showed similar trends in reduction of poverty in Kerala as well.

In contrast, one finds extreme poverty, pronounced inequality and violent exploitation in States like Bihar, Andhra Pradesh and Orissa where implementation of land reform was neglected in varying degrees. Caste violence also continued unabated in the states jeopardising human rights of the poor. Even democratic election and Panchayat Raj institutions for participatory governance were often disrupted because of land-based inequities and consequent tensions in power relations.

There are apprehensions that land reform laws and land policies will be substantially revised to suit the needs of liberalised economic governance including corporatisation of agriculture. There is need to see that reversal of policies do not adversely affect the interest of the rural poor and their livelihood. This is a question of social justice. In the 1950s and 60s most Constitutional cases in the Supreme



Court were fought on issues relating to land reforms and it appears that the game has to be fought all over again to find the new equation of poverty and social justice in relation to liberalisation of economy.

The National Center for Advocacy Studies, Pune argues that right of access to land is a livelihood right of the most marginalised people, the Dalit and the Adivasi communities. Alienation of tribal land goes on in large scale with connivance of corrupt politicians and civil servants causing famine like conditions among them. They are exposed to atrocities, which further endangers their life and dignity. Hence land policy has important implications to social justice generally and the achievement of social and economic rights of the poorest of the poor of Indian people.

### **Poverty Alleviation Schemes of the Central Government**

Poverty Alleviation Programmes have been a major strategy in social justice since the beginning of the Constitution. The Integrated Rural Development Programme (IRDP) is the most important of the rural development programmes introduced in 1979 under which a village level worker is allotted 8 to 10 villages for monitoring and coordinating IRDP activities. It seeks to raise the incomes of poor beneficiaries to a level above the poverty line by requiring the banks to extend loans for purchase of assets and subsidising such assets up to 50%. The cost is shared between the center and States on a 50:50 basis.

Mr. N.c. Saxena, member, Planning Commission in his book on *Policy and Legal Reforms for the Poor* writes "The scope of poverty reduction through IRDP is limited both by the debt capacity of the poor and by the high transaction costs in respect of small loans agreements. The first limitation is in theory offset by subsidy, but it attracts rich borrowers to the scheme, and thus creates political and administrative problems. Corrupt officials certify beneficiaries as being below the poverty line; corrupt bank officials allow borrowers to sell off their assets and pocket the subsidy or borrow by proxy for non-target group borrowers.... To sum up, although some poor persons have made moderate gains, not more than one in five have succeeded in crossing the poverty line as a direct result of IRDP. Despite attempts to increase public participation in the identification of beneficiaries, IRDP remains a highly bureaucratic programme whose benefits could be achieved far more cost effectively by reforming the regular credit delivery system. The continuation of IRDP can best be explained by the political need to perpetuate a myth about bureaucratic capability to reduce mass poverty IRDP helps in preserving a certain mai-baap attitude towards the State; it is at best a political sedative".

Jawahar Rozgar Yojana (JRY) aims to alleviate rural unemployment particularly among the youth. Started in 1989-90 it reportedly generated over 1000 million mandays of employment through government programmes. 73 percent of available funds were spent by the village panchayats In JRY works like rural road links, panchayat buildings, community centres, social forestry, soil conservation, water harvesting etc.

The Ministry of Rural development reportedly took a series of new initiatives recently for poverty eradication. These are:-

- (i) Greater devolution of powers and resources to Panchayat Raj institutions and holding of regular elections to these bodies, the idea being to involve people in development activities.

- (ii) Sampoorna Grameen Rozgar Yojana - intends to provide more employment opportunities and provide village level infrastructure in the rural areas. Centre will give free food grains to States to organize food for work and additional employment.
- (iii) Rural Connectivity for Sustained Development through Pradhan Mantri-Gram Sadak Yojana.
- (iv) Pradhan Mantri Gramodaya Yojana to improve quality of life in rural areas by fulfilling basic needs like drinking water, housing, nutrition, primary health, primary education and rural electrification.
- (v) Information Empowerment to People about land holdings:

Central scheme of computerization of land records by lending funds for the purpose to States.

### **Social Justice and the Urban Poor**

"Poverty alleviation" is now a Constitutionally recognized concept as it is part of the Eleventh and Twelfth Schedules which were added by the 73rd and 74th Constitution Amendment Acts, 1992. As such rural and urban programmes for attacking poverty are very much the agenda of panchayats and municipalities. The Amendment has mandated all the States to change the existing laws of local self-government to conform with the object and provisions of the Amendments. Most states have accordingly brought about new laws for panchayats and municipalities.

The Kerala Municipality Act, 1994 as amended in 1999 includes the following obligatory functions to municipalities under poverty alleviation: -

- (1) implementation of central schemes like Nehru Rozgar Yojana
- (2) implementation of urban basic services schemes
- (3) identification of the poor
- (4) implementation of self-employment and group employment schemes for the poor;
- (5) creation of assets under the wage employment programme;
- (6) upgradation of the skills of the people below the poverty line to enable them to take up self-employment and wage employment;
- (7) provision of basic facilities for self-employment schemes.

There are large number of other items also included which relate to welfare of weaker sections and delivery of social justice. Slum improvement and re-settlement of shelterless people are important items in this regard. Section 284 of the Act provides for the constitution of an Urban Poverty Alleviation Fund to which each municipality and corporation is required to set apart 2% of its estimated income in the annual budget and it is to be utilized for poverty alleviation programmes as per the guidelines of the government. Funds or some central schemes specifically directed towards poverty alleviation also are credited to this Fund.

The Act also empowers State Government to make rules, *inter alia*, for registration of Community Area Development Societies for the urban poor with a view to conferring legal status to such bodies which, in turn, can participate responsibly in community welfare programmes.



There are number of "Yojanas" (programmes) which are targeted at specific groups or problems for which the Central Government either entirely or partly allocates funds under the Five Year Plans or otherwise. Most of these are social justice oriented activities implemented through panchayat/municipality or in association with NGOs. Because of the bureaucratic distortions, corruption, delay and party politics it seldom reaches the poorest of the poor. An example of this situation is the revelation in a recent PIL in Supreme Court that none of the States have fully identified the people below the poverty line in whose name many of these schemes were supposedly under implementation. It took many starvation deaths health disasters and mass suicides to focus public attention on the extent of misgovernance or non-governance in many parts of the country. Even now the situation is drifting from crisis to crisis despite the intervention of the Supreme Court. No wonder that implementation of social and economic rights is in local disarray despite having the laws, the resources and a reasonably well-organized administrative structure.

Improving peoples participation from conception to execution of all poverty-related programs through the local government structures now in place appears to be the best strategy for delivery of social justice and enforcement of socio-economic rights.

### III

#### JUDICIAL ENFORCEMENT OF SOCIAL AND ECONOMIC RIGHTS

The Preamble and Part IV of the Indian Constitution broadly identifies the range of socio-economic rights declared as "**fundamental in the governance of the country**". These emanate from the Karachi Resolution of the Indian National Congress (1931) re-inforced by the Sapru Committee Report (1945) and the Objectives Resolution (1947). With such a massive historical mandate from WE, THE PEOPLE OF INDIA, one would have expected rights based on basic needs to occupy the pride of place in the Bill of Rights. Unfortunately on the logic that court processes are inappropriate for delivery of socio-economic rights, the Constitution makers refused to give it the status of enforceable rights and kept it as Directive Principles for the State to progressively aim its achievement. The duality in conception and execution adopted in the two Covenants (Civil and Political as well as Social and Economic) at the international level was incorporated at the domestic level with disastrous consequences revealed in later years. Even when the Constitution fixed a time limit for implementing the Principle (Article 45), the State ignored it with impunity and the Court could do nothing about it. It took thirty long years for the Supreme Court to declare that "Any action taken by the Government with a view to giving effect to anyone or more of the Directive Principles would ordinarily qualify for being regarded as reasonable (restriction), while an action which is inconsistent with or runs counter to a Directive Principle would incur the reproach of being unreasonable" (1980) 3 SCR 1138)

The above position of the Court vis-a-vis the Directive Principles came after repeated battles between the Court and the Parliament during which Constitutional text was amended several times with a view to restore the primacy of social justice.



There is an argument that Directive Principles do not create rights and remedies and merely lay down policies to follow in developing future social order. This view is questionable. From the Covenants on Human Rights to which India is a signatory, it follows that many of the Directive Principles are indeed human rights in the strict sense of the term. Justiciability through Courts is not an unavoidable character of rights as rights can be enforced by a variety of ways. Secondly, the directive Principles themselves use the terminology of rights to describe them (Article 41). Finally, in later years through interpretative techniques Supreme Court itself discovered that Article 21 (Right to Life) inseparably included right to education, health, clean environment etc.

### **Structure and Scope of Socio-Economic Rights**

The Constitution incorporates some elements of ESC rights in Fundamental Rights and leaves the rest in Directive Principles. Thus, Articles 14 to 17 (Equality) 21 (Liberty), 23 (forced labour), 24 (exploitation of child labour) and 30 (minorities right to establish and administer educational institutions) involve many core obligations on the part of the State and consequent rights on citizens. A number of recent decisions of the Court have brought out this implied rights in great detail and got them enforced through judicial writs. Again, Articles 15 (4) and 16 (4) enabled special rights to social justice for Scheduled Castes, Scheduled Tribes and other backward classes. This has rendered social justice by way of enforceable rights to vast sections of disadvantaged people in India through Court interventions.

### **Concept of "Social State" and Human Rights Obligations**

The story of how objective norms (Directive Principles) addressed primarily to Legislatures have become subjective Constitutional rights of individual citizens is the story of the evolution of the Supreme court as a decisive instrument of Constitutional governance (Judicial review and judicial activism). The struggle of people for justice compelled the Court to entertain public interest litigation relaxing the rules of Court and advocacy including the principle of *locus standi*. With the recognition of socio-economic rights as part of constitutional rights (and not entirely dependent to declare them so by legislative action), the Court had to invent new remedies appropriate for the enjoyment of those rights. Thus educational justice, medical justice, rehabilitative justice, administrative justice and the like became part and parcel of the writ remedy for the Constitutional Court to give relief for violation of social and economic rights. Some standards of what constitutes the content of these rights (without having to wait for the legislatures to declare it) and when can one conclude that they have been violated, naturally evolved out of these judicial interventions. This is unprecedented in Judicial history of Constitutional Courts. The process is continuing giving some hope that socio-economic rights will get better protection in India in future.

How did the Supreme Court accomplish this feat without undermining the Constitutional balance and the authority of Parliament? There is a Constitutional doctrine of social welfare State (Socialist) reflected in the Preamble, Part III and Part IV which warrant some minimum welfare obligations on State and its agencies vis-a-vis citizens. If the State does not adhere to socio-economic performances expected in this doctrine (socialist/social welfare) there is violation of obligation on the basis of which human rights are based. Such a Constitutional theory is very much part of German Constitutional Law



for several years. Combined with the right to judicial review and remedies one can easily read right to satisfy minimum needs as part of subjective Constitutional rights. This view is re-enforced in the Convention on Rights of the child where State is expected to show a minimum level of socio-economic performance vis-a-vis children. Again when detainees in State prison are required to be provided with food, medical care etc. does it not imply the implementation of socio-economic rights. Similarly by recognizing long range of worker's rights with Constitutional support, one is acknowledging the judicial enforceability of what otherwise are declared as Directive Principles. In fact, to be able to reach social justice to the largest section of workers through Constitutional Jurisdiction the Supreme Court adopted an ingenuous strategy of expanding the concept of "State" itself to agencies in which the State was a minor indirect player. This strategy can possibly now help to bring in private corporate enterprises including multinational corporations within the human rights discipline. Of late, the Court resorted to the strategy of collapsing the distinction between "private rights" and "public wrongs" by Reading State obligations to behave fairly into private transactions (in health, employment etc.) under State license.

### Life and Livelihood Rights

In recent times the media carried reports of the apex Court asking the Government to explain how various schemes meant to help the poor are working and why there are starvation deaths in the country when the Government is reportedly facing difficulty to store food surpluses. The PIL filed by the People's Union of Civil Liberties marked a watershed in the evolution of social conscience on poverty-related issues. In a situation of plenty, the officialdom is finding it difficult to advance the usual argument of inadequacy of resources to explain the socio-economic performance of government. It is nothing but criminal neglect of constitutional obligations and direct violation of socio-economic right.

What is the remedy? The Court asked the Government to "devise a scheme where no person goes hungry when the granaries are full and lots being wasted due to non-availability of storage space". What kind of enforcement is the order? Court asks other State Governments to study the issue and file responses. Governments responded by saying that they want to strengthen the public distribution system for those under extreme poverty. Does the Government know who they are and where they live? No. Governments have no clear data of people below the poverty line. Supreme Court gives directions to the States to identify people below poverty line (extreme poverty) and report back in three weeks. What a way to implement Constitutional obligations on which life and livelihood rights of about 300 million Indians are dependent? It will certainly require more than grit and determination on the part of the Supreme Court to force the government and its corrupt bureaucracy to act and act swiftly. If the Court fails, the poor have no choice except to commit suicide which many have been doing without shocking public conscience. Meanwhile, when the Government stated that they have a Food-for-Work Programme in place, the Court endorsed it as a way of implementing right to life.

However, schemes galore for food distribution or for that matter, other basic needs, is no answer if they do not get implemented on the ground. What can PIL deliver in this regard? Evoke public anger and protest? Raise judicial conscience to persuade it to play the role of an ombudsman alerting the State to its basic function of governance? Suggest administrative procedures which can help fulfill



obligations like identification of people below poverty line or food-for-work scheme etc.? Or negotiate the modalities in the bickering between Central and State Governments on how to use the resources in poverty alleviation? Or just declare yet another fundamental right (right to food in this case) for those concerned to sort out what to do with the new right?

A resolution adopted in a recent Conference on "Rural Poverty Reduction in South Asia", it was noted that "despite good achievements on the growth front, India faces significant challenges on the poverty alleviation front and needs to take some difficult political decisions. The decisive factor on the poverty alleviation front is not so much of paucity of resources but the incapability of the Government machinery to formulate viable schemes and the delivery system to optimally utilize funds". According to Planning Commission Member Dr. N. C. Saxena, various Union ministries spend approximately Rs. 350 billion annually on programmes that are meant to alleviate poverty. These funds, if directly transferred to the country's 300 million poor, it would buy for every poor household 3 kg. of food grains everyday from the market at the rate of Rs. 7.50 per kg. and thus wipe out all hunger among the poor! He said the focus must be shifted from maximizing the quantity of development funding to maximizing of development outcomes and effectiveness of public service delivery.

It is apparent that the problem or implementation of social and economic rights is not the job of anyone institution within the Government or outside. The Legislature, the bureaucracy and the judiciary have primary responsibility to fulfill the social justice goals of the Constitution. It is possible to identify the priorities, the beneficiaries and the scheme for delivery of services if there is political will and commitment. Judicial activism, PIL and media campaigns can move the agenda forward and to some extent compel action on some fronts. Ultimately it is a question of involving the people themselves in appreciating their problems and organizing the solutions through decentralized administrative arrangements now envisaged under the 73rd and 74th Constitutional amendments. Public scrutiny or governmental policies and public participation in governmental scheme to execute policies have to be the major strategy for achievement of socio-economic rights.

There are, of course, significant justice benefits arising from Court interventions on social justice issues. For example, the Directive Principles which were kept out of judicial enforcement are now being selectively enforced as constituent elements of right to life and personal liberty. The concept of "**life with dignity**" is evolved to encapsulate a series of basic needs for human development and incrementally included in the interpretation of fundamental rights. From this interpretative exercise in different factual situations, the writ Court could find a way for articulating State obligations in socio-economic rights and help judicial enforcement. Thus, right to primary education, right to emergency medical care, right to food and nutrition in cases of extreme poverty, right to clean environment and right to livelihood are today declared part of "life" "liberty" and "equality" guarantees. The court invented new remedies to give relief to aggrieved citizens compelling the executive governments to do its duty wherever necessary in a phased manner which could take care of financial constraints. The Ratlam Municipality case is an example of this approach. Even after evolving a formula to achieve social justice and rendering them as directions to the Governments, the Court often kept its control on implementation either by seeking implementation reports periodically (meanwhile keeping the case in file for review on a future date) or in extreme cases using the contempt



power to force compliance to its orders by the officials concerned. Activist monitoring is a new method in judicial enforcement of socio-economic rights.

The Human Rights Commissions, the *Lok Ayuktas*, *Lok Adalats*, the *Ombudsman*, the *Consumer Forum* etc. are other mechanisms to facilitate access to social justice particularly for the poor and vulnerable sections. These quasi-judicial bodies work in tandem with the judiciary to oversee the welfare measures intended to implement social Justice obligations of Government

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# PARTICIPATION AS A HUMAN RIGHT : ITS IMPLICATION FOR DEVELOPMENT

Abdullah Al Faruque\*

## 1. Introduction

Participation is essentially a political concept. But a paradigm shift occurred in the second half of the last century when importance of participation had been extended to the sphere of environmental movement and development process. Thus, participation has acquired significance at least in three distinct areas: political, environmental movement, and economic and social development. Hence concept of participation has wide ramifications lacking precision to define it. Keeping this in mind, an all- embracing definition of participation has been given by the United Nations Commission on Human Rights: "participation is the principal means by which individuals and peoples collectively determine their needs and priorities and ensure the protection and advancement of their rights and interests."<sup>1</sup>

Participation as valued ideal is deeply rooted in democratic tradition, which holds that people are entitled to participate in governance system in some direct or indirect ways, can be traced back from the ancient Greek civilisation. Indeed, democratic society presupposes that political power should be based on consent of the governed and should be limited by the law. In the democratic process, participation is central and is regarded as "an essential component of any system that considers itself a democracy"<sup>2</sup>, "corner stone of democracy"<sup>3</sup> or "instrument of legitimacy of government"<sup>4</sup> In essence it appears that essential purpose of democracy is to promote participation in public life and to create a culture of participation as value and as a moral necessity which helps people to improve their social conditions and general welfare.<sup>5</sup> In deed, participation is one of the means by which individual performs his function in society and expresses his attitude towards the political system. In this way, participation contributes to nurturing democratic values and discharging one's civic responsibility and identifying with his society and political institutions.<sup>6</sup> Political thinkers have identified three functions of participation in democracy: firstly, educative- participation creates a knowledgeable citizenry by contributing democratic process. According to Thomas Nagel, participation has developmental, or educative effects, to the extent that the process of participation itself changes participants by developing in them new values, attitudes, skill, knowledge and beliefs.<sup>7</sup> In Nazel's view, participation is a process by which people may learn about social system and how to work together which may broaden their view beyond their own narrow self-interest.<sup>8</sup> Secondly, participation is bound up with notion of freedom. The individual's sense of freedom is increased through participation in decision-making because it gives him a very real degree of control over the course of his life and enable himself to involve in public affairs.

Thirdly, integrative function- it increases the feeling among individual citizens that they belong in their community and feel to be identified with social institutions in which they interact.<sup>9</sup>

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In recent discourse of deliberative democracy propounded by Habermas, participation appears to be main theme. Habermas's deliberative democracy gives central place to importance of citizen participation, which encourage dialogue, focus upon the common good, engender critical reflection, promote rational consensus and inculcate civic virtue.<sup>10</sup> Another justification of political participation, according to Habermas, is that it promotes the legitimacy of decision and institutions by attaching them a greater level of credibility.<sup>11</sup>

In environmental sphere, public participation has emerged as dominant tool, which people can use in decisions on measures relating to environment protection. Principle 23 of the 1982 World Charter for Nature provides that: "All persons, in accordance with their national legislation, shall have the opportunity to participate, individually or with others, in the formulations of decisions of direct concern to their environment,..." The connection between equity, public participation and sustainable development was made by the 1987 Report of the World Commission on Environment and Development which is also known as famous *Brundtland* Commission.<sup>12</sup> In Rio Declaration, public participation in environmental protection measures has been recognised one of the fundamental prerequisites for the achievement of sustainable development.<sup>13</sup> Agenda 21 also stresses the need of individuals, groups, and organisations to participate in environmental impact assessment procedures and participate in decisions, particularly those that potentially affect the communities in which they live and work.<sup>14</sup> Subsequently, requirement of public participation has been incorporated in numerous other environmental treaties.

However, scope of present paper is limited and will not go into detail either of political or environmental aspect of participation. Rather, its purpose is to discuss participation from the development point of view and to establish linkage between participation and development in human rights context and to show that positive correlation exists between the two concepts.

## 2. Human Right to Participation

Participation is now not only a democratic value but also a human right imperative. This may be justified by the fact that right of participation features prominently in the existing international human rights instruments. Article 21 of the Universal Declaration of Human Rights provides that "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives." Article 25 of the *International Covenant on Civil and Political Rights (ICCPR)*, 1966 recognises the right to "take part in the conduct of public affairs, directly or through freely chosen representatives". Article 15 of *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, 1966 provides for the right of everyone to take part in cultural life." In the ICESCR, the right to participation has also been linked to the right to education. Art. 13(1) states "agree that education shall enable all persons to participate effectively in a free society". The *Convention on the Elimination of All Forms of Racial Discrimination* 1966<sup>15</sup> prohibits discrimination in respect of participation in political and cultural activities. Article 5 prohibits racial discrimination in all its forms and calls on states parties to guarantee equal right of everyone "to participate in elections" and to "take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service." Article 5 also recognises "the right to equal participation in cultural activities." The provisions of these earlier human rights instruments relating to participation deal with equal opportunity of all people to participate in political system to secure their self-governance and self-realisation. Such participation in the conduct of public affairs or governance promotes liberal



democracy, pluralism and cultural creativity in society.<sup>16</sup> Political participation is also linked to good governance and accountability of political institutions of a country, which is supposed to be democratic.

Gradually, scope of participation as a human right has moved beyond political realm to encompass social concerns. Development and social aspect of participation has got recognition rather by some special category of human rights conventions. The elaborated version of participation rights has been spelt out in the Convention on the Elimination of All Forms of Discrimination Against Women, 1979<sup>17</sup> which recognises following rights of participation to the women:

- the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies (Article 7.a.);
- the right to participate in the formulation of government policy and the implementation thereof; (Art. 7.b)
- the right to participate in non-governmental organisations and associations concerned with the public and political life of the country (article 7.c.);
- the opportunity to represent their governments at the international level and to participate in the work of international organisations (article 8);
- the right to participate in recreational activities, sports and all aspects of cultural life (article 13.c);
- the right to participate in and benefit from rural development (art. 14.2);
- the right to participate in the elaboration and implementation of development planning at all levels (article 14.2.a);
- the right to participate in all community activities (Article 14.2.f.).

The CEADAW is concerned with equal status of women with men and it, in fact, recognises explicitly participation as an universal human right as it prohibits discrimination in exercising this right in all spheres of state activities.

The Convention on the Rights of the Child (CRC), 1989<sup>18</sup> mentions four categories of rights: survival rights, development rights, protection rights and participation rights. Although the Convention does not explicitly mention about participation right, contents of it's several articles give concrete expression of the participation rights. The most important provision of the Convention is article 12, which requires state parties to assure that child who is capable of forming opinion, should be given the right to express views in all matters affecting his life. The child shall also in particular be provided the opportunity of being heard in any judicial and administrative proceedings affecting him. Article 13 deals with child's right to freedom of expression, while article 14 obligates states parties to respect the right of the child to freedom of thought, conscience and religion. Article 15 spells out the child's right to participation as a member of a group by allowing him freedom of association and assembly. Article 31 specifies participation in cultural and artistic activities. Thus, the convention gives the child the right to participate in activities of society and take part in decision making, in school and in the widening circle of local community, and the state parties have a commitment to provide the necessary conditions for exercising these rights.<sup>19</sup> These participation rights are perceived essential for the children to inculcate in them a sense of justice and responsibility in democratic society.



From the socio-economic perspective, participation has gained considerable importance in the International Labour Organisation (ILO) Conventions. Article 4 of the ILO Convention on Rural Workers' Organisations, 1975 requires states to "facilitate the establishment and growth of strong and independent organisations of rural workers as an effective means of ensuring... participation... in economic and social development..."<sup>20</sup> The ILO Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989<sup>21</sup> makes several references to indigenous people's participation in activities affecting their life:

- participation in the formulation, implementation, and evaluation of plans and programmes for national and regional development that may affect them directly; (art. 7(1).
- studies to be carried out in cooperation with indigenous peoples to assess the social, spiritual, cultural, and environmental impact on them of planned activities, which studies must be considered as 'fundamental criteria' for the implementation of the activities; (art. 7(3);
- to participate in the use, management, and conservation of the natural resources of their lands; (art. 15(1);
- consultation with indigenous people before a state may undertake or permit any programme for the exploration or exploitation of state-owned mineral, sub-surface resources or other resources pertaining to indigenous people's lands, (art. 15(2);
- consultation with indigenous peoples on legislative or administrative measures that may directly affect them; (art. 6(2).

Significance of these instruments lies in the fact that participation has been extended as an enforceable right to most vulnerable and marginalized group of people and violation of these rights to be remedied by following specific procedure. In particular, participatory role of indigenous and tribal people<sup>22</sup> is increasingly gaining importance in order to integrate them into development activities. Land and natural resources have particular importance to indigenous people as they go to root of their very economic, social and cultural survival.<sup>23</sup> Governments, international development agencies, transactional corporations and entrepreneurs undertake many activities in the land of indigenous people for exploring mineral resources, hydroelectric project and many other development projects which may affect their livelihood and natural environment. The Draft Declaration on the Rights of Indigenous Peoples, which is currently being considered by the United Nations Commission on Human Rights, also affirms right of indigenous people to participate in any project affecting their lands, territories and exploitation of mineral, water or other resources.<sup>24</sup>

Effort of international community to recognise right to participation in development process was culminated with the adoption of Declaration on the Right to Development<sup>25</sup> in 1986, which defines development as a comprehensive economic, social, cultural, and political process, which aims at the constant improvement of the well being of the people on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting from such development. Article 1 declares that "the right to development is an inalienable human rights... 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 realised. Article 2 declares that the human person is the central subject of development and should be the active participant and beneficiary of the right to development. Article 3 imposes duty on the states to formulate national development policies on the basis of active, free and meaningful participation of people. Article 8(2)



of the declaration further provides that states should encourage popular participation in all spheres as an important factor in development and in the full realisation of all human rights. The declaration makes it clear that the whole gamut of development revolves around the concept of participation; firstly, that human beings and communities have the right to participation in determining the model of development and control over the process of development, secondly, human beings and communities have the right to participate fully and equally in enjoying the benefits of the development. Subsequently, participation as a developmental tool has been mirrored in the Vienna Declarations and Programme of Action adopted by the UN World Conference on Human Rights in 1993<sup>26</sup> which states that "the human person is the central subject of human rights and fundamental freedoms, and consequently, should be the principal beneficiary and should participate in the realisation of these rights and freedom."<sup>27</sup> The Copenhagen Declaration and Programme of Action of the World Summit for Social Development, 1995<sup>28</sup> calls for strengthening the capacities and opportunities of all people, especially those who are disadvantaged or vulnerable, to enhance their own economic and social development and to involve them in the planning and implementation of governmental policies and programmes by which they will be directly affected. Main objectives of the declaration include social development, eradication of poverty, full employment, social integration, gender equality, attainment of basic needs, and efficiency of resource allocation. Popular participation is recurring theme in these stated goals and objectives. The declaration recognises that empowering people to strengthen their own capacities is a main objective of development and its principal resource. Empowerment requires the full participation of people in the formulation, implementation and evaluation of decisions determining the functioning and well being of societies.<sup>29</sup> Declaration on Social Development specially calls upon the state to ensure decentralisation and open management of public institutions as the means for people to participate in the formulation of social and economic policies and programmes. It also stresses on necessity for strengthening the abilities and opportunities of civil society and local communities to develop their own organisations, resources and activities for realisation of participation in the planning, decision making and implementation of social development programmes.<sup>30</sup> The declaration imposes specially an obligation on the states to take measures for full participation of ethnic, religious and linguistic minorities in social development programmes and process.<sup>31</sup>

The most comprehensive effort on right of participation has been undertaken at regional level with the adoption of African Charter for Popular Participation in Development and Transformation at the conference held in *Arusha*, Tanzania.<sup>32</sup> *Arusha* charter reinforces that nation should be based on full participation and the human and economic conditions of the African People cannot be improved without their full and effective contribution, creativity and popular enthusiasm. Thus, it recognises both political and development aspect of participation. It declares that "popular participation is, in essence, the empowerment of the people to effectively involve themselves in creating structures and in designing policies and programmes that serves the interests of all as well as to effectively contribute to the development process and share equitably in its benefits." With regard to the role of the African governments the charter states that African Governments have to yield space to the people and to broaden the narrow social base of power and of decision-making without which popular participation will be difficult to achieve. The charter emphasises on building 'new partnership' between African Governments and the people to accelerate social and economic development for the common interests. For this purpose, the *Arusha* charter calls for constructive interaction and policy



dialogue between government and people in participatory process and democratic way. The charter emphasises to establish linkage between national and international organisation in order to foster cooperation to facilitate popular participation. With regard to the role of the international community the Charter calls "...on the international community to examine its own record on popular participation, and thereafter to support indigenous efforts which promote the emergence of a democratic environment and facilitate people's effective participation and empowerment in the political life of the countries." It also recognises that the role of the popular organisations as central to the realisation of popular participation. The charter mention about stakeholders by enumerating the categories of the persons and groups such as the peoples and its sub-groups, popular organisations and grassroots initiatives, women's organisations, organised labour, youth and student organisations and other forms of various self-help institutions who will be participants in development process. The charter makes a breakthrough in establishing specific objectives, and modalities in participation process and in recognising role of both states and international communities to realise participation rights.

Although these declarations and charter are not legally binding and may be described as 'soft laws', their cumulative effect indicates evolving norm of right to participation in development process. This declaration makes right to participation as an integral part of development and participation is "the primary mechanism for setting goals toward the realisation of the right to development."<sup>33</sup> Moreover, several human rights instruments incorporate participation as a human right in pursuit of achieving economic and social development in comprehensive manner. Anne Orford suggests that a human right perspective gives participation' a meaning that is different from participation in a managerial sense. Participation in a human right sense means having the power to direct or to exercise authoritative influence over the development process, rather than simply being consulted about predetermined results.<sup>34</sup> These declarations posit participation as a collective action of people in development process. In this sense, it is also to be regarded as exercising of their collective or solidarity rights. Terence D. Jones, a UNDP representative, epitomised this human right perspective of participation: "...the right to participation represents an opportunity for a holistic fusion of the operational and normative aspects of development and human right approaches."<sup>35</sup> These legal developments in effect also demonstrate that besides political means, participation can be instrumental to eradicate poverty and to realise basic needs of people. Significance of these declarations relating to right to development and participation may be summed up in the following way:

*Ends and means:* Participation serves both as ends and means in itself. As an end itself, popular participation is the fundamental human right of the people in the determination of decisions, which affect their lives. Participation as an end contributes to a sense of self-worth and collective self-esteem among people.<sup>36</sup> Participation as means is an instrument of development and for realising other human rights.

*Interdependence:* Right to participation demonstrates aspect of indivisibility and interdependence of human rights.<sup>37</sup> Such inter-relatedness may be explained by the fact that several other human rights such as freedom of speech, expression, assembly and trade unions, association are crucial to the effective exercise of the right of participation. On the other hand, right to participation is essential for implementing political rights, for instance right to vote in election. Similarly, participation right is also necessary for realising economic, social and cultural rights, for example cultural rights and right to education.



*Individual as well collective right:* Right to participation may be exercised both individually and collectively. Right to participation is exercised as individual right mainly with regard to implement civil or political rights; on the other hand, it is collective right so far as realisation of economic, social and cultural rights is concerned. In this sense, it also falls into the category of solidarity or so called third generation rights.

Forgoing discussion reveals that right-based approach to participation is to be ingrained deeply in development process in order to attain equitable growth, which can benefit impoverished people in their social environment. Importance of such approach needs to be examined in the light of 'participatory development'; an issue is now debated and discussed widely. Indeed, such claim requires an assessment of participatory development.

### 3. 1 Participatory Development

In the last decades, considerable effort has been devoted to explain importance and meaning of participatory development and many developing countries have included it in their political agenda in pursuit of self-reliance and economic development. Participatory development presupposes both formal and informal means through which people can be involved, informed and consulted in planning, management of development and other decision-making activities. It is a process through which people can express and accommodate their own idea, preferences and concerns in decision-making. It is now a truism that success of development projects depends largely upon the nature and quality of popular participation. One of the main purposes of the participatory development is to give a voice to poor and marginalized people and integrate them into the decision-making structures and process that shape their lives. Reasons for emergence of participatory development may be attributed to failure of traditional development strategies, which usually ignores the need for popular participation in decision-making process. Traditional development process is often characterised as paternalistic, urban biased and top-downism, which is disempowering and unresponsive to the needs of people. Similarly, traditional development approach treats people as objects but participatory development transforms the poor from objects of development into knowledgeable subjects of progress.<sup>38</sup> Traditional development process is also bureaucratic and is rarely founded spontaneously by the community itself where only a group of privileged people can reap its benefit. On the other hand, participatory development or 'people centred development' rejects the statism and top-downism of traditional development; rather it allows the grass roots to exercise their self-determination in achieving developmental goals. Participatory development assigns priority to the satisfaction of basic human needs in the poor masses by allowing them to identify their own problems. Concept of participatory development owes its origin, to large extent, to Paulo Freire's theory of 'participatory learning', which he developed in his famous book *Pedagogy of the Oppressed*. The theory is based on the conviction that by taking part in participatory learning process, even ignorant person is capable of looking critically at his world, and he can gradually perceive his personal and social reality. He can come to a new awareness of selfhood and begin to look at the social situation in which they find themselves, and often take the initiative in acting to transform the society that has denied them this opportunity of participation. In the participatory process of learning, people who were previously treated as mere objects, known and acted upon, can now actively know and act upon, thereby becoming subjects of their own social destiny. In other words, when people are oppressed or reduced to the culture of silence, they do not participate in their own humanization. Conversely, when they



participate, thereby becoming active subjects of knowledge and action, they begin to construct their human history and engage in process of self-reliance.<sup>39</sup>

Participation has been accorded a central role in United Nations' initiative on social and economic development. Popular participation in the context of economic and social development has been defined in the 1970s in a UN report as "active and meaningful involvement of the masses of people at the different levels in (a) the decision-making process for the determination of societal goals and the allocation of resources to achieve them; and (b) the voluntary execution of resulting programmes and projects."<sup>40</sup> Participation is also now inevitable part of development initiatives by the world financial organisations and international donor agencies. For example, in the 1990s, World Bank's advocacy efforts focussed on two issues: structural adjustment programmes and stakeholders participation in policy formulation related to education, health, drinking water, agricultural development, micro-credit, etc.<sup>41</sup>

In last decades, the notion of participatory development attracted the attention of development experts all over the world. For example, linkage between development and participation has been well illustrated by one development expert:

"If equity, respect for the rights and the empowerment of local populations in ways consonant with their values, together with increasing output, raising productivity, and achieving institutional and technical moderation are taken as development objectives, then a policy bias in favour of authentic participation correlates highly with genuine development."<sup>42</sup>

Development experts have identified following functions of participation in development process:

- Cognitive by satisfying the psychological desire to participate in decisions, which affect peoples lives.
- Transformational in signalling a process of change in existing power relations within a social structure and thereby strengthen people's ability to determine how to improve their economic and social conditions.
- Instrumental or functional by serving as a valuable instrument for mobilising and organising public action.<sup>43</sup>

Any discussion of participatory development raises four key questions: who participates, why, how and when.

### 3.2 Who

All stakeholders who are affected by decision or development projects should be entitled to participate to it. Stakeholders are mainly two kinds: primary and secondary stakeholders. Primary stakeholders are generally poor and marginalized people, women, local communities and indigenous people who are most directly affected by development initiatives. Secondary stakeholders include NGOs, trade unions, women's organisations, human rights groups, community-based organisations, and other similar groups who may be indirectly affected.<sup>44</sup>

### 3.3 Why

Participation is now treated as an indispensable feature of all forms of development considering its many potential benefits. The most important aim of participation is to attain sustainable improvements in social and economic conditions of the poor for whom the development project is intended. The

broader goal of participation is to redress the inequitable distribution of resources and power that prevails in the society. Participation facilitates empowerment of the poor to take more active roles in development efforts by influencing the directives of developments initiatives. In this sense, meaningful participation is concerned with achieving power, that is the power to influence the decision that affect one's livelihood.<sup>45</sup>

Popular participation helps to improve the design of development policies as well as enhance the prospects of their effective implementation by making them more responsive to the needs and conditions of the people to whom they are directed.<sup>46</sup> Moreover, participation by those affected both positively and negatively by projects provides an essential source of information about the expectations, behaviour, and level of acceptance likely to be demonstrated by such groups. Ignoring this source of information may cause development projects to be ill-conceived and designed improperly and ultimately may impede their implementation.<sup>47</sup> Participation also increases the population's sense of ownership and belonging to the community, which eventually encourage the population's long term involvement and commitment to the development undertaking. Public participation helps to ensure accountability of the government by preventing its tendency to disregard public opinion and values.

In brief, objectives of participatory development may be summarised in the following way:

- use of local and traditional knowledge;
- easing implementation of decision;
- recognition of local needs and reflective of public values;
- a greater sense of ownership on the part of the stakeholders;
- long term social sustainability of development activities;
- raise awareness and educate the public;
- foster a sense of empowerment in participants;
- facilitate governmental accountability;
- increase public acceptance of decisions reached;
- substantively better decision.

### 3.4 How

Ways in which right to participation is to be realised depends on social, cultural and political traditions of each country and nature of particular development project or decision itself. Following strategies are widely used in different countries as mechanism of participation: petitioning, liaison committees, advisory committee, participation in environmental or social impact assessment, public meeting, appearing and testifying at hearing, serving on citizen advisory panels, public interest litigation, public inquiries, public consultation, etc.<sup>48</sup> Public participation can also take milder forms like dissemination of information, policy dialogues, writing letters to the editors of newspapers, debating, campaigning on issues of public importance.<sup>49</sup>

### 3.5 When

Popular participation is needed in all phases of development process, namely: *Identification phase*— at this initial stage, participation will determination of how the intended decision or development



project will contribute to economic development, poverty alleviation, who will benefit from the project, and how it will affect local populations.

*Planning phase*- when the project is designed and shaped into a fully-fledged proposal, complete with technical, economic, social, institutional and other factors.

*Implementation phase*-when the actual project is carried out.

*Evaluation phase*- stakeholders will also evaluate actual impact and benefits of the development projects.

#### 4.1 Problems and Prospects of Effective Participation

Right to participation is not without criticism. Some popular criticisms levelled against participation are: participation entails resources and time; public is emotional and ill-equipped to deal with technical matters; public participation can result in lowest-common-denominator decision if an attempt is made to accommodate all interests; public participation can lead to citizen frustration and increase distrust of the government, especially if participants do not achieve their goals.<sup>50</sup> While these criticisms have some rationale, carefully crafted participation may outweigh many of its disadvantages. Therefore, right to participation requires delicate and careful balancing of the conflicting interests. But realisation of participation may face many practical problems, which may exist in a given society, for instance, the lack of culture and social tradition of participation<sup>51</sup>; the lack of orientation; the lack of civic responsibilities or spontaneous sense of service to the community.<sup>52</sup> Prescriptive role of the state and bureaucratic mode of thinking may also act as inhibiting factors, which may undermine the people's own governing abilities.<sup>53</sup> Sometimes, governments, specially, dictators and military regimes may use participation as a mask of legitimatising their regime and political system. Therefore, participation to be authentic, it should be inclusive and representative one. It should be free and without any element of threats or coercion of the state apparatus. According to Denis Goulet, a development expert, "Authenticity means locating true decisional power in non-elite people, and freeing them from manipulation and co-optation."<sup>54</sup> Participation to be genuine, it should start from bottom and reach progressively upward into ever widening areas of decision making involving mass people which may eventually turn into a social movement.<sup>55</sup> Goulet observes:

*The best indicator of whether participation is purely ornamental or a vital element of strategy is the relative weight assigned to it in the overall development practice of a given society. The mere existence of participation does not, by itself, reveal the quality of a nation's development style.*<sup>56</sup>

Upendra Baxi categorise participation in both reactive and proactive forms.<sup>57</sup> According to Upendra Baxi, in its reactive form, participation signifies collective response of the people to the development initiative by the government while proactive participation entails citizen's responsibility to propose development policies. In Upendra Baxi's account, the former process promotes culture of silence and later approach should be preferred as it provides the people an opportunity to articulate issues involving public importance.<sup>58</sup> Effective participation also depends on information networks, social resources and co-operative linkages among the potential participants.<sup>59</sup> Konrad Ginther represents 'spontaneous institution building' as an ideal model of authentic participation which he describes in the following way: the people organise themselves by way of creating their own non-governmental institutions. Membership is voluntary and members claim to be authentic representatives of the people. They commit themselves to interact constructively with state sector and non-state sector



institutions for promoting development in the common interest on the level of local government. Major decisions on structure, procedure and substances of the activities of the participatory institutions are taken in a democratic decision making process accessible to all members; and finally the organisation is of non-profit making character.<sup>60</sup> While these guidelines offer valuable approaches of effective participation, modalities and strategies of participatory development should be formulated taking into consideration of social setting, level of democratic culture and nature of development project in particular country.

#### **4.2 Role of State and Non-State Actors**

For realising participatory development, an enabling environment is needed which should be supported by clear legislative framework by the state. One of the main pre-requisite for effective participation is access to relevant information about development plans. The right of access to information places two types of duties on the government. One is a reactive duty- the obligation to disclose information in response to requests. The other is a proactive duty- the obligation to compile, prepare, and disseminate certain information to the general public without being asked. Access to information should be guaranteed in legislative framework so that one may recourse to independent tribunals for redressing when his right to information is violated. Reforming state institutions is the most common approach to enhancing the opportunities for public participation.<sup>61</sup> Administrative decentralisation is essential for full participation in local level. Government should ensure effective decentralisation of local government by revising and reviewing legislation to enhance local autonomy and participation in decision-making.

Right to participation in development sphere is programmatic right, which is progressively realisable. Therefore, state should adopt legislation, which will elaborate the content of this right and contain benchmark to measure the compliance of state's obligation to implement right to participation. For this purpose, it is necessary to monitor the progressive realisation of this right and to remedy its violation. Violation of such right should be clearly defined including state's failure to implement this right. Clarence Dias suggests that violation of the right to participation need to be conceptualised as including exclusion, denial and discrimination as well as other forms of violations.<sup>62</sup>

A vigorous civil society is viewed as indispensable for effective participatory development. For this purpose, civil society includes community organisations, business and workers organisations, NGOs, and self-help organisations, which should be actively involved in the process. These organisations are engaged in many activities including direct service delivery to poor individuals or communities; support work such as capacity building, technical assistance and funding to communities, advocacy etc. These organisations play an intermediary role or linking role between the poor and government agencies. They can mobilise resources, make conscientization amongst the poor and monitor the implementation of the development projects. Therefore, the cooperation and interaction between state and non-state sector institutions is considered vital in the participatory development process.<sup>63</sup>

#### **5 Concluding Remarks**

Right to participation is treated as public good to foster common interests and is building block for economic and social development. Participation is essential for efficiency, effectiveness and sustainability of development activities and equitable economic growth, which can be broadly intertwined with social, economic and cultural rights. Therefore, necessity of participation has been



asserted and increasingly entrenched in the development process. Put differently, while right to participation in governance process may be treated as political self-determination, participation in development process should be undoubtedly called as economic and social self-determination of the people for achieving their well-being. However, definitive norm of right to participation in development process is still evolving and is yet to be guaranteed as enforceable right. Existing declarations on development both at international and regional level invariably speak on consensus on the necessity of public involvement in development activities. The international community should reach further consensus to incorporate participation in development process as legal right in a universal human right instrument. At the national level, state should undertake specific legal framework defining the content, compliance measure and violation of participation right. However, like all other rights, participation right is also not unlimited and unrestricted and should be subject to societal considerations and collective interests. It entails stakeholders' duty of compassion, good citizenship and respecting other's opinion in exercising this right. Formation of social capital by making bond of cooperation amongst the stakeholders is also at the heart of effective participation.

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# PROMOTION OF HUMAN RIGHTS – FOUNDATION FOR DEVELOPMENT

Dr. Mohammad Jahirul Islam\*

## Introduction

The correlation between human rights and development is, indeed, one of the most important topics for discussion in the present deteriorating state of law and order situation and economic recession in Bangladesh. The inalienable rights and privileges of an individual are enshrined in the UN charter for human rights in global perspective and Bangladesh Constitution in the geographical bounds of Bangladesh.<sup>1</sup> It is necessary to examine the existing scenario of human rights in Bangladesh to see how far it conforms to UN charter or Bangladesh constitution and contribute to development.<sup>2</sup> The concept of development is broad and complex and encompasses not only the economic factors, but also social and political. In a democratic dispensation the *sine qua non* of development is the existence of enabling law and order situation stimulating the vehicle of progress and protection of natural, inherent, universal and inalienable rights. This indicates the promotion of human rights and a healthy environment to uphold the rights of the citizens for further promotion of their well-being. Without having a good record of human rights, good governance remains a far cry and people's participation in the development process hardly materialised. The protection of citizens by law and prevalence of rule of law, inter alia, create an atmosphere for systematic development of a country in all sectors resulting in the uplift of living standard of the people. This commands development planning for best use of resources in the attainment of maximum possible socio-economic improvement of the people in general and individuals and groups in particular. The constitution of Bangladesh protects the individual rights from states inbuilt tendency of authoritarianism providing immunity to increase the material and spiritual standards of its citizens, which are commensurate with the Universal Declaration of Human Rights 1948. It protects its citizens against any discrimination. Article 28(1) of the constitution reads that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.<sup>3</sup> It stresses that it shall be a fundamental responsibility of the state to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people.<sup>4</sup>

In a poverty-stricken country like Bangladesh, socio-economic development of the country should be the cardinal principle of the government. It has the most important role to play to create a friendly environment for socio-economic progress and implement different programmes and projects to support its development activities. These programmes and projects should engender creation of infrastructure and other facilities for employment generation, capacity building, institutional development, social security and welfare, empowerment of the indigents, assistance to the socio-economically disadvantaged and vulnerable segments of the population based on the respect to the

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human rights. There is no gainsaying the fact that these programmes should contribute to establish a stable network of economic activities in the face of burgeoning demand to alleviate poverty and improve the socio-economic conditions of the majority of the population. If the rights of these poverty-prone people are not reflected in the policies of the government and not upheld during formulation of programmes/projects, the balance of development could not be maintained. As a result the all-pervasive nature of poverty would remain endemic.

This small effort has been made to illustrate the promotion of human rights for accelerating the economic development of Bangladesh from the prevailing human rights conditions and level of development. It has briefly analysed the interface between the Human Rights Conditions and Pace of Development and illustrates how the hazardous child labour and discrimination against women hinders the development process in the long run, abuse of human rights brought about by politicisation of development activities and the relation between facilitation of investment and promotion of human rights.

### **Interface of Human Rights and Pace of Development**

This is not necessary to repeat that Bangladesh is a poor country and more than forty percent of its population live below the poverty line. In such a poverty-stricken country the human rights record is also not satisfactory. This may be explained other way round that as the human rights condition is not good, the pace of development is slow and sometimes regressive. Experiences reveal that under the prevalence of frequent human rights violation all over the country the vision of alleviation of poverty is thwarted despite palpable efforts made in this direction. The interference of political elements and law enforcing agencies in the economic activities of the individuals beyond the jurisdiction of law, obviously, grinds to halt down the pace of his progress and he can hardly contribute to the overall economic progress of the country.

An individual is the subject of national law. Within the boundaries of national laws he/she performs his/her economic and other related activities. If the inherent, universal and inalienable rights of the individual were not protected to perform the economic activities, he/she would not be able to perform it properly and would rotate in the vicious cycle of poverty. In the age of privatisation and globalisation upholding the rights of the individuals to run businesses and undertake initiatives for economic activities is one of the main criteria for success.

In a democratic dispensation abrogation of diminishing individual rights is done in conformity with the constitutional legal requirements. Bangladesh is no more an infant in practicing democracy, but rule of law has not been established due to corrupt practices in relation to democracy. The abrogation of the rights of the citizens by the state machinery precludes the participation of the citizens in the development activities and slows down the pace of overall development. Instances are replete that the participation of the general mass is ignored while implementing a development project in their name in a given project area. They are not involved in the planning stage as the seat of planning is the centre. There is no local level planning in Bangladesh and no participation of the beneficiaries in the planning is ever visualised. This is a clear violation of the rights of the beneficiaries of development work. Development works are done but for the mere will of particular political groups who belong to the ruling political parties. For example, if a small bridge or a culvert is to be constructed, it is constructed



at such a place where the interests of particular individuals are best served. The interests of the people matter very little in such circumstances. Since the country is administration oriented and run by bureaucrats not by elected members at the field level, there is no room for the promotion of rights of the affected people. Had there been any local level planning for disciplined and sustained planning for development the participation of the beneficiaries would have been ensured and their rights would have been respected. There are many committees/ commissions formed, which recommended for local level planning for such participation. The latest report prepared by the Public Administration Reform Commission (PARC) in June 2000 recommended for establishing a Planning Unit at the district level named *Zila Planning Unit*.<sup>5</sup> The main functions of the Zila Planning Unit are preparation, implementation and coordination of development projects within the geographical jurisdiction of the concerned district. This unit is supposed to bridge the gaps between national and local level planning, identify local needs, create provisions for participation of the local population and maintain coordination for development activities among different *Upazilas* within the district and propose to mobilise resources. Had this been considered for implementation, the rights of the local population could have been upheld in development.

There is another aspect, which is to be revealed that participatory planning has a linkage with the promotion of human rights. In a participatory development process development of infrastructure and other facilities in a given geographical area depends on the participation of its population or community for elevation of socio-economic progress for further creation of opportunities for economic activities. The precondition required for this participation is the favourable law and order situation. The participation of a particular community in the development process strengthens the trust and confidence through democratic process. The law enforcing agencies are required to be the part of the community playing major role for maintaining the safety and security of the members of the community to ensure their participation. The friendly interface between participatory development and the maintenance of safety and security may create safe and secured environment for economic activities leading to development. The friendly symbiosis of these two envisages exploration of new ways to address the problems of development activities.

### **Child Labour and Discrimination Against Women – Disgraceful Social Evils and Malice to Development**

In the informal sector in Bangladesh there exists hazardous child labour, which apparently, produces a number of goods and services for the time being, but in the long run creates havoc to the industry and the country as it does not create any sustained labour force or specialised people to work for special jobs. Poverty is the main cause of this hazardous child labour. The total number of working children in the country is more than 6 million of which 2.5 million are engaged in 300 different types of activities in the informal sector.<sup>6</sup> About 50 of these activities are regarded as harmful to the children's physical and mental development. Employment of children in the hazardous works is against the norms of employment under the international and national laws. Engaging children as labour force is violative of UN charter and Bangladesh constitution.<sup>7</sup> There is no tangible advantage in employing children save the fact that they are paid less for almost the same hour and production than the men. Child labour deprives the children from their rights to have a normal childhood and



leaves them to grow as unskilled and almost unproductive citizens of the country, which retards socio-economic development of a country in the long run. There is no need to mention that the country should get rid of child labour. There are several existing labour laws concerning employment of children and upholding their rights. But the essence of these laws is required to be reflected in their implementation, rule of law and alleviation of poverty.

The discrimination against women in the informal sector in terms of wages and salaries is painful. In the informal sector there are still many instances that the women workers get less wages than the men for the same kind of work. In the rural areas women workers are employed for construction of roads, but they are paid less in comparison with the male workers. This discrimination may be treated as violation of their rights as the constitution of Bangladesh safeguards the rights of the women against all kinds of discrimination. Article 28(2) of the constitution reads, 'Women shall have equal rights with men in all spheres of the State and of public life'.<sup>8</sup> But the state mechanism does not always effectively protect their rights to ensure equal wages. Article 15 of the constitution emphasizes on right to work, equal pay for equal work and provides reasonable wage having regard to the quantity and quality of work.<sup>9</sup> A survey conducted by an action research study on the Institutional Development of Human Rights in Bangladesh (IDHRB) shows that for the same type of work and hour men get 100 taka while women get 60 taka only.<sup>10</sup> It is mentioned in the survey report that though women are more sincere than men in discharging their duties but they get half of the wages of their male peers. Sometimes they have to pay bribe to draw their wages. Job opportunity is limited and working conditions are unpleasant. Elimination of all forms of discrimination against women especially in the form of salaries and wages is necessary to uphold their rights. Women working in the informal sector generally have little protection of justice and legal defence for preservation of their rights. The Ministry of Women and Children Affairs has created a cell in the Ministry to address the issues of violence against the women. "Prevention of Women and Child Repression Act 2000" has been approved to combat violence against women and children and facilitate their needs and concerns with security.<sup>11</sup> But combating violence against the women is not enough to promote their rights in the economic field. Women's participation in the economic activities is vital for overall development of the country, which should be ensured through equal wages and salaries. Although the government has undertaken several projects to ensure the women and children's status in the society, these have so far carried little effect to facilitate the promotion of the position of the women in the informal sector. The Ministry of Labour and Manpower, Ministry of Social Welfare and the Ministry of Women and Children Affairs have undertaken several projects to establish the rights of the women and children, which appear to be not enough to promote them. If the women and children in the informal sector are not protected and not given access to the legal defence for promotion of their rights, it will not be possible to create a skilled and specialised labour force in the country and consequently there will not be any sustainable development.

It is appalling to reveal the fact that even in the formal sector there is discrimination in the form of salaries and emoluments. In the civil service of Bangladesh, a particular group is receiving more salaries than other groups of similar categories, which is a clear violation of the constitution and human rights. As per constitution equal salaries and emoluments are to be paid to the equal categories



of public servants. In the form of selection grade a particular group of civil servants or particular cadre is paid more than the others. For example, the members of the administration cadre after crossing ten years of service in which five years in the senior scale are provided financial benefit in the form of selection grade, whereas the members of other cadres belonging to similar category are not provided, which is a clear discrimination to the members of other cadres of similar category and violation of their rights. This creates resentment among them and an unfriendly environment in the governance of the country adversely reflecting in the development process. They tend to feel that they are being deprived of their rightful salaries and emoluments. This halts dynamism and effectiveness in their works. As a result the pace of development slows down. The discrimination in terms of salaries and emoluments among the similar category of civil servants is a clear violation of the constitution as it reads in Article 29 (1) (2) that there shall be equality of opportunity for all citizens in respect of employment of office in the service of the Republic. No one shall be discriminated.<sup>12</sup> Consequences of the discrimination apparently show that it could not bring any tangible benefit to the country. The issue is urgently required to be resolved for the prevalence of justice and protection of the provisions of the constitution against discrimination. This will enhance the speed of growth.

### Politicisation Spells Low growth

Political stability is considered as a *sine qua non* of economic development. Repression and political violence hinder the development. Policies and programmes undertaken by one government are witnessed to be abandoned with the change of government. The new government inducted to power cancels many projects undertaken by the previous government and takes up projects anew. As a result many a projects are found inordinately lying at the initial stage or half complete stage. Political stability and protection of human rights are necessary for avoiding all these unwarranted wastage of resources.

There is another picture of development phenomenon i.e. politicisation of development activities, which merit special attention. Any development activity undertaken by the government should be planned to implement neutrally without having any bias to any political affiliation. It should be based on national interest rather than the interest of any individual or group. It is observed that in some cases projects are planned in a way to accommodate the political interests of the ruling party having little development bias. This obviously does not contribute any precise impact on development. This is wastage of public money and time and adversely disposed against the interests of the national benefit. It has been rightly observed in the Report of PARC that political influences cause projects to be sometimes unviable and result in wastage of public funds.<sup>13</sup> Delays in project implementation cause further wastage of public funds. There may be many reasons for not implementing the projects timely. One of them is deteriorating law and order. If the law and order situation is not favourable, the timely procurement of equipment for the projects may delay and suppliers and contractors cannot complete their works within the stipulated time. Prevalence of extortion and toll collection from them leads to sombre state of things and delay the project implementation, which cause cost over-run. As a result the implementation of projects suffers. This is indeed breach of public interest and defiance of their rights to get the benefits of the projects within a given area and time. This is important to mention that the government undertakes development projects to support the sustainable development of the



country and if the projects are not completed timely, the objectives are defeated. Had not there been politicisation of the implementation of development projects and protection of extortion politically, the interests of the beneficiaries could have been promoted better.

It is necessary to mention here that one of the common practices in Bangladesh is the forcible land grab by a network of vested parasitic groups, comprising of local touts and politically influential people especially by the activists of the ruling party and the government officials. There are many instances of grabbing the public and private land by the activists of the ruling party, which hinders the planned activities of development and brings about inequity. Access to law in case of grabbing of public land may result in recovery of land, but in case of grabbing of private land the recovery is a long drawn process and in many cases the genuine private owners may not get the possession. Under such situation the state mechanism in many cases is unable to protect the rights of the individual owners of land. Land right is a human right – declared by the international human rights convention. The constitution of Bangladesh guarantees the right to own property. Article 42(1) of the constitution reads, “Subject to any restrictions imposed by law, every citizen shall have the right to acquire, hold, transfer or otherwise dispose of property, and no property shall be compulsorily acquired, nationalised or requisitioned save by authority of law”.<sup>14</sup> This guarantee does not always ensure the owning of property of all citizens. The sad plight may stare the poor at their faces. The displaced people caused by river erosion fall into more distressed conditions. The poor people displaced by the river erosion do not have the access to their land. The powerful lobby having political influence grab their land ignoring the rights of the genuine owners and both the powerful clout and the state machinery sometimes harass the poor genuine owners. Thus a family is displaced not only by river erosion, but also by harassment and repression closing its economic activities having to make no contribution to the national economy. Only rule of law and promotion of unflinching loyalty to human rights could give a little room for these unfortunate people to protect their land from grabbing. The prevalence of insecurity in ownership, possession and use of land property caused by corruption, malpractices, inefficiency and outdated methods on the part of the land administration and related judiciary adversely affect the economic activities of the land holders across the country.<sup>15</sup> Political will and commitment in making the land issue a national agenda may solve the problem to a great extent.

### **Human Rights – A Bulwark Against Investment Insecurity**

Investment is the most important factor for economic growth. With the change of the role of the government from regulatory to promotional investment policy has been changed by the successive governments to facilitate the private investment. Simplification of investment sanctioning procedures, liberalisation of import procedures, rationalisation of tariff structure, reduction of quantitative restrictions and a package of other incentives have been offered to private investment, particularly to foreign investment.<sup>16</sup> But in spite of that investment remains at low level. Corruption and extortion, inter alia, have been identified by PARC as one of the major problems for such a low investment situation. It remarked that gangsters frequently use extortion by intimidation and kidnapping for ransom. Even foreign manufacturing companies are reportedly paying money to groups of terrorists to protect their business interests. Transportation of goods from one place to another without giving



toll to the illegal collectors cannot be thought of. This points out poor law and order situation unfavourable to investment. Our constitution provides not only individual freedom, but also freedom to open a business or start any production and protect it in conformity with law. Article 31 of the constitution states that the law of the state shall protect the property of the citizens. This offers support and security for private entrepreneurship by the state. Security of this entrepreneurship is a precondition for investment. If the security of investment and the investors is not provided, economic growth cannot be expected in this age of market economy and privatisation. The essence of privatisation lies in the safety and security of the investors and their investment. Article 32 of the constitution declares that no person shall be deprived of life or personal liberty save in accordance with law.<sup>17</sup> Unless this is provided the economy will not grow and development cannot be achieved.

### **Conclusion**

The Universal Declaration of Human Rights enlightened the nations around the world for declaration of the elimination of discrimination against women, declaration of the rights of the children, declaration on the right to development, declaration on Social progress and development etc. The UN declares the support of continuous raising of the material and spiritual standards of living of all citizens of its member states and nationalities, with respect for and in compliance with human rights and fundamental freedoms through the Declaration on Social Progress and Development. This support of UN contributes to the national development of its member states. The constitution of Bangladesh reflects the provisions of the Universal Declaration of Human Rights, which require to be translated into practice in real life. This will enhance the dignity of the citizens and stimulate the development of Bangladesh. The interface between promotion of human rights and development may create a society terrorism-free. It may increase friendly relations between the state and the subjects, which may encourage more participation of the citizens in development activities. It would create congenial environment for promotion of full productive employment and elimination of unemployment and under-employment, establishment of equitable and favourable conditions of work for all, including the improvement of health and safety conditions, which is so badly needed in Bangladesh. The human rights conditions of a country are generally reflected in the level of development it has achieved. It is generally observed that the common people of Bangladesh are usually unaware of their rights and they are deprived of the service delivery provided by the public organisations. In most cases they face harassment, which impedes the economic growth in the long run. This reflects in the overall development scenario of the country. The elimination of poverty; the assurance of a steady improvement in the living standard and just and equitable distribution of income would be possible with the translation of the provisions of the constitution for upholding the rights of its citizens. An awareness programme may be undertaken with the objective to educate the people about their rights and duties along with the members of the public machinery especially the public servants, police and other service-oriented organisations. If the human rights condition improves, the spontaneous participation of the members of the public in development activities will increase. The government of Bangladesh should look into it by setting up a Human Rights Commission.



Human rights can be the outcome of good governance. It shall also curb all other fissiparous tendencies e.g. extortion, toll collection, ransom and armed gangsterism in the society. The government must act to snuff out the stoked up flames of social evils and allow the citizens to breath in fresh air free from panic and anxiety. Government may have to step into shoes of benevolent ruler bent upon destroying the enemies of society and protecting the law-abiding citizens. This may usher in a period of enabling situation for growth and healthy civic life.

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## DEVELOPMENT AND HUMAN RIGHTS : BANGLADESH PERSPECTIVE

2023 / 10/10/2023

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**Introduction :** Realization of basic needs of human being presupposes good economic condition. Material condition of a society or state determines how many basic needs will be fulfilled. Hence economic condition and enjoyment of basic human rights are interrelated. Today economy has become instrumental to measure true development of a country and strong economy is necessary for realization of basic human needs. A country cannot be said to have achieved true development if the basic needs of human life are left unfulfilled.]

In the aftermath of the Second World War the countries belonging to the 'capitalist block' came up with liberal democracy and free market economy. Having individualism and consumerism at the center of their blooming they gave special emphasis on civil and political rights whose origin can be traced with three glorious bourgeois revolutions of the United Kingdom, the United States of America and France. On the other hand the countries belonging to the 'socialist block' emerged with central planning and authoritarian government. They emphasised on economic, social and cultural rights which are concrete embodiment of the basic needs of human life and their origin are traced with the glorious socialist revolution of Russia. With the division of the whole earth into two blocks the concept of human rights and development had been divided and followed two separate courses. But in course of time the indivisibility of human rights got strong footing and the definition of development was revised and in the place of traditional definition true development was defined with reference to the realization of basic human rights.

After the collapse of Soviet Union in 1990 socialist central planning and authoritarian government disappeared as an alternative model, with it also disappeared the alternative model of development. Then liberal democracy with free market economy became the only dominating ideology of the whole world. And Francis Fukuyama gave philosophical foundation to this changed unipolar world. Fukuyama resolved that liberal democracy will be the ultimate destiny of mankind.<sup>1</sup> In his analysis, all contradictions will be resolved by the mutual recognition of human rights within a framework of liberal constitution. Mutual recognition of human rights is possible only within the structure of liberal democracy. By combining these two theories Fukuyama identified liberal democracy as the end of human history. In such a scenario, earlier conceptions of human rights and development prompt revision. This paper is but an attempt in that direction.

An attempt is made in this paper to :

- I. define true development of a country;

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- II. establish relationship between realization of basic human rights and development.
- III. depict the real picture of realization of basic human rights in Bangladesh and also to determine the stage of development of Bangladesh with reference to the condition of the basic human rights enjoyment ensured by proper arrangement of the state after 30 years of its independence.

### Development

[Development is a term which has no precise meaning and generally accepted definition. Acquiring a positive connotation development is user friendly. In fact development has as many potential meanings as potential users.]“Development is a standard borne by those who would promote the interests of the affluent and the powerful as well as by those who would serve the unaffluent and the unpowerful; by those who would expand the reach of the most industrialized states and those who would shield the least-modernized from nefarious influences; by those who would stress the virtues of entrepreneurship and individualism and those who would nurture community and collective concerns; by those who would pursue strategies of top-down initiative and decision-making and those who advocate a bottom-up, or grass-roots, approach; and finally, by those who would exploit and maim Mother Nature for the benefit of either business or labour in today’s world, as well as by those who concern themselves with bountiful and livable environment for future generations.”<sup>2</sup>

Three main interest groups can be identified from which most of the discussion on development emanates: (i) governments, non-government organisations and individuals in the Third World; (ii) international agencies, such as various United Nations agencies and the World Bank; and (iii) academics from the developed world. Within each of these groups there are major differences in attitudes and opinions. Through long discussions, debates and differences, development has now become an interdisciplinary subject or it can be attributed to different political or ideological viewpoints.<sup>3</sup>

[Before Second World War the term development was not widely used. Due to the increasing pressures for the social and economic development and political independence for the citizens of colonized countries, the colonial powers began to accept the need of development.] Moreover, the people from developed and underdeveloped countries fought and suffered together during the war and they became more aware of their common humanity and enormous differences in their standard of living. From that time people of developed and underdeveloped countries began to think about the development of the latter as a realistic and desirable possibility.<sup>4</sup>

In the late 1950s and early 1960s a group of scholars started to define development primarily in terms of economic growth and to measure it by aggregate data on gross national product (GNP) or per capita income. They considered accumulation of wealth was necessary to promote economic growth and they advocated to reach material benefits to the marginalised people by trickle-down effect. They emphasized on rationalism, instrumentalism, and consumerism and expected that it will accelerate social mobility. The spreading militarism of the 1970s, the economic deterioration of 1980s and the relative decline of U.S. influence cut down the optimism of the scholars.<sup>5</sup> That time the mainstream



development professionals envisaged development as a top-down process. That means major decisions are taken by donors in centers of established power; the diffusion of technology and other attributes of modernization from those centers to peripheries; the trickle-down of material benefits from few (who are getting all the privileges and who are making huge profit) to the neediest. This model targeted enhanced productivity as their goal and the evidence of development.<sup>6</sup>

[New concepts of development expressed its concern for the overall betterment of human being. Instead of measuring development in terms of national economy, development was conceived of as a state of human wellbeing.] This new attitude was expressed clearly by the Cocoyoc Declaration, which was adopted by the participants at a seminar organized by the United Nations Council On Trade and Development (UNTCTAD) and the United Nations Environment Programme (UNEP) in Cocoyoc, Mexico, in 1974. The Declaration states:

Our first concern is to redefine the whole purpose of development. This should not be to develop things but to develop man. Human beings have basic needs: food, shelter, clothing, health, education. Any process of growth that does not lead to their fulfillment—or, even worse, disrupts them—is a travesty of the idea of development.<sup>7</sup>

This new concept of development was 'man-centered', not 'property-centered'. It was manifested in two ways. Firstly development was measured not only in economic terms but also in terms of social wellbeing, political structures and the quality of the physical environment. So, the new concept did not assess development in the light of per capita income or the rate of growth of national income, this concept had its own criterion and indicators, such as life expectancy, standard of health or literacy, access to various social or public services, freedom of speech, the degree of popular participation in the government or decision making, or environment conservation. The non-economic aspects of development brought 'integrated-development' in front line which emphasized the interrelationship of economic, social, political and environmental factors. The concept of integrated human development is described in the Constitution of Papua New Guinea as the right of :

every person to be dynamically involved in the process of freeing himself or herself from every form of domination or oppression so that each man or woman will have the opportunity to develop as a whole person in relationship with others (Papua New Guinea, 1975, p.2)<sup>8</sup>

The 'man-centered' development is concerned with distribution of the benefits of development. The inequality between individuals and social groups and inequality between rural and urban areas is very important consideration when measuring the state of development and the reduction of inequality is very significant goal of development. In this connection Dudley Seers wrote:

The question to ask about a country's development are therefore: what has been happening to poverty? What has been happening to unemployment? What has been happening to inequality? If all three of these have declined from high levels, then beyond doubt this has been a period of development for the country concerned. If one or two of these central problems have been growing worse, especially

if all three have, it would be strange to call the result 'development', even if per capita income doubled.<sup>9</sup>

The new attitudes in evaluating the goals of development promoted the emergence of 'basic needs' approach to development. Basic needs have been identified under three principal categories—(i) consumption goods—such as food, clothing and shelter; (ii) basic services like education, health and clean water supply; and (iii) the right to participate in one's own development. Individual's right to employment is very crucial as it is a means of earning an income which can in turn be used to purchase basic goods and services. This approach of development emphasizes on to meet the basic needs of all the population, so this approach has direct distributional implications.<sup>10</sup>

In 1980s the bottom-up approach in its encouraging form calls for attention to health and education. The approach as problem saving techniques put forward the model of promoting community development through self-help in stead of achieving some material goal through the completion of certain projects.<sup>11</sup>

### **Human Rights**

[Human rights mean those rights without which a human being cannot live as human being. As human being every man or woman has some basic rights which are required to exploit their physical and mental faculties. These rights are indispensable and inviolable, no one is supposed to take away these rights from any individual. These rights are so basic and fundamental that any man or woman gets these rights from his/her birth and in every stage of life they are required for meaningful existence of human life.]

Economic, social and cultural Rights have very close relation with the Marxist revolution of the early twentieth century. Second generation of human rights are the product of this revolution and included those rights which are related with basic necessities of human being such as right to food, cloth and shelter, right to education, right to work etc. The erstwhile socialist countries expressed their pledge to guarantee all these rights without which human life cannot sprout with its complexion. The third generation of human rights started their journey with the adoption of the African Charter on Human and People's Rights as this document emphasized on the People's or Community Rights. The right to environment, right to equitable distribution of wealth – all these rights have been categorised as Community Rights.

Though the emergence and development of human rights cannot be identified with particular time, locality, religion, philosophy or civilization, but human rights got universal and systematic shape after Second World War. Before Second World War we observed concern for and efforts in the protection of religious freedom, protection for war prisoners and treatment of wounded, protection of minorities and labour and these cannot be described as universal as they were not general human rights to which all members of the human family were entitled. It was only after Second World War individual human became very important and emerged at the center of all national and international affairs and human rights got universal shape. Due to the common efforts of all nations the United Nations adopted the



Universal Declaration of Human Rights on 10th December of 1948. It provided its all out efforts to complete the International Bill of Human Rights. In international level a number of covenant concerning human rights were signed and in regional level several human rights machineries were established to promote and ensure human rights. It impacted the national environment of different countries tremendously. Human being got their true recognition and human rights were recognised inevitable for making human life meaningful.

### **State Obligation, Bangladesh Constitution and Minimum Standard of Basic Human Rights**

The stage of development achieved by Bangladesh should be measured with reference to the fulfillment of basic needs of people by the state. The effective realization of basic human rights can be utilized as a criterion to measure development. The development situation of this country will be considered in terms of the human rights guaranteed by the Constitution and real arrangement of the state to realize those rights in the practical field. To accomplish that task first the contradiction of constitutional commitments and practical situations and then the real condition of development will be visualized.

All the eighteen rights included in the "Fundamental Rights" part (Part III) of the Constitution are Civil and Political Rights, and they are enforceable by a court of law. Though they are guaranteed by constitutional safeguards, but their enjoyment remained suspended during martial law regimes and emergency situation. Moreover, the enjoyment of some basic Civil and Political Rights have been curtailing by a number of repressive laws, namely by the Special Powers Act, the Anti-Terrorism Act, the Speedy Trial Act, by different governments. The governments directly elected by the people performed badly in ensuring the Civil and Political Rights of the people.

All the Economic, Social and Cultural (ESC) Rights were included by the framers of the Constitution in Part II (Fundamental Principles of State Policy) which are not enforceable by a court of law.<sup>12</sup> Provision of basic necessities (Article 15), Emancipation of peasants and workers (Article 14), Rural development and agricultural revolution (Article 16), Free and compulsory education (Article 17), Public health and morality (Article 18), Equality and opportunity (Article 19), Work as right and duty (Article 20)—all these ESC rights which are important for human being for their complete flourishing and nourishment have been placed in Part II. They are made inoperative by Article 8 (2) by making them unenforceable in a court of law. The lack of financial capability on the part of state is put forward as the rationale behind the placement of ESC Rights in Part II. Constitution includes a number of ESC Rights not with an intention to guarantee them, but to set up a programme for the state which it will implement when economic condition make their realization fully possible. The framers included a number of rights and left their implementation at the free will of state functionaries when resources will be available. But the state functionaries are evading their responsibility through a quibble by placing basic rights of people in inoperative part of the Constitution. At the same time reports are being revealed that 1,35,000 crore taka out of 1,80,000 crore taka foreign loan have been misused and misappropriated by the foreign and country elites including state functionaries. The corruption of first class government officials caused a loss of more than 11,000 crore taka or 4.7 per



cent of GDP to the country in 2001.<sup>13</sup> The Comptroller and Auditor General's office detected misappropriation of 663.75 crore taka in 17 ministries and government offices between 1994 and 2000.<sup>14</sup> The government of Bangladesh this year remitted 2,400 crore taka of the loan defaulters. All these reports make the contradiction clear that state functionaries are evading their responsibilities in ensuring basic human rights in the pretext of lack of resources on the one hand, the report of thousand crore taka's misuse and misappropriation by the state functionaries are published on the other hand.

To measure the extent of compliance on the part of a state in realizing ESC rights is very difficult. Perfect measurement is not possible, a passable picture requires complex process of assessment and monitoring of the state's observance of these rights through qualitative and quantitative data. According to General Comment No. 1, initially indicators should be used in the field of health, nutrition and education and observance of these basic needs can be fairly monitored by setting specific goals with respect to life expectancy, reduction of infant mortality, the extent of vaccination of children, the intake of calories per person, the number of persons health care provided, level of literacy, etc.

### **Interrelationship between Human Rights and Development**

The interdependence of material condition and enjoyment of people's rights depicts how close the relationship of development and human rights is.<sup>15</sup> New definition of development expressed its concern for overall well being of human being. Development was conceived of as a state of complete human well being which would mean to provide all opportunities for a meaningful human life. If any state fails to ensure food, shelter, clothing, health, and education for the people, that state cannot be considered to have ensured development for the people of that country. Until and unless the basic necessities of majority people remain unfulfilled, so long the overall well being of all segment of people have not been ensured through proper state arrangement, development of that country cannot be said to have sprouted.

Development means a mechanism of ensuring opportunities for a full life to people, especially to poor, women, and deprived. Development is a process of expanding the real freedoms that people are entitled to enjoy and that will make human life meaningful.<sup>15</sup> Enjoyment of human rights and development cannot be separated from each other. True development is freedom mediated and makes all sort of freedoms available for the commoners. All the major sources of un-freedom—poverty, tyranny, poor economic opportunities, systematic social deprivation, intolerance and over activity of repressive states should be eliminated to ensure true development of a country.<sup>16</sup> The contemporary world denies elementary freedoms to majority people. "Sometimes the lack of substantive freedoms relates directly to economic poverty, which robs people of the freedom to satisfy hunger, or to achieve sufficient nutrition, or to obtain remedies for treatable illness, or the opportunity to be adequately clothed or sheltered, or to enjoy clean water or sanitary facilities. In other cases, the un-freedom links closely to the lack of public facilities and social care, such as the absence of epidemiological



programs, or of organized arrangement for health care or educational facilities, or of effective institutions for the maintenance of local peace and order.”<sup>16</sup>

In fact development means to make satisfactory arrangement on the part of the state to ensure all human rights, civil, political, economic, social, cultural and community rights, otherwise development cannot be considered a discourse having any worth or utility. Development and human rights cannot be separated from each other as true development of a country depends on basic human rights enjoyment of all the people which is not possible without proper economic development. Hence the right to development has been recognised as an important human right. In fact “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.”<sup>17</sup>

If we consider the Cocoyoc Declaration, General Comments adopted by the UN Committee on Economic, Social and Cultural Rights and the Declaration on the Right to Development, we shall see true development of a country and realization of human rights especially ESC rights are indispensable. We can measure development in terms of realization of basic human rights. Satisfactory arrangements to enjoy basic human rights also give a satisfactory impression about the stage of development achieved by a country. The interdependence of development and human rights can be well presumed from the above three Declarations in the following ways:

- I. Any development that does not lead to the fulfillment of basic human needs, namely food, shelter, clothing, health and education, cannot be considered a true development.
- II. What have been happening to poverty, unemployment and inequality? Satisfactory answer to this question indicates that a country is maintaining a satisfactory state of development.
- III. “Development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.”<sup>18</sup>
- IV. Realization of basic human rights requires sufficient resources which can be achieved through a sound process of development.

So it is clear that realization of basic human rights are used as a scale to measure the stage of development of any country. At the same time the enjoyment of basic human rights is dependent on development of a country in the sense that development presupposes satisfactory economic, political, social and cultural blooming of societal people.]

### **Development of Bangladesh in terms of the Realization of Basic Human Rights**

Today, after 30 years of independence the per capita income has expanded by more than three-fold, human development has progressed and the incidence of income/ consumption poverty has reduced

by a third. Yet 370 \$ per capita income is low even by South Asian standards, some 50% of the population is still poor, and most indicators of human development are low even by standards of low income economies.

[Due to high population density and high incidence of natural disaster Bangladesh is the most vulnerable of the South Asian economies. Bangladesh has made some progress in poverty reduction since independence. Due to stagnation in progress with reduction of rural poverty the overall poverty reduction slowed down since 1980s. Urban poverty reduction has continued, with the incidence declining to around 35% in 1996, as compared with rural poverty incidence of over 50%. The statistics of rural poverty suggests the vulnerability of rural poor.<sup>19]</sup>

[Since independence, Bangladesh has made some progress in primary school coverage, reduction of population growth rate and infant mortality, in improving access to safe water and raising life expectancy. The performance in the area of population management is remarkable, resulting a rapid reduction in the rate of population growth from a high of 2.8% per annum in the 1970s to 1.6% per annum in the 1990s. But if we compare human development progress of Bangladesh with international standard we shall get very disappointing picture. Human development indicators in Bangladesh still lag behind the levels achieved in Sri Lanka and the East Asian economies. In the South Asian region Bangladesh has the lowest life expectancy, falling even behind low income countries. Health standard is very poor, infant, child and maternal mortality is very high. Nutrition is a serious problem, with over 50% of the children suffering from malnutrition. (World Bank 1999-97) The adult literacy rate is still very low and secondary school enrollment is the lowest in the region. The quality of basic services including education is not satisfactory.<sup>20</sup>

In Bangladesh the state failed to develop infrastructure for getting all the people educated. Instead of establishing universal, combined and scientific education for all different systems of education have been developed to suit different classes of society. There is expensive system of education for students coming from well-off family, government directed education for middle and lower-middle class and religious education for poor people. After independence of this country quantitative ratio and qualitative development of government expenditure in education and health sectors did not increase. We are observing very disappointing picture of poverty alleviation when we notice continuing migration of rural people to Dhaka city. 53.8 % of the total rural people were below poverty level according to the statistics of 1983-84. After a number of governmental and non-governmental initiatives and loan programmes of 8 years it became 52.9%. According to one estimate, elimination of rural poverty of Bangladesh will take around 1000 years. This is the real picture of poverty alleviation of this country.<sup>21]</sup> The people below poverty level are deprived of the right to all basic necessities. "The violation of the rights to a reasonable standard of living entails the violation of all the other human rights, since their observance is quite simply made materially and structurally impossible. Poverty aggravates discrimination since it particularly affects women<sup>22</sup>, the elderly and the disabled. Moreover, the poor are in most cases unable even to discover their rights. And this violation not only affects individuals, through and within their precarious day-to-day existence, but



it entraps their entire social world over several generations in a spiral from which it is virtually impossible to escape. Who will rid us of the suspicion that, as far as the majority of the well-to-do are concerned, poor people should not beget children?"<sup>23</sup>

After emergence as an independent country Bangladesh already passed thirty years. Now time has come to raise the question that—what have been happening to poverty? What is the real picture of the right to food, shelter, work, health and education? The answer is very disappointing. Around 65 million (out of 130) people of Bangladesh live in absolute poverty, and they are amongst the world's poorest. Bangladesh is the most densely populated country in the world with 900 people per km and a population size of around 130 million. The per capita income of the people of Bangladesh has grown by almost 2 per cent a year over the last two decades and it remains very low at around 390 \$. Half of the population of Bangladesh are living in extreme poverty and are consuming less than the equivalent of 1,805 kilo calories per day. The human deprivation profile in Bangladesh is very high. 65 million people (with 54 million in rural areas) are in the below poverty line. 90 million people do not have access to adequate sanitation. 72 million people do not have access to primary health care services. 56 million adults are illiterate. 20 million children are not enrolled in primary and secondary school. 12 million children under 5 years of age are malnourished, 3 million births (each year) are not attended by trained personnel. 2 million infants are low birth weights, 1.6 million children die before reaching 5 years of age.<sup>24</sup>

[In last thirty years Bangladesh got 1,80,000 crore taka as foreign aid. The foreign agents supplying foreign machineries and advisers looted 25% (45,000 crore taka) of the total foreign aid.] The bureaucrats, politicians, agents getting commission, advisers and contractors appropriated 30% (54,000 crore taka) of the total foreign aid. The rich people of urban and rural areas including higher middle class got 20% (36,000) of the total amount. The poor toiling mass for whose betterment foreign loan was given they got only 25% (45,000 crore taka) of the total foreign loan. So undoubtedly we can conclude that a vicious circle composing of persons holding 1,35,000 crore taka has been created by expending only 45,000 crore taka in the name of foreign aid. It created a trap of criminalisation. A lion share of foreign loan is usually expended for repayment of commodities and service expenses brought from foreign countries. In this way a foreign beneficiary group composed of suppliers of equipment and foreign advisers has been developed. At the same time a vicious circle of beneficiaries composed of bureaucrats, politicians and contractors of this country made their control and network strong. Foreign loan is the source of centralization of 75% of wealth in the hands of some of the people. The economic and political future of this country is closely related with the future of this parasitic class. The foreign aid came to this country in the last thirty years did not prompt the process of socio-economic development. This loan contributed nothing in achieving economic growth. The industry of 'foreign aid' through its huge network helped the foreign elites and the elites of this country to maintain their highly luxurious life and helped to perpetuate their influence and control. In fact 1,35,000 crore taka out of 1,80,000 crore taka was employed to expand the wealth



of elite class. As a result the economy of Bangladesh has been criminalised for the perpetuation of which politics has also been criminalised.<sup>25</sup>

The above facts are enough to substantiate the proposition that millions of people of Bangladesh are deprived from basic human rights (needs)—right to food, education, health care, adequate sanitation, and a safe environment which still remain distant dream for bulk of the people. The human deprivation is on the rise.<sup>26</sup> The state of development of Bangladesh is very disappointing as the state of this country failed to ensure realization of basic human rights. The state obviously requires resources to implement basic human rights, but accumulation of resources have not been possible due to lack of sound policy of development and commitment of state functionaries. At the same time available resources cannot be utilized to build up minimum arrangement for realization of basic human rights due to corruption, misappropriation and misuse of public money and foreign aid by state functionaries and elites.

### Concluding Remarks

From the above discussion it is clear that realization of human rights and true development of a country is interrelated. For a long time development had been defined in terms of gross national product and per capita income of country. In course of time definition of development was revised and in the place of 'property-centered' theory 'human-centered' theory got prominence. Achievement of true development was started to be identified with the fulfillment of basic human needs. If the state of any country fails to ensure right to food, shelter, clothing, health, work and education, if the conditions of unemployment, poverty and inequality are worse that country cannot be said to have achieved true development.)

The framers of the Constitution placed the basic human rights in the Fundamental Principles of State Policy which are not enforceable by a court of law. The obligation of the state was limited by conditioning the fulfillment of these rights with the availability of resources. The Constitution left the implementation of the basic human rights on the free will of the state functionaries. They will make proper arrangement to ensure all the basic human rights when resources will be available. Through the tricks of the provision of availability of resources the state escaped its obligation for long time. But from the General comments of the UN Committee on Economic, Social and Cultural Rights we have got minimum core content of basic human rights which no state can evade in any circumstances. With reference to the realization of minimum standard of basic human rights I tried to measure the development of Bangladesh which level it is now operating. The real scenario of health care services, sanitary facilities, literacy level, education facilities, consumption of calories is very disappointing. Inequality and discrimination is increasing day by day, the government has failed to create sufficient job opportunities, 65 million people are still living below the poverty line. They are deprived of all the basic human rights. At the same time foreign loan of 1, 35, 000 crore taka was misused and misappropriated by the foreign and country elites. Reports of corruption and misappropriation of hundred crore taka by the state functionaries are published in the national dailies.



The real picture of the realization of the basic human rights in Bangladesh clearly visualizes that Bangladesh cannot be said to have achieved true development. This country failed to fulfill the pre-conditions of true development which requires proper state arrangements to ensure enjoyment of all basic human rights. We are residing in an age when realization of basic human rights and economic development flourish hand in hand. To ensure enjoyment of basic human rights sufficient resources, commitment and patriotism of state functionaries and proper utilization of available resources will be required. Realization of basic human rights depends on strong economic condition, at the same time proper arrangement of enjoying basic human rights are used as a scale to measure stage of development of a country. By taking all these things into cognizance the future steps should be taken, otherwise the threshold of development and enjoyment of basic human rights will remain distant destiny.

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# GOOD GOVERNANCE IN BANGLADESH: AN AGENDA FOR DEVELOPMENT

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## Introduction

Good governance and development are inseparably connected. Good governance is the key to economic and social development. Good governance is linked to the hopes, aspirations, demands and values of the people of an evolving society.<sup>1</sup> Lack of good governance threatens social justice, harmony and security. But it is not easy to define good governance precisely and scientifically. Using the term "good" with governance introduces a normative element. Governance has been defined, as the manner in which power is exercised in the management of a country's economic and social resources for development.<sup>2</sup> So good governance means the same manner, but it emphasizes the manner which is exercised in a proper way. After independence, though Bangladesh got the same economic help, as was needed to reconstruct Europe, but due to lack of good governance, in 30 years Bangladesh has not reached the door of development. In this article, an attempt has been made to find out the criteria of good governance and to show how much it is necessary for our development.

## Criteria of Good Governance

It is not an easy task to determine the components of "good governance". It has been determined in various ways. Some of the Criteria are given below:

- (1) According to World Bank, legitimacy, accountability, transparency, lack of corruption, competence and efficiency, decentralisation, sustainability, equity, empowerment and participation are some of the criteria considered desirable for evaluating the quality of governance.<sup>3</sup>
- (2) According to the Commission on Global Governance<sup>4</sup> "informal arrangements that people and institutions either have agreed to or perceive to be in their interest", is governance.
- (3) According to Huq, et al<sup>5</sup> "human governance" consists of three components, namely; good economic governance, good civic governance and good political governance.
- (4) Another important aspect of governance relates to the role of the state.<sup>6</sup>
- (5) Primacy of law, law and order are the vital components of good governance.<sup>7</sup>
- (6) Parliamentary democracy and its effectiveness, poverty alleviation, responsible media, women empowerment, concept of an ethical society, independence of Judiciary, a watchful society are some important elements of good governance.<sup>8</sup>

Development depends upon the entire governance situation of a country and governance depends upon the existence of some factors. For better understanding some of these factors are discussed below in brief:

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### 1. Legitimacy and Rule of Law

Basically legitimacy is the principle of rule of law. When the authority fails to treat the common people impartially, it generally loses legitimacy. Because if the government fails to uphold rule of law, human rights would be violated. So for ensuring better governance, government has to prove its legitimacy through maintaining the rule of law.

### 2. Accountability

Accountability is the vital component of good governance. For good governance, accountability must be ensured. Public officers, both elected leaders as well as civil servants should have accountability. They are to discharge various functions viz., allocate public funds, provide safety and security of the citizens etc. Accountability reduces corruption and assures citizens that their government's actions are guided by the needs of society.<sup>9</sup> Civil servant's accountability shall be ensured through the control and supervision by elected functionaries. The elected officials can be accountable by free and fair election, monitoring by the opposition political parties, the civil society, parliamentary committees, public inquiry commission, public opinion etc.

### 3. Transparency

The functions of the government should be transparent. Transparency means that the continuous sharing of information, decision making and implementation should be open. It is not sufficient that information should simply be made available. It must also be reliable and presented in useful and understandable ways in order to facilitate accountability.<sup>10</sup> Information should be accessible in the way every citizen can participate in the debates. Such information helps to ensure a level playing field and encourages the effective participation of all social groups and partnership between different sectors. Transparency makes the institutions and organizations more responsible.

### 4. Decentralisation

Decentralisation of Administration is another important element of good governance. Delegation of power may ensure good governance. Delegation includes the transfer of functions to regional or functional development authorities, parastatal organisation or special project implementation units on the understanding that they would operate relatively free of central government regulation concerning personnel recruitment, contracting, budgeting, procurement and other matters and they would act as agents for the state in performing prescribed functions, with ultimate responsibility for them remaining with the central government.<sup>12</sup> Decentralisation provides the following benefits:

- (i) It ensures better results in development programmes and projects;
- (ii) It increases people's participation;
- (iii) It ensures efficient delivery of services;
- (iv) It helps to mobilize local resources;
- (v) It engenders lower level democracy;
- (vi) It enhances coordination;
- (vii) It promotes equity;



- (viii) It increases the flow of information bottom up;
- (ix) It enhances the responsiveness of the central government to citizen demands and interests;
- (x) It maintains political stability and
- (xi) It provides education and training in political leadership.

In our country, local government bodies have been setup from the concept of decentralisation. But lack of powers and strict control over local government bodies make the decentralisation weak. By strengthening the local government bodies, we can get the above benefits.

### **5. Lack of Corruption**

Corruption is one of the main barriers for development in our country. It is also an impediment to ensure good governance. Corruption may be defined as abuse of public power for private gain.<sup>14</sup> It is not confined to bribery, but can assume a number of other forms such as nepotism, patronage, pillaging of organizational assets, distortion of organizational expenditure, cronyism etc.<sup>15</sup> The invisible amount of money which goes to corrupt pockets, would have made our country developed. It is found from a statistics that in the last seven years (1994-2001), around 15,000 (fifteen thousand) crore taka has been misappropriated by 24 ministries and government agencies.<sup>16</sup> Some of the misappropriations are deficit-stocking of food, non-submission of government revenues and surplus funds for development projects, non-collection of overdue money from agents, misappropriation of housing loans withdrawal of excess salaries and allowances and over expenditure.<sup>17</sup> Bangladesh topped the list the Corruption Perception Index (CPI) of the Transparency International in 2001.<sup>18</sup>

### **6. Empowerment and Participation**

Good governance depends on the existence of participatory process. The effective participation of the people of all classes can ensure national development. About half of our people are women. Besides, we have some ethnic or indigenous people. Some of the classes in the society including women are far away from the participation in national development. The entire development depends upon the proper empowerment and the backward sections will be deprived of getting development benefit if they are not properly empowered. Empowerment means the organised efforts to increase control over resources and regulative institutions in given social situation on the part of group or movements for those hitherto excluded from such control.<sup>19</sup> Participation is closely related with the concept of equality. Equality means all persons (men, women, poor or rich) have equal rights to improve and to maintain their wellbeing. Participation is of different types, viz., political participation, participation as to government service, participation of decision-making etc. Bangladesh Constitution also permits to adopt necessary initiatives for effective participation of backward section.<sup>20</sup> After independence, though the government has taken various initiatives for ensuring equal participation for all in the fields of education, service, politics, the real situation is still disappointing. Women constitute only 10 percent in the public sector.<sup>21</sup> Women's participation in policy making is also very insignificant. Because only 6 (six) percent of class one female officials are in grade one to grade four in the national pay scale.<sup>22</sup> Besides participation of ethnic groups is not satisfactory, they cannot participate effectively in our national economy. So for equal and effective participation, the government should



take various positive initiatives such as quota or other effective measures that everyone can take part and contribute to our national development.

### 7. Law and Order

Law and order is becoming pivotal not only to good governance but also to state management. Law and order is the precondition of social justice and the pre-requisite for development. In the recent time, deterioration of law and order is one of the barriers on the way to development. Rape, killing, acid throwing, kidnapping, snatching etc. are the matters of daily life. Many factors are responsible for worsening of the law and order situation in Bangladesh. One of them is terrorism. The terrorist activities are now spreading fast all over the country. All the past governments reportedly expressed their concerns over terrorism. We can answer why as non-democratic political societies with poor economies are breeding centers for growths of terrorism. Non-observance of democratic norms by the political parties makes their leaders dependent on henchman for supporting their interests within and outside the party leadership.<sup>23</sup> The main responsibility of the henchmen is to protect the interest of the leader suppressing their opponents. In the present context, nobody is free from danger. Journalists, teachers, businessmen, service holders, all are passing their days under the continuous threat of terrors. Because of terrorism, maximum development activities including foreign aided development programmes have been stopped. So it is urgent to improve law and order situation for accelerating the growth of development.

#### Towards ensuring Good governance

Good governance holds the key for national development and it changes with time and expectations of the people. For good governance following should be ensured:

Administrative reforms are essential for good governance. Restructuring of entire administrative system is the need of hour. A committed, disciplined, dignified, efficient and motivated civil service is a *sine qua non* for good governance. The public officials are expected to be fearless, honest and impartial in the performance of their duties and responsibilities. But coming to power, the political parties are used to politicize the bureaucrats. As a result, there is no transparency and accountability in the administration. But transparency prevents corruption. So a comprehensive reform of the bureaucracy with special focus on its depoliticisation, would no doubt make a significant contribution to the nations stride for building a truly democratic society and promoting good governance. It is better to mention that few years ago, a Public Administrative Reform Commission had been formed and later the Commission placed some recommendations for ensuring effective administration. But the recommendations have not yet been implemented. So, it is needed to implement the recommendation of the Public Administrative Reform Commission for ensuring transparency and accountability of the whole administration. Besides, the much talked Official Secrets Act should be repealed for ensuring bureaucratic transparency.

Good governance may be ensured by strengthening the local government bodies and ensuring local governance. Participation in the decision-making is one of the vital agenda for dvelopment and it can make the governance good. We need democratic institutions at the grass root level so that the concerned people can participate in local governance. Strong local government can uphold the



democratic process and can play vital role to alleviate poverty. Democracy will not be consolidated if local governments are not effective.<sup>24</sup> The history of local government in Bangladesh is the history of ups and downs. At present, there are three tiers local government in Bangladesh, viz., Union Parishad, Upazila Parishad, Zilla Parishad. In fact, only one tiers of local government is effective in the rural areas of Bangladesh, namely the Union Parishad. But lack of fund, lack of coordination, lack of proper assignment, lack of competent leadership etc. have made the Union Parishad weak. Actually, the Union Parishad is not playing proper role that can help our national economy. In the same way, the City Corporation (Urban local govt.) has failed to meet the people's demands.

We need comprehensive as well as independent judiciary for ensuring rule of law. Independence of judiciary is the precondition of rule of law. There is no liberty, if the judicial power is not separated from the legislative and executive.<sup>25</sup> Rule of law requires that the Government should be subject to the law, rather than the law being subject to the government<sup>26</sup> Rule of law ensures individuals civil and political rights. Rule of law requires the fulfillment of certain economic, social and cultural rights. It also requires the power of judicial review over administrative action. Judicial review comprises the power of a court to hold unconstitutional and unenforceable any law or order based upon such law or any other actions by a public authority which is inconsistent or in conflict with the basic law of the land.<sup>27</sup> The object of judicial review is to ensure that the authority does not abuse its power and the individual receives just and fair treatment and not to ensure that the authority reaches a conclusion which is correct in the eye of law.<sup>28</sup> Judicial review aims to protect citizens from abuse or misuse of power by any branch of the state. The Constitution of the People's Republic of Bangladesh recognises the judicial review power of the courts.<sup>29</sup> The High Court Division exercises this power. But it has some limitations. The High Court Division can entertain on the basis of the application of aggrieved person and on the grounds of the violation of any of the fundamental rights prescribed by Part III of the Constitution.

Effective Parliament is the *sine qua non* of good governance. We have passed the period of twelve years of parliamentary democracy. The common citizens have given their verdict through elections. But from the very beginning, the accountability of both the ruling and opposition parties has not been ensured. Though there are enough scopes to ensure government's accountability in the parliament, continuous absence of the opposition have made the parliament ineffective. Partics Article 7 of the Bangladesh Constitution stipulates that all powers in the Republic belong to the people. From this Article it is meant that people must know what is happening.<sup>30</sup> Parliament is the centre from where the citizens can be informed. But due to lack of effective parliamentary deliberation, people are remaining ignorant. Besides, according to Bangladesh Constitution, the Cabinet shall be collectively responsible to Parliament.<sup>31</sup> In our case the paralyzed parliament cannot play effective control over administration. It is one of the main barriers to ensure good governance.

Appointment of Ombudsman is the much-talked agenda for the last two decades as the Ombudsman acts as the defender of the citizen's rights. In a modern state, the administrative authority has to perform multifarious activities. In this connection, they exercise vast powers. Sometimes, these powers tend to become corrupt and people's rights are violated. For protecting the people from such mal-administration, the institute of 'Ombudsman' is a necessity. Ombudsman is the "watchdog" of



the administration and the protector of the 'little man' against arbitrary administrative discretion by investigating complaints of individuals concerning grievance against a government agency.<sup>33</sup> Bangladesh Constitution recognises to setup the office of the Ombudsman.<sup>34</sup> The Ombudsman Act has been passed in 1980 but it has not yet been enforced. The Office of the Ombudsman could play important role for ensuring good governance and rule of law. Besides, 97 percent people demand the immediate setup of the office of the Ombudsman.<sup>35</sup> But the people's opinion has not yet been heeded to.

Establishment of Independent Human Rights Commission is a dire need to protect and to promote human rights in the domestic level. Sustainable development is possible, when the development is by way of protecting and promoting human rights. Human rights which have been prescribed in our Constitution and other existing laws must be implemented.

The contribution of the civil society in the field of socio-economic development is undeniable. The civil society has pivotal role in establishing good governance. The members of the civil society give their intellectual directions so that the nation can find the path of development. They can play an effective role to uphold democracy. They have moral responsibility to the nation.

Perfect role of media can establish good governance. In our country newspaper is the symbol of our hopes and expectations. As government's electronic media has failed to meet the people's demands, some non-government electronic media are meeting such demand. Pen of the journalist may be the sword against terrorism and corruption. Their investigative report can make the administration transparent and accountable. So, all of the media should have to take responsibility for establishing good governance.

Independent anti-corruption body is the pre-requisite for establishing good governance. In our country corruption has pervaded all spheres of social life. If there had been no corruption, we could have derived double benefit with the resources we have spent. The Bureau of Anti-Corruption cannot play proper role in this regard because this department works under the direct supervision of the Prime Minister's office and naturally this department does not take action against the same political government. Besides, the track record of the Anti-Corruption department is not satisfactory. The average rate of settlement of complaints is 41 percent and only 4 percent of the accused are convicted, 5.2 percent acquitted and the remaining 90.8 percent of cases hangs fire for years together.<sup>39</sup> So for the better governance and ensuring transparency and accountability, independent Anti-Corruption department should be established soon.

### **Instead of Conclusion**

One of the main objectives of the government is to provide good governance, as good governance is the key to development. Since independence in 1971, the successive governments have tried to eradicate poverty and to improve the lives of the people. But due to lack of good governance, they have failed to do that. The present law and order situation and the problem of good governance in Bangladesh make the economic growth unstable and social justice and social security have not been ensured. As a result, development is hindering. The obstacles of development may be removed by ensuring good governance. Good governance is an abstract idea as its existence depends upon the



existence of some elements. The government has to take initiative for ensuring the essentials of good governance without any delay. Finally, it requires a long-term political commitment for achieving good governance.

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## HUMAN RIGHTS, POVERTY AND DEVELOPMENT PLANNING IN BANGLADESH : THE PRSP DEBACLE

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Development essentially means human development and a precondition of the latter is promotion and protection of human rights. The term "human rights" refers to those rights that have been recognized by the global community and protected by international human rights legal instruments. Their recognition, protection and promotion are essential factors in the development process of the society. Human rights are a global vision backed by state obligations, and includes all kinds of rights, which are very essential for existence of human beings. To clarify and confirm these human rights two separate covenants on civil and political rights and the economic, social and cultural rights were adopted in 1966, which came into force in 1976. In addition to these covenants two more conventions were adopted to protect rights specially related with the women and children in 1979 and in 1989 respectively. Since then a large number of conventions have been adopted<sup>1</sup> and the process is still continuing.

Rights mentioned in the Covenant on Civil and Political Rights may be referred to as those rights, which allow a person to participate in the governance of a state. And rights mentioned in the Covenant on Economic, Social and Cultural rights are related to the insurance of minimum necessities of life. For instance, right to adequate food, clothing, housing and adequate standard of living and freedom from hunger, right to work, right to social security, right to physical and mental health and right to education are included in this category of rights. In absence of these rights, existence of human beings is likely to be endangered.

Intricate relationship between these two categories of rights was recognized by the International Human Rights Conference held in 1968 and in General Assembly's Resolution in 1977. They reaffirmed that all human rights are universal, indivisible, and interdependent and inter-related. The international community must treat human rights globally in a fair and equal manner, on the same footing and with same emphasis.<sup>2</sup> Today, it is universally recognized that civil and political rights do not have any meaning unless they are accompanied by social, economic and cultural rights, especially for the developing countries.<sup>3</sup> Realization of human rights in general and not of a particular category of rights is essential for development.

Protection and promotion of human rights thus are legal obligations of all states in national and in international sphere. Article 55 of the United Nation Charter imposes an obligation on all its members regarding universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion which is an essential condition for economic and social progress and development.<sup>4</sup>

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However, responsibility for implementation of these international human rights standards have been imposed upon the national governments by the 'Bill of Human Rights'<sup>5</sup> and other international human rights instruments. The Vienna Declaration of Human Rights, 1993 recognized the solemn commitment of all states to fulfill their obligations to promote universal respect for, observance and protection of, all human rights and fundamental freedoms for all...<sup>6</sup>.

Bangladesh is a party to these international human rights instruments albeit with certain reservations<sup>7</sup>. The Constitution of Bangladesh pledges that its fundamental aim is to realize a society in which the rule of law, fundamental human rights and freedom, equality and justice will be secured for all citizens<sup>8</sup>. The people of this country had fought for their independence mainly because of socio-economic exploitation by the ruling elites of West Pakistan. On the other hand, the main target of our national building was to set up a socialist society upholding the principles of equality and justice – political, economic and social. Accordingly, fundamental rights for the citizens of Bangladesh have been guaranteed in the constitution. Unfortunately however, the Constitution failed to recognize different categories of rights on an equal footing. It rather makes a sharp distinction between two sets of rights: civil and political rights on the one hand and economic, social and cultural rights on the other. Rights stipulated in part III of the constitution are recognized as fundamental rights<sup>9</sup> which are almost political in nature and most of the socio-economic rights are accommodated in part II as the fundamental principles of state policy<sup>10</sup>. It is assumed that realization of economic, social and cultural rights would require a major commitment of resources and active intervention on the part of the state, which Bangladesh as a colonial state with a broken economy, was not in a position to guarantee. Civil and political rights on the other hand, require negative intervention and no resource allocation. Thus an artificial classification made by the framers of the constitution prevailed. Today, after 30 years of independence Bangladesh is yet to not ensure these socio-economic rights for its citizens— people are still living in poverty as they lived during pre-independence time. Bangladesh is struggling to alleviate poverty. But all attempts of Bangladesh till today have been rather futile because economic and social rights i.e. rights directly related to adequate food, clothing, housing and adequate standard of living and freedom from hunger, right to work, right to social security, right to physical and mental health and right to education of the citizens etc. have not been guaranteed as fundamental rights by the constitution. So, poverty remains a national disaster. Successful combating against poverty requires upholding the constitutional pledge to ensure socio-economic rights of the people.

Poverty itself is a violation of human rights. Additionally, it is the root cause of the denial of a wide range of human rights. Conversely, discrimination, inequalities and other violations exacerbate poverty. The relationship between human rights, poverty and development is thus circular. Breaking this circle by securing the enjoyment of human rights by people living in poverty and social isolation is an effective tool in overcoming poverty and promoting human development. Poverty is widely recognized as a multi-dimensional problem involving income, consumption, nutrition, health, education, housing, crisis-coping capacity, insecurity etc.<sup>11</sup>

Development being a systematic factor is integrally related with economic and social set-up of a country particularly the resource-people relationship, poverty, illiteracy and societal stratification. The character of planning and the legal system being inextricably linked with development, indeed,



determines the character of the available economic and social rights in less-developed countries. That the developmental planning in less-developed countries is governed by the elitist approach<sup>12</sup> is quite obvious in view of the colonial legacy, feudal hold over resources and the state apparatus and political manoeuvring in making and implementing the laws. This limits the developmental norms.<sup>13</sup> Bangladesh seems to be no exception.

In accordance with the constitutional obligation to ensure wellbeing of its citizens Bangladesh since 1973 has been formulating national development plans. Article 15 of the constitution says "It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement of the material and cultural standard of living of the people, with a view to securing to its citizens- (a) the provision of the basic necessities of life, including food, cloth, shelter, education, and medical care; (b) the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work; (c) the right to reasonable rest, recreation and leisure; (d) the right to social security, that is to say the public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in other such cases."<sup>14</sup> The ultimate goal of this article in broad terms is eradication of poverty and development of Bangladesh. This plan is known as the "Five-Year Plan". Since independence the development process of Bangladesh has been following 'five-years plans' and all succeeding five-year plans are continuation of the preceding one. Five 'Annual Development Plans' make one 'Five year Plan' and each budgetary year targets to complete one annual development plan of the five-year's plan.

Though Bangladesh has over the years achieved some significant success, which include significant reduction in population growth, infant mortality, maternal mortality, illiteracy rates and significant increases in agricultural production and women's education and participation, but, about half of the population (some 65 million) of the country is still absolutely poor on the basis of cost-of-basic-needs, two-thirds of whom belong to extreme poor category<sup>15</sup>. Socio-economic disparity is glaring and has been increasing in the wake of free market reforms implemented over the past more than a decade. Poverty alleviation, therefore necessarily remains Bangladesh's topmost priority<sup>16</sup>. It has been seen that all five-year development plans of Bangladesh have given due emphasis on poverty alleviation. In the fifth five-year plan it is mentioned that poverty is the over-riding objective of the plan, generation of productive employment, achievement of food self-sufficiency, human resources development, development of infrastructure, curbing population growth, provision of environment, closing the gender gap and establishment of better social justice through a more equitable distribution of income are the national objectives of this plan.<sup>17</sup>

Since these plans emerged the achievements have been less than anticipated. It has been seen that whenever an annual development plan did not achieve its targets then it was transferred to the next years plan and if it remained unfulfilled even within that particular five-years plan then it was again transferred to the next five years plan. Surprisingly, it is true that till today no question of such failure had been raised from any corner of the government or if even raised, there is none to answer. So, the matter of responsibility has always been ignored. As a result, the dream of the independence war for a poverty-ridden Bangladesh is still unfulfilled. Today, poverty, hunger, malnutrition, illiteracy,



unemployment etc. are the prevailing challenges to development in Bangladesh.

Research shows that the causes of poverty in Bangladesh are low economic growth, inequitable distribution of income, unequal distribution of productive assets, unemployment and underemployment, high rate of population growth, low level of human resources development, natural disasters and limited access to public service<sup>18</sup>. So, it is correctly stated by professor Yunus that poverty is not created by the poor, it is created by the structures of society and policies pursued by society<sup>19</sup>. To be more specific, we believe that poverty is the inescapable end product of the system of exploitation, economic inequality and deprivation in a society trying to emulate the capitalistic principles centering around the philosophy of 'open market economy'<sup>20</sup>.

Failure of the successive development plans in Bangladesh paved the way to social inequalities and discriminations. As a result poverty is reproduced rather than alleviated. Apparently, fighting poverty requires enormous resources for which Bangladesh is dependent on financial assistance from international sources. In this connection, Bangladesh is highly dependant on the financial assistances of the donor states like those in the European Union, USA, Japan, China and some international financial institutions like the World Bank, the International Monetary Fund, the Asian Development Bank, etc. Not all the development assistance is unconditional. More importantly, the World Bank, upon which Bangladesh has been quite dependent, demanded that Bangladesh follow a new vision of development plan dubbed as "Poverty Reduction Strategy".

In September 1999, the World bank Group and the IMF determined that nationally owned participatory poverty reduction strategies should provide the basis for all their concessional lending and eligibility for debt relief under the enhanced Heavily Indebted Poor Countries (HIPC<sup>21</sup>) Initiative. Though Bangladesh is not in the list of HIPC, it is in the category of LDCs. However, this approach, building on the principles of the Comprehensive Development Framework (CDF<sup>22</sup>), has led to the development of Poverty Reduction Strategy Paper (PRSPs) by country authorities for submission to the World Bank and IMF Boards. The development and implementation of poverty reduction strategies should be "country-driven", "result-oriented", "comprehensive", "prioritized", "partnership-oriented" and "based on a long-term perspective" for poverty reduction<sup>23</sup>. Poverty Reduction Strategy Papers (PRSPs) are expected to be prepared by the member countries through a participatory process involving domestic stakeholders as well as external development partners, including the World Bank and IMF. To be updated every three years with annual progress reports, PRSPs describe the countries macroeconomic, structural and social policies and programs over a three year or longer horizon to promote broad-based growth and reduce poverty, and also to identify associated external financing needs and major sources of financing.

The World Bank feels that many countries are currently not in a position to fully develop a PRSP. In order to prevent delays for countries seeking debt relief under HIPC Initiative or assistance from the IMF, an Interim PRSP (I-PRSP) can be formulated. Interim PRSPs (I-PRSPs) summarize the current knowledge and analysis of a countries poverty situation, describe the existing poverty reduction strategy, and lay out the process for producing a fully developed PRSP through a participatory process.<sup>24</sup> This is meant to outline countries existing poverty reduction strategy and to provide a road-map for the development of a comprehensive PRSP (a timeline for poverty diagnostics, recognition



of policy areas that need evaluation and reform, envisaged participatory process, etc). A full PRSP would then follow in due course.

Currently, a PRSP, I-PRSP, or annual progress report, supported by the Boards of the World Bank and IMF within the preceding 12 months, is a condition for: (i) HIPC countries to reach a decision or completion point; (ii) Approval of the IMF's PRGF<sup>25</sup> arrangement or reviews; (iii) IDA (International Development Association) concessional lending. The Country Assistance Strategies (CAS)<sup>26</sup> and CAS updates should be timed to follow PRSPs and I-PRSPs along with their accompanying Joint Staff Assessments (JSAs).<sup>27</sup>

The Boards of the World Bank and the IMF will consider the overall strategy in the PRSP or I-PRSP as an integral whole. However, each institution will focus upon and endorse those policies and programs within its area of responsibility only to become a valid document for those organizations. This clearly violates the sovereign authority of an elected government; as a plan it prepares has to be approved by external agencies. The people of Bangladesh have elected their government and it is them the government is responsible to – not to the World Bank and the IMF or, indeed, to any other external agency<sup>28</sup>.

In recent times in order to access to the assistance of the World Bank, Bangladesh is to prepare as a preset condition a paper on poverty reduction strategy and submit it before the boards of World Bank and IMF within march 2003 for their approval and grant. Meanwhile, as an inexperienced country Bangladesh is to primarily prepare an Interim Poverty Reduction Strategy Paper (I-PRSP) within September 2002. Bangladesh has prepared the paper under the title "A National Strategy for Economic Growth and Poverty Reduction."<sup>29</sup> In other word this paper can be treated as the PRSP of Bangladesh.

The paper is prepared within the scope of World Bank's requirement but it ignored certain important procedural requirements during its preparations. It may be noted that the Task Force constituted by the Government of Bangladesh (GOB) for overseeing the PRSP process in Bangladesh is essentially an inter-ministerial committee, which did not include any representative from the civil society including from the private sector or from the development NGOs.<sup>30</sup> Moreover, disregarding the requirements of consultations during the draft formulation period no consultations or meeting was held with the Member of the Parliament or with the trade bodies.<sup>31</sup> The very fact that the Economic Relations Division of Bangladesh has been assigned the lead role in the PRSP preparation process gives out the message that PRSP is a donor-driven document. Furthermore, different sections of the economy that are crucial for poverty alleviation have not been given proper treatment and importance in the PRSP. For example, Bangladesh is an agrarian country and most of the people are dependant on this sector but it has not been attached due significance. Similar situation prevails in relation to gender discrimination. Other sensitive issue like — social security, influence of black money in governance, political instability etc. which co-exist with poverty were also ignored by the framers of the PRSP. It was expected that the planning commission, the strategic think-agency of the government, would lead the exercise. That unfortunately, did not happen

Over the last 15 years, Bangladesh has been exposed to the policy reform process introduced by the World Bank and IMF through their Structural Adjustment Policies (SAP) and Enhanced Structural



Adjustment Policies (ESAP). This reform process was not deemed to have been a conspicuous success, *inter alia*, because of the lack of local ownership over these policy reforms, which were perceived to have been inspired by the policy conditionalities of the World Bank and IMF.

Reports published in the newspapers suggest that the IMF is trying to incorporate many of its traditional reform programs into the PRSP, which the government is not ready to buy. IMF is not and will not provide assistance unless these measures are also incorporated into the PRSP. On the other hand, the government cannot afford to forgo the donors' funding particularly in the form of fungible resources. Therefore, it is possible that the government may incorporate IMF reform agenda into PRSP, even if this is not in line with the outcome of the public consultations on the PRSP. Such an emerging contradiction within the PRSP process may once again mean that the actual PRSP may not command authentic domestic ownership, which may compromise the Government of Bangladesh's commitment to fully implement the strategy of the PRSP.

The PRSP is another attempt by the western free market neo-liberal establishment to renew and strengthen its hegemony, a view that is in line with the following statement emanating from a centre which routinely monitors World Bank and IMF activities: "The IMF appears to believe that participation will not challenge (the structural adjustment) program content, i.e. it will not lead to radically different programmes being formulated, it will simply give civil society a better understanding of why 'IMF style' reforms are necessary and thus ownership of them. Generally many donors believe it will be business as usual with a greater focus on social sectors and better safety nets to address the poverty element"<sup>32</sup>

The foregoing brief analysis suggests that the PRSP in its present form and content does not reflect the hopes, aspiration and the concerns of the poor in Bangladesh. Any poverty-alleviation policy including the PRSP is doomed to fail if it does not incorporate the interests of the stakeholders. In the words of the World Bank's vice-president for Asian Region, Mieko Nishimizu, one of the down-side risk of the PRSP is its attachment with the interest of the stakeholders. If it does not reflect interest of the stakeholders and not owned by them then the ultimate target of the PRSP will fail<sup>33</sup>. The present status of PRSP has been best described by Professor M. Ahmed: Presence of the state and state organizations is very visible in the PRSP, whereas the individual is missing therefrom. Is poverty alleviation possible if the individual remains unaware of his rights?"<sup>34</sup>

In the context of Bangladesh development means increasing reduction and final eradication of poverty. Poverty is essentially a denial of human dignity and human rights. A functional and effective poverty alleviation program may be devised in association with the common people — the poor i.e. the stakeholders themselves and not imposed by any other body from within or outside of the country. If the government and the policy-makers of Bangladesh realize this truth and take necessary steps, development of Bangladesh will happen and the dream of independence for a human life with dignity may be ensured.



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3. See, Dr. H.O. Agarwal 'Human Rights' Published by Central Law Publications. Allahabad, India 2001, p. 4.
4. See, Chapter IX "International Economic and Social Co-operation," of the Charter of the United nations Organization.
5. Today the Universal Declaration on Human Rights 1948, Covenant on Civil and Political rights and Optional Protocol on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights 1966 are together called the "Bill of Human Rights".
6. See, Vienna Conference on Human Rights 1993.
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8. See, Preamble of the Constitution of the People's Republic of Bangladesh.
9. See, Part III from article 26-47, of the Constitution of the People's Republic of Bangladesh.
10. See, Part II from article 8-25, of the Constitution of the People's Republic of Bangladesh
11. See, the fifth five-year plan 1997-2002, Planning Commission, Ministry of Planning, Government Of The People's Republic Of Bangladesh, p. 148.
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16. Quazi Kholiquzzaman Ahmed "Poverty Reduction Strategy Paper- Yet Another Bank-Fund Edict" Paper presented at the National Seminar on Poverty in Bangladesh and PRSP, 05 November, 2002, Dhaka. Also see, "PRSP: Repackaging old medicine," "The Daily Star", 12th Nonember, 2002.
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18. *Ibid.*, p. 149.
19. Professor Yunus, *Banker to the poor*. Dhaka, 1998, p. 215
20. See, for more details, Professor Munirul Islam, "Poverty Creation or Poverty Reduction Under PRSP: A Case for Reviewing and Rethinking the Role of the State in Bangladesh", A keynote paper presented in the national workshop organized by the Bangladesh Economic Association. Dhaka, November 5, 2002.
21. Heavily Indebted Poor Countries (HIPC) Initiative is an agreement among official creditors to help the most heavily indebted countries to obtain debt relief.

22. Comprehensive Development Framework (CDF) represents a new way of doing business for the World Bank and its members. It is an approach to development whereby countries become the leaders and owners of their own development policies.
23. See, World Bank web site [www.Worldbank.org](http://www.Worldbank.org).
24. The countries document, along with the accompanying IMF/World bank joint Staff Assessments (JSAs), are being made available on the world Bank and IMF websites by agreement with the member country as a service to users of the World bank and IMF websites.
25. Poverty Reduction Growth facility is an IMF program for the poorest countries. It replaces Enhanced Structural Adjustment Facility (ESAF) and would be based on a country's PRSP.
26. A Country Assessment Strategy (CAS) is a World Bank business plan for development in each member country. This plan is realizing through the IDA, which acts in co-operation with World bank for the development of the poor countries.
27. Joint Staff Assessment (JSA) evaluate the soundness of PRSPs and I-PRSPs and thereby assist the Boards of the World bank and IMF in judging whether an I-PRSP or PRSP provides a sound basis on which to proceed with assistance and debt relief.
28. Supra note 16.
29. See, A National Strategy for Economic Growth and Poverty Reduction, Economic Relations Division, Ministry of Finance, Government of the People's Republic of Bangladesh, April 2002.
30. See, State of Bangladesh Economy on the Eve of the Development Forum 2002 (Interim IRBD 2002), Centre for Policy Dialogue. Dhaka, 2002.
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32. Angela Wood, "The ABC of the PRSP", Bretton Woods Project (a project of the Tides Center that monitors the activities of the World Bank and IMF), April, 2002
33. See, for detail the special interview of Mieko Nishimizu with the Daily "Prothom Alo" published on 20 October, 2002.
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