

UNITED NATIONS
Centre for Human Rights

Global Consultation on the Realization of the
Right to Development as a Human Right

Geneva, 8 - 12 January 1990

"Implementation and further enhancement of the
Declaration on the Right to Development"

Paper prepared by Ms. Tatjana Ansbach

GE.90-15047

VI. Implementation and further enhancement of the Declaration on the Right to Development

In connection with the Declaration on the Right to Development it might be possible that the Commission on Human Rights would decide or recommend some implementation measures - for example a reporting system based on State reports or the appointment of a special rapporteur or something else. In this case it would be important to have some guidelines how to evaluate the progress in realizing the right to development. It seems to be necessary to introduce first some thoughts on some of the ideas at the basis of this Declaration.

1. There is no doubt, that there can be no meaningful development without the implementation of human rights, and there should be no doubt, that, in the long run, human rights can be realized only under conditions of development. There should also be no doubt, that development must be connected with the whole range of human rights. This is the spirit of Article 6 of the Declaration. This Article underlines once more, that "all human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights".

2. The United Nations, in general, has laid special stress on civil and political rights at the cost of economic, social and cultural rights. This has been so, inspite of the fact that the General Assembly as well as the Commission on Human Rights have been criticizing such an unbalanced approach year after year. Looking at the handling of the right to development, however, the opposite was true.

Why this?

Dozens of resolutions adopted in the United Nations system speak of the equal value, of the interdependence and indivisibility of civil, political, economic, social and cultural rights. Nevertheless, time and again, one can find the opinion, that economic, social and cultural rights are of a less binding, less "human rights" character than civil and political rights. (We have, however, to keep in mind that both Human Rights Covenants are entailing concrete obligations for the parties, which may differ in preciseness.) One cannot avoid the impression that there is the intention to concede only a less binding character to the right to development by tying it closer to social than to political rights.

3. This is in clear contradiction to the Declaration itself, not only to Article 6, but to the spirit of the Declaration itself. Popular participation plays an important role in it, and popular participation is unimaginable without political and civil rights. Popular participation has to go far beyond the guarantee of regular, fair and democratic elections. The main impact of popular participation should be seen, maybe, in the necessity for political rights to be effective also in

economic, social and other spheres of the society.

4. It should, therefore, be welcomed that the right to development will be treated as a separate item in the Commission on Human Rights this year. It was not logical to include it in the item "Realization of economic, social and cultural rights".

5. The importance of political and social rights for the realization of the right to development is stressed in this paper, because sometimes it is underemphasized. It is not intended to produce another imbalance between political and social rights.

Difficulties and contradictions in economic and social development in my country, which became obvious now, are resulting exactly from the fact, that the processes decisive for it were not subject to democratic control.

6. Looking at the implications of the realization or non-realization of the right to development on the other human rights, we come to the same conclusion: The right to development is connected with all human rights equally. It is self-evident that the less developed a country is, the less it is in a position to overcome poverty, starvation, illiteracy, infant mortality and so on. But it is equally true that the daily fight for survival leaves no room for the enjoyment of political rights.

7. The natural connection between the right to development and all civil, political, economic, social and cultural

rights does not only and not in the first place mean, that, by the recognition of a right of all peoples and of all human beings to development, the importance of those "traditional" human rights is increasing. Much more interesting is the fact, that the right to development, as it takes shape in the Declaration, is influencing the common understanding of what human rights should mean for everybody. This influence flows from the emphasis on equality of opportunity rather than equality before the law.

8. However, where there is no legal equality, equality before the law is a major advancement. Legal equality is a condition sine qua non for the liberation of every human being. But in the relationship of strong and weak, of developed and less developed, rich and poor, equal law always will help the strong, the developed, the rich. Nowadays, therefore, human rights should not be seen any longer solely as legal claims, but also as the obligation of States to grant conditions to everybody for the enjoyment of human rights.

This obligation is not "invented" by the Declaration on the Right to Development, but it is stipulated already in the Universal Declaration of Human Rights, Article 28 of which reads as follows: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."

9. Special measures to ensure adequate development of certain groups as such and of the individuals belonging to them are, therefore, no discrimination. Such an approach is characteristic for the International Convention on the

Elimination of All Forms of Racial Discrimination

'21.12.1965', the Convention on the Elimination of All Forms of Discrimination against Women '18.12.1979' as well as the Declaration on Social Progress and Development '11.12.1969'. As a matter of course, the Declaration on the Right to Development, with the equality of opportunity at the very core of its stipulations, belongs to these documents. If in future standard setting this aspect would play a permanent part the Declaration would have achieved one of its aims.

10. Will the right to development be realized, when all other human rights will be realized? Or, the other way round, will human rights be implemented, when the right to development is implemented? This is a rhetoric question only, since, neither the right to development, nor the other 'traditional' human rights will ever be 100 % reality. We should stop to regard human rights problems as simple "yes" or "no" questions.

There is an evolutionary element pertaining to all human rights, including the political ones. What today is regarded by a people or by the international community as a whole as the contents of a certain human right may tomorrow be seen as much too narrow. Therefore, the development and implementation of human rights should be considered a dynamic process.

11. The evolutionary element of a human right can be more or less obvious. In connection with the right to development this element is the decisive one. Of course, every people and every individual is developed, but one more and one less. It depends, for example, on the peoples or the individuals.

respectively, to which another people or individual compares itself. And it depends, above all, on the criteria of comparison, which should be chosen by every people and by every individual itself. The freedom of choice is based on the right to self-determination. It is necessary, because values of life differ from one people to another, from one individual to another.

12. Because there is no people, no individual, which is at the end of its wishes, every people and every individual has to be accorded the right to development. This is the clear meaning of Article 1 of the Declaration.

Of course, the claims derivated from the right to development differ widely. To accord equal opportunities to all in our unequal world does not mean anything without the adoption of special measures helping those who do not have those opportunities today. And that holds true nationally as well as internationally.

It is therefore in clear contrast to this necessity of special, constructive measures, when the repayment of debts, regardless of the fact that this may endanger the very existence of a people, is demanded or when the desperate situation of peoples is used for dictating conditions which do not widen the opportunities of development and the choice between them, but which, on the contrary, force a people into a situation where no choice at all is possible.

13. From this flows another conclusion: States which are economically and (therefore) politically widely independent are themselves responsible to ensure that the right of the

respective peoples and of individuals~~44~~ to development will be realized. But in developing countries, especially, there is a shared responsibility for development. Since the reasons for insufficient development have in the first place - but not exclusively - to be seen in the conditions of the world market, in the continued existence of exploitative mechanisms, the remedies have also in the first place - but not exclusively - to be searched for in the international sphere. In other words: States are responsible not only vis a vis their people(s) and their citizens, but also vis a vis the international community. This responsibility is growing with the degree of economic development in those States.

14. The common responsibility of States for the creation of international conditions favourable to the realization of the right to development (Article 3) does not deprive peoples of their right to self-determination, their right to choose their own way of development, their right to decide themselves, which priorities should be set, their right to elaborate their own development strategy. This right of the peoples, which, as a rule, is carried out by the respective States (in a way as their plenipotentiaries), is not an absolute one. It has to be realized in accordance with the international obligations of the State, especially in the field of human rights. But, and this is an equally important aspect, the economically weaker States do not transfer this right to the economically stronger States or international institutions. The international community of States is not a private bank. It should be governed by the rules of international law and not by the laws of money.

15. Conclusions

On the basis of this short paper it is not possible to enlist all criteria for progress in the implementation of the right to development. But some guidelines for evaluating such progress can be drawn:

- In exercising its right to self-determination every people has the right to decide itself about the aims and the basic values of development. This decision should serve as the measure of development. As a rule (if there is no obvious contradiction between a people and a Government) State development programmes could be regarded as such a decision, since it is not very likely that a formal decision of a people coexists or competes with a formal act of a State.
- Development programmes of States can be accepted as measure only, if they correspond to international obligations of the State concerned. This concerns especially human rights obligations - obligations in the fields of civil, political, economic, social and cultural rights alike. Figures (increasement rates and so on) are helpful, but not sufficient.
- The right to development can be regarded as realized only, when special claims of special groups in a society are met. Every State should answer the question which measures it has taken to create the conditions for equal opportunities for all and everybody.
- In this connection the State should answer the question which ways and methods of popular participation are in existence. One could imagine, that ways and methods differ widely - what is important is not to restrict popular

participation to regular democratic elections but to organize a direct influence of the people in all spheres of society.

- Obligations of States are not restricted to internal development efforts, but they also relate to international development efforts. A State can only claim to act in conformity with the right to development when it follows policies directed at reduction of exploitative mechanisms of today's world market.