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Title:

The Importance of Human Rights, Agency and Institutional Issues in Achieving Sustainable Economic Development in Developing Countries

Abstract:

The dominant focus of economic development policy and the policy institutions implementing it is a 'top-down' strategy focused on market development. This strategy is increasingly being challenged by human rights based approaches that see development as a multi-dimensional (and heterodox) personal and institutional process that empowers people to act in a range of ways that contributes to longer term, sustainable economic development. In Sen's terms this is achieved through enhancing peoples (particularly those disadvantaged) 'capabilities and enabling them to better participate in all aspects of social, economic and political life. A 'human rights' development strategy that has neither been fully worked out, or universally accepted and may become more vulnerable with the advent of the current global economic crisis is likely to be sidelined by short term focused internal and external economic stabilization policies and programs designed to maintain growth.

This paper does not address current economic stabilization issues but focuses its attention on two related longer-term issues that constrain the adoption of human rights principles in economic development policy. The first of these concerns relates to the nature of the emergence and adoption in principle of specific economic rights (like those related to employment) and the right to development itself, which have become linked to the emergence of new development targets like the Millennium Development Goals. It being accepted that a person's employment status is a key indicator of whether they are living in poverty or have the resources to obtain access to other rights, such as gender rights, health status and so on, without it being clear what the process and institutional framework for establishing and entrenching these rights is.

The second issue is more a fundamental issue at the heart of the production, in developing countries themselves. This is related to the process of the microeconomic division of labour and specialization that can increase productivity and income. This was an issue explored by Banerjee and Duflo in their important study of 'The Economic Lives of the Poor' published in 2007 that focused on the conditions and improvement (through more specialization) of those conditions to benefit the poor. It did not cover the development role those excluded from access to the market or elaborate on how a multifaceted human rights approach focused on processes and

institutions can be useful in enabling peoples access to the market or specialization to occur and be sustained.

In summary, this paper elaborates on how new tensions between traditional neo-liberal short-term development thinking and longer-term, heterodox rights based approaches focused on sustainable development have led to new thinking on achieving more equitable, sustainable economic development . The latter offering the possibility for the adoption of new and very different priorities, principles and practices for real development nested around core economic activities such as the division of labour and specialization for those outside and inside market systems.

Key words:

Human rights, development rights, economic rights, rights-based approaches to development.

1. A Human Rights Deficit?

The contribution of improvements in human rights to the lives of the people in developing countries with low levels of material welfare and significant levels of absolute poverty is increasingly being accepted. For example, the effect that an extension of gender and sexual rights can play in addressing the spread of HIV/AIDS and a range of other capacity limiting health problems, and the contribution of this improvement to social and economic development has been detailed (Tarentola et al 2008: 15). However, the extension and use of human rights as a central organising principle for revealing and managing the development process is still a long way off. The reasons for the lack of a general application of the human rights framework to development are explored by this paper and relate in part to the timing and way that human rights measures have been introduced (see Green 2008: 25ff), but also pertain to conceptual, theoretical and agency issues that need to be addressed before a human rights framework can be more widely applied. Obstacles to the establishment and acceptance of human rights also relates to the failure of many doctrinaire economists to recognise that the extension of human rights has an central role to play in achieving economic progress

The application of human rights as principles for guiding health and other development projects originated in the adoption of a wide range of specific individual, community and general social, economic and political rights, starting with the adoption of the United Nations (UN) ‘Universal Declaration of Human Rights’ (UDHR) in 1948. Despite the general declaration of the UDHR that ‘all are free in dignity and rights’ (Article 1) and the claims to more specific rights embodied in the declaration, such as that banning slavery (a negative right) and affirming the right to ‘freedom of opinion, the right to work, the free choice of employment ‘ (positive rights asserted in UDHR Articles 4 and 19) these claims have still not been universally adopted or implemented in practice despite many states accepting them as a binding obligation (George and Wilding 2002: 176). Over time, the list and detail of specific rights in the UDHR has been added to by The United Nations through the assertion of a range of specific civil and political rights including the right to be free from racial discrimination, the rights of children, and since 1986, the general ‘Declaration of the Right to Development’ (DRD).

2. The Right to Development

The UN DRD expressed the right to development as “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” (DRD1986: Article 1). The DRD is reinforced by the provisions relating to the specific rights in the original UDHR and additional specific and general rights adopted before and after the DRD, such as the assertions to the right to health by the World Health Organisation in the Ottawa Charter (WHO 1986). These agreements together give form and substance to the principle and the goals that comprise the right of all to participate in global development, which has not been fully reflected in practice, meaning that the potential dividends from their adoption in the form of better lives and material security for people in many developing countries has not been realised. These conditions being even worse for the 100 million people excluded from state based human rights protections through working in countries other than those in which they are citizens, while many more are effectively stateless as refugees (George and Wilding 2002:199-200).

While we can recognise the rationale of some explanations for the slow adoption of human rights framework for development, like the lack of resources to introduce agreed human rights standards or enforce their application, other obstacles are more deeply embedded in the way human rights are defined, prioritised for action, formed into coherent policy and implemented. The barriers to the implementation of a rights based approach to development in part, relate to who carries the responsibility and carriage for implementing this process. These issues can be made tractable where there are clear causal chains between specific human rights, problems like HIV/AIDS and achieving material goals like output, employment and growth – even though there are often knowledge deficits around them, like the detailed economic impact of ill health, the effects of workplace discrimination and the loss of income associated with these that limit the development of both evidence based policy and its effective application.

As indicated by Tarentola and others in their study of human rights, health and development (2008: 17-21), identifying principles, framing contexts for achievement, and clearly setting outputs, outcomes and impacts (such as health impact assessments) can improve individuals’ capacities and capabilities in clearly identified ways. This strategy is effective where clear causal chains can be established between outcomes and deficiencies in the extension of rights. Difficulties arise with application of a human rights framework though when addressing more general, complex problems that incorporate a wide range of social, economic and political considerations, like development itself. A potential problem of agency (of who is leading and mediating change) that arises from the nature of the DRD of 1986 itself, for while it states that development is everyone’s responsibility, it then goes on to say:

“States have the primary responsibility for the creation of national and international conditions favourable to realisation of the right to development” (Article 2) and, “ have a duty to co-operate with each other in ensuring development and eliminating obstacles to development” (Article 3) and, they “..should undertake , at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for

all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices” (DRD 1986: Article 8).

The objective of the DRD, ‘development’ is not specifically defined, though it specifies rights of access to resources, education and a fairer distribution of income and the process to achieve it is proscribed as the duty of the governments, when it should be the duty of all. The solution to these problems only emerged with the pioneering work of Sen (1999) and his articulation of a ‘capabilities’ approach generating development that more clearly specified what the objectives of development might be.

3. Economies in Transition and a ‘Capabilities Approach

The reforms to the economic system and process of development to be adopted through which development goals can be achieved is not suggested, even though in reality the economic system of most developing countries are characterised by societies, economies and politics in transition from semi-feudal subsistence systems to state and market Capitalism. Development in which the state plays a key role as agent and facilitator of both the process of change and the powerful interests within it, but is not itself either fully capable or omnipotent in the process, as discussed below. At the heart of these societies is a productive system where the social and economic structure is organised in very specific ways with very particular outcomes in terms of outputs and distributions in terms of that output.

This is the analytical space for development in relation to the processes and structures of change beginning to be filled by theorists like Amartya Sen and Martha Nussbaum through their ‘capabilities’ approach to measuring the outcomes of development (Sen 1999, Nussbaum 2000). This approach gauges the outcomes of development as an improvement human welfare expressed as the capacity to secure economic, social and political security, coupled with a realisation of peoples capacity to realise their full potential. The measure incorporates the realisation of psychological wellbeing, social capacity and economic ‘security that can empower individuals and give them freedom to act independently. However, these capabilities can only be realised for people if individuals and groups can exercise their rights, for example, to access employment, or be enabled to do work they want to do.

To realise the goals of this approach in practice, a set of goals and strategies can be determined and linked to establishing ‘capabilities’ (like literacy for example) and the policies to achieve them, such as building social capital through education and the state introducing measures to protect against discrimination etc. The ‘capabilities’ work of Sen, Nussbaum and others is an important step forward in developing an instrumental approach to development that can help enhance the quality of life for those subject to the changes generated by development. It does not however address other important functional, structural and distributional issues that are at the core of the development process, as we will discuss later in this paper.

The work by Sen, Nussbaum and others, in conjunction with the active support of most developing countries and international not-for-profit development organizations (INFP's) has been a key contributing factor in the development and adoption of the UN's Millennium Development Goals (see MDG's at UN 2008) designed to end poverty by 2015. The goals have a very 'rights' focused approach, thus enhancing legitimacy of a human rights framework within the development discourse (see discussion in Green 2008: 26). The MDG's are aimed directly at the important deficits in individuals access to food, gender equity, child and maternal health, education, and general commitments to reducing poverty as well as ensuring a better development process (through aiming at achieving sustainable development) that is appropriately managed through the global partnerships program. This program of social and economic change has been shown to be making progress (see UNDP MDG Monitor 2008), and can be further pursued by continuing to link policy and programs to measures of the constituents of poverty (like access to nutrition, housing, health and employment). As Saunders and Naidoo note in an important recent study using a rights based 'deprivation' approach, "this opens up the possibility of thinking about how to alleviate deprivation by tracking its root causes rather than increasing the income of those deprived" in areas like housing provision and health services (Saunders and Naidoo 2008:153).

These developments are leading on one side to human rights activists and human rights organizations trying to protect and enhance the prospects of those most disadvantaged by the process of change such as women, minority ethnic groups and refugees. Others, like some states and business interest groups are demanding very different reforms perceived to be in their interest, through a focus on calling for the extension of simple property rights (when in truth all property rights are neither absolute or simple) and political 'freedoms' without being very specific as to what this might entail or what the consequences might be. The first position it can be argued is a valid one because the measurable deprivation involved and its effects are obvious and should be addressed. The second, composes claims of principles whose benefits (and costs) are often not specified. Both defensive and offensive positions of these kinds can be seen as misdirected, if they are only loosely tied back to the core economic activities and institutions at the heart of the development process, where change must occur if real improvements in living standards are to be achieved.

4. Development as Functional, Structural, Institutional and Distributional Change

The advent of large, densely populated human settlements dependent on complex physical, technical and social technologies and systems throughout the world has led to an increasing dependence on more complex and sophisticated sets of social relationships, production arrangements, institutional formations and governance systems to generate sufficient resources to support them. An increased understanding of human psychological and physical capacity and the potential for them to make a more productive contribution to these systems has made the identity and consolidation of human rights more important than ever before. The reasons for this include the fact that for complex, highly productive, science based productive systems like those of modern agriculture, industry or service to exist, they must secure a real improvement in human rights. The capacity for large, complex, production, distribution and governance systems to operate, grow and evolve coherently requires the institution of

human values and norms that secures the capacity of the individual to act independently, freely and flexibly to make rational choices within their capacity. This is also a basic requirement for realising a groups capacity to work together (and establish trust), or organise to achieve shared goals. None of which they can optimally do if, for example, they are 'slaved' through the ownership of their bodies to another; or if their actions are being controlled by another person, or if they concede a right to independent action (of thought, for example) through conformance to a social tradition that concedes control of that thought or action to a group that uses that authority to the detriment of some individuals. This is a situation that exists in developed and developing countries that is made worse in the case of many developing countries through their history of colonialism and an inheritance of institutions sometimes ill suited and out of touch with their needs (see Acemogolu, Johnson & Robinson 2001).

Recognition of the significance of strengthening the human rights framework for those in developing countries in transition between traditional systems, like subsistence agriculture to monetised Capitalist economies, has not kept pace with a recognition of the nature of changes taking place. This has occurred because firstly, some development models continue to focus on the typology of the first developed countries (see Rostow 1960). This model continues to have traction, despite international institutions like the International Monetary Fund and World Bank (World Bank 2001) taking an interest in investing in 'pro-poor' growth (while not repudiating their market liberalisation policy framework, the Washington Consensus). The Washington Consensus being a ten-point plan that is primarily concerned with fiscal discipline and the deregulation of commodity and financial markets, though it includes the additional provision of 'pro-poor' services such as education and primary health care amongst its provisions (Williamson 1990, Stiglitz in Atkinson et al 2005: 16). A framework with deficiencies that are not discussed in detail here because they have been addressed by the author and others elsewhere, where they summarise:

"The ideas and related policy behind the 'Washington Consensus' were criticised firstly, because the 'freedoms' embodied in such ideas were seen as insufficient of themselves to achieve real development (see Sen 1999: 4). Secondly, they were rejected because they failed to understand the important role of institutions defined as informal values and rules (see North 1990, North in Atkinson A et al 2005: 1) or institutions as formal organizations through which individuals and communities capacity for change is mediated and managed (see Rodrick in Atkinson, 2005: 209, Jutting 2003). Finally, the 'Washington Consensus' is rejected as Sach's notes (2005: 82), because it focussed primarily on realising the interests (and associated ideologies of powerful developed countries at the expense of developing ones)". (Tarentola et al 2008: 12-13).

While criticism of uncritically adopting 'first mover' models of development as exemplars for development is justified, or adopting the "Washington Consensus" policy framework of the leading international financial and lending institutions is rejected, it does not mean the underlying changes that have taken place in all modernising economies and societies or that the role of institutions associated with them should be ignored. Sensitive institutional change that is responsive to the need to incorporate those party to the change is essential at the start of the development process, particularly because experience indicates the most serious threats to human

rights (as a result of human migrations and a decline in equity in the distribution of income and wealth- the so called Kuznets curve) occur earlier rather than later in the development process. A case in point is the economic policies and programs aimed at increasing economic specialisation, productivity and over time, incomes, that is at the core of the of process of economic development as discussed below.

Specialisation is the process in which work is done in a more efficient and/or productive way through increasing the division of labour used in production or the application of knowledge that increases the volume or quality of output, and if distributed appropriately can also improve incomes and overall material welfare as well. Specialisation is an important factor in the processes of development, with a recent study by Banerjee and Duflo ' *The Economic Lives of the Poor*' showing that a leading cause of poverty among those who have incomes of less than US\$2 per day in developing countries comes from a lack of capacity for specialisation and the productivity gains and higher incomes the poorest people can derive from doing this, The multiple activities they often undertake to support themselves in agriculture, services and trade in a wide range of countries results in little output or income from any of them (Banerjee and Duflo: 2007: 153). Yet, this strategy is adopted by the poor to enhance their survival due to their lack of knowledge to do anything other than what they do, a lack of access to appropriate capital, and their need to spread the risk of losing a single source of income (p161). The multiple country study also indicates investment in education by the working poor studied is low, as is their access to infrastructure services such as water, schools and basic health. A human rights approach based on a right of access to education, particularly for girls and the provision of infrastructure, could produce a significant decrease in the level of disadvantage through an increase in their capacity to apply their knowledge in more specialised ways.

This is a strategy for development that cannot depend on the production of marketed services alone. Why, because it is quite clear that there is a significant proportion of people in most developing countries who do not work as wage labour or sell goods and services to generate a surplus to support themselves at all. An indicator of the extent of the problem is revealed by evidence in a recent study by Goldberg and Pavcnik (2007: 75ff). The study shows that in rural India only 45 per cent of the labour force is engaged in waged work, and while some others were self employed with a capacity to earn money to buy marketed services, like education services, many others do not have this opportunity. A focus on a combination of industry development and social policies prioritised to improve the economic role of these excluded, many of whom are women would be much more effective in generating an improvement in economic welfare than more general policies that did not adopt this approach.

The institutional context in which development occurs also cannot be neglected as international institutions like the organisation of developed countries, the OECD, has realised (see Jutting 2003, Rodrik et al 2002). Generating real development does require interdisciplinary knowledge and a deeper exposure to specific disciplinary interpretations of development issues, such as those of sociology, economics, and public health, as well as the interdisciplinary connections between them. Development specific knowledge, for example about the presence, range and role of the different institutions (social, economic and political) engaged in the development process is essential to understand and address development problems like a lack of human

rights, low levels of economic development, poor health status or improving environmental sustainability.

The explanations for the failure to adopt a human rights framework for development are many, not the least because the recognition, adoption and implementation of a human rights framework has been and continues to involve a slow and progressive transformation, often requiring a generational process of change as people and organizations old values are subsumed by new ones. A contributing factor for the slow adoption and implementation of a 'rights' based approach to development rests not only in the slow recognition and acceptance of a deficit in rights, but the need to generally recognise, define and embed them in the legal and other authority structures within nation states. The practical application to this task in some states has been the introduction of a bills of rights, and in all states supplements to the legal statutes, the introduction of enforcement measures and administrative reforms to the objectives and processes of governments.

This process has been accelerated by the promotion of it by the international institution of governance, the United Nations, despite it being influenced by its member states and agencies in often-contradictory ways. Other global institutions like multinational corporations and INFP's have also played both a complementary and a contradictory role. The former usually focussed on achieving limited goals; or in the later case, propagating specific ideologies (like religion), professional knowledge (and professional standards), as well as targeting development goals, like those of addressing disability or poverty. Some of these international institutions have been less active in adopting the human rights framework embedded in the UNHDR, because they do not accept either the principles or the priorities for implementation. Governments and other economic institutions in developing countries also lag in this process. This is surprising, because if the arguments in the previous section are correct, for a significant proportion of the population, then the most rapid increases in output, employment and growth are likely where people are enabled to participate in the economy through the introduction of human rights and supporting economic measures. Some human rights advocates, such as Sengupta, have argued based on the applicability of universal principles of human rights that "the existence of human rights should not depend on the availability of resources, or the methods of realising them" (Sengupta, Negi and Basu 2005: 81ff) One can take it further to argue, based on the discussion above, that improving economic welfare the fastest way of all in developing countries is dependent on incorporating improvements in human rights combined with economic measures building human capital, access to employment at the heart of the development process.

Real Development

The process of accelerating economic development this paper suggests, demands both greater disciplinary and interdisciplinary sophistication about the role that human rights can play in development. Progress is slow as indicated in a recent paper by two neo-classical economists who claimed economics as a positive science and human rights as an area of normative practice, though both they said, were focussed on individuals and therefore had something in common (Seymour and Pincus 2008; 388ff). They ignored the important role of social rights in development though they did acknowledge there was evidence that some developed countries in East Asia,

where the distribution of income and wealth was more even, had achieved higher economic growth than those like the United States where it was less so (2008: 394). Nothing was said about the existence or importance of social and political rights or the presence, range and role of the different institutions (social, economic and political) engaged in the development process. There was also no recognition of the importance of understanding the processes within institutions that impact on human rights, that are essential to understand and manage to address development problems, like low levels of economic development, poor health status or improving environmental sustainability. Yet understanding institutions as values and formal organizations that influence and mediate the exercise of human rights, has become an important component of the search for solutions everywhere to problems, like environmental degradation and global warming. A concern with the particular status of human rights, history, culture, technology and institutions in and between countries that should be translated into different 'local' human rights responses to local, regional or global processes, and varied strategies for development.

Real economic development requires a qualitative and quantitative change in both the society and the economy (Sen 1999:1, Stiglitz in Atkinson et al 2005:17; Remenyi in Kingsbury et al 2004:22). Economic development therefore requires an increase in individuals capacity to improve their economic conditions and opportunities and for the development to be sustained an increasing range of capabilities to participate in the economy must be created. This depends not just on addressing deprivation, but on embedding human rights as an important consideration at the heart of the economic process and the institutions that regulate it.

Some development economists are expressing their dissatisfaction with giving priority to human rights goals and the strategies to achieve them by calling for a return to the priorities of the past. As Nixon (2006) has stated in reference to his dissatisfaction with the current state of development economics and its priorities, "for the great majority of poor countries, the core processes of the mobilisation of resources, the accumulation of capital, both physical and human, the acquisition and development of knowledge and the creation of institutions to deal with fundamental and all pervasive market failures, remain of fundamental importance" (Nixon 2006: 978). A claim with which we cannot agree by firstly stating that many citizens in many developing countries have never been and never will be exposed to market 'failure' in the way he envisages it, even if we support the claim that mobilising the factors contributing to development he lists is important to real development. Secondly, noting to the extent that achieving the objectives Nixon sets out is possible in any comprehensive, effective and sustainable way, it will only be achieved if it gives improving human rights a central role in the process. The challenge for the heterodox approach is exploring new ways that this can happen.

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