HUMAN RIGHTS, DEVELOPMENT AND CAPABILITIES

William F. Birdsall
Library Consultant, Canada

Keywords: Universal human rights, human rights norms, development, human development, right to development, rights based development, capabilities approach.

Contents

Summary

Human rights, development, and capabilities are each people centered approaches to enhancing people's opportunities to lead a dignified life. The scholarly literature and official documentation on the three approaches individually is immense, steadily growing, and highly disputatious. The compendium of almost 1500 pages drawn primarily from English language texts, *International Human Rights in Context: Law, Politics, Morals,* is only a hint of the vast literature on human rights alone (Steiner, Alston, Goodman 2007). Less attention has been given to the evolving relationship among the three approaches. Why should this relationship be considered? The human rights and development approaches are major forces in international and national politics, foreign affairs, and global economic policy. The more recent capabilities approach is having a significant impact on human rights and development theory and practice. While each of these approaches to human dignity has followed its own trajectory, there is an increasing dialogue between them. This chapter examines the extent to which there is evolving a relationship in which shared universal human rights norms establish a complementarity that has the potential of enhancing the operationalization of their shared objective of advancing human dignity. This complementarity could have important consequences for theorists, policy makers, practitioners, activists, and citizens. However, there are also challenges to complementary operationalization.

Because the literature on each of the approaches is so extensive and the internal debates within each so intense it is necessary at the outset to establish basic parameters to the scope of this chapter. The chapter focuses on *universal* human rights as a distinct category of entitlements possessed by all individuals equally by virtue of their being human. Further, this focus is on institutions, norms, and developments at the

international level. To provide a brief initial introduction to the encounter of human rights, development, and capabilities with universal human rights norms, trajectories are presented in Section 1 as an orientation to the temporal context within which the complementary process is taking place.

To understand the force driving the complementary process, the form and style of the United Nations Declaration of Universal Human Rights (UDHR) (United Nations 1948) and the rhetorical power it established are examined in Section 2. Section 3 examines five universal human rights norms embodied in the UDHR: universality, indivisibility, cultural diversity, positive rights, collective rights. Sections 4 and 5 deal with development's and the capabilities approach's encounters with human rights.

A potential constraint to the complementary process is the differing political contexts of rights, development, and capabilities, the focus of Section 6. In the concluding Section 7 it is proposed the three approaches share a common belief based on the complementarity of universal human rights norms and a sense that each can reinforce the other in their common objective of promoting human dignity. Finally, they share a common challenge of operationalizing rights, development, and capabilities. The three approaches individually or together could be strengthened through a more intense dialogue seeking a complementarity that reinforces operationalizing means of enhancing people's opportunities for a dignified life. Alternatively, the capabilities approach and the human rights approach could become rival development paradigms. Such a rivalry could constrain the potential complementarity of human rights, development, and capabilities.

1. Introduction: The Trajectories of Human Rights, Development, and Capabilities

The human rights, development, and capabilities movements and their encounter with *universal* human rights morns at the international level each evolved over different periods and lengths of time. As there are no definitive histories of human rights, development, or capabilities that examine this phenomenon, this Section presents a trajectory of this encounter for each approach in order to provide a brief orientation to the historical context of the encounter of universal human rights norms with each movement individually and relative to each other (see Marks 2001 and Fukuda-Parr 2009 for an earlier and a more recent analysis respectively of the relationship of human rights, development, and capabilities)..

For the sake of brevity selectivity cannot be avoided, consequently, only four salient moments are designated for each trajectory: Articulation, Declaration, Institutionalization, and Operationalization. Each trajectory is prefaced by a brief description of rights, development, and capabilities. *Articulation* refers to a noteworthy initial statement identifying the need for action in response to a perceived political challenge of international scope. *Declaration* refers to a subsequent significant formal international declaration in response to the articulated call for action. *Institutionalization* refers to the creation of institutional responsibility at the international level to translate the declaration into action. *Operationalization* refers to the creation of institutional policies and procedures at the international level to translate the declaration into action at the national level.

1.1. Human Rights Trajectory

There is no widely accepted definition of "rights" or "human rights." The debate over the concept of rights goes back for at least four centuries and continues to this day (Lauren 1998; Ishay, 2004; Donnelly 2008; Moyn 2010). The following definition captures elements usually associated with definitions of human rights: "*Broadly speaking, 'human rights' are freedoms or powers that are or can be claimed by human beings, that enable to them to engage in certain activities—with (at least) correlative obligations on others not to interfere—and that are derived from the dignity and worth inherent in (or ascribed to) the human person*" (Sweet 2005). Although people have struggled throughout history for what they considered their "rights,' the American and French revolutions led to the enunciation of universal human rights but applied at the *national* level; it would be the cataclysmic experience of World War II that led to the formal adoption at the *international* level of a set of universal human rights norms.

Articulation: With the beginning of World War II in 1939 nations around the world were drawn into a global crisis that lasted until 1945. In 1941, United States President Franklin D. Roosevelt, in an address to the United States Congress, identified as an objective of the allied nations in World War II a victory that would insure the achievement of four essential freedoms for everyone: freedom of speech and belief, freedom from fear and want (Lauren 1998, 141). This statement is recognized as a significant articulation of universal human rights. Roosevelt's articulation of the four freedoms was a "touchstone" throughout the drafting process of United Nations Universal Declaration of Human Rights (UDHR) (Glendon 2001, 176).

Declaration: In 1948, the United Nations (UN) adopted the UDHR, the first formal statement of universal rights by the international community. It would be followed over the decades by numerous UN and regional rights declarations and treaties embodying its norms. As a rich, diverse international human rights culture grew over the decades ahead, the UN continued as the primary international arena for promoting universal human rights norms. In 1993, the United Nations held a World Congress on Human Rights in Vienna attended by 7,000 representatives of 171 countries and about 800 non-governmental organizations (NGOs). All the country representatives adopted by consensus the *Vienna Declaration and Programme of Action* which affirmed their commitment to universal human rights.

Institutionalization: In 1966, the UN adopted the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) which went into force in 1976, entrenching the universal norms in binding international law. The UDHR, ICCPR, and ICESCR constitute an International Bill of Human Rights. These universal norms would be extended and refined over the years with the adoption in 1979 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in 1989 of the Convention on the Rights of the Child (CRC), and in 2006 of the Convention on the Rights of Persons With Disabilities (CRPD).

Operationalization: In 1946, the UN established a Commission on Human Rights under the auspices of its Economic and Social Council to promote and monitor human rights.

This largely ineffective body was replaced in 2006 by a Human Rights Council (HRC) responsible to the UN General Assembly to work in conjunction with the UN High Commissioner for Human Rights. Mechanisms have been established to advise the Council, to undertake Universal Periodic Reviews, to create Human Rights Treaty Bodies to monitor the implementation of the core international human rights treaties, Special Procedures to address specific country or thematic issues, and to undertake a complaints procedure. While the Council appears a genuine effort by the UN to create a more effective operational structure than the Council's predecessor, it is too early to assess whether the Council will be any more successful in getting nations to adopt or enforce universal rights entitlements in accordance with their ICCPR and ICESCR treaty obligations.

1.2. Development Trajectory

"Development" is a concept lacking a consensus on its meaning. In general development is conceived as a process of growth that is applied to aspects of a whole range of human experience and behavior. The idea of the indefinite progress of growth is a belief engrained in the Western imagination (Rist 2008). The focus in this Chapter is on this belief as it is manifested in the economic realm of human relations as the goal of material prosperity for everyone. Economic development is a fundamental issue for all nations but it emerged on the international agenda with especial regard to the economic development of the new post-war nations. World War II accelerated anti-colonial movements with the resulting emergence in the 1950s and 1960s of many new independent nations, most of which were African and Asian. Between 1950 and 1970 UN membership dramatically increased from 60 to 127. This increase in membership of what were characterized as "third world," "underdeveloped" or "developing" nations placed economic development on the international agenda. A continuing challenge of the development theories advanced over the subsequent decades was to fostering economic growth through various successive development strategies including central planning, basic needs, structural adjustment, and sustainable development. Remaining at the heart of these initiatives was the idea of promoting growth, typically expressed by progress in increasing such indicators as Gross Domestic Product (GDP) or per-capita income.

Articulation: In 1972, Senegalese jurist Keba M'Baye articulated the need for a right to development thereby linking universal human rights and development as an alternative development strategy (M'Baye 1972). M'Baye was able to provide further momentum to advancing such a right as a member of the UN Commission on Human Rights.

Declaration: On 4 December, 1986, the United Nations General Assembly adopted the Declaration on the Right to Development (DRD) which states in Article 1.1: "The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, and enjoy economic, social, cultural, and political development, in which all human rights and fundamental freedoms can be fully realized." The Right to Development established that humans are the central subject of development and that development efforts are not about charity but entitlement, not about people as passive recipients of aid but as agents of change (United Nations 1986).

Institutionalization: In 2000, the UN adopted a Millennium Declaration committed "to making the right to development a reality for everyone and to freeing the entire human race from want." UN members also asserted in Article 24 that "We will spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development" (United Nations 2000a).

Operationalization: To operationalize the Millennium Declaration the UN also adopted in 2000 eight Millennium Development Goals (MDGs): (1) to eradicate extreme poverty and hunger; (2) to achieve universal primary education; (3) to promote gender equality and empower women; (4) to reduce child mortality; (5) to improve maternal health; (6) to combat HIV/AIDS, malaria, and other diseases; (7) to ensure environmental sustainability; and (8) to develop a global partnership for development. A set of specific targets are assigned to each goal. The deadline for achievement of the Goals is 2015 (United Nations 2000b). In 2010, a Summit was held to review progress in the operationalization of the Goals. It remains to seen whether the MDGs will be modified, supplemented, or replaced by Sustainable Development Goals (SDGs) to be considered at the United Nations Conference on Environment and Development (Rio + 20), June, 2012, in Brazil (United Nations Conference on Sustainable Development Secretariat 2012).

1.3. Capabilities Trajectory

As noted in Section 1.2, over the decades numerous development strategies were attempted, none achieving the status of the "one best way." In 1979, Amartya Sen, Drummond Professor of Political Economy, Oxford University, gave the Tanner Lecture on Human Values entitled "Equality of What?" at Stanford University, California. He introduced his concept of "basic capability equality" whereby capabilities constitute "a person being able to do certain basic things" such as the freedom to move from place to place, to be sufficiently nourished, to participate in the life of the community (Sen 1980, 218). In contrast to the "basic needs" development strategy prevailing at the time, which focused on the provision of basic necessities, Sen's focus was on the individual's opportunity and choice *to do* basic things she or he values. His pursuit of this concept led to the publication in 1999 of his seminal work, *Development as Freedom* (1999), which provided a dramatic alternative to the traditional economic concepts of development. Sen formulated a comprehensive development conceptual framework constituted of capabilities, functionings, and agency Deneulin and Shahani 2009, 30).

The key Sen insight is that development is a process of expanding peoples' freedom by removing "unfreedoms" that limit their choices to be and to do what they value, that is, to pursue the kind of life they value. His examples of such limits on freedom include famine, poverty, inadequate healthcare, or the lack of political participation. Capabilities represent what choices or opportunities an individual has to achieve what she or he wants to be or to do.

Discarding the focus on economic growth as expressed in gross national product (GNP) or per capita income, the capabilities approach focuses on the totality of human life by

concentrating on the "*actual opportunities* of living" (his emphasis, Sen 2009, 233). For Sen "Expansion of freedom is viewed…. both as the primary end and as the principal means of development" (Sen 1999, xii). Thus, *economic* growth is transformed into *human* growth; *economic* development is transformed into *human* development.

Articulation: By the 1980s there was mounting evidence successive development strategies were failing to alleviate widespread poverty. In 1990, the UN Development Programme published its first *Human Development Report (HDR)* which included an extensive Human Development Index (HDI) for 130 countries (United Nations Development Programme 1990).

The *HDR* was the initiative of Mahbub ul Haq, economist, former Pakistani Minister of Planning, early proponent of human development theory, and special advisor to the UN Development Programme. Aiming to reflect a broader human dimension of development than that of the basic needs development approach, the report embraced Sen's human capabilities framework of economist Amartya Sen as an alternative to traditional economic measurements of development, such as Gross National Product (GNP) or per capita income (Fukudar-Parr 2003). (Sen served as a key expert advisor for the *HDR* and the HDI).

The publication of the *HDR* and its HDI was recognized as a significant achievement in evaluating development. This focus on capabilities confirmed the placement of humans as the central focus of development; increasingly economic development became characterized as "human development." The 2000 HDR, *Human Rights and Human Development,* is devoted exclusively "at drawing out the complex relationship between human development and human rights" (United Nations Development Programme 2000, iii) thereby linking human rights and capabilities.

Declaration: In 2010, the twentieth anniversary edition of the HDR was published (United Nations Development Programme 2010). The HDR and its index have achieved world recognition among public officials, public servants, researchers, and the media as a reliable and insightful record of human development. The *Report* reaffirms that human development "complements the realization of human rights through ongoing attention to the interconnections among objectives, priorities and strategic trade-offs" (United Nations Development Programme 2010, 18). The report also linked human development as conceived in the UNDP with the Millennium Development Goals, observing that "Human development is a broader framework that includes the Millennium Development Goals, with an emphasis on broader principles of human rights, democracy and participation to shape pathways for change" (17).

Institutionalization: The recognized significance of the *Human Development Report* immediately stimulated comparable reports at the national and regional level beginning 1992 with a report by Bangladesh. By 2010, over six hundred regional, national, and local reports have been produced in over 140 countries. Individual countries have issued a number of reports over the years. Bangladesh, for example, has published six additional reports.

Operationalization: Sen and other advocates of the capability approach have given considerable attention to the commonalities and distinctions between capabilities and rights. At the present time this discourse tends to characterize rights and capabilities as distinct but having the potential of reinforcing each other.

However, as will be shown later, the capabilities approach continues to examine its relationship with human rights, hence, that relationship can be characterized as in an ambivalent phase.

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Biographical Sketch

William F. Birdsall, Ph. D., Library and Information Studies, University of Wisconsin-Madison. He is currently a library consultant after twenty five years of experience in senior university library administration including as University Librarian, Dalhousie University, Halifax, Canada, and as Executive Director of Novanet, a consortium of university libraries. He has undertaken projects for the Canadian Association of Research Libraries (CARL/ABRC), the Canadian Research Knowledge Network (CRKN), and the Canada Institute of Scientific and Technical Information (CISTI). His publications include papers and books on the political economy of librarianship, telecommunications public policy, communication rights, Web 2.0, information and communication technology and capabilities. His work has been translated into Japanese, Norwegian, and Portuguese (Brazil). Recent publications have appeared in *Global Media Journal*, *College and Undergraduate Libraries, Informing Science,* and *Ethics and Information Technology.*