

The Right to Development as a Human Right: Bangladesh Perspective

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Abstract

This paper is an attempt to examine some of the questions relating to the right to development as a human right. The first question is about the nature of the right to development itself. The second is related to the first, is how it helps the process of development if it is identified as a human right. The paper tries to point out in the context of Bangladesh that because of its association with the issues related to justice and equity. Realizing the right to development is fundamentally different from conventional policies and programs for development, whether seen as increasing the growth of gross national product (GNP), supplying basic needs, or improving the index of human development.

Keywords: *Development, Right, Bangladesh, Perspective.*

Introduction

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 contribute to and enjoy economic, social, cultural, and political development in which all human rights and fundamental freedoms can be fully realized. There is a process of "economic, social, cultural, and political development", which is recognized as a process in which "all human rights and fundamental freedoms can be fully realized". The right to development is a human right, by virtue of which "every human is entitled to participate in, contribute to and enjoy" that processes of development.¹

The declaration on the Right to Development is a consensus document. A textual analysis of the document would clearly suggest the following four main proposition of the Declaration:

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¹ Alston, Philip "Making Space for New Human Rights: The Case of the Right to Development", Harvard Human Rights Yearbook 1 (1988)

- (a) The right to development is a human right.
- (b) The human right to development is a right to a particular process of development in which all human rights and fundamental freedoms can be fully realized-which means that it combines all the rights enshrined in both the covenants and each of the rights has to be exercised with freedom
- (c) The meaning of exercising these rights is consistent with freedom. It implies free, effective, and full participation of all the individuals concerned in the decision making and the implementation of the process.

Therefore, the process must be transparent and accountable; individuals must have equal opportunity of access to the resources for development and receive fair distribution of the benefits of development (and income).

- (d) Finally, the right confers unequivocal obligation on duty-holders: individuals in the community, states at the national level, and states at the international level. National states have the responsibility to help realize the process of development through appropriate development policies. Other states and international agencies have the obligation to cooperate with the national states to facilitate the realization of the process of development.

Combining the implementation of the right to development with the other rights and the manner of exercising it is consistent with fundamental freedoms. This envisions an approach to development which elevates the process of its realization to the exercise of a human right.

The last point can be illustrated by referring to a specific right and the progress in its treatment in any program for the realization of the different rights. For example, the right to housing was recognized as an element in the right to an adequate standard of living in Article 25 of the Universal Declaration of 1948 and in Article 11 of the International Covenant on Economic, Social and Cultural Rights of 1966.

The Committee on Economic, Social and Cultural Rights, the Treaty Body established by the ECOSOC to monitor and interpret the implications of the different components of the covenant, has examined the right to (adequate) housing in its General Comments. It stated "the right should be seen as a right to live somewhere in security, peace and dignity... which should be ensured to all persons irrespective of income or access to economic resources...It must be read as referring not just to housing but to adequate housing (which means) adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities-all at a reasonable cost."

The interpretation is no doubt an enhancement of the formulation in the covenant about what is meant by adequate housing. But it falls short of the standard of the right to development.² The second part of the General Comment lays down the characteristics of adequate housing, but even if the supply of such housing expanded substantially, it will not be fulfilling the right to development unless the individual persons have freedom to choose what they want from among them. The first part of the comment sets forth that this right should be seen as a right to live somewhere in security, peace and dignity (even if it is granted that it could be

² Winston, Morton E, "The Philosophy of Human Rights" Belmont: Wads

practically ensured to all irrespective of income or access to economic resources). But who decides what that "somewhere" is where an individual can live in security, peace and dignity? For realizing the right to development, that freedom to choose, through participation in decision making, transparency and with accountability, with equality of access, and with a fair share in benefits, would be just as important as the supply of housing at reasonable cost through an appropriate policy of development. In a real world situation, that freedom to choose may have to be exercised carefully, within the overall constraints of resources and appropriate, democratically arrive at procedures of maximizing the choice in the presence of possibility of disagreement among the different potential claimants. But that freedom must be there in exercising the right to housing as a part of the right to development. The state or any other authority cannot decide arbitrarily where an individual should live just because the supplies of such housing are made available.

Bangladesh perspective

Bangladesh is a party to different international human rights instruments declaring the right to development as human right albeit with certain reservation. 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. 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.³

The relationship between human rights and development is circular. Breaking this circle by securing the enjoyment of human rights by people of Bangladesh who are living in poverty and social isolation is an effective tool in overcoming poverty and promoting the right to development as human rights. Poverty in Bangladesh is widely recognized as a multi-dimensional problem involving income, consumption, nutrition, health, education, housing, crisis-coping capacity, insecurity etc. Today after 42 years of independence Bangladesh these socio-economic rights for its citizens-people are not ensured yet. They 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. 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.

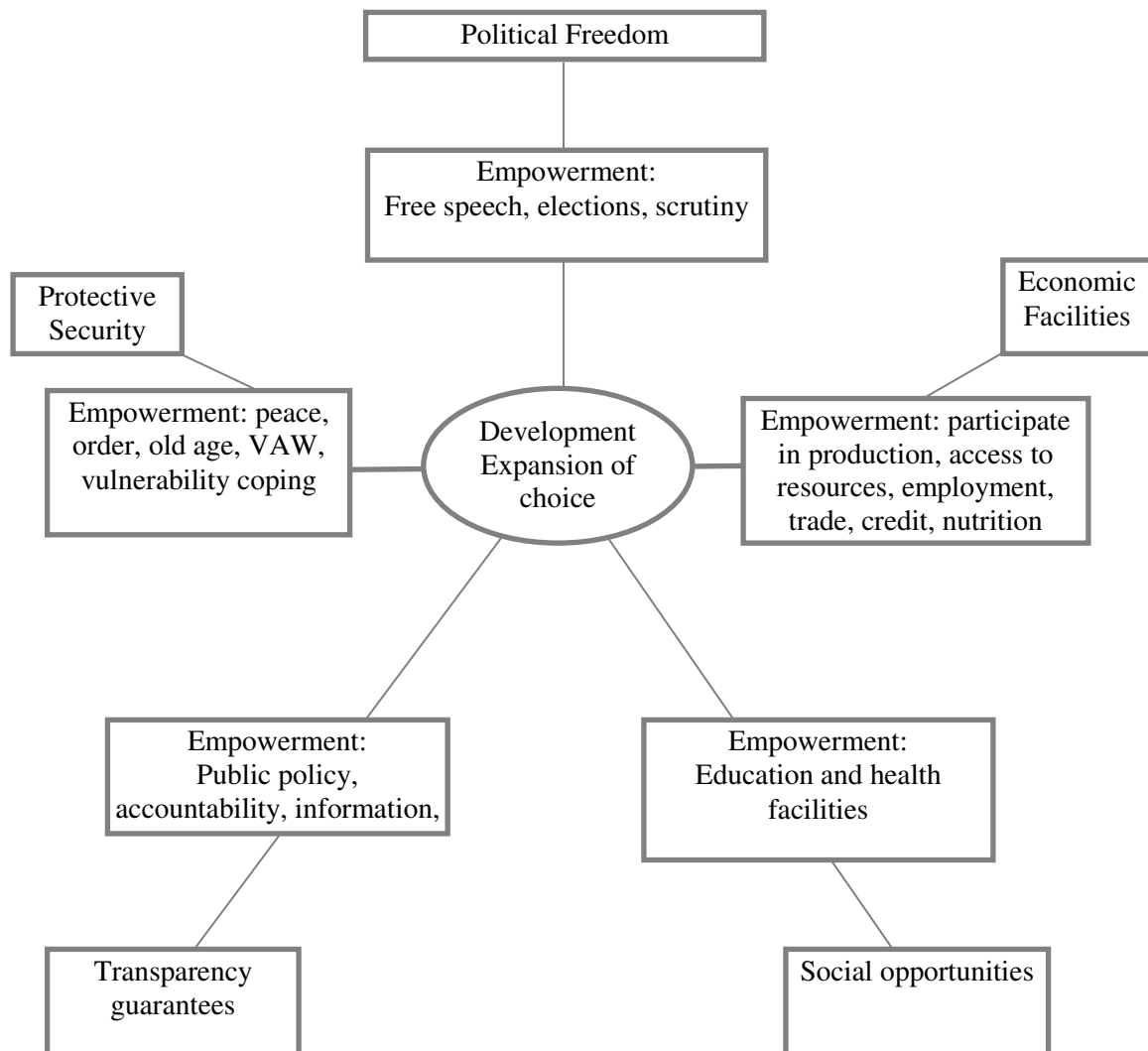
For the betterment of the people of Bangladesh in terms of the enjoyment of rights and freedom, the right to development as a human right should be realized to become a prosperous country.

³ Crawford, James, . *"The Rights of Peoples,"* Oxford: Clarendon Press, 1988

The value addition in the Human Rights approach to development

When development is seen as a human right, it obligates the authorities both nationally and internationally, to fulfill their duties in delivering (or in human rights language, promoting, securing and protecting) that right in a given country. Nationally, the government must do everything, or must be seen as doing everything to fulfill the claims of a human right. If the rights to food, education, and health are regarded as components of a human right to development, the state has to accept the primary responsibility of delivering the right either on its own or in collaboration with others. It has to adopt the appropriate policies and provide for the required resources to facilitate such delivery because meeting the obligation of human rights would have a primary claims on all the resources-physical, financial, or institutional-that it can command.

Table-1



Source: Abul Barkat, *Population and Development*, Bangladesh Country Report, 2000

Internationally, states other than where the rights-claimants reside, if they are party to the international agreement recognizing these rights, would also have the obligation to do everything possible to help in delivering those rights.

There is a long history behind the rise of human rights to such a predominant position of influence over government actions. The notion that every human being is entitled to some basic rights was the inspiration behind most of the revolutions in history, including the English, American, French, Mexican, Russian and Chinese. The last half of the 20th century, as noted, in the Encyclopedia Britannica, may be fairly said to mark the birth of the international as well as universal recognition of human rights. In the treaty concluded by the United Nations, all members obliged themselves to take joint and separate actions for the achievement of "universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. In the Universal Declaration of Human Rights (1948), representatives from many diverse cultures endorsed the rights therein set forth "as a common standard of achievement for all peoples and all nations". And in 1976, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, each previously approved by the UN General Assembly in 1966, entered into force and effect. Indeed, the last half of the 20th century has seen, in the words of human rights scholar Louis Heineken, "essentially universal acceptance of Human rights in Principle, "such that" no government dares to dissent from the ideology of human rights today."

Indeed, it is this point that no government now dares to ignore human rights that gives the claims based on human rights such pre-eminence. There is still of course a lot of disagreement about the nature of these human rights, which rights or claims are to be regarded as human rights and which are not and how such rights are to be realized or implemented. But once there is a consensus, agreed upon through a due process about the nature and identity of the human rights, the government is obliged to try to deliver them. Whether they succeed or not would depend upon the design of the programs of implementation, whether the government command adequate physical, financial, and institutional resources required for this implementation, and whether the governments are able to reconcile or overcome the conflicts between different groups that may arise in the process of implementation. But the obligation to deliver this right becomes a major constraint, if not the binding constraint, on the behavior of the government.⁴

The particular force in the notion of human rights is derived from the origin of the human rights movement associated with the principles of social contract theory. This secular theory of social contract reversed the biblical concept of contract, such as the one between God and Abraham. Instead of God choosing his people and their governors, people chose their governors who acted according to promises. The natural rights theorists, Hobbes (1588-1679), Locks (1632-1704) and Rousseau (1712-1778), were the principle proponents of this secular theory, which was best exemplified by Locke's claim during the English Revolution of 1688 that certain rights like the right to life, liberty, and property belonged to individuals as human beings because they existed in the state of nature before human beings entered civil

⁴ McKeon, Richard. *Philosophy and History in the Development of Human Rights* Albany: State University of New York Press, 1970

society. Upon entering a civil society, those human beings surrendered through a social contract in the state only the right to enforce the natural rights, not the rights themselves. If the state failed to secure these rights, it violated the terms of the social contract and would be liable to be overthrown by a social revolution.

The eighteen century human rights movements thus established that there existed a set of human rights, which were derived from natural laws or any other generally accepted source of agreement, and that the government was the product of a social contract between the people, and the states were instituted to carry out the tasks of governance to fulfill these rights, in accordance with the social contract. There have been serious disagreements about the basis and the nature of human rights and there are very few proponents of the theory of natural rights now. But the basic principles of the notion of social contract are still widely accepted and almost universally accommodated within national constitutions, lending legitimacy to governments. The national constitutions codify the rules and procedures to protect, promote, and secure the rights of the individuals either, separately or as members of groups or collectives, and national governments are expected to protect and uphold those constitutions. They are liable to be corrected by the rule of law and where necessary overthrown or changed. Internationally, the governments accept contracts with other governments determining their mutual behavior or interactions through treaties, covenants, and declarations. In other words, the notion of social contracts has now become a universal principle, governing the behavior of states operating both at national and international levels.

In the ultimate analysis, human rights are those rights which are given by people to themselves. They are not granted by any authority, nor are they derived from some overriding natural or divine principles. They are human rights because they are recognized as such by a community of peoples, flowing from their own conception of human dignity, in which these rights are supposed to be inherent. Once they are accepted through a process of consensus building, they become binding at least on those who are party to that process of acceptance.⁵

Internationally reprimand due to the lack of implementation has taken the form of sanctions or international pressures. But more often than not, it has to be executed through public opinion or through the process of international law, compacts, or mutual agreements, especially when the obligation-holders are not just the national governments where the right-holders reside but all other governments who are party to the covenants establishing that right. The right to development, once it is established as a human right, would be entitled to treatment similar to that meted out to any other universally accepted human right.

Characteristics of the process of development with Equity

The Universal Declaration of Human Rights contains elements to show that equity was one of its concerns. However, the Declaration on the Right to Development is, without question, founded on the notion that the right to development implies a claim for social order based on equity. Not only do several of its articles clearly call for equality of opportunity, equality of access to resources, equality in the sharing of benefits and fairness of distribution and equality in the right to participation, its perambular paragraphs also call for the new international Economic Order.

⁵ Nussbaum, Martha, *"Capabilities, Human Rights and the Universal Declaration"* New York: Transnational Publications, 1999.

The significance of the North-South divide among the countries in the world economy may have become diluted in the contemporary interdependent world. But the essential spirit of the demand for equality would still remain in force in all forms of international cooperation envisaged in the realization of the right to development. Within a national economy, also, development as a human right, according to the declaration on the Right to Development, has to be firmly rooted in equity. The claim that the right to development is a human right is a claim for the process of development with equity and justice. The state parties which have acceded to this demand have taken on the obligation to deliver such a process of development through programs of national policy and international cooperation. In other words, the policy programs that are designed nationally and internationally must take fully into account the concerns and the requirements of equity.

The right to development is proposing a qualitatively different approach, in which considerations of equity and justice are primary determinants of development. Not only that, the whole structure of development is shaped by these determinants. For example, if poverty has to be reduced, the poor have to be empowered and the poorest regions have to be uplifted. The structure of production has to be adjusted to produce these outcomes through development policy. The aim of the policy should be to achieve this with the minimum impact on other objectives such as the overall growth of output. But if there is a trade-off such that growth will be less than the feasible maximum that will have to be accepted in order to satisfy the concern for equity. This development process has to be participatory. The decisions will have to be taken with the full involvement of the beneficiaries, keeping in mind that if that involves a delay in the process, that delay should be minimized. If a group of destitute or deprived people have to have minimum standard of well-being, a simple transfer of income through doles or subsidies may not be the right policy. They may actually have to be provided with the opportunity to work, or to be self-employed, which may require generating activities that a simple reliance on the market forces may not be able to ensure.

The rights approach to development requires us to re-examine the ends and means of development. If improvement of well-being of the people based on the enjoyment of rights and freedoms is the object of the development, economic growth consisting of the accumulation of wealth and gross national product would not be an end in itself. It can be one of the ends, and can also be a means to some other ends, when "well-being" is equivalent to the realization of human rights. As Sen would have put it, a prosperous community of slaves who do not have civil and political rights cannot be regarded as community with well-being.⁶

Development of Bangladesh in terms of the realization of the right to development as a human right

We cannot 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 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.

⁶ Sen, Amartya. *Development as Freedom*, New York: Knopf, 1999.

Around 1.5 billion Bangladeshis live in absolute poverty, and they are amongst the world's poorest. The 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 km² and a population size of around 140 million, 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 2012. It is estimated that about 50 percent of the population 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. 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 worlds 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 the key "deprivation" measures in our context (with 140 million populations) are as follows:

- 75 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 are increasingly denied to the opportunities for full-life. The humane development challenge of Bangladesh in the 21st century is formidable. We are experiencing a spatial shift in the incidence of poverty, with the migration of poor people from rural to urban areas. 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 following Table:

⁷ Transparency International, *Annual Report-2010* Berlin,' 2010

Table-1
Human Deprivation Profile of Bangladesh: 2013 [Total population 140 million in 2013]

Deprivation measures	People [in million]
People living below property:	
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

Sources: *GOB (2013)*

Considering the national levels of life expectancy, education and per capita income, the global HDI ranked Bangladesh 147 out of 175 countries in 2011. 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 "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.

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 not's are decreasing. The opportunities to earn and control over assets are the main determinants contributing to income inequities. The most important asset in the context is land. Around two-thirds of the rural poor are landless. Between 1998 and 1999, 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. 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.⁸

It is important to note that seven health conditions termed as diseases of poverty (by WHO)-tuberculosis, malaria, maternal and prenatal conditions, childhood illness including measles, acute respiratory infections, diarrhea, and STDs are responsible for two in three deaths

⁸ Stephen Wexler, "Practicing Law for the Poor" 79 Yale L.J., 1970

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 disease on poor occurs through the following channels:

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).

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.

The urban centers 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.⁹

This is true that the rapid growth of urban slums is adversely affecting the overall human development efforts. Even if the urban formal sector as well as the rural sector subsequently 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 development aspirations. To eradicate all these problems, realization of basic human rights is needed and it depends on strong economic condition and at the same time proper arrangement for enjoyment of basic human rights. To make proper arrangement for enjoyment of basic human rights, the right to development should be realized as a human right.

Conclusion

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. 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 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 condition of unemployment, poverty and inequality are worse that country cannot be said to

⁹ Faisal S.A, Al-Salam ,*The Ecological Dimensions of Development Administration*, A.P. House, New Delhi, 1977

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 the 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. 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. Though the people of this country had fought for their independence mainly because of socio-economic exploitation by the ruling elites of West Pakistan, this country failed to fulfill the precondition 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 into cognizance the future steps should be taken, which will ensure enjoyment of the right to development as a human right. Otherwise the threshold of development of basic human rights will remain distant destiny.



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