

Development and Human Rights – Response by the UN Special Rapporteur on extreme poverty and human rights to questionnaire

The questions posed by the Advisory Committee focus on the interpretation of contribution of development to the enjoyment of all human rights, challenges and best practices in ensuring such contribution.

It must be reiterated at the outset that development and the realization of human rights are “interdependent and mutually reinforcing”, as recognized by Human Rights Council resolution 35/21 which called for this study. At the international level, it is widely recognized that the concept of development encompasses the constant improvement of the well-being of all persons on the basis of their full and meaningful participation, as well as full respect for human rights and the principles of equality and non-discrimination.¹ Development, as understood in this sense, goes hand in hand with the realization of all human rights and development processes themselves must be anchored in human rights in order to contribute to the enjoyment of all human rights.

However, this inextricable relationship between development and human rights is often compromised in practice by an overzealous focus on economic growth and stability as a means to achieve development. The underlying assumption is that economic growth has a trickle-down effect of improving the lives of citizens and hence enhances the enjoyment of human rights, especially economic and social rights. While higher incomes and national prosperity are an important dimension of development, this approach, at its roots, fails to recognise a number of important points. The first is that those who are particularly vulnerable and marginalised are frequently left behind under this dominant model, especially those who experience intersectionalities or multiple barriers to equal participation in society. The second is that it overlooks the importance of the civil and political rights in development processes and the indivisibility of human rights. In order for development to contribute to the enjoyment of human rights, development processes themselves must be centred on the full range of civil, political, economic, social and cultural rights. These two points are elaborated below.

(1) Vulnerable and marginalised persons

Those who are living in extreme poverty consistently face multiple barriers to escaping poverty. A person may live in a rural setting with minimal access to basic services such as primary or reproductive healthcare and education. They may be mentally or physically disabled. They may be a person of colour in a country where that racial group has a history of persecution and discrimination. They may be a woman in a typically patriarchal society. They may have been subjected to physical and/or emotional violence as children. Or have received inadequate nutrition in the womb. And they may experience such intersectionalities which, combined, have the effect of creating a barrier that is impossible to overcome without both support and systemic change to break the vicious cycle of poverty.

In any country that is pursuing economic growth as the main avenue to achieve development, such people will be left behind unless development processes are based on the human rights principles, such as universality and non-discrimination. However, in the development paradigm pushed by international finance institutions such as the World Bank and International Monetary Fund, universality is eschewed for heavily targeted schemes for “the poor.” These schemes are said to be efficient, but in reality frequently conceal extremely high exclusion rates.² Not only is the result of such heavy targeting that many people who need support miss out, but excluding more of the population also

¹ See, Declaration on the Right to Development; OHCHR, *Realizing the Right to Development* (2013), at 8, available at: <http://www.ohchr.org/EN/Issues/Development/Pages/RTDBook.aspx>

² Caitlin Brown, Martin Ravallion, and Dominique van de Walle, *Reaching Poor People*, FINANCE & DEVELOPMENT (December 2017) Vol. 54, No. 4; see also Caitlin Brown Martin Ravallion Dominique van de Walle, *Are Poor Individuals Mainly Found in Poor Households? Evidence Using Nutrition Data for Africa*, World Bank Group Development Research Group Human Development and Public Services Team (March 2017).

undermines political support for social protection, making it a prime scapegoat for budgetary cuts.³ The economic implications of leaving people behind cannot be overstated, but such cheap political moves are often pursued for easy, short-term wins.

Another version of development model is to encourage private sector involvement in the form of public-private partnerships or privatization, especially in infrastructure and service delivery. Private investment is seen as the panacea for filling the gap of cash-strapped governments, especially in lower income countries. Without proper regulation and oversight by State in line with the human rights principles, however, private sector participation can result in discrimination against persons living in poverty in exercising their rights to basic goods and services, including the rights to health care, education, water and sanitation. Some of the major risks associated with private sector participation include ensuring accessibility, affordability and quality of such goods and services for all persons, as the private sector may lack incentives in doing so in a non-discriminatory manner. Past experiences in private sector participation have shown that the poor and marginalized groups may become worse off in terms of access to basic goods and services, because of higher user fees and other charges imposed, or because their needs may not be adequately taken into account in the design and implementation of service delivery.⁴

(2) The importance of all rights – civil, political, economic, social and cultural – in development

The artificial dichotomy between civil and political rights versus economic, social and cultural rights has long-since been debunked as a geopolitical manoeuvre used to the advantage of both sides of the debate.⁵ On the one hand, certain western states have favoured civil and political rights to the exclusion of economic, social and cultural rights. On the other hand, emerging powers have used a focus on certain economic, social and cultural rights as a smokescreen for undermining the realisation of civil and political rights. Political economy realities aside, from a development perspective, neither approach works. Rather, enabling the realisation of the full range of human rights is necessary for truly people-centred, sustainable development.

Economic and social rights – such as the rights to education, food, water and sanitation, housing, health – are obviously essential for basic survival and human development. Given their close association, the prescriptions for development processes often then turn to addressing material deprivation and a lack of resources to fulfil those rights. The importance of civil and political rights of persons living in poverty is often overlooked in analysing their situations or formulating policy recommendations to effectively address poverty. The Sustainable Development Goals, for example, provide a clear illustration in this regard. While containing laudable development goals and indicators, they relegate the importance of civil and political rights by avoiding explicit references to those rights.

Such an approach to development ignores the fact that those living in poverty experience violations of civil and political rights both disproportionately and differently from others, and that they will not be lifted out of poverty unless their civil and political rights are fully guaranteed.⁶ In the context of country visits, the Special Rapporteur witnessed first-hand the distinctive ways in which people living in poverty are affected by police brutality and violence, left unprotected and open to property theft, deprived of their liberty in pretrial detention, incarcerated by the criminalization of homelessness, or

³ See e.g. Stephen Kidd, *The Political Economy of “Targeting” of Social Security Schemes*, PATHWAYS’ PERSPECTIVES on social policy in international development Issue No 19 (January 20th 2012).

⁴ See examples of private sector participation in the water sector in Latin America in the 1990s and in the UK in the 1980s which resulted in more expensive water connection fees and user charges, as well as in the transportation and energy projects which failed to take into account the needs of women. OHCHR, Baseline Study on the Human Rights Impacts and Implications of Mega-Infrastructure Investment, http://www.ohchr.org/Documents/Issues/Development/DFI/MappingStudyontheHRRiskImplications_MegaInfrastructureInvestment.pdf

⁵ See e.g. <http://www.ohchr.org/EN/Issues/ESCR/Pages/AreESCRfundamentallydifferentfromcivilandpoliticalrights.aspx>.

⁶ See generally Report of the Special Rapporteur on extreme poverty and human rights, A/72/502 (2017).

subjected to electoral fraud and manipulation.⁷ In many ways, violations of civil and political rights are manifestations of the causes and consequences of poverty.

The neglect of the civil and political rights of the poor in development efforts seriously undermines the fundamental principle of the indivisibility of all human rights and nullifies any chance that such efforts can actually contribute to the enjoyment of all human rights. Both the human rights and the development communities need to make far-reaching changes in order to ensure that respect for and promotion of all of the human rights of those living in poverty, including the civil and political rights, are incorporated into their analytical frameworks, the methodologies they use and the programmes and policies they recommend in effectively addressing poverty and achieving sustainable development.

In conclusion, the Special Rapporteur encourages the Advisory Committee to stress the importance of embedding the principles and norms of human rights in development processes in order to ensure that the fruit of development is the full realization of all human rights. Development processes can meaningfully contribute to the enjoyment of all human rights and live up to the promise of leaving no one behind, only if they are firmly and explicitly anchored in the full range of human rights, including civil and political rights.

⁷ See for e.g. Report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania A/HRC/32/31/Add.2 (8 April 2016) available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/072/54/PDF/G1607254.pdf?OpenElement>; Statement on visit to USA, available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22533&LangID=E>; Statement on visit to Ghana, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22951&LangID=E>.