

# DEVELOPMENT, SECURITY AND HUMAN RIGHTS

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## Foreword

The first Beijing Forum on Human Rights, organized by China Society for Human Rights Studies with “Development, Security and Human Rights” as the theme, was held in Beijing between April 21-23, 2008, attended by over 110 human rights experts and officials from 31 states and international organizations including China, United States, Canada, Russia, Switzerland, Austria, Australia, Ukraine, Japan, South Africa, India, Indonesia, Iran, Egypt, Brazil, the United Nations, the European Union, etc. Officials from the embassies of Ukraine, Switzerland, Peru, Uzbekistan and Uruguay in China also participated in the opening ceremony of the forum.

Wang Chen, Minister of the State Council Information Office of PRC, Luo Haocai, Vice President of the 10th CPPCC and President of the China Society for Human Rights Studies, Sergei A. Ordzhonikidze, Director-General of the United Nations Office at Geneva, and Nina Karpachova, Ukrainian Parliament Commissioner for Human Rights addressed the opening ceremony.

The attendees made discussions focusing on the theme “Development, Security and Human Rights,” and commonly recognized that it is of great significance to hold this forum at the 60th anniversary of the release of the UN Universal Declaration of Human Rights, to review and summarize experiences and lessons obtained from the 60 years development of world human rights, analyze the opportunities and challenges we are faced with at present, and actively seek for better interaction and concerted progress of world development, security and human rights. The attendees acknowledged that development, security and human rights are interrelated and inseparable; right to development is an inalienable human right which is critical to resolve all problems in the current society, as well as a significant foundation and prerequisite to realize security and human rights as living in a society of poverty, ignorance and deteriorating environment is not secure or accordant with human dignity; security is an important human right and a vital precondition to realize development and universal human rights, which cannot be achieved in the circumstance of wars, conflicts, violence and terrorism at home or abroad; human beings are the subject of development and security, while

development and security must be achieved by human beings and for them and result in full realization of human rights, as sustainable development and lasting peace and stability cannot be accomplished without effective guarantee of human rights. Diversity of civilization, culture and human rights development mode must be respected in the process of realizing development, security and human rights. Power politics and hegemonism, cold war thinking, unjust international order, selectivity and dual standard are the main factors hindering development, security and human rights. Adhering to the purpose and principles of UN Charter, conducting international cooperation on basis of sovereignty equality is the cornerstone for development, security and human rights. Attendees altogether are deeply concerned with such threats to development, security and human rights as war, conflict, weapons of mass destruction, violent and terrorist activities and poverty, lethal epidemics and environmental deterioration. Attendees also positively appraised Chinese human rights development mode and achievements in their speeches.

This book is a compilation of all the 82 papers received by the forum, the content of which is categorized into six parts according to themes, and by which we hope to express our commemoration of the 60th anniversary of the Universal Declaration of Human Rights and good will of advancing the healthy development of human rights cause and promoting international cooperation on human rights.



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## DEVELOPMENT AND HUMAN RIGHTS

Hesti Armiwulan  
Indonesia

### I. Conception and dynamics of human rights

Human rights in international context have been adopted for 40 years as from the issuance of the *Universal Declaration of Human Rights* on December 10, 1948. Human rights, in the course of its implementation, have achieved a significant growth. In human rights terminology, there are at least “three generations of human rights” as developed by Karel Vasak, a French legal expert. These include the first generation, namely civil and political rights, the second generation viz., economic, social and cultural rights and the third generation viz., solidarity rights which also include the rights for peace and development.

The historical development of these three generations of human rights has shown how the State Members of the United Nations have responded to the human rights. The civil and political rights are called as the first generation which is considered to have obviously represented the interests of Western Countries and European countries as indicated by their domination in signifying the freedom and individual rights. It is written in some literatures that the efforts to promote the civil and political rights have been greatly affected by the administrations in the U.K., the United States and France, mainly deriving from reformative theories introduced at the beginning of the 17th and 18th centuries in connection with the revolutions emerging in these three countries. It is acknowledged that the existence of the first generation of human rights has been affected by the liberal-individualistic political philosophy and the laissez-faire economic and social doctrine. In this generation, human rights have been placed on the negative human rights terminology (“free from”), instead of the positive one (“the rights of”)<sup>1</sup>. In other words, the civil and political rights require a limitation of the government intervention. These rights are intended to protect individuals from any abuse of power. For the fulfillment of the civil and political rights, the authorities of the government need to be limited with a view that the intervention by the government in the individual life of its people shall not exceed the specified limitation. The civil and political rights are the rights which emphasize on such individual freedoms as the recognition of the integrity principle and the basic needs of human being. These rights form an integral part of the efforts to promote a democratic life. The domination or victory of the individualism theory can be seen in the *Universal Declaration of Human Rights* which mostly provides for the civil and political rights as found in Article 2 and Article 21.

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<sup>1</sup> Claude, Richard Pierre dan Burns H. Weston, eds. *Human Rights in the World Community, Issues and Action*. Philadelphia: University of Pennsylvania Press, 1992, page 18

In the subsequent growth, communistic and socialistic countries as supported by the underdeveloped or developing countries have demanded an equal treatment on their economical, social and cultural rights. This demand is a response to the practices which cause violations and mistreatment deriving from the development of capitalism in which the conception of individual freedom gives room to tolerance, and even to legitimacy for the exploitation of labours and the colonized community. As a result, the labours, poor people and minority group have been marginalized. The concept on the prosperous state as introduced through the revolutionary struggle and welfare-oriented movements in the 19th century indicate that the political rights have, in fact, been insufficient to create happiness. To the poor people, the civil and political rights are not so important and noteworthy for them. The fulfillment of the economical and social rights such as the rights for the working opportunity, housing, health and education are more important for their survival. In this context, significant intervention or role of the government is required in order that their economical, social and cultural rights can be fulfilled. Therefore, the government needs to do their best in exploring any potency of all natural resources and managing its economy in order that a condition which is conducive to the fulfillment of the economical, social and cultural rights can be established. The formulation of the economical, social and cultural rights as above stated have received supports from underdeveloped countries as the duty to improve the welfare of their people has become their first priority. Even, it is said that the enjoyment of the economical rights represents a guarantee for the enjoyment of the political rights.<sup>2</sup> Therefore, the economical, social and cultural rights have been called as the second generation of human rights.

In the context of the development which becomes the priority of the underdeveloped countries, it is assumed that the human rights which greatly accommodate the individual rights will cause the developing countries unable to carry out the development. As it is understood that the first and second generations of human rights represent an excessive recognition and protection of individual rights, the underdeveloped countries have therefore exerted their best endeavours in inserting such new ideas as collective rights in connection with the interests of the state, community or families into the part of the terminology of human rights. The struggle for the recognition of the collective rights can be identified in the *Covenant on Civil and Political Rights and Covenant on Economic, Social and Cultural Rights* in the Article 1, namely the Collective Rights to determine their own fate. It means that every nation is free to determine its political status and may freely catch up advancement in economic, social and cultural sectors.<sup>3</sup> Due to the facts that the dynamics of the human rights which tend to promote the individual rights, the underdeveloped and developing countries demand for the recognition of the collective rights. The peak of such efforts is the launching of the third generation of human rights, namely the right to development in the 1980s. The recognition of the collective rights becomes so apparent following the adoption of the *Declaration on the Rights of People to Peace* as resolved in 1984

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2 Preamble, "African (Banjul) Charter on Human and Peoples' Rights"

3 Wade, Robert, *Governing The Market* (Princeton University Press; 1991) as excerpted by the Economist, 29 June 1991 and also excerpted by Miriam Budiardjo in her books entitled *Dasar-Dasar Ilmu Politik*, Jakarta: Pt. Gramedia Pustaka Utama, 2008, page: 233.

and the *Declaration on the Right to Development* agreed in 1986. The Right to Development includes the equalization of rights to or opportunity for advancement for all people, including the right of every person who lives as an integral part of a country. In other words, the right to development comprises the right to participate in the development process and enjoy the results of the development and economic, social, and cultural growth, education, health, employment opportunity, income distribution and many others.

The strengthened position of the underdeveloped and developing countries in signifying the concept of human rights on the recognition of the collective right has become more acceptable in international relation context. It is evidenced by the *Vienna Declaration and Programme of Action* adopted in 1993 which among others recognizes the idea on the Cultural Relativism which states that all cultures shall have equal right and dignity to live and such right shall be respected. In other words, in spite that human rights are universal, the difference in respect of the history, culture, values or religion is still recognized in its implementation.

In current context, understanding human rights, especially viewed from the Western countries perspective, it is better that our minds is not to be preoccupied by the idea on the political right and excessively criticize countries which are still unable to implement it. In signifying human rights, it is necessary to consider some factors as follows:

- a. The importance of the equality of the political and economical right as also reflected in its implementation, for example, the cooperation between Western countries and non-Western countries shall be conducted on the basis of equability, instead of certain conditions.
- b. The importance of the community, in addition to the individual. It means that in addition to the individual rights, there are also collective rights such as the right to development.
- c. The importance of the right to be followed by the obligation in order that there is a balance between the individual right and obligation among the individuals and to the people in which they live.
- d. The importance of considering the uniqueness of each country will give different colours in the process of implementation of human rights, such as the implementation of the right to education in Indonesia will be different from that in the Netherlands.<sup>4</sup>

#### II. Development problems in human rights perspective

As described in the previous chapter that the right to development is a part of the human rights. Principally, every country shall freely leave any underdevelopment behind them and catch up with the advancement through development and efforts. The development is often implemented with the reason to boost the economic growth. It is in line with the definition of the development, viz. as all planned efforts to actualize the change toward a new and more valuable status.<sup>5</sup> The problem is when any country is willing to carry out the development with an objective to

4 Budiardjo, Miriam, *Dasar-Dasar Ilmu Politik*, Jakarta: PT.Gramedia Pustaka Utama, 2008, page 237

5 Wignjosoebroto, Soetandyo, *Hukum: Paradigma, Metode dan Dinamika Masalahnya*, Jakarta: Lembaga Studi dan Advokasi Masyarakat (ELSAM) dengan Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologi (HUMA), 2002, page 566

improve the welfare of its people, at other side, the country is also willing to assure that the development can run well, good security and stability are needed. For this reason, a country needs an established administration. It is no surprise if some underdeveloped countries are governed by authoritative regimes with dominant and strong executive in order that the country can leave the economic underdevelopment behind. The authoritative regime is also indicated by more established traditional values such as the excessive dependency on the leader. In such a condition, the development is solely oriented to and more focused on the achievement of its outputs, so the regime will take the top-down and elitism policies. If we look at some administrations at some developing countries, it is true that we find some countries with authoritative governments having successfully achieved significant market-oriented economic growth. In addition, it shall be recognized that, at certain phase, a new demand from some of its people especially of the middle or marginalized class community for a more democratic and just life for all arise. On this matter, V.W. Ruttan has the following idea:

In the beginning process of development, there is a clear relation between authoritative political organization and rapid economic growth. However, highly centralized political system will become a problem to the economic growth for the country to move forward to a middle income status.<sup>6</sup>

The development process which is solely signified as an economic process with economic growth will result in many weaknesses as it will ignore a fair distribution of income, thereby producing a significant gap between the poor and the rich. It is the beginning step of the calamity for a majority of poor people as they do have no access to the natural resources, education, health and other public services. Such kind of development process will gradually cause a variety of violations of human rights, not only the economical, social and cultural rights but also the civil and political rights. As regard to this matter, Lee Kuan Yew said: "If industrial advancement reaches a certain phase, and there are educated workers, urban community, managers and engineers, an adaptation is therefore needed. If the authoritative system continues, some obstacles will appear. Representative system shall be established. Then, there will be the active seeds of democracy from the grass root."<sup>7</sup>

### III. Relation of human rights to development and human development

The adverse impacts of development which is solely based upon the economic growth have produced an idea to revise the definition of development. New idea on development has proposed the definition of development centred on the human beings. Even international community has agreed to the right to development through a declaration which expressly states that human is the centre of the development. In the perspective of human rights, the development shall be signified as "to be centred on the human, participation and concerns on the environment."<sup>8</sup>

6 Vernon. W. Ruttan, "What Happened to Economic Development" in *The Economic Development and Cultural Change*, Chicago: University of Chicago, 1991, page 265-292

7 Budiardjo, Miriam, *Op Cit*, hal 236

8 What is Development from a Human Rights Perspective, *Rights-based Approaches, Human Rights in Development*, <http://www.unhcr.ch/development/approaches-02.html>, 16 December 2005, paragraph 1

Although economic growth remains to be pursued, the process of development shall also assure fair distribution, improvement of human capabilities and be addressed to increase the number of alternatives available for them.<sup>9</sup>

This idea proposes a correction to the relation between human rights and development. Here, the development and human rights are inter-related, instead of being in the opposition one another. There shall be no dichotomy between the economic, social and cultural rights and the civil and political rights. Even the *Vienna Declaration and Programme of Action* affirms the relation between human rights and development, in this case, in respect of the democracy: “[d]emocracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.”<sup>10</sup>

The confirmation on the interrelation between human rights and development also emphasizes that there shall be no trade-off in the process of development, in which human rights are sacrificed for the development. In its course of development, the rights-based approach to development arises. In this matter, the process of development shall basically integrate the norms, standards and instruments of human rights into the plan, policy and process of development.<sup>11</sup> Human-rights-based development shall contain such fundamental elements as expressed statement on the interrelation between human rights and development, guaranteed accountability, empowering process, public participation and due attention to the specific group without any discrimination.<sup>12</sup> The development shall be seen as a comprehensive economic, social, cultural and political process. The object of the development is a sustainable growth for all people and individuals based upon their free, active and significant participation in the process of development. The human rights-based approach to development is therefore integrated and multi-discipline one.<sup>13</sup>

Further, the commitment of the international community on carrying out the human rights-based development is actualized in the *Millennium Development Goals* as launched in 2000.

Human development also regards economic, social and cultural rights and civil and political rights are equally important. The excerpt of the *Human Development Report 2000* states that “Conception on sufficient human development cannot deny the importance of the political and democratic freedoms. Therefore, these freedoms are very essential in improving the capabilities of the poor people.”<sup>14</sup> The analysis taken from the *Human Development Report 2000* also states that these two kinds of rights are inter-related and reinforcing which can produce a synergy for the poor to enjoy their rights, improve their capabilities as well as apart them from poverty. Secondly,

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9 *ibid.*

10 Vienna Declaration and Programme of Action, paragraph 8

11 What is a Rights-Based Approach to Development, Rights-Based Approach, Human Rights in Development, <http://www.unhcr.ch/development/approaches-04.html>, 16 December 2005, paragraph 2

12 *ibid.*, paragraph 3

13 *Ibid.*, paragraph 2

14 Human Development Report 2000, page 20. Lihat juga Alston, Philip, “A Human Rights Perspective on the Millennium Development Goals: Paper Prepared as a Contribution on the Work of the Millennium Project Task Force on Poverty and Economic Development”, <http://www.ohchr.org/english/issues/millennium-development/docs/alston.doc>, (16 March 2006) p. 24-25





better standard of living, good nutrition, health and economic and other social achievements are not solely the objectives of the development, but, is in essence the human rights which is an integral part of the freedom and human dignity.<sup>15</sup>

The definition of human rights to development is in line with the sustainable human development. It is a process to increase the number of alternatives available to all people which place human as the means and end of the development. The sustainable human development is aimed at eliminating the poverty, promoting the dignity and human rights, providing equal opportunity for all through good government, and therefore, the process of sustainable development shall promote the realization of human rights.<sup>16</sup> The sustainable human development and human rights are interdependent and mutual beneficial, interconnected, complementary and multidimensional as well.<sup>17</sup>

Human rights-based development is therefore expected to be able to return the development to its essential objective which is rooted on the humanity values.

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## THE RIGHT TO DEVELOPMENT: ORIGINS, CHARACTERISTICS AND LEGALITY

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Development is a process of positive and increasing transformation of every phenomenon in nature as well as in society. Socially, development can be approached from different points of view including considering it as a process of expanding the freedom right (Amartya Sen<sup>18</sup>). By this way of approaching, the measurement tool of development in a society does not only limit at the indexes in economics, social development or the progresses in science and technology but also at the capability to ensure the rights and basic freedom of each individual.

Nowadays, development is not only a demand or a policy but also it has been recognized as a right for every individual, community and nation worldwide.

Though being much discussed and having widely accepted reasoning bases, up to now many aspects of the right to development, especially the origin, legality and content, are still very much

15 Ibid, page 73. see also Alston, page 32

16 Integrating Human Rights with Sustainable Development, A UNDP Policy Document, UNDP, New York, January 1998, hal. 2

17 Ibid, hal. 2-3

18 Sen, Amartya. Development as Freedom, 1999