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The Human Right to Development

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> The better life, once a decent minimum has been reached, is largely a matter of people getting along with each other and not fouling their own fairly well upholstered nests.... Freedom of movement, freedom to express ideas, a feeling of security, and, in general, a reasonable bill of rights are surely involved in creating the conditions [for] the better, more satisfying, and more constructive life.
>
> Wendell Gordon (1973)

The rights-based or egalitarian perspective of morality projects a vision of the natural right of all human beings to share and participate equally in the design of Institutions based on an overlapping consensus. Correlatively, people can be said to possess a universal 'right to development' by virtue of their common status as human beings who are endowed with capabilities to make plans, enforce shared rules, and apportion justice (Dworkin 1978). The right to development is grounded in a preconception that every human being should live a free and worthy life in his or her community. This connotes a 'right to life,' or the capability to aspire to an increasingly better quality of existence. Hence, all individuals and groups should be afforded an equal opportunity to participate in, contribute to, and benefit from the fruits of material progress.[1]

The right to development is a fundamental human right that lies at the intersection of the entire gamut of economic, social, cultural, political and civil rights. It is a focal point of Articles of 1, 55, and 56 of the United Nations *Charter*, which emphasises the joint responsibility of member states to promote development, social progress, and respect for human rights. Such themes are also adumbrated in several normative resolutions adopted by the United Nations and its specialised agencies. For example, the 1986 United Nations *Declaration on the Right to Development* affirms that 'the human person is the central subject of development and should be the active participant and beneficiary of the right to development.' A recurrent theme has centred around the collective responsibility of the global community to

ensure attainment of an adequate standard of living necessary for the enjoyment of equal rights and fundamental freedoms throughout the world.

Various resolutions of the Human Rights Commission also stress the duty of all member-states and the global community jointly and severally to create the conditions necessary for the realisation of the right to development. The 1993 *World Conference on Human Rights* not only reaffirmed this right, but also reiterated that 'the human person is the central subject of development.' It was also emphasised that 'while development facilitates the enjoyment of all human rights, the lack of development cannot be invoked to justify the abridgement of internationally recognised human rights.' Hence, a relatively low level of development should not be used as an excuse for denying citizens of a country their basic rights, and in particular, as a justification for political and other forms of oppression. While it is evident that poverty and social exclusion do constitute violations of human dignity, their incidence does not absolve governments from the duty of designing programmes guaranteeing human rights, while fostering effective citizen participation in decisions governing fulfillment of needs, capabilities and aspirations.

Universals Versus Particulars

The fundamental goals and processes of humanitarian development are inextricably intertwined with principles guaranteeing the provision of basic rights – economic, social, cultural, civic or civil and political. Over the centuries, these principles have come to reflect forms of citizenship that provide people with access to rights and powers in most established societies (Marshall 1964).[2] The economic and social categories denote the rights of all people to a certain minimum standard of living, economic welfare and social security. Cultural rights pertain to the ability of each society to design and enforce its own norms and standards about how its citizens may or may not achieve their goals. Civic or civil rights refer essentially to legal rights, while the political dimension stresses the right of every person to participate in the exercise of political power, or more directly in the practice of politics.

These broad categories of 'first generation' rights are both indivisible and interdependent. For example, enjoyment of economic, social, and cultural rights is a *sine qua non* for the enjoyment of political rights. At the same time, abridgement of civil and political rights militates against enjoyment of social, cultural, and economic rights. A distinction is also sometimes drawn between 'individual' and 'collective' rights (Macpherson 1987). The former are supposed to be enjoyed by all persons irrespective of social class, gender, ethnicity, religion, age and political affiliation. By contrast, collective rights are normally claimed by subordinated cultural minorities such as Native Americans and Aborigines in Australia. In this context, the 1993 World Conference on Human Rights focused attention not only on the plight of indivi-duals, but also on the undesirable conditions facing specific groups at risk: women and girls; national, religious, ethnic and linguistic minorities; disabled persons; children; indigenous peoples; refugees and internally displaced persons; migrants and other vulnerable groups.

The major historical and logical conflicts among the broad categories of rights can be traced to the peculiar evolution of international laws and corresponding changes in modes of interpretation. In particular, human rights law was initially developed as a part of the constitutional codes of individual nation-states. The perception was that its substance and enforcement were primarily concerned with relations among nation-states, an area historically regarded as a domestic matter. The first set of bills of fundamental rights emerged in the *French Declaration of the Rights of Man and the Citizen* in 1789, and in the declarations of the North American colonies at the time of their independence. From the very inception, however, a major bone of contention arose over the 'human' versus the 'rights' dimension of the equation. For example, the historical debate on the French Declaration has demonstrated that while it specified the actual constitution of valued rights, there was not sufficient clarity about the individuals or groups who were entitled to them (Hunt 1996).

Along similar lines, Chirot (1994) poses the question: who is considered human or subhuman? Its import lies in the historical tendency for tyrants and dictators to dehumanise entire groups of people. The process of human rights empowerment shows that large numbers of people have become collective 'non-persons' who have been treated inhumanely and deprived of their rights. The worst kinds of abuses, Chirot opines, have occurred when authoritarian regimes implicitly categorise certain groups as 'subhuman,' not so much because of what they are perceived to have done but more because of who they are[3]. The upshot of the argument is that there has been considerable divergence between the philosophical and prescriptive dimensions of human rights on the one hand, vis-à-vis the historical realities surrounding their enforcement on the other. The same is true for related notions, such as freedom (Patterson 1991).

Through the more general lens of Western thought and practice, the ideal notion of economic justice was predicated on equality in the distribution of rights. This preconception was grounded in the classical or Enlightenment view of a good society, which espoused two broad principles: equal incomes and equal rights. It was expected that the economic and political institutions of capitalism would guarantee equal incomes and privileges for all members of society. Economic justice was to be arbitrated through the rules governing the operation of free markets, while equality was to be guaranteed by the principles of democracy (Okun 1975). But, humanitarian skeptics point out that capitalism and free markets do not necessarily guarantee equality, and democracy, in the sense of absolute majority rule, is not always consistent with human rights. The record suggests that unconstrained majorities can impose inordinate burdens on minorities, for example, through the propagation of overtly racist policies, denial of legal equality to women, or suppression of opposition voices.

While issues about the 'tyranny of the majority' remain with us, the immediate concern is more with the evolution of 'universal' human rights. Their contemporary fundamentals, especially the economic and social variety, did not enter into international law until the Second World War. The resulting atrocities led to a realisation

that international security, peace, and progress could only be guaranteed through universal enforcement and protection of such rights (Forsythe 1977). The United Nations emerged in this context, and pursuant to Article 66 of its Charter, a Commission on Human Rights was established in 1946 to give precision to the scope and content of human rights. It drafted a *Universal Declaration of Human Rights*, which was proclaimed by the General Assembly on December 10, 1948 as a *de facto* code of universal human rights, even though it was merely termed a 'declaration.' It consists of thirty Articles highlighting basic rights and freedoms to which people are entitled without discrimination. Several supporting covenants and conventions have subsequently defined and further codified the contexts of these rights. Table 1 lists the major human rights agreements for ease of reference.

Thus, the United Nations Charter, through the Universal Declaration to subsequent international settlements have been responsible for enunciating a set of intrinsic rights that all established societies have a moral obligation to bring about, guarantee and protect. Our common humanity and the very fact that we live in an interdependent world tend to establish the need for shared standards of human dignity and embracement of the fundamental rights of all humankind. In concert with the humanitarian development perspective, they should not be interpreted as abstract or metaphysical constructs, but rather as concrete human goals to be progressively achieved. The enforcement of some categories (positive rights) calls for positive action, while others involve refraining from certain types of action (negative rights).

Table 1: International Human Rights Agreements

Charter of the United Nations (1945)
United Nations Commission on Human Rights (1946)
Universal Declaration of Human Rights (1948)
Convention on the Prevention and Punishment of the Crime of Genocide (1948)
European Convention on Human Rights (1950)
Convention Relating to the Status of Refugees (1951)
Convention on the Political Rights of Women (1952)
Convention on the Status of Stateless Persons (1954)
Convention Abolishing Slavery (1956)
ILO Convention on the Abolition of Forced Labour (1957)
Convention on Consent to Marriage (1962)
Convention on the Elimination of Racial Discrimination (1965)
International Covenants on Economic, Social, and Cultural Rights/ Civil and Political Rights (1966)
Convention on the Suppression and Punishment of the Crime of Apartheid (1973)
Convention on the Elimination of all Forms of Discrimination against Women (1979)
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
Convention on the Rights of the Child (1989)
International Criminal Tribunal for Ex-Yugoslavia (1993)
International Criminal Tribunal for Rwanda (1994)

Source: United Nations

Whatever the actual constitution of individual categories of rights, fundamentalists argue, they should be construed as mutually reinforcing elements of a composite that is guided by universal standards guaranteeing not only political, civil and religious liberties, but also optimal human welfare through social and economic protections such as job security, access to health, education and social security. As shown, in Table 2, the comprehensive vision is mirrored in what is nowadays termed an International Bill of Rights, which encapsulates the major provisions of the Universal Declaration of Human Rights (D) and two international covenants it engendered (International Covenants on Civil and Political Rights (C) and Economic, Social and Cultural Rights (E)).

The past fifty years or more have witnessed a very intensive debate between protagonists who share a common belief about the nature of humans and society vis-à-vis others subscribing to a more relativistic mode of interpretation. The latter stress the need to recognise how the substantive concepts have emerged and changed over time. One variant of the argument is that no uniform or monolithic standards and criteria can be used to assess disparate cultural contexts – for example, global versus regional, Western versus Asian, or liberal versus socialist regimes. The strongest claim is that the very concept of universal human rights is a product of Western civilisation and individualism. Hence, any attempt to impose human rights on other societies is a form of cultural imperialism. Such arguments are being increasingly championed by Islamic fundamentalists and exponents of Asian values based on Confucianism, Hinduism, Taoism, Shintoism and the likes.

Table 2: International Bill of Human Rights

Rights to:	Document/Article*
- Life	D3, C6
- Liberty and security of person	D3, C9
- Freedom from slavery and servitude	D4, C8
- Freedom from torture or cruel, inhuman or de-grading treatment or punishment	D5, C7
- Equality before the law	D6, C16
- Equal protection under the law	D7, C14, C26
- Freedom from arbitrary arrest and detention	D9, C9
- Fair trial by an independent and impartial tribunal	D10, C14
- Presumption of Innocence	D11, C15
- Inviolability of home, family, and privacy	D12, C17
- Freedom of movement and residence	D13, C12
- Seek asylum from persecution	D14
- Nationality	D15
- Marry and found a family	D16, C23, E10
- Own property	D17
- Freedom of peaceful assembly and association	D20, C21, C22
- Vote and participate in government	D21, C25
- Social Security	D22, E9

- Work, form, and join trade unions	D23, C22, E8
- Rest and leisure	D24, E7
- Food, clothing, and housing	D25, E11
- Health care and social services	D25, E12
- Special protections for children	D25, E10, C24
- Education	D26, E13, E14
- Participation in cultural life of the community	D27, E15
- Self-determination	C1, E1
- Humane treatment when detained or imprisoned	C10
- Protection against arbitrary expulsion of aliens	C13
- Protection against advocacy of racial or religious hatred	C20
- Protection of minority culture	C27

Source: Author

For example, China subscribes to a notion of what may be termed 'particularistic' human rights, the rationale being that so-called universal human rights are not only an infringement of national sovereignty, but are really a matter of domestic rather than international concern. It may be commented that the very idea of particularistic human rights is contradictory. Human rights would not be 'human' if certain individuals or groups were denied them. This is not meant to deny that their enforcement should always be sensitive to diverse regional and cultural differences. But, the perspective of cultural relativism also draws support from noted Western political scientists such as Samuel P. Huntington (1993), who predicts that culture rather than ideology will become the most potent causal force generating conflicts, or the 'clash of civilisations.'

Huntington claims that Western ideas such as individualism, liberalism, constitutionalism, human rights, equality, liberty, the rule of law, democracy, free markets, and separation of church and state often have little resonance in Islamic, Hindu, Confucian, Buddhist, or 'orthodox' cultures. Western attempts to propagate such ideas have produced a reaction against 'human rights imperialism' and a concomitant reaffirmation of indigenous values. Huntington's prognostication is certainly correct in the sense that all societies now pay attention to cultural values and domestic appurtenances when confronting perceptibly international or 'universal' standards imposed from outside. However, the implicit assumption that prevailing cultural patterns are more or less sedimented and will inevitably be the source of conflicts is open to question. Historically, cultural differences and the rivalry emanating from their interactions have frequently brought creative changes at both national and international levels. A useful example is Japanese confrontation with Western civilisations during the mid-19th century. This allowed the country to progressively open its door to external influences, which provided an essential catalyst in its subsequent Industrialisation. Moreover, the violent clash of civilisations is more likely to result from one civilisation trying to dominate others and/or a failure to transform systems of inequality (Rubenstein and Crocker 1994).

The fact that human rights are firmly entrenched in Western civilisation is not sufficient ground to deny their universal status. It can be argued that the human rights concept is based on an 'overlapping consensus,' or values shared across cultures. These 'transcultural universals' encapsulate a respect for the sanctity of life and human dignity, a tolerance of differences among peoples, and a desire for free-dom, equality, fairness, order and stability. Across cultures, there is no uniform or monolithic set of Western, Asian or Islamic values, as the case may be. While the world is made up of varying degrees of multi-culturalism, there may be more 'unity in diversity' than meets the naked eye.[4]

There is also a lingering proclivity to compartmentalise rights, rank them in hierarchical order, and even separate them across generations. This is reflected in the debate about the relative status of so-called 'first generation' rights such as freedom and equality vis-à-vis 'second' and 'third' generation ones such as those pertaining to women, the biophysical environment, and the right to (economic) development (see Steiner and Alston 1996; Shute and Hurley 1993; and Van Ness 1999). This is exemplified by the 'full belly' or 'bread first' thesis, or the claim that promotion and enforcement of civil and political rights can be postponed until economic needs (economic and social rights) are fulfilled. One biblical variation on this theme is implicit in Moses' admonition to the Israelites that 'man doth not live by bread only.'

In modern times, on the contrary, many authoritarian regimes and 'development dictatorships' adopted a philosophy that a full belly was more valuable than political liberty, democracy and a free press. On the one hand, the record suggests that huge economic costs have to be borne by regimes that deliberately suppress civil and political rights. In general, they have failed to generate the economic rewards that were promised. On the other hand, the spectacular economic growth experienced during the 1970s and 1980s by Hong Kong, Singapore, South Korea, Taiwan, and perhaps Chile is sometimes used to support the argument that LDCs could achieve some measure of material prosperity based on a market-oriented development path propped up by authoritarian rule. The full list of provisions contained in the International Bill of Rights reflects the organic goals of human development, which is also grounded in the principle that human rights are universal, indivisible and derive their substance from the dignity of the human person. People cannot fully exercise the freedoms inherent in their civil, political and cultural rights if they are destitute, impoverished, or face other forms of economic debilitation.[5] The provision of adequate levels of food, shelter, education, medical care and other wherewithals of human well-being cannot be divorced from the imperative of establishing a decent, fair, and ultimately free society. The argument may be taken one stage further by exploring the need for fair labour standards and the protection of workers' rights.

Workers' Rights and Labour Security

Labour market institutions play a pivotal role in employment creation, determining the structure of earnings, and therefore in achieving equitable and fair outcomes in

the real world. Unlike the textbook model of factor and commodity markets, they directly affect the living standards of workers and their families because the majority of households largely depend on income from work for their well-being. When the domestic economy falters, labour must bear the brunt of the shock because, unlike capital, it is not internationally mobile and invariably stays at home. In recent times, the problem has been exacerbated by the falling demand for labour in almost all episodes of structural adjustment. No country has been able to escape the resultant employment losses and decline in real wages.

Unfortunately, the new international division of labour inherent in the globalisation of the world economy, with its highly mobile capital, almost instantaneous communication, and spirited even cut-throat competition, has put a downward pressure on workers' wages, working conditions, labour standards and the rights of workers in every part of the world. Labour laws have been thrown out of the window, unions have lost their strength, and many employers now have the right to hire and fire workers as an incentive to increase investment. There is also a growing preference for casual and temporary workers who now have to work harder and longer in order to fulfill their basic needs. On an overall basis, therefore, there has been an erosion of labour's influence despite the fact that it has to bear the brunt of adjustment costs and is still expected to play a responsible role as social partner in the development process.

The wage bargaining process has been increasingly governed by a cost-cutting assumption on the part of powerful employers and exporters. This is supported by the notion of labour market flexibility and a 'distortionist' theoretical perspective of labour relations. The latter posits that trade union activity, traditional forms of collective bargaining, government regulation of wages, and the imposition of fair labour standards represent pervasive examples of policy-induced distortions that raise labour costs, militate against flexibility and slow up the economic and trade liberalisation process. While unions are attributed with positive qualities in terms of their potential contribution to productivity and equity, more emphasis is placed on the negative effects of their monopoly power on other groups such as employers, consumers, and unorganised workers.

In contrast to the distortionist approach, the 'contextualist' perspective views the labour market as a social institution, and collective bargaining as a mechanism facilitating achievement of societal goals (Freeman 1992; Solow 1990). This is supported by the rights-based philosophy of the United Nations and its specialised agencies, espe-cially the ILO. To illustrate, the Universal Declaration of Human Rights contains a number of provisions specifically relating to workers' rights. For example, Article 20 declares: Everyone has the right to freedom of peaceful assembly and association. Article 23 contains the following provisions: (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment; (2) Everyone, without discrimination, has the right to equal pay for equal work; (3) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence

worthy of human dignity, and supplemented, if necessary, by other means of social protection; and (4) Everyone has the right to form and join trade unions for the protection of his interests. Many other Articles of the Universal Declaration are concerned with workers' rights, for example, protection of children, freedom of opinion and expression, protection against arbitrary arrest and prohibitions against torture.

These and other provisions are grounded in the preconception that labour market intervention is beneficial, and that where efficiency criteria conflict with the social protection of labour, the latter course should be chosen. This philosophy also informs the policies of the ILO – a tripartite labour-business-government agency – that promotes fair labour practices, including the protection of minors, freedom of assembly and abolition of discrimination. As the ILO declares:

> countries which are members of the ILO are presumed to accept the value judgment that free collective bargaining between employers and autonomous pluralistic trade unions is the best method of determining terms and conditions of employment. *Access to such mechanisms is regarded as a basic human right.* Therefore, governments are expected to introduce legislative provisions to encourage the development of trade unions and free collective bargaining (ILO 1990:39; emphasis added).

The ILO's 'Core' human rights conventions are summarised in Table 3 for ease of reference. These, together with its Declaration on the Fundamental Principles and Rights at Work are deemed to constitute five 'core worker rights', even if legislatures of member-countries have not ratified ILO Conventions pertaining to these rights: (i) freedom of association; (ii) effective recognition of the right to collective bargaining; (iii) elimination of all forms of forced or compulsory labour; (iv) effective abolition of child labour; and (v) elimination of discrimination in respect to employment and occupation. Organised labour is considered the principal mechanism of collective bargaining to determine wages and working conditions. But, governments have an important role to play in setting the rules defining the rights of workers, trade unions and employers; the conditions of collective bargaining; and the system for settling disputes. Governments are also expected to intervene directly in labour markets –

Table 3: ILO Human Rights (Core) Conventions

No. 29 Forced Labour Convention (1930): Requires the suppression of forced or compulsory labour in all forms. Certain exceptions are permitted, such as military service, convict labour properly supervised, emergencies such as wars, fires, earthquakes…

No. 87 Freedom of Association and Protection of the Right to Organize Convention (1948): establishes the right of all workers and employers to form and join organisations of their own choosing without prior authorisation, and lays down a series of guarantees for the functioning of organisations without interference by the public authorities.

No. 98 Right to Organise and Collective Bargaining Convention (1949): Provides for protection against anti-union discrimination, for protection of workers' and employ-

ers' organisations against acts of interference by each other, and for measures to pro-
mote collective bargaining.

No. 100 Equal Remuneration Convention (1951): Calls for equal pay and benefits for
men and women for work of equal value.

No. 105 Abolition of Forced Labour Convention (1957): Prohibits the use of any form
of forced or compulsory labour as a means of political coercion or education, punish-
ment for the expression of political or ideological views, workforce mobilisation, la-
bour discipline, punishment for participation in strikes, or discrimination.

No. 111 Discrimination (Employment and Occupation) Convention (1958): Calls for a
national policy to eliminate discrimination in access to employment, training and work-
ing conditions, on grounds of race, colour, sex, religion, political opinion, national
extraction or social origin and to promote equality of opportunity and treatment.

No. 138 Minimum Age Convention (1973): Aims at the abolition of child labour, stipu-
lating that the minimum age for admission to employment shall not be less than the
age of completion of compulsory schooling.

Source : ILO

to achieve specific socio-economic goals: for example, protection of women, children,
and other minority groups; setting minimum wages; and legislation on safety and
health standards in the workplace.

In some countries, the earnings of select categories of workers such as women,
girls, children and migrants are so low that they typify 'exploitation wages' or 'slave
labour.' This raises a question about the effects of minimum wage policies. The
conventional economic wisdom is that too high a minimum wage not only prevents
wages generally from being set at market-clearing levels, but also establishes a floor
under the wage distribution profile. The effect, it is claimed, is to price low-skilled
and younger workers out of the formal labour market. According to one study,

> inasmuch as minimum wage and other regulations discourage formal employment
> by increasing wage and non-wage costs, they hurt the poor who aspire to formal
> employment. Hence it is difficult to argue for minimum wages in low- and middle-
> income countries on equity grounds (World Bank 1995:75).

From a rights-based perspective, it can be countered that appropriate application of
minimum wage legislation can help to raise earnings of poor and disadvantaged
groups at little or no cost to employment creation. The minimum wage tends to set
the floor to the wage structure below which it becomes socially unacceptable and
economically unjust for labour to cooperate fully in building a viable economy and
decent society. No iron-clad generalisations can be made about the positive or negative
economic effects of minimum wages, since specific outcomes ultimately depend on
the structural and institutional contexts of individual countries, as defined by the
labour market structure, levels at which minimum wages are set, and the ability of
the state to enforce them. Furthermore, legal minimum wages are so low and labour
standards so weakly enforced in many poor countries that any putative distortional
effects are virtually non-existent.

The increasing deregulation of the economy in Africa, Asia, Latin America and the Caribbean has led to a deterioration of wages and labour standards for the following four reasons, *inter alia*: weak trade union bargaining power; deliberate attempts to abandon minimum wage policies due to the onslaught of structural adjustment and globalisation; removal of social safety nets; and accelerated inflation. As a result, new cadres of unprotected workers – veritable 'reserve armies' or 'labour reservoirs' – have emerged in the urban informal and rural sectors. Since the environment for public policy has been transformed by exogenous forces, national governments find it increasingly difficult to cushion workers against the adverse effects of economic dislocations. Besides the disciplinary effects of world markets on public expenditures, the state's ability to raise tax revenues has been diminished, leading to a curtailment of expenditure on health, education, housing, and other social services. In many countries, such trends continue to inhibit the use of growth-oriented macroeconomic policies to improve job prospects and wages of workers.

The general problem relates to the distribution of burdens and benefits across different segments of society. While this is primarily an issue about social legitimacy and justice, it also has implications for society's capacity to generate the human resources necessary for equitable growth. The paradox is that the global forces of adjustment have apparently given rise to economic hardship, which increases deprivation and heightens inequality. The consequent human damage, in terms of people's capabilities and future life chances, is most severe for those who are least prepared to bear it. Thus, shifting the cost of economic adjustment to workers and society's most vulnerable, or those with the least resistance, flies in the face of sustainable human development and protection of basic needs.

This calls for a new rights-based development ethic in which rules governing employment and earnings reflect the principles of social legitimacy. It entails universal standards guaranteeing jobs that pay more than the minimum wage and providing necessary protection for labour. Forging a feasible social compact requires that trade unions, employers, and other participants in the labour market are transformed from being antagonistic players of a game toward becoming representative and cooperative social partners. This imperative was at the heart of the protests by labour and environmental groups at the Seattle meetings 6f the WTO in 1999. A major bone of contention was whether labour standards should be linked to WTO trade rules. It touches on some critical aspects of labour rights, their enforcement, and the responsibilities of North-South protagonists.

Northern trade unionists and politicians have long argued that trade should be used as a lever for countries to practise minimum standards of decency. But skepticism has surfaced about the real or hidden intent, that is, whether advocacy of a link between trade liberalisation and labour standards is motivated more by self-interests of the rich North rather than by altruistic or moral feelings toward the poor South. American and European trade unions contend that low wages and labour standards in the South create 'unfair' competition by luring investments away from rich to poor countries. The counter-argument is that low wages, a reflection of

lower levels of development, are a primary factor in the international competitive advantage of LDCs. They also believe that the attempt to link trade and labour standards is no more than a ploy for increased protectionism by rich nations.

In the eyes of the WTO, labour standards are the domain of the ILO whose Declaration on Fundamental Principles and Rights at Work obliges its members 'to respect, to promote and realise' the seven ILO conventions defining 'core' labour standards. The ILO does not link trade and labour standards; indeed, its Declaration stresses that labour standards should not be used for protectionist purposes. The real question concerns whether or how they will be enforced. It is envisaged that public opinion will become an important mechanism in goading governments to comply with their commitments. In this regard, the International Confederation of Free Trade Unions (ICFTU) – a Brussels-based club of 206 union federations from 141 countries – hopes that, in the absence of world government, moral suasion can be used to get the world committed to labour standards. It wants to see WTO membership made conditional on the observance of core labour standards certified by the ILO.

The available evidence suggests that there is no strong link between observance of core labour standards and trade flows, so LDC exporters are unlikely to be harmed much if they adopted the ILO conventions. By the same token, it seems that workers in rich countries have little to fear from competition with the downtrodden in LDCs. While this may be reassuring, it does not necessarily mean that the use of trade measures to enforce labour standards is a good idea. As we have argued, there is nothing wrong with the intentions behind the standards. People of goodwill would agree that slavery, child labour, other forms of bonded labour, and imprisonment of trade unionists should not be sanctioned. But enforcement of standards may not always produce the desired effect. If trade unions are recognised, wages in unionised sectors might rise but employment might fall. The displaced workers might be pushed into jobs that pay less than they earned before. It should be remembered, however, that the lion's share of labour in LDCs, especially in agriculture, remains unorganised. This is not because their rights, such as collective bargaining and freedom of association, are denied but more because it best suits their ethos and condition.

Engendering of Human Rights

It goes without saying that the adequate functioning of labour markets and other institutions requires some perception of fairness on the part of their main constituents and society as a whole. In this regard, workers' rights and the broader right to development are inextricably linked to the imperative of 'women's rights as human rights.' 'Human development, if not engendered, is endangered' (UNDP 1995:1). A recursive relationship may be posited between women's rights and authentic development. The latter will be impossible without the full emancipation of women, and vice-versa. This requires a clear commitment to universal norms and standards of gender equality. As noted earlier, one of the major purposes of the United Nations Charter was to define and protect the rights and freedoms of every human

being regardless of race, sex, language or religion. The Preamble to the Charter affirms the equal rights of men and women, a faith in fundamental human rights, and the dignity and worth of the human person.

The Universal Declaration of Human Rights and supporting international conventions also affirmed that women should participate equally in economic, social, and political development, contribute equally to such development, and share equally in improved conditions of life. The 1979 Convention on the Elimination of All Forms of Discrimination Against Women covered the broad categories of indivisible rights, and in 1980 became what is viewed as the women's international human rights treaty. As mentioned earlier, the United Nations also defined development as a human rights issue in its 1986 Declaration on the Right to Development. It states that 'the right to development is an alienable 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.'

The entire issue of women's rights should be interpreted as a part of longstanding attempts to 'mainstream' gender into the development conversation, or integrate women into the development paradigm. The ensuing debate has witnessed successive shifts (paradigmatic) in the intellectual and political focus of the discourse – from early 'welfarist' ideas about women's roles as 'mothers,' through 'Women in Development' (WID), 'Women and Development' (WAD), and 'Gender and Development' (GAD) to 'Development Alternatives with Women for a New Era' (DAWN). These perspectives have been variously influenced by the rise of Western feminism and its quest for a good and just life for both women and men. Feminist schools of thought and research programmes tend to perform what may be viewed as a 'radical hermeneutics,' or progressive mode of reinterpretation, that attempts to appropriate or modify other philosophies of life as a means of coming to grips with issues arising from women's confrontation with injustices and inequality. Hence, the *interpretive turns* are grounded in alternative preconceptions about the centrality of women to human life and development, or what constitutes a just social and economic order.

Contextually, the quest for women's liberation can also be interpreted through the lens of a 'discourse ethics'. It does not project the idea of an undifferentiated humanity, but accepts feminist and related arguments that the particularity of 'concrete others' should be recognised, respected, and perhaps celebrated. The overall idea centres around eradication of unjust forms of exclusion and the promotion of freedom and equality through overlapping and intersecting *communities of dialogue* (class-based, racial, ethnic, religious, feminist, and the like). Such conversations would 'enable multiple political authorities to develop, and to endeavor to bring harmony through dialogue to the great diversity of ethical spheres which stretches from the local community to the transnational area' (Linklater 1998:45).

Prior to the emergence of WID, the orientation of development thought and policy was in terms of women as 'better mothers,' thereby reinforcing their traditional gender roles within the family. Given the reproductive focus, development projects

concentrated on family planning, nutrition, literacy and related areas that promised to improve women's welfare. During the early 1970s, it was recognised that women were not merely mothers who were passively affected by development in general and family planning programmes in particular; they were also active agents of change in key aspects of production and economic development. Hence, their inimitable contributions could be enhanced by more gender-sensitive programmes and projects. This change in orientation ushered in the WID perspective, which placed more emphasis on women's productive roles.

The integration of women into the development process was legitimised in terms of their equal productivity to men. They were presented as decision-makers and active production agents rather than as mere passive or needy beneficiaries of development (Boserup 1970). While it attempted to bring women into the mainstream, WID was essentially rooted in the ruling development paradigm of the day and its philosophical preconceptions. The potential benefits of increased productivity were implicitly linked to individualism and market-based efficiency, which were central elements of the 'growth-oriented' philosophy of development. The prevailing orthodoxy or 'global consensus' was essentially driven by a gender-neutral theory of modernisation. Its basic preconception was that women would advance through a 'trickle down' process of incremental change.

The WID perspective was anchored in a very limited conception of equality or justice. Since its primary focus was on 'merit' and individual achievement (implicit in notions such as economic growth, productivity and efficiency), very little attention was paid to other 'claims' that emphasise women's intrinsic moral worth as human beings. As it turned out, the econocentric WID discourse carried tremendous rhetorical and utilitarian appeal for influential economists and development officials in the North; but women in the South were essentially cast as passive recipients and implementers of programmes and projects emanating from aid donors. Furthermore, given its homogenising tendency, WID virtually ignored differences in interests among women belonging to diverse classes, ethnic groups, cultures and societies.

The philosophical thrust of WAD was an outgrowth of several meliorist strands of the political economy of development that emerged during the mid-1970s: growth with redistribution or equity; basic needs; and poverty alleviation (David 1997). As a result, WAD overtook WID at a time when the development debate was coming to grips with failures of the 'trickle-down' approach and new people-centred perspectives were taking shape. The focus on equity (as opposed to efficiency) became most popular during the 1975-1985 period, and attempts to adopt it were catapulted by the United Nations Decade for Women. Achievement of gender equity was predicated on women receiving their fair share of the benefits of development in the form of higher incomes, greater access to resources, better education, health and similar achievements. This orientation was supported by a needs-based argument for justice. As emphasised in the previous chapter, it entails that a society cannot be just if it treats the weakest and poorest members without compassion.

The argument for equity was supported by an 'anti-poverty' approach to poor

men and women. The latter made the feminist agenda less threatening to economists, male bureaucrats and implementers who were resistant to feminist incursions into the bureaucracy. In the eyes of Buvinic (1983), the anti-poverty programme was a 'toned-down' version of the equity approach. In other words, it was interpreted more as a reaction to male resistance to fundamental claims for gender equality and justice, and therefore as a strategic tactic to enhance the feminist agenda. Given this instrumental approach, the WAD perspective failed to address the multifaceted and structural factors responsible for the marginalisation of women, such as war and civil conflict, rapid urbanisation, environmental degradation, and the social relations of gender itself.

During the 1980s and 1990s, the GAD perspective emerged as a means of capturing the holistic meanings undergirding women's lives. Primary emphasis was placed on the social realities shaping views on sex, and the corresponding assignment of specific roles, responsiblities, and expectations of both men and women. This shift was interpreted through the lens of 'gender,' which connotes the socially con- structed and culturally variable roles that men and women play in their daily lives (Elson 1991). Contextually, gender refers to the historically structured relation of inequality between men and women, as manifested in the domestic household unit, markets and political systems. Hence, engenderment was predicated on the imperative of fostering a 'gender-based analysis' and its integration into development thought and policy (Moser 1993).

Like WAD, the GAD perspective consists of multiple discourses about women's social praxis. One crucial element concerns the general and daily processes inherent in human reproduction, such as rearing of children, nursing the sick, and caring for other dependents and senior citizens. The argument is that any genuine interpretation of human development must necessarily be based on effective ways of fully integrating such 'domestic labour' or 'reproductive work' into the overall processes of production. This requires a transformation of historically sedimentary relations of gender inequality, and the concomitant empowerment of women. While the idea of empowerment always lurked in the minds of WID protagonists, primary emphasis was placed on *status*, as distinct from its more intrinsic and dynamic counterpart – *power*. Insofar as empowerment was accorded any significance, it was limited to women's increased access to income-earning work and related opportunities provided for them by development agencies and through greater participation in the market.

This was a far cry from an organic concept of *self-empowerment*, which denotes women's capability of gaining more autonomy and con-trol over their lives, becoming more self-reliant as active agents in their own development, exercising their choices, and setting their own agendas. The self-empowerment concept is grounded, albeit implicitly, in a philosophy of 'development as liberation' or the pursuit of effective freedom. Income-earning opportunities are important, but they are not on the same footing as the 'human agency' of women or their ability to exercise the full range of possible options through democratisation, popular participation, and enforcement of human rights. Hence, the full engenderment of human development entails that

barriers to the attainment of equal rights be identified and progressively eliminated. It is not merely sufficient for such initiatives to be consistent with national laws and development priorities. They must also conform to universality recognised human rights and cosmopolitan values.

Finally, DAWN was created during the mid-1980s by a network of women from the South who wanted to distantiate themselves from what they perceived as a white, middle class, feminist paradigm originating from the North. They challenged the WID research programme on the grounds that women in the South did not necessarily want to be integrated into mainstream development models. In their eyes, such conceptual systems not only contained gender and class biases, but the capital accumulation processes underlying them were neither neutral nor benign, that is, they are inherently hierarchical and polarising (Sen and Grown 1988). They recognised that their subjugation was multidimensional – based on the cumulative interplay of sex, class, race, and their subordinate position in the global hierarchy. Hence, strategies for the full empowerment of women can only be successful through simultaneous action in all these domains. This involves an egalitarian development trajectory based on concerted resistance to hierarchies and inculcation of positive values such as cooperation, sharing, accountability and commitment to peace. These were to be operationalised through consciousness-raising at the political level and popular education in the workplace, home, and community.

Human Rights Programming

An intractable problematique has always surrounded human rights programming. This relates to practical issues of enforcement, promotion, and protection. The glaring gap between international aspirations for the enjoyment of human rights vis-à-vis what are perceived to be widespread violations poses an ongoing challenge at both global and national levels. Closing the gap requires concerted and credible actions in several interrelated avenues: identification and elimination of the root causes of conflicts and violations, including the panoply of economic, cultural, political, and legal barriers to the full realisation of equal rights; implementation of provisions guaranteeing the right to development; fostering and ensuring a greater respect for universal human rights; and, at the most basic level, improving the daily life of the individual – worker, woman, young person, girl-child, and so on.

An endemic source of conflict stems from the fact that many powerful sectors of interest continue to approach the issue from their own narrow and iron-clad ideological perspectives about what is desirable and practically feasible. For example, some political scientists and philosophers still harbour strong misgivings about the logical defensibility of human rights. In general, hard-nosed economists, industrialists, transnational corporations and politicians tend to be skeptical because of a fear that human rights enforcement may have negative effects on national economic growth, private profitability, market efficiency, and international competitiveness, as the case may be. By contrast, most trade unions, women's groups, human rights organisations, and NGOs usually advocate vigorous enforcement of human rights principles.

Another complicating factor is that many poor countries do not boast a strong tradition of human rights enforcement, promotion, and protection. While the majority has constitutions, institutions and other instruments subscribing to the broad principles of universal human rights, they are poorly enforced and in some cases openly flouted. For example, the Convention on Elimination of All Forms of Discrimination Against Women still remains one of the most widely disregarded international treaties, with some signatories ignoring provisions that are perceived to conflict with their customary laws. A case in point was the unanimous decision by the Zimbabwe Supreme Court in 1999 to overrule or challenge every law relating women's rights in the country.

The ruling was that Vienna Magaya could not inherit her father's estate, even though Zimbabwean laws and international treaties supported her claim. The Court gave the estate to her half-brother. The decision made explicit reference to the deep-seated roots of patriarchy in Africa. The judges opined that the 'nature of African society' relegates women to a lesser status, especially in the home. In their eyes, a woman should not be considered an adult within the family, but only as a 'junior male.' One judge went so far as to say that Zimbabwe's 1982 Majority Age Act, which said that women over 18 could be treated as minors, had been interpreted 'too widely' and had accorded women 'rights they never had under customary law.' Thus, they were stripped of almost all the rights they had gained over the past two generations.

Even if it is assumed that there is a 'separation of powers' between the judicial and executive branches of government, the Zimbabwean case clearly demonstrates the influence of cultural relativism and the conflict that can arise between requirements of international human rights law and national sovereignty. The sensitive nature of human rights law is that it challenges the way in which governments exercise power and authority over their citizens. The difficulty is that nation states assiduously guard their national sovereignty, but must simultaneously submit to international scrutiny and reluctantly accept restrictions on their domestic behaviour (Manasian 1998). In many cases, international conventions and treaties are not backed up by the political will of national governments, so that they sometimes become smokescreens for the perpetuation of human rights abuses.

The reconciliation of international standards with national purposes implies establishment of coherent frameworks of principles, objectives, legislation, and procedures for monitoring and evaluation at the domestic level. This implies the design of appropriate human rights yardsticks as goals to be attained, or performance criteria against which the success of development policies, strategies and projects can be appraised. Such a guideline takes on added significance when account is taken of the widespread incongruity between human rights norms on the one hand and the goals of many development programmes and projects, on the other. Contextually, the United Nations Committee on Economic, Social and Cultural Rights drew attention to the fact that

> development cooperation activities do not automatically contribute to the promotion of [human rights]. Many activities undertaken in the name of 'development'

have subsequently been recognised as ill-conceived and even counterproductive in human rights terms (UNHCR 1990:87).

Examples of the incompatibility between human rights norms and conventional development activities are a legion. They include: (i) abridgement of the freedom of residence and cultural rights due to mass relocations stemming from large hydroelectric and irrigation projects; (ii) unemployment caused by the introduction of labour-displacing and capital-intensive technologies; (iii) employment retrenchment and wage cuts attendant upon structural adjustment programmes; (iv) limitations placed on the basic right to a minimum level of education, health care and nutrition, due to mandated cuts in social sector spending; and (v) the tendency to turn a blind eye to international labour standards pertaining to free collective bargaining, trade unions, rates of pay, child labour, health, safety and environmental laws.

In the final analysis, the most effective means for the protection and promotion of human rights require a synergistic interplay of both national commitment and international obligation. Since human rights are universal in scope and have a global connotation, the relevant standards should apply equally to all actors, including trans-national corporations (TNCs), aid donors, and recipients of development finance. Among other things, this calls for a new path of accountability whereby North-South sectors of interest openly bind themselves to adhere not only to the provisions of international agreements in general, but also to specific areas such as enforcement of fair labour standards. Concrete meaning and relevance can be given to accountability through formulation and execution of additional incentives for compliance on the one hand, and disincentives for arbitrary or willful noncompliance, on the other.

A few recent developments promise to ensure a greater degree of public commitment, transparency, and accountability. First, about 36 corporations such as Chevron, General Motors, and Proctor and Gamble have agreed to abide by the so-called 'Sullivan principles' which set standards for corporate social responsibility. Second, governments of 20 OECD countries have ratified new guidelines for safeguarding labour and environmental standards by TNCs. Third, and in the wake of this development, 50 of the world's largest TNCs have signed a 'global compact' under the auspices of the United Nations, committing them to support free trade unions, abolish child labour, and protect the environment. The list includes several firms, such as Nike and Royal Dutch Shell, which were targets of protesters at Seattle.

The UN's global compact with the private sector to promote human rights and raise labour and environmental standards seems to represent a new normative framework or progressive agenda for the reform of the ground rules that inform the current global institutional architecture. The underlying premise is that the global public good should take precedence over the private interests of financial capital and profitability of free markets. The implications for human rights are based on a recognition that the present global system does not treat all participants equally and

in a fair and just manner. Markets apparently operate with double standards. Powerful industrialists from rich nations are allowed the benefit of the doubt even when they stray from the straight and narrow path of market fundamentalism. Hence, a key normative goal of the reformist agenda is to mitigate the market vulnerabilities of weaker members of the system.

In a quasi-theoretical sense, the global compact is also consistent with those research programmes of the 'post-Washington consensus' that advocate globalisation of the original Keynesian vision or compact for supranational controls over global finance and markets. The evolution of Keynesianism was predicated on a bargain between market capitalism and the state that was designed to ensure the survival of open liberalism and free markets, but tempered by mechanisms that would prevent repetition of the Great Depression and provide compensatory support systems for the most dispossessed. Historically, the Keynesian compact not only reflected the extant state of economic theory but was also an exercise in normative political economy. In today's world, it reflects a necessity to return to an economic morality that transcends the naked individualism that has apparently wrought havoc on the global economic order. In other words, the revisionist ethic would allow the private sector to operate successfully and profitably while providing adequate social protection for vulnerable participants.