

Human Rights Perspective and Development Discourse: An Exploratory Note on Intellectual Possibilities towards Relation Building

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Abstract

This paper seeks to unravel some of the tangled threads of contemporary rights talks. For some, the grounding of rights-based approaches in human rights perspective makes them distinctively different to the areas of development discourses. Is there any real difference between these two in practice or not? Thus, the paper tries to explore some of the intellectual possibilities which reflect on the relationship of the human rights perspective and development discourse. Through this paper some areas like Evolution of the Idea of Rights within the Humanizing Parameters, The Generations of Rights within Humanising Parameters and the Relational Experience of Human Rights Perspective and Development Discourse are generally highlighted.

Key Words: Human Rights, Generation of Rights, Development, Aid, UNO, UDHR, RTD.

1. Introduction:

This is not to deny that after the post-cold war era, the better part of our human history is more or less “characterized by a unique innovation: the proliferation of the endless normativity of human rights standards, especially in the discursive praxis of the United Nations. One may say, despite the reality of massive and monumental violations, that ours is an Age of Rights. No preceding century of human history has been privileged to witness such a range of rights-enunciations as ours. Never, too, have the languages of rights thus far replaced all other moral languages. As the United Nations Secretary General observed at the Vienna Conference on Human Rights in June 1993, human rights constitutes a “common language of humanity”(Baxi, U. 1995: 6). Indeed, all these happenings have led to continuing argumentation between the emergent cultures of rights and the well-established culture of power. Though, this dialectical position between rights and power never has been vividly persistent and poignant in the last decades of the century, nevertheless, the culture of the rights of the human, ‘however, have long been in the making by the praxis of victims of violations, regardless of the mode of formulation of human rights standards and instruments.

The single most critical source of human rights, however, is the consciousness of peoples of the world who have waged the most persistent struggles for decolonization and self-determination, against racial discrimination, gender-bassed aggression and discrimination, denial of access to basic minimum needs, environmental degradation and destruction, systemic ‘benign neglect’ of the disarticulated disadvantaged and dispossessed’(Ibid. 6 – 7). Yet, the appearance of more contemporary concerns with rights-enunciation cannot be understood without a history of everyday moral heroism of diverse people asserting the most basic of all rights., namely, the Right to be Human and to remain, Human (Baxi, U. 1994: 1 - 17). As Upndra Baxi argued, “the right to be human is, of course, the *leitmotif* of all human rights thought and action. All the same, the human being who is the bearer of these rights may not have her basic material needs fulfilled; no right to use physical force is conceded to her, even in order to fulfil basic needs; and threats to the right to be human arising from civil society are not a part of the problematic of human rights. In the circumstances, human rights

thought and action becomes a *programschrift*, a blueprint for a just society; but a blueprint with vacant spaces, disallowing at the outset the pre-conditions for exercising the right to be human” (Baxi, U. 1986: 186 - 7).

2.1. Idea of Rights within the Humanizing Parameters:

It is widely acknowledged that ‘rights’ are defying precise definition. It is a complex notion, which permit a variety of interpretations and theories and are capable of embodying many different values and meanings; theories of rights in fact abound and have a long pedigree.¹ Aside this, rights are distinct in taking the entitlements of individuals as the starting point for political morality (Dworkin, R. 1978: 171), however, this stands in contrast to a view that rights be based on some prior theory of social and political morality, such as utilitarianism. Paradoxically, rights are also seen in distinct character when it is alive with in duties.² Yet, ‘there is much that can and has been debated about what those duties look like, which are primarily referable to the nature of rights under a particular theory or conceptualization. However, in terms of normative contrast, rights can be understood as correlatives – where right implies duty (Decker, K. 2001: 2). Thus, rights are also logically related to law, entailing a body of rules and principles (Waldron, J. 1984), which may be sometimes understood with special importance and high priority, as well as some degree of enforceability. Nonetheless, the values and political and philosophical theories underpinning a particular understanding of rights will often be more determinative than a particular formulation of a right or even the name or type of right itself.³

Positivist theories of rights, on the other hand, anchor conceptions of rights in what is provided for in particular legal systems - rights have meaning only as legal rights. Though, such theories are often subject to criticism that they are based on a “naturalistic fallacy”, purporting to derive certain norms from prescriptive premises about human nature. It also leaves open to interpretation the normative commitment or content of rights, as well as the basis or theory upon which positive law provisions are based. In contrast, theories of natural rights base conceptions of rights on a pre-existing moral order or natural law. The tradition of natural rights has roots with the Stoics and Romans, through St. Augustine and Aquinas, to more modern manifestations as Roosevelt called ‘Four Freedoms’ of human existence, such as, freedom of speech and worship, freedom from want and fear (Rathod, P. B. 2010: 182 - 3). Although, as MacDonald has argued, “That men are entitled to make certain claims by virtue simply of their common humanity has been equally passionately defended and vehemently denied” (MacDonald, 1984: 21). From this backdrop emerges the notion of human rights, defined as basic universal legal or moral guarantees, that belong to all human beings, and that protect individuals and / or groups, from actions and omissions of the state and some non-state actors that affect fundamental human dignity.

2.2. The Human Rights Perspectives: Ideas and Issues:

More or less, the idea of human rights are based on an assumption that takes for its starting point the human dignity of individuals and their entitlement to have basic autonomy and freedoms respected and basic needs satisfied (Henkin, 1981). While they are founded on moral principle and conceived of in terms of inherence, universality and indivisibility, they

are at core, [legal] guarantees against actions and omissions (Decker, Opt. Cit., 3). As with all rights, human rights embody duties, providing a legal framework of entitlements and obligations; each right implies a claim holder and a duty bearer. On the other hand, normatively human rights can be described as a series of moral imperatives or entitlements based on the inherent dignity of people. Similarly, human rights may be conceived of as individual rights or collective rights. Some commentators have resisted the notion of “collective human rights”, however, on the basis that the essential meaning of “human rights” would be diluted or made conceptually vague if one were to include collective entitlements (Donnelly, J. 1990). Others, focusing on human rights as standards for relationships within society, welcome the notion of collective human rights on the basis that human rights are inherently relational and are, at least in part, a response to a universal problem of unequal power relationships (Burgers, J. Herman, 1990: 63).

Hence, collective human rights are conceptualized in a number of ways. First, there are human rights that can only be exercised collectively, such as the right of freedom of association or assembly. Second, there are rights that can only be implemented in a collective manner, such as certain economic, social and cultural rights that obligate the authorities to take general measures, which affect subjects collectively. Third, there are rights that are held by collectives, where the subject of the right is collective, such as the right of self-determination of indigenous people or the right of a national, ethnic, racial or religious group not to be destroyed – as protected by the Genocide Convention. This is perhaps the strongest sense of the term collective right, and perhaps the most accurate use of the term. Most human rights advocates and commentators do not therefore prioritize individual rights at the expense of community rights, rather these rights are seen as ultimately compatible even if in some situations they need to be balanced against each other (Decker, Opt. Cit., 4 - 5).

Yet, from the above description it clearly shows that human rights perspectives cannot be accepted uncritically (Scott, D.1993: 25). Despite the fact that, ‘there is virtually no disagreement among the scholars on the desirability of entitlements and empowerments for human beings there is noticed wide disagreements among them on the nature, extent, typology and dimension . . .’ (Yasin & Sengupta, 2004: 135). Therefore, this perspective has been made more confused in real acceptance; naturally, it leads us to concentrate more conceptual narratives in different ‘generations’ of rights within the broader framework to human rights perspectives which may be made as under follow:

2.3. The Human Rights Perspectives: The First Generation of Rights:

A starting point for some rights is a particular aspect of moral traits – the “active, practical, assertive side of human life as opposed to the passive, affective and even pathological side” (Decker, Opt. Cit., 6). Rights are seen as the basis not for all human rights but for those specifically related to choice, self-determination, agency and independence. On this view the duties correlative to rights are mainly negative in character; they are duties to refrain from obstructive action or interference with choice rather than duties to provide positive assistance.⁴ First generation rights are rights predicated on this conception. These rights epitomize an understanding of rights that protect the individuals against arbitrary or misuse of public power and are the basis of protection for certain kinds of human interests related to

choice, self-determination, agency and independence. Thus, these rights are associated with the eighteenth century liberal enlightenment, and best understood in terms of the nature of the duty they impose. In other words, they require primarily forbearance or non-interference on the part of the state and enjoin rather than require certain kinds of state action. As conceptualized, first generation rights include rights such as freedom of religion, freedom of the press, and the right to free assembly. The French Declaration is a classic example, in this respect, which embodying this negative conception of human rights and proclaiming the “freedom of man” (Ibid). In turn, the state has a duty to refrain from interfering with individual choice. As such, first general rights are often political philosophies advocating laissez-faire principles and minimalist theories of state (Waldron, Opt. Cit., 5).

2.4. The Human Rights Perspectives: The Second Generation of Rights:

However, the philosophical foundations of first generation rights were subject to sustained attack throughout the twentieth century. These, critiques were accompanied by the emergence of a new species of rights of a more affirmative in its nature. Such rights embody entitlements to positive assistance and reflect a broader range of rights social, economic and cultural - rather than being limited to civil liberties. These entitlements to more positive or affirmative action by duty bearers are sometimes called “second generation rights” (Decker, Loc. Cit.). Substantively, these include rights to a decent standard of living, the rights to work, and rights to health, social protection, education and social security. Indeed, these rights in a chronological sense, being a product of the twentieth century and their emergence reflects a growing understanding that non-interference alone will not suffice to protect people’s rights and dignity, and that indeed negative rights themselves require some affirmative action on the part of states and may even depend, in part, on second generation rights to be fully meaningful.⁵

2.5. The Human Rights Perspectives: The Third Generation of Rights:

With the end of the twentieth century the emergence of a third generation of rights makes a solid foundation in the human rights literature and its action. Mainly rooted in the Article 28 of the Universal Declaration of Human Rights, these have also been termed as “development rights” or “solidarity rights” (Alston, 1982: 29; Vasak, 1979). As the Article 28 proclaims:

“Everyone is entitled to a social and international order in which the rights set forth in this Declaration can be fully realized.”

Third generation rights are based on holistic community interests although each reflects both individual and collective interests. Thus, according to Decker these rights maybe understood into two different dimensions. Firstly it is seen to reflect a “revolution of expectation” in the developing world and its demand for a global redistribution of power, wealth and resources, and include the right to self determination (political, economic, social and cultural), the right to economic and social development, and the right to participate in and benefit from the “common heritage of mankind (scientific and information progress, cultural traditions and sites and monuments). And, secondly, it relates more to areas in which the nation state falls short (and thus duties may fall on the wider international community). These rights include the right to peace, the right to a clean, healthy and sustainable environment, and the right to

humanitarian disaster relief and the right of groups of people to cultural, political and economic development (Decker, Opt. Cit., 7).

However, the lessons of human rights generations as outlined above, thus, suffer from a number of limitations and making them merely the perspectives to view the issue of human rights from a number of preferred lenses fitting different value choice. Since all these perspectives underlying objective is to justify a particular brand of socio-economic and political thrust, the entire human rights discourse has virtually been dependent variables to the preferred order (Yasin & Sengupta, Opt. Cit., 149). It is therefore now evident from the so called, westernised promotional standards are marked as the ultimate end of human betterment. As Fukuyama remarking that “what we may be witnessing is . . . the end of history as such, that is, the end point of mankind’s ideological evolution and the universalisation of western liberal democracy as the final of human government” (Fukuyama, F. 1989: 3-18). Although, ‘there is no less manifest acknowledgement that liberal ideology and the thoughts of global conceptualisation, going to ensure universalisation of human rights and, in turn, human betterment’(Yasin & Sengupta, Opt. Cit., 150).

3.1. The Developmental Discourse & Human Rights Perspectives: One in Size but Doesn’t Fit All:

From this attempt of analysis it can be observed that the ideas and actions of human rights perspectives fall in between a paradoxical position of ‘bread’ and ‘freedom’. Though, “freedom usually wins with the liberal conceptions of rights, despite the awareness that without ‘bread’, freedom of speech and assembly, of association, of conscience and religion, of political participation – even though symbolic adult suffrage – may be existentially meaningless for its ‘victims” (Baxi, U. 1986, Opt. Cit., 186). Again, “the issues are not really “bread” and/or “freedom” in the abstract, but rather who has how *much* of each, for how *long*, at *what* cost of others, and *why*. Some people have both “bread” and “freedom”; others have “freedom” but little “bread” or none at all . . .” (Ibid.). Therefore, it is a question of scarcity; scarcity of ‘food’, ‘clothing’ and ‘shelter’, is thus one of redistribution, accesses and needs. Yet, “it is problem of “development”, a process of planned social change through continuing exercise of public power. As there is no assurance that public power will always, or even in most cases, be exercised in favour of the deprived and dispossessed, an important conception of development itself is accountability, by the wielders of public power, to the people affected by it and people at large. Accountability is the medium through which we can strike and maintain a balance between the governors and the governed” (Ibid. 186 -7). In this way, the discussion of human rights perspective becomes fused with discussion of developmental discourse.

Nevertheless, despite their common roots as international discourses established out of a concern for the plight of people across the world, human rights and development practice have evolved separately, and their discourses have, until recently, been seen to occupy different spheres. In fact, until the early 1980s most of the experimentations saw a fundamental conflict between development and human rights. Even today, the discourses of rights and development remain distinct, and continue to be viewed by some as necessarily separate; indeed in some attempts to bring human rights concerns onto the development

agenda are strongly opposed. Still, this rather outdated view that presumptively separates human rights and development continues to permeate both discourses, with proponents of each agenda often failing to meaningfully engage with the approaches or visions provided by the other. In fact there are possible reasons to argue that these two bodies of thought and practice are in fact two sides of the same coin (Alston, P. 2005). On the one hand, advocates of human rights have increasingly realized that humanizing principles on rights can only be meaningful in practical sense if supply and demand capacities exist. On the other hand, understandings of development have expanded to encompass more holistic understandings of human wellbeing and human development.

The relationship between development and human rights has a long historical experience, both in concept and in practice. It is important to recall that the story goes way back to the end of the Second World War, the most destructive conflict humanity had ever experienced. No wonder that the founding fathers of the United Nations had pledged a strong commitment to the promotion and protection of human rights. In fact, the basic structure of the United Nations, by its very Charter, is built on three main pillars: peace and security, development, and human rights. Conceptually, these three pillars were linked, interrelated and interdependent, so much so, that there could be no peace and security without development, no development without human rights and no human rights without peace and security. This trilogy was and remains the conceptual underpinning and basic mandate of the United Nations.

Historically the first signpost of change regarding the issue came about with the adoption by the United Nations General Assembly of the Declaration on the Right to Development which explicitly affirmed the human right to development. This proclamation was strengthened by the 1993 Vienna World Conference on Human Rights as well as by the various world conferences and summits which took place under United Nations auspices during the 1990s, bringing basic human rights and freedoms to the fore, and culminating with the Millennium Declaration and the Millennium Development Goals based on an integrated and interdependent set of human rights, identified as the underpinning of the process of economic and social development. In parallel, there was a redefinition of the process of development itself, a shift away from the purely “economist” approach to development, towards development defined as human development, as a comprehensive, people centred economic, social, cultural and political process through which all the human rights and fundamental freedoms of all individuals and entire populations can be realised, civil and political rights, economic, social and cultural rights.

Though, definition of development as a process of social and economic change is widely debated and contested. It is fair to say, however, that common understandings of development generally include the aim of enhancing well-being and capacity, and building a better quality of life for poor and marginalized groups.⁶ Whatever it may be made to mean, “development” must at least mean this: people will be given the right to be and remain human. One could argue that among those overarching goals, development is also aimed at enhancing peoples' human rights. Thus, despite a fairly disconnected history, the mutual interdependence of human rights and development is now generally accepted. The codification of rights in international, regional or national regimes is meaningless if people do not have awareness the

capacity to claim those rights. Improving individual circumstances through economic development may therefore be a precursor to making human rights meaningful in practice. Thus, the history of development is one of ongoing change, influenced to varying degrees and at different times by diverse pressures: dominant political ideologies; particular regional circumstances; trends in academic and non-governmental discourse; and the continuing failure to generate lasting solutions to poverty and human insecurity; to name but a few. While the changes in development practice inevitably form a continuous process, a review of last several years reveals a series of trends that can be broadly associated with each of the last five decades of the last century. Therefore, a cursory examination of some areas in this respect may be as follows.

3.2. The Development Discourse: Revisiting the Issues of ‘Aid’:

The era of development emerged as overseas aid in the 1950, in an environment dominated by independence movements and the gradual ending of the colonial period (Paul & Jonathan, 2005). Aid was provided by European states to their dependents, soon to be demanded as a duty by former colonies, and large capital injections were provided in the belief that modernization projects would have a catalytic effect on emergent economics. Aid was considered to be a transitory arrangement which would induce ‘take-off’ and was accordingly defined by an economic agenda: growth was sought and large-scale infrastructure projects were the mechanism for its achievement (Tomasevski, K. 1993: 30-1). Though, there are some, who believed that it is an instrumental mechanism to preventing the spread of communism; after 1959 fears of ‘another Cuba’ were felt acutely in the United States of America (Veltmeyer & James, 2005: 120-6) and it intensified in 1980s (Oya, C. 2008) because competition between the two superpowers led not only to proxy wars in the developing world, but also benefitted those countries who pledged their loyalty to one or the other camp with varying degrees of boldness.

However, the collapse of the Soviet Union and the apparent victory of the free market recast the US in a ‘global leadership’ role in some minds (Fang, T. 2004: 105-111), but the problem is that in the globalised world the ‘power continuum’ not settled in a particular one centre, rather mushrooming at different levels and in different understandings. Though, the initiatives regarding endowment of ‘aid’ continued as an important element in developmental discourse in global consideration based on four pillars, such as, democratisation, poverty reduction, good governance and neoliberal reforms. This cartel creates thus an environment in which orthodox beliefs are taken for facts and space for deviation from the norm is minimal. Paradoxically, in post – 9/11 context ‘aid’ has been associated with damage rather than progress and seems to be undermining prospects for long-term developmental initiatives, especially when the wars in Iraq and Afghanistan, hotbeds of ‘terror’ in the ‘axis of evil’ prompted an aid influx.

3.3. The Development Discourse: Role of the ‘State’:

Following this brief illustration, it is evident that role of ‘aid’ in developmental consideration has always been political, with the useful distinction between capital ‘P’ (political) and lower case ‘p’ (political), the former is partisan; promotes particular political actors and non-consensual values, whereas the latter asserts that aid should be informed by certain core,

higher, consensual political values and takes sides to extent that it is pro-poor. The core political values of humanitarianism have been found wanting in complex politicized scenarios such as the 'war against terror', and need to be supplanted by the values of Right to human. Hence, all such values are 'political' because they inform processes through which resources and power are allocated and used. In this backdrop if we consider the role of the state; which is seen as highly debatable in its position. The state functionaries may be constructed around two normative principles. The first principle is that it is the role of the state to intervene in both civil society and the workings of the market to ensure certainty and stability in people's lives and the second premise is that this intervention should be based on the principles of social rights, social justice, social equality and redistribution. Of course the extent to which these principles are applied varies according to socio-political context. Paradoxically, the state, being subjected to the forces of neo-imperialism is being forced by the logic of development to impose 'anti-people politics and exploitative politics on the community. National sovereignty has been replaced by new concepts of intellectual property rights, based on the interests of corporations and the reality of social, economic and political organisation of industrial west (Shiva, V. 1992: 40-4).

Paradoxically, the logic of "locking in" credible policies through classical role of states are very cynical towards individual as well as the community-politic. The concept of the 'relatively autonomous state' in the South Asian countries is also supposed to take beating. The social formation of these underdeveloped countries due to their colonial heritage the state is overdeveloped and these tendencies make more hegemonic plunge towards the subjects (Rathod, Loc. Cit). As a result the dual expropriation and mistreatment by the agency of the state and other forces of the individual which has serious repercussions for the future of 'rights of the human' of the people in the underdeveloped or developing countries. The "two-level games" 'creating a quasi independent body is a tactic used by governments to "lock in" and fuse democratic institutions, thereby enhancing their credibility and stability vis-à-vis non-democratic political threats (Moravcsik, A. 2000). In this respect, human rights perspective seems to be so decisive.

4.1. The Development Discourse & Human Rights Perspective: Approaching Towards Harmonizing :

The story of the understanding between rights and development highlights the role played by the broader political context in defining the emergence, function and impact of the rights. Yet, the nature of the relationship between human rights and development discourses is at least partially attributable to the different modalities employed by each - development policy has tended to focus on projects and programs, while the world of human rights is premised on norms, standards and duties. These different starting points also mean that the way progress is judged in each field is different - with development policies of assessed in terms of obstacles and indicators, while human rights records are understood in terms of compliance and derogation (Decker, Opt. Cit., 17).

Indeed, it is the emergence of Universal Declaration of Human Rights (UDHR), which represents one of the strongest statements of rights as the mechanism for human realization in the development discourse in broader understanding. It is actually not only redefined the

relationship between the individual and global political order (Sano, H. O, 2000: 737), but did so by declaring the individual to have both civil and political freedoms and the right to cultural, economic and social welfare. While the relationship between the different rights became a disputed political territory, due in no small part to the polarization of global ideologies in the post-Second World War period, the unified presence of all rights in the UDHR is clear and relates to the goals of personal and social well-being that are synonymous with the modern development agenda.

Though, the separation into civil and political rights on the one hand, and cultural, economic and social rights on the other was reified by the approval of the UN General Assembly of two related, yet indisputably distinct human rights covenants two decades later in 1966 in form of the 'International Covenant on Civil and Political Rights' (ICCPR) and the 'International Covenant on Economic, Social and Cultural Rights' (ICESCR). Though, it was not until 1993 Vienna Declaration, through the 'Declaration on the Right to Development' (RTD) to secure rhetorical reconfirmation of the indivisibility that was clear in the text of the UDHR. Nevertheless, outside the partisan power struggles of international politics, the inter-relationship between the rights identified in the UDHR and their centrality to development to be recognized more prominently in 1978, 'development should not be conceived of or understood simply in terms of economic growth, nor as an increase in per capita income, but should necessarily include those qualitative elements which human rights constitutes and which provide an essential dimension'.

Yet, while the dominant paradigm of the 1970s shifted to anti-poverty strategies and basic needs, human rights remained a theme among those critical of or seeking to expand the concept of development. Although it would be 1986 before the Declaration on the Right to Development would be adopted by the UN General Assembly. In 1977 the Commission on Human Rights prompted the Secretary General to undertake a study into the international aspects of the right, and two years later the Commission affirmed the existence of the right to development (Alston, 1981: 101). The Secretary General in his report tries to redefine the very idea in the following manner:

The central purpose of development is the realization of the potentialities of the human person in harmony with the community; the human person is the subject not the object of development; both material and non-material needs must be satisfied; respect for human rights is fundamental; the opportunity for full participation must be accorded; the principles of equality and non-discrimination must be respected; and a degree of individual and collective self-reliance must be achieved.

Therefore, it is a clear departure from its early position to its new position. It is considered that the Declaration on the Right to Development is a useful extension of the 1948 Universal Declaration of Human Rights because it places the protection and promotion of human rights in the context of a globalizing economy and places greater emphasis on the international economic system. Yet, historically, a critical backlash against structural adjustment emerged towards the end of the 1980s, embodied in concepts like 'Adjustment with Human Face', launched by UNICEF in 1987 (Cornia, G. and R. Jolly, 1987) and the World Bank's rhetorical engagement with poverty alleviation (Einhorn, 2001: 26). It is interesting to note

that UNICEF's challenge to adjustment advocated empowerment policies and people centric development, and was scathing of the marginalization that had taken place under economic stabilization programmes (Jonsson, U. 2003: 2). Indeed, more or less, in this era visualized a 'conceptual shift' moved from being needs-based and service-driven to a more strategic approach, in which rights issues were increasingly incorporated. On the other hand, the sidelines of development discourse and the failure of the neo-liberal reaction provided an alternative paradigm, allowing the human rights approach to emerge. Indeed, the recognition of the shortcomings of structural adjustment coincided with a profound shift in the global political context ending of the Cold War. From a rights perspective, the most striking evidence of this change was the content of the Vienna Declaration, released from the ideological stalemate of political 'power-continuum'. The declaration was a work of compromise between North and South rather than East and West, in which the indivisibility of rights was conceded by the North in return for an acceptance of universality by the South (Hamm, 2001: 1007). However, in the emergence of rights in development accelerated the assumption that all the rights are proved crucial, as those who had articulated a vision of rights-based development had identified for more than three decades, indivisibility of rights forms the key element in the approach. (Paul and Jonathan, Opt. Cit., 21).

4.2. The Development Discourse & Human Rights Perspective: If's and But's :

Paradoxically, the relationship between human rights and development has also been challenged on a number of other grounds. Amartya Sen has identified three core concerns with the legal edifice of human rights in the development context (Sen, Opt. Cit., 227-228). Firstly, what he terms the 'legitimacy critique' that rights have no real status or import without being entitlements sanctioned by the state. From a legalistic perspective, rights require legislation to exist, thus one is left with the dilemma of having no rights without laws. As many developing countries have failing, embryonic legal structures, does this mean that their citizens have no legitimate claim to human rights? Secondly, the reasonable critique related to form- without identifying correlative duties and duty bearers, rights have no meaning. And, thirdly, the cultural critique which is that rights cannot claim to be universal because of cultural diversity and resistance to the idea of rights; for examples, Asian values debate (Ibid. 19). Similarly, some argue that that, in contrast with development strategies, human rights is often seen as retrospective in outlook, focusing on wrongs that have occurred in the past, rather than orienting itself forward-looking programmatic outlook and perspective.

Yet many of the criticisms are not insurmountable. While many developing countries do not have the means, or an effective legal system, to adequately protect people's rights, this does not mean that the fulfilment of such rights should not be a high priority policy reform goal for both the governments themselves and international donors who assist them (Ibid. 18-20). Nevertheless, the relationship between development and human rights is certainly complex in its very nature. However, despite an early vision of the two operating in and occupying distinct realms, there is evidence of a move on both sides for greater coherence and a growing commitment to identifying synergies and complementarily. As a result, an emerging consensus around the correlation between rights and development is becoming evident. This

has arguably come about due to developments within both development and human rights circles. Therefore, accordingly many human rights advocates, the relationship between human rights and development is obvious - with the fulfillments of all people's rights being of intrinsic importance and thus an ultimate and natural goal of development. Naturally, human rights are seen as providing a framework for equality and non-discrimination in the context of development and a basis for the design of programs that respond to growing national and global inequalities.

5. Conclusion :

Thus, the foregoing discussion conclusively proves that some progress has been made towards integrating human rights and development. It is also clear that for many these two discourses should remain distinct, and also the approaches where attempts are made to find the commonalities and convergence cross the divide face numerous issues in practice. Originally, many of the formal legal structures that strengthen human rights obligations, are lacking adequate enforcement mechanisms to make them meaningful. Further, their legalistic nature often means that they remain inaccessible to those in the greatest need of their protection. On the other hand, principles based on the Right Based Approach attempt to target those in the greatest need, arguably may take away the obligatory nature of legally enshrined rights and thus may serve to weaken the basis on which they have been developed. This has led to a concern that human rights standards may co-opt and may be corrupted in the process. The multiplicity of Right Based Approach may also be seen to add to the already numerous rules of engagement within development practice, the complexity of which is compounded by the apparent failure to advance alignment and foster coherence of values between actors (Decker, Opt. Cit., 49).

Yet, a key question for both human rights advocates and development practitioners therefore turns on how human rights standards can be maintained in the context of development in a globalised order? First, it is necessary to accept the transformative possibility of human rights perspective and to understand its implications for development theories and practices, which constitutes the 'balance' between national and international responsibilities of states. Second, to probe whether the right to development is exclusively defined as a right of individuals, or extends to include the collective rights of groups and nations represented by states. Therefore what seems to be the need of the day is the creation of an international ethos (Menon, 2011: 64) and such a process, according to Parekh definitely lead to the creation of an universal value (Parekh, B. 1999) in human rights perspective and development discourse in our globalised world.

NOTES

1. It is actually argued that the idea of rights may be stresses in the writings of Romans and Stoics.
2. On the relationship between rights and duties and the relationship between duties and right-bearers, see “choice theory of rights – accordingly, the right-bearer in view of the power he has over the duty in question and benefit. Similarly, if we see the interest theories of rights which focus on duty – e.g., X has a right if Y has a duty to perform some act or omission which is in X’s interest. For an in depth analysis of the “correlativity of rights and duties”, please see, B. Mayo’s, ‘What are Human Rights?’ in DD Raphael (ed.), “Political Theory and the Rights of Man”, Indiana: UP, (1967), pp. 68, 72. (Mayo, B, 1967, pp. 68, 72) 3.
3. As it is suggested that, rights are given explicit treatment in the work of John Locke and his ‘Two Treaties of Government’ (1689) and Thomas Paine’s ‘The Rights of Man’ (1792) and emerge implicitly in the political and moral philosophy of Kant, Rousseau and Mill. The notion of human rights is viewed by many, to be a revival of the 18th century concept of the Rights of Man.
4. According to Waldron that this distinction in types of rights relates also to the distinction between Choice and Benefit theories of rights identified earlier with negative, first generation rights being associated with choice theory while second generation rights are associated with benefit theory. Under the former, the right-bearer is agent and chooser rather than merely a potential victim or potential recipient of assistance (Waldron, Opt. Cit., p. 11).
5. A number of important declarations validated the principles of indivisibility and interdependence of all forms of human rights includes, The Tehran Declaration in 1969; Resolution 32/130 (December 16th 1977); Resolution 40/114 (December 13th 1985); Resolution 41/117 (December 4th 1986); and the Vienna Declaration and Program of Action (UNGA A/CONF.157/23) (July 12th 1993).
6. Amartya Sen has defined development as the “expansion of the real freedoms that people enjoy (Sen, Amartya, 2000, p. 3)

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