UNIT 10 Right to Development

10.0 OBJECTIVES

This unit will give you

- what Development is all about,
- highlights of the changes in the meaning of Development over the decades,
- an idea of Right to Development,
- chronicle of the UN's role in promoting the Right to Development,
- a picture of the relationship between Human Rights and Right to Development,
- a brief list of various conferences on the Right to Development and explains how each of them sought to reinforce this Right.

10. INTRODUCTION

'Development' is a word that has many meanings. When you say, "I develop a feeling for someone or something", you mean that a feeling, favourable or unfavourable, is growing within you. You also use the word "development", when you say, "I see some new developments happening" about a situation. In this sense, you say that some new incidents are occurring that has an impact on the situation you are talking or thinking about. You give yet another meaning to development when you notice some cracks in your house's walls. Then you say "yes, I notice the walls are developing cracks."

Whatever it may be, "development" means a new thing that is happening around you. In other words, it denotes a movement from a given situation.

In Social Sciences however, development has a specific meaning. Let us remember that we talked of development as movement from the present state.
Professor Gunnar Myrdal, a Swedish thinker, notes after extensively studying developing countries:

"By Development I mean the movement upward of the entire social system, and I believe this is the only logically tenable definition". The famous educationist and social activist, Ivan Illich, gives a correct picture of the peoples' understanding of 'development' when he says, "the development paradigm is more easily repudiated by those of us who were adults on 10th January 1949. That day most of us came to know the term in its present meaning for the first time when President Truman announced his Point Four programme. Until then, we used the term 'development' to refer to species, real estate, and moves in chess: only thereafter to people, countries, and economic strategies. Since then we have been flooded by development theories". Since 1949, 'Development' came to be known as the donor, developed countries medicine to cure the recipient, developing countries poverty and economic backwardness. "is it kits of medicines contained models and strategies of economic growth, foreign aid, foreign tech training of personnel etc. Borrowing countries of the South thus walked into a debt trap since they found it difficult to repay and thus became politically and economically dependent on donor countries.

10.2 SHIFTS IN THE MEANING OF DEVELOPMENT

Most of the researches have confirmed that whatever be the meaning of Development, one primary objective in all of them is the concern for economic growth. The First UN Decade which began in 1961 almost equaled development with economic growth which was supposed to have trickled down to masses of people.

Box 1

During that Decade, the world's total Gross National Product increased by $1000 billion. About 80 percent of this increase went to countries who had per capita income of SUS1000 and above but with just 25 percent of the world population. Only 6 percent of the increase went to countries where per capita income was SUS200 or less but which has 60 percent of the world population.

It is from the 1970s onwards, therefore, (the second UN Decade) that the focus shifted to address non-economic, social and cultural issues of development which consisted in promoting education, health care, environmental safeguards, gender sensitivities, etc. Now development came to be seen as no less dependent on just and equitable distribution of goods and services within a society. But the results of this changed focus and strategies - if at all they have been sincerely followed - show a pathetic trend. According to the 1996 Human Development Report (NDR) published by the UNDP, between 1960 and 1991, the share of the richest 20 percent countries rise from 70 percent of the global income to 85 percent, while that of the poorest 20 percent declined from 2.3 percent to 1.4 percent. The ratio of the share of the world's richest and the poorest thus increased from 30:1 to 61:1 during this period. But if the richest 30 percent had 61 times more income in 1991 (than the poorest 20%) it has worsened further to 74 times in 1999, according to that year's HDR. In other words, this sad story of ever widening inequality among the world's rich and the poor is continuing unabated.

These figures only highlight the fact that development, as it had been understood, had gone wrong somewhere along the road. This is explained by the following:

(a) Hierarchy or rich-poor differences became acute; and
(b) Unevenness developed within the nations themselves.
Therefore, thinkers who became alerted by the growing disparities thought out alternatives to the question of development. "Should we still insist on maximisation of economic growth of the 1st UN Decade or should we emphasize the basic needs approach that became the important point of concern during the 2nd UN Decade?"

This was the major question that occupied the minds in the beginning of the 1980s.

10.2.1 Right to Development: A Background

Thinkers felt that quest for Development cannot be confined to only one group of countries, mostly developing ones and concern for Development must be shared by both the rich and the poor countries alike.

George Shepherd Jr. correctly explains thus: "The fundamental position of the Right to Development approach is that development must begin and end with a concern for the human condition and that this is a collective international responsibility."

Thus 'concern for human conditions' and 'a collective international responsibility' constitute the two pillars of this concept.

The credit for pioneering the articulation of the Right to Development belongs to the noted Senegalese jurist, Prof. Keba M'Baye, a former president of UN’s Commission on Human Rights and a former judge of the International Court of Justice and currently, the President of Senegal's Supreme Court, Prof. M'Baye developed the concept of Right to Development first in his Strasbourg lecture in 1972 as he was analysing the importance of Articles 55 & 56 of the UN Charter and Articles 22 to 27 of the UDHR and various statutes of specialized agencies in which international cooperation and solidarity were stressed. Addressing the drafting committee of the African Charter of Human and People's Rights in 1979, he said:

"Our overall conception of human rights is marked by the Right to Development since it integrates all economic, social and cultural rights, and also civil and political rights. Development, is first and foremost a change of quality of life".

In another context, Prof. M'Baye makes it clear that 'development’ is the recognized prerogative of every individual and every people to enjoy in just measure the goods and services, thanks to the effort of solidarity of the members of the community.

This right has been clearly recognised by the ILO (International Labour Organisation), the UN Agency responsible for maintaining labour standards and preserving rights of the labourers throughout the world. In fact, the ILO has the distinction of first recognising the Right to Development. As early as 1944, the ILO Declaration at Philadelphia affirmed that "all human beings have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity: and, that "poverty anywhere constitutes a danger to prosperity everywhere".

This Declaration also called for "war against want within each nation and by continuous and concerted international efforts” and proclaimed that these principles applied fully to all peoples everywhere, in both independent and dependent territories.

Two important points may be noted from the ILO Declaration:

(a) Right to Development evolved with the right to self-determination as it applied to the colonies then and
Along with it, a realization emerged in the minds of the colonial people that the colonial exploiters have a responsibility to remedy them in future.

10.2.2 The UN Charter

The UN Charter of 1945 that followed, clearly lays down the foundation for an integral relationship between socio-economic development and human rights. Article 55 requires that the UN should promote
(a) higher standards of living and conditions of economic and social progress and development, nationally;
(b) solutions to international economic, social health and related problems and international cooperation in cultural and educational matters;
(c) universal respect for human rights and fundamental freedoms.

All the above objectives are to be fulfilled with "respect for the principles of equal rights and self-determination of the peoples".

Through next Article 56, "all the members pledge themselves to take joint and separate action in cooperation with the Organization [UN] for the achievement of the purposes set forth in Article 55."

10.3 INTERNATIONAL BILL OF RIGHTS

The Universal Declaration of Human Rights 1948 makes a specific reference to Article 28:
"Everyone is entitled to a social and international order in which the rights and freedoms set forth
As expressed in Article 1 which is common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both of them were adopted in 1966), the right to self-determination includes the right of all peoples to "freely pursue their economic, social and cultural development."

In 1969, the UN General Assembly adopted a Declaration on Social Progress and Development. Recognizing the linkage between the global issues of the day arising out of socio-economic development and the root causes of human rights violations which were becoming rampant, the UN Commission on Human Rights called in 1977 for a UN study of the international dimensions of the Economic Order.

18.4 NEW INTERNATIONAL ECONOMIC ORDER (NIEO)

As an alternative to the liberal international economic order that highlighted strategies for maximization of growth, the New International Economic Order (NIEO) was first launched at the first meeting of the UNCTAD in 1964. Seventy-seven non-aligned countries participated. This grouping came to be known as the Group of 77. The NIEO proposals contained in a resolution were finally accepted by the UN General Assembly in 1974. The policy proposals for a New International Economic Order aimed to correct growing imbalances in world trade which went against the developing countries. The call for NIEO was strengthened by a short-lived but spectacular success coming from the four-fold rise in oil prices announced by Organization for Petroleum Exporting Countries (OPEC) in 1973.

10.4.1 COCOYOC Declaration of 1974:

It was in the general context of this demand for a NIEO that a rights-oriented approach to development was taking shape in the form of COCOYOC Declaration (CD). The CD regards satisfaction of the basic needs ("food, shelter, clothing, health, education") as primary and "any process of growth that does not lead to their fulfillment or even worse, disrupts them is a travesty of the idea of development". For the first time, the principle of "development centred in man (human beings), was established.

The COCOYOC Declaration said: "Development is also freedom of opinion and its dissemination.…. There exists a deep-rooted social need to participate in the structuring of the bases of one's existence, and to play a part in structuring the future of the world. Above all, however, development also means the right to work, by which we do not mean earning one's living, but finding self-fulfillment in work, the right not to be alienated by production processes which use human beings as mere tools."

In the context of the Right to Development, two momentous developments took place after 1974. They were:
(i) the Declaration on the Right to Development adopted by the General Assembly on 4 December 1986; and
(ii) the African Charter on Human and Peoples' Rights adopted in the same year.

10.4.2 UN Declaration on the right to Development 1986

A quick look at the Declaration containing 8 articles reveals an important development which was in continuity with the economic thinking on "human-centred development" referred earlier. This
development consists in the fact that now, almost all state members (The United States cast the negative vote and eight other European countries abstained) have agreed that they have certain duties regarding the individual's and people's right to development. Human rights are now explicitly considered as an essential element of development and must therefore be respected by all States. Article 4 enjoins on the States a duty to formulate international development policies though without making clear the content and the nature of that duty. However, Article 8 identifies some 'means to be employed' by each nation for realization of the Right to Development. Member states are required to guarantee

(a) equality of opportunity for all to access basic resources and services,
(b) ensure active participation of women in development-related decision-making.

Right to Development is declaratory in nature and therefore, it cannot be used as a justiciable right i.e., as a right for which legal claims can be made. This failure has however been sought to be covered by recourse to judicial interpretations of various legal norms in which the Right to Development has been invoked and/or referred to Two such important cases which deserve mention relate to the Maori tribals of New Zealand and, another, to the fisher-folks of Kerala in India. These relate, incidentally, to fishing rights of the traditional communities. The question put to the Tribunal Court concerned was: Can these people who have been catching fish over so many years, also claim the right of using modern technologies which will considerably raise quantity of their catch from the seas?. In the case of the Maoris of New Zealand, the Waitangi Tribunal referred to the Right to Development as quoted in the following passage:

"The right to development is recognized in domestic and international law; in domestic law in Simon Vs the Queen (1985). For example, all people have a right to development is an emerging concept of international law following the Declaration on the Right to Development adopted on 4 December 1986 by 146 states (including New Zealand) in resolution 411128 of the United Nations General Assembly.............,..... The Treaty (of Waitangi) guaranteed the Maori full protection of their fishing activities, including unrestricted rights to developing them along either or both customary or modern lines."

The Indian case of fishing by the Kerala fisherfolks came up in 1995 before the Supreme Court when some owners of mechanized trawlers challenged the Kerala Government's permission allowing the traditional fisherfolks to go for new technologies if that helped raise the quantity of fish more than what they used to do in the past with the help of their country boats. Though a direct reference to the Declaration on Right to Development is not there, the Court was clearly thinking in those lines when it said:

"We are also of the opinion that the Government of Kerala is perfectly justified in adopting the attitude that the public interest cannot be determined only by looking at the quantum of fish caught in a year. In other words, production alone cannot be the basis for determining public interest. The Government is perfectly justified in saying that it is under an obligation to protect the economic interest of the traditional fishermen and to ensure that they are not deprived of their slender means of livelihood. Whether one calls it distributive justice or development with a human face, the ultimate truth is that object of all development is the human being. There can be no development for the sake of development. Priorities ought not to be inverted nor the true perspective lost in the quest for more production."

10.4.3 African charter of human and people's rights

In the sphere of human rights, you may have already noticed that seven good intentions are
spoken but not many of them have been applied. These are not binding on the member states. However the only binding international human rights treaty which has recognized the Right to Development is the African Charter of Human and People’s Rights (ACHPR). Article 22 of the ACHPR reads:

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the Right to Development.

10.4.4 Contribution to right to development: Two streams

Before we come to the debatable question of the duties of the State to ensure exercise of the Right to Development, it is necessary also to understand that two streams contributed to enriching the contents and raising the practical importance of this right.

The First stream combined several developments in various sectors of living which affect human beings. All these developments which had their small beginnings during 1970s and 1980s finally were streamlined in the 1990s under United Nation’s initiatives (after the end of cold war rivalries with the collapse of the Soviet Union).

The Second Stream contributed to the deepening of the contents of the Right to Development to remove any hurdles for their realization and to create international environment for global cooperation. This is to help the states to perform their duties.

The following initiatives were taken under the first stream:

- In 1992, the UN conference on Environment and Development (the Earth Summit) took place at Rio de Janeiro that highlighted the importance of sustainable development. The latter meant that the present level of consumption should not become a burden on the future generations;

- In 1993, the second World Conference on Human Rights took place at Vienna. It registered a spectacular success in achieving global consensus on vital issues connecting human rights with development. Three salient gains from Vienna Declaration are:

   (a) Recognition of interdependence and indivisibility of human rights. It meant human rights have no hierarchy, i.e., one set of rights cannot have preference over another set. Every Right has an equal importance and value.

   (b) Lack of development cannot be made a ground for not observing human rights in a particular country.

   (c) Development, democracy and human rights are henceforth to be treated as integrally connected to each other in both internal and external policies of the country.

- In 1994, the UN held in Cairo an International Conference on Population and Development which adopted four “guiding principles”, the first of which was Human Rights.

   In 1995, the UN held a summit-level meeting in Copenhagen on “major social development dilemmas facing societies the world over as they approach the 21st century”. It identified three problems: poverty, unemployment and social dislocations. Among ten commitments made by the world leaders, one was to “promote social integration based on the enhancement and protection of all human rights.”
The Fourth World Conference on Women held in Beijing in 1995, adopted a Platform of Action emphasizing women's rights as human rights in the context of development.

The Second International Conference on Human Settlement (Habitat II) held in 1996 at Istanbul focused on the issue of housing which is considered a human right in almost all the countries in the developing world.

A major milestone was the Global Consultation on the Right to Development as a Human Right which was convened in Geneva in January 1990. Participants included representatives from more than fifty governments, forty NGOs, twenty experts and a dozen UN programmes and agencies. The central contribution of this global consultation lay in its innovative focus on people's participation for "identifying appropriate goals and criteria" for the development process. The right to development was seen as a process of empowering individuals and groups within a state by giving them a standing to participate in "international economic cooperation". It specifically asked the UN (a) to take the lead in implementation of the Right to Development and to (b) ensure all UN activities and programmes conform to the Declaration.

Lead was immediately taken by the UN Development Programme (UNDP) which issued the First Human Development Report (HDR) the same year i.e. 1990. Ever since then, the HDRs have been an annual feature. The 1993 HDR reaffirmed that "people must have constant access to decision-making and power". Participation in this sense is an essential element of human development. On the basis of a global survey, it concluded. "Despite recent changes favouring market economies, multi-party democracies and grass-roots activities, 90 percent of the world's people still have no say in the political, social and cultural factors that shape their lives. Ethnic minorities, women, the poor, rural dwellers and the disabled have very little power to change their lives."

10.4.5 Basic rights and right to development

Right to Development critically rests on a right of equal opportunity to be given to vast masses of people living in misery and destitution. 600 million people in the least developed countries have only 0.3 percent share in the world trade. This share today became half of what it was two decades ago. Further, the share of the developed countries for official development assistance to developing countries was fixed at 0.7% of their GNP (by the General Assembly in 1970). In 1980, this share was actually 0.35% which is virtually half of the expected and far less than 0.51% which was the figure for 1960, two decades ago. Concretely, this means, the developed countries owe an obligation to the people of the under-developed countries if effective realization of human rights is made possible as per Article 28 of the UDMR. Thus, they have a duty to protect "the basic rights" of human beings in the developing countries. Henry Shue defines "basic rights" as those which "specify the line beneath which no one is to be allowed to sink". Just as individuals have a right not to be tortured, they also have a right not to be denied subsistence, which, at the minimum, should include adequate food, housing, health care and a livelihood as spelled out in the International Covenant on Economic Social and Cultural Rights.

10.4.6 Basic rights and duties

Basic Rights refer to those rights which are critical for human survival.

Shue's Basic Rights notion contends, therefore, that every one of them has three correlative duties:

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1. duties to respect
2. duties to protect from deprivation, and
3. duties to aid for performance of these

An important point to note is that performance of these duties applies to both for developed and developing countries for both the privileged sections and the less fortunate ones in a national society.

Realization of the Right to Development depends on the duties the State were required to perform and the leadership role to be provided by the organizations and agencies of the UN system.

So far as specific measures are concerned, the UN system's performance is far ahead that of the States. Though it has taken some time, one easily notices steady advances have been made in an effort to make the Right to Development work.

Check Your Progress 3

1. Why was the call for a New International Economic Order (NIEO) given?

2. Who were the G-77 countries?

3. State whether the following statements are True or False?
   (a) Right to Development is a justiciable right.
   (b) International legal institutions are recognizing Right to Development in their judgements.
   (c) The 1992 UN Conference on Environment and Development was known as the Earth Summit.

4. What is so important about the African Charter of Human and People’s Rights?

5. Fill in the Blanks:
   (a) The 1994 Cairo Conference on Population and Development adopted
   (b) ........................, democracy and ........................ are integrally connected to each other.
   (c) ........................, Conference in 1995 adopted a Platform of Action that stressed understanding of women’s rights as being an integral part of Human Rights.
   (d) The Right to Development as a Human Right was advocated at the, ................ January 1990.

10.5 INSTITUTIONAL, REAFFIRMATIONS

As far back as 1981, the Commission on Human Rights had established a working group to study the scope and content of the Right to Development. This was before the passing of the Declaration on the Right to Development in 1986. In 1993, the Commission decided to establish for a three year period, a second working group to formulate measures to eliminate obstacles
to the implementation of the Declaration. The group's recommendations in 1995 noted that Right to Development requires long-term strategy in which the States must ensure necessary conditions for its effective realization. This working group offered a new definition of the Right to Development. Development has become multi-faceted in definition. That it is no more confined to economic growth has become the standard perception as early as 1994 when then the Secretary General of the UN presented to the General Assembly (on November 11, 1994) what are famous today as Agenda for Development. Highlights of this Agenda are:

(i) "Development is a fundamental human right" and
(ii) It is closely linked to five major dimensions identified as "peace, the economy, the environment, society and democracy".

The third working group on the Right to Development presented a report to the UN Commission on Human Rights in November 1997. The Report outlines a global strategy for the promotion and implementation of the Right to Development. In its recommendations, it called upon the civil society, the State and the UN system to formulate concrete measures for positive implementation of the Right to Development. Taking the lead, again, UNDP came out with its policy document in 1998, titled: Integrating Human Rights with Sustainable Human Development.

The 1990s have witnessed a spurt of UN activities. Credit for these belongs, in no small measure, to the UN High Commissioner for Human Rights. Soon after the creation of the office and his appointment, the first High Commissioner Mr. Jose Ayala-Lasso in his Address to the 52nd Commission on Human Rights in April 1996 pointedly stated that the mandate of the Human Rights Commissioner extended to the right of development and that accordingly he had "endeavored to respond to this duty giving the implementation of the right to development practical and tangible substance and that the emerging consensus on right to development is an important example of how to build on the spirit of Vienna and create a truly universal approach to human rights." Mary Robinson, his successor, also followed it up.

The same is true of the succeeding Secretaries General of the UN. Prof. Boutros Boutros Ghali declared it as a fundamental human right. Mr. Kofi Annan, his successor is emphatic when he said: "The right to development is a measure of respect for all other human rights". In the classification of human rights under contemporary international law, the Right to Development would be a "third generation right and a group right". But if it has moved to the forefront of the international agenda, much of this credit clearly belongs to the UN system and its prime-movers like the Secretary General and the UN High Commissioner for Human Rights among other agencies.
10.6 LET US SUM UP

We had seen how the term Development has acquired different meanings over the decades. In the beginning, Development meant only economic growth and prosperity. But with only one set of countries, which was mostly the Colonial Powers and the USA that were already rich cornering most of the benefits, the developing world consisting of mostly ex-colonies that became members of the UN in the 1950s and 60s felt threatened by the one-sided growth. Therefore, they used their newly got influence in the UN forums and demanded equality first. They supported the cause of independence and freedom of the remaining colonies as they believed in acquiring the benefits of political freedom in order to gain equitable distribution of world’s wealth. The UN’s role in assisting the developing countries to bring about a ‘new equitable world order stands as a milestone in the history of the struggle for the Right to Development. Largely due to the UN’s efforts, the Right to Development has been considered to be a fundamental part of Human Rights. The calls for a New International Economic Order (NIEO) and a New International Information Order have not been for mere sloganeering. Developing Countries have made these as underlying principles both in their bilateral negotiations and multilateral discussions with the countries of the ‘North’, i.e., the Developed Countries. Gaining momentum in the 1980s, it took on various forms, such as the North-South Dialogue, and negotiations for creating an equitable world trade order. Further recently, with many of the Developing Countries joining in a call against the Nuclear Weapon Countries dumping nuclear wastes in their respective territorial spaces, it may be said that the beginning of the twenty first century will see the Developing Countries as a forum, acquire more powers in their relationship with the Developed Countries. In this process, the Right to Development acquired a primary and meaningful place in the spectrum of Human Rights.

10.7 KEY WORDS

(1) Civil Society: Organized social groupings composed of individuals and their communities, bound by some common interests. They are not constituted by the State/government.

(2) Group Right: Human Right of a group of people, i.e., a community of people. It means, in other words, your Right as a Human being is not the responsibility of you alone, but people or society around you will also fight jointly to safeguard your Right.

(3) UN System: Institutions or Agencies or Programmes established by the UN in accordance with the UN’s guiding principles.

10.8 REFERENCES


10.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1
1. Gunnar Myrdal.
2. The First UN Decade (1960s) equaled economic growth with economic development, while the Second Decade (1970s) saw Development as not only based on economic factors but also on non-economic ones such as social and cultural.
3. (a) True. (b) False.
4. Article 55 enjoins the UN to promote higher standards of living and economic conditions of progress & development and to maintain universal respect for human rights and fundamental freedoms.

Check Your Progress 2
1. The Call for a New International Economic Order was given to check the imbalances and inequalities caused in international trade due to the operation of a liberalised economic order where economic growth was preferred to socio-economic justice.
2. The G-77 were a group of Developed Countries primarily non-aligned that demanded equitable distribution of world's wealth among all the countries.
3. (a) False. (b) True. (c) True.
4. It is the only international Human Rights treaty that has recognised the Right to Development and has placed the responsibility of protection of the Peoples' Rights on the governments of the signatory States.
5. (a) Four guiding principles.
   (b) Development, Human Rights.
   (c) Beijing 4th World Conference on Women.
   (d) Global Consultation in Geneva.

Check Your Progress 3
1. To study the scope and content of the Right to Development, to eliminate obstacles that hinder the implementation of the declaration on the Right to Development, help the States to devise long-term strategies for effective achievement.
2. Yes, but the economic growth has come to be understood as that which creates an equitable distribution of wealth among the countries and peoples all over the world, to stop exploitation by the rich countries. Economic growth has become linked to the maintenance of environment, and strengthening of democracy and peace.
3. Three working groups:
   The first group appointed in 1981.
   Second group appointed in 1993.
   Third group appointed in 1997.