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James C.N. Paul

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DEVELOPING HUMAN RIGHTS
FOR
DEVELOPMENT BY AND FOR PEOPLE

James C. N. Paul

The difficulties in discussing "human rights and development" are obvious: there is much controversy over the meaning of "development" and the role of "human rights" in it.¹ Rather than debate these issues in the abstract, this paper is concerned with the role of human rights in one particular approach to "development". In a most summary way I will attempt to describe:

- (1) the concept of "alternative", "people-centred" development, and
- (2) the role of self-reliant, peoples' organizations, and
- (3) the role of law and legal resources, and
- (4) the role of human rights,

in struggles to realize this kind of development.

There is increasing interest in people-centred development today. A growing body of reported experience has portrayed the organized efforts of people, living in different social and physical environments of poverty, to change conditions which produce their impoverishment and political impotence. Human rights are often implicated in these efforts; the poor participate, as active protagonists, in struggles to identify and develop the content and means of enforcing those particular rights which are immediately important to the realization of their essential needs. These efforts, in turn, can be indispensably helped by lawyers, scholars and social action groups who seek to aid the poor. Cumulatively, this activity may yet lead to increasing recognition at both national and international levels of the need for a bill of rights geared to development for and by people.

People-Centred Development

It is familiar history that in the 1970's (if not before) the conventional paradigms of development came under many attacks from many quarters. Ideas underlying the concept of "another", "alternative" kind of "people-centred" development were generated in this context, via a variety of international reports.² These reports reflected both normative and empirical assumptions derived from the apparent lessons of previous "development decades".

The central concern was the continuing--often increasing--marginalization of the third world poor in economic, political and cultural terms. Of course environments of impoverishment

varied widely--and hence explanations for them. There was increasing recognition that the poor--notably the rural poor--were often the primary victims of the transnationalization of agrarian economies and other inequities of the international economy. Similarly, the poor were all too often the victims of "growth-oriented" development programs which emphasized "green revolutions" and introduction of new technologies and large-scale commercial production and other dramatic changes in physical and social environments. Further, the poor were usually the primary victims of pervasive pathologies in state-managed "development administration"; e.g., lack of popular participation in the design, administration and regulation of rural development programs, and in securing the accountability of those who managed these programs. Above all, the poor were not simply poor by virtue of historical and physical happenstance: they were continuously impoverished by various kinds of social relationships--e.g., relationships of power built around land, employment, credit, marketing, allocation of basic services and other interactions between rural people and power wielders.

Underlying these and similar perceptions of the crises in "development", were normative concerns. One had to ask value-oriented questions: development of what? For whose benefit? How? "Alternative" development emphasized "people" --those most in need of "development"--in the answer to each of those questions. Development was perceived as an ongoing process of helping the poor to become empowered in order that they might confront conditions of impoverishment and exclusion, gain access to essential resources and act collectively in other ways to articulate, advance and protect other vital shared interests, as they perceived them. These are central ideas of people-centred development.³

The Role of Self-Reliant Peoples' Organizations.

By the latter 70's, "participation" in "development processes" had repeatedly been declared to be a "human right". In Rome, in 1979, the FAO-sponsored "World Conference on Agrarian Reform and Rural Development" enacted this declaration as its centerpiece resolution:⁴

Participation of the people in the institutions and systems which govern their lives is a basic human right and also essential for realignment of political power in favor of disadvantaged groups and for their social and economic development. Rural development strategies can realize their full potential only through the motivation, active involvement and organization at the grass-roots' level of rural people with special emphasis on the least advantaged strata, in conceptualizing and designing policies and programs and in creating administrative and other voluntary forms of organization for implementing and evaluating them.

As this Declaration suggests, one purpose of participation is to create "political power in favor of disadvantaged groups". Thus, participation enables impoverished people to: challenge exploitative social relations; assert demands for essential resources and direct government development strategies towards their basic needs; design and administer programs to allocate state-controlled resources at community levels; impose accountability on decision makers; initiate new kinds of group-managed economic activities such as production or marketing co-operatives and to gain a new sense of dignity through these efforts.

These activities can only be encouraged when the poor are enabled to develop their own organizations to serve objectives which they identify, projects and structures imposed and controlled from the outside (e.g., political party activities, state-managed cooperatives, village development councils) seldom produce--at least by themselves--self-reliant, participatory initiatives of a kind which lead to people-centred development; rather (like other forms of imposed law) they produce new conditions of dependency, manipulation and alienation. While empirical explanations for these conclusions may be somewhat incomplete, evidence drawn from comparative studies suggests that people must participate from the beginning in determining objectives and making their own organizations to realize them (and in creating law governing these groups), if these organized activities are to serve as effective vehicles for self-reliant participation.⁵

Many reports (derived through "participatory research")⁶ depict efforts of different kinds of groups of rural poor to mobilize--and engage in "people-centred" development activities. These studies⁷ show how popular organizations enable people to:

- gain the knowledge and skills which are a prerequisite to undertaking self-help measures;
- press for essential resources from state agencies which produce or distribute them;
- press for redress of grievances against private or public persons who have abused power or used it corruptly;
- work with official agencies to devise new ways of administering rural development through devolution of powers to manage and allocate resources to local participatory groups of intended beneficiaries;
- initiate new group-managed, income-generating activities; and
- join with other organizations (local and regional) to press shared demands of the rural poor in national and international forums.

Further, as groups begin to address specific objectives, needs for additional kinds of knowledge and skills grow accordingly--e.g., needs for agricultural information, business skills and knowledge of law and how it may be invoked to legitimize claims and other strategies of collective action. Moreover, as grassroots' groups begin to come into more serious conflict with other powerful external bodies (agencies of the state, or landlords, creditors or employers), so they will need other kinds of help from outside support groups--including intermediaries to represent grass-roots' groups in court and other, sometimes distant, centers of decision making. Similarly, there is recognition that support organizations are needed at international levels, in order to aid the development of needed knowledge, to help expose denials of the rights of local or national organizations, and to publicize--and sometimes help represent--their claims before international agencies (which all too often condone exogenous "development projects" which impact adversely, sometimes disastrously, on the rural or urban poor.)⁸ A growing number of different kinds of support organizations are now working with local groups and communities to provide these kinds of support.⁹

The Role of Law and Legal Resources

It is notorious that in many third world countries (and elsewhere, too) law is used (and abused) to maintain social relations which produce economic impoverishment, physical deprivation and political impotence. Paradoxically, law can be used (both defensively and assertively) in organized struggles to change these terms and initiate process of development by and for the rural poor.

In this approach law means more than simply official state law. There are other kinds of law which people, working together, can also use to help identify and redress wrongs, to protect and advance shared interests. These bodies of law include indigenous law (rooted in shared cultures and traditional concepts of fairness and justice); international law, notably the U.N. Covenants and other sources which declare "universal" human rights. All of these sources of law can be used (and have been used) by organizations of the rural poor to:¹⁰

- structure endogenous, participatory organizations;
- claim entitlements already provided by law;
- denounce corrupt, oppressive or lawless administration, and secure redress against official abuses of power;
- articulate claims for recognition of rights, deemed essential in order to realize basic human needs; and

- expose contradictions between existing principles of law (notably human rights' law) and practices which demonstrably threaten serious injury to interests protected by those principles.

Of course invocation of law provides no assurance that officials, landlords or other targets of complaints will respond with sincerity let alone conform. They may in fact retaliate with force. However, knowledge of law helps the victims of illegal dealings understand that they are wronged, that they are right to demand a remedy; and this kind of knowledge, by itself, helps to inspire continuing efforts to demand redress against the wrongdoer.

Md. Anisur Rahman has studied grass-roots' organizations in many, varied, third world settings through "participatory research" techniques. He describes the impact of knowledge of law on Asian landless workers:¹¹

As these people engaged in social analysis and investigation, they progressively acquired greater knowledge of their legal rights and thereby the perception of deprivation from them. Sharing this perception among themselves stimulated the people into action--transferring a state of alienation rooted in ignorance, first into awareness that the power (right) was there by virtue of law, and then into an act of exercising that power.

Law and legal knowledge which they acquired...gave them concrete issues around which participatory, collective activity could be focused.

Thus, knowledge of one's legal entitlements helps to replace feelings of alienation, resignation and dependency with a new awareness of one's dignity and rights -- a crucial condition for self-reliant efforts to exercise rights. Groups have used this kind of legal knowledge in a variety of ways--sometimes by recourse to the courts, more often by sending deputations to present demands to relevant government offices, by publicizing contradictions and grievances and by other tactics designed to move targeted officials into action. These efforts can become far more effective when they are supported by other non-governmental organizations at both national and international levels, and by concerned jurists and specialists working with these groups.¹²

The Role of Human Rights as Sources of Empowerment

Human rights laws can be used as very important resources by victims of oppression and deprivation. Particularly important are two bodies of "human rights" law derived from the U.N. Declaration and U.N. Covenants on Human Rights (and numerous other international conventions and declarations). These are:

- the rights of people to participate in political and economic affairs, notably through their own organizations;¹³
- the rights of people to enjoy access to food, health, education and other necessities of life.¹⁴

These two bodies of rights have a symbiotic relationship with each other; and they can be used to empower countless victim groups of people whose lives are presently threatened by oppression, hunger, disease and lack of knowledge of ways to confront these essentially man-made (or man-condoned) conditions.

I. Securing Rights of Participation through Organizations.

ILO Convention 141 (adopted by the International Labour Conference of 1975) calls for recognition of the universal right of "rural workers" to form (or join) "organizations of their own choice". The term "rural workers" includes self-employed farmers (e.g., peasants) and self-employed rural homeworkers, as well as tenants and farm laborers. These organizations can be formed "without previous authorization" (e.g., there can be no discretionary licensing system) and shall be "free from all interference" and free to acquire "legal personality" without discrimination. The "law of the land" may not be used to "impair" these "guarantees"; indeed, "it shall be an objective of national policy to facilitate the establishment and growth on a voluntary basis of strong and independent organizations of rural workers."¹⁵

So far, a small but diverse group of third world countries have ratified this convention--including Cuba, India, the Philippines and Zambia. But, irrespective of ratification, rural people in various settings in many countries are simply asserting power to form organizations to promote shared interests. Moreover, as the 1979 Rome World Conference declared, the "basic human right" of people to "participate" in processes of development can only be realized through recognition of the rights embodied in Convention 141. The Rome Conference called upon all governments to "ratify and enforce" this convention and to "encourage the establishment of self-reliant...worker associations" and "federations" of them. Indeed, winning recognition of

these principles is central to any meaningful concepts of people-centred development. As Julius Nyerere said, in his keynote address to the Rome Conference:¹⁶

If the people are to develop, they must have power. They must be able to control their own activities within the framework of their...communities...At present the best intentioned governments--my own included--too readily move from a conviction of the need for rural development into acting as if the people had no idea of their own. This is quite wrong--people do know what their needs are...if they have sufficient freedom they can be relied upon to determine their own priorities of development.

Those who most need the protections and entitlements promised by the "human rights" to food, health and education (i.e., the rural poor), can least afford to be left dependent on governmental organizations for development of these rights. Rather they must create and use their own organizations to demand feasible measures necessary to realize their rights; and these "grass-roots" organizations must usually be helped, in turn, by other kinds of groups. Indeed, that kind of participation may be essential in developing and giving specific content to these human rights; and in asserting, realizing, monitoring compliance and enforcing those specific protections.

II. Asserting Rights to Food, Health, Education and Other Necessities.

The United Nations Human Rights Covenants--and many other important international legal instruments--have declared the existence of the "universal" rights of all "people" to "food", "health", "education" and other necessities of life.¹⁷ While gaining recognition of these rights--recognition that they do contain enforceable guarantees--is hardly an ultimate end of people-centred development, struggles to realize these rights may be critically important. Securing access to necessities is obviously a crucial matter to many of the world's poor, but the struggles themselves can lead to empowerment--and the capacity to achieve other redistributive ends.

Of course it is sometimes said (all too often by lawyers) that "social and economic" rights, such as the right to food are not really "rights" at all because: (a) these guarantees are expressed in such broad and vague terms (e.g., what is meant by a right to food?) and they lack any operative meaning, and (b) there exist no "legal remedies" to secure the rights (e.g., courts lack power to enforce demands for food). Thus, it is said: these rights are really just moral obligations assumed by governments which can only be satisfied (if at all) by benign planning

and administration.

Of course any government worthy of legitimacy owes a moral obligation to try to help satisfy the basic needs of all its people. But that hardly ends the matter. The Covenants declare that rights to food, health and education are human rights--rights of people which transcend the powers of government; and it is a travesty to say that victim groups denied these rights must depend on official charity for redress. Victim groups can, through their own organized efforts, aided by others (including lawyers and other specialists) develop both specific content of their rights to necessities and means to enforce them, in courts as well as other decision-making forums.

Indeed, all of our basic human rights are inevitably expressed in very general terms because each embodies an aggregate of many component rights, and the whole history of human rights is a history of struggles by oppressed people to articulate component rights and develop means to enforce them. Thus, it is now recognized that the basic right of people to participate in governance embodies rights to form self-managed participatory groups, to use them to formulate shared demands and grievances and to communicate those messages to government and other people through speech, writings and the media. Similarly, rights to food, health or education embody an aggregation of more particular entitlements: component rights which can be articulated and enforced by people through political participation, the imposition of accountability of power wielders and through self-help activities.

Identifying component rights which, together, make up peoples' basic rights to food, health and education is the first challenge. Often the task is to identify, in particular settings, those particular practices which threaten or presently impose intolerable deprivations of basic rights.

For example, it is notorious that rural communities are the first and major victims of food shortages; and it is equally notorious that these shortages are produced by some combination of man-made practices,¹⁸ e.g: degradation of physical environments and/or withdrawal of good land from food production; unfair terms of trade to producers (notably small-scale ones) and other interventions which enable government agencies (acting like feudal landlords) to siphon off surplus food to other areas; lack of facilities for local storage of crops, and for transport and local marketing; lack of credit, extension and inputs to small farmer producers and lack of research directed towards their needs--in short, intolerable practices of neglect of the food production and distributional needs of the poor in rural communities which can be remedied by corrective measures. Similarly, it is notorious that official systems of schooling often fail to identify and meet essential needs of the rural poor (adults as well as children) to secure those kinds of knowledge which will enable them to become more productive in economic terms and more self-reliant in political terms. The situation

of countless rural women simply epitomizes the existence of practices which maintain people in depressed conditions by maintaining ignorance: women's struggles for economic and political liberation depend, initially, on struggles to generate and share knowledge which will enable them to identify and confront particular discriminations which harm and repress them.

Through organization and deliberation people can come to understand that they have rights to food, health and knowledge, and they can begin to identify those practices of governmental and other bodies which significantly impair these basic rights, and they can assert their rights to redress these harmful practices in order to vindicate their basic rights.

Strategies to Enforce Component Rights

Once people begin to identify measures needed to vindicate their basic rights, they can use a variety of strategies to enforce them.¹⁹

Participation. Organizations of the rural poor, in alliance with other groups, can prepare appropriate materials which will call attention to their basic rights, to practices which threaten or deny those rights and to corrective measures. These critiques might be combined into "National Charters" which explain what must be done to help food production and protect the food supplies of imperiled communities, or what must be done to provide basic health care in deprived communities. Codes of conduct can be prepared which publicize those acts or omissions of agencies or firms which imperil health or food production. Specific demands can be publicized for other kinds of remedial action--e.g., to develop knowledge needed by rural women or peasant groups. Thus step by step the aggregate of rights which give content and significance to rights to necessities can be articulated and asserted--a process which is essential if the rights are to be won.

Imposing Accountability. Practices which clearly harm communities, such as inexcusable discrimination in the allocation of resources by officials, or degradation of environments by outside enterprises, or expropriation of lands or water or forest resources on which people depend for food can be challenged in the courts.

Protests can be lodged with international agencies--such as UNESCO, FAO or the UN Commission on Human Rights--which are supposed to monitor and promote realization of these basic rights. Under the UN Covenants those states which are parties to the covenants must report (to the Secretary General) their efforts to secure these rights; and groups might subject these reports to scrutiny and to "counter-reports" from the people, in order to put pressure on governments to take these rights seriously.

Self-Help. In some settings collective efforts can be undertaken by people to secure food sufficiency, health care and critically-needed knowledge. Groups may be able to create their own water resources' programs for farming. Women may create their own groups to educate each other in regard to their rights. Communities may build and operate their own primary health care facilities and programs. Through participation people can learn that it is their right to work together to meet basic needs and that it is the duty of governments not only to respect but to aid these initiatives by supplying help on terms which allow the community itself to design and administer programs responsive to the needs of its people for resources essential to realization of their basic rights.

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The development of new rights enabling people to realize their basic needs is a process which usually entails a conjuncture of efforts by concerned specialists and progressive elites on the one hand to secure a declaration of the right and its implications, and grass-roots' efforts by people to secure measures to interpret, apply and enforce that right in particular contexts. This process often requires the generation and dissemination of new knowledge (including knowledge of law) creating new popular awareness, and then mobilization and demands by those who need specific legal protections in order to realize their basic rights. Perhaps the most important chapters in the history of struggles for human rights are those which depict the efforts of wronged peoples to gain knowledge of their basic rights, and then assert particular rights which they deem essential to protect those basic rights.

There is evidence of increasing recognition of the interdependency of each of these efforts, and this knowledge may lead to a more coherent, effective advocacy of development-oriented human rights in national and international forums - and hence, over time, to the articulation of a more meaningful "Human Right to Development" (a Bill of Rights addressed

to development by and for people) by international networks of groups which reflect the concerns of the poor. These efforts may also underscore the importance of a proposition often overlooked in debates about human rights and development: if participation is valued both as an end and a means of development, then those most in need of development, the poor, must participate in efforts to establish the content and uses of human rights in development processes.

FOOTNOTES

1. For reviews of some of the problems see P. Alston, Development and the Rule of Law: Prevention Versus Cure as a Human Rights Strategy, Development, Human Rights and the Rule of Law (1981), and J. Galtung, What Kind of Development and What Kind of Law? Ibid.
2. Dag Hammarskjold Foundation, "What Now: Another Development" (Report on Development and International Co-operation) Development Dialogue (1975), Nos. 1 and 2; United Nations Research Institute, (UNRISD), The Quest for a Unified Approach to Development, Geneva (1980), Society for International Development (SID), "Seeds of Change: Participation of the Rural Poor in Development" 1 Development (1981), "Community Participation: Current Issues and Lessons Learned" (A Collection of UNICEF Reports published in Assignment Children, Nos. 59/60 (1980). For a discussion of some of these developments and a useful bibliography see G. Gran, Development by People, New York (1983).
3. See, in addition to note 2, supra, the "Forward" by Mary Racelis Holinsteiner to G. Gran, supra.
4. Report: World Conference on Agrarian Reform and Rural Development, (WCARRD) (1979). See also U.N. General Assembly Resolutions 32/130 of 1977 and the Assembly's 1980 Resolution on International Development Strategy (E/6056, Para. 21). See Articles 18, 19(1), 19(2), 21, 22 and 25 of the International Covenant on Civil and Political Rights (setting out essential component rights of a right to participation) and Articles 13(1) and 15 of the International Covenant on Social, Economic and Cultural Rights.
5. See Md. A. Rahman, "The Roles and Significance of Participatory Organizations of the Rural Poor in Alternative Strategies of Rural Development: Theory and Practice", Paper for the 8th International Seminar on Law and Development, University of Windsor (1983); G. Hyden, No Shortcuts to Progress: African Development Management in Perspective, Berkeley (1984); M. J. Esman and N. T. Uphoff, Local Organizations: Intermediaries in Rural Development, Cornell (1984) for discussion of these problems.
6. "Participatory research" refers to a methodology which emphasizes dialogue and deliberation to generate reflection and useful knowledge within the group (and for the group) about its experiences and lessons derived from them. See e.g. Md. A. Rahman, "A Methodology for Participatory Research with the Rural Poor", in UNICEF, Assignment Children, No. 41 (1978); M. Stiefel and M. Pearse "UNRISD's Popular Participation Programme in UNICEF", Assignment Children, No. 59/60 (1982).

7. UNRISD, op. cit., footnote 2; UNICEF op. cit., footnote 2; A. Bhaduri and Md. A. Rahman; Studies in Rural Participation (1982), and Md. A. Rahman, Grass-Roots Participation and Self-Reliance: Experiences in South Asia and the Pacific (forthcoming, 1984), containing accounts of many participatory organizations assembled under the auspices of the Rural Policies' Section of the ILO; SID loc. cit., footnote 2; International Center for Law in Development (ICLD): Studies of Needs for and Uses of Legal Resources by Participatory Organizations of the Rural Poor and Support and Social Action Groups, (A collection of Reports and Studies), forthcoming, 1984; Gran, op. cit., footnote 2; Esman and Uphoff, op. cit., footnote 5; Hyden, op. cit., footnote 5. A number of international journals centered attention on experiences in self-reliant, participatory development during the later 70's. See e.g., Dossier published by the international Foundation for Development Alternatives; Development Dialogue published by the Dag Hammarskjold Foundation; Assignment Children/Carnets de L'Enfance published by UNICEF; Rural Development Participation Review published by the Rural Development Committee of Cornell University and Revue du Tiers-Monde.
8. See, e.g., the cases discussed in J.C.N. Paul and C.J. Dias, "Alternative Development: A Legal Prospectus" in Law in Alternative Strategies of Rural Development (eds. Dias and Paul), Third World Legal Studies, 1982.
9. A number of different kinds of support organizations are described in ICLD, op. cit., footnote 7.
10. Ibid., for a collection of case studies.
11. Rahman, loc. cit., footnote 5.
12. Asian Coalition of Human Rights Organizations (ACHRO), Human Rights Activism in Asia, New York (1984). The volume cited contains papers depicting human rights' issues confronting the rural and urban poor in various Asian countries and a set of papers discussing action strategies which concerned support groups, activist lawyers and others can undertake to help grassroots' organizations of the poor identify and defend their human rights. Cf. U. Baxi, "Taking Suffering Seriously: Social-Action Litigation in the Supreme Court of India", Delhi Law Review (1980), portraying roles played by "social-action lawyers" and "social-action groups" in litigating claims of organizations of the poor in the Indian Supreme Court.
13. See notes 3 and 15.
14. UN International Covenant on Economic, Social and Cultural Rights, e.g., Articles 6, 10, 11 and 12.

15. The full text and a more detailed analysis is set out in Paul and Dias, loc. cit., footnote 8. The International Commission of Jurists has sponsored a number of seminars and conferences on human rights and development. The reports adopted by these groups invariably emphasize the importance of Convention 141 and call for its adoption. See, e.g. the following ICJ Reports: Development, Human Rights and the Rule of Law; The Right to Development: Its Scope, Content and Implementation, a document submitted to the Working Group of Experts, UN Commission on Human Rights, E/CN.4/AC34/WP.10, November 1981 reprinted in Rural Development and Human Rights in South-East Asia, Report of a Seminar sponsored by the I.C.J. and the Consumers Association of Penang, 1982; Rural Development and Human Rights in South Asia, Conclusions of a Seminar sponsored by the I.C.J. and the Human Rights Institute of Lucknow, 1983.
16. Op. cit., footnote 4.
17. See note 14. For discussion, see S. Marks, "Emerging Human Rights: A New Generation for the 1980's," (1980) 33 Rutgers Law Review, 436.
18. See J.C.N. Paul and C.J. Dias, "The Importance of Legal Resources in Strategies for the Rural Poor in Sub-Saharan Africa", Paper prepared for a seminar sponsored by UN CODESRIA and the I.C.J., (forthcoming, 1984). See, for a more elaborate discussion of practices which threaten food systems and "component rights" requiring protection, C. Dias and J. Paul, "Implementing the Right to Food: The Role of Non-Governmental Organizations" (1984) (Paper presented to the Conference on the Human Right to Food, organized by the Netherlands Institute of Human Rights, June 1984).
19. Ibid. See also ACHRO, footnote 12.