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HUMAN RIGHTS AND/OR ECONOMIC DEVELOPMENT: WHICH WAY AFRICA?

Kivutha Kibwana

I. Introduction

Political leadership in Africa is currently embracing a stance which ensures that human rights merely find accommodation in constitutional and other legal text. Many Governments talk human rights (as a public relations gimmick) as they concurrently embrace anti-human rights practice(s). Indeed, in some African countries, political leadership expresses disquiet when human rights as described in constitutions and other laws are popularized among the masses by constitutional lawyers and activists. Some publicists have now begun to resuscitate an earlier jurisprudence which argued that in Africa human rights should be subordinated to the dictates of development. Such jurisprudence favored development first, human rights afterwards. The above position, as indicated, is not new in Africa. In Julius K. Nyerere's Tanganyika it was successfully argued that an enforceable Bill of Rights in the Constitution would act as a stumbling block to speedy economic development since government's hands would be immobilized by human rights concerns, thus disenabling government from pursuing policies aimed at ushering in development. From 1961 to 1985 Tanganyika/Tanzanian constitutional structure lacked guaranteed human rights.

In this paper, we wish to examine the argument that in the developing world — and particularly Africa — the dictates of economic development require a de-emphasis of human rights promotion because enjoyment of human rights and procurement of economic development will inevitably clash whereupon priority should be accorded to the latter.

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II. Conception of Human as Understood by Different Groups and Social Classes

Human rights discourse often assumes babellian character; hence, genesis of an elastic concept of human rights.

Many Third World governments — African ones included — and some constitutional lawyers believe in the Cartesian delimitation and that general emphasis on human rights served the major purpose of differentiating Western and non-Western countries’ perception and treatment of human rights. The Western world, particularly America, it is argued, sought to impose her perception of human rights as primarily constituting political and civil rights on the whole world.

From the American perspective then, both Eastern Europe and the Third World lagged behind in human rights practice to the extent that Western standards were not adopted. Many African governments then saw and now see such a concept of human rights as merely providing a yardstick to criticize and/or evaluate their performance not from a universalist standpoint of human rights but merely from a Western perspective. Western preoccupation with human rights, the argument continues, was outward; discussion and discourse on the Western European scene was, on the whole, downplayed. Moreover, the West has often supported groups and governments which clearly violate human rights such as RENAMO, racist South African and dictatorial regimes in Africa (Amin, Bokassa, Nguema benefitted from regular foreign aid) while friends of the West are not censured appropriately for human rights violations.

African governments, as we have suggested above, more often than not pay lip service to human rights because aid donors make it a conditionality explicitly or implicitly for development aid. It is therefore not systematically recognized that popularization of an adherence to human rights by the African governments can be a source of political security, stability, and a sine qua non of economic — and general — development. Consequently, when citizens insist on obedience by government, government officials and fellow citizens of human rights law, other constitutional precepts and the law generally, they are characterized as radical-dissidents. Governments thus prefer a position where they can leisurely pick and choose which human
rights — and the measure — they will allow citizens. The Bill of Rights is suffered in the Constitution because it would attract too much international attention and censure to scrap it. However, major amendments are introduced to ensure survival of a skeletal and lifeless Bill of Rights elaborately punctured by “claw-back” clauses. The argument is also advanced that human rights are a Western concept inapplicable in Africa. Some of the sophisticated publicists argue that human rights — particularly the political and civil variant — are a product of bourgeois struggles. The bourgeoisie identified and described such rights and struggled for them in revolutions against feudal Europe. Since there are not the corresponding feudal and bourgeois classes in Africa, such bourgeois human rights have no place. At most, the rights were simply admitted into the constitutions to ensure speedy independence by assuring protection of the bourgeois interests of white and other foreigners. Also, African political leaders do point out that human rights are indeed enjoyed in their countries. In particular such rights are enjoyed by those in the ruling groups — upper middle and upper class — although the governments indicate that the rights are enjoyed by all citizens.

As far as Western governments and human rights organizations such as Amnesty International are concerned, human rights observance abroad is essential for the creation of minimum conditions necessary for political stability which will ensure capitalist development, suitable climate for foreign investments, avoidance of revolutions and spread of political systems antagonistic to the West, and improvement of quality of life of the concerned countries’ citizens. Hence the West is interested in human rights development in Africa and elsewhere primarily due to self-interest and altruism in that order.

For the non-ruling class(es) competing for power in Africa, human rights observance creates the environment within which political activity is possible. Such segment(s) of society argue(s) that in Africa a proliferation of feudal-type regimes exists whose endemic authoritarianism and arbitrariness must be curbed by a regime of human rights resembling or even identical to the ones the bourgeoisie in 17th century and 18th century Europe fought for. Also, since the majority of the countries are developing a nascent capitalism analogous to that which the bourgeoisie in 17th and 18th century Europe were
struggling to establish, a regime of generalized rules in Africa, particularly in the human rights plane, can contribute to the creation of the necessary political and general enabling environment for similar bourgeois capitalist development. Moreover, even among ruling groups, some of the factions not directly linked to the Chief Executive need the protection of a stable regime of human rights to shield them from harassment and annihilation during intra-class struggles.

For the masses, human rights is a very practical constitutional good. Proper articulation, nurturement and observance of human rights facilitate a freer life and the basis for incremental assault on economic deprivation. To ordinary citizens, therefore, human rights is not about mere ideology, discourse, etc., but rather a practical bread-and-butter issue.

III. Human Rights Defined

Human rights — which consist of several types — are those core or fundamental rights which accrue to the individual and/or group in society to ensure autonomy and full realization of such individual or group in society’s life. Observance of human rights ensures absence of arbitrariness, oppression, suppression, etc. and incrementally promotes existence of a rational society.

Until recently, human rights were categorizable in terms of political and civil rights on the one hand and economic, social, and cultural rights on the other. Political and civil rights emphasize personal and group autonomy as contrasted to too much (pervasive) government. They thus ensure that government gets off the backs of the people so that the people can enjoy democratic space. Economic, social, and cultural rights promote welfarism under which governments are able to grant work, health, education, etc. to their citizens. Recently, and particularly in the Algiers Declaration of the Rights of Peoples and the OAU Charter of Human and Peoples Rights, articulation of a third species of rights described as third generation group rights occurred. These complement economic, social, and cultural rights but are broader. They include the right to satisfactory working environment, the right to a healthy environment, self-
determination and sovereignty, the right of a country to her natural resources, the right to development, etc. On the whole, these are rights for which developing countries are presently agitating since the developed world can be said to enjoy most of them.

In agreement with most publicists, our definition of human rights encompasses all three species referred to above. Ideally, the best scenario is one in which a country can demonstrate provision and adherence to all three species of human rights. However, we are aware that in given historical epochs, a country may emphasize a certain species of human rights or even specified human rights because of the then existing level of development of the country. Such emphasis, however, as we shall argue, does not mean that human rights are not best conceived holistically.

Also, the different species of human rights interact dialectically. Economic, social, and cultural rights and third generation group rights (which are a higher order species of economic rights) lead to the existence of political and civil rights; whereas, where an abundance of political and civil rights exists, it is easy to debate on how best to secure economic, social, and cultural rights, to organize society more democratically for furtherance of economic development. We shall return to this point.

Each of the human rights categories and human rights generally are growing entities. As society develops, new human rights spring to life or new emphasis on existing human rights leads to some human rights acquiring new prominence. We have so far argued that there exists mistrust and thus de-emphasis of human rights by governments in Africa. On the whole, not all species of human rights are enjoyed by citizens in Africa. In ensuring Africa enjoys economic, social, and cultural rights — or development — it will be necessary to realize both the third generation rights and political and civil rights. Third generation group rights will expand the capacity of Africa’s economics to provide economic, social, and cultural rights. Existence of political and civil rights will ensure, inter alia, discussion and planning on how best to develop Africa economically.

Among Africa’s political and civil rights and third generation group rights, it is essential to introduce a hierarchy and therefore a basis for emphasis. Such exercise may even involve bringing some
rights to the fore or suggesting emergence and existence of new rights. In the political and civil rights arena, Africa will emphasize the following:

- the right to rule of law and constitutionalism;
- the right to expression and public debate;
- the right to organize;
- the right to bonafide electoral choice;
- the right to meaningful participation in the nation’s political life;
- the right to law;
- the right to access of independent judicial organs.

The right to expression and public debate includes the right to a free press. Such right ensures that the people know the problems confronting their country and the continent including externally derived problems. The people must feel they are parties to defining and redefining their problems as well as offering solutions. The right to organize covers political and labor domains.

Citizens must be able meaningfully to organize politically and also on the basis of labor without governmental hinderance or paternalistic superintendency. To ensure that the right to political participation is given meaning, literacy and general enlightenment of the population must be pursued. Many governments are yet to tap the spirit and energy of their peoples in creatively solving the problems confronting the continent. Often, this is because an enlightened and aware citizenry is seen as a hindrance in governance rather than as an asset. Also, future writing on the subject should popularize the notion that a right to legal literacy exists which is part and parcel of the general right to rule of law and constitutionalism. These two latter concepts are receiving much notoriety in the African context and they should properly be seen as comprising a part of a fundamental right that citizens can now demand and expect. Obviously for human rights to be successfully vindicated upon negation, the right to access of independent judicial organs is critical.

At the level of third generation rights, we need to emphasize the following rights, that is:

- self-determination and sovereignty;
- freedom from onerous debt;
- freedom from imposition of externally derived economic policies;
the right to an equitable international economic order;
the right to development.

Self-determination must be understood to mean more than
estrangement from colonial status; it must include the right to non-
domination by superpowers in favor of mutually beneficial
cooperation. For sovereignty to be realized, economic viability of
Africa — and generally Third World countries — is necessary to
curtail subjugation of the economically weak by the advantaged. In a
scenario where the World Bank, the International Monetary Fund, and
other international agencies chart out economic policies for Third
World countries, sovereignty will remain a mirage.

IV. Human Rights and/or Economic Development

The argument we are seeking to defeat runs thus. Pursuit of
human rights and economic development can be antithetical. Often
therefore it may be necessary to trade one off for the other. When
such tradeoff becomes necessary, human rights, being the lesser of the
two in importance in society, must give way. Only when Africa
reaches a level of sustainable economic development, will it no longer
be necessary to subordinate human rights to economic development.

On the whole, publicists and governments who argue as above
embrace a conception of human rights corresponding to political and
civil rights. The argument hence boils down to: freedom,
democracy, rule of law, constitutionalism, etc. should, when
necessary, be suspended or compromised to enable government to
achieve economic development for the masses. For example, in
Tanzania unwilling masses must be forced into socialist villages and
ujamaa socialism because objectively socialism is good and constitutes
development for the masses.

Many objections can answer to above reasoning. First, even if
human rights and development (even economic) were neatly separable,
analytically it would be very difficult to show why (and which) one
must be favored when a clash occurs. Who is to choose? What
criteria should be used to determine how priority between both is to
be determined? Even if such priority could be scientifically determined, is it constant? If not, how is one to detect change?

Second, there is no demonstrable evidence that negation of human rights, in some instances, can lead to enhancement of economic development. Most of the publicists who argue as above merely allege that negation of human rights may sometimes contribute to enhancement of economic development. Perhaps this is so because it may be an impossible task to prove the thesis.

Third, if it is true that in some occasions negation of human rights can enhance economic development, one must also critically study the situation when promotion of human rights enhances economic development to determine why the same goal — economic development — is achievable through two diametrically opposed paths. Common sense would seem to suggest that only one path in this instance can bring about economic development. At any rate, proponents of the thesis under discussion must address the above contradiction.

Fourth, evidence abounds to show that denial of human rights is economically an expensive affair. Dictators in Africa and the world over commit massive resources — particularly as regards mobilization of security forces — into negation of human rights. If economic development is being seriously sought, the bulk of such resources could, for a start, be re-channelled into productive economic activity.

Fifth, citizens may prefer less economic development but a high level of spiritual, intellectual, and cultural development. Economic development per se may not be the most desired good in society. For example, today environmental protection dictates abandonment of some paths of economic development even where it is known they would enhance productive capacity.

Sixth, a proper definition of human rights includes economic, social, and cultural rights and third generation “development” rights. The moment it is understood that human rights include economic rights it is no longer possible to define human rights outside a context of economic development.

We admit that human rights are attainable within a socio-economic context. For example, the bourgeoisie in Europe was able to win political and civil rights from feudalism in the 17th and 18th centuries
because the necessary socio-economic conditions triggered by the industrial revolution existed. Moreover, such human rights — and liberal democracy generally — had a cultural background in Europe which could sustain them. Also in Eastern Europe, an extensive welfare system ensured the possibility of wide economic, social, and cultural rights. In most of Africa, existence of political and civil liberties are fragile, because strong classes do not exist capable of obtaining such rights from the rulers. However, in countries with a strong middle-class population, the conditions on political and civil rights are developing. Some of the countries where multi-party experiments are taking root have a significant middle-class population.

Moreover, as indicated earlier, dictatorial regimes with feudalistic tendencies will attract pressure for observance of human rights from the citizenry. Also foreign powers — particularly Western powers — in order to safeguard their own interests wish to see development of civil societies where they operate. Our argument is that conditions do exist in Africa for the existence of civil and political right.

To argue otherwise is simply to be an apologist for systems which negate human rights. Such argument sympathizes with and eloquently supports authoritarianism. Therefore, any publicist who offers the recipe of authoritarianism in the securing of development (!) must know that he has simultaneously thrown overboard constitutional law and constitutional government. Decades of authoritarian governance in Africa, after a brief experimentation with democratic models at independence, have yielded economic ruin, not development.

Even if one were to concede that the conditions which gave rise to political and civil rights in Europe do not now exist in Africa, it is too late in the day to deny people basic rights which have become trite law in international and under municipal regimes. After all, such human rights law was central in the definition of independence from the colonial yoke for African countries. To argue today that such rights have no economic, social, and cultural basis in Africa sounds incredibly naive.

Earlier we suggested that an important linkage between human rights and the international economic order exists. Currently the Third World is at an impasse vis-a-vis provision of economic rights — and therefore development — for her peoples. More than ever before, a
genuinely new international economic order is mandatory. Solution of the inordinate debt problem must occur. Elsewhere we have suggested that the world now looks upon Western Europe to urgently initiate far-reaching measures to transfer some of her economic advantage to the rest of the world. Fortunately, an environment now exists enabling commitment of fewer resources to the arms race. Continued provision of human rights and global political stability will ultimately depend on the economic stability of each country. Often African — and other Third World — leaders repress their populations because they detest probing and public accounting regarding their near solo participation in Africa’s shrinking economies. Leaders abhor opposition or the prospect of relinquishing power because political power ensures proximity to a shrinking economic cake.

Further, if negation of human rights can bring about economic development, most Third World countries would not be under developed since their political rulers routinely negate human rights. This is obviously not the case. In 1985, Tanzania did adopt a Bill of Rights because she then considered herself developed economically. Pressure for such inclusion emanated from within Tanzanian society.

Finally, to achieve economic development many inputs are required. Suppression of human rights, even if admitted as one such input, may not be material or controlling in the procurement of economic development.

V. Factors Which Hinder Promotion of Human Rights

We have indicated that few African leaders approvingly discuss the human rights position in their countries. Most leaders view human rights as an ideology or theoretical construct employed to criticize their leadership. Such negative attitude arises due to several reasons. Many leaders fail to recognize that provision of human rights in their countries can act as a liberating and empowering force which can place their countries on the path to *bona fide* development. Moreover, the leaders are apprehensive that freedom attendant to provision of human rights will be channelled into querying inequitable distribution of political and economic power. Because overstay in power
guarantees short-term economic well-being, political leadership detests challenge. It is true that the economic foundation for provision of human rights in Africa is presently thin. To the extent that the West is party to such shrinkage, the West must share blame in violation of human rights in Africa, although ultimately primary blame lies on Africans themselves. Demands by the West that Africa improve her human rights position must acknowledge that the West is party to the deteriorating conditions of human rights in Africa.

Because of some of the above factors, few human rights are given expression by municipal law in Africa. It is fashionable not to adopt international and regional human rights standards. For example, many African countries have not ratified the OAU Charter on Human and Peoples Rights even when its jurisprudence of protection of human rights accords deference and much leeway to the individual country. Where international and regional instruments are adopted, serious attempts to be bound are not noticeable. Even within municipal law, amendments routinely subtract the content of human rights. Also the citizenry is not made aware of existing human rights and therefore is not in a position to insist on observance. Furthermore, judicial enforcement of human rights is compromised because the dependent judiciaries are timid and often more executive-minded than the executive in leaving violations unredressed.

VI. Factors Which Encourage Promotion of Human Rights

A reversal of the factors mentioned above is necessary before human rights articulation and promotion gains momentum in Africa. We think that development of the middle class will be a great catalyst in the development of not only human rights but democracy as well. Such development must be supported by sustained growth of working peoples' consciousness and pressure for a more democratic and egalitarian society. Political leadership in Africa will only concede human rights and democracy when there is adequate pressure for them. Obviously, when the economic condition in Africa improves, the requisite conditions for full-fledged political and civil rights as well as the other genre of human rights will have been created. In order
for such economic position to be realized, the West has a lot to contribute. For a start, the West and the whole world community must isolate perennial human rights violators and deny them economic and other support. More critically, liberalization of the world economy must now be prioritized so that a new international economic order guarantees Africa and generally the Third World economic viability. The West must now contribute to worldwide rehabilitation instead of waiting for internal revolutions to usher in change.

In the meantime, African countries must explore their own strategies for building viable economic systems and sub-systems. Over-reliance on external economies must be desisted. Crucially Africa must urgently explore the possibility of political and economic unity. Europe has demonstrated that regional cooperation is the way of the future. Africa has no option; unity is the rational path.

Lest it appear that we think external forces have the most to contribute to the solution of human rights violations in Africa, we wish to point out that political leadership in Africa must respect the dignity of her citizens by ensuring adequate provision and protection of human rights. If human rights provision and popularization awakens the citizenry, political leadership can candidly explain the nature of the problems besetting African countries instead of pretending that problems do not exist. Communal solution of such problems can then be attempted.

**VII. Conclusion**

Our major interest in this paper was to show that human rights, however defined, cannot legitimately be sacrificed in order to achieve development. Both human rights and economic development are interlinked and therefore inseparable. Even if theoretically they could be separated, economic development devoid of political and civil rights may not ultimately appeal to the recipients as the experience of Eastern Europe may be revealing.

In order to ensure adequate protection of human rights in Africa, political leaders will have to open up their systems so that more criticism and a higher level of accountability are possible. Civil
society must develop in Africa so that an enabling environment for real development — economic and otherwise — can exist. Significantly, the West will have to participate in ensuring a foothold of human rights in Africa by redesigning the world economic order so that economic independence and viability is possible globally. A sound economic basis will catalyze the development of human rights in Africa.
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