

Development as a Human Right: Legal, Political, and Economic Dimensions,

Bård A. Andreassen and Stephen P. Marks, eds. (Cambridge, Mass.:

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In the foreword to this volume, a Nobel Symposium Book from the Harvard School of Public Health, U.N. High Commissioner for Human Rights Louise Arbour writes:

After twenty years of reaffirming its value, the right to development . . . continues to be more a matter of political commitment than of practical policy and action that can affect people's lives. I believe that two challenges need to be met before this right can be taken seriously in policy and action. The first is to create a robust concept of development, capable of incorporating the principles that underlie the right to development; the second is to identify the practical steps to implement this right, similar to the rights that are operational in the law and administration of [U.N.] Member States.

There is growing support for the idea that global poverty is an affront to human rights, and that the realization of human rights for a life of freedom and dignity is inescapably a central purpose of development. Yet the right to development remains

a politically divisive issue. The concept has its roots in the political economy of the 1970s and 1980s, when developing countries mobilized for a New International Economic Order in which countries of the North would actively facilitate growth and development in the South through aid, trade, and investment. While the right to development is still championed by developing countries and resisted by donor countries, it (and the broader concept of a human rights-based approach to development) is also controversial among theorists and practitioners in both the human rights and the development fields. Some human rights legal scholars challenge its usefulness, arguing that it brings together rights that already exist. In the development community, little attention has been paid to the right to development per se, and economists who dominate the mainstream of development theory and practice are somewhat puzzled by the idea that human

rights in general should be a concern in development at all. They often question the relevance of human rights discourse on development and see it as idealistic and utopian, since it insists on the equal value of all rights. Given that economic policymaking is about setting priorities and considering trade-offs, “rights talk” seems to be an *obstacle* rather than an aid to the task of formulating policies and strategies.

The reservations held by both practitioners and theorists in both the human rights and development communities reflect not only the lack of communication between the two but also the fact that the existing literature is thin. The links between human rights and development have only recently begun to receive broad attention. The human rights field has historically focused more on civil and political rights than on economic, social, and cultural rights, while the development field has focused on economic growth rather than on a more holistic conception of human progress, and has carefully left out human rights as political and ideological issues that should not influence policy analysis. These trends have begun to change in the last two decades and much useful work has emerged on both fronts.

Nonetheless, more work is needed to develop and clarify the concepts of the right to development as well as the human rights-based approach to development. *Development as a Human Right*, edited by Bård Andreassen and Stephen Marks, sets out to address both. It brings together the contributions of economists, legal scholars, and philosophers presented at the Nobel Symposium on the Right to Development and Human Rights in Development held in 2003, and is divided into four thematic sections: conceptual underpinnings, duties and responsibilities, national realities and

challenges, and international institutions and global processes.

From the point of view of policy implementation, some of the strongest aspects of the volume are in the area of conceptualizing the human rights duties and obligations of the state and other duty bearers that extend beyond national borders. This is essential to meet the challenges of poverty and development in the context of globalization, since it has become apparent that there is a major gap in the human rights regime, which is structured around the obligations of the state within national borders. Siddiqui Osmani outlines these human rights challenges in the context of economic globalization, while Margot Salomon’s essay on the demands of global justice addresses the conceptual and operational obstacle of understanding the legal and ethical basis for obligations that go beyond national borders. The essays by Sigrun Skogly and Andreassen on international financial institutions and on corporations focus on the responsibilities of nonstate global actors who have enormous power and impact—arguably larger in some respects than national governments—yet limited responsibilities under international law.

Another important highlight of this volume are the essays that contribute to articulating what Arbour refers to as a “robust concept of development” capable of incorporating human rights concerns. The essay by Amartya Sen reiterates the fundamental point that human rights is a product of social ethics and public reasoning, and that the legal entitlements are just one instrument, a social arrangement, to ensure the realization of rights. This point of view contrasts with much of the literature on human rights that follows a legal perspective and the tradition of Jeremy Bentham. Sen’s perspective on social arrangements is

illustrated in Sandra Liebenberg's chapter on the South African experience, which demonstrates the essential role social action and mobilization must play to complement legal commitments. In the context of developing countries with weak legal institutions, social action is likely to be particularly important in promoting respect for human rights.

One significant gap in this collection is the lack of attention to national policy in the areas of economic, social, and governance reform that are essential to the implementation of human rights. For example, actions by states to meet their commitments—underpinned by international law—to respect, protect, and fulfil human rights, would require appropriate allocation of budgetary resources. Recent work

on budgets to assess whether they reflect state legal obligations under the Convention on the Elimination of All Discrimination Against Women and the Convention on the Rights of the Child, for example, has been one of the most significant innovations in creating tools to implement human rights in development.

As the editors themselves acknowledge in their conclusion, "there remains considerable uncertainty regarding the content and practical value of human rights in development practice" (p. 304). This volume is a very significant contribution to an emerging new literature on the measures needed to implement human rights as an objective of development.

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