

THE HUMAN RIGHT TO DEVELOPMENT  
OPERATIONALISING THE CONCEPT IN THE MALAYSIAN CONTEXT

by  
Khor Kok Peng  
Research Director  
Consumers' Association of Penang  
No 27 Kelawei Road, Penang, Malaysia

I: THE EMERGING CONCEPT OF THE RIGHT TO DEVELOPMENT

On 10 December 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights.

This historic Declaration deals mainly with the civil and political rights. On one hand, it provides individuals with safeguards against abuse of power by the state. On the other hand it spells out the people's rights to such liberties as the freedom of speech and of association.

Since then, the concept of 'human rights' has broadened considerably to also include the economic and social rights of individuals. It is increasingly realised that the possession of 'human rights' in the abstract does little good and has little meaning to a person who has no food to eat, not enough clothes to wear and no roof over his head. It is thus accepted now that human rights should also include the right of people to satisfy their basic needs, such as food, nutrition, health, housing and education.

Recently, the redefinition of human rights has made yet another breakthrough with the formulation of a new concept, the Right to Development.

The right to development incorporates the right of all individuals to have their basic needs (especially food, proper nutrition, health facilities, clean water and sanitation, education and adequate employment) fulfilled, to participate in decisions which determine the development process and to enjoy a fair and equitable share of the fruits of development.

It is not difficult to justify why people have a right to development. As tax payers, we are all consumers not only of private-sector goods and services but also of government services. It is the public which finances government operations, including planning and policy-making and it is the public which enjoys the benefits or suffers the disadvantageous effects of such plans and policies.

These policies, taken together, form the country's development strategy. As financiers and consumers, the public has the right to comment on development, to participate in it, to benefit from it.

The right to development has recently been recognised by the United Nations and other distinguished international organisations as one of the fundamental human rights of all peoples and individuals.

In February 1982, a Working Group of the U.N. Commission on Human Rights declared that "the right to development is an inalienable human right and it concerns individuals, peoples and States." It also stressed that : "The realisation of the right to development requires, at the national level, the full exercise of the fundamental rights and freedoms of individuals, as well as the granting of equality of opportunity for all in the access to basic resources and services. It was considered that this requires in particular the participation of all in the process of taking decisions that concern them and in the implementation of those decisions. It was noted that it is important to encourage local development initiatives and to permit equitable distribution of the resources and advantages resulting from development." (United Nations Economic and Social Council, Commission on Human Rights, Report of the Working Group of governmental experts on the rights to development, Document E/CN.4/1489 dated 11.2.82).

The International Commission of Jurists, at a conference in April 1981 in Netherlands, concluded that : "Every person has the right to participate in, and benefit from, development in the sense of a progressive improvement in the standard and quality of life." (International Commission of Jurists, Development, Human Rights and the Rule of Law, August 1981).

From the above, we may conclude that the right to development is now becoming widely accepted. But what do we mean by the term 'development'?

Many development thinkers have come to the conclusion that genuine development must meet the criteria of (a) the satisfaction of basic needs, (b) the reduction of social inequalities, (c) the maintenance or increase in harmony between man and nature (development must be based on sound ecological principles) and between man and man (development should promote goodwill and cooperation rather than alienation and conflict).

It goes without saying that the disadvantaged and poor, being the majority of the population, should be the main beneficiaries of development, if the above criteria are to be met. Thus, to bring about genuine development, an overall development strategy is required in which policies and government expenditures should be weighted heavily on the side of the lower income groups.

This now brings us towards a clearer concept of Justice. Social

justice in the context of development can be derived by linking the concept of the right to development with the concept of genuine development. If every person is entitled to the right to development, and if development incorporates the satisfaction of basic needs and participation in the development decision-making process, then there is development justice if the broadest segments of society are able to exercise their right to genuine development.

A situation would be unjust if a large portion of people (and especially if a majority) are denied the satisfaction of basic needs and meaningful participation in development. If the fruits of development are channelled in such a way as to benefit the already advantaged minority proportionately more, then there is a worsening in social inequalities of income. The majority's right to development is adversely affected by the minority's more than proportionate increase in the benefits of development.

In the context of genuine development, a just strategy would result in proportionately greater benefits to the disadvantaged majority. Should a conflict arise between the interests of disadvantaged groups of communities and the interests of an advantaged minority or elite, development justice would dictate that the conflict be resolved as far as possible to the advantage of the disadvantaged groups concerned.

This is a simple but profound and indeed radical yardstick or criterion to use in making choices about general development strategies and programmes as well as specific projects. If a so-called development project does not bring much benefit to the poor and needy, it should have a low priority or to be rejected outright. Financial, physical and manpower resources spent on development should be maximised for their positive effect on contributing towards genuine development, i.e. reducing poverty and inequalities, satisfying basic needs, providing gainful employment for the poor, producing products which fulfil essential requirements.

Dollar for dollar, man-hour for man-hour, projects and programmes should be evaluated according to their contribution towards these goals. The extent to which resources are used for genuine development is a measure of the degree of social justice in the development context.

## II: BASIC NEEDS PROBLEMS IN THE CONTEXT OF THE RIGHT TO DEVELOPMENT

Using this criterion, it can be shown that present development structures are far from ideal in Malaysia. Whilst the basic needs of a sizeable portion of the population are not yet satisfied, too little resources are being

channelled into areas where they are required most.

Among the basic needs problems and the wrong use of resources are the following:

Food and Nutrition: Although food is the basic of all needs, the food producing sector has stagnated or even declined. The output of fisheries, vegetables and fruits has generally stagnated, resulting in a rapid rise in food prices. About one-third of children in Peninsular Malaysia have been found to be suffering from malnutrition. Yet an overwhelming portion of the best lands are used to cultivate export crops such as rubber, oil palm and cocoa or cash crops like tobacco.

Health Care: Despite being such a vital basic need, health received only 1 percent of the federal government development budget in 1982. Given the poor water, sanitation and health services in poor communities, especially in rural areas, there should be an emphasis on public health work and preventive medicine. Unfortunately the health system is geared towards the curative aspects of health, with its emphasis on hospital construction and medical technology. In the Fourth Malaysia Plan, out of the \$604 million allocated for health development, only \$120 million is for rural health services whilst \$347 million is allocated for constructing new hospitals or for hospital extensions. Again, the best medical personnel are increasingly flowing to private practice and private hospitals which only the wealthy can afford. Specialists are ironically treating the simpler 'cough-and-cold' illnesses of the rich and middle-class, instead of more complex medical problems of the general population, indicating a gross underutilisation of specialist medical services.

Water Supply: In 1970, only 48% of all houses in Malaysia were served with piped water and at least a third had no proper toilet facilities (20% had no toilet at all and used the river or bushes). This has serious health effects, as witness the high incidence of cholera and other communicable diseases (in 1978, 62 people died from cholera outbreak out of a total of 1,536 cases). According to Dr. Goh Kim Guan of Universiti Sains Malaysia, virtually 90% of the allocation for water supply development has been directed to improve the water supply system of urban areas like Kuala Lumpur and Penang, thus neglecting the poor rural areas needing it the most.

Housing: There is a tremendous shortage of housing for the lower income groups, as indicated by the high incidence of squatters in towns (40% of the Kuala Lumpur and Klang Valley are squatters). Yet in the Third Malaysia Plan, the public sector itself built 38,000 medium and high-

priced houses, or 44% more than the 26,000 units of low-cost houses. In the Fourth Plan, only 176,500 low-cost houses are planned for construction out of the total 400,000 units in the public sector programme. whilst private developers are targetted to build only 90,000 low-cost units compared to 260,000 medium and high-priced housing. Housing is more and more a prerogative of the rich.

Telephones: A CAP memorandum has shown that only 8% of the population have a phone in their own home. The majority thus depend on the public telephone, yet a mere trickle of funds has been channelled towards constructing public telephones. In the first three Malaysia Plans only 1,408 public phone booths were installed despite total allocation of \$4000 million for telecommunications development. Several villages have complained that they badly require a public phone service but have yet to be granted one despite numerous requests to the Telecoms.

Public Transport: While billions of dollars are spent on the purchase of private motor-cars, there has been a deterioration of public transport services on which the majority of people depend. The resources channelled for the benefit of private motorists are astronomical, when we also include the costs of petrol and road construction and maintenance. Yet bus services have not improved despite an increase in population.

### III: THE POOR AS VICTIMS OF DEVELOPMENT

Whilst resources are diverted away from fulfilling the needs of the needy majority, another ironical trend is the fact that the poor often are made victims rather than beneficiaries of "development projects." Due to urbanisation, road construction and the building of housing estates, many farmers have had to be displaced, with no suitable alternatives provided for them. Land use is also converted from food crop production (of rice, vegetables, fruits) to become roads, factories and middle-class housing. In Penang state alone there have been several cases of communities being displaced in this fashion in the past few years:

- .. 12,000 residents at Thean Teik estate, a major vegetable and fruit cultivation area, are facing eviction to make way for a private housing project;
- .. Large tracts of farmland were displaced to make way for the Bayan Lepas Free Trade Zone, the Bayan Baru housing estate and the airport extension. Hundreds of padi farming and cattle

rearing families were displaced;

- .. About 73 acres of rich fruit farms in Balik Pulau were acquired to make way for the Balik Pulau-Relau Road and dozens more acres were destroyed during the road construction;
- .. About 250 acres of mixed-crop farmland are being acquired in Sungei Dua for the expansion of Universiti Sains Malaysia, displacing several farmers;
- .. A whole hill, Bukit Gambier, was converted from agricultural hill land to housing land and is being chopped down layer by layer;
- .. In the city, the Komtar project when completed would have displaced about 10,000 town residents to make way for shopping-cum-office complexes;
- .. The building of the Penang Bridge and related offshore highway threatens to displace the livelihood and homes of many thousands of residents in the Penang eastern offshore area.

The above are examples of how the "development of things" such as highways and buildings is carried out at the expense of the "disdevelopment of people." Many similar projects are underway. They contradict the principles of genuine development and deprive many poor people of their "right to development." They also go against the principles of the New Economic Policy of the country, which are to reduce poverty and correct economic imbalances. According to the Fourth Malaysia Plan (para 95): "Under the NEP, the strategy of poverty eradication calls for a pattern of development which provides opportunities for the poor to participate effectively in the growth process and share in the benefits of development." According to the Third Malaysia Plan (para 162), the core of the government's poverty redressal strategy is to expand employment opportunities and income of the poor, improve their housing and essential services and thus their overall quality of life.

It is clear that these official policy statements recognise, at least implicitly, the right to development.

At the same time, if this right to development is to be fulfilled in reality and not just exist as a nice-sounding term, then a serious redirection of development strategy is called for.

In each sector, such as agriculture, housing, transport and health, programmes have to be re-examined and redirected to benefit the majority of people and not the minority.

Development projects also have to be reevaluated according to the contribution they make to poverty eradication, reduction of inequalities and satisfaction of basic needs. In other words, the criteria for "genuine development" should be used when designing development projects.

Overall, a fundamental reconceptualisation of law, justice and development is required if the interests of ordinary consumers are to be enhanced, if the people's right to development is to become a reality, and if law, justice and development are to serve the needs of the people rather than oppress them.