

Eradicating Poverty and the Role of the Right to Development

Xigen Wang¹

Executive President, National Human Rights Base · Human Rights Institute of Wuhan
University, China E-mail: fxywxg@whu.edu.cn

04/04/2017

Eradicating poverty is the greatest global challenge and an indispensable requirement for sustainable development, and meanwhile, sustainable development is one of the most important means to reduce poverty. Therefore, in order to effectively achieve the goal of Eradicating poverty set by the 2030 Agenda for Sustainable Development, it is necessary to make innovations in the ideas, systems and action plans from the perspective of integrating poverty reduction, human rights and development.

1. Regarding the innovations in ideas, it is essential to optimize the value of eradicating poverty based on the spirit of the right to development. To fulfill this target, the following two mistakes should be avoided. One mistake is to misunderstand the purpose of poverty reduction. Eradicating poverty itself is not the final aim. It is just an essential condition for the people living in poverty to fully realize their rights and freedom. The other mistake is to narrowly discuss poverty eradication which is restricted to the single form of civil and political rights, or economic, social and cultural rights. Actually, the poverty eradication should be guided by the value of the right to development. This further means that poverty eradication should be oriented by the right to development rather than abstract human rights, and meanwhile the effects of the right to development on poverty reduction should be highlighted. The reason is that the right to development has consistently adhered to the ideas of the people-centered development, which takes equality of opportunity for development as its core, and at the same time, take social justice and even global justice as its basic principle. On this point, the right to development, as a comprehensive human right, has transcended any single form of human rights no matter in subject, object, space or scope, and thus can play an irreplaceable role in eradicating poverty everywhere in all its forms and dimensions. There is no doubt that the existing international human rights laws have played a significant role in protecting the human rights of people living in poverty. However, it is not enough to solve the worldwide poverty problem only by using the existing international human rights laws (e.g., the International Covenant on the Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights). We regrettably find that the word “poverty” or “the

¹ Many thanks should be given to Mr. Gui Xiaowei, who is now a lecturer of the department of sociology in Wuhan University and got his Ph.D. in the University of Copenhagen in Denmark; Ms. Song Dingbonan, who is now a visiting scholar in the Erasmus School of Law of Erasmus University Rotterdam in the Netherlands; Ms. Wang Bei, who is from the school of law of the University of Edinburgh in UK. They participate in the discussion, editing, proofreading and translation of this text draft.

poor” is not mentioned in any text of the core human rights legal documents (e.g., the International Covenant on Civil and Political Rights, the International Covenant on the Economic, Social and Cultural Rights or the Convention on the Rights of the Child). According to some statistics, the incidence of poverty in many poor countries has increased after their accession to the two covenants on human rights.

Therefore, the innovations in the ideas of poverty eradication should be made by introducing the perspective of the right to development. In specific, the concept of poverty reduction should be upgraded to the “Right- to- development based poverty reduction,” and meanwhile the relationship between “poverty” and “human rights” should be optimized to the “right to be free from poverty with development.” Only in this way, can we study and resolve the issue of poverty reduction in a better manner under the framework of the Declaration on the Right to Development and the relevant UN agendas and resolutions for sustainable development.

2. Regarding the innovations in actions, it is crucial to construct a pluralistic and adaptable poverty reduction action model which can be independently chosen by any country as an alternative option. According to the Article One of the Declaration on the Right to Development, in order to fully realize “all human rights and fundamental freedoms,” there are three available action models, which are “participate in,” “contribute to,” and “enjoy” economic, social, cultural and political development. The so-called “participate in” model is aimed to establish a two-way interaction model between the external forces and the people living in poverty and to ensure that poor people can actively participate in the whole poverty reduction process including decision-making, policy formulation, and project implementation. The so-called “contribute to” model refers to that it is essential to provide more development opportunities for the people living in poverty, especially to ensure that they could be effectively involved in the development process through enhancing their participation capacity. The so-called “enjoy” model means that development outcomes must be shared and at the same time distributive justice must be achieved. However, these three models are far to be enough to realize the right to poverty reduction. I thus suggest to reconsider this issue by adopting at least eight action models, which are poverty alleviation through industrial development, project introduction, financial aid, education and training, technological assistance, environmental compensation, social security, and emigration.

3. Regarding the innovations in guarantee system, it is necessary to establish a system based on the legal rights and obligations on poverty reduction. The right to be free from poverty is not just a kind of moral right, nor is poverty reduction just alms to the poor. The rule of law is one of the most effective routes to eradicate poverty. Thus the poverty should be addressed according to the law and the system of legal rights and obligations on poverty eradication should be constructed. The obligation subject of poverty eradication should be the governments and the international society. The legal obligations of poverty eradication could be categorized as four types: the moral obligations in soft law (e.g., charitable donation), the contractual obligations in private law, the institutional obligations and mandatory obligations in public law, the interventional obligations and the relief obligations in social law. The current situation is that there are too many moral obligations but too few compulsory

obligations. Therefore, it is necessary to enhance the level of the force of the moral obligations based on humanity and self-examination to the contractual obligations based on autonomy, and then to the compulsory intervention obligations, the institutional obligations and the relief obligations based on norms and heteronomy.

4. Regarding the reform of poverty governance system, it is important for the UN and the whole international society to take five steps.

Firstly, establishing a comprehensive knowledge-sharing platform of poverty eradication based on the right to development. There are two available approaches to establish such platform. The first approach is to effectively integrate the current relevant platforms built separately by some states or regional and international organizations. By using the methods of classification and generalization, this process of integration will produce some beneficial methods and means of poverty reduction, which later can be taken as reference by the states which are dedicated to poverty eradication. The second approach is to ask every state to submit an annual National Report on Poverty Reduction, which summarizes the national strategies, programs and outcomes of poverty reduction. Such reports could be updated to the relevant websites after getting classified in accordance with certain standards by the relevant United Nations agencies, so each state can independently choose a model for reference.

Secondly, establishing the innovative and pluralistic collaborative mechanisms on poverty eradication. Under the auspices and coordination of the United Nations, all the states and international organizations can conduct in-depth cooperation in the fields such as investment, trade, finance, taxation, intellectual property and ecological protection to improve the effectiveness of assistance mechanism, coordination mechanism, cooperation mechanism and supervision mechanism. For example, a specific timetable on the adoption of Doha Development Agenda should be made. We may restart relevant negotiations by narrowing the subjects of the Agenda. The compulsory licensing within certain scope should be implemented to make the intellectual property law better serve the most urgent need of the development of the people living in poverty. The dispute settlement mechanism for international investment should be optimized to better protect the right to development. The emission proportion of domestic investment and foreign investment should be calculated according to the agreed proportion of investment amount and profit distribution to demonstrate the climate justice. The states can raise more development fund for companies in poor areas by simplifying and accelerating their IPO (initial public offerings) approval procedure.

Thirdly, establishing an expert advisory committee in the field of poverty reduction and the right to development to assist the relevant work of Special Rapporteurs. To establish such committee, the current mechanism on poverty reduction and the right to development could be integrated. In addition to the Special Rapporteur on the right to development who is still under selection, an expert database in the field of poverty reduction and the right to development should be built in order to help Special Rapporteurs to improve their work. This committee is not necessary to be an agency of United Nations, it could just be a loosely

organized think tank that only conduct thematic research on certain issues and provide corresponding recommendations. It will help remedy the limitation of special rapporteur mechanism in which the rapporteur normally plays a lone hand and bears too much workload.

Fourthly, guiding countries to formulate legislative documents on poverty eradication and the realization of the right to development. The countries can enact the national “Anti-Poverty Law” under the condition of strengthening national ownership and leadership with reference to United Nations human rights documentation, especially the Guiding Principles on Extreme Poverty and Human Rights. Such law should confirm and regulate the four aspects of poverty reduction including its legal principles, legal rights and obligations, implementation mechanism and agencies, and legal responsibility, in order to enhance the efforts and effectiveness of protecting the right to development and alleviating poverty through rule of law.

Finally, all the countries, especially developing countries, compose their national white papers on the right to development or other comprehensive official documents. Under the guidance of the experts from United Nations' Working Group on the Right to Development and with the governments organizing resources, the comprehensive summary of the national guiding principles, general strategies, specific practices and outcomes about the realization of the right to development should be conducted. In the best case, the report will be annual, or it could also be produced every three or five years. The report should be voluntarily produced and should not be mandatorily reviewed by the United Nations. The purpose of this report is to share their experiences and help all the states and the international society to fully understand the situation on the macro level, to better analyze the reasons for success and failure, to effectively identify risks and find the effective measures.