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Development Aid and Human Rights

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BOOK REVIEW ARTICLE

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TOMASEVSKI, KATARINA, DEVELOPMENT AID AND HUMAN RIGHTS, Pinter Publishers, London (1989), ISBN 0-86-187736-5, 208 pp.

Katarina Tomasevski is a consultant with the Danish Center of Human Rights. This timely book tackles the thorny issue of the linkage between human rights and development aid. The author underscores the many problems bedeviling this linkage and provides some practical solutions to enable donor countries and international organizations to operate aid programs within a framework of commitment to human rights. Given the significance of this topic and the controversy surrounding it, any proposals that suggest solutions must be welcomed. It is the hope of this reviewer that Tomasevski will, in future books, elaborate more on her ideas and create a practical workable blueprint that can be utilized bilaterally, multilaterally, and through the United Nations. The present work is devoted largely to specifying the problems, obstacles, and difficulties facing donors and aid recipient nations. A few case studies are included to emphasize the global nature of the problem. Tomasevski does not hesitate to lay blame when she feels it is justified. She also draws the reader's attention to the hypocrisy which can permeate aspects of the entire "aid" operation.

This book is a good introduction to the subject and is therefore recommended for students working in international law and the academic fields of international development and human rights. Historians, political scientists, and lawyers interested in human rights will also find the book relevant.

Tomasevski's aim is "to make the linkage between human rights and development aid explicit."[1] Asserting that "[t]he application of human rights is currently skewed,"[2] she explains that this is because human rights "are invoked against the recipient governments only, [and] not ap-

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1. K. TOMASEVSKI, DEVELOPMENT AID AND HUMAN RIGHTS xiv (1989).

2. *Id.*

plied to donor policies and practices. Human rights are used in a punitive manner, to justify the discontinuation of aid to [some] governments which violate [some] human rights. This practice is neither consistent, nor necessarily beneficial to those for whose sake it was introduced."[3]

The basic problem is that "[t]he population of the aid-receiving countries regularly has no knowledge of, or control over, aid, nor over development."[4] Tomasevski's solution: "If development aid is to live up to its promise, it ought to be based on the right of the people concerned to determine what their needs are, and assist them to satisfy them themselves."[5]

This realization has been the most important consequence of the post World War II experiments in international aid. Western donor nations have increasingly come to the conclusion that what works in Kansas does not necessarily work in Kenya. The most painful realization concerns the environmental and cultural cost of some ambitious mega-projects such as vast schemes to build dams in Third World countries. These schemes, which ignored or overlooked the concomitant consequences, forced resettlement for thousands, uprooted centuries-old cultures and ways of life, and caused devastation and permanent destruction of arable land. The Western focus of development aid blinded donor nations to the human cost involved. Recent literature in the field of economic development has focused on this issue highlighting the impact of well-meaning but poorly-guided aid projects which exacerbate rather than ameliorate the suffering of the poor in Asian and African nations. Richard Bird and Susan Horton, economists at the University of Toronto, commenting generally on the failure of development conclude that, "the evidence appears to support the common perception that even those policies specifically intended to aid the poor have not been very successful — and, indeed, have sometimes had quite perverse results."[6]

Tomasevski provides a possible reason for this. "One of the most striking features of development aid is the lack of a visible link between the apparent aid needs and the actual aid flows."[7]

While generosity, humanitarian concern, and a desire to share the benefits of life with the less fortunate are the emotional well-springs of development aid, unfortunately, these ideals soon become enmeshed in economic necessity, political policy, and international competitiveness. Aid, far from bringing a better life to millions, has resulted in the unfortunate enrichment of dictators like Marcos, the diversion of domestic funds from social programs to military budgets (e.g., the Middle East), and the erosion of an agrarian way of life because the prime beneficiaries

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3. *Id.*

4. *Id.* at xv.

5. *Id.*

6. R. BIRD & S. HORTON, GOVERNMENT POLICY AND THE POOR IN DEVELOPING COUNTRIES 4 (1989).

7. TOMASEVSKI, *supra* note 1, at 1.

of foreign aid have often been urban dwellers. Foreign aid has also been used to subsidize industry and agriculture within the donor nation. This has resulted in the unhealthy dependence of donor governments on foreign aid programs that aid their own nationals more than the Third World poor they were designed to assist. The continuation of schemes that were originally well-intentioned but eventually politicized in a quagmire of vested interests does little to alleviate the lot of the poor in the developing world. Aid of this type is also characterized as being clearly exploitive. As Hayter comments, "aid can be regarded as a concession by the imperialistic powers to enable them to continue their exploitation of the semi-colonial countries."[8] Aid then becomes " 'a weapon' of the donor's foreign policy."[9]

Aid has thus become a masquerade. The very people whose misery justifies these schemes are the last to be considered when these projects are proposed and, ironically, they are the first to suffer when the projects are implemented. To be fair, not all aid has charted the course of private greed and governmental indifference. The mounting deficits in donor nations have led to a greater awareness of the need to spend aid dollars wisely. The highly-publicized critiques, written by economists and foreign aid experts, have exposed the failures of the system and alerted taxpayers in North America and Europe to the need to watch how their governments are spending public money. The search for alternative strategies in development aid has resulted in the formulation of proposals for aid that are, like Tomasevski's, within a framework of human rights principles, aimed at the very people who need it most, and which show positive beneficial results among the population of developing countries. As Tomasevski comments, "[t]he message of this book is that human rights should be applied throughout development aid, not only used to evaluate the performance of the recipient governments."[10] Development aid has largely remained a government-to-government concern despite the obvious success of some non-governmental agencies in targeting aid directly to the recipient populations. One consequence of the governmental emphasis has been public disapproval in donor countries when recipient governments are dictatorships which brutally repress their people. The incidence of corruption are also often high in such regimes and the apprehensions of North Americans and Europeans that their tax money may be subsidizing tyranny and graft are justified in a number of cases. The very fact that a dictatorial regime receives extensive foreign aid is an indication of its acceptability and legitimacy in the international arena. Such apparent acceptance internationally gives the regime *carte blanche* to repress internally. The consequence of foreign aid can thus be the very op-

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8. T. HAYTER, AID AS IMPERIALISM (1970), in HUMAN RIGHTS AND FOREIGN POLICY 118 (D. Hill ed. 1989).

9. S. Cunliffe, *Economic Aid as an Instrument for the Promotion of International Human Rights*, in HUMAN RIGHTS AND FOREIGN POLICY 118 (D. Hill ed. 1989).

10. K. TOMASEVSKI, *supra* note 1, at 200.

posite of its intent.

Realization of the negative results of foreign aid led the Congress of the United States to pass the Foreign Assistance Act in 1974. Section 16 restricted or prohibited assistance "to any government 'which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person.' "[11]

Former U.S. President Jimmy Carter emphasized the commitment of his nation to human rights when he said:

> "In distributing the scarce resources of our foreign assistance program we will demonstrate that our deepest affinities are with nations which commit themselves to a democratic path of development. Towards regimes which persist in wholesale violations of human rights we will not hesitate to convey our outrage nor will we pretend that our relations are unaffected."[12] The Idealistic words were, unfortunately, not matched by actions. The Carter Administration reduced assistance to three countries (Ethiopia, Uruguay, and Argentina) out of fifty-seven states which were deemed to have committed gross violations of human rights. Clearly, the requirements of foreign policy outweighed the principles of human rights.[13]

It has to be emphasized that this is not unique to United States foreign policy. As political scientist Alex Cunliffe points out, "Analysis of the flow of economic aid from London to the less developed world . . . does not reveal any enduring, concerted attempts by successive British Governments to utilize the flow of concessional finance for the promotion of international human rights."[14]

Tomasevski's solutions to this problem, its consequences and ramifications are to incorporate human rights in development aid,[15] and to "raise human rights issues from the margins of development aid to its mainstream."[16] The experience of the past has proven that the punitive approach is unrealistic and cannot always be applied, given the primacy of foreign policy interests and global strategic considerations. The alternative, now gaining popularity, is the promotional approach incorporating human rights, an approach endorsed and espoused by Tomasevski.[17]

This new direction is particularly significant in view of the fact that the punitive policy penalizes the people for the repressive nature of their governments. It could be argued that populations living in a dictatorship are in greater need of expressions and evidence of international concern

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11. S. CUNLIFFE, *supra* note 9, at 121.
12. *Id.*
13. *Id.*
14. *Id.* at 115.
15. K. TOMASEVSKI, *supra* note 1, at xv.
16. *Id.*
17. *Id.* at xvi.

via aid and humanitarian assistance programs. As Tomasevski explains, "[t]he suspension or discontinuation of aid could further aggravate the position of the people victimized by the violation of their rights."[18] She underscores the implementational problems of the punitive approach. "[T]he punitive approach had to be confined to the government responsible for gross violations of human rights, and combined with measures to prevent the worsening of the position of the victims. These included the conditioning of aid by changes in the human rights policy of the respective government, the re-channelling of aid to non-governmental organizations, the targeting of aid to precisely defined beneficiaries, and the provision of direct assistance to the victims of oppression."[19] Tomasevski feels that the punitive approach adopted by the United States Government is further weakened by the fact that negative assessments of governments are based not on international determinations but on U.S. perceptions. The reason why "[t]he United States does not make any reference to standards and procedures under the international human rights treaties,"[20] is "because it is not a party to most of them."[21] Cunliffe comments on U.S. policy during the Reagan era: The "USA could overlook the poor human rights record of a repressive, but friendly regime provided it was seen to be in opposition to the greater perceived threat to human rights, i.e. communism!"[22]

The tendency to prefer a promotional approach is reflected in the recent aid policies of countries like Canada and Norway.[23] Lack of consistency, however, is evident in implementation of these principles by the Canadian Government. "The Canadian practice in applying human rights criteria involved the decrease of aid to Uganda, Equatorial Guinea, El Salvador, Guatemala, and Suriname. Critics pointed out that the same approach was not applied to Zaire, Indonesia, Bangladesh, and Pakistan."[24]

Inconsistency in application, an inability to reach beyond the punitive approach, and the lack of sufficient data on the violations of some of the most repressive regimes make the universal adoption of a promotional policy difficult in the near future. Punitive policies can occasionally effect temporary relief. For example, when the United States declared in January 1986 that it would cut aid to Duvalier's notorious Haitian Government because of its human rights violations, the result was the end of the Duvalier regime the following month.[25]

Verbal and written assurances of commitment to a promotional ap-

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18. *Id.* at 49.
19. *Id.*
20. *Id.* at 52.
21. *Id.*
22. S. CUNLIFFE, *supra* note 9, at 122.
23. K. TOMASEVSKI, *supra* note 1, at 50.
24. *Id.* at 57.
25. *Id.* at 78.

proach are meaningless if implementation of this policy is ignored in practice. The data provided by Tomasevski reveal that donor countries apply the punitive/promotional approaches sporadically, inconsistently, and without conviction. Tomasevski believes that "many of the major aid recipients are among those countries whose governments have been responsible for serious and widespread human rights violations. They include Israel (the largest aid recipient), Mauritania, El Salvador, Honduras, Morocco, Sri Lanka, [and] Haiti. This shows that human rights violations as an eliminatory criterion in development aid are not applied."[26]

This situation also occurs because of "*the lack of criteria for linking* human rights violations and donors' response."[27] and "*the lack of use of the international system for the protection of human rights.*"[28] Tomasevski accordingly advocates widespread use of international machinery through the United Nations which "contrary to the practice of individual donors . . . links violations with aid in a positive rather than punitive way."[29]

Cunliffe suggests a similar approach: "[G]iven the universal character of the principles of international human rights as adopted by the United Nations, there would seem to be ample justification for developing an economic aid programme within such a remit."[30]

The reluctance of some donor governments to link human rights to development aid stems from a perception that human rights are culturally Western in origin and mainly reflect the Euro-American tradition of Locke, Jefferson, the Glorious Revolution, the American war of Independence, and the French Revolution of 1789. Such a heritage is geographically circumscribed and cannot, it is felt, be extended very easily to fit the realities of the Afro-Asian cultural past. A case in point, the hesitancy of Islamic States to accept international human rights instruments as they pertain to women, is often cited as an indication of the "foreign" nature of human rights in numerous developing societies.

Those ethnocentric apprehensions are fueled by the views of human rights advocates like Jack Donnally,[31] who insist on a narrow definition of human rights which limits their origin to Western society, in effect denying the Afro-Asian and Latin American majority of the world's population the possibility of national identification with the principles of human rights. Interestingly, while the champion of democracy, the United States of America has not ratified "many human-rights treaties, despite its pro-

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26. *Id.* at 83.
27. *Id.* at 64.
28. *Id.*
29. *Id.* at 65.
30. S. CUNLIFFE, *supra* note 9, at 126.
31. *See generally* J. DONNELLY, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE (1989).

fessed commitment to the rights embodied in them,"[32] the African Charter of Human and Peoples' Rights was adopted in 1981,[33] thereby proving Cunliffe's assertion that, "[t]he concept of human rights may well have Western, philosophical forefathers, but to a large extent, its birthplace is irrelevant to contemporary international relations."[34]

In view of the growing global interest in human rights, an almost universal acceptance, at least at the popular level of "*the fact that any government can be held accountable for the way it treats its population,*"[35] the time would seem right for an endorsement of the idea of utilizing human rights in the application of development aid policies. A related proposal would be "to consider the use of foreign aid more as a 'reward' to states whose human rights record is judged to be relatively unblemished, rather than as a 'weapon' against repressive regimes."[36]

On the practical level, Tomasevski explores the day to day difficulty inherent in the implementation of human rights in some developing countries which lack adequately trained police forces and effective legal systems and generally have few resources to apply human rights. She asserts that "[t]he frequent claim that implementation of governments' obligations corresponding to civil and political rights does not require investment is a myth."[37] Leaving aside the issue of abuses and rights violations, the implementation of human rights requires a carefully-crafted system. Most of the least developed countries "have yet to establish the essential political, legal, economic, social, and administrative infrastructure to develop national systems for the protection of human rights."[38] Tomasevski provides the poignant example of Equatorial Guinea where laws could not even be published because printing facilities were lacking.[39] She further reveals the extent of this fundamental problem by citing the fact that the United Nations Organization has recently allotted only 0.7 percent of its budget ($14 million) to its human rights program.[40] She concludes that "[t]he United Nations urge[s] governments to adhere to international human rights instruments but provide little incentive."[41]

The twin pillars of human rights implementation have to be built simultaneously in developing societies. Human rights implementation is not merely a matter of preventing violations, though that is very important. It is also concerned with "*creation of conditions for the realization of human rights and fundamental freedoms.*"[42]

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32. A. RENTELN, INTERNATIONAL HUMAN RIGHTS 33 (1989).
33. *Id.* at 37.
34. S. CUNLIFFE, *supra* note 9, at 123.
35. K. TOMASEVSKI, *supra* note 1, at 84.
36. S. CUNLIFFE, *supra* note 9, at 125.
37. K. TOMASEVSKI, *supra* note 1, at 96.
38. *Id.* at 98.
39. *Id.* at 104.
40. *Id.* at 99.
41. *Id.* at 110.
42. *Id.* at 126.

Clearly, the debate on human rights and development aid will continue. Tomasevski's recent book is a valuable contribution to the discussion of this controversial aspect of human rights. Whether or not human rights will figure as a significant criterion in aid policy remains to be seen. If it does not, the problems created by past policies are likely to continue. As the donor part of the world comes to realize that strategic and military considerations, foreign policy interests, and domestic economic concerns are not necessarily the best criteria to guide the formulation of foreign aid, there may well be more emphasis on idealism and less on self-interest in this sphere of international activity. One can only hope that political leaders will, for once, learn from their past mistakes.