

Law & Economy

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Abstract

In this topic we will discuss the interaction and interconnection between law and economy. The analyze is divided in two major parts: First part gives us an interconnection conceptual between the law and economic discourse, while the second part is a systematic review of international economic law. This analyze will be focused how the economic relationships between people and nations have been developed during time by causing new challenges for law. The major part of international economic law has been developed relatively during the last years as a response to the international economic activity. Meanwhile with the growth of international economic activity came also the growth in human connection in different nations, so this interaction should be regulated by international law. The beginning of the development of the international law, law used to be focused in legal relations between a country and a foreign company by utilization of natural resources. In this contest this analyze will utilize the evolution of the primary international economic chosen law.

Keywords: economy, law, international.

Introduction

Human rights are an added value, when it comes to the quality of growth economy and the specific way of the distribution inside a society. So, in this way they shouldn't be consider as a restrictive economic growth, but as an economic development frame, which can inform economic policy and run the welfare society indifferent aspects where the spot light will be towards equality. Human rights can be an effective tool to decrease the poverty for three reasons: (a) Human rights law contributes in reinforcing and the social protection of the groups through social mobilization and accountability strengthening mechanisms, (b) Human rights law reinforces the law job by emphasizing non-discrimination, (c) Human rights bring a higher attention towards law, a factor that the locals are using, by involving the authorities, they are hiring new strategies for social mobilization. According to the discussions for economic development, specialized in equality, non-discrimination is well known. Economic and social development policy, makes, treat women and mans in the same way, which in the end of the day will indicate in economic growth. Equality and non-discrimination will be used to improve the social network, by educational results.

1. Methodology

Studying methodology is totally nature quality. She takes secondary data from different international reports connected to law and economy. The first and the second part of the study focus in a conceptual discussing, a mirror of debate between

economists and human rights supporters. A macro analyze shows the country, nation level and how the human rights can integrate practically in economy policy, for example: the way how human right has affected in programs and in national and international level, just like the international economy law did.

2. Literature

As (Balakrishnan R 2009) said, always has had a progressive economy and critics of welfare, which were ordered to create new social rights for economy, but sceptic fort he security of this economy through main economic policies. Human rights supporters are accused to think only in the present time, so in this way they have thought to go only in one direction (by punishing whoever made a step backward, so in this way they had to do two steps forward) (archer 2006). Human rights also are expressed in a way that often are seen as worthless to direct the solution towards the goods education, health).

Even why not a correct one, this special definition of the human rights shouldn't be suggested that the international law for human rights has a little contribution in the economy decision making. This level in common is a human right approach *"wants us to ask the existing condition, to express the concern of the oppressed and the poor when they think between politics and not to take the resources as natural facts, but we treat them as results in the last elections"* (Uvin 2004).

Human rights are alive for exploiting the past and the present (Seymour 2008) and wait for the side effect where to address when they take the compromise. One understanding of the protentional objectives of the human rights could offer new economy development to be part of wellness decision making, which will priorities the mass distribution of equality or different law judgments, by well reflecting development policy objectives. These judgments could take from the jurisdiction doctrine a social- economy campaign. Further more human rights will secure a chance opposite which can evaluate the policy chance, by involving efficiency in objective achievements.

Even though human rights in theory level are known as all representation, human rights in practice are treated rarely in this way.

Furthermore, the international law for human rights prevent the choice to choose the interests when there is a rights number. When a nation wants to support a justification of a interconnection in a right to qualify, international courts apply a test of three parts:

- if the interference is prescribed by law;
- if the intervention pursues a legitimate aim (for example, in the interests of national security or the economic well-being of the country); and
- If intervention is needed or proportionate. To pass the final test, should show the *"a fast-social need"* with intention to this need, but will be allowed the minimal interconnection with the law support.

3. Analysis

There exists a lot of ways that create interconnections between the law and here I would like to refer the human rights and the basic economy. Brahmhatt and Canuto for example they suggest that the notion of human rights against each person is adapted form a shift in attention to development from a predominant interest in mass aggregates (as PBB or average income per person) till reviewing the results for specific groups.

This survey made the World Bank economists the see that the development practices are “thinking about the winners and losers “(Brahmbhatt 2011). Second field identification comes from the increasing emphasis on participatory development practice, consultation and accountability and human rights also concentrate in human rights and economists (Seymour 2008). Human rights and economy compensate each other boundaries.

A special contribution that economy should bring at human rights evaluation, based in a human right that couldn't offer a way for a solution (Brahmbhatt, 2011).

Human rights involving international rights for it, but could complete basic economy, by involving:

- Prioritize minimum levels of basic social-economic for all;
- Equal distribution to create the social-economic rights;
- The assumption that there will be no back log and as such avoiding the allocation of resources to specific groups;
- The definition of compensation “Seeks remedial justice in the event of a breach, but opposes the notion of calculating costs considered to be canceled by corrective action.(hypothetical);
- The need for a human rightspriorities framework, which would facilitate the use of economic analysis techniques to assess the impact of human rights objectives on alternative distribution objectives;
- Emphasizing the importance of freedoms in preventing the capture of the elite and allowing social actors to debate and negotiate the future of social strategies;

3.1. Law and Economics at the Macro (State) Level, the Interplay between Human Rights and Economic Policies

Often there is a trade-off between efficiency (in production growth, for example) and equity (for example, income distribution (McKay, 2005). This may be related to specific policies and programs, such as minimum wage legislation. Such compensation may be more of an issue for specific subsidies or taxes, which may have redistributive effects and which should be a specific part of economic decision-making. social spending and social policy spending can be affected.As such, the nature of the discussion about balancing short-term and long-term prospects is more likely to be about the objectives of political economy and social economy. in realizing economic, social and cultural rights, governments will have to consider me cost economics Thewelfare economy is concerned with the social organization of members of a society and seeks to measure the extent to which the objectives of the society as a whole are met. The welfare economy is useful in predicting the outcome and guiding the selection of

policy and program alternatives, but analyzing the best policy or program depends on the target group.

Human rights can help to make judgments of alternative value and thus become an integral part of the convergence with economic analysis of welfare. Stiglitz, (2002) argues that country-level economic policy, which focuses on promoting and defining policies and programs, is more likely to yield better results in terms of economic development, economic growth and equality.

In this regard, institutional infrastructure, such as financial institutions and banks, as well as legal systems, all create attractive economic environments (for example fair trade, the tax system and the rule of law) that contribute to better economic outcomes. At the sector level, donors often impose costs under credit conditions to avoid and/or mitigate the negative social and / or environmental effects of a development project. To summarize, from a human rights perspective, where rights cannot be realized immediately due to the limits of available resources, progressive realization recognizes that they can be achieved over time; but this is subject to meeting the criteria that have been developed over the decades as part of the international normative framework and human rights doctrine. Countries are not under an international legal obligation to go beyond the available resources, but are required to immediately realize the minimum essential levels of economic, social and cultural rights, to use their maximum available resources in the exercise of those rights, efforts and ensure the adoption of policies and programs that facilitate the realization of relevant human rights over time and take a number of other specific steps as part of fulfilling the obligation of progressive realization.

3.2. International economic law and policy

3.2.1 Definition of International Economic Law

From the macro level, that is to the level of the state, we move to international economic law, which has as its essential aim the regulation of international economic order or economic relations between nations. However, the term "*international economic law*" encompasses a number of areas. It is often broadly defined to cover a wide range of topics ranging from public international trade law to private international trade law to certain aspects of international trade law and international finance and investment law. The term "*international economic law*" includes:

- International Trade Law, including WTO international law and GATT and domestic trade laws;
- Law on International Economic Integration, including EU law, NAFTA and Mercosur;
- Private international law, including international choice of law, forum choice, enforcement of decisions and international trade law;
- International Business Regulation, including antitrust or competition law, environmental regulation and product safety regulation;
- International financial law, including transactional private law, regulatory law, foreign direct investment law and international monetary law, including the law of the International Monetary Fund and the World Bank;
- The role of development law;
- International tax law;

- International Intellectual Property Law.
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3.2.2. Fundamentals of International Economic Law

International economic law is based on traditional principles of international law such as:

- Pacta sunt servanda;
- freedom;
- sovereign equality;
- reciprocity;
- economic sovereignty.
- It is also based on modern and evolving principles such as:
- the duty to cooperate;
- permanent sovereignty over natural resources;
- preferential treatment for developing countries in general; and
- in particular the least developed countries.

The sources of international economic law are the same as those of international law generally described in Article 38 of the Statute of the International Court of Justice: "Article 38 - The Court, whose function is to rule in accordance with international law, such disputes subject to it, shall apply: 1) international conventions, whether general or specific, establishing rules expressly recognized 2) international customs, as evidence of a general practice recognized as law 3) general principles of law recognized by civilized nations 4) subject to the provisions of Article 59, judicial decisions and teachings the most qualified publicists of various nations, as aids to the rule of law."¹

3.2.3. Basic principles of international economic law

In an effort to implement the NIEO's objectives and set the norms of international economic relations, the UN General Assembly adopted as part of its resolutions on the NIEO Charter of Economic Rights and Duties of States (CERDS) 1974. Chapter 1 of the Charter describes the foundations of international relations in these words: "*Economic as well as political relations and other relations between states shall be governed, inter alia, by the following principles*":

- The sovereignty, territorial integrity and political independence of states;
- sovereign equality of all states;
- non-aggression;
- non-interference;
- Mutual and equal benefits;
- peaceful coexistence;
- equal rights and self-determination of peoples;
- peaceful resolution of disputes;
- restitution of injustices that have been forcibly inflicted and which deprive a nation

¹ Hossain M. and Rahi S. (2018), International Economic Law and Policy: A Comprehensive and Critical Analysis of the Historical Development, Beijing Law Review, 2018, 9, 524-546, Scientific research <http://www.scirp.org/journal/blr>

- of the natural remedies necessary for its normal development;
- Fulfillment of international obligations in good faith;
- respect for human rights and international obligations;
- no attempt to seek hegemony and spheres of influence;
- promoting international social justice;
- international development cooperation;
- free access to and by sea from landlocked sites within the framework of the above principles ".

3.2.4. The right to economic development

One of the central elements of NIEO and CERDS was the economic development of the states. This element was reinforced by a 1986 resolution of the UN General Assembly on the right to economic development of states. The main operating provisions of this statement read as follows:

"Article 1-1) The right to development is an inalienable human right to which every person and all peoples have the right to participate, contribute and enjoy economic, social, cultural and political development, where all human rights and fundamental freedoms can be fully realized.

Human right to development also means the full realization of the people's right to self-determination, which includes, under the relevant provisions of both the International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty, above all natural wealth and resources.

"Article 2-1) The human person is the main object of development and must be an active participant and beneficiary of the right to development.

All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for human rights and fundamental freedoms, as well as their duties to the community, which can only ensure full fulfillment and full of human beings, therefore they must promote and defend the proper political, social and economic order for development.

3) States have the right and duty to formulate relevant national development policies aimed at the continuous improvement of the well-being of all the population and of all individuals, on the basis of their active, free and meaningful participation in development and equitable distribution of the benefits derived from it. "

Although the right to development is a difficult right to define in concrete terms and does not have much legal significance, the articulation of this right in 1986 has enabled the international community to rely on it to support and develop:

- other principles of international trade and development;
- special and preferential treatment for developing countries;
- the need to address the problem of international debt.

"It can also be said that the right to development was a contributor to the adoption of the Millennium Development Goals by the international community in 2000, at the dawn of the new millennium."²

² Hossain M. and Rahi S. (2018), International Economic Law and Policy: A Comprehensive and Critical Analysis of the Historical Development, Beijing Law Review, 2018, 9, 524-546, Scientific research <http://www.scirp.org/journal/blr>.

Conclusions

Analyzing the potential for complementarity based on what human rights can bring to the mainstream economy, this analysis highlights several important factors in understanding the consequences for economic dissemination and its inevitable link with law:

- The need to focus on distribution outcomes (economically, on the distribution function - not just on production and exchange functions) and places them at the center of economic development policies and value judgments. Human rights are concerned with the dissemination of results, as well as the process of equality.
- Putting people at the center of economic development, focusing on distributed/marginal distribution results rather than aggregate/average results and emphasizing the need for disaggregated data. This would complement existing approaches by bringing additional attention to the rights of the most marginalized groups.
- The need for a clearer prioritization of human rights in economic policy and decision-making, which recognizes their outstanding value and against which the merits of other values must be justified.
- The need for explicit new norms of economic well-being and value assessments built around distribution objectives and redistribution objectives that reflect human rights objectives.

The lack of recognition of the human rights framework by development actors is a limiting factor. Sometimes lack of knowledge may be more important in explaining particular tensions than de facto disputes. Thus, what is brought forward by this study is a perspective of complementarity between human rights and the economy. This perspective can translate into promising results in terms of poverty reduction and growth quality.

The analysis also concluded that economic and commercial activities and the law in their service continued to expand, as indicated by the Law on International Economic Law. The key international economic agenda in the post-World War II period included promoting free movement of goods and capital across borders and enabling states to utilize their natural resources to the maximum extent possible for their economic development. International economic law has sought to achieve this expansion of international economic and commercial activities and to regulate wherever and wherever possible but without paying serious attention to aspects of economic development.

However, recent developments in international law have influenced the development of international economic law. The international principle of the right to sustainable development, a relatively new principle, has had a profound impact on international economic law. Within the UN economic development agenda, a marked shift in emphasis on economic development theory began in 1987 with the introduction of the concept of sustainable development, which sought to impose some constraints on economic development in favor of the need for it. protect the environment. The whole idea was to unite both developing and developed countries in pursuit of a common agenda. As we can see, the history of international economic law is essentially the

story of the interaction between law and international politics. At its heart have been the national interests of the great powers of the day and their desire to modify international economic law to adapting to their priorities.

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