

ODI Meeting Series
Human Rights and Poverty Reduction: Realities, Controversies and Strategies
Meeting 1: Human Rights and the MDGs: Contradictory Framework?
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1. For the last seven years I have been Director of the International Council on Human Rights Policy, which does practical research into dilemmas and problems facing organisations that try to apply human rights. However, I am not a lawyer and have spent most of my working life in development policy – with CIIR on democratisation and governance in East and SE Asia, and then democratisation and aid policy at Christian Aid. I feel I have a foot in both the human rights and development camps – f camps they are – and this influences what I have to say today.

2. Let me begin by taking a step back. The targets we now call the MDGs were set by the Development Assistance Committee of the OECD in the mid-1990s, at a time – after the Cold War – when the developed industrial economies renewed their commitment to end poverty, focused their aid on the poorest countries, and adopted language now to be found in the PRSPs: “participation”, “inclusion”, “consultation”, “local ownership” became mainstream along with notions associated with “good governance”.

3. Three comments on this. The first is to say that OECD governments set these goals themselves: they repositioned voluntarily. In my view the goals set reflected what OECD countries felt at the time were the practical limits of what was *politically* achievable (I stress political: as now, economically a lot more could comfortably have been done). I found the initiative courageous and quite impressive. It was taken, of course, before the present UK government came to power; the goals were already there when Clare Short arrived, and she picked them up and ran with them.

4. I remember that many of us working in NGOs at the time reacted with suspicion. We said that government was stealing our clothes, opportunistically thieving the values of grassroots development that we had fought for, and would undermine or corrupt them in the service of power. At the same time, this was clearly a political victory: in some sense, the values of “our” development had triumphed over technocratic and “big development” approaches. Three Georges had yet to appear...

5. It is worth noting, finally, that at this period human rights organisations were irrelevant to this debate – and it was largely irrelevant to them.

6. Half a dozen years later, when the OECD goals became Millennium and attached to the Millennium Declaration, the situation had moved on. First of all, not just the OECD but almost every Head of State approved the Declaration and the Goals. Second human rights had a higher profile. Following a directive from Kofi Annan, they were being mainstreamed within the UN system, where Mary Robinson’s tenure had given the Office of the High Commissioner for Human Rights sudden visibility. Moreover, OECD governments (including the UK), and a number of NGOs, including some development NGO5, were prominently incorporating human rights in their policies.

7. The mainstreaming process has been difficult. The High Commissioner's Office was unprepared for it and under-resourced; and UN agencies such as UNDP, WHO and UNICEF (not to speak of the World Bank...) met policy and 'cultural' resistances to human rights within their organisations very similar to those which governments and NGOs have confronted. Engineers, scientists, doctors and development economists were not readily convinced that human rights was useful, and many new policy questions were thrown up that no-one had thought through operationally. I will return briefly to some of these obstacles later.

8. In this context, what is to be said about the MDGs and the Millennium Declaration from a human rights perspective?

MDGs

9. The first general comment is that the MDGs have become a hybrid animal. They are at once the practical politically calibrated targets that the DAC identified. At the same time, they are increasingly framed as global aspirations, no longer tactical but emblematic expressions of moral intent. We are asked ceaselessly to unite around them; they are being reified (if not deified).

10. This is potentially very damaging because as aspirations they are wholly inadequate. We cannot aspire to *halve* the number of people who are destitute. Many critics of the MDGs react so negatively precisely because of this shift; and this is especially true of human rights and other organisations who are unaware of the history of the development movement and its ideas. (Indeed it is characteristic of the current phase of discussion that many human rights activists think they have brought ideas like empowerment and participation and accountability to the attention of development and governance experts; no doubt the reverse is also true. Mutual ignorance of one another's traditions is one reason why human rights activists often seem preachy and why the relationships between them and other disciplines are edged with irritation.)

11. A more specific issue arises in relation to the form the MDGs take. They are not written in human rights language – for the obvious reason that they were drafted by the OECD in a development context. In principle this is not problematic, provided once again that (a) the MDGs are seen as practical and tactical, and (b) they are read alongside the Millennium Declaration. However, the language will be unhelpful to the extent that it lends weight to a narrow quantitative understanding of development and draws attention away from qualitative dimensions which recent official as well as grassroots thinking have emphasised.

12. Moreover, while quantitative targets rightly help everyone to focus around certain priorities, their form is a huge lost opportunity for development education. We are asked to put the MDGs in the forefront of the public mind, but abstracted from context, they have little explanatory meaning.

13. In conclusion there is no inherent conflict between the MDGs and human rights: in substance, they are clearly consistent with several human rights objectives. But it is vital to reconnect the MDGs to their history and make sure that they remain what they originally were: tactical ambitions, waymarks along a road. They should not be frozen into an *idée fixe*. We should also work to make sure that their quantitative language does not give new life to a narrow understanding of development, not least in the public imagination.

The Millennium Declaration

14. Let me turn now to the Millennium Declaration. This is an important but classically imperfect text. It does affirm human rights principles in very general terms. It mentions some areas of human rights specifically, but in a scattered and haphazard manner - as you would expect from a document that was drafted and approved in a highly political process. To give a single example. Employment is mentioned – a huge issue for economic and social development and also for human rights; but only once, and then only to urge governments to address youth employment. You could not build a coherent strategy in relation to work – or the right to work – on the basis of the specific commitments in the Millennium Declaration; though you could do so by referring to the very general commitments to the Universal Declaration etc.

15. From a human rights perspective, this is a difficulty on two grounds: (a) the document is arbitrary and incomplete and (b) it therefore fails to reflect the systemic character of human rights law and thinking, and in particular its emphasis on the links between all human rights (their indivisibility).

16. In sum, this is not a problem provided that the Millennium Declaration is not read as a complete agenda for action, still less as a statement of human rights priorities. Like the MDGs, it should be seen for what it was: an important moment of consensus that reaffirmed certain very general values and highlighted other issues of contemporary concern to those who drafted and approved the statement. It is important but unbalanced. The place of rights

17. Let me turn now to the place of human rights in these discussions and their relevance to development and poverty reduction programmes.

18. Qualitative dimensions of development have again come to the fore recently, because of the new approach that the World Bank and governments have adopted in the PRSPs. In many ways, the PRSP debate has revived some of the battles about ownership of language and values, which I mentioned in the mid-1990s when governments officially adopted notions of participation, empowerment, partnership etc. In the current context, there are vertical contests of this sort between civil society organisations, national governments and the World Bank, for example; but there are also interesting struggles for leadership between disciplines. In particular, following mainstreaming, human rights is perceived by some development economists, doctors, medical profession, environmentalists, etc to have made a (legitimate or illegitimate) claim for intellectual leadership - and, it must be said, some human rights advocates believe the claim is justified.

19. At its broadest, however, there are two big schools: those who follow a conversion model and those who believe in convergence. While the first group considers that human rights (our subject in this instance) should trump other values and traditions, the second group considers that development, governance and other policy frameworks have been converging with the human rights framework, and that the foundations of their traditions are highly compatible: they tend to think that debate should therefore focus on consistency and complementarity rather than competition. I guess people in this room will belong to both parties. To be clear, I am a converger.

20. In this context, let me make a few remarks about PRSPs, considered in relation to previous generations of poverty—reduction programmes, or for that matter in relation to the MDGs.

21. The first is that we should be careful not to fight old wars and in doing so fail to assess the new environment correctly. Current arguments – both vertical and horizontal ones – often turn on who legitimately owns values. Who decides when

“national ownership’ has been achieved, or that “consultation” or “participation’ has been accomplished satisfactorily? In these discussions, it is very easy to fall into a lose-lose debate, when each side lays claim to be the arbiter of a standard and in so doing denies the legitimacy of others: yet, without some degree of agreement, it is clear that everyone will lose. If no-one can tell whether communities have been properly consulted, no policy based on consultation is likely to be successful. And we do indeed have much sterile argument and mistrust at present.

22. These are in fact the new policy challenges set by the PSR model. The approach itself should be welcomed in principle: it is a considerable step forward, an enormous advance relative to early structural adjustment programmes, for example. But, as with each previous generation of programmes, it will set new challenges. How will it be determined that a national government has properly ownership of its development process? How will it be determined that the public has participated appropriately in decisions, and been consulted adequately? We have not begun to answer these questions clearly. Until we do, national governments, as well as the World Bank and other donors, will find themselves engaged in alongside civil society in extremely unproductive arguments about legitimacy.

23. The challenge is not an easy one. If we speak about consultation or participation in decision-making, for example, quantitative or simple democratic criteria will not be adequate. Different levels and types of consultation should be expected for different categories of decision; and different voices should expect to be given different weight. When choosing between two sites for a bridge, who is consulted about what aspects of this decision, and whose word has more decisive weight? If a community voices opposition to a decision which I nevertheless taken by government, when can that decision still be considered democratically legitimate (and when not)?

24. No government anyway manages these questions perfectly or even well: yet PRSPs seem to expect poor countries and poor communities to engage successfully in complex negotiations of this sort. To what degree are these expectations fair, testable, or even rationally constructed?

25. It is often said that justiciability is the main contribution that human rights can make to development approaches. I actually think that it is relation to these sorts of questions that eventually human rights methods and principles, intelligently used, can be most useful.

26. I said earlier that the development tradition has its own values and norms (as does economics). It should not be thought that human rights is uniquely normative; an being normative should not be understood to imply criticism. Normative isn't the opposite of rational. Indeed, a non-normative approach to most social and economic decisions would be extremely odd and possibly unintelligible. Nevertheless, human rights principles and methods do provide the most complete and holistic framework that is available to the international community for assessing performance in areas of social policy and social participation. If we want to judge whether decision-making systems are participatory, inclusive, non-discriminatory, consultative, etc it is at least one of the best points to start from. Its standards are universally applicable (or attempt to be) which underpins its claim to fairness and legitimacy, and also objectivity. Moreover, states have accepted that its standards are legitimate: they have legal status, certainly when governments have ratified them.

27. In addition, because they have legal status they are relatively precise in their formulation and remit. Authorities can determine what conduct is or is not required;

because terms are shared, negotiation is possible; and eventually, yes, judicial procedures can settle disputes and provide remedies.

28. I am not arguing that the new challenges raised, say, by PRSPs or their successors will be settled in a clear way by glancing at human rights standards. This is clearly untrue: these issues will generate difficulties at least as great as those already associated with mainstreaming. But if criteria draw upon human rights standards and principles, their elaboration is likely to acquire a higher degree of legal authority, political legitimacy and precision. And justiciability is only one, often subordinate, element in that mix of qualities.

29. This is the first strength of human rights. In passing, it has to be said that the MDG5 are impervious to the tests it offers, as they stand, because they are framed purely in quantitative terms. As I have said, this is only a major problem if we interpret their significance in an inappropriate way - goals as destination rather than as milestones.

30. The second strength of human rights is fundamental to its value to the development process — though it can also be a point of analytical weakness, if not contextualised.

31. Development — however framed — is a long, large, mucky process in which the fortunes and prospects of some individuals and communities are enhanced while those of others are threatened or harmed — and in all circumstances thrown about. What human rights principles and methods, if applied well, do is to prevent large slow progress from masking the loss or marginalisation of individuals or minorities. However positive development progress is, the human rights framework encourages or requires planners and observers to identify and do something about the people whose interests or prospects suffer.

32. This is notoriously something that big development has been bad at. It is the point of sharpest friction between grassroots activists and central planners. It is the Achilles heel of the World Bank and multilateral institutions. It is the point where policy commitments to participation and inclusion are perceived by “beneficiary” communities to collapse into rhetoric.

33. Human rights does not of course solve all the problems of loss and cost that minorities and individuals suffer when development is successful in promoting sustainable progress for large numbers of people. Essentially, however, it requires authorities to identify people at risk and assess the cost and damage they have suffered; to accept certain responsibilities towards those people including their right to remedies in many cases; and to be accountable for what has been done (or not done) on both the above counts.

34. Accountability is at the heart of remedy; and accountability is impossible without transparent communication of information. These two things, as well as the requirement that the dignity and interests of all people should be considered, are at the centre of the human rights framework. Again, justiciability is an element, but often a subordinate one, in its application. It is indeed important to be able to settle disputes and provide redress through courts: actually doing so may not, however, be the most important thing.

35. It will be said that other approaches share this interest in accountability and transparency — governance theory, for example. This is quite correct. Similarly,

development thinkers have independently identified the importance of participation and consultation, even if human rights activists don't always know this.

36. The point is that this should be expected. Certainly, if human rights really are of universal application, it would be astonishing if good government practice and good development practice were not broadly consistent with human rights principles. Indeed, if they were not convergent it would be a rather persuasive reason for suspecting that human rights principles did not have the wide application and legitimacy that their adherents claim.

37. Where human rights adds value is in the areas I mentioned earlier: its legal precision; its legal authority; its legitimacy, both at the level of governments and for the public; its objectivity - its emphasis on fairness and equity for all human beings; and its central focus on accountability of those in positions of authority. This means, in practice, that, if a fault of omission or violation of rights can be shown, it can also be shown that someone can be held responsible or has a duty to take remedial action.

38. Other frameworks share many of the same values but have not been elaborated legally and politically or been accorded legal and political authority to the same extent.

39. These are the strengths of human rights. In conclusion, let me briefly address areas where I believe human rights has potential or practical weaknesses.

40. First of all, human rights tends to think in one tense. It emphasises individual violations *now*. As noted, this is a vital contribution, especially in the context of macro-economic reform processes; but as a result human rights analysts find it difficult to factor in progress that is deferred, or uneven but positive, or to balance benefits of reform (for some) in relation to risks and threats (for others) over time. To illustrate this: little analysis has been done on the responsibilities that living people have to future generations. What is our duty to safeguard the rights (to water, a safe environment, food etc) of generations yet unborn? I am not sure that human rights thinkers are in a position to make such an analysis and we should be able to do so.

41. Human rights finds it difficult to negotiate. Because it is inherently systemic, which most other intellectual frameworks are not, human rights specialists make judgements on particular matters taking account of the whole body of human rights laws and principles. Hence the importance of indivisibility to them. This is undoubtedly a strength in respect to coherence and rigour, but it presents many problems for interlocutors who have not internalised the human rights framework - and may not wish to do so for the local purpose they have in mind. (Planners may not wish to take the torture convention into account when they consider compensation for displaced populations etc.) This is one reason why human rights people have a reputation for preachiness, for saying "You can't do that", and for ducking negotiation - for good reasons, they **do** find it difficult to trade.

42. A third criticism made is that, in a world of limited resources, human rights analysts find it difficult to choose between two goods or two imperfect goods - between building a school or a hospital or a road. Again, the belief that rights are interdependent makes it very hard for human rights specialists to set aside one right in order to benefit another. This is partly a matter of practice, of developing experience in taking such decisions; but partly it is inherent because one of the core strengths of human rights is focus on disadvantage and discrimination. Rights activists will always tend to be more alert to the right that is set aside.

43. I find two other criticisms of human rights not very serious. One is that human rights are “political”. The human rights framework does indeed assume that official decisions should be monitored and governments should be held accountable. But the tests of performance that they apply are far more transparent and objective than, say, those associated with bilateral development conditionality. Both are political, but one is political in a less arbitrary way.

44. The other criticism is that human rights are “normative”. The human rights framework is indeed normative, and should be — though crucially its norms must be approved by a wide range of actors before they have authority. But the criticism assumes that other disciplines, such as economics, are not. The notion of economic man postulates a norm of human behaviour that is highly unrealistic, albeit useful. I do not believe for one moment (and nor do most economists) that most human beings act in practice in ways that maximise their economic advantage. Altruistic behaviour is commonplace, as indeed are financial incompetence and simple lack of interest in economic matters. In this respect, human rights is not a uniquely normative approach and its strengths and weaknesses should not be judged as if it was.

45. In conclusion, my view is that MDGs and poverty reduction programmes do not sufficiently apply human rights principles and methods; but good practice is likely to be consistent with human rights; and convergence is occurring quite fast. Used intelligently, human rights methods add precision and legitimacy, and offer objective points of reference that are particularly useful when it comes to assessing social dimensions, as well as social impacts, of development decisions. At the same time, they will not – and certainly do not – deal with all kinds of problem. We need to do a lot more practical testing to find out where human rights values and methods are most useful. At this stage, we don’t need much more theory, we need a lot more exchange of practice... and quite a lot of this is now beginning to take place, in courts, in institutions, and on the ground, even if we cannot yet see its effects.