HUMAN RIGHTS, DEVELOPMENT AND THE MILLENNIUM DEVELOPMENT GOALS

OMAR GRECH

The relationship between human rights and development has attracted increasing attention over the past two decades. The UN General Assembly’s Declaration on the Right to Development of 1986 proved to be a spur to academics and civil society practitioners to explore the interface between human rights and development. The debate around this issue intensified following the Millennium Declaration which some human rights advocates have criticized as a process used by governments to distract attention from the real human rights issue. Others have emphasized the complementarities that exist between the MDGs and human rights. The discussion has also extended to the issue of extreme poverty as a gross violation of human rights and therefore the notion of freedom from poverty as a human right.

The purpose of this paper is to attempt to examine some of the ways in which the two impact on each other. Furthermore the extent to which the MDGs have incorporated human rights principles and frameworks will also be given some attention.

The efforts to create an international consensus on the need to protect and promote certain human rights and fundamental freedoms are directly attributable to the Second World War. The war’s contribution to the crystallization of human rights in international law can be traced in several layers. The holocaust was clearly a leading contributor to the realization that the way in which a state behaves towards its own citizens is a matter for the international community if that behaviour falls short of the standards required by human dignity. The Universal Declaration of Human Rights speaks of “barbarous acts which have outraged the conscience of mankind” in an explicit reference to the various crimes against humanity and genocide that occurred prior to and during the war.

However the Declaration also makes reference to certain basic rights and freedoms such “freedom of speech and belief and freedom from fear and want”. Apart from massive denials of civil and political rights, the end of the war also witnessed populations suffering from lack of food and shelter, healthcare and sanitation. Thus the reference to freedom from want which echoed the thoughts previously expressed by US President Roosevelt. One may therefore note that the struggle against poverty was a founding principle of the international human rights framework.

Human Rights and Development

International Development Aid has traditionally been the arena for development economists, development specialists and civil servants who happen to be serving in their countries development aid agencies. In the 1960s when development studies and development aid started to gain momentum the human rights community was either absent or only tangentially present in the process. This led to a number of regrettable consequences. The major consequence was that of creating a forma mentis in the developed and developing states that looked at development aid in a context of charity or perhaps moral righteousness. Nevertheless it useful to remind ourselves that human rights and development are both rooted in the concept of human dignity. The rationale underlying human rights expressed as civil rights, economic rights or social rights revolves around the concept of human dignity. The Universal Declaration gives clear guidance on the fundamental importance of the inherent dignity of the human person as the “foundation of freedom, justice and peace in the world”.

The necessity of integrating human rights into development is made with great lucidity by Mohammed Bedjaoui who writes that “the satisfaction of the needs of a people should be perceived as a right and not an act of charity. It is a right which should be made effective by norms and institutions.”

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This encapsulates what might be considered as the most crucial contribution of human rights thinking and discourses to development studies i.e. the move from considering development as a morally desirable objective to considering development as an individual right. The move from charity to rights is not simply a matter of terminology. A rights-based approach to development requires answers to a set of questions which are complex and not amenable to straight-forward replies. Among the questions that need to be answered are:

- What is the legal basis for the right to development?
- Who is/are the beneficiary/ies of the right?
- Who is/are the duty-bearer/s in relation to the right?
- How is the right implemented?
- What are the consequences if the right is not implemented?

However international organisations and governments have shied away from approaching development from such a legalistic angle.

The UNDP has led the way in focussing on the relationship between human rights and human development. Its 2000 Human Development Report concentrated on human rights and development and concluded that human rights should not be considered as a reward of development but rather that human rights are critical to achieving development. The report emphasizes a number of linkages between human rights and development in that they both seek to ensure the freedom, well-being and dignity of all people everywhere. The report concludes that “human development is essential for realising human rights, and human rights are essential for full human development”.

The report contains a series of recommendations which seek to ensure that global human development and human rights progress pari passu. Amongst these recommendations I would emphasise the following:

- Legislation alone is not sufficient; there is a need for all countries to strengthen their social systems for securing human freedoms. Human rights require appropriate institutions and mechanisms that enforce legislation as well as a cultural and social context that reinforces, rather than threatens, the legal system;
- The fulfilment of all human rights requires democracy that this inclusive with a separation of powers and public accountability. Elections are not sufficient;
- The eradication of poverty is not only a challenge to development; it is also a central goal for human rights;
- Accountability should not be limited to states but also extend to non-state actors;
- Achieving universal human rights will require action and commitment from each and every societal group - governments, NGOs, the media, business communities and other opinion formers;
- Stronger international action is required: development cooperation must be rights-based and free of conditionality while international human rights mechanisms need to be reinforced.

The latter recommendation made by the UNDP focuses in effect on development aid programmes and the way in which they reinforce (or not) the human rights agenda in the country where the programme is funded and in the country where the programme is delivered. There has been increasing international attention devoted to human rights-based approach to development programming. The UNDP itself is pioneering these efforts:

“Human rights does not only provide a vision of what development should strive to achieve (to secure the freedom, well-being and dignity of all people everywhere), but it also provides for a set of programming tools and essential references (human rights standards and principles) that ensure pertinent analysis, focus on important human development goals, ownership by the concerned people and sustainability of development efforts.”

The essence of such an approach is that development aid programmes should achieve two linked objectives:

(i) allow duty-bearers to fulfil the rights they are obliged to fulfil; and

(ii) allow rights holders to claim effectively the rights they possess.3

However it may be suggested that in this context of creating a human rights approach to development programming some attention ought to be paid also to what I would term as the donor-dimension. Development aid programmes are funded by the taxpayer in the developed states. All too often this taxpayer is left out of the equation. Increasingly the local populations of recipient countries are being included in the development programming equation. Local decision-making, respect for local knowledge and working with and through local partners have all become hallmarks of a modern, human rights-conscious development programme. But what about the participation in development programming of the donor populations? I would argue that a human rights-based approach to development programming needs to include this perspective. For decades the only contribution to the development debate from the developed world came from civil servants and experts, academics and activists. Recent thinking in development education has shown that there needs to be a more vibrant contribution to thinking on and about development from local communities in the developed world. Development education “has come to recognise more fully the role, the rights and the entitlements of citizens here in the developed world as much as those in the developing world”.4 I suggest that human rights also offers this perspective to development aid.

Civil and Political Rights and Development

“Sustained poverty reduction requires equitable growth, but it also requires that poor people have political power. And the best way to achieve that in a manner consistent with human development objectives is by building strong and deep forms of democratic governance a all levels of society. This means ensuring that institutions and power are structured and distributed in a way that gives real voice and space to poor people and creates mechanisms through which the powerful - whether political leaders, corporations or other influential actors - can be held accountable for their actions.”5

This quotation from Mark Malloch Brown referred to in a UNDP Report is a succinct statement of why civil and political rights are relevant to and important for development. The importance of a free exercise of civil and political rights in developing countries needs to be reiterated. The role of human rights in development is not simply that of reminding the developed world of the massive denial of the economic and social rights of people in the developing world. Developing states themselves need to comprehend that the notions of accountability, transparency and democratic legitimacy are crucial components of their development strategy. Corruption in the developing and in the developed world is impacting negatively on aid programmes and the capacity of donor countries to translate aid into better standards of living. One example should be enough to illustrate the nature of the problem: “The Kibaki government had spent [US] $12.5 million on luxury cars, largely for personal use by top Kenyan officials. That is enough to pay for eight years of school for 25,000 children”6.

Freedom of expression and a free media for example are civil and political rights that create the necessary framework for accountability and transparency that in turn are formidable tools in the fight against corruption. The importance of political participation and of building political pluralism at all sectors of society (local, regional and national) also needs to be emphasised. Indeed it has been suggested that “it is now recognised that building up local democracy, accountability and participation is one of the most effective ways to tackle corruption. Supporting and strengthening local groups campaigning for democracy is

3 In this context the duty-bearers can be defined as those persons or entities who have the primary duty to provide the right to food, housing, health etc (i.e. in short the right to development). Rights holders are those persons who have these rights.


fundamental.” Thus the right to participate in political life as established in Article 25 of the International
Covenant on Civil and Political Rights becomes an important tool in tackling corruption and therefore in
realising the development goals set nationally and internationally. In fact the UK’s Department for
International Development lists good government as one of the methods of fighting poverty:

“Good governments depend on elected representatives, trade unionists, farmers, journalists, business people, and citizens in all walks of life. Voters must play their part by making sure that politicians and officials answer for their actions...Good politics is about being open and fair in making decisions. Without good government, the fight against poverty can’t be won.”

Moreover a legislative framework that protects and promotes civil and political rights is conducive to
creating the context in which private investment and growth (both crucial to development) can flourish. In
particular adherence to the notion of ‘rule of law’ with its emphasis on equality before the law, is widely
recognised as a pre-requisite for a stable, prosperous and modern country. Investment and long-term trade is
less likely to flourish in societies where laws are more honoured in their breach than in their observance or
where the institutions that are supposed to enforce the law are not independent and impartial.

Another link between civil rights and development can be seen in the concept of empowerment. International
development aid has steadily moved towards making empowerment of the poor (or other marginalised
groups) as its bedrock. The work of Amartya Sen on human capability has led the way in this respect. Civil
and political rights provide tools which the poor and the marginalised can use to empower themselves in
their efforts to reach out of the circle of deprivation they find themselves in. The Millennium Declaration
acknowledged this fact:

“An adequate conception of human development cannot ignore the importance of political liberties and democratic freedoms. Indeed, democratic freedom and civil rights can be extremely important for enhancing the capabilities of people who are poor. They can do so directly since poor people have strong reason to resist being abused and exploited by their employers and politicians, and they can do so indirectly, since those who hold power have political incentives to respond to acute deprivations when the deprived can make use of their political freedom to protest, criticize and oppose.”

Women’s Rights and Development

“Most of the world’s poorest people are women. What makes them poor is the discrimination they face because of their gender.”

A key contribution that human rights thinking has made to development relates to the issue of women’s
rights. Women’s rights have become a key component of the international human rights framework. Since
the adoption of the Convention on the Elimination of Discrimination against Women (CEDAW) the
international community has devoted ever increasing attention to women’s rights. The number on local and
international NGOs inspired by the women’s rights movement has grown drastically, including in the
developing world.

What has this international attention and grass roots women’s rights movement contributed to the
development agenda? I would suggest that women’s rights has increased the awareness of a number of
factors related to development. These include the following:

(i) that women have not benefited from development processes, projects and programmes to the same extent as men;
(ii) that women are very often not included in the planning or implementation of development;

7 Regan C., op cit., p.223.
9 UN General Assembly Res. 55/2 (2000).
that development programmes have sometimes impacted negatively on the human rights of women.

Indeed some research has indicated that poverty is affecting women to a greater extent than man. The phenomenon referred to as the ‘feminization of poverty’ indicates that women are affected by a higher incidence of poverty and also that women’s poverty tends to be more severe than that experienced by men. It has been suggested that some of the reasons underlying this phenomenon are in fact a denial of human rights to large categories of women. Amongst the human rights abuses that are connected to the feminization of poverty are a lesser access to food, education and healthcare relative to men and also certain legal and societal structures that disadvantage women such as unequal inheritance rights or unequal payment for labour.

The comments above highlighted some (and only some) of the ways in which human rights approaches to development can impact on each other. In particular the focus has been on the ways in which human rights can enrich and to an extent democratise the development process. The scope of this paper is naturally too limited to enter into a detailed analysis of the relationship between human rights and development. What I focused upon are the elements which I consider to be most important in the interplay between development and human rights, namely the shift to a more rigorous analysis that a legal framework enables; the role of civil and political rights within development (an area which is so often neglected); and the role of the women’s rights movement in spurring the gender and development discussion.

**Human Rights and the MDGs**

The Millennium Declaration referred to human rights in its preamble where freedom was placed first in the list of values that underpin the Declaration:

“Men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice. Democratic and participatory governance based on the will of the people best assures these rights.”

In the UN MDG Reports however little or no attention is paid to civil and political rights. In the 2007 UN MDG Report which is, in effect, the UN’s interim report (given that the MDGs span the period 2000-2015) no reference is made to the term ‘human rights’ at all. There are two references to the word ‘rights’ in the whole document. One reference is in page 30 where the availability of jobs for young people is being discussed. Here the report states that the jobs in developing states available to young people are ones with “meagre earnings, reduced labour protection and diminished rights”. The other reference to the word rights is on page 36 where the UN asserts it’s copyright over the report and states, “All rights reserved.”!

Unfortunately the development community at large still seems to eschew normative language and displays a continuing preference from non-normative terminology. There seems to be a preference for terms such as good governance and local participation which although closely connected to human rights avoid the ‘rights-duty’ language which must lie at the heart of any legal process. Philip Alston makes this point:

“Terms such as governance, equity, participation, dignity have much to be said for them but unless rooted in identified standards their meaning is conveniently open-ended, contingent, and too often subjective”.

For states the attraction of employing such words is obviously great. The looser the words the less likely it is that they will have to keep to their promises. If the language employed is precise legal terminology operating at the level of rights and duties then states (and the international community as a whole) will not, in the case of failure, simply be portrayed as having failed in achieving a goal or an aim but of having breached an obligation. The difference is therefore not simply one of words but of consequence too.

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Within the MDGs themselves one may detect an inherent tension with human rights. The title itself refers to Goals and not obligations. Some of the targets are couched in terms which imply a continuing violation of human rights for at least part of the word population. A concrete example may be given by referring to Goal No. 1. This Goal states:

- Reduce by half the proportion of people living on less than a dollar a day;
- Achieve full and productive employment and decent work for all, including women and young people;
- Reduce by half the proportion of people who suffer from hunger.

Within this one goal we have the acknowledgment that for half of those living in poverty and in hunger there will be no fulfillment of the right to food, housing or sanitation. The goal is admitting that for the ‘other’ half of the world living in hunger there will be a continuing violation of their right to food (article 25 of the Universal Declaration of Human rights and Article 11 International Covenant on Economic Social and Cultural Rights).

Defenders of the MDGs point out the fact that the economic and social rights that are closely connected to the MDGs are couched in terms of a progressive realization of such rights. The argument made in this case runs as follows: the rights to food, health, sanitation and more are rights capable of progressive realization and thus to be fulfilled over a period of time. In effect this is the same attitude taken by the MDGs. In defence of this argument one may refer to Article 2 of the International Covenant on Economic, Social and Cultural Rights which states:

"Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."

Another of the key critiques levelled at the MDGs from the human rights community is based on the perceived lack of enforcement mechanism/s pertaining to the Goals. Human rights lawyers, academics and activists have constantly criticised the international enforcement mechanisms available in human rights law. Slowly (in some cases very slowly) these mechanisms have either been sharpened up (as in the case of the various human rights committees established under the auspices of human rights treaties) or created afresh (as in the case of the International Criminal Court). With the MDGs there is no international mechanism that can effectively monitor and enforce the goals. What is even more disturbing for human rights advocates is that even on the domestic level MDG monitoring and reporting mechanisms are poor:

"The existing arrangements for reporting on progress made in relation to the MDGs are relatively primitive and not especially convincing by most standards. As noted above, some 60 national MDG reports have now been completed. Notwithstanding rhetorical insistence that such reports will play an important role at the national level, their main ‘consumer’ seems to be the UN Development Programme which has a procedure for assessing the reports ‘especially with regard to participation, disaggregation and presentation’."

Human rights activists and lawyers have built considerable expertise at the national and international level on reporting mechanisms. The shadow reports produced by human rights NGOs in the context of the national reports presented periodically by states parties to the UN human rights treaties are one instance of such expertise. These reports have on several occasions highlighted sloppy statistics or misleading information provided by states in their national human rights reports. MDG reporting is not immune to statistical deficiencies. Indeed some have commented that “ongoing lack of reliable data or statistics continues to undermine MDG monitoring and UN progress charts are peppered with phrases such as ‘insufficient data’…” In this context using human rights - ‘inspired’ shadow MDG reporting could be one way in which

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13 Regan C., op. cit. p.219.
to address these difficulties. Greater coordination by the development community and the human rights community would clearly be useful also in this perspective.

The MDGs have focused, at least in terms of public awareness, on the reduction of poverty. The Making Poverty History Campaign was a key example of MDG marketing. Setting aside the net effect of such publicity campaigns on the ground, it is clear that poverty has been firmly established as an item on the agenda of the international community and also to an extent in the public consciousness. This in turn has led to an examination of poverty from several angles. From a human rights perspective there are a number of issues that arise with respect to poverty. Some of these issues may be summarised in these two broad themes:

i. the relationship in the values base that underlies the fight against poverty and the struggle for human rights; and

ii. the question whether the existence of poverty is itself a denial of human rights.

On the first issue it is clear that poverty is a denial of human dignity and that this human dignity is the cornerstone of human rights. The Universal Declaration in its Preamble speaks of the “recognition of the inherent dignity …of all members of the human family”. Poverty is perhaps the term most associated with the lack of human dignity. Images of the starving, the dying and the dispossessed immediately evoke a response from the international community precisely because they are against our most fundamental notions of the intrinsic worth of the human person. The Vienna World Conference on Human Rights highlighted this point by stating that “extreme poverty and social exclusion constitute a violation of human dignity.”

The second question is of a more complex definition. It has become fashionable to state that poverty is a denial of human rights. In principle this is clearly true. After all do we not have the right to food, the right to sanitation and the right to housing as part of economic and social rights embedded in international human rights treaties? At a deeper level of analysis the statement that poverty is a denial of human rights may be a more difficult proposition. Philip Alston has commented on this issue and suggests that while in certain contexts the statement is valid, at the same time “in legal terms this maxim is true to the extent that a government or other relevant actor has failed to take measures which would have been feasible (‘to the maximum extent of available resources etc. as the language of the ICESCR puts it) and which could have had the effect of avoiding or mitigating the plight in which an individual living in poverty finds him or herself.” One can argue that in most cases (certainly in all of the developed countries and in most developing states) states can take some if not all steps with their available resources to fulfil or start fulfilling the relevant rights.

Finally a thought on how human rights changes our thinking vis a vis poverty. A human rights approach to poverty reduction places the poor not as victims that are targets of poverty-reduction programmes but as full participants. Human rights thus bring a participatory approach to the fight against poverty.

“The notion of participation is at the centre of a human rights-based approach to poverty reduction. The poor must be considered as the principal actors of development; they can no longer be seen as passive recipients; they are strategic partners rather than target groups. Human rights change in a fundamental way the relationship between service providers and service recipients, and between claim-holders and duty-bearer”.

Conclusion

Naturally in the confines of this paper a number of pertinent points had to be omitted (for instance the role of corporations which are relevant to human rights and the MDGs). This paper only sought to comment on some salient issues in the ongoing debate between human rights and development. In concluding however there is one point of convergence that needs to be stated.

The struggle for universal human rights and the efforts to achieve the MDGs have one common characteristic which I have failed to mention so far. This common thread is the long road still to be covered in fully realising the rights and goals that have been established and set. The human rights situation in Darfur should be enough to illustrate the magnitude of the problem in the efforts to stop massive and gross violations of human rights. In the case of the MDGs the gap between the goals and the progress achieved is equally wide:

Sub-Saharan Africa is the epicenter of crisis, with continuing food insecurity, a rise of extreme poverty, stunningly high child and maternal mortality, and large numbers of people living in slums, and a widespread shortfall for most of the MDGs."16

In this context discussions around the interplay between human rights and the MDGs may seem inapposite. However, an exploration of the ways in which the MDGs and human rights may reinforce each other may be one of the avenues which lead to a fuller achievement of the rights and goals the international community has established and set.