



Human Rights and Poverty Reduction *Realities, controversies and strategies*

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Introduction

In January to March 2005, the Overseas Development Institute (ODI) will host a series of lunchtime meetings to examine the relevance of human rights in poverty reduction. It will build on the 1999 series that ODI held at a time when a growing number of aid agencies, including the UK Department for International Development (DFID), were starting to develop and adopt policy statements on human rights. (For a synthesis of findings from the series, see Maxwell, 1999.) The end of the Cold War, the growing consensus on a multi-dimensional conception of poverty as central to development, and greater attention paid to state institutions created a favourable context for making use of the international, regional and national human rights frameworks as a part of mainstream development and humanitarian assistance.

There have been major achievements since that time, with human rights and development/humanitarian action now recognised as mutually reinforcing rather than separate domains. For example, widely accepted now are: the importance of equality and non-discrimination; the equal status of civil/political and economic/social rights; and the need for genuine participation and accountability mechanisms. In 2003, the UN agreed a landmark interagency understanding on the definition of a 'human rights-based approach to development' (UN, 2003), providing a shared reference point for NGOs and governmental agencies serious about linking human rights to their poverty reduction initiatives.

The need for this series was, however, prompted by the awareness of a continued disconnect between the human rights and aid communities, and the recognition that there were conceptual and operational divergences between the two fields, as well as a lack of mutual understanding. As Peter Uvin noted recently in *Human Rights and Development*, 'As I wrote this book, I was surprised at the amount of skepticism, if not outright hostility, that still prevails in much of the development community toward human rights.'

ODI's work on the adoption by development and humanitarian actors of human rights-based approaches has reached a similar set of conclusions: whilst there have been a significant number of high-level commitments in favour of human rights over the last decade, translating these commitments into practice faces a number of constraints. Some obstacles may be technical or a result of a difference of language: both human rights and aid discourses can be impenetrable; non-lawyers may have difficulties understanding human rights concepts; development and humanitarian jargons can be confusing. Other challenges are political: some governments may not wish to be held accountable on the basis of their human rights obligations.

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Yet there are also a number of fundamental issues still to be addressed. Much more needs to be done to learn from experiences where human rights have been successfully integrated into development/humanitarian policy and practice, and to examine what the impacts of these cases have been. There also remain genuine intellectual controversies – concerning, for example, the affordability and enforcement of economic and social rights, or the value of human rights standards in guiding aid partnerships. As the title of the series suggests, we are aiming not just to review realities and controversies associated with human rights, but also to identify practical strategies that humanitarian and development actors can put into effect.

This meeting series will bring together leading experts from different, and often opposing, perspectives to promote constructive dialogue and enhance mutual understanding. The underlying issues for debate revolve around the multi-disciplinarity of human rights. In particular, lawyers and economists seldom read each others' work, let alone speak to each other. Peter Uvin concluded that: 'One of the most important challenges facing scholars and activists is to develop a language, a framework, a methodology for conversations between economic thinking and rights thinking' (Uvin, 2004). The series will seek to contribute to this dialogue covering a range of disciplines.

DFID is one of a limited number of bilateral agencies committed to adopting a human rights approach to development and is sponsoring this series. Its 2000 Target Strategy Paper, *Realising Human Rights for Poor People*, is often quoted in policy and NGO circles. A recent ODI review of DFID's human rights work (Piron and Watkins, 2004) showed that it had undertaken a wide range of policy, programme and project initiatives in this area. The review also highlighted the significant challenges that remained for DFID in implementing its policy commitments on human rights. With the establishment of a new DFID policy team on Exclusion, Rights and Justice in July 2004, DFID is furthering its approach and examining a number of topics, in particular in relation to the Millennium Development Goals, which constitute the organisation's corporate policy framework.

This series is also an opportunity to launch ODI's Rights in Action Group, a multi-disciplinary team of researchers aiming to identify the practical contribution of rights to development and humanitarian assistance. Our aim is to better understand the impact of 'rights claims' on policy-making and livelihoods struggles. Our framework, derived from ODI work on the relationship between human rights and livelihoods (Moser and Norton, 2001), is not limited to human rights. The starting point is a number of 'rights regimes' (from the international human rights regime through to statutory, customary and even local 'living' laws), which thus links international standards and principles with the struggles of the poor and excluded. These different rights and entitlements can contribute to poverty reduction and ground the provision of humanitarian assistance – but not always. Those that advocate in favour of the adoption of 'rights-based approaches' need to reflect on both the strengths and limitations for poverty reduction and humanitarian protection, of rights conferred by citizenship and of locally developed norms, as well as of international and regional human rights standards.

Topics

The series topics, as detailed below, both reflect the current interests of ODI and DFID and provide opportunities to examine some of the challenges set out above. Each session will bring together speakers from different professional backgrounds or perspectives. Presentations and summaries of discussions will be made available on the ODI website. In addition, a number of short background notes will be produced during the course of the series and made available before the relevant meeting.

1. Human rights and the Millennium Development Goals (MDGs): contradictory frameworks?

Date: Monday 10 January 2005.

This introductory session will debate the extent to which human rights and the MDGs are compatible frameworks, where they differ, and where they complement one another; the MDGs are the framework used by development agencies to mobilise and assess the impact of their resources. During 2005, progress towards meeting the goals is being reviewed (ODI is organising a meeting series to contribute to this).

The MDGs are not explicitly phrased in a human rights language, reflecting more generally the continued distance between development and human rights noted above. They are sometimes presented as identical to the international human rights framework, by drawing on their origins in the international UN conferences of the 1990s. Others note the divergences: in particular, the MDGs are pragmatic and political commitments rather than legally binding obligations for states; they are global, quantitative targets rather than an attempt to achieve the full realisation of individual rights; they do not include civil and political rights; they both are too ambitious and unrealistic and at the same time lower some existing international commitments (Alston, 2004). It is argued that the MDGs, written in the 'development-speak' of the OECD development committee, need to be read in conjunction with the Millennium Declaration, a more traditional UN document referring to normative values.

Highlighting the contradictions between the frameworks may not necessarily be helpful: what is probably needed is to see how the powerful political commitments behind the MDGs can be harnessed to realise human rights for all. At the same time, it is clear that development discourse should not and cannot be limited to the MDGs. This meeting will examine how human rights, far from diluting the MDGs by 'adding' new considerations, can contribute to enhancing them and development policies more generally. This meeting, and the series as a whole, will examine some of the benefits suggested by Philip Alston: 'the advantage of building upon legal obligations already voluntarily undertaken by governments which have ratified human rights treaties; the mobilizational potential of rights discourse; the added value and credibility brought to the MDGs by applying norms of non-discrimination and equality to ensure that aggregated approaches do not neglect individuals; the specificity given to vague terms such as participation and empowerment when particular civil and political rights norms are invoked; the potential role of human rights institutions which already exist at the national level in many countries; and the potential contribution of increasingly sophisticated international accountability mechanisms in the human rights arena'.

2. Economic and social rights: legally enforceable rights?

Date: Monday 17 January 2005.

Whilst the Millennium Development Goals have set out a number of human development targets, there are also specific international, regional and domestic legal human rights standards in the economic and social realm, in particular with regard to health and education. Does a human rights approach require aid agencies and others to pay greater attention to the justiciability, or legal enforcement, of economic and social rights, rather than just the MDGs? Or, should this type of strategy be secondary to getting right the overarching policy

frameworks, such as those found in poverty reduction strategies, on the basis of which aid is increasingly being provided?

The legal status of economic and social rights is contested; even international human rights lawyers disagree amongst themselves. Others are highly sceptical of the relevance of international, regional or national legal mechanisms in achieving poverty reduction. Legal norms and institutions may not be adequate or sufficiently accessible to the poor. Yet, constitutional jurisprudence in particular can play an important role in guiding and checking policy-making and budgetary allocations. Public interest litigation can also provide redress to some of the poorest and most excluded groups. What are good examples from recent practice in the area of legal enforcement? Should poverty reduction strategies be seen as more effective than relying on the courts and quasi-judicial bodies? How can these approaches be seen as complementary? The example of Uganda's poverty reduction strategy, its newly revised Poverty Eradication Action Plan, will be used to reflect on the relationship between these different approaches.

3. Reconciling rights, growth and inequality

Date: Tuesday 25 January 2005.

Whereas civil and political rights are generally accepted by economists as legitimate and valuable, there is still a great reluctance to accept that economic and social rights may be affordable and may serve as useful guides to resource allocation and policy-making. For example, labour standards are often seen as reducing economic competitiveness; social protection expenditure is seen as unproductive.

This session will complement the session on legal enforcement of rights by focusing on the impact on growth and inequality of meeting rights claims and of redistribution. In particular, it will examine the relationship between growth, poverty reduction and tackling inequality, drawing on available evidence of the constraints on growth posed by high levels of inequality (Anderson et al., 2004). It will also reflect on the relevance of rights discourse in economic decision-making, in particular in relation to labour standards. It will aim to identify arguments and tools that can be put forward in order that economists take rights claims seriously, thus responding to Uvin's challenge.

4. Can human rights make aid agencies more accountable?

Date: Monday 31 January 2005.

The practical implications of integrating human rights into the work of development agencies are not clear for many, and there is still strong resistance to doing this amongst staff. In particular, there is a perception that a human rights approach may not sit well in the current aid effectiveness consensus, which prioritises 'partnership' and 'national ownership' in order to achieve poverty reduction objectives (Piron, 2004). As agencies are increasingly aiming to align their aid with state policies and systems, introducing human rights into the relationship may be seen as bringing in unacceptable political conditions that will undermine poverty reduction efforts. At the same time, though, building on the existing human rights obligations of partner governments can be seen as respecting national ownership, and may have the potential to strengthen development outcomes. A key challenge is the ability of agencies to address the political dynamics associated with rights-based work, including creating 'new alliances and partnerships with a much broader range of actors' (Uvin, 2004) whilst improving the quality of aid delivery.

Human rights obligations can be applied to both sides of a partnership; for example, the 2004 UK–Rwanda Memorandum of Understanding which grounds the aid partnership sets out shared UK and Rwandan commitments to the promotion and protection of the full range of human rights for all Rwandans, especially the poor. There is thus an opportunity for human rights to assist in making agencies more accountable, in particular to the citizens of partner countries. Can this accountability be strengthened by identifying some of the legal human

rights obligations of aid agencies? Or will it lead to increases in the use of political conditionalities? The meeting will analyse which legal human rights obligations may affect DFID's own work, including the UK Human Rights Act.

5. Why the human rights approach to HIV/AIDS makes all the difference

Date: Monday 7 February 2005.

The early years of the AIDS pandemic revealed a whole panoply of discriminatory, stigmatising, racist, xenophobic, sexist and homophobic prejudice. Because effective prevention was hampered, a veritable toolbox of international human rights guarantees has emerged in the past two decades through the joint efforts of the medical and legal professions. There has been a mixed record in shifting government policies from violating to protecting individual rights and freedoms, and application to development policies is, at best, fragmentary. Extensive research on the process of impoverishment exacerbated by HIV/AIDS necessitates policies that merge three components into a comprehensive strategy: preventing HIV transmission; respecting human rights; and halting and reversing impoverishment.

This meeting will identify best and worst practices in order to single out the impact of institutionalised human rights violations and, conversely, beneficial effects of approaches based on human rights for dealing with the HIV/AIDS crisis. It will examine ways in which to overcome some of the public health dilemmas, for example ways to balance compulsory testing with individual rights, and lessons from successful NGO campaigns.

6. Rights and natural resources: contradictions in claiming rights

Date: Monday 14 February 2005.

This session will use the forestry sector to provide a case study of the conflicts and contradictions associated with claiming rights associated with natural resources. A key issue is how to arbitrate and resolve competing *de facto* and *de jure* claims over scarce resources. The formalisation and enforcement of rights may not have pro-poor consequences. Forest laws may aim to confer on the poor rights to access forest resources, but complex regulations and vested interests can both impede and subvert the rights conferred. Many informal rights mechanisms are based on systems of social and political networks, which can have some benefits, such as flexibility and adaptability to local contexts. At the same time, formal procedures that establish legal resource titles are often excessively bureaucratic, costly and not accessible to the poor.

This meeting will illustrate these dilemmas by discussing the role of intermediaries and public scrutiny mechanisms. These bodies (such as independent monitoring, audit requirements, citizen bodies, the media and advocacy organisations) can enable access for the poor to decision-making processes and in the claiming and defending of rights (Brown and Luttrell, 2004). But what is their effectiveness as a means to claim, defend and enforce the rights of the poor? And what risks are there that such mechanisms might compound injustices?

7. Protecting rights in conflict situations and fragile states

Date: Monday 28 February 2005.

Violent conflict situations pose a number of different challenges in the realisation of rights. A central question is, of course, how rights can be protected in the context of war, when civilians may be targeted. There are also issues associated with the role of human rights in conflict prevention: lack of respect of rights is often identified as a root cause of conflict (e.g. systematic discrimination of particular groups). At the same time, rights claims can be seen to intensify tensions. Similarly, concerns for justice and human rights are sometimes seen as a hindrance when peace negotiations are underway; others argue that they are necessary for sustainable peace. The need to demonstrate the centrality of human rights standards and

principles in such situations has taken on an additional degree of urgency in the face of the 'war on terror'.

In post-conflict situations and fragile states, a particular concern relates to the ability of the state to protect citizens. Here, state obligations take on a real meaning, as institutions start to be re-established but may yet be too weak to offer adequate protection. International agencies could substitute for the state for too long, and delay the establishment of a social contract with citizens. Non-judicial mechanisms may be required to start building up public accountability and providing remedies (e.g. media, local communities asserting claims). There are also a number of legal and policy dilemmas relating to human rights standards. Should donors and the human rights community insist on standards being met, or are there approaches which can help manage the process by making it clear which rights are to be prioritised in such circumstances? When is it permissible for post-conflict states to derogate from core human rights obligations (as in the case of Rwanda, regarding prisoners in the post-genocide period)? If this is acceptable, for how long can such derogations be permitted?

8. Advocates or aid workers? Approaches to human rights in humanitarian crises

Date: Monday 7 March 2005.

The human rights and humanitarian agendas share a great deal: both are concerned with protecting people from the threat of violence, coercion or deliberate deprivation; both invoke the law designed to protect people against such threats and to hold the parties concerned responsible; and both are governed by broadly compatible principles. It is in the relative priorities of each agenda, and in the means by which they are pursued, that a potential divergence arises (Darcy, 2004).

Two contrasting approaches to human rights in humanitarian crises dominate current practice. The first is that adopted by humanitarian organisations such as Save the Children and UNICEF through a 'rights-based approach to humanitarian programming'. In this view, human rights and humanitarian agendas are seen as complementary, with the common goal of protecting and promoting children's rights in emergencies. The second approach is that exemplified by organisations such as Médecins sans Frontières, in which the role of humanitarian action – through, for example, the provision of basic health care – is essentially to fill the void between human rights rhetoric and reality.

These different approaches raise questions: about the extent to which human rights and humanitarian action form a common, complementary or conflicting agenda; about the significance of human rights in crisis situations; and about whether human rights talk makes a difference to humanitarian action – and to real people.

9. Rights to water: strengthening the claims of poor people to improved access

Date: Tuesday 22 March 2005 (World Water Day).

If the number of poor people without access to safe drinking water and basic sanitation is to be reduced by half in the next decade, current sentiments have to be converted into concerted action. At present, the pace of change is not nearly sufficiently rapid to meet the challenge. This final session will consider how promotion of human and other 'rights' (i.e. contractual and property rights) to water can contribute to the achievement of the MDGs water targets.

Whereas the goal of filling gaps in water services is generally accepted in development circles, the initiative of the UN in 2002 to further the human 'right to water' (as an economic, social and cultural right) has been met with widely divergent responses, including amongst water specialists (Newborne, 2004). In this context, it is important to consider how discourse on 'rights' to water is being converted into practice. This meeting will examine the case of South Africa, which provides an illustration of the steps required to implement the right to water: this human right has been entrenched in the constitution, and national water law and

policy include measures designed to provide a free basic water supply for all. The opportunities presented and difficulties encountered by this initiative can provide lessons for other efforts. Other practical aspects of rights' implementation include identifying the 'channels of contestation' (as described in Moser and Norton, 2001) that may be effective in giving voice to poor and marginalised people: alternative pathways to success in claims for improved access to water resources (for both domestic and productive uses).

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