

Introduction

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The contributions to the Human Rights and Poverty Reduction meeting series are a rich source of ideas and information. It would be difficult to do full justice to these. This introduction will therefore simply synthesise the main debates that emerged during the course of the series and reflect on whether it achieved its three main objectives:

- i. To stimulate debate regarding the realities of the relationship between human rights and poverty reduction.
- ii. To provide space to discuss some of the controversies.
- iii. To generate constructive ideas about possible strategies for implementation of rights-based approaches to development.

1. Realities

As emphasised by a number of the speakers (Maxwell, Archer, McKay), a consensus now exists that development can no longer be narrowly conceptualised as economic development or growth. Development is instead understood as meaning human development. Accordingly, the effectiveness of development interventions and outcomes is measured by their ability to respond to the multidimensional nature of poverty. Once framed in these terms, human rights become a constitutive element of development and human rights violations become both a cause and symptom of poverty. Many of the meetings were instructive about the scale of the denial of human rights that lies buried under the canvass of poverty: the 8000 people who die everyday because they have AIDS but have been denied the necessary education or treatment; the inability of a vast number of children in China to access their right to education simply because they are internal migrants; the acts of commission or omission on parts of governments that lead to the denial of basic rights such as the rights to water, food or shelter.

However, it is also the case that there is continuing suspicion about the appropriateness and practical value of a human rights perspective within the development field. The infrequency of the interdisciplinary conversations between development and human rights professionals has served to heighten this suspicion. This lack of dialogue is particularly acute in some areas. Part of the reason for this relates to the challenges associated with multidisciplinary dialogue and work. As emphasised by Robert Archer, there are complex cultural and intellectual issues involved in bringing together human rights and other development discourses at both the analytical and operational levels owing to the absence of reciprocal knowledge about the history and internal debates of other disciplines. There are also challenges resulting from what are sometimes fundamental differences in approach. Katarina Tomasevski contrasted the pessimistic nature of human rights professionals, who by nature look for abuses of power, with the optimism of their development counterparts, who need to believe that progress is possible. Robert Archer and Peter Uvin both made the point that the human rights framework only allows us to think in one tense; it is absolutist and therefore has difficulty in dealing with the trade offs and deferred progress inherent in development processes.

2. Controversies

Inter-disciplinary controversies

Therefore, despite the growing evidence regarding the relationship between human rights and development, the existence of seemingly intractable interdisciplinary positions and irreconcilable differences means that the relevance of human rights to development theory and practice remains controversial. Three meetings in particular embodied this point.

As a professional group, economists wield a considerable amount of influence over which development discourses are dominant. There exists a generally held belief that human rights are not affordable and that, by introducing perverse incentives, they will impinge on economic efficiency and growth, and therefore the achievement of development objectives. The meeting on 'Reconciling Rights, Growth and Inequality' addressed this issue. Drawing on the work of Amartya Sen, Andy McKay argued that, whilst important, growth is not an end

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in itself. Instead, it is a means for achieving other objectives, in particular the expansion of rights and freedoms. He also stressed that, whilst trade-offs certainly existed, these are not inevitable; rights were not necessarily in conflict with growth and can in fact help to promote it. The language of inequality and discrimination provided an important basis for dialogue. Similarly, Bill Brett made the case that workers rights are affordable and, rather than using development and globalisation as justification for the suppression of workers rights, there is a need to anchor them in the ILO concept of ‘decent work’.

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The possible tension between a human rights approach and the approach of other professional groups appeared acute in two other related meetings: one on protecting rights in conflicts and fragile states and another on humanitarian crises. In both meetings the difficulty of combining multiple objectives and roles was stressed. The different scope and time frames of the human rights and humanitarian frameworks poses a challenge: the indivisibility of human rights was presented as necessarily leading to a wider agenda than the humanitarian’s primary concern with basic subsistence and safety. Humanitarians also expected these to be achieved in shorter periods than envisaged for the fulfilment of economic and social rights. Other tensions also emerged. Andy Carl suggested that, in conflict situations, the roles of the convenor – who brings together opposing parties – and human rights advocate – who lobbies for a particular position – could not be combined and that, when attempted, it was the power to convene that was usually lost. Similarly, Andrew Bonwick argued that, whilst humanitarian advocacy – involving both negotiation and, where effective, denouncement – was an essential element of humanitarian action, human rights advocacy – advocating specifically for the fulfilment of human rights – was not necessarily a compatible or effective companion. Furthermore, both speakers claimed that there are difficulties in simultaneously working towards the goals of justice and peace. Anneke Van Woudenberg took another position. She argued that justice versus peace is a false dichotomy and that justice *can* be promoted in difficult conflict situations. More fundamentally, she suggested that the context in which humanitarians work has changed, that new strategies are required in responding to this and that a human rights-based approach has much to offer.

Conceptual controversies

Human rights are conceptually challenging. It is therefore not surprising that several conceptual controversies surfaced during the meetings. Two will be highlighted here. As already suggested, a number of difficulties arise from the absolutism of human rights, particularly in the context of development processes that demand difficult choices to be made. However, whilst such trade offs are real, a number of the speakers argued that this does not necessarily invalidate a human rights-based approach to development. As highlighted by Christine Chinkin, the need to prioritise is, in fact, recognised within human rights discourse through the concept of the ‘progressive realisation’ of economic, social and cultural rights. Nevertheless, she also emphasised that some rights are not subject to progressive realisation and that states therefore have an immediate obligation to realise them. These include minimum core standards and non-derogable rights such as non-discrimination. Other speakers (Archer, Tomasevski) presented such absolutes as a strength of the human rights framework, precisely because they could act as a corrective to development trade-offs, not least by prioritising the position of the most marginalised within communities. In the context of such debates, Adrian Wood highlighted the benefits of mutual engagement by suggesting that human rights professionals can learn something from economists about trade-offs and, conversely, human rights professionals can contribute to how economists think about outcomes.

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The second reoccurring conceptual controversy related to the role of non-state actors and their potential to both contribute to and frustrate the realisation of human rights. One of the central stands in this debate was the prominent position of international actors vis-à-vis domestic actors within developing countries. The validity of the human rights framework is partly dependent on the identification of an agency that has a duty to fulfil a corresponding right. That this is usually the state is problematic because, in developing countries, the state is often weak or, in some cases, virtually absent and is therefore unable or unwilling to meet its human rights obligations. A second problem is that there exists a host of other actors operating in developing countries, such as international financial institutions, who are prominent but who are not formally identified as duty-bearers.

An example was provided by Christine Chinkin. She noted that post-conflict situations are instances of extraordinary international intervention in the affairs of another country. The

prominent place given to human rights in post-Cold War peace settlements has largely been a reflection of the priorities of the international mediators rather than the result of domestic consultation. More disturbing is that the international bodies acting within a newly-constituted state do not themselves always give priority to those commitments that they insist the state respects and, in extreme cases, may themselves violate human rights standards. Other speakers also provided examples of the ability of external actors to shape development agendas. Lyla Mehta spoke about “‘behind the border” policy convergences’ which allow international financial institutions to exert considerable sway in relation to domestic policy. The contested nature of the meaning of some rights, in this case water, has meant that the dominant development players have had considerable influence in the debate about what water is and how access to it should be implemented. Mac Chapin also posed some challenging questions about who has the ability to frame development debates, using the marginalisation of indigenous peoples by large conservation organisations to vividly illustrate the point.

The important point here is that the strength of the human rights framework in establishing accountabilities is considerably weakened if it is not possible to hold the dominant actors to account. As key development actors, the lack of accountability of bilateral and multilateral donors to the recipients and beneficiaries of aid is therefore troubling. However, whilst most donors are unwilling to accept legal obligations under the human rights framework, human rights can contribute in other ways to increased accountability within development practice. Owen Davies used the Pergau Dam case to demonstrate that, even if a direct human rights challenge is unlikely to be effective, it is still possible to use legal argument to hold an aid agency to account in relation to human rights concerns. Considering the ways in which donor agencies use human rights within their development assistance, Peter Uvin claimed that it is only at the level of a human rights-based approach that a significant change in accountabilities occurs. This is both in terms of donors own internal accountabilities and, more fundamentally, by building domestic accountability between state and citizen in developing countries through a focus on institutions and processes. This is clearly important given the potential for aid to undermine domestic accountability by reinforcing external accountability relationships

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Controversy in practice

The meetings did not only attend to conceptual issues; they also considered the practical application of human rights within development. As might be expected, there was plenty of controversy here too. Again, two will be highlighted.

The legal framework is a pivotal element of the human rights construction. A number of speakers suggested that this presented a challenge because the legal framework itself can be problematic in some sectors and in some countries. In the case of the forest sector, David Brown explained that, as forests are usually perceived as being a sovereign resource, national law is primary and international law is usually not applicable in relation to individual claims. Even when domestic legal channels are available, the reality is that many poor people are unable to access the legal system. Lyla Mehta pointed out that this can be because they are poorly informed about their rights – although, as John Mackinnon observed, when there is high-level political commitment it is possible to make entitlements widely known even in low-income and primarily rural countries, as demonstrated by the demand for universal primary education in Uganda. However, both speakers also suggested that, even when poor people know about their rights, they may lack the resources to seek legal redress or, conversely, the justice system may lack the capacity to cope with the demands placed upon with it, with Rwanda being a case in point.

Despite such difficulties, a number of the speakers established the value and uses of the law. Andrew Bonwick outlined three roles for international law, as: a benchmark; a means of assigning responsibility; and a way of adding weight to moral persuasion. Katarina Tomasevski made a strong case for the importance of domestic legal enforcement in the context of development, arguing, *inter alia*, that it has been successful in exposing that discrimination on the basis of characteristics such as gender or race, rather than poverty, often underlies human rights violations. She also claimed that we need law as a neutral arbiter; human rights law does not dictate the design of development strategies but it does provide a yardstick for assessing government performance and establishes the right to challenge and hold government to account when it abuses its powers. Simon Maxwell also noted that, even when justice is not widely accessible, legislation can change administrative practice and affect rights at a local level. Finally, as established by Robert Archer, justiciability is only

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one, and an often subordinate, element of the human rights framework.

Two meetings in the series looked at the practical application of rights in the natural resource sector, with both unearthing issues relating to the implementation of rights. Lyla Mehta reviewed the case of the right to water in South Africa – unusual because the South African government has recognised the right to water and entrenched it in the constitution. Whilst Lyla Mehta applauded this move, she also identified a number of reasons why difficulties remained in the implementation of this right. These included resource constraints and weak institutional capacity. However, importantly, she also stressed that discussions about affordability were not simply technocratic exercises; governments and bureaucracies make political choices about what should be prioritised. The presence or absence of political will is therefore a determining factor in the realisation of rights.

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In many ways the South African case is clearly exceptional but, as elsewhere, it reminds us that that a number of rights regimes are usually in operation and that human rights are often not in the ascendance. This fact seems particularly acute in relation to the natural resource sector. For instance, Bruce Lankford described how the World Bank had supported the introduction of a formal (paper) rights system in South Tanzania but that this programme had failed to meet its primary objectives and had, instead, undermined access to water. Like Mac Chapin, he suggested that the participation of local communities in the design of new systems is essential to ensure the fair and efficient allocation of water for all.

3. Strategies

Although many of the meetings reflected on the difficulties involved in utilising a human rights framework, they also reinforced the benefits of doing so. Robert Archer made the most forceful case, stating that human rights are the most holistic framework for addressing development issues, including new aid modalities: the legal authority, objectivity and political legitimacy of the international human rights system means that its principles and standards provide powerful criteria for assessing development priorities, processes and outcomes. The core human rights principles of equality and accountability could also provide innovative guides for development action. For instance, attention to the rights of the most vulnerable and marginalised individuals and communities is a non-negotiable component of the human rights construction. As Robert Archer observed, adopting a human rights-based approach directs the attention of policy-makers and development planners to the potential losers in the development process, an important gain in the current MDG-dominated landscape. As well as legitimising the claims of the most marginalised, however, the human rights framework also establishes that governments are accountable for meeting such claims and for the losses that may result from development processes. Human rights therefore introduce accountabilities that are absent from discourses grounded in, potentially transient, political commitments. In both respects, therefore, a number of the speakers (Maxwell, Archer, Tomasevski) asserted that the MDGs would be strengthened by rooting them in the human rights framework.

Some speakers in the series went further, however. A human rights-based approach not only suggests new ways of programming but may actually be essential to the success of some development interventions. In the meeting on HIV/AIDS, both speakers constructed a persuasive (and mutually consistent) case for the impossibility of meeting the MDG on HIV/AIDS unless human rights are placed at the core of the approach. They established that HIV spreads in ‘spaces of powerlessness, exclusion, poverty and conflict’ (Dhaliwal) and that particular (marginalised) groups are most vulnerable to infection because poverty, discrimination and other rights violations constitute the biggest barriers to HIV/AIDS prevention, care and treatment. Above all, they argued that the HIV/AIDS epidemic cannot be combated without a holistic approach. This does not mean that human rights necessarily take priority over public health concerns but it does mean that restricting rights in the name of public health must be shown to be absolutely necessary and constitute the least restrictive measure possible. Human rights and public health approaches are therefore complementary: public health programmes cannot be effective in the area of HIV/AIDS if the rights and dignity of the most vulnerable are not respected.

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The meeting on HIV/AIDS provided an example of the contribution of human rights at a sectoral level. However, a more generic and fundamental contribution of human rights to development processes and outcomes was also advanced: human rights are central to building

the types of institutions and processes needed for sustainable development. It is only by directing the lines of accountability inwards to focus on the relationship between state and citizen – the crux of the human rights construction – that developmental incentives will be created and sustainability ensured. This point was made most strongly by Peter Uvin, who argued that the core problem in developing countries is the existence of institutions that systematically create incentives that are anti-developmental. Others echoed this point. David Brown pointed out that, through their attention to processes, human rights can provide a necessary corrective to the overemphasis on outcomes within development. The underlying message was that aid agencies are not able to directly deliver change but, when they work to strengthen accountabilities, they can facilitate those domestic processes that have the potential of doing so.

Finally, whilst the thrust of the series was about how development actors and discourses can engage with human rights, the reverse is also true. For much of the world's population, development processes and humanitarian crises provide the context in which human rights are realised or violated and it is therefore essential that human rights professionals also take development seriously and engage with its ideas and processes. As observed by Andy Carl, if human rights are to play a role in conflict resolution, reform of the UN system – to enable it to be more demand-led and more accessible to local communities – is indispensable. The dysfunctional nature of the international human rights system is a further constraint on the ability of human rights playing a more constructive role within development. The establishment of a Human Rights Council, as agreed at the 2005 UN Millennium Summit, is essential to bolster the credibility of the system.

4. Conversion, convergence or strategic engagement?

Robert Archer outlined two approaches to interdisciplinary engagement: conversion and convergence. Conversion implies that the values and traditions of one discipline are paramount; convergence that different disciplinary foundations are compatible and therefore capable of merging. In its pure form, a human right-based approach demands full convergence because human rights are understood as being constituent of development. This is the position taken in the UN's 2003 Interagency Common Understanding on a Human Rights-based Approach.

This degree of convergence is too much for most development specialists, many of whom dispute the realism and relevance of a human right-based approach to development at both the conceptual and operational levels. However, it is consistent to reject a human rights-based approach but still assert that human rights are nevertheless deeply embedded in the meaning of development and that human rights are important tools for achieving development objectives. Less that a human rights-based approach remains a worthwhile strategy. The dichotomy established by the type of question that asks 'conversion or convergence' is therefore not necessary, but neither is inevitable conflict. A more realistic approach is one of *strategic engagement*. An approach that:

- i. considers whether different disciplines or frameworks share joint concerns;
- ii. identifies way in which they can contribute to the realisation of the other's objectives; and
- iii. establishes complementarities that form the basis for dialogue and joint-working.

The meeting series demonstrated that such strategic engagement between the fields of human rights, development and humanitarianism is not only feasible but in many cases unavoidable if we are to achieve sustainable development outcomes.

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Endnotes

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