

# **Claiming the Millennium Development Goals: A human rights approach**

- Align the Millennium Development Goals with human rights
  - Be transformative, not technocratic
- Prioritize rights
  - Claim the Millennium Development Goals



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## Foreword

The 2007 global snapshot at the halfway point of the Millennium Development Goals (MDGs) did not make for happy reading. Despite progress in some areas and in some parts of the world, it appears that Governments are not honouring the commitments they have made.

Over half a million women still die each year from preventable or treatable complications in pregnancy or childbirth. Child mortality rates remain deeply troubling in Southern Asia and sub-Saharan Africa, and the number of people dying of HIV/AIDS worldwide stood at 2.1 million in 2007, with prevention measures failing to keep pace with the growth of the epidemic. The quantum, quality and predictability of aid remain problematic, as do distortions in international trade. Alarming, sub-Saharan Africa is at present not on track to achieve any of the Goals.

While high economic growth rates drive overall gains in some regions, the rising tide does not lift all boats—not everyone is benefiting. I am not talking merely about pockets of exclusion or so-called vulnerable groups: in many cases entire communities and populations are sidelined. Gross inequalities may not only fuel violent conflict and reverse development gains, as research and experience show, but frequently constitute a violation of the fundamental human rights that are the birthright of all human beings.

So, what can be done about this? Obviously, there are no easy answers in the abstract. Capacity constraints, culturally and historically rooted patterns of discrimination, and plain lack of political will all feature prominently in the matrix of causes, belying any simplistic “cookie-cutter” solutions. The MDGs were intended to be a vital component of our armoury, providing discrete, time-bound and measurable poverty reduction goals around which communities could mobilize and against which Governments could be held accountable. But, disembodied from the human rights context and purposes in the Millennium Declaration, I would question how far the MDGs will ultimately take us.

The international human rights legal framework, to which all States have subscribed, must be seen as part of the solution and the baseline commitment on development. Human rights do not provide all of the answers, far from it, but this publication attempts to illustrate how certain critical gaps in the MDGs edifice can be filled through the application of human rights standards and practices, helping us get to the heart of the reasons for poor performance, empowering people and communities to assert their own claims, and promoting equitable and sustainable results.

I commend this publication to all policymakers, development practitioners and human rights workers committed to sustainable human development and social justice.



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## List of abbreviations

<b>DOTS</b>	directly observed treatment short course
<b>EmOC</b>	emergency obstetric care
<b>HIV/AIDS</b>	human immunodeficiency virus/acquired immunodeficiency syndrome
<b>ILO</b>	International Labour Organization
<b>IMF</b>	International Monetary Fund
<b>MDGs</b>	Millennium Development Goals
<b>NGO</b>	non-governmental organization
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>UNDP</b>	United Nations Development Programme
<b>UNESCO</b>	United Nations Educational, Scientific and Cultural Organization
<b>UN-Habitat</b>	United Nations Human Settlements Programme
<b>UNICEF</b>	United Nations Children's Fund
<b>UNIFEM</b>	United Nations Development Fund for Women
<b>WHO</b>	World Health Organization
<b>WTO</b>	World Trade Organization

## Executive summary

The Millennium Development Goals (MDGs) are time-bound development targets that address many dimensions of poverty, such as hunger, disease, inadequate water supplies and lack of education. The eight Goals place additional responsibility on the international community to assist, particularly in the areas of trade, aid, debt, and access to essential drugs and technologies. The high-level political commitment, the focus on a set number of issues and the creation of a framework for measuring progress have catapulted the MDGs onto centre stage in the development arena. Progress has been made on some of the targets, but the gaps remain daunting.

Human rights have not yet played a significant role in supporting and influencing MDG-based development planning. On the one hand, there are some similarities between the MDGs and human rights. The content of the MDGs partly resembles some economic and social rights, and both provide tools to hold Government accountable. They can also reinforce each other, since MDGs potentially provide benchmarks for economic and social rights, and human rights strategies can offer enhanced legitimacy, equity and sustainability to the types of policies needed to achieve the MDGs.

On the other hand, the MDG agenda has been criticized for departing too much from the Millennium Declaration, from which they were drawn and which contained significant references to human rights. One of the key concerns is that the MDG targets are not sufficiently focused on the poorest of the poor or on inequality within a country—several require only the halving of a certain poverty indicator. A number of MDG targets are not consistent with human rights and potentially diminish gains enshrined in international human rights treaties. For example, goal 2 ignores the crucial requirement of free primary education, which is an immediate obligation in international human rights treaties. Other concerns include the lack of participation of Southern countries and civil society organizations in drafting the Goals and targets, and the lack of effective accountability mechanisms for the MDGs, particularly for donor countries.

These criticisms are not necessarily fatal, however, and the most pressing concern is to effectively apply a human rights approach to MDG-related development planning, monitoring and reporting. While the MDGs are quite fixed at the international level, many entry points remain, including helping shape policy choices, prioritization and trade-offs, and providing guidance on tailoring the MDGs to the national and local context.

This publication sets out a human rights approach to the MDGs, the primary purpose of which is to outline a clear framework of analysis for the development sector, relevant also to the needs of human rights practitioners, identifying entry points at the policy level as well as for country-level programming and advocacy. Practical illustrations are provided throughout, along with suggested additional indicators for particular MDGs, as contributions to sectoral strategies and MDG monitoring and reporting. The analytical framework has four key elements:

1. *Align the Goals with human rights* by harmonizing MDG targets and indicators with human rights standards. This includes ensuring that the targets and indicators effectively correspond to economic, social and cultural rights, that gender equality is mainstreamed, and that efforts are adequately directed towards marginalized and disadvantaged groups.
2. *Be transformative, not technocratic*, by adopting a human rights-based approach to empowerment and participation in target-setting, policymaking and implementation. In order to create the conditions for effective participation and good governance, civil and political rights must be effectively respected.
3. *Prioritize rights* by making policy choices and resource-allocation decisions within a human rights framework. MDG-related policies should do no harm (for example, choosing to build a dam to reach a goal must not violate human rights), be evaluated as to whether they will actually reduce inequality and poverty, and sufficient resources should be provided to reach human rights-consistent goals.
4. *Claim the MDGs* by ensuring enforceable rights, accountability mechanisms and sustainable strategies. The human rights framework offers a relatively objective and comprehensive framework for legal empowerment and accountability, to help ensure that the MDGs are not only reached but that the achievements are sustained after 2015.

Goal 1 calls for the eradication of extreme poverty and hunger and a new target has been added on achieving full and productive employment and decent work for all, although no date is set for its realization. Economic growth is regularly posited as the principal mechanism to achieve this goal, and a human rights approach requires a focus on pro-poor growth and adequate consideration of groups seeking development paths other than the conventional free-market, export-driven model. Equally, it is important to emphasize that civil and political rights must not be sacrificed on the assertion that they impede economic growth, particularly given the lack of empirical evidence supporting such claims.

Goal 2 calls for universal primary education and goal 3 focuses on gender equality in education. The nationally set targets for goal 2 should be adjusted to include free, compulsory and quality primary education to bring them into line with international human rights treaties, and strategies should ensure there is sufficient emphasis on the inclusion of ethnic minorities and children with disabilities. The target of eliminating gender inequality in education is strongly supported by international human rights instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women, which many States have ratified and which provides comprehensive guidance. However, the heading of goal 3 is “Promote gender equality and empower women,” and States have committed themselves to ensuring women’s rights beyond the field of education. These are set out in the above-mentioned Convention and in the Beijing Declaration and Platform for Action, and the Millennium Project’s Task Force on Education and Gender Equality makes a number of salient recommendations.

Goals 4 to 6 are largely concerned with health outcomes—reducing infant and maternal mortality, and reversing the spread of HIV/AIDS, malaria and other diseases. In 2007, a new and welcome target on universal access to reproductive health by 2015 was added. A human rights approach emphasizes the State’s human rights obligations in connection with, among other things, the availability of functioning health systems, and making sure that all groups can effectively access them by addressing obstacles such as discrimination and stigma. Importantly, the target on maternal mortality is more ambitious than others (75 per cent reduction by 2015), but the indicators for this goal are outdated, calling for the use of supplementary sources, notably the 1997 Guidelines for Monitoring the Availability and Use of Obstetric Services. A human rights approach is also crucial to prevention, by addressing the political, social and economic inequalities behind mortality and the disease burden.

Goal 7 is concerned with environmental sustainability although the targets include access to drinking water and basic sanitation and the upgrading of slums. A human rights approach to sustainable development emphasizes improving and implementing accountability systems, access to information on environmental issues, and the obligations of developed States to assist more vulnerable States, particularly those affected by climate change. In addressing the target on water and sanitation, States should ensure that the poorest of the poor and the “hard to reach” are included, and place legislative responsibility on water service authorities to respect, protect and fulfil the right to water. The target on slum upgrading is poorly formulated since it affects less than 10 per cent of slum-dwellers and does not focus on the primary issue of security of tenure. It should also be adapted to national circumstances in order to prevent wasteful and retrogressive policy measures.

Goal 8 places responsibility on the international community to assist developing countries to realize the first seven goals, but unlike the other goals it has no concrete or explicit targets. Developed States should therefore set targets for reducing trade barriers, increasing aid to 0.7 per cent of gross domestic product (GDP) (including 0.15 per cent for least developed countries) and achieving greater debt relief. Developed countries should also ensure that sufficient funding is available for poorer countries to purchase essential drugs and that the flexibilities in the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) for compulsory licensing and parallel importation are not negotiated away in other trade agreements. The MDG focus on small island developing States and landlocked countries needs to be effectively implemented in the area of trade, aid and debt and in promoting new technologies, with emphasis on ensuring that such technologies are responsive and accessible to the countries and groups of people that are the most marginalized.

# I. MILLENNIUM DEVELOPMENT GOALS AND HUMAN RIGHTS: COMPLEMENTARY OR CONFLICTING?

## 1 Background

In September 2000, world leaders made wide-ranging commitments in the Millennium Declaration. The topics included peace, security, human rights, the environment and a number of time-bound development targets. Those targets were later configured into the eight Millennium Development Goals (MDGs). They address many dimensions of poverty, such as hunger, disease, inadequate water supplies and lack of education. Goal 8 places additional responsibility on the international community to assist. The high-level political commitment, the focus on a set number of issues and the creation of a framework for measuring progress have catapulted the MDGs onto centre stage in the development arena.

Five years later, the Millennium Project reported that some progress had been made, though the gaps remained daunting.<sup>1</sup> Many countries are on course to reach some of the Goals by 2015, but large regions are *far off track*. The situation is particularly dire in sub-Saharan Africa. Most of the world is also off track for goals such as reducing maternal mortality and reversing the loss of environmental resources.

Unfortunately, human rights have not yet played a significant role in supporting and influencing MDG-related activities. The content of the MDGs partly resembles some aspects of human rights, but a systematic human rights-based approach to understanding and achieving the MDGs remains an unmet challenge. A study prepared by the Special Adviser to the United Nations High Commissioner for Human Rights on the MDGs found that there was a large discrepancy in the treatment of human rights in MDG reporting and programme content.<sup>2</sup> The independent expert on minority issues came to a similar conclusion.<sup>3</sup> Indeed, the guidance documents from the United Nations Millennium Project often fail to integrate human rights.<sup>4</sup>

However, the Millennium Declaration, from which the MDGs were drawn, made substantial reference to human rights. World leaders committed themselves to respecting “all internationally recognized human rights and fundamental freedoms, including the right to development.” Part was devoted to economic, social and cultural rights, the rights of women, migrants and minorities, and the need to ensure genuine participation. The pursuit of the MDGs in isolation from the Declaration has been questioned from the outset.

Others have challenged the target-driven and technocratic approach to development that is inherent in the MDGs.<sup>5</sup> Concerns have been raised as to whether the MDGs pay sufficient attention to women and marginalized groups, have lowered human rights standards, and properly address national and global power inequities.

At the same time, it has been queried whether the human rights community has adequately engaged with the MDGs. Has this community voiced its approach to the MDGs loud enough and in the right forums? Have development practitioners been provided with the framework and tools they need to apply a human rights-based approach?<sup>6</sup>

The midterm review of progress on the achievement of MDGs offers a fresh opportunity to examine the relationship between human rights and the MDGs. This publication examines three critical questions:

- What opportunities and risks do MDGs present for human rights and vice versa? Are they complementary or conflicting? (Chapter I)
- What is a genuine human rights-based approach to the MDGs? How does it *add* value? How does it *change* values? (Chapter II)
- How can this approach be integrated into the Goals, targets and strategies in order to achieve each MDG? (Chapter III)

It is hoped that this publication will provide a useful starting point for the *development sector* in adopting or refining a human rights-based approach to the MDGs. It could also assist in tailoring a human rights-based approach to specific MDG planning, costing, programming and reporting tools. *Human rights practitioners* should also find an approach that could stimulate more fruitful engagement with development practitioners. Thus, the hope is not only to provoke further reflection but to provide an analytical framework that can be used to put the vision of the Millennium Declaration into practice.

### What are the MDGs?

The MDGs have been heralded as a means for benchmarking and assessing progress on human development. According to the Millennium Development Campaign, policy reforms, institutional change and resource allocations often result from an approach focused on time-bound targets.<sup>7</sup>

The eight MDGs are designed to: (1) eradicate extreme poverty and hunger; (2) achieve universal primary education; (3) promote gender equality and empower women; (4) reduce child mortality; (5) improve maternal health; (6) combat HIV/AIDS, malaria and other diseases; (7) ensure environmental sustainability; (8) develop a global partnership for development.

Although developing countries have committed themselves to mobilizing action for the first seven priorities, the MDGs recognize that poverty can be eradicated only through stronger partnerships between development actors, as well as action by wealthier countries as set out in goal 8. The Goals are accompanied by 18 targets to be reached mostly by 2015 (see table 1). The targets are measured with 60 indicators using 1990 as the baseline, although the relationship between the Goals, targets and indicators is not always clear.

The Goals emerged from a decade-long international debate on poverty and the environment, as well as various attempts to set development targets.<sup>8</sup> After the Millennium Summit, the eight Development Goals were finalized by the United Nations Secretary-General and endorsed by United Nations agencies, the World Bank, the International Monetary Fund (IMF) and the Organisation for Economic Co-operation and Development (OECD).

However, the United Nations General Assembly explicitly mentioned and endorsed the eight MDGs only as late as October 2005. Until then it had focused (and still does) on calling for the implementation and monitoring of all goals and measures in the Millennium Declaration, which go beyond development. Their focus had originally been on the Secretary-General's road map towards the implementation of the Millennium Declaration (A/56/326), which includes potential strategies for action and a list of best practices and innovative paths.

Many United Nations documents note that the MDGs should be considered as *indicative* for country-level monitoring.<sup>9</sup> They emphasize that the Goals should be *nationalized, localized, tailored and contextualized*, and incorporated within existing development plans and strategies. They sometimes suggest that other goals such as those on environment set at the United Nations Conference on Environment and Development or those on reproductive health set at the International Conference on Population and Development can also be used.

A range of activities are generally promoted as part of achieving the MDGs:<sup>10</sup>

- *Tailoring the MDGs to the regional, national and local context.*
- *Undertaking national needs assessments.*
- *Developing policies and costed, time-bound strategies in the context of existing sectoral strategies.*
- *Monitoring progress through yearly MDG reports.*

For example, as part of tailoring the MDGs to the regional context, Caribbean States changed the one-dollar-per-day measurement for target 1.A to a national poverty assessment. In Malawi, a national needs assessment found that US\$ 4,820 million was required to meet the targets related to primary education, health, HIV/AIDS and water, and analysed where increased resources could come from. In Kazakhstan, an integrated water resources management strategy was developed to address a wide number of MDGs.

## What are human rights?

Human rights encapsulate the fundamental interests of human beings grounded in shared ideas about the requirements for a dignified life, which States and others are legally and morally bound to respect and realize.

Historically, legal recognition of specific human rights has resulted from struggles by “powerless” groups in many parts of the world. The most prominent expression is the 1948 Universal Declaration of Human Rights, which recognizes a wide range of human rights. Indeed, the World Bank's *Voices of the Poor*<sup>11</sup> interviews found that the poor defined poverty as disempowerment and their demands read like the Universal Declaration. The Universal Declaration has since been further entrenched and expanded in international law through a range of treaties. Human rights are also set out in many regional treaties and national constitutions.

### Main international human rights treaties

International Covenant on Economic, Social and Cultural Rights (1966)  
 International Covenant on Civil and Political Rights (1966)  
 International Convention on the Elimination of All Forms of Racial Discrimination (1965)  
 Convention on the Elimination of All Forms of Discrimination against Women (1979)  
 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)  
 Convention on the Rights of the Child (1989)  
 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)  
 Convention on the Rights of Persons with Disabilities (2006)  
 International Convention for the Protection of All Persons from Enforced Disappearance (2006)

Human rights possess a number of important characteristics. They are:

- Universal—the birthright of all human beings;
- Focus on the inherent dignity and equal worth of all human beings;
- Cannot be waived or taken away;
- Impose obligations of action and omission, particularly on States and State actors;
- Have been internationally guaranteed;
- Are legally protected; and
- Protect individuals and, to some extent, groups.

It is important to emphasize that there is no hierarchy of rights: they are equal and indivisible. They are also interdependent and rely on each other for their realization. The right to free expression is dependent on freedom from hunger and vice versa. Amartya Sen found that no major famine had occurred in a democracy allowing free expression.<sup>12</sup>

Each human right also has specific *content* and *claims*; it is not just an abstract slogan. For example, the right to health requires that health care should be available, accessible, affordable and of sufficient quality. This content has been articulated in human rights texts and is more fully explored in chapter II.

In response to these rights, there are corresponding obligations on the *duty-bearer*. This duty-bearer has traditionally been understood as the State, which must:

- **Respect** human rights by refraining from interfering with them (e.g., allow trade unions to operate or not pollute water resources used for drinking or livelihoods).
- **Protect** human rights by ensuring that private actors do not interfere with people's ability to exercise them (e.g., prosecute torturers or ensure that private schools enrol children from ethnic minorities).
- **Fulfil** human rights by adopting the necessary measures (e.g., establish courts to provide fair trials, create health programmes to provide medicines, pass laws to recognize indigenous ancestral lands).
- Guarantee human rights without **discrimination** of any kind, particularly on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. This last factor has been interpreted by international human rights bodies to include disability, health status, age, sexual orientation and civil, political and social status.

For economic, social and cultural rights, a minimum level of the right in question must be achieved immediately. The full right must be progressively realized within the State's maximum available resources. Progressive realization also means that the level of realization of the right cannot decline without strong justification—this is the principle of *non-retrogression*. (See further discussion in chapter II.)

Many treaties require States to take steps, within their maximum available resources, to ensure that human rights are enjoyed by persons outside their jurisdiction. (See further discussion in chapter III, goal 8.)

There is gradual national and international legal recognition that *non-State actors* also carry human rights responsibilities. Examples can be found concerning individuals, corporations, armed groups and international financial institutions. The legal obligations of non-State actors may not be as strong as a State's, but it is arguable that there is a minimum duty of not interfering with human rights. For example, the OECD Guidelines for Multinational Enterprises establish a complaint system for violations by companies, and in 2007 the International Finance Corporation was piloting a human rights impact assessment toolkit for its corporate clients.

## 2 Similarities

The Millennium Development Goals and human rights share a number of characteristics. They both have a common ultimate objective and commitment in promoting human well-being. Many of the MDG targets and economic and social rights overlap to a certain degree (see table 1).

Both the MDGs and human rights acknowledge, though in different ways, the existence of resource constraints but aim for progressive realization and the deployment of the maximum resources available. In the case of the MDGs, this is evident in the targets, which often aim for a 50 per cent improvement. In the case of economic, social and cultural rights, resource availability is judged State by State.

MDGs and human rights are both underpinned by an international framework. While some argue that the MDGs represent international customary law,<sup>13</sup> they are generally viewed as political goals. Human rights are clearly recognized in international and national law—realizing them is a legal obligation.

The MDGs and human rights also provide tools to hold Governments accountable. There are periodic national and international reporting processes for each. But the international and national framework for human rights is more extensive. Each major international and regional human rights instrument has an expert committee, a commission or a court which monitors its realization. Many have the power to receive individual or collective complaints.

In addition, the Human Rights Council, a subsidiary body of the General Assembly, provides a forum for States to discuss human rights. Its independent experts, working groups and Special Rapporteurs are mandated to carry out thematic or country-specific work, including on issues at the heart of the MDGs (such as education, food, health and the right to development).

<b>Table 1. Some possible linkages between the targets and human rights</b>	
<b>Goal 1. Eradicate extreme poverty and hunger</b>	
<i>Target 1.A</i> Halve, between 1990 and 2015, the proportion of people whose income is less than \$1 a day	<i>Right to adequate standard of living</i>
<i>Target 1.B</i> Achieve full and productive employment and decent work for all, including women and young people	<i>Right to work</i>
<i>Target 1.C</i> Halve, between 1990 and 2015, the proportion of people who suffer from hunger	<i>Right to food</i>
<b>Goal 2. Achieve universal primary education</b>	
<i>Target 2.A</i> Ensure that, by 2015, all children everywhere, boys and girls alike, will be able to complete a full course of primary schooling	<i>Right to education</i>
<b>Goal 3. Promote gender equality and empower women</b>	
<i>Target 3.A</i> Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015	<i>Women's rights to equality</i>
<b>Goal 4. Reduce child mortality</b>	
<i>Target 4.A</i> Reduce by two thirds, between 1990 and 2015, the under-five mortality rate	<i>Right to life</i>
<b>Goal 5. Improve maternal health</b>	
<i>Target 5.A</i> Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio	<i>Women's right to life and health</i>
<i>Target 5.B</i> Achieve, by 2015, universal access to reproductive health	<i>Women's right to life and health</i>
<b>Goal 6. Combat HIV/AIDS, malaria and other diseases</b>	
<i>Target 6.A</i> Have halted by 2015 and begun to reverse the spread of HIV/AIDS	<i>Right to health</i>
<i>Target 6.B</i> Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it	<i>Right to health</i>
<i>Target 6.C</i> Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases	<i>Right to health</i>
<b>Goal 7. Ensure environmental sustainability</b>	
<i>Target 7.A</i> Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources	<i>Right to environmental health</i>
<i>Target 7.B</i> Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss	<i>Right to environmental health</i>
<i>Target 7.C</i> Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation	<i>Right to water and sanitation</i>
<i>Target 7.D</i> By 2020 to have achieved a significant improvement in the lives of at least 100 million slum-dwellers	<i>Right to adequate housing</i>
<b>Goal 8. Develop a global partnership for development</b>	
<i>Targets 8.A-8.D</i> cover aid, trade, debt, landlocked and small island States.	<i>Right to development. Economic, social and cultural rights</i>
<i>Target 8.E</i> In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries	<i>Right to health</i>
<i>Target 8.F</i> In cooperation with the private sector, make available the benefits of new technologies, especially information and communications	<i>Economic, social and cultural rights</i>

### ■ 3 Mutual benefits

Human rights and the MDGs can be implemented in a mutually reinforcing manner.<sup>14</sup> Achievement of one can potentially support the other.

MDGs help to highlight the need to realize often neglected economic and social rights. The MDGs have also been successful in capturing the imagination and energy of major international development agencies, as well as the Governments of many developing countries.<sup>15</sup> A possible result is greater prioritization of areas covered by economic and social rights, though it depends on the manner of implementation as will be discussed below. The inclusion of targets and indicators provides a significant degree of precision and, arguably, an easy way to track the realization of the Goals.

The content of economic and social rights is potentially enriched through the broad political consensus on the setting of MDG benchmarks. Human rights do not always provide clear prioritization on intermediate objectives or allocation of scarce resources. For example, the specific target set by goal 4—reducing the under-five child mortality rate by two thirds—can provide a relevant milestone for the realization of the child’s right to health under the Convention on the Rights of the Child. However, if that target is not adapted to national circumstances it may not match an appropriate human rights benchmark. Furthermore, there may be specific human rights obligations, like immediate minimum access to water and sanitation, that also need to be taken into account. In the case of goal 5, the focus on maternal mortality has arguably increased the attention given to obstetric care in work on the right to health.

Equally, human rights can strengthen efforts to achieve the MDGs. Since there are ongoing debates on the best way to achieve the MDGs,<sup>16</sup> human rights approaches can reinforce the legitimacy of MDG implementation strategies that build on legal obligations in human rights treaties.

The MDG project can also benefit from harnessing the mobilizing potential of human rights discourse and building participatory and empowering strategies on the basis of civil and political rights. The *Human Development Report 2003* of the United Nations Development Programme (UNDP) indicates that meeting the MDGs will require sustained political pressure, broad popular support and effective service-delivery mechanisms. However, it concedes that “an open democratic State that guarantees civil and political freedoms is essential for such popular mobilization and participatory civic engagement.” Only under such circumstances can poor people pressure their leaders to deliver on the Goals.<sup>17</sup>

Such efforts are complemented by human rights processes and institutions that strengthen transparency and accountability processes for MDG achievement. These include courts, national human rights institutions and informal justice systems, and international mechanisms, including treaty bodies, independent expert committees that oversee compliance by States with their international human rights treaty commitments.

Human rights-based approaches to development planning and programming can also help in addressing unjust distributions of power, bring a

focus to the rule of law, and make development achievements more sustainable. For example, human rights-based laws and reformed institutions that guarantee protection from forced eviction and the right to freedom of association and expression will help entrench the gains made in providing support to farmers and slum-dwellers under MDG targets 1.C and 7.D.

### ■ 4 Criticism of MDGs

The MDGs have been subject to criticism.<sup>18</sup> Among the concerns raised, a variety of human rights issues feature prominently. Of course, human rights approaches are not above criticism; the key point is that the setting of the MDGs has partly ignored the legal force and instrumental value of human rights.

One of the key concerns is that the MDG targets are not sufficiently focused on the poorest of the poor or on inequality within a country. Human rights instruments require a minimum core level of each economic, social and cultural right to be immediately realized for all. They also require discrimination in the exercise of these rights to be eliminated. The World Bank’s *World Development Report 2006* concludes that inequalities within countries often lead to violent conflict.<sup>19</sup> However, the MDGs often require a State only to halve certain poverty indicators. Particularly problematic is that this approach makes it tempting for countries to focus on the relatively well-off among the poor in order to reach a particular MDG target. Aggregate figures can mask gross discrepancies; they may falsely indicate more progress on the Goals than has actually occurred.

Despite assumptions to the contrary, the contents of some MDG targets are not consistent with human rights. Goal 2 ignores the requirement of free primary education, essentially reducing it to a strategy. Goal 3 sets women’s empowerment as the objective but the related target 3.A is narrowly concerned with education. Target 7.D focuses on improving the lives of 100 million slum-dwellers but a human rights-based approach would put greater focus on *basic security of tenure for all*, which may actually be more affordable.

MDGs are also primarily focused on developing countries, whereas international human rights standards are of comprehensive content and universal application. MDGs have possibly shifted too much focus away from poverty that persists in many developed countries, as well as middle-income States that can more easily meet the MDGs.

The overly technocratic nature of the MDGs and closely associated institutions has been questioned. The MDG project places great emphasis on the mobilization of financial resources and technical solutions, but less on transforming power relations that are partly responsible for current levels of poverty in developing, and developed, countries. The World Bank has also observed that it is becoming clear in many situations that the real barriers to progress on the MDGs are social and political. Realization of human rights is therefore a precondition for development.

The international accountability mechanisms for the MDGs are particularly weak, although human rights mechanisms can also be criticized. While

poorer countries have some incentives to adopt MDG-friendly plans, there is no real mechanism to ensure that richer countries live up to their promises under goal 8. Donor aid actually fell in 2006.<sup>20</sup>

Perhaps these concerns should have been addressed at an earlier stage, during the setting of the MDGs, but the process for their development was not participatory. Southern Governments have been largely excluded from the goal-setting. Indeed it is worth comparing the wording of the Millennium Declaration on trade with MDG target 8.A to see the result:

**Millennium Declaration (para. 13):** “We are committed to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system.” (emphasis added)

**MDG target 8.A:** “Develop further an open, rule-based, predictable, non-discriminatory trading and financial system.”

The word “equitable” has been deleted from the MDG target. This potentially indicates that the MDG agenda is more concerned with free, not fair, trade. Civil society groups—and the poor themselves—were not consulted, despite the concerns they raised in the 1990s over similar target-setting efforts.

However, these criticisms are not necessarily fatal. The most pressing concern is to effectively incorporate a human rights approach into MDG-related activities (tailoring MDGs, assessing costs, policymaking and strategies, implementation and monitoring). Any perceived deficiencies in the MDGs in terms of human rights can be overcome. It must be stressed that such an approach should not be thought of as optional. The Goals were formulated as an integral part of the Millennium Declaration, which is explicitly built on human rights. It is not a question of choice between the MDGs and human rights approaches to development. The remainder of this publication looks at how to bring them together effectively for the mutual benefit of both causes—and of those countless millions in dire need of progress.

## The forgotten Millennium Declaration?

The following is section V on *human rights, democracy and good governance* from the Millennium Declaration:

24. We will spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development.

25. We resolve therefore:

- To respect fully and uphold the Universal Declaration of Human Rights.
- To strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all.
- To strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights.
- To combat all forms of violence against women and to implement the Convention on the Elimination of All Forms of Discrimination against Women.
- To take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies.
- To work collectively for more inclusive political processes, allowing genuine participation by all citizens in all our countries.
- To ensure the freedom of the media to perform their essential role and the right of the public to have access to information.



## II. A HUMAN RIGHTS-BASED APPROACH TO ACHIEVING THE MILLENNIUM DEVELOPMENT GOALS

The adoption of a human rights approach can help overcome some of the criticisms of the MDGs. The Millennium Declaration places its development goals in the context of human rights and the principles of freedom and equality and the Millennium Project called for the inclusion of human rights approaches.<sup>21</sup> The human rights-based approach to development has also gained significant support from a diverse range of actors, including multilateral and bilateral development agencies, Governments, civil society organizations and NGOs.

Historically, these actors differed in their motivation for adopting a human rights-based approach. Yet it is now generally understood and accepted that poverty results from disempowerment and exclusion. Poverty is not simply a lack of material goods and opportunities such as employment, ownership of productive assets and savings. It is also the lack of physical and social goods, such as health, physical integrity, freedom from fear and violence, social belonging, cultural identity, organizational capacity, the ability to exert political influence, and the ability to live in respect and dignity. Human rights violations are both a cause and a consequence of poverty.

Thus, the various human rights-based approaches have many common characteristics such as: linking development goals to human rights standards; focusing on marginalized groups, empowerment and participation; and ensuring accountability of duty-bearers. In 2003, United Nations agencies adopted the Statement on a Common Understanding of a Human Rights-based Approach to Development Cooperation (see box 1). It stated that human rights standards must constitute the objective and guiding principles of development, and that the capacities of *duty-bearers* and *rights-holders* must be strengthened. This was later incorporated into the United Nations system's development programme guides.<sup>22</sup>

### Box 1. United Nations Statement of Common Understanding

1. All programmes of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of "duty-bearers" to meet their obligations and of "rights-holders" to claim their rights.

A human rights approach plays two pivotal roles. First, it *adds value* by providing support to development practices that are designed to realize human rights. Second, it *changes values* by modifying development goals and practices to ensure they respect and realize human rights.

Therefore, human rights should not be viewed just as another add-on to the development agenda. While it may require checklists and other programming tools, it is a holistic agenda that should go beyond technical fixes.<sup>23</sup> At the same time, human rights cannot be expected to provide detailed recommendations for good development processes or clear answers to resource-allocation and policy choices. However, they can provide a conceptual framework for evaluating and improving practice and ensuring that decision-making is more reasonable, objective and transparent, and will benefit those living in poverty.

This section adapts this human rights approach to the MDGs by suggesting four key elements. They roughly follow a generalized MDG-based development or poverty reduction process that covers targeting, cost assessment, policymaking and planning, implementation and monitoring, with a view to equitable and sustainable results.

1. *Align the Goals with human rights* by harmonizing MDG targets and indicators with human rights standards.
2. *Be transformative, not technocratic*, by adopting a human rights-based approach to empowerment and participation.
3. *Prioritize rights* by making policy choices and resource-allocation decisions within a human rights framework.
4. *Claim the MDGs* by ensuring enforceable rights, accountability mechanisms and sustainable strategies.

The obvious question is how to adopt a human rights approach to the MDGs when they are quite fixed; how to influence the MDG agenda now it has commenced. Yet many entry points remain for the human rights approach. The content of the MDGs can be adapted nationally and locally in accordance with the MDG approach to contextualization. Some States have already done this. In any case, national and local MDG-related activities are usually not isolated, but are part of wider development planning processes.

### 1 Align the MDGs with human rights

Each millennium development goal, target and indicator should be interpreted in the context of human rights. International human rights law not only pre-dates the MDGs, but States have existing legal obligations to realize human rights. In particular, the process of alignment should involve:

- Adapting each target to the relevant economic, social or cultural right;
- Mainstreaming gender;
- Ensuring the excluded are included;
- Ensuring indicators are rights-sensitive.

This realignment may have immediate implications for MDG-related costing, strategy design, monitoring and reporting.

One could also go further at the national or local level and introduce additional targets to capture other steps to ensure the effective realization of human rights, for example, civil and political rights. In Mongolia, additional legislation was actually passed to create goal 9 on democratic governance and human rights with specific time-bound targets and indicators.<sup>24</sup>

### **Adapt targets to the relevant economic, social or cultural right**

On first inspection, many MDG targets seem well matched with human rights. However, many require significant adaptation.

For example, target 2.A requires that all children are able to complete primary schooling. A similar requirement is found in the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights as part of the right to education. But these human rights treaties also require primary education to be:

- (1) Free
- (2) Compulsory and
- (3) Of a certain quality

This is not part of the MDG target. Furthermore, under the Covenant, progressive achievement of the right is permitted only if resources are demonstrably inadequate and a plan of action has been developed.

The Millennium Project, the World Bank and others have now called for the abolition of primary school fees. Free primary education has proven successful in Kenya, and experience shows that fees keep more girls than boys out of school. However, a human rights approach would mean making free education *part of the target*, not just a strategy. Indeed, given that international financial institutions have sometimes wrongly pressured developing States to charge fees, it is critical that the right to free primary education should be firmly entrenched in development thinking and practice.

Quality is also critical. In its MDG report, Togo noted that the early gains from free primary education were moderated by high dropout rates, with pupils citing poverty and the poor quality of education. Girls dropped out at an even higher rate due to early marriages and pregnancies,<sup>25</sup> which highlights the importance of complementary gender-based strategies.

Another example is target 7.D. It calls for improvement in the lives of 100 million slum-dwellers, the indicator being security of tenure. This target is very limiting: one billion people now live in informal settlements and the number is expected to grow rapidly. More importantly, a human rights approach would have put the focus on *basic security of tenure for all*, not security of tenure for a small proportion of slum-dwellers. Security of tenure is the first element of the right to adequate housing, and human rights bodies have required that it should be provided to all persons immediately.<sup>26</sup> It is also widely demanded by residents of informal settlements. A minimum level of security of tenure is affordable by providing protection against forced eviction. The ambiguous wording of the target has allowed some countries in their MDG reports to list policies that prima facie violate human rights, including slum clearance.<sup>27</sup>

When setting national and local targets, a participatory process should be undertaken to appropriately align the targets with human rights. Chapter III analyses each MDG to determine the extent to which it is consistent with human rights.

### **Box 2: Malawi and aligning goal 3 with gender equality**

Malawi was able to demonstrate gender equality in primary and secondary education, thus meeting MDG target 3.A. However, it recognized that it needed to focus on gender equality in higher secondary (and tertiary) education and other areas of society, for example, by addressing domestic violence.

### **Mainstream gender in the targets**

A human rights-based approach means ensuring that the MDG lens is sufficiently focused on the rights of women; for example, those entrenched in the Convention on the Elimination of All Forms of Discrimination against Women.

In the 1995 Beijing Declaration, Governments re-emphasized that women's empowerment and equal participation were essential for development.<sup>28</sup> They committed themselves to:

- Eliminating all forms of discrimination against women;
- Promoting women's economic independence;
- Providing appropriate education and health care;
- Preventing and eliminating all forms of violence against women; and
- Enhancing women's sexual and reproductive health.

In 1997, gender mainstreaming became a United Nations objective, defined as "the process of assessing the implications for women and men of any planned action... in all areas and at all levels."<sup>29</sup> It must be cross-cutting and cross-sectoral and guide implementation of all United Nations work.<sup>30</sup>

Although goal 3 specifically relates to gender equality and empowerment of women, the associated target of achieving gender equality in primary and secondary education is very narrow. The additional indicators—literacy, participation in wage employment and national parliament—are equally so.

In *Pathway to Gender Equality*, the United Nations Development Fund for Women (UNIFEM) raises the concern that this restricted approach may send the international community backwards. However, it concludes that the MDGs should be treated not as a brand new agenda but as a new vehicle for the implementation of the Convention and the Beijing Declaration, and that gender equality should be cross-cutting for all MDGs.<sup>31</sup>

Mainstreaming gender in the Millennium Development Goals, targets and indicators will take attention and effort. UNIFEM recommends that countries should draw on the Convention and the Beijing Declaration in making the situation analysis for MDG reports and framing national indicators in response to the Convention and Beijing priorities. They will also need to

improve their statistical capacity on gender issues. The United Nations Economic and Social Commission for Asia and the Pacific has also developed complementary and additional gender-sensitive indicators for each of the MDG targets (see section on indicators below).

UNIFEM also makes recommendations for mainstreaming gender in each goal. The example of goal 6 is given in box 3.

### Box 3. Gender and goal 6 on HIV/AIDS

Gender inequality is one of the principal factors fuelling the HIV/AIDS pandemic, according to UNIFEM. Cultural norms of sexual ignorance and purity for women block their access to information about prevention. Gendered power imbalances make it difficult for women to negotiate safer sexual practices with their partners, and economic dependence and fear of violence can effectively force them to consent to unprotected sex. Women are receiving inadequate care and treatment and the burden of caring for their dependants and themselves has become overwhelming.<sup>32</sup>

Strategies to respond to the HIV/AIDS crisis have consistently failed to include a gender perspective. In large measure, this is because women have not been placed at the forefront of HIV/AIDS policy formulation. The Convention and the Beijing Declaration require a holistic approach that links women's disempowerment with the spread and lack of treatment for HIV/AIDS. But a review of country reports on goal 6 provides little evidence of this.

To ensure that gender equality is placed at the heart of strategies for goal 6, one could develop complementary or additional targets. They could also be placed under goal 3 or related goals. For example, additional targets on HIV/AIDS could cover:

- Women's economic equality
- Equality in marriage and family relations
- Equality in health-care services
- Elimination of gender-based violence
- Transformation of gender-based cultural stereotypes

### Include the excluded

All human beings are entitled to enjoy their human rights equally without discrimination. This includes the human rights of children, minorities, indigenous peoples, older persons, persons with disabilities, persons living with HIV/AIDS, migrants, refugees and internally displaced persons. While focusing on marginalized groups may sometimes necessitate trade-offs against economic growth or other aims, the World Bank's *World Development Report 2006* found that equity mattered for long-run development.<sup>33</sup>

Taking a human rights approach means far more than just targeting those that are easy to reach. Persons with disabilities are entitled to the removal of physical, attitudinal and other barriers hampering their access to employment, education or health care as well *reasonable accommodation* to ensure that they enjoy access on an equal basis with others. Remote rural and deprived urban areas need to be targeted. To be relevant for indigenous peoples, the MDGs may need to be significantly adapted to respect their land and cultural rights effectively.

The MDGs focus explicitly only on three marginalized groups, namely: children and youth (decent work for youth, education and infant mortality: MDGs 1-4), women and girls (MDGs 3 and 5 and target 1.B) and slum-dwellers (target 7.D). While laudable, there is therefore a substantial risk that the predominant focus on reducing, not eliminating, global "averages" will mean continued exclusion of many groups.

This is already evident in MDG country reports. A number of countries have reported that they are on track or have achieved certain goals without making any progress on those goals with regard to minorities or persons with disabilities.<sup>34</sup> The independent expert on minority issues reported that ethnic or linguistic minorities and indigenous peoples were referred to in fewer than half the MDG country reports. When they were mentioned, it was often in the background section or with respect to goal 2.<sup>35</sup> Almost none of the MDG *donor* reports mentioned minorities or indigenous peoples.

### Box 4. United Nations Permanent Forum on Indigenous Peoples

"The Forum... notes with concern that indigenous issues are often absent from Millennium Development Goals and poverty reduction processes and from Millennium Development Goals reports and poverty reduction strategy papers. The Forum is concerned that, unless the particular situation of indigenous peoples [is] adequately taken into account, some Millennium Development Goals processes may lead to accelerated loss of lands and natural resources for indigenous peoples, and thus of their means of subsistence and their displacement, as well as to accelerated assimilation and erosion of their culture."<sup>36</sup>

Development programmes can rarely if ever reach everybody at once, but sufficient priority must be given to the most marginalized. Aligning the MDGs with human rights therefore requires a deeper analysis. This may mean that some countries should *go beyond* the MDGs, while others may need to adopt more modest though reasonable and human rights-consistent goals and targets.

This *nationalizing or localizing* of MDGs is part of current development discourse. However, the emphasis is often only on national *conditions*, not *obligations*. States have obligations to meet a minimum level of economic, social and cultural rights for all persons.

Some countries have taken steps to ensure that marginalized groups are better reflected in the targets. Thailand adopted an "MDG Plus" framework to take account of information on quality of access, whether all members of Thai society benefit (not just those targeted), and disaggregated national indicators according to regional and ethnic disparities. Malaysia also developed such an approach after disaggregated data indicated unevenness in MDG progress (see box 5).

Aligning the targets and indicators to incorporate marginalized groups into the MDG framework therefore requires:

- *Adjusting the targets.* For example, the targets could be disaggregated with a numerical target for each group and/or the overall numerical

target could be raised to make it more likely that marginalized people will be included.

- *Creating additional targets for particular groups.* For example, specific targets on protecting indigenous peoples' lands and natural resources could be added to target 1.C in order to meet the objective of halving hunger.
- *Disaggregating indicators.* This will often require a strengthening of capacity for data collection and analysis to ensure that data are disaggregated. While there are limitations in some countries with current data, States should disaggregate according to prohibited grounds of discrimination identified in international human rights treaties. In the context of the MDGs, the grounds of race/ethnic origin, sex, disability, age and place of residence/geographic location would be particularly relevant.

### Box 5. Disaggregated data and partnerships in advocacy: Malaysia<sup>37</sup>

While Malaysia has made significant progress on reaching the MDGs, regional disparities and inequalities persist among remote rural and ethnic groups. UNDP Malaysia formed alliances with like-minded stakeholders and key national institutions to disaggregate MDG indicators. The analysis revealed the need for targeted development policies, and provided UNDP Malaysia with a strong statistical argument with which to promote the human rights principles of equality and non-discrimination. The findings were reported through a variety of media and submitted to the body drafting Malaysia's national development plan. These efforts contributed to more emphasis being placed on indigenous groups, equity and reducing disparities in the national development plan.

### Ensure indicators are rights-sensitive

The current list of MDG indicators developed to address the targets and Goals was strongly based on the availability of existing data and an attempt to keep the list manageable. However, a human rights approach to tradition-

al uses of development indicators has been developed at both the international level and in developing countries.<sup>38</sup> This approach has two aims: (1) to increase the rights sensitivity of existing indicators; and (2) to add more rights-specific indicators. The value added can be seen in the attention to disaggregation but also, and perhaps primarily, in the focus on the ability to monitor a State's efforts and not just the outcomes of those efforts.

In the context of MDGs, three steps can be proposed, mindful of the varying statistical capacities of countries:

1. *Adapt current indicators to human rights.* For example, current MDG indicators can be aligned with a human rights-based approach through disaggregating the data as discussed above in this section. This can be particularly effective if the target is then disaggregated in a similar fashion.

2. *Add complementary indicators to measure existing MDG targets.* Human rights indicators can be added to the existing list of MDG indicators to better reflect whether the actual target is being met and whether sufficient efforts are being made to that end (see box 6). For example, the current MDG indicator for target 7.D could be complemented by:

- A *structural* indicator: e.g., date of entry into force and coverage of legislation to prevent and remedy forced evictions;
- A *process* indicator: e.g., proportion of displaced or evicted persons rehabilitated/resettled; and
- An *outcome* indicator: e.g., number of reported cases of forced evictions (e.g., as reported to United Nations human rights bodies and experts).

3. *Additional indicators for new targets.* Where new targets are added in the process of aligning MDGs with human rights, additional indicators will be needed. For example, the Economic Commission for Latin America and the Caribbean has developed additional indicators for goal 3 on women's remuneration, hours of domestic work, gender-based violence, and sexual and reproductive health.

### Box 6. Ecuador: 96 new indicators

The Government of Ecuador together with United Nations agencies developed numerous additional indicators for the MDGs. This process was partly a result of the recognition that the existing indicators did not properly reflect the rights of women, indigenous peoples and Afro-descendants. Many of the national indicators have been disaggregated for excluded groups and have been comprehensively disaggregated according to locality. New indicators were added at both the national and local levels. Below is an example of target 4.A to reduce by two thirds, between 1990 and 2015, the under-five mortality rate.

*Target 4.A on infant mortality*

<b>MDG indicators</b>	<b>National indicators</b>	<b>Local indicators</b>	
Under-five mortality rate	Under-five mortality rate	Under-five mortality rate	
Infant mortality rate	Infant mortality rate (under 1 year)	Infant mortality rate (under 1 year)	
	Neonatal mortality rate	Neonatal mortality rate	
	Early neonatal mortality rate	Early neonatal mortality rate	
	Post-neonatal mortality rate	Post-neonatal mortality rate	
	Antenatal care coverage	Antenatal care coverage	Guarantee of a woman's right to adequate and sufficient health care at all times
Proportion of 1-year-old children immunized against measles	Immunization coverage (BCG, DPT, pentavalent, measles and polio)	Immunization coverage (BCG, DPT, pentavalent, measles and polio)	To guarantee the right to health, the indicator refers to all common diseases

## ■ 2 Be transformative not technocratic

### Address power inequalities

Human rights are fundamentally concerned with empowerment. This can be understood as an expansion of people's capabilities and freedoms to participate in, negotiate with, influence, control and hold accountable institutions that affect their lives.<sup>39</sup> Focusing on empowerment also challenges development approaches that are technocratic or top-down. Individuals and communities should be the prime development agents as well as subjects. The MDGs have been criticized for being technocratic in their content and origins, lacking broad-based national ownership, as have poverty reduction strategy papers, which are increasingly MDG-based.

One key element in empowering people is that any response should be framed within a broader view of poverty, a view that addresses the root causes, including power inequalities. Consider the following dilemma:

A 23-year-old woman arrives at a village clinic... complaining of pain and discharge stemming from an IUD [intra-uterine device] insertion. She tells the physician that she has already had four unwanted girl children; that her husband is a drunkard who routinely rapes her; and that she is struggling desperately just to keep her daughters and herself alive, but feels that if she could have a son he would be able to support her in later years. What is the health issue here? The treatment of an infection? The ability to freely choose a contraceptive method? The effect of societal son preferences on the woman's childbearing decisions? Or is it, most broadly, that she has virtually no control over her sexual, emotional, or physical well-being because of laws and practices that deny her basic human rights and dignity?<sup>40</sup>

The answer to these questions will determine the response. A human rights approach requires that women's health, for example, should be viewed not exclusively in terms of biological processes or individual behaviours but as a product of power relations. However, a fully fledged human rights approach means far more than merely focusing on State action and taking steps based on a grounded understanding of human rights violations. In the case of women's health, it also means addressing the actions of non-State actors, addressing cultural practices and traditions, institutionalized gender hierarchies and economic inequalities.<sup>41</sup>

Failure to address power inequalities (whether political, economic, legal or cultural) will also affect the ability to implement MDG-related strategies. For example, an increase in the amount of assistance for education may not reach the poorest children if they come from an ethnic group or region that has little political power and influence over the division of those funds.

In understanding the problem and developing responses, power inequalities need to be part of the process of putting MDGs targets into context,

developing MDG strategies and reporting. Consideration should be given to developing *power*-based assessments to determine which groups and individuals are least able to claim their rights. In other words:

Instead of focusing on creating an inventory of public goods or services for distribution and then seeking to fill any deficit via foreign aid, the rights-based approach seeks to identify the key systemic obstacles that keep people from accessing opportunity and improving their own lives.<sup>42</sup>

Responses would then focus on wider political, economic, legal and cultural empowerment, which would encompass necessary intervention points for foreign aid.

### Adopt a human rights approach to participation

Genuine participation and access to information are a cornerstone of empowerment. Participation also has many instrumental gains as a result of using local knowledge, exposing local preferences, raising resource allocation efficiency, and maximizing ownership and sustainability of development. Concepts like participation are well known in development discourse. But are they human rights-based?

On the one hand, classic civil and political rights—such as the rights to vote, to freedom of expression and to freedom of association—must be supported and are crucial if excluded groups are to have a voice in ensuring that their Governments focus on the MDGs in a way that is consistent with human rights.

On the other hand, participation, as a key principle and right, is a fundamental element to achieve economic, social and cultural rights, as well as the right to development. For example, the Protocol on the Rights of Women in Africa states that its parties shall ensure the “participation of women at all levels in the conceptualization, decision-making, implementation and evaluation of development policies and programmes” (art. 19). Too often, participatory processes are cosmetic, reduced to mere consultation. Participatory processes should therefore be critically assessed, according to standard human rights criteria, to see whether they:

- Reflect minimum standards for the process, which should be agreed on by all participants;
- Operate at all stages, including the design, implementation and monitoring of development strategies;
- Include women and marginalized groups and develop specific channels of participation if this is necessary;
- Prevent elite capture and reinforcement of existing social hierarchies and power relations;
- Are transparent and provide sufficient and accessible information;
- Provide accountability mechanisms to ensure that the participatory process is held to these standards.

### Box 7. Expanding participation and coordination in local development: Argentina<sup>43</sup>

The *Targeting MDGs at a local level with a human rights-based approach* project aims to produce human rights-based local action plans for realizing the MDGs in three pilot municipalities. The plans prioritize MDGs in each municipality, link them to specific human rights and obligations, and outline actions necessary for their fulfilment. Action plans will form the foundation for municipal development strategies, and will be used to coordinate national and local policy. The plans are highly participatory, with both municipal officials and communities involved in diagnostics, planning, drafting and review. Over 150 civil society organizations participated, and the project is implemented by a prominent national NGO.

Increasing the capacity of poor people to organize and take collective action is essential for realizing the Goals. But the reality is that poor people tend to be less organized, less capable of articulating their concerns politically, less able to gain access to public services and legal protection, less connected to influential people and most vulnerable to economic shocks.<sup>44</sup>

Therefore, it will be necessary to build strong democratic institutions and safeguard the right to vote, freedom of expression and freedom of association, all of which are crucial to ensuring that the MDGs are reached in almost all contexts. Great attention must also be given to supporting the building of local organizational capacity and representative local grassroots and civil society institutions, for example through:

- Budgeting and building capacities for civil society organizations and effective participation;
- Supporting media and communications campaigns; and
- Advocating for and capacity-building of networks of local social communicators.

However, ensuring effective participation also requires creating space for such participation. Many MDG-related activities are essentially carried out by national ministries together with international agencies. A rights-based approach to such activities would include:

- Increasing transparency, making policies and programme information accessible;
- Proactively creating specific channels for participation by the poorest and most marginalized groups, with sensitivity to social and cultural context. These mechanisms must be integrated throughout the policy-making and programming processes;
- Making human rights awareness cross-cutting in programmes, not an optional add-on;
- Broadening alliances with civil society organizations and groups with shared interests;
- Making policies, budget processes and programme information available in accessible formats and minority languages, including formats for persons with disabilities (e.g., Braille, radio and accessible websites).

### 3 Prioritize human rights in policy choices and resource allocation

A human rights approach does not automatically prescribe policy choices or the precise allocation of resources. Indeed, a human rights approach values participation, particularly by the excluded, in decisions on such matters. The Committee on Economic, Social and Cultural Rights has, for example, consistently expressed concern that narrowly conceived structural adjustment policies have been effectively forced on developing countries by international financial institutions.

However, the human rights implications of policy and resource allocation become clearer at the national or local level, in the context of specific choices. For example, a ministry or local authority may devote the entire water and sanitation budget to the maintenance of infrastructure for homes that already have access. This decision would be extremely questionable from a human rights perspective if there were informal settlements or ethnic minorities with no access. If the policy decision concerns a choice between the minimum core of two rights (e.g., financing a water scheme for deprived urban areas or basic agricultural support for small-scale farmers), participation in the decision-making becomes critical, as does external support.

### Box 8. A voice in the budget process: Brazil<sup>45</sup>

Policy and resource decisions need to ensure adequate participation. While electoral democracy may increase the likelihood that women and marginalized groups can have a say, this is not axiomatic. Great attention needs to be given to ensuring that key decisions are not captured by elites or majority groups.

Many municipalities in Brazil are using participatory budgeting, outside the realm of elected officials. The approach originated in Porto Alegre, Brazil, in 1990. At the beginning of each year, neighbourhood assemblies set budget priorities and elect 44 members to a council of participatory budgeting, which negotiates with the local authority. Budget allocations are then made by combining “the subjective preferences of citizens with the objective quantitative criteria.” A decade on, 40,000 residents participate in this process, with home water supply rising from 78 to 99 per cent, sewage collection from 46 per cent to almost 83 per cent and household waste collection reaching all residences.

Equally importantly, international human rights law provides a framework for assessing the reasonableness of such policy choices; for example, by investigating whether a particular choice will:

- Result in other human rights being violated;
- Cause an absolute decline in the realization of rights, contravening the principle of *non-retrogression*;
- Be adequately directed towards realizing human rights and ensuring equality, including gender equality; and
- Provide adequate resources and allow sufficient policy space.

Amartya Sen has argued that it should not be passively accepted that trade-offs between rights or groups are inevitable:

The need for trade-offs is often exaggerated and is typically based on very rudimentary reasoning. Further, even when trade-offs have to be faced, they can be more reasonably—and more justly—addressed by taking an inclusive approach, which balances competing concerns, than by simply giving full priority to just one group over another.<sup>46</sup>

The remainder of this section briefly examines each of these factors.

### Do no harm

Although policies and programmes to realize MDGs may have been devised with good intentions, they have the potential to violate human rights. For example, in reaching target 1.A on income poverty, UNDP recommends interventions in economic and social sectors. Interventions in the former include developing infrastructure and bolstering private activities (e.g., through tax breaks, export-processing zones, science parks). However laudable they may be to some, such policies have the potential to violate human rights. They certainly require well-founded analysis, for example, through a transparent human rights impact assessment.

Here is an example. Building a large dam may help reach some MDG-related targets by providing water to a water-scarce region (target 7.C), decreasing reliance on carbon-producing coal (target 7.A) and providing wage employment opportunities (targets 1.A–B). However, such action can result in violations of:

- The right to livelihoods and food (if farmers and pastoralists lose access to land without adequate compensation and alternative livelihoods);
- The right to housing and prohibition against forced eviction (if due process and adequate resettlement are not observed);
- The right to environmental health (through loss of biodiversity).

Moreover, it is conceivable that such action would not have any impact on official progress towards the MDG targets. For example, the group or area affected might not be covered in the relevant MDG targets on food, housing and environment.

### Avoid retrogressive measures

As part of the obligation to progressively realize economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights has established the principle of non-retrogression. A policy or measure that leads to a decline in the realization of the rights must be strongly justified.

In the context of the MDGs, one social programme may, for example, be replaced with another that better fits the MDGs. Such action could fall foul of the prohibition on non-retrogressive measures. This might particularly be the case if the axed programme was focused on a marginalized group or aimed to realize the minimum level of an economic, social or cultural right. Another policy might be to freeze the real minimum wage for a long

period—contrary to human rights and International Labour Organization standards—in the belief that this will spur economic growth to achieve target 1.A or 1.B, whereas the violations of the right to work and a fair wage may not be accounted for in MDG reporting.

### Adequately direct policies towards the realization of human rights

It should be assessed whether the policies adopted to reach the MDGs adequately meet the goals as aligned with human rights. Each policy should be closely assessed in theory and practice to see whether it really is pro-poor and human rights-friendly.

Take, for example, the policy of privatization. Some argue that privatization of governmental bodies providing social services will increase the efficiency of the service to consumers and decrease the strain on the budget. Privatization of health or water services has been recommended as a policy to increase the fiscal space by releasing budgetary resources available for other MDG targets. However, privatization is not always cost-free in terms of fiscal space. A World Bank expert found that privatization has often been costly in budgetary terms, particularly when Governments have offered corporate investors off-budget guarantees and financial support.<sup>47</sup> Furthermore, if prices significantly rise after privatization, then existing and future users' access to water and health care may be curtailed or reduced, even if the service is notionally available.

#### Box 9. Assessing policy options in a human rights framework: the United Nations and Chile on social security<sup>48</sup>

Chile was one of the first countries to privatize its social security systems, with benefits based on individual contributions. In 2004, the Committee on Economic, Social and Cultural Rights expressed concern that the new system did not meet a number of human rights standards. It did not guarantee adequate social security for a large segment of the population. This particularly affected those who worked in the informal economy or who were unable to make sufficient contributions, such as seasonal and temporary workers. The majority of women (including 40 per cent of working women) did not contribute to the scheme and were therefore not entitled to old-age benefits. The Committee recommended that Chile should take effective measures to ensure that all workers were entitled to adequate social security benefits. This was to include special measures to assist those groups unable to pay into the private system and giving special attention to women, temporary and seasonal workers, and workers in the informal economy.

It also needs to be assessed whether policies and resource allocations direct priority attention towards those suffering discrimination and disadvantage, especially the poorest of the poor and those suffering multiple discrimination, such as rural women of an ethnic minority. For example, South Africa's Constitutional Court recently found, on the basis of the right to housing, that the Government's housing programme made no provision for those in emergency situations, who are a large proportion of the population.

Ensuring equality may sometimes mean just making existing services or public goods accessible to all. In other cases, temporary special measures may be required to level the playing field and rectify structural (that is, entrenched patterns of) discrimination. Education, campaigning, law reform and institutional strengthening to foster non-discriminatory attitudes and behavioural change should also be supported.

### Provide adequate resources

Achieving the MDGs will normally involve devoting extra resources to agriculture, education, health, water and sanitation, the environment, land and housing, and employment and infrastructure, to name but a few sectors. The resources could be financial, human, technical, natural and informational. In most situations, *duty-bearers' capacity* to respect, protect and fulfil rights will need to be built over a period of time. Where previously weak institutions are being strengthened, such as in post-conflict States, both State institutions and those institutions fulfilling a servicing and monitoring role require significant support.

A human rights approach clearly requires first assessing the amount of financial resources that are needed to realize human rights and then taking steps to find those resources. Others argue the contrary, stating that Governments should attempt to meet MDGs as far as possible within the existing fiscal space.<sup>49</sup> The human rights approach—also recommended for the MDGs by UNDP—is urged by the Committee on Economic, Social and Cultural Rights. South African courts have also ordered such initial planning before a Government concludes that no resources are available.<sup>50</sup> Increased allocations could come from donor assistance, borrowing, revenue collection, and efficiency and reprioritization of resources.<sup>51</sup>

This does not mean that a human rights approach necessarily disregards the source of the increased funding. IMF has raised concerns over the macroeconomic challenges of scaling up aid. For example, a currency may appreciate, affecting exports, or inflation may rise, affecting growth<sup>52</sup> and potentially the cost of living for the poor. These concerns need to be viewed through a filter of reasonableness, considering empirical evidence, the national context and possible alternatives. If inflation targets are adopted, a holistic assessment should be conducted, including examining a country's growth path and determining whether inflation is hurting the poorest of the poor. If increased aid flows are properly spent and absorbed, or are part of capital spending (perhaps broadly defined to include nurses' and teachers' salaries), inflation should also be less of a concern in the medium term. However, the IMF Independent Evaluation Office (IEO) found that only a small portion of increased foreign aid (30 per cent in those countries with stable currency reserves) was actually allocated for its intended purpose. In approving these aid flows, IMF required the bulk of funds to be diverted to paying back debt or boosting currency reserves. According to the IEO report, the key reason was the *operational*, but not official, policy of IMF to aim for inflation levels of 5 to 7 per cent.<sup>53</sup> Certain empirical studies have criticized IMF for overly conservative inflation targets and wage bill ceilings in the context of MDG-related aid flows.<sup>54</sup> IMF has countered that it is more flexible on these issues than is often portrayed.

At the macro level, a human rights approach to resource allocation does not provide clear answers as to which human rights or MDGs should be prioritized. Instead, it provides a framework for the formulation and assessment of resource priorities as well as sources of funding. The conflicts and possible trade-offs between relevant human rights, MDGs and principles of equality and non-discrimination should be evaluated in a participatory and accountable manner, with full transparency and public access to relevant information. In some countries, a poverty and social impact assessment has been conducted to help identify the negative impacts of different policy options, though human rights dimensions often need to be more explicitly included.

Proposals to increase the fiscal space through user fees, privatization or trade liberalization should be closely assessed given their potential negative impacts. For example, user fees have sometimes worked for slum upgrading: the Sindh Katchi Abadis Authority of Pakistan has become totally financially independent in its work on regularizing informal settlements. However, this has not worked in many other contexts, especially where the grass-roots users have not participated in the design of the costing scheme. For many of the MDGs, user fees may be inappropriate. According to some studies, fees discourage poor women, more than poor men, from seeking health care.

## 4 Claim the MDGs

### Empower rights-holders with enforceable rights

A human rights approach is centred on the notion that basic human needs are not a matter of charity but of justice, and should therefore be embodied in clear, preferably legally binding, standards. This would provide a clear mandate for public officials to take action and rights claimants to hold duty-bearers accountable. A focus on legal standards is also critical for scaling up since there may be various laws that actually restrict MDG-related activities. For example, restrictive national laws have sometimes prevented successful slum upgrading programmes from being scaled up.

Countries should therefore ensure that they create an effective legal framework which recognizes human rights and provides mechanisms for their enforcement.

#### Box 10. Country examples of empowerment through law

**Education:** Kenya's Children's Act sets out the right of all children to education. Parents have successfully sued a school after it refused to enrol children with HIV.

**Water and sanitation:** South Africa's Water Services Act places obligations on local authorities to develop and implement plans to extend access and make it affordable.

## Provide effective accountability mechanisms

The *raison d'être* of the rights-based approach is *accountability*. While States are the primary duty-bearers under human rights law, other duty-bearers—including the donor community, intergovernmental organizations, international NGOs, transnational corporations and others whose actions have a bearing on the enjoyment of human rights in any country—must be answerable for the observance of human rights.

Human rights standards call for the establishment of judicial or quasi-judicial *mechanisms of redress* that can deliver on entitlements, respond to violations and ensure accountability. The possibility for redress can be of great practical significance for those elements of MDGs that are underpinned by a human rights standard. Redress mechanisms must be *accessible and effective* from the perspective of aggrieved claim-holders,<sup>55</sup> and should include—but not be limited to—judicial measures. These procedures must be transparent and facilitate the active and informed participation of the poor. All people are equal before the law and are entitled to equal protection. The rule of law ensures that no one is above the law and that there will be no impunity for human rights violations.

Non-judicial means of accountability are also critical. This includes quasi-judicial (e.g., ombudsman, treaty bodies), political (e.g., parliamentary process) and administrative (e.g., human rights impact assessment) mechanisms. It also covers national human rights institutions, civil society networking and mobilization, protests, media advocacy, information-sharing, and civil society and community-based mechanisms (e.g., watchdogs for human rights abuses). They are all part of the process for ensuring that commitments are transformed into results. Most successful attempts at holding powerful actors to account have involved a wide range of methods (see the case study on the Treatment Action Campaign on goal 6 below). Informal justice mechanisms, including traditional and indigenous justice systems, should be factored in with the formal justice system, seeking alignment with international standards on the administration of justice.

For accountability mechanisms to be effective, attention should be paid to:

- Strengthening central and local accountability mechanisms.
- Ensuring that national laws are harmonized with international human rights treaty law, with justiciable duties spelled out as clearly as possible.
- Making clear the duties of private corporations or non-Government actors when they are duty-bearers (for example, when governance functions are privatized).
- Increasing the incentives for better performance by duty-bearers. This

can be done through rights awareness-raising, creating broader alliances for social change, promoting transparent budgeting, building capacity for budget analysis, supporting advocacy for access to information, building capacities for policy analysis and social impact assessment, encouraging media freedom, and building the capacities of claim-holders to demand their rights.

- Fostering greater knowledge of and buy-in into the national reporting processes under the international human rights treaties and the universal periodic review process of the Human Rights Council, and widely publicizing their recommendations.
- Encouraging greater recourse to human rights special procedures and international petition procedures available under the international human rights treaties.<sup>56</sup>

## Ensure sustainability and protect the MDG gains

Good development practice requires the sustainability of interventions to depend on ensuring the protection of human rights, through formal or informal mechanisms. Building a well for a village may not be sustainable if the benefits of the project are captured by local elites or if the underlying landownership is not addressed. Therefore, to guarantee that there is no backsliding on development gains, countries need to ensure that human rights are firmly embedded in their legal and institutional framework and in social and cultural norms.

For example, many developing countries are now starting to recognize the value of grounding economic and social rights in legislation. Where MDG gains have been made through the provision of funding for new programmes, there should be checks and balances to ensure that any cuts in funding support are fully justified in a participatory process. This would conform to the principle of non-retrogression. Where gains are made through providing access to natural resources or non-tangible rights such as security of tenure, these should also be protected from interference, unless such action is reasonable, there is due process and remedies—including alternatives—are provided.

All non-State actors, whether United Nations agencies, international financial institutions or other development actors, need greater awareness of human rights standards, since their actions can frequently, even if unintentionally, violate human rights or frustrate their realization. Where the sustainability of MDG gains is contingent on sustained, medium-term donor support, there should equally be a commitment from donors to providing the ongoing support until the country can provide resources from domestic or other sources.



### III. APPLYING HUMAN RIGHTS TO INDIVIDUAL MILLENNIUM DEVELOPMENT GOALS

## Goal 1 : Eradicate extreme poverty and hunger



#### Target 1.A: Income poverty

Halve, between 1990 and 2015, the proportion of people whose income is less than \$1 a day

The eradication of extreme poverty takes centre stage in the Millennium Declaration. United Nations Member States proclaim that they “will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected.”

For MDG target 1.A, extreme poverty is conceived as income poverty, measured principally by those living on less than \$1 a day. Since 1990 the *proportion* of people living on less than a dollar a day has fallen though the overall *number* has actually increased. Some countries have reduced the number significantly (e.g., in China income poverty rates have reportedly fallen from 33 per cent to 16 per cent),<sup>57</sup> but poverty persists in many of them.



This target is relevant to a wide range of human rights. In the Millennium Declaration itself, the statement on extreme poverty is immediately followed with: “We are committed to making the right to development a reality for everyone and to freeing the entire human race from want.” A number of economic and social rights are directly concerned with income security, such as the right to an adequate standard of living, the right to fair and equal remuneration for work, and the right to social security, which can all be found in the Universal Declaration of Human Rights and many international and regional human rights treaties and national constitutions. Some treaties target discrimination in income (such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women), while the International Covenant on Civil and Political Rights prohibits forced labour, which often results in income poverty.

Is the target consistent with human rights? First, it has faced substantial criticism for its lack of ambition since it focuses on the proportion of people in poverty and halving the proportion of the poor as measured in 1990 ignores their growing number since then.

Second, concerns have been raised about the focus on the indicator for poverty. In many countries \$1 a day may not be enough for the poor to be able to afford basic goods for survival. Furthermore, poverty involves more than just a lack of income or a daily struggle for basic sustenance. The international community has regularly affirmed that poverty is not confined only to economic deprivation but extends to social, cultural and political deprivation as well.<sup>58</sup> For instance, indigenous peoples consider themselves impoverished when they do not have control over and/or access to their land and natural resources.

To some extent the MDGs take account of this expanded definition of poverty with goals for health, education, and water and sanitation. But States and donors should assess whether the wider notions of poverty and poverty eradication are appropriately captured, particularly for groups seeking development paths other than the conventional free-market and export-driven model. For instance, the United Nations Declaration on the Rights of Indigenous Peoples affirms their right to freely pursue their development according to their aspirations and needs and develop their own economic systems. In Ecuador, United Nations agencies have worked with the Government and indigenous groups to develop and adapt national goals and targets for indigenous peoples, who criticized the MDGs for imposing an inappropriate development agenda.

Third, the goal does not necessarily require States to target the poorest of the poor or address income inequality. One of the other indicators for this

target focuses more on equity, the share of the poorest quintile in national consumption, but less attention has been given to it and to setting a benchmark for it.

The United Nations Millennium Project has not issued any specific advice on a strategy for reaching this target, but recommendations can be found in the UNDP *Human Development Report 2003*. It notes that economic growth is necessary for reducing poverty—it directly increases income and raises Government revenues, which can then be invested in human development—and only a rather modest growth rate would actually be necessary to meet the target. But economic growth is not sufficient by itself; many countries have experienced economic growth without reductions in poverty.

Therefore, pro-poor growth is needed, although the contribution of reducing extreme poverty through income redistribution must not be overlooked. Many poorer countries are marked by gross inequalities of wealth. Such inequalities are often a barrier to growth.<sup>59</sup> National, and international, benchmarks should be developed for the indicator on the poorest quintile in national consumption.

In order to achieve economic growth, UNDP recommends “a baseline of sound macroeconomic management.” But it is careful to note that the most successful countries in terms of growth, such as those in East Asia, have often not followed the conventional economic advice of IMF and the World Bank. For example, some of these countries have been slow to liberalize capital markets and remove trade barriers, and a number have maintained higher levels of social spending than African countries which followed the path of structural adjustment.<sup>60</sup> This measured advice is largely consistent with that from many human rights institutions.<sup>61</sup>

Equally, it is important to emphasize that civil and political rights must not be sacrificed on the assertion that they impede economic growth. The empirical evidence clearly indicates that democracy, rule of law and respect for civil and political rights do not harm economic growth.<sup>62</sup> Instead, they can play a positive role in ensuring key institutions are held accountable for policies concerning growth and growth is equitably shared.

### **Box 11. Cameroon, structural adjustment and human rights<sup>63</sup>**

In 1999, the Committee on Economic, Social and Cultural Rights reviewed Cameroon's implementation of the Covenant. It found that “the Government's economic reform programme for 1998-1999, which implemented the structural adjustment programme in Cameroon approved by the International Monetary Fund, the World Bank and the Agence française de développement (formerly the Caisse française de développement), while increasing the real GDP growth rate has impacted negatively on the enjoyment of economic, social and cultural rights by increasing poverty and unemployment, worsening income distribution and causing the collapse of social services.”

The UNDP *Human Development Report 2003* also recommends interventions in key areas, namely investments in the social and agricultural sectors,

infrastructure, bolstering private activities (e.g., tax breaks, export-processing zones, science parks), with a broad emphasis on equity, participation of women and the poor in decision-making, environmental sustainability and urban management. While this report concentrates on manufacturing, it highlights the importance of land reform for growth. For example, 500 million rural dwellers lack any substantive legal rights to the land they farm and there is a need for improved access to land, secure tenure (including collective land rights) and legal ownership rights for women.

Many of these suggestions are consistent with a human rights approach, which can play a supporting role. Investment in identified social sectors corresponds with many social rights and the emphasis on equity, participation and accountability is obviously consistent. However, human rights are relevant in other ways too.

Many of these activities need to be monitored to ensure they actually *benefit* the poorest and marginalized and that they do not *harm* the poor. The proposed creation of special economic zones can result in the displacement of poor farmers, urban residents and indigenous peoples, destroying livelihoods and access to social services, thus increasing income poverty. Land reform can also result in evictions if poorly managed (see discussion on targets 1.C and 7.D).

Growth needs to be properly disaggregated nationally and locally to see if it is actually reaching people living in poverty, women and marginalized groups or traditionally excluded regions. Policies should then be calibrated accordingly. For example, if many of the poor work in agriculture then prioritizing growth in that sector needs to be considered or, if such growth is not sustainable, attention needs to focus on increasing non-farm development in rural areas or other sectors that provide sustainable work opportunities. Effective public participation is needed in decision-making over policies to reduce poverty, including growth, in order to ensure that the voices of the poor are heard.

The UNDP recommendations place insufficient emphasis on some labour rights—in particular the right to fair and equal remuneration, the right to work and the right to social security. Even if the economy is functioning well, workers cannot always freely find work that pays fair or equal wages, either because they work under conditions of some form of bondage or slavery, or because employers are not required to pay some form of mi-

### **Box 12. Adidas and the India Committee of the Netherlands case<sup>64</sup>**

The India Committee of the Netherlands lodged a complaint, under an OECD mechanism, with the national contact point in the Netherlands claiming that Adidas had failed to ensure that its suppliers were in compliance with the OECD Guidelines for Multinational Enterprises, particularly in relation to minimum wages, unionization and child labour. A public settlement was reached in December 2002 whereby the parties agreed on common labour standards and the need for external monitoring. If future communications break down, the national contact point may be asked to step in once more.

nimum wage. To the extent that economic activity and growth occur in the informal economy (including sale of food, production of household goods and textiles, home-based services), States should find ways to support such activities and not frustrate them. In 2007, the MDG monitoring framework was revised. One of the changes was a new target for goal 1 (see target 1.B below).

Social security is also *critical* for those who are unable to actively participate in the economy and find work, particularly in the cases of old age, disability and maternity. Studies indicate that providing social security provides a boost to marginalized economies (see box 13) and the International Labour Organization (ILO) estimates that all countries can afford a basic social security package.<sup>65</sup>

### Box 13. Right to social security in South Africa<sup>66</sup>

In South Africa, social security is a constitutional right and a number of non-contributory schemes have been developed since the contributory Unemployment Insurance Act does not reach most of the poorest. These schemes include grants for the elderly, the disabled, foster-children and child support, and reach 9 million people. These benefits have been vital in alleviating poverty and there is evidence of their developmental role, e.g., providing people with the security they need to look for employment or some capital for starting a small trading enterprise as well as spurring economic demand, and therefore growth, in deprived areas. The right to social security has also come before the Constitutional Court, which ruled in *Khosa and others v. Minister of Social Development*<sup>67</sup> that permanent residents have the right to social security, noting they were part of a vulnerable group but also contributed to the welfare of society.

## Target 1.B: Decent work for all

**Achieve full and productive employment and decent work for all, including women and young people**

In 2007, an additional MDG target on decent work was added with the following indicators: (i) growth rate of GDP per person employed; (ii) employment-to-population ratio; (iii) proportion of employed people living below US\$ 1 per day; and (iv) proportion of own-account (self-employed) and contributing family workers in total employment. The indicators are meant to be disaggregated by sex and urban/rural areas. However, with the revision of the MDG monitoring framework, the original indicator on youth unemployment has been lost despite this new target mentioning young people.

The right to decent work is recognized in articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, while the International Covenant on Civil and Political Rights prohibits forced labour. Racial discrimination and discrimination against women with regard to the right

to work is to be eliminated under the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women. Article 27 of the Convention on the Rights of Persons with Disabilities also recognizes the equal rights of persons with disabilities to work, and guarantees certain working conditions. These human rights are supported by a raft of ILO standards, including the Minimum Age Convention N° 138, Worst Forms of Child Labour Convention N° 182 and ILO instruments that call for specific protective measures for young workers, such as night work or medical examination of young persons. The Employment Policy Convention N° 122 is the leading ILO instrument for employment promotion.

UNIFEM has set out the many commitments of States to gender equality and decent work under the Convention on the Elimination of All Forms of Discrimination against Women and the Beijing Platform for Action. It notes that Governments are obliged to take a range of measures to guarantee women's rights and access to economic resources that are critical for reducing poverty. This includes:

- Gender equality in all aspects of employment;
- Laws, policies and administrative processes must guarantee that women have equal rights in relation to property, contracts and loans—in public economic life and also within the context of marriage and family life;
- Women must be provided with access to markets, credit and technology;
- Heightened attention must be paid to the situation of rural women. In particular their equal rights to landownership must be ensured, as well as adequate living conditions in terms of housing, sanitation and water supply.

In relation to young persons, ILO estimates that the current youth unemployment rate of 14.4 per cent is double that of adults and that even this rate masks the many youths who are underemployed, working in poor conditions or on short-term temporary contracts or scraping out a perilous existence in the informal economy.<sup>68</sup> The number of unemployed female youths is also higher than that of male youths.

ILO Recommendation N° 122 calls for special priority to be given to measures designed to remedy the serious, and in some countries growing, problem of unemployment among young people. Recommendation N° 169 details special measures that should be taken to assist young people in finding their first job and to ease the transition from school to work, and stipulates that such measures should be carefully monitored to ensure that they result in beneficial effects on young people's employment and are consistent with the conditions of employment established under national law and practice. Another instrument relevant to the promotion of youth employment is the Employment Service Convention N° 88, which provides for special arrangements for youth to be initiated and developed within the framework of employment and vocational guidance services.

In addition to paying attention to women and youth, a human rights-based approach requires giving attention to marginalized groups that face discrimination or other barriers in accessing work, for instance persons with disabilities, ethnic, linguistic and religious minorities and non-nationals.

### Key messages

- Use additional measures of poverty, such as access to land, ancestral lands and natural resources.
- Ensure that economic growth policies are evidence-based and do not result in cuts to social spending that violate economic and social rights.
- Ensure that infrastructure projects do not result in harm to the rights to livelihoods, housing, food and environment.
- Eliminate discrimination in access to work and productive resources, particularly on the basis of sex, race, age and disability.
- Provide appropriate support to the informal economy.

### Examples of additional indicators

- Date of entry into force of the right to work and rights in work in domestic law.
- Time frame and coverage of a national policy for the abolition of child labour.
- Proportion of employed persons covered under formal social security system.
- Unemployment rate / average wage rate of vulnerable segments of the labour force.

## Target 1.C: Hunger

**Halve, between 1990 and 2015, the proportion of people who suffer from hunger**

The proportion of the world's people who suffer from hunger has only slightly declined over the past two decades. The absolute number has remained stubbornly persistent at over 800 million people. The target is measured by the prevalence of underweight infants and the *proportion* of the population below the minimum level of dietary energy consumption. The United Nations Millennium Project's Task Force on Hunger also divides hunger into acute and chronic (the latter representing 90 per cent of those who are hungry) as well as hidden (a lack of essential micronutrients). Most people experiencing hunger are in Asia, but hunger has been increasing in sub-Saharan Africa and pockets of hunger persist in all other regions of the world.

In 1996, United Nations Member States at the World Food Summit pledged to cut the number of hungry people in the world by half. The MDG target was, however, less ambitious as it focuses on the *proportion* of people and uses 1990 as the baseline. Since the General Assembly has affirmed all international development goals, the World Food Summit's goal remains relevant.

The Rome Declaration of the World Food Summit also recognized "the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger". This draws on a host of international standards, such as:

- The Universal Declaration of Human Rights (art. 25);
- The International Covenant on Economic, Social and Cultural Rights (art. 11), which also spells out the right to be free from hunger;

- The Convention on the Rights of the Child, which lays down that children have the right to nutritious foods and parents have the right to be informed of the benefits of breastfeeding (art. 24). States must provide material assistance and support programmes, particularly with regard to nutrition (art. 27);
- The Convention on the Elimination of All Forms of Discrimination against Women (art. 12) includes a State duty to provide adequate nutrition to women during pregnancy and lactation.

### Box 14. Defining the right to food: general comment N° 12 and Council Guidelines of the Food and Agriculture Organization of the United Nations (FAO)

The 1996 World Food Summit requested clarification on the content of the right to food. This culminated in general comment N° 12 (1999) of the Committee on Economic, Social and Cultural Rights on the right to adequate food. It states that food must be *available* in a "quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances" and *acceptable* within a given culture, and physically and economically *accessible*. The general comment defines the obligations of States to respect, protect and fulfil the right (see more below) without discrimination, pay particular attention to the rights of women and disadvantaged groups, adopt and implement an appropriate strategy for the progressive realization of the right, adopt the necessary implementation measures and ensure there are accountability mechanisms.

In 2004 member States of the FAO Council adopted the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security. These incorporate much of general comment N° 12 and provide more practical guidance to States on implementation.<sup>69</sup>

The MDG target partly echoes the right to food, in particular the right to freedom from hunger. The key concern from a human rights perspective is that attention will not, in practice, be given to the most marginalized and vulnerable. A human rights-based approach is necessary to ensure that national efforts are equitable and that the root causes of hunger are addressed, particularly as these are not captured in the indicators.

The Task Force on Hunger recommended seven key steps to eliminate hunger and many human rights strategies can be used to support them. These seven key steps are:

- Moving from political will to action (e.g., financial support, monitoring and accountability);
- Creating a better enabling environment (e.g., land reform, removing trade barriers, and empowering women and girls);
- Increasing agricultural productivity;
- Improving nutrition for the chronically hungry and vulnerable;
- Reducing the vulnerability of the acutely hungry through productive safety nets;
- Increasing incomes and making the market work for the poor; and
- Restoring and conserving natural resources essential for food security.<sup>70</sup>

### Box 15. Zero Hunger initiative in Brazil

In 2003, the Brazilian Government launched the Zero Hunger initiative to address the plight of the country's 46 million living in food insecurity. The initiative includes a wide sweep of policies and programmes focused on wider *structural policies* (e.g., universal social security, land reform, basic health care and minimum wage), specific food policies (such as a food stamps programme, emergency food support and school meals) and *local policies* which support local initiatives from infrastructure support for rural farmers to food banks. It is funded through a permanent federal budget line and complemented by a fund which can receive donations. The initiative is coordinated by the Special Ministry for Food Security and Combating Hunger with the active participation of civil society through the National Food and Nutritional Security Council, which was created in the early 1990s to campaign on food security and the right to food, with wider social movements.

Brazil is on track to reach the MDG target and has reportedly reached 11 million through the programme. The United Nations Country Team notes, however, that eliminating hunger will mean more effectively addressing discrimination and extending social security to the informal economy, while FAO has called for more land reform accompanied by proper technical and infrastructure support.<sup>71</sup> The Zero Hunger initiative can potentially be replicated and the Special Rapporteur on the right to food has praised moves to establish Zero Hunger initiatives across Latin America.<sup>72</sup>

The right to food has numerous implications for this MDG target and the Task Force on Hunger's recommendations. Here are a few obligations examined in context. The *duty to respect* the right to food means that Governments must not interfere unjustly with a person's means of access to food. Forced evictions from land are a common violation and frequently increase hunger. In rural areas, they deny farmers the ability to grow food or cash crops, while in urban areas they can also destroy livelihoods. Under international human rights law, forced evictions can occur only in exceptional circumstances, with consultation on alternatives and due process and access to alternative land and livelihoods.

The *duty to protect* means private individuals or entities must be prevented from infringing the right to food of others. For example, the practices of companies selling infant milk formula prompted the first international regulations based on the right to food, the 1981 International Code of Marketing of Breast-milk Substitutes. The Code is frequently reiterated and updated by the World Health Assembly, but still requires stronger enforcement in many countries. Private actors can also have an impact on natural resources for food production and livelihoods. Development actors also need to evaluate how agricultural and land policies can increase vulnerability to harmful practices by private actors. If improvements are made in agricultural productivity or security of tenure, the increased land values can make small farmers vulnerable to pressure from larger farmers to leave or sell land and they often require protection.

The *duty to fulfil* requires Governments to use all available resources to implement progressively the right to food. This includes developing a plan and strategy on ensuring food is available, accessible and acceptable, actively searching for the available resources; implementing the plan and monitoring its implementation; and providing systems of accountability. States should ensure everyone can access the minimum amount of food immediately unless they can demonstrate sufficient resources are not available.

In increasing the physical accessibility of food, the distribution of resources, including agricultural services and infrastructure, should be sufficiently targeted to marginalized and vulnerable groups, including those regions where the poorest reside. Food and agricultural policies should give special attention to groups such as small farmers and landless labourers (through holistic agrarian reform and/or provision of secure tenure), pastoralists, fisherfolk and forest users, by providing secure access to natural resources within a sustainable framework. The economic empowerment of women through increased and equal control over productive resources is also crucial.

In ensuring that food is *economically accessible* (affordable), States need to ensure there is enough food *available* to keep prices in check and take steps to ensure food remains affordable when its market price increases. Cuts in subsidies to basic food ingredients, such as flour and maize, can immediately increase hunger and their human rights impact should be evaluated. Deliberate retrogressive measures are prohibited.

The Task Force on Hunger recommends a number of key steps to ensure sufficient political will from developed and developing countries (such as monitoring, public awareness and support to local NGOs, including those working to empower the rural landless and urban poor in labour markets). Some of the recommendations of the Task Force, such as the use of organic fertilizer, farmer field schools or paraprofessional extension farm workers, could be transformed into indicators and monitoring benchmarks agreed by Governments. One mechanism highlighted by the Task Force is the use of judicial accountability, although successful cases often require active NGOs. (For a relatively successful example in India, see box 16.)

### Box 16. Accountability and the right to food in India

In response to deaths from starvation in rural areas and the failure of the authorities to properly implement the Famine Code, the People's Union for Civil Liberties took legal action in 2001. The Supreme Court found that the national and State Governments had violated the constitutional right to life. The Court made orders for the opening times of ration shops, the provision of grain at a set price to families below the poverty line, the publication of information about the scheme, the granting of a card for free grain to all individuals without means of support and the progressive introduction of midday meal schemes in schools. The Court also ordered an increase in resources for the poorly functioning famine relief scheme, given the seriousness of the situation. The case has been instrumental in helping launch a movement to monitor the right to food and the implementation of the orders. Some States have moved forward on complying with the court order.

At the same time many other rights are critical for addressing hunger, such as the right to livelihood and the right to social security, particularly for the most vulnerable, which provides income to obtain food. Social security is largely ignored by the Task Force (which suggests it only as a safety net) despite the human rights obligations of States and the use of this policy in countries such as Brazil and South Africa in order to tackle hunger. The right to livelihood and the right to food also provide support for access to land, which is critical since the majority of the world's hungry are poor peasants and landless labourers—and the International Covenant on Economic, Social and Cultural Rights specifically calls for agrarian reform.

The right to freedom of the press and democracy are crucial in holding Governments accountable, particularly in famines and other situations when hunger is acute. Many peasants and their leaders face violations of their civil and political rights, which need to be addressed. In the case of indigenous peoples and some ethnic, linguistic and religious minorities, the realization of the right to food requires the protection of their means of subsistence, which are directly related to the protection of their entitlements to land, territories and natural resources.

#### **Key messages**

- Recognize the right to food in national legislation and make it judicially enforceable.
- Identify groups vulnerable to food insecurity and review law and policy to determine if groups are sufficiently protected.
- Ensure peasant farmers are protected from forced evictions and violations of their civil rights to organize and express their views.
- Address the political marginalization of vulnerable groups and ensure there is no discrimination on grounds of ethnicity, gender, religion or any other such criterion.
- Ensure national plans comply with general comment N° 12 and the FAO Guidelines, and are implemented.
- Ensure international trade rules are compatible with the right to food.
- Ensure private actors respect the right to food, for example the International Code of Marketing of Breast-milk Substitutes.

#### **Examples of additional indicators**

- Proportion of agricultural households benefiting from implementation of land (and tenure) reforms.
- Arable irrigated land per person.
- Proportion of female-headed households / other vulnerable groups with legal title to agricultural land.
- Proportion of vulnerable population (e.g., children, pregnant women, the elderly) covered under public food supplement programmes.

## Goal 2: Achieve universal primary education



### Target 2.A: Primary schooling

Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling

Globally, more than 100 million children of primary school age are not in school, with the least participation in Africa and South Asia. As highlighted below under goal 3, girls are disproportionately affected, particularly in sub-Saharan Africa, South Asia, East Asia and the Pacific. Whilst initial enrolment rates are increasing, the dropout rate is a serious concern. For example, in Africa, only 51 per cent of children complete primary school.

Education is a well-recognized fundamental human right, enshrined in the Universal Declaration of Human Rights (art. 26). It was restated and expanded in the International Covenant on Economic, Social and Cultural Rights (art. 13) and the Convention on the Rights of the Child. Both treaties recognize that every child has a human right to education and that primary education should be compulsory and free. States must give primary education an immediate priority and ensure it is provided on a non-discriminatory basis.

Article 14 of the Covenant places a specific obligation on States that have not achieved free, compulsory primary education. They must adopt a detailed plan of action to achieve compulsory education free of charge for all within a reasonable number of years.

However, MDG target 2.A is only partly consistent with the right to education. Free, compulsory and quality education are not required and often

just recommended as good strategies, as reflected in the report of the United Nations Millennium Project's Task Force on Education and Gender Equity. These human rights elements should be included as specific targets with measurement through indicators. A human rights approach means that abolishing primary school fees well before 2015 is a human rights obligation. The right to free and compulsory education should also be laid down in the constitution and reflected in legislation.

#### Box 17. Recognition of the right to universal access: experiences from India and Uganda

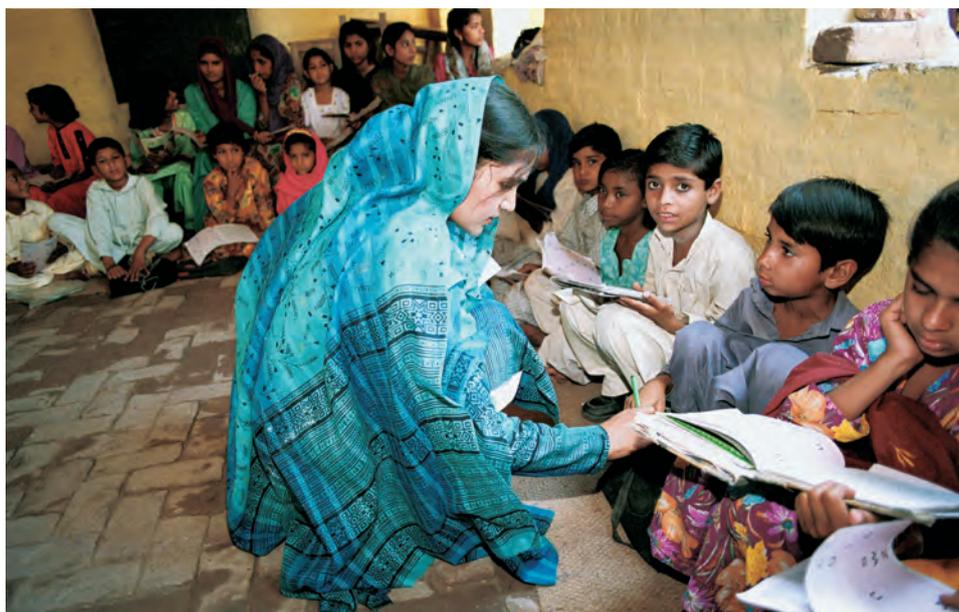
In 1992, the Supreme Court of **India** ruled that the right to free education for children up to the age of 14 was an integral part of the constitutional right to life.<sup>73</sup> After a civil society campaign across India, the Constitution was amended to make this right explicit and model legislation was passed. While the legislation has been criticized for failing to set minimum standards of education and ensure equity in access, the various rights-based strategies just described helped place education on the national agenda and, in some cases, triggered significant progress.<sup>74</sup>

In **Uganda**, the right to education was recognized in the Constitution in 1995 and the policy of universal primary education was introduced in 1997. This included equitable, high-quality and free access to primary education. While there are concerns about quality and outcomes, the policy is recognized as improving access and reducing gender inequalities and educational disparities between income groups.<sup>75</sup>

Ensuring equitable access is crucial. Barriers that prevent *girls'* attendance will be specifically addressed under goal 3. More than 40 million children

denied schooling have a *disability*. Article 24 of the Convention on the Rights of Persons with Disabilities expressly recognizes their right to education and State obligations to ensure an inclusive education system and provide children with disabilities the necessary support, including facilitating the learning of Braille, alternative script and sign language. With some countries reporting fulfilment of this MDG target without having provided education for children with disabilities, stronger attention is needed to ensure that children with disabilities have access to the necessary educational facilities and support staff.

Discrimination against ethnic minorities in education, both in access and in quality, needs to be eliminated. In many cases, the discrimination may not be direct but indi-



rect or institutionalized. In the case of *Yean and Bosico Children v. Dominican Republic*,<sup>76</sup> the Inter-American Court of Human Rights found that the State's refusal to register the births of children of Haitian descent, which denied them access to schooling, violated their right to a nationality and in this case denied them the right to an education. The Dominican Republic was ordered to provide all children with free primary education.

Incentives for poor children to attend school, such as a daily meal, should be put in place. Such strategies are grounded in fulfilling basic human rights—hungry children have a human right to food to enable their education. As discussed under target 1.C, a broad-based campaign to address hunger in India brought a case to the Supreme Court in 2001, demanding that massive food stocks held by the Government be distributed without delay to those who were hungry and starving.<sup>77</sup> The Court issued an order, based on the right to life, requiring Indian Governments to provide cooked mid-day meals to all children in Government and Government-assisted primary schools. Today, about 100 million children benefit from the midday meal programme, said to be the largest nutrition programme in the world.<sup>78</sup>

Former United Nations Special Rapporteur on the right to education, Katarina Tomaševski, among others, has highlighted that “schooling does not necessarily amount to education.”<sup>79</sup> Target 2.A has been criticized for focusing too much on increasing the number of children completing a course of primary schooling to the detriment of quality. Article 29 of the Convention on the Rights of the Child makes it clear that children have a human right to a certain *quality and content* of primary education, and a human rights-based approach would mean setting minimum standards and monitoring and evaluating them.

The Committee on the Rights of the Child has stated that the education offered must be “designed to provide the child with life skills, to strengthen the child's capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values. The goal is

to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence. ‘Education’ in this context goes far beyond formal schooling to embrace the broad range of life experiences and learning processes which enable children, individually and collectively, to develop their personalities, talents and abilities and to live a full and satisfying life within society.”<sup>80</sup>

A human rights approach also supports the call for greater resources. Indeed, Kenya was able to provide schooling for all children only after its decision to abolish school fees with some additional support from donors to cope with the significant increase in enrolments.

#### **Key messages**

- Make free, compulsory and quality education part of the target.
- Make the right to free primary education an enforceable right.
- Remove barriers that prevent children, orphans, children with disabilities, those from remote areas and urban settlements from attending school.
- Provide school meals to ensure poor children can attend school.
- Ensure education is of sufficient quality within maximum available resources.
- Ensure sufficient international aid for primary education, particularly for countries that provide free primary education.

#### **Examples of additional indicators**

- Time frame and coverage of the *plan of action* adopted by States to implement the principle of compulsory primary education free of charge for all.
- Dropout rate for primary education by grade for target groups.
- Proportion of children with physical, mental, sensory and intellectual disabilities enrolled in primary education institutions.
- Proportion of public schools with user charges for services other than tuition fees.
- Proportion of primary education teachers fully qualified and trained.

# Goal 3: Promote gender equality and empower women



## Target 3.A: Girls' education

**Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015**

Globally, one in five girls of primary school age are not in school, compared to about one in six boys, and more than 55 million girls worldwide receive no formal schooling whatsoever. In the least developed countries, women are 30 per cent less likely to be literate than men,<sup>81</sup> while equality in secondary schooling is poor, despite such schooling making an even greater contribution to women's empowerment.<sup>82</sup> The United Nations Children's Fund (UNICEF) highlights the contribution that gender equality in education makes to the well-being of children generally, as well as maternal health, reduction in the incidence of HIV/AIDS and malnutrition, and to other key Millennium Development Goals.<sup>83</sup>

Target 3.A is a focused goal that requires the staged removal of gender inequality, first in primary and secondary education, and progressively in all aspects of education. While there have been some significant gains in the promotion of gender equality in education, particularly in primary schooling, progress in reaching the target has been inadequate.

The overwhelming majority of States have accepted long-standing international human rights obligations to eliminate gender inequality and pro-

### Box 18. Girls' right to education

Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women places a specific obligation on States parties to take "all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education". This is complemented by specific obligations, such as:

- Providing female students the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises of the same quality (art. 10 (b)).
- Eliminating stereotyped concepts of the roles of men and women, encouraging coeducation, revising school programmes and adapting teaching methods (art. 10 (c)).
- Reducing female student dropout rates and organizing programmes for girls and women who have left school prematurely (art. 10 (f)).
- Providing specific educational information to help to ensure the health and well-being of families, including information and advice on family planning (art. 10 (h)).

The obligation to deliver primary, secondary and tertiary education in a non-discriminatory manner is also an immediate human rights obligation. The general obligation to provide education to all is discussed under goal 2 above.

mote the empowerment of women and girls. These obligations are laid down in the 1945 Charter of the United Nations, the Universal Declaration of Human Rights and all major human rights treaties. The Convention on the Elimination of All Forms of Discrimination against Women, for instance, obliges States to eliminate gender-based discrimination against women and girls in education.

UNICEF identifies a number of key actions for achieving gender equality in education, as required by target 3.A, including "abolishing school fees, encouraging parents and communities to invest in girls' education, and creating girl-friendly schools that are safe and without bias. School curricula must also impress upon teachers and students the importance of gender equality, and address male bias in the classroom. One way to help eliminate bias is to increase the number of female teachers in the classroom."<sup>84</sup>

The importance of a human rights approach to achieving gender equality in education is at least twofold. Firstly, under international law, the obligation to guarantee the exercise of the right to education without discrimination is immediate, highlighting the urgent need for action in this area. The Committee on Economic, Social and Cultural Rights makes it clear that this duty "applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination [including on the grounds of gender]."<sup>85</sup>

Secondly, international human rights norms place an obligation on States to take *positive* steps to ensure that the right to gender equality is fulfilled. It is not sufficient to provide increased access to education generally with the hope that girls will indirectly benefit. For example, the Committee on Economic, Social and Cultural Rights has said that the duty to protect means that States should ensure that third parties, including parents and employers, do not stop girls from going to school.<sup>86</sup> Other hidden barriers should also be removed: for many girls, early marriage or lack of sanitary pads can mean temporary or permanent absence from school.

### Box 19. Taking positive steps

In Afghanistan, girls have been systematically excluded from education opportunities. Deeply held cultural, religious and traditional beliefs ensure that, unless innovative and broad-based positive strategies are implemented to encourage girls going to school, classrooms would continue to be filled with boys. As reported by UNICEF, there are examples of positive steps being taken on a wide range of fronts, such as accelerated-learning classes and non-formal schools for 150,000 girls; teacher training, particularly the training of women; and alliances among clergy and girls' education advocates. In 2004, some 5,500 religious leaders were trained in women's and girls' rights and the importance of education. Programmes also promote girls' education by informing community leaders, often men, about the merits of sending girls to school. Enrolment of girls is slow but is increasing.<sup>87</sup>

## Beyond target 3.A: Other rights of women and girls

Equal access to education may be a precondition for women's empowerment, but it is not sufficient. The target for goal 3 is very narrow, although a new target on reproductive rights was added to goal 5 in 2007, intended, in part, to address these concerns. Gender also needs to be mainstreamed in all Goals, as discussed in chapter II above.

The Task Force on Education and Gender Equality has identified seven strategic priorities for women's empowerment, drawn from the Beijing Declaration and Platform for Action (and listed here with the most relevant human right added after each):<sup>88</sup>

1. Strengthen opportunities for post-primary education for girls while meeting commitments to universal primary education (right to education and non-discrimination);
2. Guarantee sexual and reproductive health and rights (right to health and non-discrimination);
3. Invest in infrastructure to reduce women's and girls' time burdens (right to work and non-discrimination);
4. Guarantee women's and girls' property and inheritance rights (right to housing, property and non-discrimination) (see also box 20);
5. Eliminate gender inequality in employment by decreasing women's reliance on informal employment, closing gender gaps in earnings, and reducing occupational segregation (right to work and non-discrimination);
6. Increase women's share of seats in national parliaments and local government bodies (right to participation in public life and non-discrimination);

7. Combat violence against girls and women (right to life, liberty and security of person).

States and other national stakeholders should consider setting numerical targets for these priorities. Priorities 5 and 6 are partly covered in the MDG indicator list (share of women in wage employment and proportion of seats held by women in national parliament) but no benchmarks for these indicators have been set. Care should be taken in setting indicators for gender violence, since low figures can represent a fear or official discouragement of reporting, or general lack of societal awareness.

### Box 20. South Africa: securing women's inheritance and property rights

The right to non-discrimination in the enjoyment of property and inheritance rights is recognized in the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. It has been entrenched in many national constitutions, including that of South Africa. South African women, like many women, have historically been disadvantaged in their ability to acquire or inherit land. One cause of this is customary laws or archaic statutes. In *Bhe v. Magistrate Khayelitsha*,<sup>89</sup> the Constitutional Court decided that the customary and statute laws providing that the eldest male relative of a deceased person inherited the estate were unconstitutional on account of the right to equality. The Court ruled that, in future, all deceased estates should be administered on the basis that partners and children could inherit, regardless of their gender and whether or not they were born in marriage.



#### Key messages

- Abolish school fees.
- Encourage parents and communities to invest in girls' education, and create girl-friendly schools that are safe and without bias.
- Address male bias in the classroom, for example by increasing the number of female teachers.
- Address institutional, cultural and income barriers that prevent girls going to school.
- Add targets on other key rights of women and girls, for example, on property rights, public participation and gender violence.

#### Examples of additional indicators

- Date of entry into force and coverage of legislation on equal access to security of tenure, inheritance and protection against forced eviction.
- Proportion of women reporting forms of violence (physical, sexual or psychological) against themselves or their children, initiating legal action and/or seeking help from police or counselling centres.
- Gender wage gap.

## Goal 4: Reduce child mortality



### Target 4.A: Infant mortality and children's rights

**Reduce by two thirds, between 1990 and 2015, the under-five mortality rate**

Each year, a total of 10.8 million children under the age of five die, with 4 million dying in their first month of life. It is estimated that over 60 per cent of these deaths could have been prevented through cost-effective interventions.<sup>90</sup> While overall child mortality has been declining over the past 20 years, the rate is slowing and in sub-Saharan Africa it is rising due to malaria and HIV/AIDS. Interventions in some areas have helped to decrease the impact of diarrhoeal diseases and vaccine-preventable conditions, yet in other areas the rate of neonatal deaths has remained virtually unchanged. Malnutrition of children and their mothers is a major contributing factor,<sup>91</sup> while pneumonia and malaria are the other two major killers of young children.

All sources of human rights law relevant to a child's right to life and survival highlight that the legal obligation on the State is to do everything immediately possible to protect children from preventable deaths. Article 6 of the International Covenant on Civil and Political Rights protects the right to life, and the Human Rights Committee (which monitors its implementation) has made it clear that this requires the State to take "all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics."<sup>92</sup> Article 6 of the Convention on the Rights of the Child compels States parties to "ensure to the maximum extent possible the survival and development of the child" and article 24 requires the State to take appropriate measures to "diminish infant and child mortality." Article 12 of the International Covenant on Economic, Social and Cultural Rights requires States parties to take steps to reduce the stillbirth rate and infant mortality as part of the right to health.

#### Box 21. The case of the "Street Children"<sup>93</sup>

In 1999, the Inter-American Court of Human Rights held Guatemala responsible for the torture and murder of several street children by State agents. But the Court also condemned the failure of the State to provide adequate living conditions. It held that children had a right to "harbour a project of life" and to "access to the conditions that guarantee a dignified existence." This was derived from guarantees to the right to life and special measures of protection for children in the American Convention on Human Rights. Furthermore, violations of the right to life take on heightened gravity when they affect children, particularly those at risk, according to the Court.

While the tragedy of the death of defenceless children can often shame duty-bearers into action, charity-driven efforts can undermine sustainable,

effective long-term interventions. The United Nations Millennium Project's Task Force on Child Health and Maternal Health highlights that the Goals are not a "charity ball"<sup>94</sup> and calls for a rights-based approach, i.e., creating entitlements and accountability systems, to address child mortality rates. The Convention on the Rights of the Child has already contributed to policies, services, programmes and adult behaviour at the country level being more focused on the best interest of the child.

But how is this to be done? And what do human rights offer? Since progress on other MDGs (1, 3, 6 and 7) will directly help reduce the number of children dying each year, the Task Force has proposed that goal 4-related action should focus specifically on the health sector. Interventions should be operational (e.g., scaling up health service delivery systems) as well as more broadly social, economic and political (e.g., removing barriers to accessing available health services). This is to some extent already reflected in the indicators, which, in addition to measuring under-five and infant mortality, include the proportion of 1-year-old children immunized against measles.

A number of key steps consistent with a child's right to life and health can be taken in this area. Increased access to a quality health system is essential, but much can be done to prevent deaths without depending on patient-based formal health care. This includes, for example, protecting and promoting breastfeeding of infants (see box 22) and equipping community-based health workers with basic training. Article 24 of the

#### Box 22. Right to food and breastfeeding: an achievable and effective strategy

Almost 20 per cent of child deaths could be prevented if women exclusively breastfed their children for the first six months and provided suitable complementary feeding. In 1981, the World Health Assembly adopted the International Code of Marketing of Breast-milk Substitutes, which affirms the right of every child and every pregnant and lactating woman to be adequately nourished. At the World Summit for Children, Governments endorsed the Innocenti Declaration, which calls on States to adopt the Code as a minimum requirement for implementing the Convention on the Rights of the Child.<sup>95</sup> However, while the Code requires legislation, regulations or other suitable measures to protect and promote breastfeeding, by August 2005, 61 out of 192 countries had not yet passed a law derived from the Code, while many others had adopted measures that did not take into account all of its provisions. Few Governments have set up regular systems to monitor the Code (art. 11.2), and manufacturers and distributors have still failed to adequately monitor their own marketing practices with respect to the sale of infant formula and related products (art. 11.3). NGOs, professional groups, institutions and individuals continue to monitor and draw attention to breaches of the Code. Greater strides need to be made in educating parents about the benefits of breastfeeding and providing women with adequate maternity leave so they have a realistic opportunity to breastfeed.

Convention on the Rights of the Child obliges the State to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care, which includes community-based workers.

At the broader contextual level, the Task Force on Child Health and Maternal Health recommends three changes to improve child mortality rates. In each case, the creation and maintenance of a human rights framework is a fundamental building block to achieving the desired outcomes. First, the Task Force urges that priority be given to actively addressing inequities in the provision of health services, rather than relying on a trickle-down approach focused only on the aggregate picture. Those who are marginalized and discriminated against are unlikely to benefit from the generic scaling-up of services. The Committee on Economic, Social and Cultural Rights makes it clear that removing discrimination in the protection of the right to health requires positive action to address underlying inequities, noting that “inappropriate health resource allocation can lead to discrimination that may not be overt.” The Committee states that investments “should not disproportionately favour expensive curative health services which are often accessible only to a small, privileged fraction of the population, rather than primary and preventive health care benefiting a far larger part of the population.”<sup>96</sup> The Task Force specifically proposes that States should use the human rights monitoring system to monitor the reduction in inequities within the health system regarding child health.

Second, the Task Force calls for recognition that health systems are social institutions, rather than mere providers of products and services, and recommends that the development of health systems should move away from a fundamentalist market orientation, where people are viewed only as consumers with preferences, to a rights-oriented model, where people

are accepted as citizens with entitlements and rights. Again, this fundamental shift is underpinned by international human rights principles which consider primary health care and provision of other health interventions to be entitlements to ensure the human right to life and health, the availability of which should not be wholly dependent on the capacity to pay.

Third, the Task Force recommends an increase in international aid and strong accountability mechanisms to support aid delivery methods. As the Task Force observes, “the financial costs of meeting the... child health goals are dwarfed by what the world spends on preparing for and waging war.”<sup>97</sup> However, more money, alone, is not enough, and accountability, underpinned by human rights standards, is essential to compel State action. Children do not vote, have no authority to secure assistance for themselves, and are frequently ignored at international, national and even local policy debates.<sup>98</sup>

#### Key messages

- Ensure the judicially enforceable right of children to life and health.
- Ensure health-care services are sufficient and equitably distributed.
- Take preventive steps such as promoting breastfeeding and training community health workers.
- Ensure health care is affordable.

#### Examples of additional indicators

- Date of entry into force of domestic legislation encompassing World Health Organization (WHO) standards.
- Time frame and coverage of national policy on child health and nutrition.
- Proportion of children in vulnerable segments of the population having regular medical check-ups.
- Proportion of live births with low birthweight.



# Goal 5: Improve maternal health



## Target 5.A: Reduce maternal mortality ratio

**Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio**

WHO estimates that 15 per cent of all pregnant women will develop obstetric complications that, if left untreated, can lead to death or severe disability. It is estimated that each year 530,000 mothers still die during pregnancy or childbirth, with a further 8 million women experiencing life-long health complications.<sup>99</sup> The MDG target aims for a reduction of the maternal mortality ratio by three quarters. The Task Force on Child Health and Maternal Health reports slow progress. In parts of sub-Saharan Africa, women have a 1 in 6 likelihood of dying in childbirth: the figure in developed countries is 1 in 8,700.<sup>100</sup>

The target is generally consistent with the right to adequate health care. The Committee on Economic, Social and Cultural Rights has indicated that failing to take adequate steps to reduce maternal mortality ratios can be a human rights violation.<sup>101</sup> In this way, this MDG target and the right to health are mutually reinforcing. A human rights approach places legal obligations on States to reach the target, while the strong focus on maternal mortality in the MDGs highlights an often ignored issue among those working on human rights.

### Box 23. Right to adequate health care

The right to adequate health care during pregnancy and childbirth has been universally accepted.

- The Universal Declaration of Human Rights recognizes everyone's right to medical care and, in particular, that mothers and their children have a human right to "special care and assistance" (art. 25).
- The International Covenant on Civil and Political Rights requires the State to protect the right to life, which includes positive duties where deaths are avoidable.
- The International Covenant on Economic, Social and Cultural Rights affirms the right to health and makes special mention of the right of mothers to "special protection... during a reasonable period before and after childbirth" (art. 10 (2)).
- The Convention on the Elimination of All Forms of Discrimination against Women deals in depth with the right to life in connection with childbirth. Its article 12 provides a general prohibition on discrimination against women in the provision of health services and a specific legal obligation on States to "ensure to women appropriate services in connection with pregnancy."

In measuring the target, a complementary *process* indicator is used, namely the proportion of births attended by skilled health personnel. This is because many studies show that data on the maternal mortality ratio itself

are often misleading. Indeed, the *Millennium Development Goals Report 2006* does not even include data on this indicator. Maternal mortality is usually the highest in those countries where data collection is poor. Thus, a low ratio may mask a high rate of deaths. The *Report* does show a significant increase in births attended by skilled health-care personnel in some regions.

However, it is questionable whether this complementary indicator is sufficient. It has been used since the MDG benchmark date of 1990, but there have been considerable advances in measuring whether a State's actions are sufficient. For example, greater numbers of skilled health personnel may not be effective if they are inequitably distributed (see box 24).

Additional indicators should therefore be used by developing States and donors, such as those contained in the Guidelines for Monitoring the Availability and Use of Obstetric Services.<sup>102</sup> These indicators are consistent with a rights-based approach to the provision of basic and comprehensive emergency obstetric care (EmOC). The six key indicators cover the availability of EmOC services, their equitable distribution, the proportion of births in them, the met need, the number of caesarean sections and the fatality rates.

The policies and programmes needed to address maternal health are not contentious from an empirical standpoint. The evidence is clear that most obstetric complications occur unexpectedly around the time of delivery in women with no known risk factors, striking about 15 per cent of all pregnant women.<sup>103</sup> The Task Force and many other experts and United Nations agencies recommend that the priority focus should be on ensuring that such women *can and do access emergency obstetric care*.

The Committee on Economic, Social and Cultural Rights regards the provision of maternal health care as a core obligation, which can clearly encompass EmOC.<sup>104</sup> But provision of EmOC must be understood in a right-to-health framework. It must be sufficiently *available, accessible, acceptable* and of adequate *quality*.

In terms of availability and quality, it should include both community-based health workers and *first referral* health services, backed up with skilled birthing attendants and quality EmOC.<sup>105</sup> Access to sexual and reproductive health care is also necessary (see new target 5.B. below), particularly considering the high rates of unsafe abortions in many countries.

### Box 24. Nepal Safer Motherhood Project

A study on EmOC in Nepal found that the principal users of services were high-caste Brahmin/Chettri women—in some districts, their use was four times greater than that by all other women. This has raised the need to address the underlying causes of such inequities so that lower-caste groups and Janajatis (ethnic groups) can use EmOC services at the same rate as the Brahmin/Chettri women.<sup>106</sup>



If these emergency obstetric services are available, then a rights-based approach also means removing barriers to appropriate use. The obstetric care must be affordable, a key element of accessibility as part of the right to health. The use of market-oriented mechanisms to provide it must therefore be closely monitored. States also need to overcome costs associated with transport to and communications with health services.

While the provision of basic information on physical *accessibility* is important, women should not be viewed as a homogenous group. Some women may be wary of going to a hospital or clinic to give birth if there has been a history of involuntary sterilization. There may also be a strong culture of home births and EmOC may need to be provided in culturally sensitive ways or adapted to different environments. Policies that measure skilled birth attendance by numbers of institutional births should be discouraged as it may create perverse effects, for example harassment of women who have home births.

The obligation of non-discrimination means immediate steps should be taken to ensure the equitable distribution of obstetric care facilities and staff. Systemic discrimination in the allocation of facilities, institutional discrimination (e.g., prohibition of traditional indigenous birthing rituals) and individual discrimination on prohibited grounds need to be eliminated.

This includes addressing gender and legal barriers to the use of EmOC. According to the Committee on the Elimination of Discrimination against Women, the obligation to respect a women's right to health requires that:

States parties should not restrict women's access to health services or to the clinics that provide those services on the ground that women do not have the authorization of husbands, partners, parents or health authorities, because they are unmarried or because they are women. Other barriers to women's access to appropriate health care include laws that criminalize medical procedures only needed by women and that punish women who undergo those procedures.<sup>107</sup>

Likewise, the obligation to protect requires the State to prevent private persons and organizations from taking such actions, an obligation particularly important in highly privatized health-care sectors. This will require the enactment and enforcement of laws and health sector regulations, gender-sensitive training and the establishment of complaint procedures to hear grievances.

To ensure the provision of care and the breaking-down of demand barriers, strong and constructive accountability mechanisms are needed. The right to EmOC could be enshrined as a legal entitlement in national law. A human rights approach also requires that the health system should be structured as a core social system through which people exercise their rights, and not merely a top-down service-delivery system. Mechanisms are needed to monitor the outcomes of increased funding and international aid flows to those who are the least able to address their own health needs, be it through lack of education, geographical isolation, poverty or other such factors. Given the need for functioning, high-quality, responsive care with equitable access,<sup>108</sup> constant and independent monitoring is essential.

Lastly, the rate of maternal deaths will obviously decline if women who want fewer children are able to freely make that decision. The right to freely determine the number and spacing of children has also been recognized by major United Nations conferences on population and development, in Tehran in 1968 and in Cairo in 1994 (see also target 5.B).

#### Key messages

- Provide basic and comprehensive emergency obstetric care.
- Ensure facilities are equitably distributed, accessible and affordable or free.
- Ensure women have information about facilities, and cultural and legal barriers are removed.
- Establish constructive systems of accountability to monitor and enforce human rights obligations to provide care, remove barriers and reduce the maternal mortality ratio.
- Ensure women have the right to freely determine number and spacing of children.

#### Examples of additional indicators

- Facilities providing EmOC.
- Distribution of EmOC within a geographic area.
- Number of women using these facilities.
- Proportion of women with obstetric complications using these facilities.
- Availability of critical services.
- Quality of services adequate.

## Target 5.B: Reproductive health

**Achieve, by 2015, universal access to reproductive health**

Following the revision of the MDG monitoring framework in 2007, a new target on access to reproductive health was added to goal 5. The indicators for the target are (1) contraceptive prevalence rate; (2) adolescent birth rate; (3) antenatal care coverage (at least one visit and at least four visits); (4) unmet need for family planning.

The addition of this target is welcome as it was included in other international declarations, such as the Beijing Declaration and its Platform for Action. Many commentators have criticized the MDGs for their previous silence on this issue. In many countries, lack of control by women and girls over their reproductive health has severe effects. For example, in Africa, being young and female means having a substantially higher risk of HIV/AIDS, particularly since young women have less negotiating power to either refuse sex or insist on condom use. Fifteen million girls between 15 and 19 give birth every year, and another 5 million adolescent pregnancies end in abortion. Pregnancy is the leading cause of death for girls aged 15-19.

This target should be interpreted in line with the Cairo Programme of Action of the International Conference on Population and Development (1994) and the Beijing Platform for Action (1995). Reproductive health means that:

People are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.

This definition has been approved by United Nations human rights bodies. The Committee on Economic, Social and Cultural Rights has stated that “women and men have the freedom to decide if and when to reproduce and the right to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice.” This right should therefore be recognized in a country’s constitution and laws.

Moreover, the Task Force had earlier noted that goal 5 must include “access to contraception,... safe abortion services, as well as information and services for preventing and treating sexually transmitted infections,

### Box 25. Nepal’s interim Constitution recognizes reproductive rights

On 16 December 2006, Nepal’s interim Constitution was agreed upon by national political leaders. The interim Constitution recognizes the right to reproductive health and other rights relating to reproduction as fundamental rights. It is the first time that a Government in the region has explicitly recognized women’s reproductive rights as fundamental rights in a national constitution.

including HIV/AIDS.” These should be added as indicators wherever possible.

A human rights approach to reproductive health requires a number of key steps which are consistent with the Cairo and Beijing plans. The Committee on the Elimination of Discrimination against Women, for example, has emphasized that:

- The right to health requires timely access to the range of services that are related to family planning, in particular, and to sexual and reproductive health, in general.
- It is discriminatory for a State to refuse to provide legally for the performance of certain reproductive health services for women. For example, if health-service providers refuse to perform such services based on conscientious objection, measures should be introduced to ensure that women are referred to alternative health providers.
- States parties should ensure the rights of female and male adolescents to sexual and reproductive health education by properly trained personnel in specially designed programmes that respect their right to privacy and confidentiality.

These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children, and to have the information and means to do so.

#### Key messages

- Recognize reproductive health as a human right in laws, policies and programmes.
- Provide effective access to a range of family planning services and to other sexual and reproductive health services.
- Ensure access by female and male adolescents to sexual and reproductive health education.
- Ensure women have the right to freely determine the number and spacing of children.

#### Examples of additional indicators

- Time frame and coverage of a national policy on maternal and reproductive health.
- Proportion of women of childbearing age using contraception or whose partner is using contraception.



# Goal 6: Combat HIV/AIDS, malaria and other diseases



## Targets 6.A-6.B: Halt and reverse HIV/AIDS

**6.A Have halted by 2015 and begun to reverse the spread of HIV/AIDS**

**6.B Achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it**

The ravaging effects of the HIV/AIDS epidemic and efforts to address it are generally well known—every day, a further 5,700 people die from AIDS and 6,800 are newly infected with HIV.<sup>109</sup> Many millions of children and families are deeply affected, as partners, widows and orphans, even if they are not themselves infected.

The target of halting and reversing the spread of HIV/AIDS is measured by a range of indicators. The outcome indicator of HIV prevalence among 15–24-year-olds is complemented by process indicators: condom use at last high-risk sex, proportion of young people with comprehensive and correct knowledge of HIV/AIDS, and school attendance by orphans.

In 2001, goal 6 was supplemented by the Declaration of Commitment on HIV/AIDS, adopted by the General Assembly.<sup>110</sup> States committed themselves to developing by 2003 national strategies, financing plans and integration of HIV/AIDS prevention, care, treatment, support and impact mitigation into development planning. Additional numerical targets were added:

- Reduce HIV prevalence among young people by 25 per cent in the most affected countries by 2005 and by 25 per cent globally by 2010;
- Ensure that by 2010 at least 95 per cent of young people have access to the knowledge, education, life skills and services to reduce their vulnerability to HIV infection.

The Declaration included specific human rights commitments to, by 2003:

- Enact and enforce laws, regulations and other measures that prohibit discrimination on the grounds of HIV/AIDS;
- Ensure to people living with HIV/AIDS and members of vulnerable groups the full enjoyment of human rights, including, for instance, access to education, inheritance and health care.

The Declaration spells out specific obligations to deal with discrimination, social exclusion and violence against women and girls.

There has been some progress, such as increased financing of HIV programmes in developing countries and more people receiving antiretroviral treatments and establishing their HIV status. Yet, AIDS remains a leading cause of death worldwide.<sup>111</sup>

A criticism of the indicators, particularly from a human rights perspective, is that they have not included access to treatment, beyond target 8.E on access to affordable essential drugs. However, in 2007, a new target 6.B was included: achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it.

If the Declaration's targets are added to the MDG targets then there is substantial resonance with the right to health in the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights. Article 12 of the Covenant requires States to prevent, treat and control epidemic and endemic diseases. The Committee on Economic, Social and Cultural Rights has said this means establishing prevention and education programmes for HIV/AIDS and the right to treatment.

### Box 26. International Guidelines on HIV/AIDS and Human Rights<sup>112</sup>

In 1998, as the HIV/AIDS crisis intensified, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Joint United Nations Programme on HIV/AIDS (UNAIDS) published special Guidelines on how to apply these international human rights norms in practical ways at national level. Updated in 2006, the 12 Guidelines articulate the link between international human rights standards and HIV/AIDS and how to take a rights-based approach in responding to HIV/AIDS, including providing for legislation to protect people against unlawful discrimination and to promote their human right to health, and supporting people to use these laws, recognizing the important role that the legal system plays in ensuring accountability and protection against human rights violations. For example, Guideline 7 provides that States should implement and support legal support services that will educate people affected by HIV about their rights, provide free legal services to enforce those rights, develop expertise on HIV-related legal issues and utilize means of protection in addition to the courts, such as offices of ministries of justice, ombudspersons, health complaint units and human rights commissions.

As the General Assembly has acknowledged, a human rights-based approach is essential. UNAIDS has stated that: "The best way to empower people to face HIV and AIDS is to protect their human rights—all their rights—civil, economic, political, social and cultural. The best way to enforce these rights is for people to draw them down in the form of concrete demands and advocate or, if necessary, litigate for their fulfilment in their countries and communities."<sup>113</sup>

One of the significant barriers in preventing the spread of HIV/AIDS and ensuring that those affected access treatment is the stigma around the disease. (For an example of action to address this, see box 27.)

### Box 27. Dealing with stigmatization

In the Bolivarian Republic of Venezuela, a community advocacy group called *Acción Ciudadana Contra el SIDA* took legal action, after advocacy efforts failed, against a university which had a policy of compulsory HIV-testing before admitting students for teacher training. The university claimed that people living with HIV/AIDS were “damaged”, would “leave a trail of infected people” and be a poor educational investment because of their premature death. The court upheld the complaint because the policy breached the human right to education. Since then, *Acción Ciudadana* has used the decision to support further complaints of stigmatization and exclusion, noting that “it is better to lose than never to have fought at all. We must fight against violations of the rights and dignity of people. If we don’t, we turn ourselves into accomplices. The rights enshrined in national and international laws and treaties are not automatically enforced, they are realized through the actions of citizens.”<sup>114</sup>

Substantial increases in resources, including through international aid, must occur to enable implementation, together with a stronger resolve at the national Government level. The United Nations Millennium Project’s Task Force on HIV/AIDS, Malaria, Tuberculosis and Access to Essential Medicines has identified three major thrusts for action: (a) simultaneous expansion of prevention and treatment programmes; (b) development of specialized AIDS programmes alongside development of general health services; and (c) direction of programmes towards the poor and the vulnerable groups most in need of them.<sup>115</sup> The biggest obstacle to these priorities is the lack of human and institutional capacity. Whilst over 90 per cent of Governments have reported having a national policy in place for responding to HIV/AIDS, implementation is patchy and poor.<sup>116</sup>

Governments must be made accountable against their own laws, regulations, policies, programmes and plans; rights-based advocacy and grass-roots empowerment are vital components for securing implementation. Many countries continue to have weak human rights protection systems necessary to support a rights-based approach to HIV/AIDS prevention and treatment.<sup>117</sup>

The Secretary-General’s progress report on the Declaration of Commitment on HIV/AIDS has clearly indicated the importance of taking a human rights-based approach to both universal access and prevention. It particularly notes that prevention efforts are not yet succeeding owing to insufficient investment, low coverage of HIV prevention services for the most vulnerable populations and lack of action against the *drivers* of HIV infection, including gender inequality, stigma and discrimination, and the failure to protect other human rights. It calls for a prioritization of programmatic responses, including law reform, training of law enforcement personnel to protect vulnerable groups, training of health-care workers in informed consent, non-discrimination and confidentiality, efforts to end harmful traditional norms, efforts to make schools free of sexual violence for girls, and provision of HIV services to prisoners.<sup>118</sup>

Box 28 illustrates an accountability campaign to ensure Government provision of HIV/AIDS-related medicines.

### Box 28. HIV/AIDS and rights-based advocacy: the South African experience

The Treatment Action Campaign (TAC) has driven its campaign for access to treatments using the constitutionally entrenched right to health. Using both the courts and grass-roots mobilization, it has conducted a strategic campaign to bring the South African Government to account for its inaction over HIV/AIDS. Formed in 1998, TAC set out to pressure the Government to deliver the prevention and treatment programmes to South Africans that were available in other countries. In *Minister of Health v. TAC*,<sup>119</sup> the Government was challenged for failing to provide the drug Nevirapine—a treatment to prevent mothers living with HIV/AIDS from transferring the virus to their babies—arguing that this failure was a violation of the right to health of adults and of children, contained in the South African Constitution. The Constitutional Court ruled that the Government had violated the right to health both in not providing the drug and in not having a plan to implement such a programme. It ordered the Government to make the drug available in all public hospitals and clinics with testing and counselling facilities, and develop a comprehensive plan for preventing mother-to-child transmission of HIV/AIDS. In combination with further lobbying and rights-based advocacy, the Court’s decision led to the drug finally being made available.

#### Key messages

- Ensure the right to health is enshrined in laws and programmes.
- Break down stigma surrounding HIV/AIDS and ensure provision of correct information.
- Eliminate discrimination on the grounds of HIV/AIDS.
- Provide essential drugs and counselling to prevent mother-to-child transmission of HIV/AIDS.
- Provide antiretroviral drugs and associated health-care services to treat those with HIV/AIDS.

#### Examples of additional indicators

- Time frame and coverage of a national HIV/AIDS antiretroviral therapy strategy.
- Proportion of relevant geographical areas with health facilities providing antiretroviral therapy services in line with national standards.
- Proportion of persons with advanced HIV infection receiving antiretroviral combination therapy.

## Target 6.C: Malaria, other diseases and the right to health

**Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases**

Many diseases such as malaria and tuberculosis remain hidden from the public eye. Between 300 and 500 million people are infected each year with malaria, with 3 million people dying from it. Malaria particularly afflicts people in poverty and other vulnerable groups, including pregnant women and people living with HIV/AIDS, and is a major burden on struggling health services. Tuberculosis (TB) claims 2 million lives each year

and, in some parts of the world, the epidemic is worsening. It is also the leading AIDS-related killer.

## Malaria

Target 6.C calls for the halt and reversal of the incidence of malaria.<sup>120</sup> In addition, there are two process indicators which reflect a consensus on two important ways of tackling malaria, a disease that is entirely preventable and treatable. The first is the proportion of children under five sleeping under insecticide-treated bednets. For example, in Kilifi District, Kenya, death rates were reduced by 33 per cent and hospital admissions for severe malaria went down by 44 per cent through the use of nets.<sup>121</sup> The second is the proportion of children under five with fever who are treated with appropriate antimalarial drugs. The Task Force strongly recommends expanding the use of effective, but more expensive, artemisinin-based combination therapies where traditional therapies are no longer effective owing to drug-resistance.

There has been some progress on the target. Household ownership of insecticide-treated bednets increased in many African countries. Many have changed their national drug policy and adopted artemisinin-based combination therapies. However, there are insufficient quality data available to assess accurately global trends in malaria infections.

The human right to health is well established in international human rights norms and has been discussed in many targets above. In its res-

### Box 29. Empowerment and capacity-building for malaria prevention and treatment in Mozambique

In Mozambique, more children are hospitalized with malaria than with any other condition and 25 per cent of those children die. Research by UNICEF in the late 1990s established that *most citizens did not know that malaria was transmitted by mosquitoes*. Nor did they know that children and pregnant women were particularly susceptible. The common strategy was simply to spray urban and peri-urban areas.

UNICEF developed a human rights approach to infection prevention—people are capable of making informed decisions and taking actions to protect their rights and those of their children if they receive adequate support. Participatory community education and communications tools, including drawings, were used to explain malaria, mosquitoes, symptoms, treatments and what people can do to reduce infections.

Over three months, some 189,000 people participated in the activities and 200,000 insecticide-treated bednets were distributed. An evaluation found that (a) all respondents knew what malaria was and 91 per cent understood that it was transmitted by mosquitoes (compared to 30 per cent in earlier surveys); (b) 98.1 per cent used nets; (c) over 95 per cent of those with nets reported sleeping under one; and (d) the overwhelmingly majority of respondents identified children as a high-risk group. Only 57 per cent identified pregnant women as a risk group, but this was significant, since not a single respondent had done so during earlier surveys.<sup>123</sup>

olution 2003/29, the former Commission on Human Rights recognized that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is one fundamental element for achieving progressively the full realization of the right to health (para. 1). The Committee on the Rights of the Child has paid particular attention to the issue, urging many States to increase their efforts in this area. The right to health requires the maximum available resources to be devoted to providing appropriate nets and medicines as well as prevention. Despite the commitment of the Global Fund to Fight AIDS, Tuberculosis and Malaria to provide \$450 million for malaria prevention and treatment, it is estimated that between \$2 billion–\$3 billion is needed per year. The Task Force believes that with adequate financial assistance, it is feasible to scale up access to interventions and increase low coverage levels to more than 80 per cent in three to four years.<sup>122</sup>

A rights-based approach focuses on ensuring that communities are empowered to address the issue. The Committee on Economic, Social and Cultural Rights has made it clear that part of the right to health includes the right to participate in all health-related decision-making at the community, national and international levels.<sup>124</sup> Empowerment and capacity-building among local communities to build knowledge, skills and appropriate attitudes are crucial to a human rights approach to fighting malaria and are relatively inexpensive (see case study in box 29). There is also a need to focus on particularly marginalized groups. Targeting people in conflict areas who have moved into high-malaria incidence areas but have low resistance is critical.<sup>125</sup>

## Tuberculosis

Target 6.C also aims to halt and reverse TB, and the indicators relate both to this result and to the provision of a particular treatment: directly observed treatment short course (DOTS). Treatment success rates have exceeded 80 per cent. According to the Task Force, the problem is that poor communities where TB incidence is the highest have yet to see the benefits of DOTS. It is relatively time-intensive, lasting eight months.

The recommendations of the Task Force broadly conform to what might be required under the right to health:

- Provide access for all to high-quality TB care and treatment through DOTS.
- Provide TB preventive treatment in conjunction with HIV prevention and treatment.
- Accelerate development of critically needed drugs, vaccines and diagnostics.
- Stop the spread of multidrug-resistant TB.
- Engage all primary care providers in high-quality TB care.<sup>126</sup>

However, treatment and drugs must be affordable in conformity with the right to health. The Task Force has called for public-private partnerships to provide and develop medicines, which need to be affordable for poorer Governments in order to provide the treatment free of charge or at low cost. (See further target 8.E below.)

## Neglected diseases

While malaria and TB affect many countries, other diseases such as river blindness, sleeping sickness, Chagas' disease and leprosy continue to affect millions. WHO describes these diseases as those which affect almost exclusively poor and powerless people living in rural parts of low-income countries.<sup>127</sup> For instance, every year 600,000 new cases of leprosy are diagnosed. Untreated, leprosy causes immense physical suffering and disability. But the disease has another punishing dimension. People affected by leprosy—including patients, former patients and their families—often suffer stigma and discrimination born of ignorance and prejudice.

Yet, only 10 per cent of health research and development spending is directed at the health problems of 90 per cent of the world's population. This means that poorer countries are often left alone to fight diseases, as the case study on Argentina shows, although there a human rights case helped push the Government to develop treatment.



### Box 30. Human rights laws as tools of accountability: Argentina and the right to health

In 1998, Argentina faced an epidemic of Argentine haemorrhagic fever, which threatened the lives of up to 3.5 million people. Despite the extent of the health risks, the Government had yet to take action to make available a vaccine, Candid 1, for the fever. Candid 1 had been proven to be 95 per cent effective and approved by WHO but was an *orphan drug*, i.e., not profitable for private sector production. Relying on the right to health in article 12 of the International Covenant on Economic, Social and Cultural Rights, which is part of the domestic law of Argentina, and the American Declaration of the Rights and Duties of Man, a coalition of NGOs brought a case against the Minister for Health, seeking an order for the Government to manufacture and make available the vaccine in the affected regions. In *Mariela Viceconte v. Ministry of Health and Welfare*, the Court of Appeals ruled that the Government had acted in violation of the human right to health, particularly article 12 (2) (c), which obliges States parties to take all steps necessary for the prevention, treatment and control of epidemic, endemic, occupational and other diseases. It ordered the Government to follow a specific time table for producing the vaccine and making it publicly available. The Court also ordered the Ombudsman to monitor the Government's compliance with the court order, to strengthen accountability. The Court of Appeals has also remained actively involved in monitoring the Government's compliance and the vaccine is now in production.

The United Nations Special Rapporteur on the right to health has called on the international community to do more to provide appropriate treatments for these diseases since market mechanisms alone are unlikely to do so for lack of a market.<sup>128</sup> However, Governments also need to engage with the often neglected populations who suffer from these diseases.

#### Key messages

- Ensure the right to health is enshrined in laws and programmes.
- Ensure communities are empowered with knowledge on malaria.
- Increase financial and human resources to provide access to bednets and appropriate medicines.
- Provide more financial resources to ensure the provision of affordable drugs and high-quality care to prevent TB.
- Support States to address neglected diseases.

#### Examples of additional indicators

- Time frame and coverage of a programme for the prevention, treatment and control of malaria, TB and other neglected diseases.
- Proportion of population at risk covered under appropriate education/awareness-raising programmes on the transmission of disease(s).
- Proportion of the population applying effective preventive measures against disease(s).



## Targets 7.A-7.B: Sustainable development

**7.A Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources**

**7.B Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss**

The ongoing degradation of natural resources has immense consequences, not only for the protection of the environment but for human life itself. People living in poverty largely bear the brunt of environmental harm, be it pollution of the air and water, destruction of forests and fisheries, or the harmful effects of climate change, with the first reported *victims of climate change* being inland pastoral nomads in Kenya, whose lands and herds have been decimated by persistent *drought* owing to a change in weather patterns. A fifth of the disease burden in developing countries can be linked to environmental risk factors.

Environmental sustainability has been defined by the Millennium Project as the task of meeting “current human needs without undermining the capacity of the environment to provide for those needs over the long term.”<sup>129</sup> Target 7.A aims for the implementation of this principle at the national level together with reversing environmental losses. To make this quite general target more concrete, indicators were developed and substantially amended in 2007, as follows:

- Rate of deforestation;
- Carbon dioxide emissions;
- Consumption of ozone-depleting substances;
- Proportion of fish stocks within safe biological limits;
- Proportion of total water resources used.

A new target, 7.B, was also added: by 2010, achieve a significant reduction in the rate of biodiversity loss. The indicators are:

- Proportion of terrestrial and marine areas protected;
- Proportion of species threatened with extinction.

In 2006, the United Nations reported on a number of these indicators. While the reduction in ozone depletion was a “global success story”, poor progress had been made on the other indicators, with deforestation continuing at alarming rates.<sup>130</sup>

Human rights, particularly the right to environmental health, are relevant to many of these indicators. The right to health in the International Covenant

on Economic, Social and Cultural Rights includes the State obligation to ensure *environmental hygiene*, which was later to be articulated as a clear right. Principle 1 of the 1972 Stockholm Declaration famously states that: “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment...” In 1990, the General Assembly reaffirmed the right to environmental health.<sup>131</sup>

These high-level summits paved the way for considerable international legal activity, though few treaties specifically addressed *water* or took a human rights approach. Particularly relevant are the conventions on wetlands, climate change, drought and biodiversity.<sup>132</sup> The Convention on the Rights of the Child refers specifically to the need to protect children from environmental pollution. The right to environmental health has been included in numerous national constitutions and laws, and institutions were created to ensure better protection of the environment. Many courts throughout the world have recognized the right.<sup>133</sup>

### Box 31. Examples of the recognition of the right to environmental health

In Pakistan, NGOs and other advocates have successfully challenged, before the Supreme Court, an electricity grid station, the dumping of nuclear waste and a malfunctioning sewage treatment plant on the basis of the right to environmental health.

The African Commission on Human and Peoples’ Rights found that Nigeria had violated the human rights to food and environmental health by failing to prevent an oil company from polluting water resources.<sup>134</sup>

The scope of these targets and indicators is vast and the United Nations Millennium Project’s Task Force on Environmental Sustainability has made wide-ranging recommendations on agricultural production systems, forests, freshwater resources and ecosystems, fisheries and marine ecosystems, air and water pollution, and global climate change.<sup>135</sup>

A human rights approach offers a number of key elements to the struggle for sustainable development. The first is that human rights can offer a strong form of accountability given the widespread legal recognition of the right to environmental health. Degradation of water and air has been widely litigated and even some issues like climate change have recently been subject to legal challenge. More support can be given to official environmental defenders, judicial and quasi-judicial institutions as well as civil society organizations.

Second, the right to information and participation are critical in environmental matters. When the public and decision makers are aware of en-

vironmental damage, it is easier to mobilize action. The regional Aarhus Convention, ratified by many European and Central Asian States, reflects key precepts of a human rights-based approach. The treaty provides a general right to access information on a wide range of environmental matters, to participate in decision-making procedures and to access justice. An international complaint mechanism has been established for monitoring the treaty. But participation and information must be more than mere consultation. Empowering the poor to manage, control and sustainably develop natural resources can both protect the environment and reduce extreme poverty.

### Box 32. Natural resource management and local participation<sup>136</sup>

In the pre-communist period, every village in Albania had its own forests and pastures, partly owned by families and partly by the whole village. During the 50 years of communism, all forests and pastures were turned over to the State, which managed and exploited them.

In Lozhan, State-owned forests were transferred to peasants with protection of their user rights. This handover actively involved the community in 16 villages, and was the first in the country to effect land transfer up to registration and certification. It focused on the attainment of a new land tenancy system and land acquisition: some 4,347.5 ha of State forest land were transferred to local people, providing more than 200 families with legal access to forest land for 10 years, renewable for a further 10 years.

This result was achieved through a land literacy campaign and a community capacity-building process carried out by the NGO Transborder Wildlife Association. Furthermore, during the establishment of the communal forest, as a result of their using the forest land, the farmers became increasingly aware of the importance of forest maintenance.

Third, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child make it clear that the developed countries have a special obligation to assist developing countries with reversing environmental losses and coping with environmental hazards. The Covenant requires countries to take steps to realize the right to health through international assistance and cooperation, especially economic and technical, to the maximum of their available resources. Indeed, the Council of Europe has acknowledged the contribution of European States to climate change, for example, and called for a post-2012 climate change framework based on common but differentiated responsibilities and capabilities of countries.<sup>137</sup>

A human rights framework is also crucial in resolving some of the conflicts that can arise between environmental protection and human rights in practice. Often, it is the poorest and most marginalized who are asked to make sacrifices for the environment, and efforts should be made to

ensure that the burden is equally shared and human rights are not violated in the process. For example, if there is a need to move settlers from a forest to protect water catchments and halt deforestation, there should be adequate resettlement in accordance with the right to housing and food. In one case, the failure to provide resettlement actually led to the return of the evictees to the forest.<sup>138</sup>

#### Key messages

- Ensure institutions have capacity to enforce the right to environmental health and related laws and rights.
- Support civil society organizations to monitor environmental protection.
- Enshrine rights to participation and information on environmental matters.
- Developed countries should respect, protect and fulfil the right to environmental health, including by taking appropriate action to prevent climate change and its impact on poorer countries.
- Resolve conflicts between development and environment through a human rights framework.

#### Examples of additional indicators

- Time frame and coverage of national policy on environmental sustainability.
- Proportion of population or households living in or near hazardous conditions.
- Number/proportion of reported cases of deterioration of water sources brought to justice.
- Incidence of death, injury and disease caused by unsafe natural environment.

## Target 7.C: Water and sanitation

**Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation**

At the beginning of the twenty-first century, 1.1 billion people are estimated to lack access to a basic water supply and 2.4 billion are without basic sanitation.<sup>139</sup> Each year at least 1.6 million children under the age of five die from unsafe water, coupled with a lack of sanitation. The MDG target aims to halve this water and sanitation gap. WHO and UNICEF estimate that the target is on track globally, but not regionally. Current sector investments may also be insufficient to keep up with population increases.

The MDG target resonates to a certain extent with human rights.<sup>140</sup> Access to water and sanitation are elements of the rights to housing and health, for example.<sup>141</sup> The duties to provide water and sanitation are contained in the Convention on the Rights of the Child (art. 27) and the Convention on the Elimination of All Forms of Discrimination against Women (art. 14). Water and, to some extent, sanitation have also been recognized as independent human rights.

### Box 33. The right to water and sanitation

Water was first declared a human right by States in the 1977 Mar Del Plata Declaration, which stipulates that all peoples have the right to have access to drinking water in quantities and of a quality to meet their basic needs. More recently, in 2001, the member States of the Council of Europe, in their European Charter on Water Resources, declared water a human right, while developing countries supported the right to water at the former Commission on Human Rights. Some countries have put the right in their legislation and constitution.

In 2002, the Committee on Economic, Social and Cultural Rights adopted general comment N° 15 on the right to water.<sup>142</sup> It has received the support of numerous States, United Nations agencies and the World Bank. It states that the right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. UNDP has affirmed these as the *five core attributes for water security*.<sup>143</sup> The standard sets out State obligations, such as the duty to ensure non-discrimination, pay particular attention to the rights of women and disadvantaged groups, take steps to realize the right, and adopt implementation and accountability measures.

With regard to sanitation, the general comment recognizes the duty to provide it in order to ensure adequate water quality. Others view sanitation as an independent and emerging right.<sup>144</sup> The United Nations High Commissioner for Human Rights recently urged States to consider it as a human right.<sup>145</sup>

However, a human rights approach challenges some of the assumptions in the MDG target. It is of continuing concern that States can avoid assisting the most marginalized groups because of the proportional nature of the target. The indicators may also understate the problem. In pilot studies, the United Nations Human Settlements Programme (UN-Habitat) found that if two other elements of the right to water are included, affordability and regularity, then accessibility to water falls dramatically.<sup>146</sup> Another concern is disaggregation. Urban areas appear to be doing well, subject to increasing modernization, but UN-Habitat found that in surveys many urban slums are treated as rural areas.<sup>147</sup> Additional indicators should thus be used as much as possible.

In terms of policies and resource allocation, the United Nations Millennium Project's Task Force on Water and Sanitation recommended that the international community should explore ways to use general comment N° 15 on the right to water to influence national policy.<sup>148</sup> The UNDP *Human Development Report 2006* was more emphatic and stated: "All Governments should go beyond vague constitutional principles to enshrine the human right to water in enabling legislation... Clear benchmarks should be set for progressing towards the target, with national and local governments and water providers held accountable for progress." South Africa, for example, has passed such laws.

Four particularly relevant aspects of the right to water are examined here. The *duty to respect* means that Governments must not interfere unjustly

### Box 34. Legislation as the foundation for action: South Africa

The 1997 Water Services Act provides for the "right of access to basic water supply and the right to basic sanitation necessary to secure sufficient water." The Act requires every water institution to take reasonable measures to progressively realize the rights, refrain from unfair disconnections, give priority to ensuring basic access for all, take account of the right to water in setting tariffs and submit to a system of monitoring. South Africa has significantly increased coverage, with approximately 10 million new connections between 1994 and 2004, and officials acknowledge that the rights-based legislation has been a key to that success. There is significant debate though over the number of disconnections during this period.

with a person's means of access to water and sanitation. This has particular ramifications for the MDGs; a focus on extending access may jeopardize longer-term results if there is no protection against disconnection of services and pollution. The general comment on the right to water implies that disconnection should proceed only if there is sufficient justification, due process and an alternative adequate and appropriate water source. In *Residents of Bon Vista Mansions v. Southern Metropolitan Local Council*, a South African high court found that the disconnection violated the right to water and ordered reconnection and negotiations.<sup>149</sup>

The *duty to protect* means private individuals or entities must be prevented from infringing the rights of others, for example by polluting water resources or charging unaffordable prices. Where the private sector is engaged in water delivery, the general comment provides that the State must ensure these actors respect the right to participation, are sufficiently regulated and do not compromise the right to water. In Ecuador, the Constitution provides not only for the right to water, but also for the regulation of public and private utilities. Regulation should also cover the informal vendors on whom the poor often rely for water and sanitation.

The *duty to fulfil* requires Governments to use all available resources to implement progressively the right to water. This includes developing a plan and strategy on expanding affordable access as well as protecting the quality of the water supply; actively searching for the available resources, nationally and locally; implementing the plan and monitoring its implementation over time; and providing systems of accountability. This also requires States to ensure everyone can access the minimum amount of water immediately unless they can demonstrate sufficient resources are not available, which may require adapting MDG target 7.C.

Regional and local authorities must also have sufficient resources to match their water and sanitation responsibilities and be prohibited from violating the right. Governments also have international responsibilities under article 2 (1) of the International Covenant on Economic, Social and Cultural Rights to take steps through international cooperation and technical assistance to assist other States to realize the right to water. (See further goal 8.)

The *duty not to discriminate* and *ensure equality between men and women* requires that States should give sufficient attention to the most disadvantaged groups in implementing the goal. It may be tempting to aim for the slightly wealthier groups that are easier to connect. In designing and implementing systems and programmes for water and sanitation, it is critical to involve women (and girls) at all stages, since they often bear the burden of accessing water and their priorities in water use are often different from men's. Likewise, attention should be given to minorities, who are often excluded from water supplies and resources—a persistent problem in almost all Western countries. Residents of informal settlements are often denied access to water and sanitation systems (see next target) and the general comment specifically states that water access should not be determined by tenure status.

### Box 35. Enforcing the general comment in Argentina<sup>150</sup>

Communal water sources in poor neighbourhoods in Córdoba were being contaminated by a poorly functioning sewage-treatment plant. A local NGO, the Center for Human Rights and Environment (CEDHA), launched legal action and the court, after implying the right to water from the constitutional right to health and quoting general comment N° 15, ordered the municipality to adopt the measures necessary to minimize the environmental impact and the province to ensure that the applicants were provided with 200 litres of safe drinking water a day until they were connected to the water network. This led to the municipality developing a US\$ 7.75-million plan for the rehabilitation and expansion of plant capacity, and work commenced in 2004 on providing piped connections to the neighbourhood. The municipal congress declared that all sewage-related taxes—US\$ 10 million a year—were to be invested only in the sewage system.

#### Key messages

- Enshrine the right to water and sanitation in enabling legislation and set clear national and local benchmarks to ensure water and sanitation will be extended to poorer and marginalized areas.
- Measure affordability and regularity of water to get better picture of effective access to it.
- Respect and protect the right to water and sanitation by establishing effective institutional and other mechanisms to guard against unfair disconnections and allocations and against water pollution.
- Ensure informal settlements and farm workers and dwellers have rights to access water and sanitation, and water rights of indigenous peoples are protected.

#### Examples of additional indicators

- Right to water and sanitation expressly contained in law as justiciable right.
- National policy with a timeline to extend access to water and sanitation.
- Percentage of household expenditure on drinking water and sanitation for those living under the poverty line.
- Average number of days of disruption per year.
- National standards on drinking water quality and use of WHO guidelines.
- National programme for hygiene awareness.

## Target 7.D: Slum upgrading and the right to housing

Have achieved by 2020 a significant improvement in the lives of at least 100 million slum-dwellers

There are at least 900 million slum-dwellers with forecasts of 2 billion by approximately 2030, if no firm and concrete action is taken.<sup>151</sup> Urban slum-dwellers live in environmentally hazardous places with insecure tenure, frequent threats of forced eviction and poor access to essential services. MDG target 7.D aims for the improvement of the lives of 100 million slum-dwellers. The revised indicator for the target is the proportion of the urban population living in slums (the original indicator was the proportion of households with access to secure tenure). The United Nations Millennium Project's Task Force on Improving the Lives of Slum-dwellers has proposed that another target should be added: the provision of adequate alternatives to new slum formation.<sup>152</sup>

However, this MDG target is not remotely consistent with the most relevant human right, the right to housing (see box 36). A target that ignores almost 90 per cent of slum-dwellers and seeks to significantly address the housing needs of a small group, appears contrary to the obligations of States to provide a minimum level of security of tenure and shelter to all.

Furthermore, shifting the focus away from secure tenure is problematic. Security of tenure is the first element of the right to housing and the Committee on Economic, Social and Cultural Rights has devoted an entire



general comment to it, setting out the obligation of States to provide protection from forced eviction. Security of tenure is also the minimum demand of most slum-dwellers. It gives them the confidence to begin their own upgrading processes without fear of eviction and often permits access to basic services that may otherwise be provided only on the basis of formal land tenure. Insecure tenure also inhibits the realization of many MDGs since it prevents livelihood development and makes informal schools and health clinics vulnerable to forced demolition.

Aligning the MDG target with the right to housing would involve meaningfully integrating security of tenure into the target and indicators. For instance, a target on basic secure tenure for all could be added. Indicators on legislation preventing forced eviction and ensuring equal inheritance rights could also be adopted. Another possible indicator is the number of evictions per year (see the additional indicators listed at the end of this section). This is not to say that secure tenure is the only issue for slum-dwellers. But provision of water and sanitation, a common demand, is already covered by target 7.C.

### Box 36. The right to housing

The right to housing is contained in the Universal Declaration of Human Rights. Its article 25 (1) states that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services. The right has subsequently been recognized in many international treaties such as the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination. The Human Rights Committee, the African Commission on Human and Peoples' Rights and the European Court of Human Rights have all condemned forced evictions on the basis that they violate various civil rights.

In general comment N° 4, the Committee on Economic, Social and Cultural Rights outlined the content of the right to housing. Defined as a place to live in peace, security and dignity, the right to housing must meet specific criteria:

- (a) Legal security of tenure;
- (b) Availability of services, materials, facilities and infrastructure;
- (c) Affordability;
- (d) Habitability;
- (e) Accessibility;
- (f) Adequate location; and
- (g) Cultural adequacy.

Governments are also expected to ensure non-discrimination and the equal rights of men and women to housing.

The Committee has particularly focused on security of tenure, stating that it takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Regardless of the type, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats, according to the Committee.

A human rights approach to the target of improving the lives of slum-dwellers is critical. One country actually reported slum clearance as its strategy for meeting target 7.D.

The first step in achieving security of tenure is to prohibit and prevent forced eviction. The Task Force has recommended this as a top priority: "Enact legislation against forced evictions and provide security of tenure." Box 37 shows how South Africa has already done so. But legislation is not everything and complementary means to provide protection from forced eviction in practice must also be adopted, such as moratoriums on mass evictions, improvement of tenure forms, revision of the planning process to include slum-dwellers, education and awareness on housing rights, and legal aid.

### Box 37. South Africa: achieving the first step towards secure tenure

The 1996 Constitution of South Africa contains both the right to housing and a prohibition on evictions without a court order. The Prevention of Illegal Evictions Act, subsequently enacted to implement these constitutional rights, requires a court to consider all relevant factors before ordering an eviction. This includes the circumstances and the length of occupation and whether the occupants have access to alternative accommodation. While public interest is often used to justify eviction, the law provides that it includes "the interest of the health and safety of those occupying the land." The existence of these rights has helped prevent forced evictions and courts have intervened to require alternative accommodation. However, in urban areas, informal settlers, tenants and homeowners are being forcibly evicted for a variety of reasons, including inner-city regeneration projects, alleged criminal activities, and health and safety conditions in buildings.<sup>153</sup>

Proactive steps to improve security of tenure are essential. But care should be taken to ensure that the model chosen to improve security does not worsen the situation of the poor. For example, the granting of individual land titles in some slum-upgrading projects has led to anti-poor outcomes. Tenants have been ignored in the process even when they have occupied the land for a long time and are vulnerable to homelessness. Providing title can also cause gentrification—with units being immediately sold to the middle class and a new slum being created. Corruption can lead to wealthier well-connected groups grabbing this more secure land and housing. As one victim of an upgrading project stated, "I even have receipts for Highrise [project] but rich people came and took the houses."<sup>154</sup>

A different approach can be seen in the project in Santo André, Brazil, where the community was deeply involved in the design of the project and evictions were avoided (see box 38) and in Voi, Kenya, where a community land title was adopted in order to avoid pressure to sell the land. Participation can be improved by innovative planning processes. In Brazil, a municipal law creates the possibility for declaring *special zones of social interest* where ordinary regulations are suspended so that slum upgrading can proceed.<sup>155</sup> The creation of such zones empowers residents to take a leading role in the upgrading with less pressure from outsiders, as well as avoiding problems with inappropriate planning standards.

Likewise, women's rights must be taken into account in slum upgrading and regularization projects. If only one person is permitted to sign a licence or title, the possibility for joint occupation or ownership and women's rights to use or occupy the land might actually deteriorate.

### **Box 38. Participation and non-disruptive decanting in Santo André<sup>156</sup>**

The Integrated Social Inclusion Programme in Santo André is based on the principles of integrating marginalized informal settlement communities into the city, participation of the residents, and coordination across the social, economic and infrastructural sectors. One of its projects is the upgrading of Sacadura Cabral, a 32-year-old informal settlement where 780 households occupied 4.2 hectares of flood-prone land. The level of the land had to be raised by 2.5 m and residents had to be moved temporarily and a new layout with plots of 42 to 45 m<sup>2</sup> was developed through many community workshops. However, in the new layout, 200 households could not be accommodated and a neighbouring portion of land was developed with new housing units. In close collaboration with the community, the whole project was to take place phase by phase, with small portions of the settlement being moved at a time, with some permanently moving to the new block (choice being open) and some temporarily as their area was being developed. With credit and technical support from the municipality, they began converting their shacks into formal multi-storey houses.

The *Millennium Development Goals Report 2006* concedes that not much progress has been made on target 7.D, despite its modesty.<sup>157</sup> A human rights approach that seeks to address the critical needs of a wider group may actually stimulate more progress.

#### **Key messages**

- Make the achievement of basic secure tenure for all a national/local target and indicator.
- Ensure laws and other strategies provide protection from forced eviction.
- Improve security of tenure by adopting pro-poor strategies that are sensitive to the rights of the most marginalized groups, such as tenants.
- Ensure gender equality in all tenure schemes.
- Ensure wide-based participation in city-wide planning and slum-upgrading plans and projects.

#### **Examples of additional indicators**

- Date of entry into force and coverage of law on security of tenure, equal inheritance and protection from forced eviction.
- Reported cases of forced eviction per 100,000 population.
- Proportion of households with legally enforceable, contractual, statutory or other protection providing security of tenure.
- Proportion of households spending more than "X" per cent of their monthly income/expenditure on housing or average rent of bottom three income deciles as a proportion of the top three.

## Goal 8: Develop a global partnership for development



The enormous gap between the potential realization of development and the actual attainments, and increased awareness of some States' lack of capacity to emerge from poverty without more and better assistance have led to a global determination to broaden and deepen international cooperation. The MDGs largely stem from a global consciousness of the need to renew the terms of international cooperation and assistance. The Millennium Declaration specifically addresses the collective responsibility of all States: "We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable." Goal 8 thus applies to each and all MDGs.

Goal 8 also contains a number of specific commitments on increasing aid, market access for the poorest countries, debt relief, access to essential drugs, technology transfers, and taking particular account of the needs of small island States and landlocked countries. In line with this goal, some concrete follow-up commitments to more equitable cooperation have been reiterated on several occasions. In 2001, the Doha Ministerial Declaration committed to making the interest of poor countries central to the future work of trade ministers and pledged duty-free, quota-free market access for products from the least developed countries. In March 2002, the Monterrey International Conference on Financing for Development gave rise to a consensus on increasing official development assistance. At the Johannesburg World Summit on Sustainable Development in September 2002, the need to increase aid was reaffirmed, urging donors to implement the 0.7 per cent target and to reduce the debt of countries that demonstrate efforts to strengthen governance. The Summit also called on the World Trade Organization (WTO) to fulfil commitments regarding market access. However, there is clearly a need for more intense and concrete action.

The interdependence of all States, a reality of globalization, must be taken into account to adequately address poverty and obstacles to development. Indeed, the persistence of poverty is rarely the sole consequence of ill fate or bad governance on the part of developing countries, and global issues must also be tackled. This includes the negative impact of international monetary and trade policies and practices on development, and resulting calls for new approaches in the way assistance is designed and delivered. Foreign debt is an outstanding obstacle to human development and the enjoyment of human rights in many developing countries. Trade liberalization and WTO agreements can also adversely affect development and human rights, particularly for poorer countries.

Human rights treaties and declarations reflect clear requirements for States to cooperate with and assist each other (see box 39).

This goal's targets should therefore be interpreted as far as possible in line with human rights, as is discussed below. This requires some revision of the current culture of development aid. The duty of international cooperation is part of international law, founded on the principles of global equity and shared responsibility.

### Box 39. International cooperation – a human rights duty

**Universal Declaration of Human Rights:** "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized" (art. 28).

**Declaration on the Right to Development:** "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights" (art. 3 (3)).

**International Covenant on Economic, Social and Cultural Rights:** "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, 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" (art. 2 (1)).

**Convention on the Rights of the Child:** "With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation" (art. 4).

**Convention on the Rights of Persons with Disabilities:** States parties must "recognize the importance of international cooperation" and take "appropriate and effective measures in this regard", which includes ensuring international cooperation and development programmes are "inclusive of and accessible to persons with disabilities", "capacity-building", "cooperation in research and access to scientific and technical knowledge" and "technical and economic assistance" (art. 32 (1)).

International cooperation, founded on human rights, is a purpose of the United Nations Member States, consecrated in its **Charter**. The Preamble provides for the equal rights of nations, large and small, and signatories "pledge to employ international machinery for the promotion of the economic and social advancement of all peoples".



A number of key aspects of this duty are relevant in the context of MDGs. States need to ensure that their activities, and those of their residents or corporations, do not violate the human rights of people abroad. States, individually or through membership of international institutions, should not adopt or engage in policies and practices that encroach upon the enjoyment of human rights or further engender disparities between and within States.

In addition, development cooperation activities should actually contribute to the promotion of and respect for human rights. It should be underlined that the treaty bodies have specified that international assistance is to be sustainable and culturally appropriate. They have urged particularly international financial institutions to pay greater attention to the protection of human rights in their lending policies, credit agreements and measures

taken in response to the debt crisis. *Human Development Report 2003's* suggestion to measure debt sustainability by focusing on the needs of poor people, absent from the current debt/export criterion of the Heavily Indebted Poor Countries Initiative, reflects the human rights principle of non-discrimination; that is to say, prioritization of action in favour of the vulnerable and the poor.

Grounded in international law, the principles of equality and non-discrimination apply to international cooperation, with the aim of eliminating disparities between and within countries. The negative impact of international finance and trade is, to a large extent, a reflection of the major imbalances of power and representation in trade and financial institutions and systems, in direct contradiction with the principles of non-discrimination and participation. A human rights approach and genuine development partnerships require a restructuring of development, trade and financial mechanisms to enable equal representation in and contribution of all countries to decision-making in realms which, after all, concern all. To effectively give life to the principles of equality and participation, cooperation as contemplated in the MDG framework should involve capacity-building for all partners to bridge the gaps and enable dialogue and negotiations on an equal footing.

The principle of equality may often entail temporary special measures, to level the playing field. Thus, as at country level, where human rights standards urge us to strive towards addressing and redressing systemic and underlying causes of discrimination,<sup>158</sup> international cooperation should include measures enabling marginalized or vulnerable countries which have been particularly adversely affected by international finance or trade to be lifted out of this situation. The Millennium Development Compact<sup>159</sup> distinguishes between top-priority and high-priority countries. Top-priority countries are those described as in need of urgent action and resources. This approach is also in line with the concept of prioritization.

Cooperation for global partnership entails increased and more effective coordination between all actors with a view to more transparent, participatory, accountable, efficient and sustainable actions. Actions of global actors must conform to their specific human rights responsibilities. They should, in particular, ensure the existence of accessible, transparent and effective monitoring and accountability procedures in relation to their development policies and human rights responsibilities, which guarantee the active and informed participation of the poor. And while States remain the primary duty-bearers under international law, *corporations* are also increasingly acknowledging responsibilities and being held accountable for actions and investment decisions associated with human rights abuses.

### Box 40. Responsibilities of international organizations

In relation to the MDGs, all commitments and actions undertaken by international organizations that are *subjects of international law* (being able to conclude agreements and exercise rights and obligations independently of their members) must abide with international human rights law. The obligation to *respect* international human rights obligations is increasingly being accepted by private corporations, and is comparatively clear for individual donor States, which have generally ratified the core human rights instruments and are bound to comply with them, beyond as well as within their borders, including through international cooperation. Many international development, trade and financial institutions bear similar responsibilities.<sup>160</sup> The baseline obligation to *respect* means refraining from formulating, adopting, funding and implementing policies and programmes which directly or indirectly contravene the enjoyment of human rights. Other kinds of obligations, depending on the case, include the obligation to *protect* (ensuring that third parties, such as subcontractors, do not violate human rights and setting up accountability mechanisms as needed), as well as positive obligations to formulate, adopt, fund and implement policies and programmes which explicitly address and remedy obstructions to the realization of human rights.

### Target 8.A: Trade and economic, social and cultural rights

**Develop further an open, rule-based, predictable, non-discriminatory trading and financial system (includes a commitment to good governance, development, and poverty reduction, both nationally and internationally)**

Trade agreements should not curtail or inhibit a country's capacity to ensure the full realization of human rights. While the Millennium Declaration called for an *equitable* trading system, this word was omitted in target 8.A. Nonetheless, it should be included in practice and mechanisms conducive to bringing about more ethical and equitable trading conditions, such as those promised in the Doha Declaration, should be carried out in good faith, a universally recognized principle of international law. The Doha round of negotiations would help to remedy the inequities in the trading system under which many developed countries maintain high protectionist barriers to agricultural trade.

The MDG trade-related indicators (indicators 8.6–8.9) focus on measuring various developed country trade barriers. However, there is no quantitative target for their removal. The Millennium Project has recommended that quantitative benchmarks and time frames should be set for the progressive removal of barriers to merchandise trade and agricultural export subsidies.<sup>161</sup>

A human rights approach also means looking at the countries and the groups that would potentially lose out in the liberalization of trade in agriculture. Many least developed and poorer countries may lose the benefits of their current preferential agreements with developed countries and be unable to compete with the more powerful developing countries. Moreover, in all developing countries some marginalized groups may lose out from liberalized agricultural trade and the commencement of a new *green revolution* as advocated by many MDG experts. For instance, the higher value of cash crops and land can lead to more evictions of peasants and a lack of land for growing food for domestic consumption.

Beyond agriculture, developed States need to consider trade measures that permit greater international labour mobility—a key way in which European countries addressed population growth and urbanization in the nineteenth and twentieth centuries. Mode 4 of the General Agreement on Trade in Services (GATS) (temporary movement of labour to provide services) is one small but important step in this direction. This was recommended in the Monterrey Consensus of 2002. At the same time, other aspects of GATS should be used cautiously—developing States should not be forced, particularly under debt conditionalities, to open up their markets in services where there are clear human rights entitlements and responsibilities at stake, including with respect to health and water services.

### Box 41. Sugar, cotton, trade and human rights<sup>162</sup>

Wealthy countries spend the same on agricultural subsidies at home as they do on international aid. In the case of sugar, the European Union (EU) not only imposes strict quotas on imports but farmers and processors in Europe are paid subsidies worth four times the market price. The subsequent dumping of increased output lowers world prices by approximately a third, making it difficult for farmers and processors in developing countries to compete effectively. Cotton prices have been falling dramatically since 1997 and one of the prime causes is widely reported to be overproduction in the United States of America and some EU countries—in particular following deregulation in the United States and increased subsidies. West and Central African cotton producers are among the lowest-cost cotton producers in the world, yet countries such as Benin and Mali are among the world's poorest and suffer high levels of poverty in their cotton sector. Brazil brought this issue to WTO and contended that United States exports would have declined about 40 per cent and world cotton prices would have increased by 12.6 per cent in the absence of United States subsidies. The WTO dispute settlement body has ruled that some of the United States subsidies violate WTO rules. Taking a human rights approach means acknowledging that subsidy policies of this kind are increasing malnutrition and poverty in many developing countries. FAO and WHO have both recognized the link between cotton development and poverty reduction and improved health. Moreover, if the duty to protect is taken seriously, this would mean controlling the actions of agribusinesses—12 cotton firms receive half the subsidies—particularly in the area of dumping. In Europe, more than three quarters of the subsidies go to the biggest 10 per cent of farms.

## Target 8.B: Development aid and economic, social and cultural rights

**Address the special needs of the least developed countries (includes tariff- and quota-free access for least developed countries' exports, enhanced programme of debt relief for heavily indebted poor countries and cancellation of official bilateral debt, and more generous official development assistance for countries committed to poverty reduction)**

This target addresses three of the core areas of goal 8, namely fair trade, debt relief and increased development. Since the first two are addressed directly in targets 8.A and 8.D, respectively, this section will briefly comment on the third. Despite repeated calls for developed countries to increase aid to 0.7 per cent of GDP, only five have so far done so, and overall aid levels have not increased significantly or to the levels needed to implement the MDGs.<sup>163</sup>

At the United Nations Conference on the Least Developed Countries, donor countries also committed to ensuring that 0.15 per cent of GDP (included in the 0.7 per cent) was allocated to least developed countries. The MDG indicators require a measurement for this although they do not reaffirm the target. Such a target is necessary given the resource constraints of these countries. However, there is a potential conflict in meeting this target since the Monterrey Consensus favours countries with good policies, yet many poor countries often have weaker policy frameworks.<sup>164</sup>

Donors should also adopt a human rights approach to existing aid, ensuring that enough goes to realizing human rights and the MDGs. The Committee on Economic, Social and Cultural Rights has emphasized that donor assistance should focus on projects and programmes that will address the needs of the poor, rather than prestige projects which benefit privileged sections of the population.<sup>165</sup> This entails programmes that sufficiently build the capacity of rights-holders and duty-bearers at the local level and in often deprived areas. According to the Committee on Economic, Social and Cultural Rights, in disaster relief and emergency relief, including to refugees and displaced persons, priority should be given to rights in the Covenant.<sup>166</sup> In addition, developed countries have sometimes required the country benefiting from assistance to privatize the management of particular services but, if privatization undermines key components of the right to water, the duty to protect must be observed (see target 7.C above). Developed countries should also consider increasing aid for particular economic, social and cultural rights as part of their MDG support. For example, two developed countries recently embraced the right to water and committed extra funds to promoting a rights-based approach to water and sanitation. Finally, as part of a human rights approach, development partners should not only take into account aid effectiveness reforms as embodied in the 2005 Paris Declaration on Aid Effectiveness, designed to encourage greater efficiency in the aid relationship, but also ensure that these new aid modalities are consistent with and reinforced by human rights standards and principles (see box 42).

## Target 8.C: Landlocked and small island States, and the right to development

**Address the special needs of landlocked developing countries and small island developing States (through the Programme of Action for the Sustainable Development of Small Island Developing States and the outcome of the twenty-second special session of the General Assembly)**

In a globalized economy, landlocked countries and small island developing States struggle to achieve the levels of economic growth and development of other countries. Their costs of trading are higher and their economies less integrated. Small island economies also struggle to attain economies of scale, ensure that trade rules treat them fairly and protect their natural resources from overexploitation by others. The right to development and even the right to self-determination (particularly for those countries whose very survival is threatened by climate change) mean paying attention to these two groups of States, which start with severe disadvantages. Broad action is needed to implement target 8.C and it incorporates, for example, the entire Barbados Programme of Action for the Sustainable Development of Small Island Developing States.

### Box 42: Integrating human rights in aid relationships

Aid policy reforms are ushering in welcome measures to streamline and strengthen aid partnerships. The 2005 Paris Declaration on Aid Effectiveness is foremost among these, urging greater country ownership of the development agenda, alignment with national financial and administrative mechanisms, greater harmonization of donors' programmes, managing for results, and mutual accountability between development partners. There are, however, many latent tensions and lacunae in this agenda. The Paris Declaration's monitoring indicators focus on a narrow set of *efficiency* objectives, begging more fundamental questions about aid *effectiveness* and the role played by human rights in this respect. The OECD Development Assistance Committee agreed a landmark policy paper in 2007, addressing some of these tensions and relationships. In this policy statement, bilateral and multilateral donors have recognized the potentially mutually beneficial relationship between human rights and *aid effectiveness* principles, but equally that the latent tensions need to be addressed explicitly. This includes ensuring broad-based *national* ownership of the development agenda, ensuring marginalized groups a voice in aid decisions, carrying out due diligence *do no harm* assessments prior to aid decisions, fostering greater accountability between donors and partner Governments directly to the populations concerned, and ensuring that efforts to increase aid and channel it through national systems move in tandem with strengthening national human rights institutions and accountability mechanisms.<sup>167</sup>

## Target 8.D: Debt and economic, social and cultural rights

**Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term**

Since 1998, debt relief has marginally improved, with the future debt payments of 29 heavily indebted countries falling by \$59 billion, but their total debt remains at \$500 billion, hampering the realization of the MDGs.<sup>168</sup> The Committee on Economic, Social and Cultural Rights has consistently acknowledged the difficulties that many developing countries face in realizing the economic and social rights of their residents under the Covenant. From a human rights perspective, developed countries and international financial institutions should acknowledge that a significant part of the debt was not acquired fairly, that continuing debt service payments hampers the ability of those countries to realize the economic and social rights and MDGs of their residents, and that failure to appropriately manage the international macroeconomic system could lead to future unsustainable debt.

The MDG indicators are detailed on measuring debt relief—Heavily Indebted Poor Countries Initiative decision and completion points, debt relief commitments, and debt service as a percentage of exports of goods and services. But there are no quantitative targets to be met or clear policy actions to be taken.

To prevent debt undermining a country's human rights obligations, the Human Rights Council has appointed an independent expert to provide general guidelines to be followed by States and by private and public, national and international financial institutions in the decision-making on and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief, which should be available in 2008. In 2007, he also noted the key role of civil society and independent national human rights institutions in arguing for debt relief and in monitoring the budgeting and spending of the additional resources of the Heavily Indebted Poor Countries and the Multilateral Debt Relief Initiatives.

### Box 43. Civil society and debt relief for Ecuador<sup>169</sup>

In 2006, the Norwegian Government cancelled the debt of five countries, including Ecuador, worth \$80 million. It recognized the illegitimate nature of the debts contracted during the 1970s to favour its ship export campaign, a case that civil society groups also presented to the Ecuadorian Commission on Civic Corruption Control. The Ecuadorian Banana Fleet company contracted the debt with Norway in 1980 for the purchase of four ships priced at \$52.5 million. It was termed a "development-aid loan," even though it was given to a private enterprise and its objective was to rescue Norway's naval industry, which was struggling at the time. The company went out of commission in 1987 and Ecuador took over the majority of its debt as public debt, but made little effort to argue for relief. Ecuadorian civil society, in alliance with regional networks and Norwegian civil organizations, was instrumental in pressuring for the cancellation of this debt, as well as the recognition of its illegitimate nature.

## Target 8.E: Essential drugs and the right to health

**In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries**

Essential drugs are a key part of achieving many of the MDGs, particularly goal 6 on combating HIV/AIDS, malaria and other diseases, goal 5 on maternal health and goal 4 on child mortality. Medicines for the treatment of HIV/AIDS and malaria, such as antiretrovirals and artemisinin-based combination therapies, are expensive and intellectual property patents are not held in developing countries. Yet, the Committee on Economic, Social and Cultural Rights has prescribed the provision of essential drugs by States to their people as a minimum core obligation.<sup>170</sup> In order to protect the right to health in other countries, States should encourage pharmaceutical companies based in their jurisdictions to provide essential drugs at affordable prices to developing countries and refrain from taking steps to prevent them lawfully purchasing generic medicines (see box 44). Likewise, the obligation to *fulfil* the right to health requires the provision of sufficient aid to those developing countries to be able to purchase such medicines. The Global Fund to Fight AIDS, Tuberculosis and Malaria is a good example of one method to provide such funding, though the amount available is still not sufficient for the need (see discussion under goal 6 above). The Committee has also emphasized that States should refrain at all times from restricting the supply of another State with adequate medicines and medical equipment, for instance, through embargoes.

### Box 44. Access to essential drugs: the Philippines and TRIPS<sup>171</sup>

The Philippines has reduced the cost of medicines by passing the Generics Act in 1988 and importing less costly medicines from India. While the majority of residents still cannot afford medicines even with these steps, free trade agreement negotiations with a number of countries could threaten the viability of these generic medicine arrangements. One negotiating partner has previously made free trade agreements that are stricter than the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS), which permits compulsory licensing and parallel importation in the public interest. NGOs raised this concern with the Committee on the Rights of the Child during its assessment of the Philippines. In 2005, the Committee recommended that the Philippines should make use—in the negotiations of free trade agreements—of all the flexibilities reaffirmed by the Doha Declaration and the mechanisms at its disposal to ensure access to affordable medicines in particular for the poor and most vulnerable children and their parents.

## Target 8.F: New technologies and human rights

**In cooperation with the private sector, make available the benefits of new technologies, especially information and communications**

New technologies are associated with more rapid economic growth and target 8.F attempts to bridge the technological divide, encouraging development cooperation to facilitate greater access to new technologies in developing countries. The United Nations Millennium Project's Task Force on Science, Technology and Innovation takes a broader approach, emphasizing the need to place science, technology and innovation at the heart of the MDGs, through the development of new platform technologies and infrastructure, improving higher education in science, promoting business activities, improving the policy environment and focusing on underfunded research.<sup>172</sup>

However, a human rights approach also emphasizes the importance of individual and collective access to scientific progress, not just the overall contribution of technology to economic growth. There is a direct relationship between human rights and target 8.F, since article 15 (b) of the International Covenant on Economic, Social and Cultural Rights recognizes the right to enjoy the benefits of scientific progress and its applications. Ensuring new technologies are in the hands of women and the most marginalized can provide an important bridge towards the realization of their human rights. New communication technologies are vital, for example, in supporting the right to freedom of expression and participation and to help farmers find market prices for agricultural products. Since the focus of goal 8 is on the role of development cooperation, there is a responsibility for

the international community to remove barriers to technology transfer, such as ensuring international scientific standards set by WTO, the International Organization for Standardization and others are not too onerous for developing countries, and that intellectual property rules do not inhibit affordable access. Likewise, there is a need to include appropriate financial support for new technologies in development cooperation, and to ensure that new technologies are accessible for persons with disabilities.

### Key messages

- Set quantitative targets to remove trade barriers for developing countries but take into account negative effects on least developed countries with preferential agreements and groups in developing countries that may be disadvantaged by free trade.
- Donor countries to be pressured to all meet targets for aid, including to least developed countries, and to ensure that a human rights approach is adopted in development programmes and allocations.
- Developed countries should set clearer quantitative targets for debt reduction and ensure that accountability mechanisms are in place to monitor progress.
- Increase emphasis on empowering small island States and landlocked countries to develop, including support for locally driven initiatives.
- Developed countries should encourage pharmaceutical companies based in their jurisdictions to provide essential drugs at affordable prices to developing countries and refrain from removing TRIPS flexibilities for purchases of generic medicines through additional agreements.
- Adopt a human rights approach to access to technology and communication that emphasizes the importance of individual and collective access to scientific progress not just the overall contribution of technology to economic growth.

- <sup>1</sup> Millennium Project, *Investing in Development: A Practical Plan to Achieve the Millennium Development Goals* (United Nations publication, Sales N° 05.III.B.4). See also *Millennium Development Goals Report 2006* (United Nations publication, Sales N° 06.I.18).
- <sup>2</sup> P. Alston, "Ships passing in the night: the current state of the human rights and development debate seen through the lens of the Millennium Development Goals", *Human Rights Quarterly*, vol. 27, N° 3 (August 2005), p. 755.
- <sup>3</sup> "Achieving the Millennium Development Goals (MDGs) for minorities: a review of MDG country reports and poverty reduction strategies" (A/HRC/4/9/Add.1).
- <sup>4</sup> *Investing in Development...* recognizes only that the MDGs reflect human rights and its ten key recommendations include providing a "framework for promoting human rights" and ensuring that civil society organizations contribute actively to designing policies and monitoring progress (pp. xiv–xv). However, this is not reflected in most of the report's policy advice.
- <sup>5</sup> See, for example, Ashwani Saith, "From universal values to Millennium Development Goals: lost in translation", *Development and Change*, vol. 37, N° 6 (November 2006), p. 1167.
- <sup>6</sup> See Alston, loc. cit.
- <sup>7</sup> Millennium Project, "Millennium Development Goals needs assessments: methodology" (Sept. 2004).
- <sup>8</sup> For example, the 1992 United Nations Conference on Environment and Development and the 1995 World Summit for Social Development. One of the outputs of these conferences was the OECD international development goals in 1996, whose targets were expanded to become the MDGs.
- <sup>9</sup> This argument is forcefully made by J. Vandemoortele in "MDGs: misunderstood targets?", UNDP International Poverty Centre, One Pager, N° 28 (Jan. 2007), available at <http://www.undp-povertycentre.org>.
- <sup>10</sup> The examples in this paragraph come from UNDP, *How-to-Guide: MDG-based national development strategies, Part I: introduction and overview* (draft) and "Financing the Development Goals: An analysis of Tanzania, Cameroon, Malawi, Uganda and Philippines", summary report (March 2002), p. 18.
- <sup>11</sup> World Bank, *World Development Report 2000/2001: Attacking Poverty* (New York, Oxford University Press, 2000).
- <sup>12</sup> See J. Dreze and A. Sen, *Hunger and Public Action* (Oxford, Oxford University Press, 1990).
- <sup>13</sup> Alston, loc. cit. He argues that most, though probably not all, Millennium Development Goals can be said to have the force of customary international law.
- <sup>14</sup> See OHCHR, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (United Nations publication, Sales N° 06.XIV.10) and UNDP, *Human Development Report 2003: Millennium Development Goals: A Compact among Nations to End Human Poverty* (United Nations publication, Sales N° 03.III.B.1), p. 27.
- <sup>15</sup> Alston, loc. cit., p. 756.
- <sup>16</sup> Compare World Bank and International Monetary Fund, *Global Monitoring Report 2004: Policies and Actions for Achieving the Millennium Development Goals and Related Outcomes*, with *Investing in Development...*
- <sup>17</sup> *Human Development Report 2003...*, p. 133.
- <sup>18</sup> See for example, Saith, loc. cit.
- <sup>19</sup> World Bank, *World Development Report 2006: Equity and Development* (New York, Oxford University Press, 2005).
- <sup>20</sup> According to the *Millennium Development Goals Report 2006*, official development aid has gradually risen since 1997, but in 2006 it fell by 5.1 per cent according to OECD figures. It is also pertinent to note that development aid to the least developed countries has not risen as fast over this period.
- <sup>21</sup> *Investing in Development...*
- <sup>22</sup> The latest "Guidelines for United Nations country teams on preparing a common country assessment and United Nations Development Assistance Framework (CCA/UNDAF)" are available at <http://www.undg.org>.
- <sup>23</sup> M. Darrow and A. Tomas, "Power, capture, and conflict: a call for human rights accountability in development cooperation", *Human Rights Quarterly*, vol. 27, N° 2 (May 2005), p. 471.
- <sup>24</sup> *How-to-Guide...*, p. 8.
- <sup>25</sup> *Malawi: Millennium Development Goals Report 2003*, pp. 8-9, available at <http://planipolis.iiep.unesco.org>.
- <sup>26</sup> See, for example, Committee on Economic, Social and Cultural Rights, general comment N° 4 (1991) on the right to adequate housing, para. 8 (a).
- <sup>27</sup> *Vietnam Achieving the Millennium Development Goals* (2005), p. 12.
- <sup>28</sup> See *Report of the Fourth World Conference on Women, Beijing* (United Nations publication, Sales N° 96.IV.13).
- <sup>29</sup> See, generally, *Official Records of the General Assembly, Fifty-second Session, Supplement N° 3 (A/52/3/Rev.1)*.
- <sup>30</sup> "Mainstreaming the gender perspective into all policies and programmes in the United Nations system" (E/1997/66), para. 45.
- <sup>31</sup> *Pathway to Gender Equality: CEDAW, Beijing and the MDGs* (New York, UNIFEM, 2004), pp. 6–7.
- <sup>32</sup> *Ibid.*, p. 30.
- <sup>33</sup> *World Development Report 2006...*, Overview.
- <sup>34</sup> In its *Country Report 2007*, Maldives reports achieving goal 2 (former target 3, currently 3.A) but only notes as a challenge "providing access to primary education for children with special needs."
- <sup>35</sup> See A/HRC/4/9/Add.1, summary.
- <sup>36</sup> *Official Records of the Economic and Social Council, 2005, Supplement N° 23 (E/2005/43)*.
- <sup>37</sup> HuRiLiNK: Human Rights and MDGs: <http://www.hurilink.org>.
- <sup>38</sup> See, for example, "Report on indicators for monitoring compliance with international human rights instruments" (HRI/MC/2006/7).
- <sup>39</sup> Darrow and Tomas, loc. cit., p. 494.
- <sup>40</sup> A. Yamin, "Transformative combinations: women's health and human rights", *Journal of the American Medical Woman's Association*, vol. 52, N° 4 (Fall 1997), p. 169.

- <sup>41</sup> Ibid., p. 173.
- <sup>42</sup> R. Offenheiser and S. Holcombe, "Challenges and opportunities in implementing a rights-based approach to development: an Oxfam America perspective", *Nonprofit and Voluntary Sector Quarterly*, vol. 32, N° 2 (June 2003), p. 268.
- <sup>43</sup> HuRiLINK: Human Rights and MDGs: <http://www.hurilink.org>.
- <sup>44</sup> *Human Development Report 2003...*, p. 134.
- <sup>45</sup> See S. Tikare and others, "Organizing participatory processes in the PRSP", in *Poverty Reduction Strategy Sourcebook* (Washington, D.C., World Bank, 2001), pp. 38–39; and K. Sharma and others, "Governing our cities: Will people power work?" (The Panos Institute, 2000).
- <sup>46</sup> A. Sen, "Work and rights", *International Labour Review*, vol. 139, N° 2 (2000), p. 119.
- <sup>47</sup> See A. Estache, "PPI partnerships vs. PPI divorces in LDCs", *Review of Industrial Organization*, vol. 29, Nos 1–2 (September 2006), p. 3. The International Monetary Fund has similarly stated that public-private partnerships should not be used to bypass spending controls and move public investment off-budget. See N. Alexander, "The elusive quest for 'fiscal space': The World Bank, the IMF and the UNDP", *At Issue* (2 April 2007).
- <sup>48</sup> *Official Records of the Economic and Social Council, 2005, Supplement N° 2 (E/2005/22-E/C.12/2004/9)*, paras. 546 and 569.
- <sup>49</sup> The World Bank is more conscious of the existing 'fiscal pie' in its approach, defining it as a Government's ability to increase expenditure without impairing its capacity to service its debt ("Fiscal policy for growth and development: an interim report" (2006)).
- <sup>50</sup> See M. Heywood, "South Africa: the TAC Cases and the rights to medicines", in M. Langford, *Litigating Economic, Social and Cultural Rights: Achievements, Challenges and Strategies* (Geneva, Centre on Housing Rights and Evictions (COHRE), 2003), p. 105, available at <http://www.cohre.org/litigation>.
- <sup>51</sup> See generally, R. Roy, A. Heuty and E. Letouzé, "Fiscal space for public investment: towards a human development approach" (UNDP, Sept. 2006), available at <http://www.g24.org>.
- <sup>52</sup> See S. Gupta, R. Powell and Y. Yang, *Macroeconomic Challenges of Scaling Up Aid to Africa: A Checklist for Practitioners* (Washington, D.C., IMF, 2006).
- <sup>53</sup> Independent Evaluation Office, "The IMF and aid to sub-Saharan Africa" (Evaluation report) (IMF, 2007), available at <http://www.imf.org>.
- <sup>54</sup> See, for example, Center for Global Development, *Does the IMF Constrain Health Spending in Poor Countries? Evidence and an Agenda for Action* (2007), available at <http://www.cgdev.org>; and ActionAid, *Confronting the Contradictions: The IMF, wage bill caps and the case for teachers* (April 2007), available at <http://www.actionaid.org>.
- <sup>55</sup> There are various types of possible reparation depending on the seriousness of the violation and the particular circumstances of the case, such as full restitution, compensation, rehabilitation, apologies and other forms of satisfaction, general guarantees of non-repetition, and in serious cases, punishment of the individual perpetrators. OHCHR, *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies* (2006), Guideline 6, available at <http://www.ohchr.org>.
- <sup>56</sup> See <http://www.ohchr.org>.
- <sup>57</sup> See *Human Development Report 2003...*, p. 73. The figure is not without controversy.
- <sup>58</sup> See Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights, in particular paras. 14 and 25, the Copenhagen Declaration of the 1995 World Summit for Social Development, the 2002 Johannesburg Declaration of the World Summit for Sustainable Development, paras. 3, 7, 11 and 21, and the Durban Declaration and Programme of Action of the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, para. 18.
- <sup>59</sup> See Martin Ravallion, "Pro-poor growth: a primer", World Bank policy research working paper N° 3242 (2004).
- <sup>60</sup> Ibid. See also Joseph Stiglitz, *Globalization and its Discontents* (London, Penguin Books, 2002).
- <sup>61</sup> See also the statement by the Committee on Economic, Social and Cultural Rights on globalization and economic, social and cultural rights (May 1998).
- <sup>62</sup> See A. McKay and P. Vizard, "Rights and economic growth: Inevitable conflict or 'common ground'?", Rights in Action conference paper (March 2005), available at <http://www.odi.org.uk>.
- <sup>63</sup> *Official Records of the Economic and Social Council, 2000, Supplement N° 2 (E/2000/22-E/C.12/1999/11)*, para. 324.
- <sup>64</sup> See the Clean Clothes Campaign website: [www.cleanclothes.org](http://www.cleanclothes.org).
- <sup>65</sup> F. Gassmann and C. Behrendt, "Cash benefits in low-income countries: Simulating the effects on poverty reduction for Senegal and Tanzania", Issues in social protection, Discussion paper 15 (ILO, 2006) and S. Mizunoya and others, "Costing of basic social protection benefits for selected Asian countries: First results of a modelling exercise", Issues in social protection, Discussion paper 17 (ILO, 2006).
- <sup>66</sup> See, generally, S. Liebenberg, "The judicial enforcement of social security rights in South Africa: enhancing accountability for the basic needs of the poor", in *Social Security as a Human Right: Drafting a General Comment on Article 9 ICESCR – Some Challenges*, E. Riedel, ed. (Berlin, Springer, 2006), pp. 69–90.
- <sup>67</sup> 2004 (6) BCLR 569 (CC).
- <sup>68</sup> See ILO, "Starting right: Decent work for young people", Background paper, Tripartite Meeting on Youth Unemployment: The Way Forward (Geneva, 13–15 October 2004).
- <sup>69</sup> Available at <http://www.fao.org>.
- <sup>70</sup> Millennium Project, *Halving Hunger: It Can Be Done* (United Nations publication, Sales N° 05.III.B.5).
- <sup>71</sup> See "A UN reading of Brazil's challenges and potential", Common Country Assessment (August 2005) and FAO, "Right to food case study: Brazil" (IGWG RTFG /INF 4/APP.1).
- <sup>72</sup> "Report of the Special Rapporteur on the right to food, Jean Ziegler" (E/CN.4/2006/44).
- <sup>73</sup> See *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858, and *Unni Krishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178.
- <sup>74</sup> P. Alston and N. Bhuta, "Human rights and public goods: education as a fundamental right in India", *Human Rights and Development: Towards Mutual Reinforcement*, P. Alston and M. Robinson, eds. (Oxford, Oxford University Press, 2005).
- <sup>75</sup> McKay and Vizard, op. cit.
- <sup>76</sup> Judgement of 8 September 2005.
- <sup>77</sup> *People's Union for Civil Liberties v. Union of India and others* (Writ Petition [Civil] No. 196 of 2001).
- <sup>78</sup> See <http://www.righttofoodindia.org>.

- <sup>79</sup> K. Tomaševski, “Human rights obligations: making education available, accessible, acceptable and adaptable”, Right to education primers N° 3 (Raoul Wallenberg Institute and Swedish International Development Cooperation Agency, 2001), p. 43, available at <http://www.right-to-education.org>.
- <sup>80</sup> Committee on the Rights of the Child, general comment N° 1 (2001) on the aims of education.
- <sup>81</sup> UNICEF, *The State of the World's Children 2007: Women and Children, The Double Dividend of Gender Equality* (United Nations publication, Sales N° 07.XX.1), p. 27.
- <sup>82</sup> Millennium Project, *Taking Action: Achieving Gender Equality and Empowering Women* (United Nations publication, Sales N° 05.III.B.7), p. 36.
- <sup>83</sup> *The State of the World's Children 2007...*, Executive Summary.
- <sup>84</sup> *Ibid.*, p. 15.
- <sup>85</sup> General comment N° 13 (1999) on the right to education.
- <sup>86</sup> *Ibid.*
- <sup>87</sup> UNICEF, *Gender Achievements and Prospects in Education: The Gap Report—Part One* (United Nations publication, Sales N° 06.XX.5). *Taking Action...*, p. 29.
- <sup>88</sup> 2005 (1) BCLR 1 (CC), 15 October 2004.
- <sup>89</sup> Millennium Project, *Who's got the power? Transforming Health Systems for Women and Children* (United Nations publication, Sales N° 05.III.B.8), p. 4.
- <sup>90</sup> *Ibid.*
- <sup>91</sup> General comment N° 6 (1982), para. 5.
- <sup>92</sup> *Villagran Morales et al. v. Guatemala (Case of the 'Street Children')*, Judgement of 19 November 1999.
- <sup>93</sup> *Who's got the power...*
- <sup>94</sup> Its article 24 obliges the State to ensure that parents have “access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding...”
- <sup>95</sup> General comment N° 14 (2000) on the right to the highest attainable standard of health.
- <sup>96</sup> *Who's got the power...*, p. 2.
- <sup>97</sup> L. Richter and S. Rama, *Building Resilience: A rights-based approach to children and HIV/AIDS in Africa* (Save the Children Sweden, 2006), p. 10.
- <sup>98</sup> *Who's got the power...*, pp. 4–5
- <sup>99</sup> *Ibid.*, p. 10.
- <sup>100</sup> General comment N° 14, para. 52.
- <sup>101</sup> *Guidelines for Monitoring the Availability and Use of Obstetric Services* (UNICEF, WHO and UNFPA, 1997), available at <http://www.who.int>.
- <sup>102</sup> *Who's got the power...*, p. 7.
- <sup>103</sup> General comment N° 14, para. 44.
- <sup>104</sup> *Who's got the power...*, p. 16.
- <sup>105</sup> Nepal Safer Motherhood Project and Institute of Medicine, Nepal, “Will a social justice approach to safe motherhood also meet the public health objective of maximising lives saved?” (November 2004) quoted in Department for International Development, “How to reduce maternal deaths: rights and responsibilities” (February 2005), available at <http://www.dfid.gov.uk>.
- <sup>106</sup> General recommendation N° 24 (1999) on women and health, para. 14.
- <sup>107</sup> *Who's got the power...*, pp. 7–8.
- <sup>108</sup> Joint United Nations Programme on HIV/AIDS and WHO, *2007 AIDS Epidemic Update* (Geneva, 2007), available at <http://www.unaids.org>.
- <sup>109</sup> General Assembly resolution S-26/2, annex.
- <sup>110</sup> *2007 AIDS Epidemic Update...*
- <sup>111</sup> OHCHR and UNAIDS, *International Guidelines on HIV/AIDS and Human Rights: 2006 Consolidated Version* (United Nations publication, Sales N° 06.XIV.4).
- <sup>112</sup> UNAIDS and Canadian HIV/AIDS Legal Network, *Courting Rights: Case Studies in Litigating the Human Rights of People Living with HIV* (UNAIDS Best Practice Collection) (Geneva, 2006).
- <sup>113</sup> United Nations Educational, Scientific and Cultural Organization and UNAIDS, *HIV/AIDS and Human Rights – Young people in Action: A kit of ideas for youth organizations* (2001), available on <http://www.unaids.org>.
- <sup>114</sup> Millennium Project, *Combating AIDS in the Developing World* (United Nations publication, Sales N° E.05.III.B.9), p. 12.
- <sup>115</sup> “Declaration of Commitment on HIV/AIDS: five years later” (A/60/736), para. 16.
- <sup>116</sup> A/60/736, para. 36.
- <sup>117</sup> “Declaration of Commitment on HIV/AIDS and Political Declaration on HIV/AIDS: focus on progress over the past 12 months” (A/61/816).
- <sup>118</sup> *Minister of Health and Others v. Treatment Action Campaign and Others* (1) 2002 (10) BCLR 1033 (CC).
- <sup>119</sup> The Task Force had also recommended that former target 8 (now 6.C) be modified as follows: reduce malaria morbidity and mortality by 75 per cent by 2015 from the 2005 baseline level, as a more measurable target linked to goals 4 and 5 regarding child and maternal mortality, respectively. Millennium Project, *Coming to grips with malaria in the new millennium* (United Nations publication, Sales N° 05.III.B.10), p. 3. The proposal was not adopted, but States could consider setting this more ambitious and concrete target.
- <sup>120</sup> M. Rhee et al., “Use of insecticide-treated nets (ITNs) following a malaria education intervention in Piron, Mali: a control trial with systematic allocation of households”, *Malaria Journal*, vol. 35 (2005).
- <sup>121</sup> *Coming to grips with malaria...*, pp. 2–3.
- <sup>122</sup> UNICEF, *A Human Rights Approach during Emergencies* (2007), available at <http://www.unicef.org>.
- <sup>123</sup> General comment N° 14.
- <sup>124</sup> *Coming to grips with malaria...*
- <sup>125</sup> Millennium Project, *Investing in strategies to reverse to global incidence of TB* (United Nations publication, Sales N° 05.III.B.11).
- <sup>126</sup> WHO, *Global Defence against the Infectious Diseases Threat* (2002), p. 106.
- <sup>127</sup> E/CN.4/2004/49 and Add.1.
- <sup>128</sup> Millennium Project, *Environment and human well-being: a practical strategy* (United Nations publication, Sales N° 05.III.B.13), p. 1.
- <sup>129</sup> *Millennium Development Goals Report 2006* (United Nations publication, Sales N° 06.I.18), pp. 16–17.
- <sup>130</sup> In resolution 45/94, the General Assembly recognized that all individuals are entitled to live in an environment adequate for their health and well-being.
- <sup>131</sup> Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar); United Nations Framework Convention on Climate Change and its Kyoto Protocol; United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought

- and/or Desertification, Particularly in Africa (arts. 2 and 10); and Convention on Biological Diversity (art. 10, in particular).
- <sup>133</sup> See J. Razzaque, "Human rights and the environment: the national experience in South Asia and Africa", Background paper N° 4, and A. Fabra and E. Arnal, "Review of Jurisprudence on human rights and the environment in Latin America", Background paper N° 6, Joint UNEP-OHCHR Seminar on human rights and the environment (Geneva, 14–16 January 2002).
- <sup>134</sup> African Commission on Human and Peoples' Rights, *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria*, communication N° 155/96.
- <sup>135</sup> *Environment and human well-being...*
- <sup>136</sup> International Land Coalition, Community Empowerment Facility Programme, "Strengthening of local governance in nature management capacity through wide participation of local people" project: implementation, results and lessons learned TWA–Albania.
- <sup>137</sup> Council of Europe, Parliamentary Assembly, resolution 1449 (2005) on the environment and the Millennium Development Goals.
- <sup>138</sup> Amnesty International, COHRE, Hakijamii Trust, Kenya Land Alliance and Kenya National Commission on Human Rights, "Nowhere to go: forced eviction in Mau Forest, Kenya", Briefing paper (May 2007).
- <sup>139</sup> See WHO and UNICEF, *Meeting the MDG Drinking Water and Sanitation Target: The Urban and Rural Challenge of the Decade* (United Nations publication, Sales N° 07.XX.4). Research indicates that the basic safe water supply for some groups is often irregular and unaffordable.
- <sup>140</sup> For an overview, see M. Langford, "Tragedy or triumph of the commons? Human rights and the world water crises", *Human Rights 2006: The Year in Review* (Melbourne, University of Monash, 2007).
- <sup>141</sup> Committee on Economic, Social and Cultural Rights, general comments N° 4 and N° 14.
- <sup>142</sup> The right was implied from the rights to an adequate standard of living and health in the Covenant.
- <sup>143</sup> UNDP, *Human Development Report 2006: Beyond Scarcity: Power, Poverty and the Global Water Crisis*, (United Nations publication, Sales N° 06.B.III.1), p. 9. The Committee notes that other uses of water (e.g., for food and livelihoods) should be dealt with under the respective rights to food, work, etc.
- <sup>144</sup> "Relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation: final report of the Special Rapporteur, El Hadji Guissé" (E/CN.4/Sub.2/2004/20).
- <sup>145</sup> "Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments" (A/HRC/6/3).
- <sup>146</sup> See V. Roaf, A. Khalifan and M. Langford, "Monitoring implementation of the right to water: a framework for developing indicators", Global issue papers N° 14 (Berlin, Heinrich Boell Foundation, 2005).
- <sup>147</sup> UN-Habitat, *State of the World's Cities 2006–2007: The Millennium Development Goals and Urban Sustainability: 30 Years of Shaping the Habitat Agenda* (United Nations publication, Sales N° 06.III.Q.3).
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- <sup>149</sup> 2002 (6) BCLR 625 (W).
- <sup>150</sup> Taken from R. Picolotti, 'The right to safe drinking water as a human right', *Housing and ESC Rights Law Quarterly*, vol. 2, N° 1 (April 2005), p. 1.
- <sup>151</sup> UN-Habitat, *The Challenge of Slums: Global Report on Human Settlements 2003* (United Nations publication, Sales N° 04.III.Q.1), p. xxv.
- <sup>152</sup> Millennium Project, *A Home in the City* (United Nations publication, Sales N° 05.III.B.15), p. 3.
- <sup>153</sup> COHRE, *Any Room for the Poor? Forced Evictions in Johannesburg, South Africa* (2005).
- <sup>154</sup> COHRE, *Listening to the Poor: Housing Rights in Nairobi, Kenya* (2006), p. 117
- <sup>155</sup> A. Ancona, "Legalizing informal settlement in São Paulo, Brazil", paper presented to 7th Global Forum on Reinventing Government (Vienna, 26–29 June 2007) .
- <sup>156</sup> *Listening to the Poor...*, p. 125.
- <sup>157</sup> See *Millennium Development Goals Report 2006...*, p. 20.
- <sup>158</sup> Darrow and Tomas, loc. cit., pp. 505–506.
- <sup>159</sup> Millennium Development Compact, a collaborative product of the UNDP Human Development Report team and the Millennium Project Task Force coordinators, available at <http://www.unmillenniumproject.org>.
- <sup>160</sup> For a contrary view in the case of IMF, see F. Gianviti, "Economic, social, and cultural rights and the International Monetary Fund", in *Non-State Actors and Human Rights*, P. Alston, ed. (Oxford, Oxford University Press, 2005), p. 113. For a response, see A. Clapham, *Human Rights Obligations of Non-State Actors* (Oxford, Oxford University Press, 2006), pp. 145–149.
- <sup>161</sup> See discussion in S. Fukuda-Parr, "Millennium development goal 8: indicators for international human rights obligations?", *Human Rights Quarterly*, vol. 28, N° 4 (November 2006), p. 966.
- <sup>162</sup> See *Human Development Report 2005: International Cooperation at a Crossroads: Aid, Trade and Security in an Unequal World* (United Nations publication, Sales N° 05.III.B.1), pp. 129–133, and 3D – Trade, Human Rights, Equitable Economy and Realizing Rights: the Ethical Globalization Initiative, "US and EU cotton production and export policies and their impact on West and Central Africa: Coming to grips with international human rights obligations" (May 2004), available at <http://www.3dthree.org>.
- <sup>163</sup> *Human Development Report 2005...*, p. 85.
- <sup>164</sup> Fukuda-Parr, loc. cit., p. 981.
- <sup>165</sup> General comment N° 4, para. 19.
- <sup>166</sup> General comment N° 15 (2002) on the right to water, para. 34.
- <sup>167</sup> Development Assistance Committee, "Action-oriented policy paper on human rights and development" (2007), available at <http://www.oecd.org>.
- <sup>168</sup> See also *Millennium Development Goals Report 2006...*, p. 23.
- <sup>169</sup> Full report available at <http://www.escr-net.org>.
- <sup>170</sup> General comment N° 14, para. 43 (d).
- <sup>171</sup> See 3d – Trade, Human Rights, Equitable Economy, "International trade, health, and children's rights – the Philippines" (December 2004), available on <http://www.3dthree.org>.
- <sup>172</sup> Millennium Project, *Innovation: Applying Knowledge in Development* (United Nations publication, Sales N° 05.III.B.17).