Human rights and politics in development

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Chapter Contents

Reader's Guide

This chapter addresses the importance of politics to the relationship between human rights and development. It presents the two major ways in which human rights struggles have focused on development processes in the last two decades: the right to development, the struggles of poor countries for a better deal in the global economic system; and the human rights-based approach to development, the struggles of poor people for development to realize their rights. The chapter begins by exploring the conceptual nexus of human rights politics and development. It then presents the basic concepts and debates surrounding the right to development and the human rights-based approach to development. A case study analyzes the Millennium Development Goals, which reflect the current international consensus on development, and presents a human rights critique of the Goals to illustrate some of the key conceptual points

Introduction

This chapter is about human rights and development—how human rights are part of development and development is part of human rights as challenges, concepts, and practice. These two fields, which evolved separately, have come to interact with each other as human rights activists began to address poverty as a human rights challenge and development practitioners began to adopt human rights principles in their work. Theorists in both fields began to develop concepts, measures, and analyses. Because this is a new area of theory and practice, it is still 'in the making' and basic ideas are evolving.

Politics are central to the relationship between human rights and development because development can be a process to realize human rights, but often poor people—both individually and collectively as communities and states—have to struggle to claim their rights.

The chapter presents the two major ways in which human rights struggles have focused on development processes in the last two decades: the **right to development** (RTD), the struggles of poor countries for a better deal in the global economic system; and, the **human rights-based approach to development** (HRBA), the struggles of poor people for development to realize their rights.

The chapter is in four parts. The first part explains the nexus of human rights and development in terms of concepts, and how development can promote the fulfilment of human rights. It explains why politics are an important aspect of this nexus. The second and third sections review RTD and HRBA, respectively. These sections include the basic concepts and some of the current issues being debated, the context in which they emerged, and how they evolved in practice with attention to the political factors that shaped the evolution. The section on RTD is short since it has had less reach in implementation than HRBA. The fourth section looks at the case of the **Millennium Development Goals** (MDGs), the current consensus development priorities of the international community, and presents a human rights critique to illustrate the conceptual points made in the chapter. Because this is an emerging area of study and practice, there are many controversies, which makes it an exciting new way that human rights is engaging with contemporary challenges that people face in their lives.

Development and the Struggles for Human Rights

Politics and Human Rights

Human rights is an idea that 'empowers' the weak and vulnerable, protecting them from abuse of their rights to a life of dignity and freedom. Education, for example, may be a developmental goal for a Planning Ministry economist, or an aid agency programme officer. But it is an entitlement for a girl that she claims when denied schooling because there is no school provided by the state, or because the teacher does not turn up to teach, or because the parents do not value schooling for girls. In such a situation, social institutions have failed to ensure that she can enjoy her right to education. The language of rights is important in this case as the girl struggles to claim her right to education, the right to non-discrimination, and the right to equality. Her cause is helped if she can build alliances with others struggling for the same rights.

These struggles are part of claims being reaffirmed as human rights.[1] In explaining the emergence of human rights, philosopher and economist Amartya Sen (2006) explains that human rights are ethical norms that are

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[1] This is a common characterization of human rights made particularly in the practice of human rights by advocates and defenders. See, Chapter 2) that documents the history of human rights as global struggles. See particularly 'The Ongoing Global Struggle for Human Rights' (UNDP, 2000, pp. 27–29) that documents milestones and progress in the evolution of human rights in international legislation.

a product of 'social ethics and public reasoning', while political scientist Jack Donnelly (2006) refers to their development through a history of 'social learning'. Human rights norms develop because people claim that certain conditions of life are entitlements and demand that they become recognized as human rights. These norms also emerge because people confront various threats to their survival as human beings and claim security against such threats (Shue, 1996).

People-Centred Approaches to Development

Struggles for human rights are also part of the process of development. Development expands material resources and restructures the economy, social institutions, and norms that help to achieve the realization of human rights. Economists have dominated the development field and focus their analysis on economic activities and material production. But this is not the only perspective or discourse on development. Running alongside for decades have been more people-centred approaches to development, such as ideas about community development in the 1960s, the world employment programme of the 1970s, the basic needs approach of the 1970s and early 1980s, and, since the 1990s, the **human development and capability approach** (HD/CA) advocated by Sen and the UNDP Human Development Reports. These approaches point out that the ultimate end of development is to improve human well-being. Sen (1988, 1989, 1999) has argued in many of his writings, starting in the 1980s, that development is essentially about expanding human capabilities that enable people to be and do the things that they value, an idea most widely known under the title of his 1999 book *Development as Freedom*, and among scholars as the capabilities approach. Mahbub ul Haq, the architect of the concept of *human development* (HD), expresses the same idea in a different way with different words: that development is a process that creates an enabling environment that expands opportunities for people, and that expands the capabilities that people have to lead lives that they value (UNDP 1990; Haq 1995).

Development is not only about economic growth but also about how the benefits of economic growth are distributed among people—income groups, ethnic groups, racial groups, women or men, young or old, regional populations, rural or urban populations, workers in different occupations, and so on. It is also about how the resources generated by economic growth are put to use by government. How budgets are allocated among different sectors and uses has important consequences. Some uses are more likely to contribute directly to the fulfilment of human rights as supporting primary education, primary health care, social security, the judicial system and legal aid for people who cannot afford private legal services, or rural roads, while uses such as mining or military spending are less likely to contribute to the realization of human rights and may even have negative consequences.

The struggles of poor people for their rights are at least in part about those government policies and legal institutions that would advance the realization of their human rights—economic, social, cultural, political, and civil. Human rights are interdependent and indivisible; human dignity and freedom depends on the realization of all of these five rights, and these rights are reinforcing. The plight of poor people illustrates this point: poor people are often denied their human rights in all of these five areas, and the denial of one right can reinforce denial of another. For example, a woman who is a victim of human trafficking for prostitution is denied her rights to bodily integrity, to security, and to freedom of movement; she is likely to have been vulnerable because she came from a low-income family, had no access to protection from the courts and the police, and was perhaps illiterate and unable to access information. These multiple denials of civil, political, economic, and social rights combine to leave her vulnerable. Moreover, the discrimination she may suffer on account of her gender, ethnicity, religion, or race may compound her vulnerability and explain why she was exploited by traffickers. Poor people from politically marginalized communities are vulnerable because their human rights are not guaranteed.

In these ways, development and human rights are inherently intertwined. Development is a process that can help to fulfil human rights, but not all types of development can do so. The struggle for human rights must therefore include a struggle for a process of development that can be positive for the promotion of human rights and not one that takes human rights backwards. This is the central point in linking human rights and development.

Linking Human Rights and Development: Right to Development and Human Rights-Based Approach to Development

It is only recently that theories and practices of human rights and development have interacted and been brought together. This started in the 1980s with the emergence of the RTD. Developing countries promoted this concept as a claim to a global environment that would be conducive to their development, including such issues as resource transfers, financial markets, and trade. This was followed by another move in the 1990s with the emergence of the HRBA, advocated by civil society groups and development practitioners for development policies and programmes based on human rights principles.

RTD and HRBA are often conflated, but they are two quite distinct concepts promoted by two different sets of actors. RTD is a discourse in the human rights field. The key actors are governments of developing countries, supported by some human rights scholars, seeking recognition of right to development as a category of human rights in international human rights law. The terrain of contestation is in international negotiations on human rights treaties. RTD arose in the **Cold War** context when the Third World pursued an agenda of a **New International Economic Order** (NIEO) from the East and West. These negotiations have advanced little in the last decade.

HRBA is a discourse in the development field. The key actors are civil society groups and development practitioners, supported by some scholars. It defines the objective of development as the realization of human rights, and uses the principles of human rights in the process of development, such as participation, empowerment, equality, and the tools of human rights such as the international human rights law. HRBA emerged as a reaction against **structural adjustment policies** and

globalization (Darrow and Tomas, 2005), and as a challenge to the **neoliberal** approach that focuses on economic growth and market integration as the core priority in development (Nelson and Dorsey, 2003). HRBA has become a significant discourse on development, along with others such as economic growth, environmental sustainability, and capabilities/human development.

Both RTD and HRBA are driven by the concern with global poverty as an affront to human freedom and dignity, and as a matter of injustice. Unlike the economic analysis of poverty, which looks to poor economic performance, inadequate resources, or inadequate policies as the causes of poverty, human rights is concerned with unequal distribution of power and wealth within and between countries as poverty's root cause. While RTD is a challenge to the unequal distribution of political and economic power among countries, HRBA is also concerned with inequalities within countries.

KEY POINTS

Human rights is an idea that empowers people because it asserts that individuals have an entitlement, a claim on society, by virtue of the fact that they are human.

Just because people have rights, it does not mean that society confers them; people have had to and continue to have to struggle for their rights.

Development is a term that is often used synonymously with economic growth. Currently there are several discourses on development and there is a large literature on these different concepts and their policy implications. One of the significant discourses is the human development and capabilities approach.

Human rights and development evolved as separate fields, interacting little. The human rights community addressed issues of development in the context of RTD. The development community did not address human rights until the emergence of HRBA in the 1990s. Whereas RTD is a human rights concept, HRBA is a development approach.

The Right to Development (RTD)

Emergence of RTD and its Context

The right to development emerged in the context of the politicized human rights debates of the Cold War

and the development discourse of the NIEO. Just as the Eastern bloc championed social and economic rights, and the West civil and political rights, the Third World championed the right to development.

It was formulated as a claim by less-developed countries to an international economic system that would create a more favourable—or enabling—environment for development. It emphasized issues in the global economic systems, many of which were legacies of colonialism, such as full control of natural resources, self-determination, and international obligations of states to formulate appropriate policies and to provide international cooperation (Beetham, 2006). These ideas resonate with the *dependency theory* of development that emerged in the 1960s, which traced the origins of underdevelopment to the persistence of colonial economic systems. Dependency theorists such as Frank, Sunkel, and Cardoso argued that developing countries would remain underdeveloped even when colonization ended because they continued to be periphery countries in an economic system supplying primary commodities to the metropolis.

Conceptual Issues

There are substantial debates about the content of the right to development (Andreasson and Marks, 2006). There are questions about how the right of a nation's economic development can be linked to the individual's fulfilment of human rights for a life of dignity and freedom. The right to development implies a collective right, a right belonging to a group rather than an individual, which is much contested. Beetham (2006) argues that individuals can only enjoy human rights through a guarantee of the collective right to development. Both he and Sengupta (2006) argue that the right to development is therefore a right to a particular kind of development that would contribute to the fulfilment of human rights—for example, one where the benefits of development are widely shared. The right to development cannot be consistent with development where the state does not respect, protect, and fulfil human rights in the process. For example, investing in mineral exploration and exploitation by giving contracts to foreign multinationals that would primarily benefit the investors and political elites, while dislocating people from their homes, polluting the rivers, and clearing forests that provide an essential livelihood for the local population is hardly a kind of development consistent with human rights. Another issue is the difficulty of identifying the obligations of duty bearers and what constitutes an infringement of the rights.

In practice, RTD debates focus on the obligations of rich countries to provide international assistance, especially development aid, but also global economic systems in trade, finance, technology, and debt relief that are conducive to development. There is also an important debate about the obligations of corporations.

Implementation

Political and conceptual controversies have mired the implementation of RTD. Of the many different rights that have been recognized in international law since the adoption of the **Universal Declaration of Human Rights** (UDHR) in 1948, RTD has been one that has been particularly slow to be agreed and defined. It was debated for many years before it was finally proclaimed in 1986 through the *Declaration on the Right to Development*. The 1986 Declaration was almost unanimously adopted and was reaffirmed in the **Vienna Declaration** of the 1993 World Conference on Human Rights, but attempts to develop a **treaty** that would bind states legally have not advanced. There is little support for this initiative, especially among the developed countries. Moreover, the concept of RTD is rarely used in policy debates about international development.

KEY POINTS
RTD has been advocated by developing countries and resisted by developed ones.
The 1986 Declaration on RTD has not moved forward into a legally binding covenant or a convention.
The content of RTD is ambiguous.
RTD is an entitlement to a particular kind of development that would fulfil human rights of individuals.
RTD imposes obligations on rich countries to provide development assistance and to put in place policies conducive to Third World development.

Human Rights-Based Approach to Development (HRBA)

Emergence of HRBA and its Context

The emergence of HRBA as a development discourse can be traced back to the 1995 publication by the Human Rights Council of Australia, 'The Right Way to Development: Human Rights Approach to Development Assistance' (HRCA, 1995). HRBA aims to reorient the theory and practice of development. It sees development and human rights as pursuing the same objectives—defined as the realization of human rights and the respect of human rights principles in the process of development. HRBA often refers to programme approaches adopted by development cooperation agencies that have introduced new priorities and activities. But these approaches are embedded in a broader 'discourse', and the term HRBA is also used broadly to refer to the discourse, synonymously with 'human rights in development' and 'rights-based development'. HRBA builds on the alliance formed between the human rights and development communities in the 1980s to campaign for the *Convention to Eliminate All Forms of Discrimination against Women* (CEDAW), and the *Convention on the Rights of the Child* (CRC).

HRBA emerged in the context of globalization and the economic and political trends of the 1980s and 1990s in reaction to neoliberal economic policies that led to the neglect of many social and equity priorities (Nelson and Dorsey, 2003; Darrow and Tomas, 2005).

Cold War politics had driven a divide between civil and political rights, on the one hand, and economic and social rights on the other. Separate covenants developed, and civil and political rights became a tool of the West against the Eastern bloc countries and their Third World allies. Western human rights communities neglected, and many scholars and activists rejected, economic and social rights. Leading activists such as Aryeh Neier (2003) argued that they were excessive claims that could not be held up in a court of law; Kenneth Roth (2004a), President of **Human Rights Watch**, recognized economic and social rights but argued that international human rights organizations were ill equipped to advocate for them. On the other side, some Third World leaders argued that social and economic rights had to be established before political and civil rights could be promoted. For example, this was a major part of Lee Kwan Yew's 'Asian Values' argument that social and economic development had to precede democracy. Since the 1990s, powerful challenges to these views have been launched. Theorists such as Sen (2004, 2005, 2006) argue that justiciability is not a criterion for human rights and that law is the 'child of human rights', not the other way round. Others, such as Pogge (2007), argue that global poverty is a massive human rights violation.

The end of the Cold War cleared the political obstacles for the development community to engage with human rights and for the human rights community to give attention to economic and social rights and the challenges of poverty. It opened the way for new political dynamics in international agendas for both human rights and for development. Leading advocates starting with Mary Robinson, as UN High Commissioner for Human Rights, began to champion economic, social, and cultural rights, and the **indivisibility** and interdependence of all human rights. She also put global poverty on the human rights agenda, and human rights on the development agenda (UNDP, 2003; Robinson, 2005). Her successor, Louise Arbour (2007, p. iii), continues to take this position, stating that 'Poverty and inequities between and within countries are now the gravest human rights concerns that we face.' The human rights community began to embrace global poverty and development as human rights challenges. The decision by **Amnesty International**, which had historically focused exclusively on civil and political rights, to devote its 2010 campaign to global poverty is an important milestone in this shift.

The spread of HRBA was also facilitated by the rise of civil society movements who championed HRBA in developing countries and international networks. These movements were facilitated by democratization across the world and by the growth of **global civil society** (see Chapter 9). Throughout Latin America, Africa, and Asia, authoritarian regimes gave way to multi-party democracies in what is called the 'third wave' of democratization. **Non-governmental organizations** (NGOs) concerned with human rights and development began to proliferate in countries where authoritarian regimes had suppressed them, often taking up the cause of

poverty. These organizations formed global advocacy networks. Just as globalization integrated markets and intensified the exchange of goods, it integrated social movements and intensified the flow of ideas and advocacy (UNDP, 1999, 2002).

HRBA was also facilitated by changes in the development field. When a people-centred discourse on development emerged as a strong intellectual countercurrent to the growth-centred discourse, development and human rights could be conceptualized as mutually supporting and compatible. In the early 1990s, HD/CA emerged, arguing that the ultimate end of development was improvement in human lives, in particular the expansion of capabilities—or choices to be and do what an individual values—rather than expansion of material output or economic growth. Economic growth is important, but only as a means, not the end (Sen, 1989, 1999; UNDP, 1990). Such concerns were long-standing, but it was in the 1990s that they became prominent in international development debates. Defined in this way, development was no longer seen as antagonistic to human rights, but rather as a process supporting their fulfilment.

In 2000 the UNDP Human Development Report argued that these two concepts shared a common motivation: the pursuit of a life of freedom and dignity as the central concern. The two concepts also share policy priorities that emphasize equality, participation, and agency. The tools of analysis and implementation approaches differ but are complementary and reinforcing. These arguments (UNDP, 2000; Sen, 2004, 2005) contributed to the conceptual framework of HRBA.

The HRBA Concept—Key Elements and Comparison with Human Development/Capabilities and Neoliberal Approaches

HRBA applies human rights norms and principles to development policy and programmes on two fronts: the enjoyment of human rights by people, the rights bearers; and the obligations of duty bearers. From the rights bearers' perspective, the principles include: (i) equality and non-discrimination; (ii) true participation; and (iii) indivisibility and interdependence of all human rights. From the perspective of the duty bearer (principally the state but extending to other actors such as international corporations), the principles include the obligations: (i) to respect, protect, and fulfil; (ii) to achieve progressive realization subject to maximum available resources, non-retrogression, and immediate realization of core minimum standards; and (iii) to implement international human rights norms and standards.

How does HRBA differ from other approaches to development, particularly the neoliberal market approach and the HD/CA approach that is also widely endorsed by many practitioners?[2] As explained above, HRBA emerged in part as a reaction against the neoliberal discourse on development. So there are important contrasts with that approach, but similarities with HD/CA (see Table 10.1).

The similarities between HRBA and HD/CA are grounded in a common motivation to enhance human dignity and freedoms. HRBA conceptualizes this in terms of human rights, HD/CA in terms of capabilities, but these are complementary if not overlapping concepts (Nussbaum, 1997; UNDP, 2000; Sen, 2004, 2005). Both contrast with the neoliberal approach, which seeks to maximize economic welfare, not the full range of human welfare, and which conceptualizes human well-being in terms of utility (Jolly, 1999). Sen (1981) has long critiqued the utility approach to welfare because it focuses on material means and consumption rather than on what people can be and do (their capabilities and functioning). Thus HD/CA and HRBA have compatible and consistent philosophical foundations at odds with the neoliberal approach.

The similarities and contrasts among these approaches are more complex in the operational context. HRBA and HD/CA share common policy priorities but build on different tools. HD/CA and neoliberal approaches use the same tools but argue for different policy priorities.

Equality and participation are the two human rights principles that lead to the most striking policy contrasts. While mainstream international debates emphasize development and poverty reduction, the human rights approach is explicitly concerned with inequality. All three approaches share a commitment to policies to

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[2] There are many others, notably the sustainability approach, the 'local first' approach, or the post-development approach. These approaches are not all mutually exclusive. A full discussion of these approaches is beyond the scope of this paper. Greig *et al.* (2007) provides a good summary review of these approaches.

TABLE 10.1 Comparing key features of three approaches to development: human rights, human development, and neoliberalism.[6]

Approach	Human rights	Human development	Neoliberalism
Conceptual framework			
Objectives of development	Realization of human rights	Expansion of choices, capabilities, and freedom	Maximization of economic welfare
Concept of human well- being	Dignity and freedom	Capabilities as freedom	Utility
Focus of concern	Individual as rights bearer and state conduct as duty bearer	Individuals and people	Markets
Guiding principle	International human rights law norms and standards	Equity, justice, and expansion of choice	Economic efficiency
Operational approaches			
Evaluation of progress:			
Main criteria for evaluating development progress	Right holder perspective: enjoyment of all rights; equality; non-discrimination	Human capabilities; equality of outcomes, fairness, and justice in institutional arrangements	Economic impacts
	Duty bearer perspective: accountability for legal obligations to respect, protect, and fulfil; subject to progressive realization; non-retrogression	Assessment of human impact of development policies	Assessment of policy choice on grounds of efficiency and effectiveness
Measurement and evidence base	Cases of rights denials documenting individuals rights violated and duty bearer failure to comply with obligations	Progress in human outcomes (e.g. literacy, child mortality)	Economic activity and condition
		Average, deprivational, and distributional measures; disaggregated measures	Averages and aggregate measures
Key indicators	No indicator sets in widespread use	Social and economic indicators: **human development index (HDI)**, **gender-related development index (GDI)**, **gender empowerment measure (GEM)**, and **human poverty index (HPI)**	GNP per capita; GNP growth; headcount measure of income poverty incidence
Human agency in development:			
People as ends and/or means	Ends: beneficiaries with focus on the poorest and excluded	Ends: beneficiaries	Ends: not explicit
	Means: agents of change—claiming rights	Means: agents of change—taking charge to make their lives better	Means: human resources for economic activity
Mobilizing agency	Individual action through the courts; collective social action	Individual action and collective action	Individual action as entrepreneurs
Locus of action	Civil society and legal institutions	Civil society	Markets

⁶ Some of the elements are drawn from Jolly (2004), which compares the differences and overlaps between the human development approach with neoliberalism.s

Policy priorities		
Education, health, and nutrition	Ends in themselves as human rights. High priority for education and health of the least well off and excluded	Ends in themselves as expansion of capabilities	Important means—human resources—for improving productivity essential to economic growth
Ending gender, ethnic, and other discrimination, and reducing inequality	Central policy goal across all sectors and themes	A human right, an important priority across all sectors and themes. Concern with reconciling possible tensions with efficiency	A social or ethical issue. Concern with trade-off with efficiency
Economic growth	No position—little research on economic growth and human rights. Widespread perception that fast growth often undermines human rights	Essential means to enhancing human capabilities and choices	Central policy objective of development policies
Governance	Strengthening state capacity to meet human rights obligations in economic, social, cultural, civil, and political domains. Emphasis on access to justice for the poor and marginalized	Democratic and inclusive governance to democracy. Enhance voice of people and accountability of the state. Emphasis on state functions	Role of institutions necessary for efficient operation of the market. Emphasis on rule of law, contracts, and eliminating corruption.

expand education, health, and nutrition, address gender and other inequalities, promote economic growth, and improve governance. The differences lies in the relative priorities and choices made about trade-offs among them. For example, in education and health policies, the neoliberal approach would justify education and health policies that would strengthen growth prospects, while the HRBA would emphasize education as an end in itself and stress the obligation to ensure equal access to all, with priority attention to the least well off and the marginalized. In the area of governance, HRBA would focus attention on those institutional arrangements that would enhance voice and participation of the poorest people in claiming their rights, while the neoliberal policy focus would be on those arrangements that facilitate investment and innovation. Such differences are apparent in the human rights critique of the MDGs as the case study in this chapter will illustrate.

The Adoption of HRBA by Key Stakeholders

HRBA has been gaining momentum among development practitioners, particularly local and international NGOs, civil society groups, bilateral and multilateral donors, and think tanks. Many leading national and international networks such as Oxfam, Care International, and Action Aid now work with HRBA principles. For example, Oxfam International[3] states: 'Our mission is a just world without poverty and our goal is to enable people to exercise their rights and manage their own lives.' Similarly, Action Aid states, 'We work with local partners to fight poverty and injustice worldwide, reaching over 13 million of the poorest and most vulnerable people over the last year alone, helping them fight for and gain their rights to food, shelter, work, education, healthcare and a voice in the decisions that affect their lives.' The United Nations has adopted a common policy—a 'common understanding'—across all agencies to base all of its development work on human rights principles (UNDG, 2003).

The United Nations Children's Fund (UNICEF) has been a pioneer in this approach, building on its commitment to children's human rights and its involvement in the 1980s with the formulation and passage of the CRC. It has developed many important programmes using

[3] See the Oxfam International website http://www.oxfam.org/en/about.

the HRBA, such as budget analysis and monitoring in Ecuador (Box 10.1). Among bilateral development agencies adoption has varied: the UK, Sweden, and Norway have prepared elaborate policies and guidelines, while others such as the USA have engaged little. But all have endorsed the principle of the importance of human rights under the Organization for Economic Cooperation and Development's Development Assistance Committee policy of 1994. The most recent restatement of this policy recognizes human rights norms as 'an accepted normative framework reflecting global moral and political values'. It notes, 'there is growing consensus on the value of human rights principles—such as participation, non-discrimination and accountability—for good and sustainable development practice. The application of these principles builds on and strengthens good and sustainable development practice, with equal attention to process and outcomes.' (OECD/DAC, 2007).

The human rights community has also increasingly engaged with poverty and development as priority concerns. Issues of poverty and development have long been a concern for human rights organizations in the South, though they have only recently become a priority for Northern NGOs, as discussed earlier. As for the UN machinery, a wealth of important new initiatives have been undertaken since the 1990s, such as the appointment of special rapporteurs on extreme poverty, on the right to development, health, food, and other relevant issues. The Office of the High Commissioner for Human Rights (OHCHR) has also begun important substantive work to build up a battery of conceptual and analytical tools in this new area.

Implementation of HRBA—from rhetoric to action

Implementation of a particular development approach can range from: (i) adoption of the language and 'rhetoric' as important ends; (ii) policy agenda reflecting HRBA priorities; and (iii) use of human rights-specific tools and methods (Uvin, 2004). According to recent reviews of development agencies (Uvin, 2004; OECD/DAC, 2007; Piron, 2005), the adoption of the language of rights is widespread and many have also shifted programme priorities, particularly in the governance areas, to strengthen civil and political rights such as access to justice. HRBA has

contributed to shifting international policy priorities, especially in raising issues of state–citizen linkages by use of the duty bearer–right holder and accountability perspectives, the structural roots of poverty, and focus on exclusion as an obstacle (OECD/DAC, 2007). In the areas of women's rights and children's rights, international human rights instruments (CEDAW and CRC) have had an important impact in many countries around the world.

These are important innovations and show significant spread of HRBA as development practice. But they remain limited and have remained at the margins of both human rights and development practice. HRBA has been embraced by the UN system, many major international NGOs, and some bilateral agencies, but has had little impact on some of the major actors in international development, most notably the World Bank and the International Monetary Fund (IMF). Some studies (Uvin, 2004; Darrow and Tomas, 2005; ODI, 2006; OECD/DAC, 2007) also observe that some agencies claim to use HRBA when all they are doing is 'rhetorical repackaging' of the same programmes with the same methods and agendas. This is one way of looking at the position that the World Bank took over many years: stating that their programmes were in fact promoting human rights without using those terms. HRBA's reach has not extended to most national governments of the Global South, with some notable exceptions such as Brazil and South Africa.

HRBA has had little impact on the mainstream priority-setting tools of governments supported by the international community, such as the **Poverty Reduction Strategy Papers (PRSPs)**, which are policy frameworks for poverty reduction prepared by governments of low-income countries for mobilizing donor support, thus reflecting the policy priorities of national governments that are supported by official donors. Recent analyses of PRSPs find that human rights are very superficially considered, if mentioned at all, in most of these strategies (Fukuda-Parr, 2008b). The predominant approach to development in the PRSPs follows the neoliberal approach and does not reflect human rights priorities, including reducing inequality and democratic governance (Fukuda-Parr, 2008b). HRBA agendas are missing in countries where human rights are clearly serious issues. Only a handful of countries have prepared PRSPs that go beyond the rhetorical use of the term 'human rights' and

Box 10.1 UNICEF HRBA Experience in Ecuador: The Principles of Universality and Participation—a Budget for Implementing Social Rights in Ecuador

The following text is adapted from Elizabeth Gibbons (2006).

Ecuador experienced a serious macroeconomic crisis during the late 1990s, which resulted in sharply decreased spending on social programs, thus undermining the rights of children, as well as adults, to health care, education and adequate nutrition. Concerned about these cuts, UNICEF began a dialogue with the Congress over the government's proposed budget. This led to an agreement with the Ministry of Finance under which UNICEF was authorized to have access to the Ministry's financial data to analyze the national budget, monitor its execution, and communicate its findings. Helping legislators and the public to understand how the budget functions and what priorities it reflects were the objectives of this exercise, whose goal was to encourage the creation of more equitable public policies based on a shared consensus regarding society's obligation to fulfill the human rights of all of its members.

Analyzing, monitoring, communicating budget revenues and expenditures

Analysis of the budget and spending patterns revealed that spending on social programs was plummeting. For example, investment in education dropped from US$611 million in 1996 to US$331 million in 1999; and health spending fell from US$198 million to US$96 million. The budget analysis also revealed that spending for social sectors was disproportionately low (15% for 2000) compared to allocations for debt repayment (60%) and other non-social sectors. In addition, certain regions (the rural sector, Andean Highlands and the Amazon)—particularly those with a majority Indigenous population—were not getting a fair share of social benefits.

Ecuadorian President Jamil Mahuad and UNICEF then agreed UNICEF should track social expenditures and the key indicators of the national crisis. UNICEF created a series of visual tools—tables, bar graphs, pie charts, etc.—to make budget data accessible and comprehensible to ordinary Ecuadorians. Over time, this data became available online. UNICEF then undertook an ambitious outreach effort, sharing the information with a wide variety of partners, including legislators, business leaders, academics, media representatives, and Indigenous, religious and trade union groups. The central issue during these meetings was how to make public spending more equitable. The key message of this advocacy effort was the universality of human rights translated into three goals: health and education for all and hunger for no one. It was a values-based message, offered in the spirit of overcoming a crisis felt by all, but seriously threatening the survival of the country's poor and Indigenous people.

UNICEF and government officials worked together to draft programs consistent with the overriding goals of universality and equity, including: expanding existing school nutrition and income-support programs; nutritional support for children under two and pregnant and lactating mothers; and subsidies for poor families to send their children to school. All programs were targeted to reach the most marginalized and impoverished segments of the population. In the following years, UNICEF's role expanded to include monitoring revenue as the government was preparing a proposal for tax reform. This information on tax reform was also shared widely; the tax issue received press coverage and was the topic of a national conference sponsored by the Ecuadorian Congress.

Impacts

In 2001, the percentage of total government spending devoted to social programs rose to 22.1% and then again to 23.2% in 2002, exceeding the 1996 figure of 19.1%. By 2002, *per capita* social spending had surpassed pre-crisis levels, although due to population growth, the poorest Ecuadorians were still receiving considerably less than in the past.

In addition, the need to reform the national tax structure and generate additional revenues resulted in important institutional changes. The capacity of the Internal Revenue Service was strengthened so that an additional four to five percentage points were collected in taxes, and a new Customs Service was created, which added a further two percentage points. Consequently, between 1999 and 2002, government revenue from taxes increased from 6.4% to 13.7% of GDP, although the underlying tax structure still relies mainly on indirect taxes, and efforts to modify the structure are ongoing.

Lessons for building a human rights-based society

From the perspective of building a human rights-based society in Ecuador, the results were also impressive. A broad social consensus around the need for more just and equitable public-spending policies clearly emerged during the first few years of UNICEF's public budget work. The leader of one of the country's largest Indigenous groups noted that the work had 'democratized budget information.' Previously, few Ecuadorians were aware of, or able to understand, the national budget.

In facilitating this process, Ecuador's political leaders made tremendous strides towards accountable and transparent governance. By increasing and targeting social sector investment in light of the discovery of critical inequities, the government took a human rights-based stance that placed priority on fulfilling the rights of the

country's most vulnerable citizens.

Perhaps the most important lesson learned from the Ecuadorian experience on implementing economic, social and cultural rights is that a human rights-based message can resonate and provoke change if it is based on widespread consensus and perceived as a positive contribution to the society. Even in an historically-inequitable society, most people share an underlying belief in human rights and social justice that, once tapped, can influence public policymaking. Although Ecuador had ratified the CRC on March 23, 1990 and approved a Code for Children and Adolescents in 2002, it was less these

propelled the process forward. At no time, whether analyzing the budget or sharing its findings with wide sectors of society, did UNICEF encounter resistance to the underlying premise that rights must be universal. This experience, rooted in democratic institutions and processes, challenges contemporary assessments of exclusionary public policy in Latin America and offers a positive model of building solidarity for social inclusion, even in a context of extreme resource scarcity.

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associated principles of equality, participation, and accountability. But these exceptional cases are especially interesting documents that incorporate some

elements of the human rights perspective on poverty and development.

KEY POINTS

HRBA is a development discourse that defines development as the fulfilment of the human rights of all individuals. It emerged in the 1990s, after the Cold War's end, in response to the human consequences of neoliberal economic policy reforms. It has spread rapidly, adopted by many development organizations, including bilateral agencies and large international NGOs.

HRBA shares much in common with other people-centred discourses on development, notably the HD/CA approach; both are motivated by the concern for human freedom, dignity, and equality.

HRBA is defined by the application of basic human rights principles, including participation, equality and non-discrimination, empowerment of people, and accountability of duty bearers for their obligations to respect, protect, and fulfil human rights. HRBA also explicitly makes use of international human rights norms.

HRBA and human development approaches contrast with neoliberal approaches in critical ways, including the way development and human well-being are defined, the priorities for economic and social policy, and the role of people in the development process.

The influence of HRBA on mainstream government policy and international development policy has been limited. There are concerns that its adoption has been 'rhetorical repackaging', yielding no real change in policies and programme priorities. But there is an important debate and HRBA is a significant challenge to the mainstream policy agendas.

Case Study. The Millennium Development Goals (MDGs) and Human Rights

The MDGs define the consensus agenda of the international development community. In many respects, MDGs set an agenda for promoting human rights,

yet closer scrutiny also shows contradictions between them. HRBA analysis of the MDGs helps to illustrate why the human rights community is concerned that

the current international development agenda does not reflect human rights priorities.

MDGs—the Concept, Emergence, and their Importance

In September 2000, heads of state and government of nearly all of the world's 200 countries met at the Millennium Summit to commit their nations to 'doing their utmost' for global development. They vowed to overcome poverty and achieve peace, human rights, democracy, and environmental sustainability while respecting the principles of equality and solidarity. The resulting Millennium Declaration (MD) contained some specific goals and timeframes for development, giving concrete meaning to these lofty objectives.[4] These were reconfigured into a more coherent set of eight goals, eighteen associated targets, and forty-eight progress indicators—the Millennium Development Goals.

Human Rights Principles as the Purpose and Motivation of the MDGs

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 and, in particular, the children of the world, to whom the future belongs. (Millennium Declaration, UN General Assembly, September 2000.)

The MDGs are the key objectives that world leaders agreed to as their common vision for ending poverty and promoting development in the twenty-first century. They address seven key dimensions of poverty, hunger,

primary education, gender equality and empowerment of women, maternal mortality, child mortality, HIV/AIDS and other major diseases, and environmental sustainability. The eighth goal is to strengthen global partnerships for development through the actions of the rich countries in development aid, trade, debt relief, and technology transfer (see Box 10.2).

The MDGs are unprecedented in the high level of policy commitment that they have mobilized and in forging a consensus on defining a common purpose for development. They express in simple terms, without theory, what development means and why it is important.

MDGs and Human Rights—Overlaps and Reinforcing Agendas

There are many overlaps between MDGs and human rights. *First, there is a substantial overlap between MDGs and core economic and social rights.* Several of the MDGs directly address human rights and none are inconsistent with human rights. Moreover, human rights values frame the MD and its vision: freedom, dignity, solidarity, tolerance, and equity among people and nations. It is important to remember the origins of the MDGs in the MD and their strong human rights elements. MDGs are not ends in themselves nor a comprehensive development strategy, but merely tools intended to help implement and monitor the MD commitments made by world leaders.

Second, the MDGs focus on human well-being, not on economic growth, and thus highlight some of the key human rights priorities as important development priorities. This is a significant shift away from the neoliberal development agenda of the 1980s and 1990s. The consensus on MDGs reflects an important endorsement of poverty and human well-being as the central objectives of development (Fukuda-Parr, 2005), and broadens the development agenda by including social sectors as priorities.

Third, the MDGs constitute a compact among rich and poor countries of the world to eliminate global poverty (UNDP, 2003). For the first time, rich countries' inputs are considered alongside the objectives of poor countries. Of the eight MDGs, the eighth is the most significant departure from the past. It commits rich countries to do more in the areas of access to trade, aid, debt relief, and technology transfer. This goal's inclusion was central to the endorsement of the MDGs by developing countries.

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4 The MDGs were not formulated overnight by the United Nations. They build on a global consensus reached in the 1990s among governments—a dialogue to which many civil society groups actively contributed (Emmerij *et al.*, 2001). All but two of the eight MDGs are, in fact, commitments outlined in the agendas negotiated and adopted at the UN development conferences of the 1990s, conferences which all involved a protracted preparatory process of country, regional, and global consultations. MDGs also build on the consensus of the rich countries of the world; the Development Assistance Committee of the Organization for Economic Co-operation and Development (OECD) had earlier drawn up its own set of development goals (OECD, 1996).

Box 10.2 **Human Rights in the MDGs**

Each of the MDGs reflects a core human right, but not fully—as indicated in the note following each goal in brackets. There is no mention of the principles of equality, non-discrimination, or participation.

Goal 1. Eradicate extreme poverty and hunger [Right to adequate standard of living—*for all*]

- Target 1A: halve, between 1990 and 2015, the proportion of people whose income is less than $1 a day.
- Target 1B: achieve full and productive employment and decent work for all, including women and young people [Right to work].
- Target 1C: halve, between 1990 and 2015, the proportion of people who suffer from hunger [Right to food].

Goal 2. Achieve universal primary education [Right to free primary education]

- Target 2: ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling.

Goal 3. Promote gender equality and empower women [Women's right to equality—*in many more areas than education*]

- Target 3: eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015.

Goal 4. Reduce child mortality [Right to life—*for all*]

- Target 4: reduce by two-thirds, between 1990 and 2015, the under-five mortality rate.

Goal 5. Improve maternal health [Women's right to life and health— *for all*]

- Target 5A: reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio.
- Target 5B: achieve, by 2015, universal access to reproductive health.

Goal 6. Combat HIV/AIDS, malaria, and other diseases [Right to health]

- Target 6A: have halted by 2015 and begun to reverse the spread of HIV/AIDS.

- Target 6B: achieve, by 2010, universal access to treatment for HIV/AIDS for all those who need it.
- Target 6C: have halted by 2015 and begun to reverse the incidence of malaria and other major diseases.

Goal 7. Ensure environmental sustainability [Right to environmental health, Right to water and sanitation, Right to adequate housing—*for all*]

- Target 7A: integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources.
- Target 7B: reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss.
- Target 7C: halve, by 2015, the proportion of people without sustainable access to safe drinking water.
- Target 7D: have achieved by 2020 a significant improvement in the lives of at least 100 million slum dwellers.

Goal 8. Develop a global partnership for development [Right to development, Obligations of assistance]

- Target 12: 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).
- Target 13: address the special needs of the least-developed countries.
- Target 14: address the special needs of landlocked countries and small island developing states.
- Target 15: deal comprehensively with the debt problem of developing countries through national and international measures in order to make debt sustainable in the long term.
- Target 16: in cooperation with developing countries, develop and implement strategies for decent and productive work for youth.
- Target 17: in cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries.
- Target 18: in cooperation with the private sector, make available the benefits of new technologies, especially information and communications technologies.

Fourth, the MDGs can be used as a framework of accountability for the political commitments made by world leaders. Unlike with typical UN declarations, governments and political leaders can be held to account for their commitments to the MD because implementation can be monitored by the MDGs. People can hold governments and the international community accountable for their achievement. Governments can hold the international community accountable, and vice versa.

Human Rights Critique of MDGs

Despite the overlaps with human rights, there has been a vigorous critique of the MDGs from the human rights perspective, leading to a growing number of publications and debates, including the comprehensive review by OHCHR (2007).[5] As this and other publications (e.g. Saith, 2006) point out, there are several important contradictions between MDGs and human rights.

First, the contents of the MDGs do overlap with human rights but there are also important omissions. For example, core human rights principles of participation and equality are not reflected in the MDGs, even though they frame the MD. Important rights such as reproductive health were initially left out and were only added after much pressure; gender equality and empowerment targets are very weak. MDGs aim at primary schooling for all, but human rights norms also require that it be free.

Second, MDGs do not go far enough to realize human rights: for example, to fulfil human rights requires eliminating, not just halving, poverty. Moreover, the goals do not give adequate priority to the most deprived; halving the proportion of people living in extreme poverty and hunger can be achieved by improving the well-being of the best off amongst them. Pogge (2007) argues that MDG-1 is a betrayal of human rights.

Third, the global partnership is weak, without any quantitative targets or agenda for institutional reform (Fukuda-Parr, 2006). The formulation of MDG-8 is even weaker than the wording of the MD, which states a commitment 'to an open, equitable, rule-based, pre-

5 John Foster (2002); Howard White and Richard Black (2002); Roberto Bissio (2003); Jolly (2004).

dictable and non-discriminatory multilateral trading and financial system'; MDG-8 omits the term 'equitable' (OHCHR, 2008). Issues such as the decision-making processes of the **World Trade Organization** (WTO), the governance of multilateral institutions, and the restructuring of the global financial architecture are excluded.

Fourth, the MDGs are overly technocratic. They could lead to top-down planning and implementation, thereby promoting a donor-led agenda that is inconsistent with a participatory approach in which communities set their own priorities. They could also lead to a preoccupation with quantitative achievement, such as placing x number of children enrolled in schools while neglecting the quality of the education. Experience from other UN initiatives suggests an excessive focus on the mobilization of financial resources and technical solutions rather than on transforming power relations (OHCHR, 2008).

Fifth, MDGs could disempower the people and their authorities because they are set globally. Even if the MDGs were set by a participatory process, each country has its specific set of challenges and obstacles, and it is up to the people and government authorities to decide on priorities. A single set of goals can also distort priorities: for example, certain diseases are singled out (e.g. malaria, HIV/AIDS, and other communicable diseases) while other emerging issues (e.g. tobacco) are ignored.

MDGs could help build a framework of accountability for human rights, but are not sufficient. More indicators, especially ones revealing discrimination and inequality, would be required.

Since the launch of the MDGs in 2001, the human rights community has been slow to embrace them or to make use of them in pursuing their own agendas. Many of the international NGOs have been some of the most vigorous critics of the MDGs. One important reason why the MDGs are not embraced by the human rights community is the perception that the rich countries dominated their formulation and will use them to hold poor countries to account for development failures. Both NGOs and human rights machinery tend to defend developing country interests and are suspicious that the World Bank and the donor countries had the dominant role in formulating the MDGs.

Alston (2005) found that MDGs are not mentioned even in Human Rights Commission resolutions dealing with issues such as housing, right to food, and education, and are not included in the work of

special rapporteurs—with the notable exception of the work on health and the working group on the right to development. He concludes that the human rights community and the MDGs are like 'ships passing in the night' (Alston, 2005, p.755), ignoring each other while moving toward the same destination.

Conclusion

As most writers on the subject observe, the 'integration' of development and human rights has proven partial and difficult (Sano, 2000; Uvin, 2004; Robinson, 2005). HRBA is still at the margins of both the fields of development and human rights, and the two communities do not communicate well. Many development practitioners remain highly sceptical of the idea that human rights are the ends and means of development (Ingram and Freestone, 2006). They continually ask, 'What is the value added' of human rights to development (Kanbur, 2007)? To which the reply from the human rights community is that there is a need for 'value change' in development agendas (Eide, 2006). Both communities face difficulty in integrating rights and development, as illustrated in the discontinuities between human rights and MDGs.

The difficulties of such integration can be explained by many factors, such as different traditions, analytical concepts, and implementation methods (Fukuda-Parr 2008a). Among them is the role of politics. Human rights promotion has been a political process, of people demanding their entitlements and making alliances with supporters in a political process of challenging states to deliver on their human rights commitments. This adversarial process is directly contradictory to the development process of working with government, to support their efforts to invest in development and to implement policies.

QUESTIONS

INDIVIDUAL STUDY QUESTIONS

1. How did the Cold War influence the evolution of international human rights law and movements?

2. What are the different ways in which development is defined and what are the main discourses on development today?

3. What is the difference between RTD and HRBA?

4. What are the key arguments for and against the RTD?

5. How does HRBA differ from the mainstream neoclassical approach and from the human development approach?

6. What was the historical context in which HRBA emerged?

7. What are the key human rights principles in HRBA?

8. What are MDGs?

GROUP DISCUSSION QUESTIONS

1. Do you think that the MDGs promote human rights?

2. If you were the head of an NGO for women's rights, what position would you take on the MDGs and what would be your organization's strategy—ignore them, criticize them, change them, or use them in your advocacy and action?

3. If you were revising the MDGs, how would you change them to make them better reflect the HRBA agenda? What targets and indicators would you add?

FURTHER READING

Andreassen, B. A. and Marks, S. P. (eds) (2006). *Development as a Human Right: Legal, Political and Economic Dimensions*. Cambridge, MA: Harvard School of Public Health. Distributed by Harvard University Press.
This volume collects some of the cutting-edge work on the theories of development as a human right and includes conceptual underpinnings, defining obligations, specific national challenges, and global processes. The contributors are leading thinkers on the issue and address some of the controversial issues on the right to development and on the human rights approach to development.

Alston, P. and Robinson, M. (eds) (2003). *Human Rights and Development: Towards Mutual Reinforcement*. New York: Oxford University Press.
This edited volume addresses the challenges of implementing a human rights-based agenda in development. It includes chapters by leading scholars and practitioners in both development and human rights fields. While the Andreassen/Marks volume is more theoretical, this is more practice oriented, and focuses on HRBA rather than RTD.

Donnelly, J. (2003). *Universal Human Rights in Theory and Practice* (2nd edn). Ithaca, NY: Cornell University Press.
This volume is an important theoretical work for exploring the relationship between human rights and development from political and other perspectives. It addresses the issue of universalism and the charge that human rights are a Western construct that may not apply to other parts of the world, especially the Third World.

OHCHR (2004). *Human Rights and Poverty Reduction: A Conceptual Framework*. New York: United Nations. http://www2.ohchr.org/english/issues/poverty/guidelines.htm.
This short publication presents a useful conceptual framework for the links between human rights and poverty that is simple and up to date. It is useful for practitioners as a document on concept that complements more specific operational guidelines.

OHCHR (2006). *Frequently Asked Questions on Human Rights-Based Approach to Development Cooperation*. New York: United Nations. http://www.unhchr.org.
This short publication is an excellent document that clarifies basic concepts and definitions about the HRBA.

Shue, H. (1980). *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy*. Princeton, NJ: Princeton University Press.
This classic in the theory of human rights is an important foundation for exploring the relationship between human rights and development. It presents a theoretical defence of basic subsistence and survival rights, including economic rights that have been contested in the literature.

UNDP (2000). Human Development Report 2000: Human Development and Human Rights. New York: Oxford University Press.
Written from the human development perspective, this is a comprehensive text that clarifies the overlaps and complementarities between the HRBA and HD/CA. It includes chapters on concepts (written by Amartya Sen), history, democracy, the use of indicators, poverty, and a policy agenda.

Uvin, P. (2004). *Human Rights and Development.* Bloomfield, CT: Kumarian Press.
This book reviews the challenges of HRBA as a development practice. It provides a systematic analytical framework for this review, and sets the analysis in the context of divergent development discourses. It reflects on the obstacles and critiques of the HRBA approach without rejecting it.

WEB LINKS

http://www2.ohchr.org/ The official website of the OHCHR is a must-visit site for the study of human rights and development—in particular, the web pages on development, poverty, and MDGs.

http://www2.ohchr.org/english/issues/development/ This page contains basic documents and information on current debates and activities of the working group on the right to development.

http://www2.ohchr.org/english/issues/poverty/ This page contains basic documents on poverty as a human rights issue. It provides information on current activities, reports of the independent expert on extreme poverty, and links to documents.

http://www2.ohchr.org/english/issues/millenium-development/index.htm This page on MDGs contains UN OHCHR perspectives on why MDGs are relevant to human rights, and documents on the subject.

http://www.chrgj.org/ The website of the Center for Human Rights and Global Justice of the New York University School of Law, a premier research centre on human rights and the consequences of globalization on poor people and poor countries. It contains a wealth of information and working papers on the latest research in this area.

http://www.cdhr.org.in/about.htm This website of the Centre on Development and Human Rights located in New Delhi, India contains information on reflections on the right to development.

http://www.iidh.ed.cr/default_eng.htm This website of the Inter-American Institute of Human Rights, a premier research and training institution in Latin America, provides a wealth of information on the human rights situation and analysis. The site provides information on specific rights and on current activities of the Institute.

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