



## **“Human Rights Based Approach” in the post 2015 process: The challenge of a global accountability framework**

Growing inequality in all corners of the globe has demonstrated with certainty that the MDGs approach, conceived more than a decade ago, was unable to meet the important challenges associated with social development. Driven by a narrow focus on aid and rooted in an economic growth paradigm, the MDGs overlooked almost entirely the human rights dimension of development, and the crucial role they play in supporting sustainable socio-economic progress.

Amartya Sen (1999) argued, “In judging economic development, it is not adequate to look only at the growth of GNP or some other indicators of over-all economic expansion. We have to look also at the impact of democracy and political freedoms on the lives and capabilities of the citizens.” Therefore, real progress is measureable also by the degree with which peoples can enjoy fundamental human rights in practice and effectively exercise democratic participation.

Concretely, this means that, for example, we cannot talk of ‘achieved development’ in a given country if labour standards and decent work are not promoted, the right to collective bargaining is not respected, and participatory modalities as social dialogue are not granted in the first place.

A sustainable development model needs to be based on international human rights commitments and standards, embedded in internationally agreed instruments. Accountability based on international norms is the very embodiment of what the Human Rights Based Approach (HRBA) to development. Indeed, as the UN Office of the High Commissioner for Human Rights (OHCHR) put it, the HRBA is a broader “conceptual framework for the process of human development that is norm-atively based on international human rights standards and operationally directed to promoting and protecting human rights.” It seeks to analyse “the inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress” (OHCHR, 2006, p. 15).

Still, the question remains on how to translate this in practice.

Recently donor governments (and multilateral institutions) have revitalised the HRBA within their policies, developing programmatic tools and guidelines to promote human rights in their bilateral development cooperation<sup>1</sup>. However, these rather fragmented and operational approaches, although well-intentioned, do not seem to embrace the core implication of the HRBA, which is the issue of globally shared responsibility/accountability for development.

In 1986 the UN Declaration on the Right to Development<sup>2</sup>, already pointed in this direction. “The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”<sup>3</sup>. Moreover, according to the Declaration, “States have the duty to co-operate 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 co-operation among all States, as well as to encourage the observance and realization of human rights”<sup>4</sup>.

The duty to cooperate would imply a shift from individual state responsibilities (concerning the relationship between the State and the people under its jurisdiction<sup>5</sup>) towards a broader concept of extraterritorial responsibility/obligations of states beyond their borders<sup>6</sup>. Consequently, states (duty bearers) would be accountable for a wider range of external policies, like trade, debt, and finance in particular, that might have negative backlash on the human rights of recipient populations (rights holders), being the latter inside or outside their territories.

Despite this progressive stand, however, the Declaration has no binding attributes, and does not include any mandatory obligations or accountability mechanism on States.

<sup>1</sup> For a review of multilateral institutions and donor governments’ positions on HRBA see: Promoting a Human Rights based approach within the development effectiveness agenda, HIVA & GGS, June 2013 p.11

<sup>2</sup> <http://www.un.org/documents/ga/res/41/a41r128.htm>

<sup>3</sup> Ibidem art 1 para 1

<sup>4</sup> Ibidem art 3 para 3

<sup>5</sup> “Both the human rights and governance traditions locate accountability primarily in the relationship between the State and its citizens and others under its jurisdiction. Under international human rights law, States have the first and main responsibility to respect and protect the rights of people within their territories or under their effective control”, Who will be accountable? OHCHR, 2013, p. 17.

<sup>6</sup> On Extraterritorial responsibility see OHCHR 2013 p. 22,48 and Towards a Framework Convention on the Right to Development, De Feyter, FES International Policy Analysis, April 2013 p. 3.

On the other hand, it is clear that the principle of states shared accountability continues to evolve in international fora and debates on development, as a result of profound shifts global economy. As noted by OHCHR the “proliferation of actors in international development has made it necessary to develop a more multidimensional approach. A number of processes associated with globalization, including political decentralization, the privatization of public services and broader transformations in the global economy, have multiplied the number of and interconnections between institutions that shape development. The bond between State and citizen is now at the centre of a more elaborate web of interrelated responsibilities”<sup>7</sup>.

The Millennium Declaration of the UN General Assembly in 2000 refers again to the principle of shared responsibility, calling for greater policy coherence and coordination at international level<sup>8</sup>. However, the accountability deficit of MDG 8 - Developing a global partnership for development- is self-evident.

Subsequent declarations addressing aid effectiveness - Paris (2005), the Accra Agenda for Action (2008) and more recently the Busan Partnership (2011) – keep recalling the need for “accountability to the intended beneficiaries of our cooperation, as well as to our respective citizens, organisations, constituents and shareholders”<sup>9</sup>. However, at the same time and quite inconsistently, the Busan Partnership document only makes direct reference to rights-based approaches (RBA) when referring to the role of Civil Society Organisations (CSOs), effectively relegating RBA to CSO-specific engagements, and not to the overall stakeholders’ development agenda.

It should be clearly established that given the shift in the global development settings, the issue of shared responsibility should not be limited to state entities only but should pertain to ‘non-state actors’ as well, such as private business and multilateral organisations, whose actions directly impact on development processes and human rights<sup>10</sup>.

The question remains: how do we create global governance framework in development based on internationally agreed human rights commitments, holding all relevant actors accountable?

The post 2015 process presents the international development community an opportunity to really boost policy coherence between development promotion and human rights commitments<sup>11</sup>. Proposals have been put forward in this regard, with the aim of building on existing reporting mechanisms at international level, such as Economic and Social Council’s annual voluntary ministerial review process<sup>12</sup>, as well as, the Universal Periodic review of the Human Rights Council<sup>13</sup>. It is argued that “states should streamline their post 2015 and international human rights reporting obligations, ensuring that their respective national reporting processes and accountability mechanisms reinforce one other”<sup>14</sup>.

However, a holistic approach defining the integration of development and human rights in one normative and binding instrument seems to be by far the best option. The International Labour Organisation (ILO) framework and its standards based tripartite accountability mechanisms constitute a long-standing example of how relevant and effective this can be.

A new binding framework, including its accountability mechanisms, should be agreed at global level. This framework should reaffirm the spirit of the 1986 Declaration and grant three fundamental principles: “mutual accountability (donors and partners are accountable for development results), alignment of policies among partner countries (donor countries align behind policy objectives set by developing countries), and inclusive partnerships (full participation of State and non-State actors)”<sup>15</sup>.

Eventually, this would also mean providing concrete mechanisms to ensure policy coherence for development.

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7 see OHCHR, 2013, p. 17.

8 Resolution 2 session 55 United Nations Millennium Declaration

9 The Busan Declaration (2011) reiterates that promoting human rights, democracy and good governance are an integral part of development efforts (§3), as well as, it underlines the consistency with agreed international commitments on human rights, decent work, gender equality, environmental sustainability and disability (§11). It also includes the commitment to accelerate efforts to achieve gender equality and women’s empowerment (§20).

10 The private sector should respect and apply the ILO principles and labour standards as elaborated in the ILO Conventions and monitored by the ILO supervisory system; more in particular the MNEs, should observe the Guiding Principles on Business and Human Rights: Implementing the United Nations’ ‘Protect, Respect and Remedy’ Framework, the ILO Tripartite Declaration on MNEs and Social Policy, the OECD Guidelines for MNEs.

11 The GPEDC (Global Partnership for Effective Development Cooperation, set up following Busan) involvement in the post-2015 process it is still unclear despite calls to ensure complementarity. Arguments stand in favour of the fact that first there should be a post-2015 framework upon which the GPEDC can define its role; others propose that monitoring on accountability could be the GPEDC’s focus.

12 <http://www.un.org/en/ecosoc/newfunc/ammandate.shtml>

13 <http://www.ohchr.org/en/hrbodies/upr/Pages/UPRMain.aspx>

14 see OHCHR 2013 p. 71

15 A Framework Convention on the right to Development, reaffirming the principles and contents of the 1986 Declaration would precisely serve to answer the question on complementing “the current human rights regime with a treaty that goes beyond individual State responsibility and takes inspiration from principles derived from international development efforts”, De Feyter, FES International Policy Analysis, April 2013 p. 17

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