

## Chapter 9: Health, development, and human rights<sup>1</sup>

Stephen Marks<sup>2</sup>

### Contents

<b><i>Introduction</i></b> .....	<b>1</b>
<b><i>I. Human rights based approaches to health and development in theory</i></b> .....	<b>2</b>
A. The social justice approach .....	3
B. The holistic approach .....	5
C. The capabilities approach.....	7
<b><i>II. Human rights-based approaches to health and development in practice</i></b> .....	<b>9</b>
A. Policies and practices of international organizations .....	10
B. Policies and practices of bilateral donors and NGOs .....	13
C. The human rights learning at the community level.....	14
<b><i>Conclusion: From human rights theory to development practice</i></b> .....	<b>17</b>

### Introduction

The purpose of this chapter is to explore how the three concepts of human rights, health and human development have been defined and linked and what implications these linkages have for international policy and practices of international organizations.

At the conceptual level, the definitions of development, health and human rights are virtually identical and widely accepted in the abstract. The World Health Organization (WHO) defines *health* as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."<sup>3</sup> Such a broad definition—which some consider too broad to be meaningful<sup>4</sup>—embraces virtually the same content as development and human rights since all three deal with the improvement of the human condition and the fulfillment of the human potential. *Human rights* are about creating an environment in which people can develop their full potential and lead creative lives by

---

<sup>1</sup> This chapter is to appear in Anna Gatti & Andrea Boggio (eds.), *Health and Development: The Role of International Actors*, Palgrave Macmillan, 2008.

<sup>2</sup> François-Xavier Bagnoud Professor of Health and Human Rights, Harvard School of Public Health, USA. This chapter draws in part on the author's chapter on "Human Rights in Development; The Significance for Health," in Sofia Gruskin, Michael Grodin, George Annas, and Stephen P. Marks, *Perspectives on Health and Human Rights*, Taylor and Francis, 2005, pp. 95-116.

<sup>3</sup> Preamble to the Constitution of the World Health Organization as adopted by the International Health Conference, New York, 19-22 June, 1946; signed on 22 July 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2, p. 100) and entered into force on 7 April 1948.

<sup>4</sup> See Gian Luca Burci and Claude-Henri Vignes, *World Health Organization*, the Hague: Kluwer Law International, Intergovernmental Organizations – Suppl. 14 (July 2003), para. 208, at p. 109.

assuring “the dignity and worth of the human person” and promoting “social progress and better standards of life in larger freedom,” in the words of the Universal Declaration of Human Rights. For *development*, the United Nations Development Programme (UNDP) uses the concept of human development, which is “about creating an environment in which people can develop their full potential and lead productive, creative lives in accord with their needs and interests [and] thus about expanding the choices people have to lead lives that they value.”<sup>5</sup>

However, even at such a high level of abstraction, distinctions can be made. The goals of health concentrate on the requirements of physical, mental and social dimensions of *human existence*, whereas development goals tend to focus on the material conditions that allow people to benefit from *economic processes* in ways that improve their condition; and human rights goals tend to deal with normative *constraints on power relations* to ensure human dignity and the elimination of repressive and oppressive processes. Thus, health, development and human rights have in common human well being—or, as philosophers would say, “flourishing,” or the “good life”—but approach this meta-goal through physical, mental and social well-being; economic processes; and normative constraints respectively.

I will explore the role of international actors with respect to human rights, health and human development by highlighting theoretical approaches (conceptual frameworks) through which human rights thinking is applied to development, focusing particularly on health and by exploring some examples of the practices of human rights in health and development. Scholars, policy-makers and practitioners have been using a common vocabulary in recent years with respect to each of the approaches in question. Some involve the overlapping of all three concepts; some emerge from human rights thinking; some are more common to development and health thinking. My purpose in grouping them here is to show how each one offers a way of understanding how human rights, health and development are related in theory and practice.

## **I. Human rights based approaches to health and development in theory**

Building on the abstract definitions quoted above, we can provide a more complete picture of how health, development, and human rights are related by examining those theoretical approaches that are the most relevant to understanding the interconnections between the three, namely, the social justice approach, the holistic approach, and the capabilities approach. The relevance of each of these approaches to health, development, and human rights will be outlined in this Part, leaving the more practical dimensions to Part II.

---

<sup>5</sup> UNDP, *Human Development Report 2002*, p. 9. Without the qualifier “human”, “development” is often used to mean economic growth. However, as UNDP pointed out in launching the HDR, the human development “way of looking at development differs from the conventional approach to economic growth, human capital formation, human resource development, human welfare or basic human needs.” *Human Development Report 1990*, p. 11.

### ***A. The social justice approach***

Many in the public health field attach primary importance to eliminating social disparities and inequalities in access to health. Their agenda is common to many in the food security, adequate housing, environment and globalization fields, and is often expressed through the concept of social justice. Human rights sometimes becomes a surrogate for social justice, the assumption being that what contributes to social justice in the context of development is also a contribution to human rights. However, there are differences between human rights and social justice, which will be explained below.

Tomas Pogge understands social justice as the justice of social institutions or a criterion “which assesses the degree to which the institutions of a social system are treating the persons and groups they affect in a morally appropriate and, in particular, even-handed way.”<sup>6</sup> The relation between social justice and human rights is explained in this way: “A complex and internationally acceptable core criterion of basic justice might best be formulated, I believe, in the language of human rights [understood] primarily as claims on coercive social institutions and secondarily as claims against those who uphold such institutions.”<sup>7</sup>

Paul Farmer, coming from public health and social medicine, is another voice for social justice who uses human rights as a privileged normative instrument. Drawing on the insights of liberation theology, which “argues that genuine change will be most often rooted in small communities of poor people,”<sup>8</sup> he uses the methodology “observe, judge, act” to challenge unjust structures and understand how a social justice approach can be used to address disease and suffering. He explains, “For me, applying an option for the poor has never implied advancing a particular strategy for a national economy. It does not imply preferring one form of development, or social system, over another...A truly committed quest for high-quality care for the destitute sick starts from the perspective that health is a fundamental human right.”<sup>9</sup> He is critical of “liberal” development theory and practice based on ideas of reformism that seek to bring the technological advances of modernity to the poor (“developmentalism”). He is also critical of the human rights movement for failing to attach sufficient importance to economic, social and cultural rights. He warns, “As international health experts come under the sway of the bankers and their curiously bounded utilitarianism, we can expect more and more of our services to be declared ‘cost-ineffective’ and more of our patients to be erased. In declaring health and health care to be a human right, we join forces with those who have long labored to protect the rights and dignity of the poor.”<sup>10</sup>

---

<sup>6</sup> Thomas Pogge, *World Poverty and Human Rights*, Cambridge UK: Polity Press, 2002, p. 31.

<sup>7</sup> *Id.*, p. 44.

<sup>8</sup> Paul Farmer, *Pathologies of Power. Health, Human Rights and the New War on the Poor*, Berkeley: University of California Press, 2003, p. 140.

<sup>9</sup> *Id.* P. 152.

<sup>10</sup> *Id.*, p. 159.

This approach is put into practice, among others, by Partners in Health (PIH), which works directly with the destitute sick in Haiti, Peru, Russia and other locations and defines its mission as providing “a preferential option for the poor in health care” and its advocacy goal as “helping to build a movement to fight for health and social justice.”<sup>11</sup> Similarly, Oxfam International explains that its “policies and practices will place the rights and interests of poor people at the center of the agendas of international bodies, governments and of the powerful corporate sector - which increasingly dominates the global economic and social landscape.” Its strategic plan, called “Toward Global Equity,” enumerates “five rights-based aims” directed towards making globalization work for poor and excluded people by establishing and implementing new “fair rules for the global economy.”<sup>12</sup>

Social justice captures an important feature of the human rights framework for development, namely the emphasis on the moral imperative of eliminating glaring social inequality within societies and structurally-imbedded patterns of international support for those inequalities.<sup>13</sup> However, the human rights framework goes beyond a commitment to social justice in that it supports other dimensions of a life people value that are not focused entirely on reducing the suffering of the poor and vulnerable. It is also different from social justice insofar as it does not rely on a subjective sense of outrage at the suffering of the poor and excluded within society—however admirable such sentiments may be—but rather on a set of agreed standards that limit what governments can do that may contribute to social injustice and defines what they must do to redress such injustice. Table 1 lists some of the distinguishing features between human rights and social justice approaches of development.

#### HUMAN RIGHTS AND SOCIAL JUSTICE APPROACHES COMPARED

<i>Features</i>	<i>Social Justice</i>	<i>Human Rights</i>
Sources of authority	Moral commitment to fairness; solidarity with oppressed	Human rights law; theories of justice based on equal rights and dignity
Priority groups	Poor and marginalized communities	All individuals and certain groups
Modes of action	Primarily social	Primarily legal and

<sup>11</sup> <http://www.pih.org/what/advocacy.html>

<sup>12</sup> Oxfam International's Mission Statement, <http://www.oxfam.org/en/about/mission>. The five rights are “the right to a sustainable livelihood, the right to basic social services, the right to life and security, the right to be heard - social and political citizenship, and the right to an identity - gender and diversity.” These are not human rights in the terminology used in the international human rights texts (except for life and security) but are interpretations of social justice that can be justified using those texts.

<sup>13</sup> An example of a social justice analysis applied to international health issues is Jim Young Kim, Joyce V. Millen, Alec Irwin, and John Gershman, *Dying for Growth. Global Inequality and the Health of the Poor*, Monroe, Maine: Common Courage Press, 2000.

	mobilization; secondarily legal and administrative redress	administrative redress; secondarily social mobilization
Relation to established order	Primarily questioning of unjust structures (capitalism, patriarchy, ethnic stratification); sometimes using established institutions to advance equality	Primarily working within existing structures; exceptionally questioning them (apartheid, non-democratic government)

Applied to the field of public health, the social justice approach is illustrated by the focus on inequalities by scholars such as Norman Daniels<sup>14</sup> and Nancy Krieger,<sup>15</sup> as well as the extensive research on health equity.<sup>16</sup> These studies base the concept of health equity on theories of social justice and draw attention to the failure of improvement in overall health status in terms of decline in mortality and morbidity to reach some social groups, denying them equality of opportunity.<sup>17</sup>

### ***B. The holistic approach***

Many approaches to development, human rights and health have in common an awareness of the interrelationships among complex social processes. The World Bank’s “Comprehensive Development Framework,” for example, refers to the “interdependence of all elements of development—social, structural, human, governance, environmental, macroeconomic, and financial”<sup>18</sup> and the OECD’s “Strategy for Sustainable Development” is defined as a “co-ordinated set of participatory and continuously improving processes of analysis, debate, capacity-strengthening, planning and

<sup>14</sup> Norman Daniels, “Fair process in patient selection for antiretroviral treatment in WHO’s goal of 3 by 5” *The Lancet* May 19:1-3 (2005) (Published Online); Norman Daniels, John Bryant, R. Castano, O. Dantes, K. Khan and Supasit Pannarunothai, “Benchmarks of fairness for health care reform: A policy tool for developing countries” *Bulletin of the World Health Organization* 78(6):740-50 (2000); Norman Daniels, Walter Flores, Supasit Pannarunothai, Peter Ndumbe, John Bryant, T. Ngulube and Yuankun Wang, “An evidence-based approach to benchmarking the fairness of health-sector reform in developing countries,” *Bulletin of the World Health Organization* 83(7):534-41 (2005).

<sup>15</sup> Nancy Krieger, “Discrimination and health,” in Berkman and Kawachi (eds), *Social Epidemiology*, Oxford: Oxford University Press, 2000, pp. 36-75; Commentary: society, biology, and the logic of social epidemiology. *Int J Epidemiol* 2001; vol. 30, pp. 44-46.

<sup>16</sup> See, for example, *The Equity Gauge: Concepts, Principles, and Guidelines*, Global Equity Gauge Alliance, 2004.

<sup>17</sup> Sudhir Anand and Fabienne Peter (eds.), preface by Amartya Sen, *Public Health, Ethics, and Equity*, Oxford University Press, 2004.

<sup>18</sup> <http://www.worldbank.org/cdf/cdf-faq.htm>

investment, which integrates the economic, social and environmental objectives of society, seeking trade offs where this is not possible.”<sup>19</sup>

The holistic approach to human rights is reflected in Article 28 of the Universal Declaration of Human Rights (1948), which refers to the right to “a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” Such an order can only be conceived on the basis of social structures conducive to the realization of rights that cover the civil, cultural, economic, political, and social domains. It implies a holistic framework in which the cumulative effect of realizing all types of human rights is a structural change in both national societies and international society. Typical of numerous UN pronouncements on the subject, the Vienna Declaration and Programme of Action (June 1993) affirms in paragraph 5: “All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”<sup>20</sup>

The first implication for health of this holistic approach to human rights is that it challenges the distinction between civil and political rights, on the one hand, and economic, social, and cultural rights, on the other. Traditionally, the former are supposed to be absolute or of immediate applicability, whereas the latter are relative or for progressive realization. The former are characterized by violations that must be redressed regardless of resources, while the latter are programmatic, calling for cooperation and utilization of resources. These neat distinctions, which developed throughout the Cold War, are disappearing in theory and practice. The holistic approach connects all human rights, dispensing with many of the traditional distinctions between categories of rights, although the two covenants, each one devoted to one of the traditional categories,<sup>21</sup> remain the standard reference documents.

---

<sup>19</sup> OECD, *Strategies for Sustainable Development: Practical Guidance for Development Co-operation*, DCD/DAC(2001)9, 21 March 2001, p.8..

<sup>20</sup> World Conference on Human Rights, Vienna Declaration and Programme of Action, June 1993, DPI/1394-39399, August 1993, p. 30. Similar statements may be found in The Declaration on the Right to Development (1986) Article 6, paragraph 2; UNDP’s policy document on human rights, see UNDP, *Integrating Human Rights with Sustainable Human Development*. UNDP policy document, New York, January 1998, p. 16; the mandate of the High Commissioner for Human Rights, GA Res. 48/141 of 20 December 1993, operative paragraph 3; Declaration on the Right to Development, GA Res. 41/128 (Annex), adopted Dec. 4, 1986.

<sup>21</sup> International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Available at

In the context of development, the holistic approach means that all human rights, not just the right that appears most relevant to the task at hand, must be considered. In health, for example, it is not enough to consider that the allocation of resources to affordable health care is a contribution to the right to health; the public health decision-maker must ask what determinants of health will be positively affected by the promotion and protection of rights to housing, food, education, information, non-discrimination, work, and effective remedies, to mention only the most obvious ones.<sup>22</sup>

### ***C. The capabilities approach***

The Nobel Prize-winning economist Amartya Sen has articulated an approach to human rights and development that is widely endorsed by United Nations institutions and of particular relevance to health. In his chapter called “Poverty as Capability Deprivation” in *Development as Freedom*,<sup>23</sup> he argues that development is not the acquisition of more goods and services but the enhanced freedom to choose, to lead the kind of life one values. These enhanced choices are called capabilities.<sup>24</sup> Poverty, he explains, is the deprivation of basic capabilities, and he urges that attention be focused on aspects of life other than income to understand what poverty is and how to respond to it. He uses three focal features of deprivation of basic capability—premature mortality, undernourishment, and illiteracy—which are also the basis for the Human Development Index of UNDP. In the capabilities discourse, “capability” is the option available to the

---

[http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm); International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Available at <http://www.ohchr.org/english/law/ccpr.htm>.

<sup>22</sup> The Committee on Economic, Social and Cultural Rights pointed out in its General Comment 14: “The right to health is closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to: [1] food, [2] housing, [3] work, [4] education, [5] human dignity, [6] life, [7] non-discrimination, [8] equality, [9] the prohibition against torture, [10] privacy, [11] access to information, and the freedoms of [12] association, [13] assembly and [14] movement. These and other rights and freedoms address integral components of the right to health.” UN Doc. E/C.12/2000/4, 11 August 2000, para. 3.

<sup>23</sup> Amartya Sen, *Development as Freedom*, New York: Knopf, 1998, pp. 87–110.

<sup>24</sup> The concept of capabilities has also been articulated by Martha Nussbaum, who collaborated with Sen, in numerous writings. See, for example, M. Nussbaum, “Nature, Function and Capability: Aristotle on Political Distribution,” in *Oxford Studies in Ancient Philosophy*, Supplementary Volume 1 (1988), pp. 145-184; M. Nussbaum, “Non-Relative Virtues: An Aristotelian Approach,” in M. Nussbaum and A. Sen, (eds.), *The Quality of Life*, Oxford: Clarendon Press, 1993. See also A. David Crocker, “Functioning and Capability: The Foundation of Sen’s and Nussbaum’s Development Ethics,” *Political Theory*, vol. 20:4, pp. 584-612.

individual to partake of some valued dimension of life; “functioning” is the exercise of that option.<sup>25</sup>

Public policy tends to focus on functioning, food consumption or health care delivery, for example. Sen and Nussbaum propose that public policy should instead focus on capability. Capabilities in relation to food (land, seed, water) refer to the conditions that make it possible for a farmer to produce adequate food or a worker to purchase it (wages, availability in markets) and for the entire population to have adequate nourishment. Similarly, health is the capability of leading a healthy life in terms of accessibility, affordability, appropriateness and of quality of care.

Because the capability approach links development concerns to freedom, and because freedom implies the widening of choices in the civil, political, social, economic, and cultural spheres, each of the capabilities may be contemplated as a starting point for a human rights understanding of the development process. This approach has become official policy of UNDP, as reflected in the assertion “...human development shares a common vision with human rights. The goal is human freedom. And in pursuing capabilities and realizing rights, this freedom is vital. People must be free to exercise their choices and to participate in decision-making that affects their lives. Human development and human rights are mutually reinforcing, helping to secure the well-being and dignity of all people, building self-respect and the respect of others.”<sup>26</sup>

Using Sen’s capability perspective to support the claim that poverty is a violation of human rights, Polly Vizard has reviewed Sen’s contributions to ethics, and economics and developed numerous insights into the relevance of this contribution to a framework for combating poverty as part of a human rights agenda.<sup>27</sup> She explores the ways in which Sen’s capability approach could be supported through international human rights law.<sup>28</sup> She extends the capability approach to the international human rights protection mechanisms, considered as a “‘working model’ of international accountability and responsibility in the field of global poverty and human rights.”<sup>29</sup>

Jennifer Ruger has systematically explored the capabilities approach to the right to health.<sup>30</sup> In her analysis, capabilities are clarified by reference to a social choice

---

<sup>25</sup> A more technical analysis of capabilities and functioning in relation to personal well-being and advantage is provided in Amartya Sen, *Commodities and Capabilities*, Oxford University Press, 1999. See also, Martha Nussbaum, “Capabilities, Human Right, and the Universal Declaration,” in Weston & Marks, *The Future of International Human Rights*, Transnational Publishers, 1999.

<sup>26</sup> UNDP, *Human Development Report 2001*, p. 9.

<sup>27</sup> Polly Vizard, *Poverty and Human Rights: Sen’s Capability Perspective’ Explored*, Oxford: Oxford University Press, 2006.

<sup>28</sup> *Id.*, pp. 140-194

<sup>29</sup> *Id.*, pp. 235-247.

<sup>30</sup> Jennifer Prah Ruger, Toward a Theory of a Right to Health: Capability and Incompletely Theorized Agreements, *Yale Journal of Law & the Humanities*. vol. 18, pp.

paradigm known as “incompletely theorized agreements” (ITA), which allow the capability approach to resolve divergent views on health capability (Sen’s “dominance partial ordering”). In this view, it is not necessary to determine a comparative value for various health outcomes (freedom from violence vs. freedom from infectious disease, for example) although it may be useful to distinguish between “central” and “non-central” health capabilities<sup>31</sup> (such as freedom from extreme poverty, which is a prerequisite for other capabilities, such as prevention of a specific disease). The value of Ruger’s analysis for the functioning of international institutions lies in the applications of the ITA framework to complement the capability approach where different people or countries have different and sometimes conflicting views on health policy or priorities, as is often the case in the international policy setting. This framework would enhance the potential for reasoned public policy decision-making in particular situations, or on central aspects of health and capabilities, while disagreement may persist on non-central aspects. As Ruger says, “It also allows for different paths to the same conclusion.”<sup>32</sup>

These recent efforts to expand the theoretical understanding of capability reinforce the trend of international institutions, especially UNDP, to introduce the capability approach to development thinking and practice. The grounding of the approach in development economics and its ever more meaningful linkages to developments in human rights make it the most appealing theoretical framework for a human rights based approach to health and development, and one which can help move from theory to practice.

## **II. Human rights-based approaches to health and development in practice**

Perhaps the most frequent linking of human rights, health and human development in policy has been the so-called “rights-based” approach to development, affirming that development should be pursued in a “human rights way” or that human rights must “be integrated into sustainable human development.” The “rights way to development” is the shorthand expression for “the human rights approach to development assistance,” as articulated in the 1990s by André Frankovits of the Human Rights Council of Australia. The essential definition of this approach is “that a body of international human rights law is the only agreed international framework which offers a coherent body of principles and practical meaning for development cooperation, [which] provides a comprehensive guide for appropriate official development assistance, for the manner in which it should be delivered, for the priorities that it should address, for the obligations of both donor and recipient governments and for the way that official development assistance is evaluated.”<sup>33</sup> Frankovits is typical of NGO advocates for a human rights-based

---

273-326.

<sup>31</sup> Id., p. 303.

<sup>32</sup> Id., p. 310.

<sup>33</sup> The Human Rights Council of Australia, Inc., *The Rights Way to Development: A Human Rights Approach to Development Assistance*, Sydney, Australia, 1995. The same organization has produced a manual on the subject. See André Frankovits and Patrick

approach.<sup>34</sup> It has become policy of the principal human rights agency of the UN and has been adopted by several other UN agencies responsible for health and development. It has also been endorsed by regional development agencies, such as OECE, which in February 2007 adopted its “Action-Oriented Policy Paper on Human Rights and Development.”<sup>35</sup>

### ***A. Policies and practices of international organizations***

The Office of the High Commissioner for Human Rights uses the expression “rights-based approach to development,” which it defines as follows:

A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.

Essentially, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. The norms and standards are those contained in the wealth of international treaties and declarations. The principles of a rights-based approach to development generally include the following:

- express linkage to rights
- accountability
- empowerment
- participation
- non-discrimination and attention to vulnerable groups<sup>36</sup>

UNICEF contributed to the translation of the ideas of rights-based development into development practice through its *human rights-based approach to programming (HRBAP)*.<sup>37</sup> UNDP, for its part, also uses a “human rights approach to development,” which it defines as a new approach which “focuses on the realization of human rights

---

Earle, *The Rights Way to Development: Manual For a Human Rights Approach to Development Assistance*, Marrickvill, Australia, 1998.

<sup>34</sup> Among many others, see Julia Häusermann, *A Human Rights Approach to Development*, London: Rights and Humanity, 1998, who devotes specific attention to health.

<sup>35</sup> Organization for Economic Co-operation and Development, *Action-Oriented Policy Paper on Human Rights and Development*, DCD/DAC(2007)15/FINAL, 23 February 2007.

<sup>36</sup> <http://www.unhchr.ch/development/approaches-04.html>.

<sup>37</sup> See, for example, Urban Jonsson, *Human Rights Approach to Development Programming*. Urban Jonsson, UNICEF, 2003; Urban Jonsson, *A Human Rights-Based Approach to Programming (HRBAP)*, manuscript revised 9 October 2004.

through human development rather than through a violations policy, and finds resonance in the majority of human rights covenants, declarations and treaties. However,” UNDP explains, “the successful implementation of this strategy depends on the ability of countries to progressively and systematically mainstream human rights concerns into national legislation and governance programmes, and base them on human development goals.”<sup>38</sup>

These definitions have now been merged into the current strategy for cooperation among UN agencies in implementing a human rights approach is found in Action 2. The “Action 2 Initiative” is part of the Secretary-General’s 2002 reform proposals<sup>39</sup> and calls for joint UN action to strengthen human rights related actions at the country level. The Action 2 interagency Task Force, consisting of OHCHR, UNDP, UNFPA, UNICEF, and UNIFEM, has pursued the clarification and training of staff in this approach, including a Action 2 Global Programme and a common learning package.<sup>40</sup> The Programme became fully operational in 2006.<sup>41</sup>

The growing trend among scholars, development NGOs and international institutions to use the human rights based approach to development both integrates concepts that already had currency in development theory—such as accountability and transparency in the context of good governance—and adds a dimension with which development practitioners were less familiar—especially the explicit reference to government obligations deriving from international human rights law and procedures. For the development practitioner in the field of public health, four guiding principles for action steps may be considered to move from human rights theory to development practice:

***1. Define socioeconomic issues in terms of rights.***

Issues of health, education, food, shelter, labor, vulnerability, marginalization, equity, gender, and similar matters are constant concerns of the development practitioner. The International Covenant on Economic, Social and Cultural Rights has formulated them all in normative terms. The challenge is to learn the similarities and differences in the understanding of these concepts in the contexts of development planning and implementation, on the one hand, and human rights, on the other.

***2. Refer to treaty obligations of the main human rights treaties.***

---

<sup>38</sup> <http://www.undp.org/rbap/rights/Nexus.htm>.

<sup>39</sup> See “Strengthening of the United Nations: an agenda for further change”, UN Doc. [A/57/387](#) of 9 September 2002.

<sup>40</sup> In 2007, the Working Group on Training, in collaboration with the UN System Staff College, issued The UN Common Learning Package on Human Rights-Based Approach (HRBA), building on the experience of all agencies. See <http://www.undg.org/index.cfm?P=531>.

<sup>41</sup> See United Nations, *Action 2 Global Programme 2006 Annual Report*, New York: United Nations, April 2007.

The six main human rights treaties contain commitments that States parties have made in areas directly affecting development. It is appropriate—and even mandated by the Memorandum of Understanding between the High Commissioner for Human Rights and the Administrator in the case of UNDP of March 4, 1998—to draw on these obligations in discussion with governments regarding their development plans and priorities. One need not consider it too political or controversial, for example, to draw a government’s attention to a project that acquiesces to or results in some form of discrimination in access to health care. In that case, explicit reference to that government’s obligations under the Covenant should be part of the discussion. The treaty monitoring committees, especially the Committee on Economic, Social and Cultural Rights, have issued thoughtful interpretations of the content of specific rights, with examples of what they expect States parties to do to fulfill their obligations with respect to those rights.<sup>42</sup> The public health practitioner would benefit from a careful reading of General Comment 14 on the right to health and other General Comments of direct relevance to health, such as General Comments 18, 19 and 24 of the Committee on the Elimination of Discrimination Against Women,<sup>43</sup> or General Comment 3 of the Committee on the Rights of the Child.<sup>44</sup> It is especially important to reflect on the concepts of “core minimum obligations.”<sup>45</sup>

### ***3. Apply the participatory method.***

Participation is part of most development strategies. The human rights framework enhances this dimension of development and surrounds it with certain guarantees, such as freedom of association and expression, the right to information, and protection from arbitrary treatment of persons who express critical views. The right to development approach provides a normative basis for making participation an essential dimension of development planning, which the human rights education approach offers an in-depth model for ensuring effective participation at the community level. The Declaration on Human Rights Defenders, the resolutions on the UN Decade for Human Rights Education, and the Declaration on the Right to Development provide useful reference points for advocating participation.

### ***4. Balance cooperative and accusatory modes***

Development practitioners tend to shy away from human rights because the human rights approach conjures up a confrontational “naming and shaming” approach

---

<sup>42</sup> They are available on the web site of the UN High Commissioner for Human Rights; see <http://www.unhchr.ch/tbs/doc.nsf>.

<sup>43</sup> These deal respectively with disabled women, violence against women and women and health.

<sup>44</sup> This comment deals with HIV/AIDS and the rights of the child.

<sup>45</sup> See, for example, Committee on Economic, Social and Cultural Rights, General Comment No. 3 (1990), UN Doc. E/1991/23, Annex III, para. 10.

used by organizations like Amnesty International and Human Rights Watch. While these organizations do use pressure on states by calling attention to their shortcomings, human rights advocacy is not at all limited to that mode of interaction. The cooperative mode, often readily observed in the practice of the treaty monitoring bodies, offers ample opportunity for both foreign development partners (bilateral and multilateral) and domestic civil society organizations to interact productively with ministerial officials and other government agents of development. Explanations, information, indications of best practices, and the like are often more effective than threats of publicity or prosecution. Understanding the nature of government responsibilities, as well as those of individuals and non-state actors, is essential to knowing when and how to shift from the cooperation to the accountability mode.

### ***B. Policies and practices of bilateral donors and NGOs***

Many bilateral donors have explicit mandates for human rights in development. Their experience can be valuable in developing the skills needed for human rights monitoring of development projects. This trend has been particularly noticeable in setting the policy of donor countries. A recent study by the Organization for Economic Co-operation and Development (OECD) on the approaches of its member states drew the lesson that “human rights offer a coherent normative framework which can guide development assistance.”<sup>46</sup> The advantages identified by OECD relate to adaptability to difference political and cultural environments, the potential for operationalizing human rights principles, relevance to good governance and meaningful participation, poverty reduction and aid effectiveness.<sup>47</sup> Other governments have adopted human rights-based approaches to development and even compared experiences among bilateral donors.<sup>48</sup> Extensive analysis and elaborate policy papers have been drawn up by the major European and Canadian funding agencies, incorporating a human rights approach, most notably by the British Department for International Development and the Swedish International Development Agency. Several major development NGOs, such as Oxfam, CARE, Save the Children and Médecins sans frontières (MSF) have similarly embraced a human rights framework for their operations.<sup>49</sup> Physicians for Human Rights (PHR),

---

<sup>46</sup> Organization for Economic Co-operation and Development (OECD), *Integrating Human Rights into Development: Donor Approaches, Experiences and Challenges*, Paris: OECD, 2006, p. 58.

<sup>47</sup> *Id.*, pp. 58-68.

<sup>48</sup> See Andrew Frankovits and Earle, Patrick, *Report of the Donor Workshop: Working Together: The Human Rights-based Approach to Development Cooperation*: Stockholm Workshop 16-19 October 2000; Laure-Hélène Piron with Tammie O’Neil, *Integrating Human Rights into Development: A synthesis of donor approaches and experiences*, Prepared for the OECD DAC Network on Governance (GOVNET), September 2005.

<sup>49</sup> On this subject, see Paul J. Nelson and Ellen Dorsay, “At the Nexus of Human Rights and Development: New Methods and Strategies of Global NGOs,” *World Development* 31 (2003) pp. 2013-2026, and Hans-Otto Sano, “Development and Human Rights: The

conducts investigations and denounce behavior that violates internationally recognized human rights.<sup>50</sup>

Habits of local NGOs and other elements of civil society, such as traditional practices harmful to health or contrary to equity, may impede or help with integrating human rights into sustainable human development. The development practitioner should identify the human rights constituency within the civil society that can take the lead in dealing with traditional practices. Most intractable among these is entrenched corruption in government and civil society, which runs directly counter to attention to equity concerns and participatory aspects of the human rights approach.

### ***C. The human rights learning at the community level***

A third application of human rights in the practice of development of value for health promotion is that of human rights education (HRE). As understood here, HRE is close to the concept of community-based development work or participatory action research (PAR). The essence of these ideas is that the most effective means of enhancing people's capabilities is to facilitate their own social transformation through participation in the decisions that affect development.

When the United Nations General Assembly proclaimed the UN Decade for Human Rights Education (1995–2004) in 1994, it gave an acceptable definition of human rights education in acknowledging that it “involves more than providing information but rather is a comprehensive life-long process by which people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect within a democratic society.”<sup>51</sup> Government acceptance of HRE is further reflected in the Declaration on Human Rights Defenders, which was adopted on the occasion of the 50<sup>th</sup> anniversary of the Universal Declaration of Human Rights.<sup>52</sup> That Declaration covers human rights training and education, including the duty to facilitate human rights education at all levels of schooling, and in particular in the training of lawyers, law enforcement officials, members of armed forces, and public

---

Necessary, but Partial Integration of Human Rights and Human Development,” *Human Rights Quarterly* 22 (2000) 734-752.

<sup>50</sup> Susannah Sirkin, Vincent Iacopino, Michael A. Grodin, and Yael Denieli, “The Role of Health Professional in Protecting and Promoting Human Rights,” in Yael Danielei, Elsa Stamatopoulou and Clarence J. Dias (eds.), *The Universal Declaration of Human Rights: Fifty Years and Beyond*, United Nations, 1999, reprinted in Sofia Gruskin, Michael A. Grodin, George J. Annas, and Stephen P. Marks (eds.), *Perspectives Health and Human Rights*, New York and London: Routledge, 2005, pp. 537-548.

<sup>51</sup> GA Res. 48/127, 48<sup>th</sup> Sess. Supp No.49 at 246 UN Doc. A/48/49 (vol.1) (1993).

<sup>52</sup> The Declaration is officially known as the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.” See General Assembly resolution 53/144 of 9 December 1998.

officials.<sup>53</sup> The Declaration recalls various human rights treaties establishing the duty of States parties to adopt measures to promote human rights through teaching, education, and training; to ensure the widespread dissemination of information about national and international human rights laws; to report to UN treaty bodies; and to encourage states to support the establishment of independent human rights institutions, such as human rights commissions and ombudspersons. These are useful commitments on which development practitioners can build when working with governments on integrating the HRE approach into their human rights agenda.

The most salient feature of HRE is the concept and practice of a transformative pedagogy of human rights, which holds the potential for altering the power structure behind most forms of oppression and repression. Indeed, if people everywhere commit to building a political culture based on the right and responsibility of everyone to respect, ensure, and fulfill human rights for all, the space for abuse of public trust, violence against the physical and mental integrity of others, and exploitation of the vulnerable will contract. Clarence Dias has listed five ways HRE contributes to development: by helping monitor development activities; by mobilizing support for victims' struggles for rehabilitation, redress, and justice; by promoting understanding of the rationale for development; by securing more effective participation in the development process; and by securing accountability for those responsible for misuse of public resources.<sup>54</sup>

Human rights education, as defined here, is promoted by NGOs such as People's Movement for Human Rights Learning<sup>55</sup> and Human Rights Education Associates,<sup>56</sup> and has been adopted in part by the Office of the High Commission for Human Rights<sup>57</sup> and by the World Health Organization in the area of reproductive health and rights.<sup>58</sup> Moreover, support by international agencies like UNDP for international and local NGO projects based on such an approach is consistent with the resolutions and plan of action of

---

<sup>53</sup> See Declaration cited in note 46, Articles 14 and 15. A similar provision can be found in the Convention on Torture: "Each State party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of individuals subjected to any form of arrest, detention or imprisonment." Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, GA Res. 39/46 of 10 December 1984, Article 10.

<sup>54</sup> Clarence Dias, "Human Rights Education as a Strategy for Development," in Andreopoulos and Claude, *Human Rights Education for the Twenty-First Century*, University of Pennsylvania Press, 1997, pp. 52–53.

<sup>55</sup> See its website at [www.pdhre.org](http://www.pdhre.org).

<sup>56</sup> See its website at [www.hrea.org](http://www.hrea.org).

<sup>57</sup> See, for example, Report of the Secretary-General, *Guidelines for national plans of action for human rights education*, UN doc. A/52/469/Add.1 (20 October 1997).

<sup>58</sup> See, for example, WHO, *Transforming Health Systems: Gender and Rights in Reproductive Health. A Training Curriculum for Health Programme Managers*, Geneva: WHO, 2001. WHO/RHR/01.29.

the UN Decade for Human Rights Education. The technical approach of those agencies reassures governments while dealing with issues that are fundamentally political. Extensive information is available on the various approaches to conducting HRE activities in a wide range of settings<sup>59</sup> and on resources and contacts.<sup>60</sup>

The basic precepts of HRE give content to the participation concept in development. In practical terms, HRE as a development strategy focuses on non-formal human rights education in which the human rights educator's role is that of "facilitator" rather than "teacher." More specifically, it is "goal-oriented non-formal education," that is, organized, systematic educational activity outside the school system that is designed to reach any of the following six goals<sup>61</sup>:

- enhance knowledge
- develop critical understanding
- clarify values
- change attitudes
- promote solidarity
- alter behavior or practice

When all six are met, the most important goal can be achieved: *empowerment*, which Richard Claude defines as "a process through which people and/or communities increase their control or mastery over their own lives and the decisions that affect their lives."<sup>62</sup> A constant concern of the human rights educator is to make the learners aware of their right to know their rights and especially their right to claim them. It is in this sense that we refer to human rights education as "transforming beggars into claimants," that is, shifting from development as *charity* to development as the realization of *capabilities*. It is therefore essential that HRE apply "participatory methodologies" to provide an experiential foundation for learning. The learning process, according to this methodology, is not memorization of information communicated by the instructor, but an experience through which learners acquire understanding by doing.

The HRE approach can take many forms, from small-group community task forces to the creation of human rights cities or communities. The concept of human rights communities, as promoted by PDHRE, is based on the idea of members of a community accepting human rights obligations in all aspects of community life, whether in the family

---

<sup>59</sup> See, in particular, George J. Andreopoulos and Richard Pierre Claude, *Human Rights Education for the Twenty-First Century*, University of Pennsylvania Press, 1997; PDHRE, *Human Rights Learning: A Peoples' Report*, New York: PDHRE, 2006.

<sup>60</sup> Frank Elbers, *Human Rights Education Resourcebook*, Human Rights Education Associates, Cambridge, MA, 2000. Available online at <http://www.hrea.org/pubs/HREresourcebook/resourcebook.pdf>.

<sup>61</sup> These goals of HRE were articulated in Richard Claude's *Methodologies for Human Rights Education*.

<sup>62</sup> *Popular Education for Human Rights: 24 Participatory Exercises for Facilitators and Teachers*, Human Rights Education Associates, 2000, p. 6.

(for example, agreeing to respect the rights of women and children as defined in CEDAW and CRC regardless of contrary traditional practices), in professional life (for example, judges agreeing to apply national and international human rights law in their courts), and in sum in all the contexts of social life. The idea has been implemented in several cities in different parts of the world<sup>63</sup> and is being expanded with the assistance of UNPD. Improving access to and quality of health is central to this process.

### **Conclusion: From human rights theory to development practice**

The theoretical links between development, human rights and health are best understood in terms of social justice, a holistic understanding of social process, and capabilities. These approaches are not exhaustive or mutually exclusive but cover the main ways in which human rights can be understood as integrally linked to human development, with special reference to health. The practice of international agencies, national governments, and civil society is instructive on the transformation of these theoretical constructs into policies, resource allocation and programs.

The setting in which a health policy may be modified to respond to human rights concerns varies considerably from one situation to another. The range of approaches surveyed here illustrates some of those settings. The health practitioner, whether holding positions of responsibility in government, working for an NGO, or representing an international agency, stands at the front lines of the effort to transform the human rights framework from the theory of academics or the rhetoric of resolutions adopted in New York and Geneva into practice that affects people's lives and health.

---

<sup>63</sup> The strategy has been applied in Rosario, Argentina; Graz, Austria; Dinajpur, Bangladesh; The People of Abra, Philippines; Elfasher City, Sudan Thies, Senegal; Nagpur, India; and Kati, Mali. More on these cities and on the strategy for creating them is set out <http://www.pdhre.org/projects/hrcommun.html>.

