1. Introduction

The Vienna World Conference on Human Rights in 1993 provided the basis for a more comprehensive understanding of the role of human rights in all spheres of life, in particular with regard to sustainable development. In his opening speech at the Vienna Conference, the then UN Secretary General Boutros Boutros-Ghali emphasized that “there can be no sustainable development without promoting democracy and, thus, without respect for human rights”. The Vienna Declaration and Programme of Action (VDPA) endorsed this approach by stating that “Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing”. Accordingly, the international community should support the strengthening and promoting of democracy, development and human rights in the entire world.¹

The World Conference reaffirmed the right to development and that the human person is the central subject of development. In its Programme of Action it welcomes the appointment of a thematic working group on the right to development and recommends that non-governmental and grass-roots organizations should play a major role in the debate, activities and implementation of the right to development and in all relevant aspects of development cooperation together with other actors like governments and national institutions.

Subsequently, the Programme of Action emphasizes the importance of human rights education by recognizing that human rights education, training and public information, which include peace, democracy, development and social justice are essential for strengthening a universal commitment to human rights. Accordingly, a precondition of a human rights based approach (HRBA) to development is that people are aware of their human rights, which requires a broad process of human rights learning.²

In 1997, then UN Secretary General Kofi Annan, in his report on “Renewing the United Nations: A Programme for Reform” declared human rights to be a cross-cutting issue for the whole UN system and asked for human rights to be “mainstreamed” into all its programs, policies and activities. Ever since, mainstreaming human rights has been a major objective within the UN system, in particular also within its development agenda.

¹ Vienna Declaration and Programme of Action 1993, para. 8.
20 years after the Vienna World Conference much has been discussed and written about the HRBA to development. However, we are far from having fully implemented the approach. This Working Group aims at contributing to these debates. It will discuss the key challenges for the full integration of human rights into the post-2015 development agenda. It will examine how the new framework can ensure that human rights principles such as equality, non-discrimination, participation and accountability will be consistently taken into account in all development measures. It will talk about what measures are necessary to improve the realization of human rights of those suffering discrimination and exclusion, including persons with disabilities, minorities, migrants, women and children. Furthermore, it will discuss how these and other groups can be empowered as human rights claim-holders under a post-2015 agreement, rather than as passive beneficiaries of charitable assistance.

2. The human rights-based approach to development – from theory to practice

Issues that could be addressed in the Working Group:

- How can we operationalize the HRBA in order to strengthen the link between human rights and development?
- How is it possible to get everyone, including vulnerable groups, involved in the implementation of the outcome of the post-2015 process? How do we ensure particular attention for vulnerable groups where necessary?
- How can we bring professionals working in the development and human rights field together to understand and value each other’s approaches and to jointly implement the HRBA to development? How can a broader understanding of the concept be reached?
- What are the main challenges in putting the HRBA to development into action?
- What role does human rights learning play in the process?

The HRBA 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. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.

Mere charity is not enough from a human rights perspective. Under a HRBA, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law. This helps to promote the sustainability of development work, empowering people themselves - especially the most marginalized - to participate in policy formulation and hold accountable those who have a duty to act. At its center are the following principles:

- Universality and Inalienability of human rights
- Indivisibility of human rights
- Interdependence and Interrelatedness of human rights
- Accountability and the Rule of Law
- Equality and Non-discrimination
- Participation and Inclusion

Paragraph 4 of the VDPA states that “the promotion and protection of all human rights and fundamental freedoms must be considered a priority objective of the United Nations … in particular for the purpose of international cooperation.” It is also a “legitimate concern of the
international community”. The organs and specialized agencies related to human rights “should therefore enhance the coordination of the activities based on the consistent and objective application of international human rights instruments”. The Outcome Document of the 2005 UN Summit also reconfirms the integration of human rights in all aspects of the work of the UN as does the report of the UN Secretary General’s high-level panel on UN system-wide coherence in the areas of development, humanitarian assistance and the environment of 2006 on “Delivering as One”.3

The eight Millennium Development Goals (MDG) adopted by the Millennium Summit of the General Assembly in 2000 are closely linked to human rights, as they relate to the right to education, the right to health, and, in particular, freedom from poverty, which can be derived from several human rights, like the right to social security. Human rights and development at the core share the same goal: improving the lives of people. However, the challenge to tie the human rights approach to the development approach has not always been successfully met. The two approaches over the past decades rather followed different tracks. In Philip Alston’s famous words they were like “ships passing in the night”,4 instead of being effectively linked up.

Since the adoption of the MDGs, the HRBA has been further developed and accepted in various forms. The report of the UN Secretary General, Kofi Annan, “In larger freedom” of 2005 emphasized the inter-linkages of the different agendas, by stating: “Accordingly, we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights.”5 It clearly defines the MDGs as part of a larger development agenda.6

An inter-agency UN Development Group (UNDG) in 2003 produced a “common understanding on human rights-based approaches to development cooperation and programming”, according to which human rights standards and principles derived from the Universal Declaration of Human Rights and other international human rights instruments should guide all development cooperation and programming in all sectors and in all phases of the programming process.7

The 2010 high-level meeting on MDGs followed up by emphasizing human rights as a tool for the realization of the MDGs.8 Despite these commitments, the challenge that remains is their practical implementation. UN Country Teams prepare UN Development Assistance Frameworks (UNDAF) for the countries they are in, based on general guidelines developed by the UNGH in which a human rights-based approach is to be employed. According to the guidelines, the UN Country Teams, for instance, should identify root causes for human rights violations or capacity gaps. Furthermore, a list of human rights principles developed by FAO are to be applied, i.e. the principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law (PANTHER)

A review of the strategies for UNDAFs and Common Country Assessments (CCA) found that the application of the human rights-based approach is too often not specific enough to meet

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6 Ibid., para. 30.
7 See UN Development Group, www.undg.org and HRBA Portal, http://hrbaportal.org. The UNGH unites 32 UN development related funds, programs, agencies etc. It adopts general guidelines for drafting strategies, which are to be implemented by the UN Country Teams (UNCT).
8 UNGA-Res. A/RES/65/1, Keeping the promise: United to achieve the Millennium Development Goals.
its objectives, but remains on a general or rhetoric level. Issues of a lack of human rights learning may be part of the problem. Asbjørn Eide has claimed that the human rights based approach has moved “from neglect to rhetoric”. Also, there are large differences in practice. There still seems to be some uneasiness in the development community with the application of a HRBA, which creates a challenge for a human rights-based post-2015 agenda. One issue raised in this regard concerns the involvement of human rights experts in the drafting of the strategies or whether those drafting have sufficient human rights training and specific training on the HRBA.

In the discussion on aid effectiveness, which started with the Paris Declaration under the auspices of the OECD, human rights appear only at the level of principles - the human rights based approach framework is not sufficiently visible. The European Union is a driving force of a HRBA since 2001. In its communication on human rights and democracy at the heart of the European External Action of 2011, it affirms its commitment towards mainstreaming human rights and democracy across development cooperation. A “human rights based approach should ensure that human rights and democracy are reflected across the entire development cooperation process”. Respect of human rights is indicated as “key for the full achievement of the MDGs”. But this key did not open the development lock. The impact of EU development policy is to be increased by supporting partner countries in implementing their domestic and international human rights obligations.

Consequently, the EU Action Plan on Human Rights and Democracy of 2012 contains several pertinent benchmarks for 2013, like developing a toolbox for a rights-based approach to development cooperation with the aim of integrating human rights principles into EU operational development activities, to include the human rights assessment in the EU aid modalities like budget support and to integrate human rights issues in EU advocacy, in particular the post-2015 process. For the latter, the EU proposes a common approach including principles for an overarching framework for 2015, like justice, equality and equity, capturing issues relating to human rights, democracy and the rule of law, as well as the empowerment of women and gender equality.

Securing human rights in the post-2015 sustainable development agenda has been rightly addressed as a matter of justice, not charity. The interdependence of all human rights is reflected in the recognition of freedom from fear and freedom from want.

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inseparable. A human-centered sustainable development agenda requires a minimum basis of socio-economic rights.\textsuperscript{16}

We need to assess whether the human rights-based approach to development as it currently is employed meets the original objectives and, in particular, the needs of the people, since the protection of the human person has to be in the center of the human rights-based approach.

3. The post-2015 development agenda

Issues that could be addressed in the Working Group:

- Has the HRBA been adequately included in the work towards a post-2015 agenda and if not how can this be assured from here on?
- Can the recommendations of the High Level Panel of Eminent Persons be used to advance the integration of human rights into all aspects of the post-2015 development agenda and how?
- How can other key human rights stakeholders, such as civil society or National Human Rights Institutions, be better integrated in the development discourse?
- How can the accountability of States, UN organisations, international financial institutions, the private sector and other duty bearers be better defined and ensured?

Since the target date for the MDGs will be reached soon, there is a need to discuss the successor framework in a comprehensive way. At the UN level, a series of thematic and national consultation processes facilitated by the UN Development Group has already started providing platforms to exchange ideas on how the post-2015 development agenda can be framed. Besides the establishment of a UN System Task Team on the Post-2015 UN Development Agenda and the appointment of a Special Advisor on Post-2015 Development Planning, the UN Secretary General has established a High Level Panel of Eminent Persons on the Post-2015 Development Agenda (HLP).

The Panel coordinated its work closely with that of the intergovernmental working group tasked to design Sustainable Development Goals, as agreed at the Rio+20 conference, hence taking into account the environmental dimension. Additionally, various consultations with civil society have taken place in order to make the process of developing the post-2015 agenda as inclusive as possible. Networks such as the ‘Beyond 2015 Task Force’ are making recommendations for what should be included in the new development agenda.

The inclusion of human rights as a central pillar of the post-2015 agenda and the strengthening of the human rights-based approach to development have been a central factor at all these levels of policy development, coordination meetings and consultations. The UN Task team for instance called for the new set of development goals to be based on the fundamental pillars of equality, sustainability and human rights.\textsuperscript{17} The HLP, in their January 2013 consultations, called for the “post-2015 development framework to be anchored in human rights, guided by the range of obligations already agreed to by Member States”.\textsuperscript{18}

\textsuperscript{17} UN system task team on the Post-2015 Development Agenda, Realizing the future we want for all, Report to the Secretary General, available at http://www.un.org/millenniumgoals/pdf/Post_2015_UNTTReport.pdf.
The report of the High-Level Panel on the Post-2015 Development Agenda on “A New Global Partnership” was published on 30 May 2013. Human rights are given, in principle, central importance in its report, when it sets out that no one should be left behind by ensuring that no person is denied universal human rights and basic economic opportunities, that sustainable development should be put at the core, accountable institutions built and a new partnership forged.

However, there is a need to discuss to what extent the twelve measurable goals and 54 targets proposed by the high-level panel meet the concerns of a full integration of human rights and address the principles of equality, non-discrimination, participation and accountability, while giving due attention to the needs of vulnerable groups and the empowerment of human rights-claim holders. This is an issue of substance of the proposed new development goals and of the procedures and mechanisms foreseen on how to reach them from a human rights perspective in a measurable way. Strengths and weaknesses of the proposed new global partnership will need to be assessed and recommendations made on how to mobilize its potential and to address its weaknesses.

Of particular relevance is goal number 10 on ensuring good governance and effective institutions, which directly refers to several human rights, public participation and the right to information as well as accountability of institutions and participatory governance, while goal number 12 on creating a global enabling environment and catalyzing long-term finance contains a number of proposals for more accountability of the trading and financial system, towards the environment, development financing, but also against illicit money flows and tax evasion. For this purpose, better data collection systems are to be developed. Accountability is generally recognized and despite the fact that accountability of business is mentioned, it should be more specifically addressed. For most other goals like ending poverty, gender equality, quality education, ensuring healthy lives, food security, access to water and sanitation, but also ensuring stable and peaceful societies, the relevance of a human rights based approach is obvious. Important issues raised in the Panel’s outreach efforts reflected in the report like inequality, governance and human rights, vulnerable groups or the private sector are listed, but did not make it into the main corpus of the report.

Generally, the proposals do not appear to follow a consistent human rights-based approach. While human rights are mentioned many times, they are mainly addressed in terms of principle, together with human dignity, but not in an operational way, for instance by referring to human rights obligations or procedures, let alone by making people aware that they are rights holders. In the words of a first reaction by the Center of Economic and Social Rights “a human rights centered approach to development requires more than drawing the same policy prescriptions in the rhetoric of human rights”. Also Navi Pillay, High Commissioner for Human Rights, reacted by highlighting the central message of many consultations that “human rights must be at the centre of the Post-2015 Agenda”. Therefore, the question remains how to strengthen a proper human rights-based approach to the post-2015 development goals. A reasoned response is needed to the HLP report.

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20 Ibid., Executive Summary.
a) Development governance – a global partnership for development

Issues that could be addressed in the Working Group:

- How can the Global Partnership become inclusive and comprehensive and engage all relevant stakeholders?
- How should the Global Partnership come into play regarding the development and implementation of the post-2015 development agenda?
- How can a HRBA be made operational in the goals and targets identified by the report of the HLP?
- How can the new development framework more explicitly be aligned with the international human rights framework?

Of particular relevance for the Working Group is the discussion on the future of MDG number 8, namely a global partnership for development. The six targets of that goal are ranging from an open, rule-based, predictable and non-discriminatory trading and financial system, including a commitment to good governance, to affordable, essential drugs in developing countries and to making the benefits of new technologies, especially information and communications available, which should also be achieved in cooperation with the private sector. These targets which are related to global governance will most likely not be met by 2015. UNDP and OHCHR have launched broad consultations, with a focus on young people, on the future “World We Want 2015”. The campaign consisted of a series of regional events and discussions and an internet platform and culminated in early 2013 in a Global Thematic Consultation on Governance and the Post-2015 Framework in Midrand, South Africa. During that time the campaign produced numerous proposals.

Among the outcomes was the quest for a paradigm shift from an incremental development agenda to a transformative one, which is people-centered and human rights-based and addresses governance and accountability bottlenecks in the Post-2015 Agenda. The results reconfirm that democratic governance, human rights and human security are central to sustainable development. Well-capacitated institutions are needed, social dialogue should be facilitated and policy coherence between different levels of government improved. The initiative called for a HRBA to local government and wider citizen empowerment and civic participation.

On the global level, the Midrand meeting ended with a call for the regulation of global financial flows, limitation of illicit capital flows and tax evasion, combating corruption and strengthening corporate social responsibility. Governance failures and structural inequalities need to be addressed in an inter-generational scope. Democratic institutions and independent media as well as human rights institutions need support in order to improve accountability. Public-people-partnerships should replace public-private-partnerships.

While it is important to show that progress or shortcomings with regard to human rights can be assessed with the help of proper criteria, there is a danger of a too limited, technical approach. Also, this approach limits itself to development cooperation, i.e. the work of UNDP and does not address institutions of global governance at all. However, the democratic accountability of international economic institutions, like WTO, IMF, World Bank and other International Financial Institutions is also addressed by MDG number 8 and it would also be important to include actors like the G7, G8 and G20 into this analysis or ask the question why the ECOSOC, in spite of proposals in the outcome document of 2005 has not been able to play its role as foreseen in the UN Charter, which rightfully is discussed again on the international agenda. Academic voices like Margot E. Salomon from the London School of

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24 The World We Want, Final Meeting, 28 February – 1 March 2013, ibid.
Economics have strongly criticized that the present international economic system tends to favor the privileged and suggested that a structural analysis of global governance is needed if the MDGs were to be taken really serious, in particular MDG number 8. However, it seems that the framework of the present discussion on post-2015 goals rather prefers to address issues of governance and democratic accountability on the national rather than at the global level, which raises the issue of the follow up to MDG number 8 on a global partnership for development. Certainly, the language of “global partnership” itself is disguising existing power relations, which need to be addressed in a sincere effort of “empowerment” also at the international level.

A new global partnership was also the focus of the UN HLP on the Post-2015 Development Agenda. Its mandate also extends to “key principles for reshaping the global partnership for development and strengthened accountability mechanisms”. The final report calls for a new inclusive partnership based on a “common understanding of a shared humanity underpinning mutual respect and mutual benefit in a shrinking world”. The question needs to be raised why human rights are not explicitly mentioned, whether they can be considered to be inherent in these principles. In accordance with a HRBA to development it would have been a must to mention them explicitly. According to the HLP meeting in Bali, a global partnership requires reshaped and revitalized global governance, the meaning of which is still not sufficiently defined in Objective 12. Enhanced models of cooperation at all levels and with all stakeholders were called for in Bali.

Also the second session of the General Assembly Working Group on Sustainable Development Goals on 17-19 April 2013 in New York dealt with issues like governance and human rights-based approaches as cross-cutting issues. The EU supported “a global partnership as an important element of the new framework”. The work of this group will be completed in 2014. The Rio+20 Declaration on Justice, Governance and Law for Environmental Sustainability had already called for strengthening the existing international governance institutions to protect the global environment, in particular UNEP and called for an international institutional framework for the advancement of justice, governance and law for environmental sustainability in the 21st century to be established.

b) Measuring human rights in development

Issues that could be addressed in the Working Group:

- Are indicators suitable to measure the level of application of the HRBA?
- What indicators should be used?
- What are the opportunities and problems of measuring human rights?

One issue, which has recently received considerable attention, is the development of measureable indicators and pertinent tools, which would allow for better monitoring of governance and human rights in development. “We should measure what we treasure”, Navi Pillay said. A specific OHCHR/UNDP expert consultation in November 2012 in New York taking place within the UNDG global consultation on governance, dealt with measurement

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26 See A new Global Partnership, note 20.
frameworks for global development goals, measurable criteria to strengthen governance, human rights and accountability and their application to the specific area of governance and human rights measurement. It countered the argument that governance and human rights would overload the MDGs and undermine the objective of their communication. Such an argument can also be found in the European Development Report 2013, which argues that governance and human rights might be too difficult to measure to include specific targets.  

The consultation also took the criteria agreed for the Sustainable Development Goals (SDGs) in the Rio+20 outcome document into account, which are part of the work of the Inter-governmental Open Working Group on Sustainable Development Goals. Four conceptual areas for governance and human rights priorities were identified,

- political participation/voice/accountability;
- access to justice/rule of law/legal empowerment;
- peace and security/physical integrity;
- public admission/transparence.  

But why, we can ask, does the focus lie on civil and political rights, while economic, social and cultural rights are apparently not covered in this consultation? Very relevant work has been undertaken on international extra-territorial human rights obligations leading to the Maastricht Principles on extra-territorial obligations on economic, social and cultural rights.  

Regarding Corporate Social Responsibility the outcome of the EU-COST project on the Role of the EU in the reform of the UN human rights system is highly relevant as it addresses, for example, the implications of the financial crises for human rights. Additionally, the 2004 OHCHR publication “Human Rights and Poverty Reduction – a Conceptual Framework” includes proposals for measurable indicators. It talks about “a bundle of disaggregated indicators [which] will be identified for each human right. Realistic time-bound national benchmarks (or targets) will be set in relation to each indicator; […] the poor should participate in the identification of these benchmarks. If there are 10 right-to-health indicators, then 10 right-to-health benchmarks will be set in relation to a particular State. Over time, the right to health in that State will be monitored by reference to those national benchmarks. As the benchmarks are achieved, more ambitious ones will be set. In this way, the progressive realization of the right to health is measured and monitored. […] Furthermore, indicators and benchmarks are an essential precondition for another vital feature of a human rights approach to poverty reduction: effective accountability.”

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30 See European Development Report, Post-2015: Global Action for an Inclusive and Sustainable Future, 2013, at 217; This report is issued by three European development institutes with support of the European Commission.


c) Accountability for human rights in the development agenda and inclusion of all actors

Issues that could be addressed in the Working Group:

- How can accountability of all actors in the process of human rights and development be strengthened and supervised?
- Which system of benchmarks can be established based on agreed criteria for assessments?
- What should be the respective roles of states, EU and other regional bodies, including national human rights institutions?
- How can we improve the involvement of civil society and NGOs, when it comes to holding duty bearers accountable?
- How can we assure the involvement of business actors in the global partnership and increase their corporate social responsibility in the host states, for example by applying the Ruggie “protect, respect, remedy”-framework and the guiding principles on business and human rights?

In view of the involvement of several relevant stakeholders in the development process, it is important to clarify their respective possible contributions and responsibilities with regard to a human rights-based approach to the post-2015 development agenda. This relates in particular to pertinent international organizations inside and outside the UN system, to governments, to the EU and other regional groupings, to national human rights institutions, civil society organizations and NGOs and the private business sector. They can all make relevant contributions, but are also subject to accountability and specific responsibilities related to their role in human rights and development. The issue of conflicts of interest is particularly relevant for the private sector. Companies are expected to live up to their corporate social responsibility in the host country, while observing the “do no harm” - principle and due diligence standards.

A major concern of the debate on Rio+20 as well as the post-2015 priorities has been the strengthening of accountability. In May 2013, 22 special procedures mandate-holders published an open letter calling on states to incorporate “human rights norms and standards in the Outcome Document of the Rio+20 Summit with strong accountability mechanisms to ensure its implementation”.

Recently, the Centre for Economic and Social Rights, on behalf of the Office of the UN High Commissioner for Human Rights issued a report on accountability, with regard to human rights and the Post-2015 Development Agenda. The report raises the question of who – state and non-state actors including international financial institutions – should be held accountable. The report also reviews existing accountability mechanisms, in particular also with regard to MDG-specific mechanisms and it explores how human rights accountability can be (better) integrated in the post-2015 Agenda. Accountability gaps of duty bearers versus rights holders are to be addressed by the three dimensions of accountability in development: responsibility, answerability and enforceability, which can be strengthened through the application of the HRBA. A new global review mechanism for post-2015

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commitments should be established based on international human rights standards and an independent review with effective civil society participation.

4. Conclusion

While human rights mainstreaming appears to be accepted on the level of principles, a human rights-based approach to development requires more than general references to human rights, human dignity and the Universal Declaration on Human Rights. The challenge is to make it operational, where possible measurable, which implies defining the human rights obligations of duty bearers, whether public or private, and to empower rights holders to know and claim their rights as part of the post-2015 development goals and targets. Let us move from rhetoric to practice.