

Poverty, inequality and human rights

Do human rights make a difference?

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How other countries have used human rights to tackle poverty and how this could be applied in the UK.

People working to tackle poverty in the UK are increasingly interested in using human rights in their work. This study looks at how this has been done in other countries, its impact on affected communities, debate, policy and government programmes, and its relevance for the UK.

The report covers:

- how human rights have been used to understand poverty;
- how communities experiencing poverty use human rights to act against injustice, build alliances between disparate groups, and articulate their conditions and claims;
- the tools that communities and their allies use to hold the state accountable for its human rights obligations;
- how human rights have been implemented in practice in anti-poverty work by governments and other organisations; and
- lessons for integrating human rights and anti-poverty work in the UK.

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Executive summary

Human rights have been used to shape new conceptions of poverty and new approaches to tackling it, in both the developed and developing worlds. There is potential to replicate and develop this work in the UK. However, there is a need to build the evidence base to demonstrate the pragmatic value of using human rights in combating poverty.

Methodology

The research comprised:

- a comprehensive review of literature on the connection between human rights and poverty eradication;
- 28 interviews with people active in using human rights in anti-poverty work in their country or at an international level;
- four seminars in London, Belfast, Edinburgh and Cardiff involving 77 people active in anti-poverty and/or human rights work.

The international experience

Using human rights to think about poverty

Human rights conceive poverty as being multidimensional, encompassing not only a low income but also other forms of deprivation and a loss of dignity and respect. Using human rights entails a shift from needs to socially and legally guaranteed entitlements and from charity to duty. Human rights invite analysis of the structural causes of poverty, rather than only its symptoms, and of the impact of governmental action or inaction on communities experiencing poverty.

Using human rights to mobilise communities and build alliances

Some communities and their allies said using human rights to mobilise against poverty offers advantages against more top-down and discretionary models. Interviewees in the United States said human rights have attracted new constituencies to anti-poverty work and helped build alliances between disparate groups. This is especially significant at a time when the differential impact of recession might threaten community cohesion.

Human rights place a premium on *how* rights are fulfilled, including meaningful opportunities for affected communities to make or influence decisions. Interviewees said anti-poverty work is strengthened when the experience of people living in poverty is brought directly to bear on advocacy, policy development and legal strategies.

Using human rights to reframe poverty so as to transform public debate

In some contexts, human rights have provided a powerful banner under which communities unite around shared injustice, challenging stereotypes of people experiencing poverty as fraudulent or feckless.

In other instances, communities experiencing poverty are (at least initially) wary of 'rights talk', seeing it as inaccessible or overly adversarial, and not necessarily pro-poor. Both official and public

audiences sometimes associate human rights negatively with litigation or with what they perceive as ‘undeserving’ groups.

Interviewees emphasised the need to ‘translate’ human rights so that they resonate with particular audiences. Interviewees suggested that the language of human rights values (dignity, respect, fairness) commands the widest assent. They advocated a strategic approach to reframing poverty issues for particular audiences, with the aim of embedding human rights in the popular imagination over time.

Accountability: monitoring and measuring human rights

Communities experiencing poverty and their allies use a variety of tools to hold states accountable for their human rights obligations in relation to poverty. Some are a part of the human rights ‘infrastructure’, like shadow reports to UN bodies which advance domestic poverty issues on a global stage. Anti-poverty activists have also adopted (and sometimes adapted) existing ‘value-neutral’ tools, such as budget analysis, in order to pursue human rights goals.

The pursuit of accountability can generate data, policy solutions and new understandings of poverty which may, in turn, open up spaces for engagement with the state and influence official action.

Accountability: using legal process to realise rights and combat poverty

Constitutional and other legal protection of civil and political and socio-economic rights has achieved tangible results in tackling poverty in some contexts. Jurisprudence on socio-economic rights has established that such rights are justiciable. However, human rights gains in the courts might not impact upon policy and practice without strategies to ensure monitoring and implementation, including sustained social mobilisation around policy goals. Successful anti-poverty campaigns in South Africa, India and Nigeria, among others, have combined litigation with social action outside the courtroom.

There are obstacles and risks associated with litigation – and with excessive ‘legalisation’ of human rights that neglects other strategies for

promoting human rights values such as political campaigns and social mobilisation.

Implementing human rights

The record of governments using human rights as an anti-poverty tool is episodic. Rarely are human rights at the core of a government’s anti-poverty work. We present examples of governments using human rights to bring coherence to – and permit prioritisation within – policies and programmes to tackle poverty (as with Scotland’s homelessness law) and to set transparent targets to measure progress (as with policies to realise the right to water in South Africa).

Some NGOs, especially those working in international development, view themselves as having human rights responsibilities. Some have used human rights to analyse the root causes of poverty and, in some contexts, to transform their working processes and substantive goals. Evaluation of this work indicates that key gains are the sustainability of positive outcomes and heightened political agency of those experiencing poverty.

Connecting human rights and poverty in the UK: the story so far

Four UK seminars held by this project suggested that there is little integration of human rights and anti-poverty work either in public policy or among communities experiencing poverty and their allies.

Some participants observed that rights-based language may not be politically effective in the context of political debates which view poverty largely through the prism of welfare reform, conditionality and compulsion. Others, however, spoke of the need for a ‘new paradigm’ to shape public debate and policy around poverty in the UK.

The devolved administrations have distinctive political environments which can help or hinder the integration of human rights. In Northern Ireland, participants spoke of the ‘sectarianisation’ of poverty and of strategies to combat it. In Wales, ‘aspirational rhetoric’ has not always produced social, cultural and policy change – with the notable exception of children’s right to participate. Participants in Edinburgh saw potential to use Scotland’s human rights-based homelessness law

as a ‘battering ram’ for improved service delivery, but suggested this potential remains largely unfulfilled.

Using human rights to transform public debate about poverty

Participants suggested that connecting human rights and poverty could help shift negative perceptions of both human rights and poverty. Polling and qualitative research shows that most people in the UK respond positively to the human rights values of dignity, respect and fairness and to the idea of legally enforceable socio-economic rights.

However, participants observed that many UK anti-poverty actors see the language of human rights as complicating efforts to influence some audiences who may view them as legalistic, overly adversarial or irrelevant. They highlighted widespread lack of awareness and understanding of human rights and their links to poverty, among communities affected by poverty, the public, advice groups and other third sector organisations, and those who design and implement public policy.

Using human rights to mobilise communities and pursue accountability

There is little evidence in the UK of communities and their allies using human rights to mobilise against injustice or to articulate their claims in human rights terms, with a few striking exceptions. There are some UK initiatives to use human rights to pursue accountability, for instance by strengthening the advocacy capacity of communities experiencing poverty in relation to the budget process.

Using legal process to combat poverty

Several cases brought under the Human Rights Act (HRA) and the European Convention on Human Rights have resulted in judgments that have impacted positively on people experiencing poverty. Some participants noted that such cases do not always yield generalisable principles that can be applied to systemic aspects of poverty. Others spoke of untapped potential to use the HRA to combat poverty, but noted obstacles for individuals experiencing poverty, including cost, protracted timescales, a dearth of legal advice and low levels of awareness.

Connecting human rights and poverty in public policy and service delivery

There is no visible, sustained linkage between human rights and poverty in public policy, although the devolved administrations have in some cases made stronger connections. There is evidence that participatory human rights work – like that of the Participation and Practice of Rights Project in Belfast – generates practical solutions to problems experienced by people living in poverty and can help deliver best use of public funds.

Next steps: strengthening integration of human rights and anti-poverty work in the UK

The report proposes action to develop understanding of the impact of integrating human rights and anti-poverty work in the UK, and to strengthen integration where positive impact has been identified outside the UK. These proposals are addressed to a wide range of actors, including governmental and non-governmental actors, affected communities and their allies, researchers and funders. They include:

- using human rights to transform debate about poverty, moving away from a punitive or stigmatising discourse (such as that which, some participants said, surrounds the Welfare Reform Bill) to one that focuses on socially and legally guaranteed entitlements;
- using the experience of poverty to transform public debate about human rights – challenging perceptions that human rights are limited to civil and political rights, are infantilising, or benefit only certain groups;
- contributing to the debate about the UK Government’s proposed Bill of Rights and Responsibilities, challenging the use of notions of ‘responsibility’ in relation to poverty and communicating the positive impact that is evident in other national contexts from having legally enforceable social and economic rights;
- ensuring that existing work connecting human rights and poverty is evaluated using

participatory methods and that evidence as to its impact is widely shared;

- developing understanding of – and capacity to use – human rights in anti-poverty strategies, among communities affected by poverty, the public, advice groups and other third sector organisations, and those who design and implement public policy;
- pursuing detailed research on how far human rights and anti-poverty strategies have already been connected in different parts of the UK and to what effect;
- communicating the achievements and potential of the HRA as an anti-poverty tool and taking action aimed at ensuring that legal process is accessible, including through legal aid;
- using international treaty-monitoring mechanisms (through shadow reporting) and the Human Rights Council (through submissions to the Universal Periodic Review);
- developing the use of human rights-based budget analysis and auditing of macro-economic policy, focused on the UK Parliament, devolved parliaments and local government;
- developing tools to advocate against and monitor public spending cuts to ensure that they do not fall disproportionately on people on low incomes.

Introduction

Context and aims of this report

The Joseph Rowntree Foundation (JRF) commissioned this report as part of its programme on public interest in poverty. One of the programme's aims is to broaden the range of groups and individuals involved in the debate on UK poverty. To this end, JRF brought together organisations working primarily on human rights and those with an anti-poverty focus for a seminar (BIHR *et al.*, 2008). A recommendation of the seminar was for more analysis of how human rights have been used in other countries to combat domestic poverty and to what effect. JRF commissioned this report to explore this experience and assess its relevance for the UK.

Poverty in the UK has proved an intractable problem, despite more than a decade of rising public expenditure. An assessment of poverty and social exclusion in the decade up to 2008 shows that, after an initial burst of success, improvement in many key areas stalled or went into reverse (Palmer *et al.*, 2008).

Judgemental attitudes towards people experiencing poverty have also been hard to shift. One survey found that some two-thirds of the UK public think poverty is either an inevitable part of life or due to a person's own laziness (National Centre for Social Research, 2007). Another found that only a quarter of participants agreed that people on benefits would contribute to society in the future (Barnfield and Horton, 2009). Anti-poverty actors have expressed an appetite for new ways of communicating about poverty to challenge punitive attitudes and provide a counter to notions of conditionality and compulsion that dominate political debate about welfare reform (BIHR *et al.*, 2008).

The economic downturn injects greater urgency into this discussion. A pressing question for those concerned with UK poverty is how well a

government anti-poverty strategy that has focused on getting people into work will fare in the context of a recession in which public spending cuts, rising unemployment and repossessions threaten to have a severe impact on people affected by poverty.

The UK has a human rights 'infrastructure' that offers channels for debate and action to confront aspects of poverty: among these are the Human Rights Act, the Equality and Human Rights Commission and human rights commissions in Scotland and Northern Ireland, and the UK Government's Green Paper on a Bill of Rights and Responsibilities, which invites discussion on the future shape of human rights protection in the UK (Appendix B). To date, there has been little integration of human rights and anti-poverty work in the UK, either in public policy or among communities experiencing poverty and their allies. This report will suggest that the time is ripe to explore ways of strengthening this integration, especially where there is evidence from other contexts that using human rights can have a positive impact.

Methodology

The research comprised:

- a comprehensive review of literature on the connection between human rights and poverty eradication;
- 28 interviews with people active in using human rights in anti-poverty work in their country or at an international level (Appendix C);
- four seminars in London, Belfast, Edinburgh and Cardiff involving 77 people active in anti-poverty and/or human rights work.

What does it mean to ‘use human rights’?

We understand human rights to be a set of values, eloquently captured in the Universal Declaration of Human Rights (UDHR): ‘All human beings are born free and equal in dignity and rights.’ These values are enshrined and given deeper content and weight in international law and, often, domestic law; their content is also elaborated in a range of principles and standards and by international mechanisms that monitor compliance with law and standards. As this report will show, human rights have also been used as a means of promoting human dignity and equality outside the courtroom through political campaigns and social mobilisation.

In common with our interviewees, we do not regard human rights as a curative framework or a panacea. Using human rights in any field of activity is not a one-way street. The exchange between anti-poverty and human rights actors and the initiatives that have ensued are the subject of this report.

Evaluating impact

Of particular interest is literature based on empirical evidence that moves beyond the abstract to identify the ‘added value’ of connecting human rights and anti-poverty work.

Interviewees said this evidence base is necessary to answer the critiques of human rights as a framework for tackling poverty: for example, that human rights are not necessarily pro-poor (Gready, 2008, p. 736) or that they are ‘absolutist’ and ill-suited to deal with the trade-offs and deferred progress inherent in much anti-poverty work (O’Neill, 2006, p. 1).

There are several evaluations of using human rights in the development sector (Rand, 2002; Piron and Watkins, 2004; Bode *et al.*, 2005; Brocklesby and Crawford, 2005; Gready and Ensor, 2005; O’Neill, 2006; IAG, 2007). Overall, however, our review revealed a scarcity of such evaluative work.

Evidence that using human rights has reduced or eliminated poverty anywhere is elusive; so is evidence that genuine efforts to use human rights

have produced negative outcomes. There are very few comparative studies, nor is it credible to construct counterfactual arguments, based on what would have happened if another approach had been followed. Much work to put human rights into practice in anti-poverty work is in its infancy, and it may simply be too early to draw up a definitive balance sheet. Also, it is rarely possible to disentangle the impact of using human rights from other factors.

Interviewees noted that commonly used quantitative, empirical methodologies for evaluation do not lend themselves to capturing all aspects of the behaviour change and outcomes that human rights interventions might achieve. Indeed, it may be that some of the most significant effects are the hardest to capture, such as changes in the self-perception of people experiencing poverty. Moreover, interviewees suggested, there is a lack of political will and funding at a national and international level to develop and apply appropriate methodologies.

This report has cast the net wide in seeking evidence of the impact of connecting human rights and anti-poverty work. Impact may be felt on a localised scale – a village or a housing estate. It may be seen in processes which become more transparent and accountable, even where material deprivation persists. It may be visible in the increased confidence and ability of a community to frame its demands in human rights terms or to use human rights tools to pursue accountability. It may help those with the power to effect change, understand poverty differently and respond to it more effectively.

The evidence base is fragmentary; in many instances, it is more a matter of identifying the potential advantages, both instrumental and intrinsic, of connecting human rights and work to eliminate poverty. Our review highlights the necessity for more strategic evaluation to fill out the still sketchy balance sheet.

1 Using human rights to think about poverty

What is poverty and how is it experienced? What causes it? And how should it be confronted? This chapter introduces how human rights have been used to shape new conceptions of poverty and, consequently, new approaches to tackling it.

We integrate insights from both the developing and developed worlds, starting from the assumption, shared by all our contributors, that human rights are universal not just conceptually but also in application, wherever poverty occurs (Box 1).

Here, we introduce four core ways in which human rights are used to bring additional dimensions to anti-poverty work:

- Human rights define poverty as having multiple dimensions.
- Human rights enshrine socially and legally guaranteed entitlements.
- Human rights provide a framework to pursue accountability for poverty.
- Human rights promote the dignity and autonomy of people experiencing poverty.

Box 1: Combating poverty in developing and developed nations

Concerted thinking on the link between human rights and development (strategies to ensure an adequate standard of living for people in the developing world) dates from global summits on human rights in Vienna (1993) and on social development in Copenhagen (1995). United Nations bodies, governments, NGOs and

others have generated a diverse literature on this connection (UNDP, 1997, 2000; CESCR, 2001; van Genugten and Perez-Bustillo, 2001; OHCHR, 2002, 2004, 2008b; Alsop, 2005; Sengupta, 2007). Key UN documents have been strongly influenced by the work of Amartya Sen who sees human rights as 'ultimately grounded in the importance of freedom for human lives' (UNDP, 2000, p. 20). Poverty, he argues, shackles people's freedom 'to choose a life one has reason to value' (Sen, 1999, p. 74).

More recent literature examines ways to align the Millennium Development Goals and other poverty reduction strategies more closely to human rights standards (Alston, 2005; OHCHR, 2008a). Other writers debate accountability for poverty at a global level (Townsend and Gordon, 2002; Pogge, 2007) and the significance of the right to social security as a key right in anti-poverty strategies (Townsend, 2007a, 2007c).

Development and anti-poverty work are not synonymous: the development discourse is generally not addressed to poverty within developed nations. Nevertheless, the development sector provides a rich source to examine what it means to use human rights to combat poverty – and some agencies, Oxfam and Save the Children for example, have expanded their anti-poverty work to include developed countries such as the UK.

Human rights define poverty as having multiple dimensions

The first step towards using human rights in anti-poverty work involves changing the way that poverty itself is conceived.

Human rights are enshrined in the Universal Declaration of Human Rights and in several legally binding treaties which cover civil and political and economic, social and cultural rights, as well as the rights of particular groups such as women and children (Appendix A).

The human rights conception of poverty views these rights as interdependent and sees violations as both a cause and a consequence of poverty. This gives rise to an understanding of poverty which is multidimensional. In the words of the United Nations Development Programme (UNDP, 1997, p. iii):

Poverty has many faces. It is much more than low income. It also reflects poor health and education, deprivation in knowledge and communication, inability to exercise human and political rights and the absence of dignity, confidence and self-respect.

There is broad global consensus around a relative definition of poverty based on both a low income and a low standard of living (including material and social conditions and participation in social, economic, cultural and political life). These elements were incorporated in the European definition in 1984 and in the two definitions of ‘absolute’ and ‘overall’ poverty adopted by a majority of countries globally in 1995. ‘Overall’ poverty occurs in all countries, whether as mass poverty in developing nations or as pockets of poverty in developed nations.

However, there is little evidence of governments using human rights to define or measure poverty operationally in their national spheres. For two decades, the most influential measure has been the World Bank’s poverty consumption threshold of between one and four dollars a day. The UK uses the European Union measurement, which sets the poverty line at below 60 per cent of median household income. The United States uses a set of money income thresholds to determine who is in poverty.

Some social scientists criticise income-based measures for using arbitrary thresholds as proxies for poverty and advocate measuring poverty in terms of the multiple non-realisation of human rights (Gordon, 2002, pp. 63–71; Townsend,

2008). They say this better reflects the lived experience of poverty, renders visible the way that poverty affects certain groups differently and disproportionately, and allows states to identify particular areas where policy is failing (Redmond, 2006; Pemberton *et al.*, 2007; Townsend, 2007c, 2008). The most ambitious study of this kind uses the Convention on the Rights of the Child to measure the multiple dimensions of child poverty in developing nations (Box 2).

However, some participants in our research, while embracing a human rights conception of poverty, cautioned against jettisoning income-based measures in favour of multidimensional measures based on human rights. In waged economies, they argue, income levels matter. Moreover, the use of multiple indicators may simply be too complex and serve to confuse rather than clarify the state’s obligations in relation to poverty.

This review found some operational approaches which straddle this apparent divide. The official poverty measure in Ireland uses ‘consistent poverty’, which combines the EU measure with deprivation indicators that reflect living standards and, in particular, ‘focus on items reflecting social inclusion and participation in society’ (www.socialinclusion.ie/poverty.html).

Interviewees also highlighted innovative work in the UK to measure equality based on freedoms and opportunities (described by Amartya Sen as ‘capabilities’) derived from international human rights instruments (http://sticerd.lse.ac.uk/case/_new/research/equality/default.asp).

Box 2: Using human rights to measure poverty

Child Poverty in the Developing World (Gordon *et al.*, 2003) presents the first ever scientific measurement of the extent and depth of child poverty across the developing world. The study categorises multiple forms of social and material deprivation based directly on articles of the Convention on the Rights of the Child. These include: malnutrition, inadequate shelter, and no access or poor access to minimally adequate drinking water, sanitation, healthcare, education and forms of information. Using existing data sources, the study measures the

extent to which these rights are realised on a continuum of deprivation from mild to extreme.

Townsend (2007b, p. 40) argues that this methodology is ‘especially promising’ as a way of measuring the realisation of the twin rights to social security and an adequate standard of living, in both the developing and developed worlds. It is notable that the United Nations guiding principles on extreme poverty and human rights (Human Rights Council, 2008), under consultation in early 2009, do not mention these rights which, this review suggests, are among the most important rights in tackling poverty globally since they protect those who are excluded from the labour market.

Human rights enshrine socially and legally guaranteed entitlements

A human rights-based conception of poverty moves away from discretionary charity and welfare responses and towards the claiming of socially and legally guaranteed entitlements enshrined in international (and often domestic) law.

Laying claim to legal entitlements has a ‘symbolic rhetorical force’ (Lister 2004, p. 159), permitting a characterisation of poverty that moves away from personal shame. It underpins what Lister (2004, forthcoming) identifies as a dual politics of redistribution and of recognition and respect, since the entitlements encompass both socio-economic rights (such as the right to health) and citizenship rights (such as the right to participate in public life).

This potential to reframe poverty has been made starkly visible in areas where domestic legal entitlements are largely unavailable. Communities in New Orleans have used human rights to challenge injustice since hurricanes wreaked devastation in 2005 (Box 7). Activist Sharda Sekaran (NESRI, undated, p. 1) says:

Normally in the US, rather than being seen as people with rights, the poor are vilified for their poverty, as though it was some sort of morbid lifestyle choice ... In the wake of hurricanes Katrina and Rita, it is more evident than ever that to define poverty and social inequity as

human rights issues helps explain why it is so inherently reprehensible that poor and primarily Black survivors were treated as if their economic vulnerability made them disposable.

Felix Morka of the Social and Economic Rights Action Centre in Nigeria said the notion of guaranteed entitlement is revelatory to communities that have previously lived ‘in spite of the government’ and viewed any state intervention to alleviate their poverty as an act of benevolence.

Human rights provide a framework to pursue accountability for poverty

The central spine of human rights is the relationship between the individual and the state. In the human rights lexicon, every individual is a rights-holder, having inherent dignity and equal worth. There are also duty-bearers (primarily states and their agencies) with correlative obligations. International human rights law, and the mechanisms that use, interpret and apply that law, provide a normative basis for understanding the content of these rights and obligations. Human rights provide mechanisms both outside the courtroom (Chapter 3) and within it (Chapter 4) by which rights-holders can seek to hold duty-bearers accountable.

Interviewees underlined the potential for human rights to challenge unequal power relationships and recast the relationship between people experiencing poverty and the state. Human rights open up for analysis the structural causes of poverty, rather than only its symptoms, and the impact of government action or inaction on people living in poverty. In this sense, the goal of human rights is to ‘render power accountable ... to reconnect power and obligations’ (Gready and Phillips, 2009, p. 3).

Seen through a human rights lens, poverty is ‘neither natural nor inevitable but becomes something done to people, for whom certain actors bear responsibility’ (Gready, 2008, p. 742). As CARE (2004, p. 5) notes, ‘whilst “needs” can be seen in isolation, “rights” are relational and generate responsibilities’.

Beyond the state, some NGOs and other non-state actors also see themselves as, or are

perceived as, having human rights responsibilities in relation to poverty, even if they do not hold legal obligations (Gready and Ensor, 2005; Sarelin, 2007). For Oxfam, human rights principles compel it and similar agencies to:

‘raise the bar’ on their own accountability, lest they unwittingly perpetuate outmoded notions of charity, overlook discrimination and exclusion, and reinforce existing imbalances of power.

(Green, 2008, pp. 27–8)

The formulation of rights-holder and duty-bearer in relation to poverty is less commonly deployed in developed nations, with some exceptions (Weir, 2006). However, our interviewees argued that the potential for doing so is, in some respects, greater than in many low-income countries where the scarcity of resources presents particular challenges to the realisation of socio-economic rights, and where chains of accountability for violations of those rights can be harder to define. As Mac Darrow of the UN Office of the High Commissioner for Human Rights said:

While resources are only part of the picture, duty-bearers have fewer excuses in rich countries. It simplifies the relationship between rights-holders and duty-bearers when you can point to much clearer lines of causation between government decisions or inaction and the consequences in terms of social exclusion and poverty.

Human rights promote the dignity and autonomy of people experiencing poverty

Many initiatives we reviewed regard outcome and process as interdependent: human rights standards define targets for desirable outcomes and human rights principles inform the process by which those outcomes are achieved.

A process informed by human rights promotes respect for the dignity and autonomy of individuals. These values arise repeatedly in communities’ experience of using human rights. Lister (2004, p.

161) quotes US activist Willie Baptist as describing how the indignity of queuing for a ration of five pieces of toilet paper was the catalyst for a group of homeless people to mobilise under a human rights banner.

The right to participation is woven through the fabric of international human rights law. Several writers note that participation has, in practice, been rendered ‘hollow and tokenistic’ by institutions such as the World Bank, which reduce it to a technical process of assessing needs (Mathews, 2004; Uvin, 2004, 2007; Alston, 2005, p. 811). In the UK, the Commission on Poverty, Participation and Power, which explored barriers to participation, found that ‘people experiencing poverty see consultation without commitment and phoney participation without power to bring about change as the ultimate disrespect’ (CoPPP, 2000, p. 18).

A human rights conception of participation challenges and subverts ‘decision-making monopolies’ and re-politicises the term to mean ‘advocacy and mobilisation that potentially nurtures inclusive problem solving, citizenship and political activism’ (Gready, 2008, p. 742). Further, human rights promote opportunities for participation that are ‘not dependent on the whim of a benevolent outsider but rooted in institutions and procedures’ (Uvin, 2007, p. 603).

Conclusion

This chapter has outlined a common core of understanding about human rights as a set of values and principles and as an analytical framework for action to understand and eliminate poverty. Using human rights entails a shift from seeing people experiencing poverty as having needs to seeing them having socially and legally guaranteed entitlements, and a shift from charity to duty. Human rights promote processes which confront the relative powerlessness of people experiencing poverty and assert their dignity and autonomy.

2 Using human rights to mobilise communities and alliances

This chapter examines how human rights have been used by communities experiencing poverty to mobilise against social and economic injustice and to articulate their conditions and claims expressly in human rights terms. It draws particularly on experience in the United States, where domestic activism on human rights and poverty has burgeoned in recent years.

We present examples of how human rights have been used to:

- mobilise communities affected by poverty;
- connect disparate actors for social change;
- elevate the voice of people living in poverty;
- reframe poverty so as to transform public debate and shift (self) perceptions.

Using human rights to mobilise communities affected by poverty

What makes a community decide to start using human rights to challenge its poverty? Cheri Honkala, a founder of the Kensington Welfare Rights Union (KWRU), recalls a pivotal moment when, in 1996, homeless people camping in Pennsylvania were forcibly evicted during freezing weather:

That night, none of us knew what human rights meant but we had one thing in common – we felt less than human beings... We began to use the UDHR in our everyday organising to counter the denial and shame of being poor.

The KWRU rejected charity and welfare models because ‘we wanted to fight for more than a bigger welfare cheque’, Honkala said. The union developed ‘guerrilla’ tactics such as moving

homeless families into abandoned properties dubbed ‘human rights houses’ (Albisa, 2007, p. 32). In human rights, the KWRU discovered ‘a set of international rights principles, laws, methods and strategies that provided the unifying conceptual and practical bedrock they sought’ (Cox and Thomas, 2004, p. 53).

In 1998, the KWRU convened a Poor People’s Summit to unite people experiencing poverty across colour lines; out of this, the Poor People’s Economic Human Rights Campaign (PPEHRC) was born (Box 3).

Box 3: Taking ownership: the Poor People’s Economic Human Rights Campaign

‘As welfare reform kicked in, we were concerned that the poor would turn against one another over crumbs that trickled down. Our human rights concept helped workers see that none of them are getting what they deserve’: Ethel Long-Scott of the Women’s Economic Agenda Project in California describes the impact of the Poor People’s Summit on her organisation. In the following decade, the PPEHRC has grown into a decentralised network of grassroots organisations with no single policy agenda. Its activities include:

- holding ‘Truth Commissions’ on poverty;
- a mobile ‘University of the Poor’, which provides grassroots political and human rights education;
- highly publicised, multi-city marches to connect communities affected by poverty and document their experiences;

- using human rights to help social workers identify where poverty leads to violations of their code of ethics (for example, removing a child from her family due to lack of food).
Sources: Cox and Thomas, 2004; Albisa, 2007; interview with Cheri Honkala; www.universityofthepoor.org; www.economichumanrights.org.

Felix Morka of the Social and Economic Rights Action Centre (SERAC) in Nigeria said human rights become a mobilising force when they are connected to people's everyday existence. He likened human rights to 'scaffolding' for affected communities to challenge asymmetries of power that perpetuate poverty (Box 4).

Box 4: Promoting economic and social rights in Nigeria

SERAC works through community-based organisations to prevent forced evictions and demolitions and challenge corporate and state activity that displaces communities or pollutes their land or fishing grounds, among other activities.

In one case, pastoral and fishing communities used human rights to mount co-ordinated resistance to the construction of a secretly negotiated industrial free trade zone which threatened to displace them without consultation or redress. The communities asserted their right to adequate housing, to a private and family life, to a fair hearing, to work and to health. They also invoked the 'dignity of the human person', enshrined in the preamble to the International Covenant on Economic, Social and Cultural Rights. The mobilisation succeeded in preventing the mass evictions.

SERAC's human rights activism is striking for its combined use of litigation and other forms of social action. In an ongoing case, SERAC is supporting a family experiencing poverty to gain redress for medical negligence which led to their baby having her arm amputated. Some 5,000 members of the community marched on the hospital to assert the child's right to health and protest against disrespectful treatment of her family;

within days, SERAC filed a legal case for compensation to secure the baby's future. Felix Morka added: 'We use litigation as a rallying point – another means of building a social movement.'

Sources: www.serac.org; interview with Felix Morka.

Interviewees in the United States have used human rights to pursue the twin aims of helping people experiencing poverty meet their basic needs and develop leadership skills (Box 5). The Poverty Initiative, which organised Poverty Truth Commissions in Scotland and the United States, describes itself as building a 'movement to end poverty, led by the poor' (www.povertyinitiative.org).

Box 5: Homeless people as human rights monitors in New York

Starting in 2000, the New York City AIDS Housing Network trained hundreds of volunteer 'human rights monitors', many of them homeless, to stand outside the city's largest welfare centre and document cases where homeless people with AIDS were denied emergency housing. After five years of campaigning, the city council passed NYC Local Law 50, guaranteeing a right to housing for homeless New Yorkers living with AIDS. The campaign also resulted in additional public spending of US\$2.5 million to build housing and created an official database system allowing homeless individuals to call a welfare worker about the status of their housing application. Advocates say the law is 'a model of what a right to housing might look like for all Americans'.

Sources: Foscarinis and Tars, 2008; www.nycahn.org.

Much poverty-related human rights activism, both at national and international levels, has focused on the right to housing, which is viewed as essential to the enjoyment of other basic human rights. In France, homeless people and their allies successfully campaigned for a legal right to housing (Box 6).

Box 6: Mobilising for an enforceable right to housing in France

In December 2006, some 400 homeless people and their allies set up a camp on Concorde Square in Paris and were driven away by police. Days later, several thousand people pitched red tents along the Saint-Martin Canal in Paris and in other French cities. Organisations sprang up calling themselves 'Children of Don Quixote', the Right to Housing, the Committee of the Homeless and the 'Call of the Without'. The movement produced a manifesto declaring that all residents of France should have the right to adequate housing.

In 2007, the French parliament passed the DALO law, similar to that in Scotland (Chapter 5), which makes housing a right and allows individuals to sue the state if they lack adequate housing.

Housing activists have maintained pressure on the French Government. In 2008, the European Committee of Social Rights (ECSR), the Council of Europe body responsible for monitoring implementation of the European Social Charter, ruled that France was in violation of the Charter with regards to housing rights. The decision followed a collective complaint by Feantsa (the European Federation of National Organisations working with the Homeless). Feantsa says the ECSR decision 'should be a driver for change not only in France, but across Europe'.

Sources: www.hclpd.gouv.fr; www.feantsa.org.

In addition to this sustained work to mobilise using human rights, communities have faced the challenge of using human rights to confront the immediate consequences of disaster – as when hurricanes struck the US Gulf Coast (Box 7).

Box 7: Using human rights to challenge injustice in New Orleans

In 2005, Hurricanes Katrina and Rita displaced hundreds of thousands of people, primarily

from low-income and black neighbourhoods. By 2008, some 12,000 people in New Orleans were still homeless – double pre-hurricane levels – and the African-American population had fallen by 57 per cent. Despite this, developers demolished the city's four major public housing units although they were structurally sound. Residents were locked out of the city council meeting which approved the demolitions – and out of their own apartments once they had been earmarked for destruction.

Activist Willie J.R. Fleming said human rights provided a 'tool of inspiration' to confront the scale of official abandonment after the storms. The welfare model was inadequate, he said: 'we needed something bigger'. Communities have become deeply committed to the 'human right to return', which they invoke in representations to government and UN bodies. The right to return for people displaced within their own country is drawn from the United Nations Guiding Principles on Internal Displacement, which also include basic socio-economic rights, the right to information and transparency, and the right to play a role in decision-making.

Local communities, with the backing of the UN Special Rapporteur on Adequate Housing (Box 16) and housing activists from around the world, mobilised against the demolition of public housing. They failed to stop those already planned, but extracted commitments on the building of replacement housing and a moratorium on further demolitions.

Sources: Albisa, 2007; NESRI, 2008a;

Tars 2009; interviews with Eric Tars and Willie J.R. Fleming.

Using human rights to connect disparate actors for social change

The US experience suggests the potential of human rights to unite groups that might otherwise be divided by class, race, faith, identity, geography or single-issue affiliations. Interviewees in the United States described this as one of the most significant insights to emerge from their domestic human rights activism, especially at a time when the differential impact of economic recession might threaten community cohesion.

The New York City Human Rights Initiative mobilised more than 100 groups to use the tools of the human rights system to tackle systemic inequality (www.nychri.org). Networks have also formed between cities in which activists use human rights as a vehicle for collaboration (Box 8).

Box 8: Right to the City: a unified response

'Right to the City' links some 40 groups in nine US cities to realise an 'urban human rights agenda'. The campaign began in 2007 as a unified response to the displacement of communities from urban neighbourhoods.

One member is the Miami Workers' Center, which uses socio-economic rights as a vehicle to negotiate long-standing tensions and build alliances between African-American, Haitian and Latino communities and between immigrants and non-immigrants. Cross-community actions have resulted: in 2006, the black community supported a 'Justice for Janitors' campaign in support of mostly Latino workers. Director Gihan Perera says, 'we quickly recognised that so many of the issues we're fighting for in our cities: housing, transportation, education, LGBT [lesbian, gay, bisexual and transgender] rights to space, and rights of culture, are inextricably interrelated. We just needed ... to develop our power in common terms.'

Sources: Kay, 2007;
www.miamiworkerscenter.org;
www.righttothecity.org.

Using human rights to elevate the voice of people living in poverty

As outlined in Chapter 1, human rights place a premium on how rights are fulfilled, including meaningful opportunities for affected communities to make or influence decisions.

Interviewees saw deepening the engagement of people who have experienced poverty as a 'new frontier' of anti-poverty work. They regarded the life experience of people living in poverty as

knowledge and expertise that should be brought directly to bear on advocacy, policy development, legal representation and other arenas where human rights and poverty intersect. This includes children and young people: in South Africa, for example, children contributed to a human rights analysis of the national budget by identifying priorities for improving their quality of life (Ewing, 2004).

Interviewees underlined the need for careful mediation between different forms of expertise, and suggested that legal and other professionals may have to relinquish a degree of control over the pace and direction of their work.

Nicola Browne of the Participation and Practice of Rights (PPR) Project in Belfast (Box 15) emphasised the sustained work required to empower and support residents to use human rights to achieve change. 'It is essential to work at the pace of the residents, particularly when dealing with communities that have suffered the worst and longest lasting effects of the conflict', she added. For PPR,

... a rights based approach acknowledges the systematic and institutional exclusion of disadvantaged communities from participation in decisions of resource allocation and service delivery. It also implies that in order to achieve sustainable change, the processes of changing power relationships are as important as 'getting the result'.

(Donnelly, 2007, p. 13)

In the European context, organisations such as ATD Fourth World and the European Anti-Poverty Network (EAPN) have prioritised the right to participation and 'voice'. In 2009, EAPN set targets for active governance in decision-making processes at EU and member state levels, to seek to ensure the participation of anti-poverty NGOs and people experiencing poverty (www.eapn.org).

In Quebec, Canada, the idea of an anti-poverty law was promoted from 1998 via an ambitious process of collective action and public deliberation (Box 9).

Box 9: A citizens' proposal for an anti-poverty law in Quebec

In December 2002, the National Assembly in Quebec adopted a law to 'combat poverty and social exclusion', the first such legislative commitment in North America.

The law followed sustained mobilisation by a broad-based coalition, the Collective for a Law on the Elimination of Poverty, which emphasised the centrality of people experiencing poverty and their awareness of their human rights. Among other activities, it conducted educational work and communal drafting sessions among communities living in poverty and their allies, drawing heavily on Article 1 of the UDHR.

One outcome was a citizens' 'Proposal for a Bill on the Elimination of Poverty', which was validated during 200 popular parliamentary sessions. Another was a declaration called 'The Right of Our Rights'; it likened escaping poverty to a system of escalators in which some people are forced to walk up a downwards escalator, struggling to make headway, while the better-off move smoothly upwards. This metaphor was used in negotiations with ministers to challenge policies such as tax cuts for the wealthy and to call for the indexation of welfare benefits – a gain later won after sustained mobilisation.

Vivian Labrie, a founder of the Collective, said Bill 112 has been a useful political tool to confront poverty and a catalyst for continued social mobilisation. It had also created a meaningful institutional voice for people living in poverty via a consultative group. However, it fell short of the Collective's aims in many areas; for example, it recognised that rights were central to the problem of poverty but did not commit to their realisation, nor to a clear package of measures to reduce poverty and inequality.

Sources: Noel, 2002; Collectif pour un Québec sans pauvreté, 2003; Ninacs, 2003; Government of Quebec, 2004; interview with Vivian Labrie.

Using human rights to reframe poverty and shift (self) perceptions

Communities and their advocates have, in some contexts, found human rights a powerful antidote to punitive public discourses which stereotype people in poverty as lazy, fraudulent, or the agents of their own downfall (Box 10). Dorothy Thomas (BIHR *et al.*, 2008, p. 28) argues that:

The use of human rights – even as purely a linguistic frame for discussing poverty – shifts the burden of responsibility for poverty off the individual and on to the state, and communicates its structural rather than individual causes.

Box 10: Dignity and participation in US public schools

Teachers and activists in the United States have used the language and principles of human rights to challenge the degrading and discriminatory treatment of mainly low-income, black students in public schools. Students had reported incidents of police handcuffing and arresting them or slamming them against walls for being disruptive, along with sometimes arbitrarily applied suspensions of up to 90 days. The effect was to criminalise aspects of adolescent behaviour and increase the likelihood of students falling into the juvenile justice system.

Using the Convention on the Rights of the Child, teachers and advocates reframed disciplinary and safety issues using the principles of dignity, equality and participation. This approach contributed to a new disciplinary policy, which emphasises positive support over punitive sanctions. It is now being implemented across Los Angeles. Some schools in Illinois and New York are pursuing related policies based on restorative justice and conflict resolution techniques. The National Economic and Social Rights Initiative tracked the impact of the approach in one school in Illinois. Over four years it led to: a two-thirds reduction in disciplinary referrals, higher educational attainment, fewer teacher absences and

transfer requests and a decrease in the over-representation of African-American students among those disciplined.

Sources: NESRI 2008b;
www.nesri.org/programs/dignity.html.

Interviewees acknowledged, however, that talking about human rights in the context of poverty requires ‘translation’ from one setting to another. Many spoke of the need to find ‘entry points’ to reach particular audiences. Human rights, they suggest, offer a flexible repertoire of language and concepts to be deployed from the community workshop to the ministerial meeting to the corridors of the UN.

To some communities affected by poverty, human rights can seem remote, legalistic or unduly adversarial. They may be perceived as jarring with other cultural norms. However, several interviewees with experience of community organising said the UDHR’s declaration that ‘All human beings are born free and equal in dignity and rights’ can deliver a powerful, revelatory message. Felix Morka of SERAC in Nigeria underlines the value of human rights as a way of transforming the self-perception of people in poverty:

Human rights is a language of possibilities which ... gives people a sense of self in relation to the state ... a sense that they are worthy of investment.

Our review suggests that human rights values can have broad public appeal, even where mistrust exists about human rights law. In a US poll, some 70 per cent agreed that ‘it is important to treat people fairly and with dignity’; by contrast, more than half did not believe their government should follow international human rights treaties (Opportunity Agenda, 2007, pp. 6–7).

For their part, governments may associate human rights negatively with litigation: activists in Quebec said explicit human rights language at times proved an obstacle to influencing ministers for this reason. However, once rights language was enshrined in law, it became a useful advocacy tool (Box 9).

These examples suggest the potential for long-term strategies to increase incrementally both official and public receptiveness to human rights, even where there is an initial ‘pain barrier’ of resistance. US advocates use human rights terminology consistently because they are deliberately reframing services such as health, housing and education as socially and legally guaranteed entitlements. This explains why local breakthroughs – such as the recognition of the right to healthcare by a local county in Montana – assume symbolic importance.

Conclusion

Communities and their allies that use human rights to tackle poverty say it offers advantages against charity-based or top-down models. Human rights scholar Martha Davis noted that human rights can help ‘restart conversations that have reached a dead end’ and attract new constituencies to anti-poverty work.

Interviewees said that claiming human rights by communities is a prolonged, cumulative process of building up ‘human rights literacy and legitimacy’ among both rights-holders and duty-bearers – and often across alliances of disparate groups.

Grassroots activism sometimes requires mediation or validation by other domestic and international channels to influence law or policy. It is not always possible to attribute impact directly or solely to social mobilisation and any impact may only be visible in the longer term. Where rights are recognised, sustained mobilisation may be required to ensure they are realised. Flavio Valente of the right to food movement speaks of the need to ‘institutionalise human rights victories’ so that struggles do not have to be refought.

Our discussion presents a strategic dilemma for those seeking to use human rights to tackle poverty: how to tailor the message to each audience while retaining the integrity of the human rights framework and using it to its full potential. International experience offers some insights to understand, if not resolve, this dilemma.

First, communities are more likely to appropriate language that connects to everyday existence: where human rights are understood

to encompass both civil and political and socio-economic rights they may achieve greater traction among communities affected by poverty than when they are perceived more narrowly.

Second, embedding human rights is a long-term endeavour: initially resistant audiences can become receptive over time and new 'entry points' can be found to engage with affected communities. It is these 'deep conversations at the community level that are necessary precursors for successful movements' (Albisa, 2007, p. 33).

3 Accountability: monitoring and measuring human rights

In this chapter, we examine mechanisms and tools that communities and their allies use to hold duty-bearers to account for the impact of their actions or inactions and to promote human rights solutions to poverty. Our focus here is on mechanisms outside the courtroom: litigation as a route to accountability is the subject of Chapter 4.

Some tools are a part of the human rights 'infrastructure', like shadow reports to UN bodies which are used to advance domestic poverty issues on a global stage. Anti-poverty activists have also adopted (and sometimes adapted) existing 'value-neutral' tools and methodologies, such as budget analysis, in order to pursue human rights goals. Some examples involve communities affected by poverty using human rights tools to pursue both accountability and social mobilisation, the two aims being firmly intertwined.

Using human rights to analyse policy

Auditing macro-economic policies

States have a margin of discretion about how they meet their obligation to realise economic and social rights. However, they must (CESCR, 1990):

- take steps – deliberate, concrete and targeted – to achieve progressively the full realisation of these rights;
 - use maximum available resources;
 - avoid retrogression;
 - satisfy at least minimum essential levels of each of the rights;
 - implement the principles of non-discrimination, equality, transparency, participation and accountability.
- identify policies that are consistent with human rights obligations and those that are not;
 - provide guidance on the sequencing of policies (focusing on the most deprived);
 - make decision-making processes more transparent, participatory and accountable;
 - identify necessary changes to the way social and economic data is collected.

Some macro-economists and human rights advocates are collaborating to develop ways of using these principles as a tool to audit macro-economic policies in both rich and poor nations:

By asking questions around the implications of economic policy for human rights, new forms of analysis become available to human rights advocates, and a powerful ethical framework becomes available to ... economists.

(Balakrishnan *et al.*, 2009, p. 64)

Human rights auditing encompasses fiscal and monetary policy and policies covering taxation, expenditure, trade and the regulation of markets and property rights. A pioneer of this work, Diane Elson, said: 'We are looking at the overall size of the economic pie as well as how it is divided up.'

Human rights auditing does not attempt to identify the best possible set of human rights-consistent policies: there are too many uncertainties to make that possible. Nor does it aim to establish definitive causal links between economic policies and the degree of substantive enjoyment of economic and social rights (Balakrishnan and Elson, 2008). However, our interviewees suggest that viewing macro-economic policy through a human rights lens can:

This work challenges the neo-liberal orthodoxy that has held sway for three decades, according to which rapid economic growth driven by market competition automatically lifts people out of poverty. Interviewees said that applying the fundamental tenets of human rights law strengthens the critique of neo-liberalism, especially in the context of global recession (Box 11).

Box 11: Rethinking macro-economic strategies from a human rights perspective

Auditing macro-economic policies from the perspective of economic and social rights starts by examining how policy has been conducted – whether it has consisted of action ‘reasonably calculated to realise the enjoyment of a particular right’. Where appropriate, the analysis of conduct is cross-checked with an analysis of ‘results’ for the right in question, such as health outcomes or numbers of people in poverty. Put simply, what choices has a government made and what impact have those choices had?

One study (Balakrishnan *et al.*, 2009) audits a range of economic policies pursued by the United States and Mexico and compares them with similar countries. For example, it finds that in both countries, taxation has not been used effectively to mobilise maximum available resources and that there has been retrogression in the amount of tax revenue generated over time. In both, the taxation system provides systematically more favourable benefits to the rich than to the poor, to men than women and to corporations than to individuals. The study concludes that this is partly because of a lack of transparency within the two tax systems – ‘a direct violation of the principle of accountability and transparency, but also the means through which other human rights principles are violated’.

Citizen engagement in budget analysis

In this section, we introduce some applied work to engage affected communities and their allies in using human rights to monitor and influence

budgets at a national and local level. The type of work carried out by grassroots budget advocates is diverse (Fundar *et al.*, 2004; Robinson, 2006). We have reviewed examples that focus on:

- process and transparency issues;
- overall expenditures to compare spending sector by sector;
- specific areas of spending;
- specific populations;
- opportunities for public participation.

The international budget partnership (www.Internationalbudget.org) collaborates with civil society groups in developing and transitional countries: their work has shown that citizen engagement in public budgeting can promote substantive measures to confront poverty (Boxes 12, 13 and 14).

Box 12: Mexico: using rights to win resources for maternal health

An alliance of civil society organisations monitored health expenditure, cross-checked against ‘on the ground’ experience, to analyse the Government’s compliance with its obligations related to the right to health. Among the areas of non-compliance were: an overall drop in the share of the national budget devoted to health and disproportionately low expenditure on the informally employed and unemployed and on areas with poorer, indigenous communities, among whom maternal death rates were three times higher than in urban areas. The findings were presented to both chambers of Congress. This led in 2003 to a tenfold increase in federal funding for a programme of emergency obstetric care to prevent maternal mortality – a rise of some US\$50 million. However, difficulties in accessing budget data from state governments where maternal mortality is highest hindered efforts to track whether

the additional expenditure had been invested in improved obstetric care. Future data on maternal mortality will reveal whether the aim of reducing it has been achieved.

Sources: Fundar *et al.*, 2004; Robinson, 2006.

Box 13: South Africa: budgeting for children's rights

Many families in South Africa rely on the Child Support Grant to raise their children. A campaign by a network of anti-poverty organisations, the Alliance for Children's Entitlement to Social Security, used human rights arguments to persuade the post-apartheid Government to: increase the budget allocation for child support; commit additional resources to rural areas to make the programme more accessible, and raise the maximum eligibility age from 6 to 14. The campaign used children's accounts of their experience of poverty to help make the case. As of 2006, the level of the grant had kept pace with inflation, partly as a result of sustained monitoring and advocacy work.

Sources: Ewing, 2004; Hofbauer, 2006; Robinson, 2006; www.idasa.org.za.

Box 14: New York: Hunger Is No Accident

In 1996, sweeping reform of US public welfare laws severely weakened the federal Food Stamp Program, the nutritional assistance plan for people in poverty. In New York, the Welfare Reform and Human Rights Documentation Project analysed the impact on the right to food. Its report, *Hunger Is No Accident*, found that in New York City, government officials routinely denied applicants access to welfare and food stamps through the use of programmatic barriers and discrimination. In New York State, government officials had failed to spend (and even diverted towards tax cuts) more than \$US1 billion in welfare funds, notwithstanding their commitment to deploy maximum available resources to eliminate hunger and food insecurity. At the federal level, the Government had failed to ensure freedom

from hunger for some 10 million people.

One of the project's goals was to help people directly affected to understand that their rights were being violated and to give them a public voice. The project surveyed 212 families that had applied for food stamps and used their experiences to bolster its statistical findings.

Source: New York Welfare Reform and Human Rights Documentation Project (2000).

Measuring the realisation of human rights

There is diverse literature on the development of indicators to measure over time whether duty-bearers are meeting their human rights obligations (Green, 2001; Chapman and Russell, 2002; Alston, 2005; Carr Center for Human Rights, 2005; OHCHR, 2006a; OECD, 2008; Welling, 2008).

Indicators are used to measure progress (or lack of it) towards realising particular rights, including civil, political, economic and social rights. Realistic, time-bound targets (benchmarks) may also be set – by duty-bearers or by those seeking to hold them to account.

Human rights indicators should be disaggregated according to variables such as class, gender and race, in order to identify whether certain groups are experiencing discrimination or being left behind. In addition, human rights principles promote participation by affected communities in setting indicators and targets to ensure that their priorities shape what is being measured (Box 15).

Box 15: Who sets the agenda? Measuring human rights in north Belfast

The Participation and Practice of Rights (PPR) Project has pioneered the development – by communities affected by poverty – of indicators and time-bound targets (benchmarks) to measure the realisation of their human rights. Nicola Browne of PPR said this has involved analysing the structure and process by which decisions are made and power is exercised: 'Who gets to speak at a meeting? Who sets

the agenda? ... Is it true participation or simply “being informed”?

In one initiative, families in north Belfast affected by disproportionately high rates of suicide and self-harm set indicators to measure, among other priorities: satisfaction with mental health services and complaints systems; the participation of mental health service users in decision-making and oversight of the service; and progress towards fulfilling national guidance that all discharged patients who have severe mental health illness or a recent history of self-harm should be followed up within one week.

In another, a group of local residents in the Seven Towers housing estate in north Belfast devised indicators to measure whether a large regeneration project fulfilled the Government’s obligation to progressively realise their rights to work, education, adequate housing and the highest attainable standard of health.

In January 2009, residents held the latest evidence hearing to assess progress against six indicators prioritised by residents. The Northern Ireland Housing Executive acknowledged that engaging with the community through the PPR project had yielded some tangible and low-cost improvements. An indicator relating to the prompt clearing of pigeon waste had been fully met. Substantial progress had also been made on indicators concerning rehousing families out of unsuitable accommodation and preventing sewage flowing into residents’ bathrooms. Minimal progress had been made on indicators relating to the handling of complaints and residents’ involvement in decision-making and on problems with dampness and mould.

PPR says: ‘It has taken the constructive and participatory work of residents ... to highlight that these conditions are not down to individual “behaviour” or “lifestyle choices” of residents but chronic problems with the buildings themselves.’ Residents are now setting human rights indicators for the next phase of the Seven Towers regeneration.

Sources: Donnelly, 2007; PPR, 2009; interview with Nicola Browne; www.pprproject.org.

Using the United Nations human rights system

When a country ratifies a human rights treaty, it must periodically report on progress in implementing its treaty obligations. Each treaty has a monitoring body that reviews these reports, holds hearings with the country involved, and produces Concluding Observations expressing concerns about rights violations and recommending corrective action. In practice, country reports are perennially late and often far from the frank self-examination that treaty bodies invite (Tars, 2009, p. 476). To correct or amplify this record, and to advocate specific remedies, civil society organisations may submit ‘shadow reports’ to the treaty bodies. In addition, advocates and people directly affected by violations may speak directly to committee members.

Shadow reporting – a long-standing method by which advocates have promoted civil and political rights – offers a strategic pressure point for activists who wish to take domestic poverty issues onto an international stage, especially where domestic lobbying or litigation has made no headway. For example, the Irish Family Planning Association reported to the monitoring body on discrimination against women, highlighting the hardship caused by abortion restrictions for groups such as female asylum seekers (www.ifpa.ie).

Activists in the United States (Box 16) and Brazil (Box 17) have used shadow reporting as a means to:

- ‘cement’ a coalition of issue-based groups around shared human rights concerns;
- frame lobbying and advocacy work;
- generate positive media coverage;
- mobilise communities affected by poverty;
- ‘break down the silos’ between litigation and political campaigning as routes to further human rights goals;
- lend legitimacy to human rights critiques and human rights policy solutions.

Box 16: Shadow reporting as a strategic tool for domestic justice

In 2006, US activists reported to the Human Rights Committee (HRC) – the UN body monitoring civil and political rights – on the impact of homelessness on the right to life, to family life, to education, to vote and to be free from discrimination. In its Concluding Observations, the HRC noted that while African Americans constitute 12 per cent of the US population, they represent 50 per cent of homeless people, and proposed corrective action. The Committee also addressed, among other issues, the failure to address the needs of poor and minority communities in the post-Hurricane Katrina rebuilding.

Seeking to build on this experience, the National Law Center for Homelessness and Poverty (NLCHP) turned its attention to the Committee on the Elimination of Racial Discrimination (CERD). This time, it had the additional goal of mobilising affected communities and building a broad coalition. Eric Tars said: ‘We were doing it not just to have the record corrected at an international level, but because it was an opportunity to make human rights real for people and to show them how their issues could be reflected in the international sphere.’

Local working groups were formed across the United States to draft sections of the shadow report. The NLCHP held briefings for congressional staff on how they, as duty-bearers, could implement US obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. In 2008, a delegation of 128 advocates, lawyers and people from affected communities presented the 600-page shadow report, which married grassroots experience with legal and policy expertise. CERD’s Concluding Observations drew directly from the shadow report in its breadth and terminology.

Within days of the hearing, activists used the observations of the HRC and CERD, together with interventions from the UN Special Rapporteur on Adequate Housing, successfully to pressure New Orleans City Council to

abandon a proposed ban on camping on city streets, which would have criminalised people still living rough after Hurricane Katrina (Box 7).

Sources: NLCHP, 2006; Foscarinis and Tars, 2008; Tars, 2009; interview with Eric Tars.

Box 17: Forcing the state to look: civil society rapporteurs in Brazil

Brazil ratified the International Covenant on Economic, Social and Cultural Rights in 1992 but by 2000 had still not reported on its implementation. This omission prompted human rights groups to embark on a shadow report. Some 2,000 people attended public hearings across Brazil; the resulting shadow report documented violations of socio-economic rights and exposed often extreme gender, racial, ethnic and regional inequalities. These were, in turn, highlighted in the treaty body’s Concluding Observations. In 2002, Brazil produced its official report and a revised National Human Rights Program which for the first time incorporated economic and social rights.

Since 2002, Brazilian civil society has pioneered a system of national human rights rapporteurs who monitor the realisation of the rights to food, work, health, the environment, education and housing.

The rapporteurs have succeeded in embedding the use of human rights within some official structures and processes. Flavio Valente, the first rapporteur on the right to food, highlights the Food and Nutritional Security Law and the Zero Hunger programme which are explicitly aimed at ensuring the right to food and nutritional security. The rapporteurs have also helped build the capacity of the Public Ministry (an ombudsman responsible for promoting constitutional rights) to remedy or prevent violations: for example, protecting tenants from eviction and maintaining school feeding programmes.

Flavio Valente added: ‘The problem for poor people is that you don’t exist, you’re invisible. Our impact has been to force the state to look – and to inform people that they have rights.’

Sources: Piovesan, 2004; Valente and Beghin, 2006; interview with Flavio Valente.

Interviewees also noted the Universal Periodic Review (UPR) mechanism of the UN Human Rights Council as a tool for influencing anti-poverty strategies. Established in 2006, the UPR involves a review of the entire human rights record of each UN member state once every four years. NGOs can submit information to the UPR and can attend meetings of its working groups. There is little evidence to date of concerted activity by affected communities and their allies to use the UPR to raise poverty-related concerns. UPR is a relatively new mechanism and it is possible that such activity may increase as civil society organisations gain experience of using it. In 2009, several Canadian NGOs used the UPR to call for a national poverty reduction strategy and action to address disproportionate levels of poverty among aboriginal communities (www.ohchr.org).

Conclusion

Sarelin (2007, p. 486) argues that, in applying human rights to poverty, 'one should be careful not to put all responsibility on the weaker party ... there should be a balance between developing the capacity of rights-holders and that of duty-bearers'. Our review suggests that, in practice, both can happen at once: the pursuit of accountability can generate data, policy solutions and new understandings of poverty which can, in turn, open up spaces for engagement with the state and influence official action.

This chapter demonstrates the variety of tools that are used to hold states to account for their human rights obligations in relation to poverty. Invariably, the process of strengthening human rights accountability requires collaboration and an exchange of expertise: between people experiencing poverty and legal or policy experts and between human rights and anti-poverty actors less familiar with each other's habitual frameworks.

The process of pursuing accountability can act both to correct the official record on poverty and to galvanise affected communities. Work to develop these tools of accountability – and to place them in the hands of communities experiencing poverty – is burgeoning and has the potential to strengthen the application of human rights to poverty in both developed and developing nations.

4 Accountability: using legal process to realise rights and combat poverty

This chapter looks at how human rights law, and specifically litigation, has been used to combat poverty. Human rights are elaborated in both international and national law, including bills of rights and constitutions. Legal process can be used to identify corresponding duties and the bearers of them, secure implementation and pursue accountability.

Cases can be brought through regional legal mechanisms (such as the European Court of Human Rights) and regional and international complaints mechanisms (such as the Human Rights Committee and the Collective Complaints Mechanism of the European Social Charter). However, this chapter focuses on the domestic courtroom as this provides the most direct route for legal redress.

Constitutional and legislative protection of rights

In the legal fight against poverty the tool most prized is constitutional protection of socio-economic rights. Constitutions lend legal protection that cannot be overturned without political and legal upheaval. Socio-economic rights, such as the right to adequate housing, offer clear connections with the reality of poverty. South Africa is frequently cited as the gold standard of this kind of human rights protection. Socio-economic rights are also protected by constitutions in Colombia, Argentina, Hungary, and more.

The Indian constitution contains ‘fundamental rights’ – explicit protection of mainly civil and political rights – and ‘directive principles’, which mainly cover socio-economic rights. Directive principles are not ‘enforceable by any court’ although the state is duty-bound to apply them in making laws (Constitution of India, Article 37). Human rights lawyer Colin Gonsalves said that

in practice the distinction is not rigid. The Indian judiciary has incorporated some rights (like the right to livelihood) into its understanding of the fundamental right to life. Others, like the right to education, became fundamental rights via constitutional amendment (Alston and Bhuta, 2005, p. 253).

Legislative protection also opens up avenues for combating poverty – Scotland’s homelessness law (Chapter 5) includes explicit provision for legal challenge. In many countries, judicial review can be used to contest the process of administrative decision-making, and discrimination law provides scope for tackling poverty.

Box 18: Are socio-economic rights justiciable?

The value of using law to protect socio-economic rights has been widely debated, not least during the drafting of South Africa’s constitution. Interviewees said opinion was divided, even among rights advocates.

Those who took the position that the constitution was not the correct mechanism to protect people from poverty argued that constitutions are to protect people from the state: their role is to curb the power of the state – to outline what it should not do (imprison someone without fair trial, for example) rather than what it should do (provide clean water, for example). Those in favour of including socio-economic rights argued that all rights – whether civil, political, economic, social or cultural – require the state to both refrain from action and take action. Fair trials – long accepted as a legitimate subject for constitutions – require positive steps. The need for positive steps to realise socio-economic rights is not a legitimate reason for excluding them from constitutional protection.

A second argument against including socio-economic rights in the constitution was that judges would be called upon to make policy decisions, including ones with budget implications. Such decision-making would be beyond the judiciary's technical expertise and its mandate. Such decisions belong, the argument runs, with democratically accountable legislatures and executives. This argument rests again, at least in part, on making a clear distinction between civil and political rights and socio-economic rights and the means of realising them. It is an argument that the South African judiciary, in its emerging jurisprudence, has confounded.

Access to legal process

Legal process can be used to tackle poverty both through landmark cases that develop the law, offering a new interpretation of rights and obligations, and through cases that implement the law, securing redress for individuals. In either scenario, access to legal process is essential.

In some instances, access is a step towards achieving a specific outcome: a particular judgment that will impact positively on those experiencing poverty. However, in a society where people experiencing poverty rarely get to the courtroom, the achievement of simply being there can be a successful outcome. Bruce Porter describes a community in Kenya singing and dancing while a judge read out a judgment that went against them:

their celebration affirmed the success of a more fundamental claim to occupy an adjudicative space in which they were able at least to give voice to a challenge to a violation of human rights which they hoped would someday be recognised by courts.

(Porter, 2007)

Christian Courtis, professor at the University of Buenos Aires, said that access to and use of the courts has expanded globally: 'we are now seeing a new development ... use of courts has gone beyond the middle class – there are cases

now involving the very poorest'. He cited cases concerning indigenous peoples in Colombia as an example. This expansion is about not only bringing the poorest into the courtroom but the issue of poverty itself, and there is a growing body of relevant jurisprudence – from Africa, Asia, Europe and the Americas.

Poverty campaigners interested in using litigation in their work note that without specific cost-related mechanisms, such as legal aid, litigation can remain inaccessible. Civil society organisations may fund selected cases – usually test cases that may have a beneficial impact beyond the individuals involved – but cannot take every case that comes to them. Richard Calland, a law professor in South Africa said:

litigation can only be successful to individuals if they are lucky enough to have their case picked up by a civil society organisation with resources ... Any organisation involved in such work faces huge challenges in prioritising work and can only undertake a fraction of cases that come to them.

Colin Gonsalves in India said success in opening the courtroom to India's poorest is in large part due to the country's unique system of public interest litigation. The system allows anyone to file petitions, at a cost that is fractional compared to many countries. This has resulted in a large number of cases on behalf of traditionally powerless groups.

Getting to the courtroom also requires co-operation between those experiencing poverty, advocacy organisations and lawyers. Interviewees said tackling poverty through legal process was not something that could be confined to the lawyers' office. Steve Kahanovitz of the Legal Resources Centre in South Africa said, 'successful cases are those where demands grow up from the people'. Talking about identifying cases, South African lawyer Geoff Budlender commented, 'clever lawyers in offices can't do this'. Such collaboration means that both the cases brought and the remedies sought reflect lived realities, and have greater potential for positive outcomes for those experiencing poverty.

Securing practical change

Getting a case to court is just the first step. Once there, success in tackling poverty requires judgments that can be – and are – translated into practical changes.

Making rights justiciable: the Grootboom case

In South Africa, one groundbreaking case was that of Irene Grootboom (Box 19).

Box 19: The Grootboom case

Examining the case of some 900 people evicted from an informal settlement, the Constitutional Court focused on the state's obligation to take reasonable legislative and other measures to realise the right to adequate housing. It noted that legislative measures will not be enough; policies and programmes are also required in order for the steps to be 'reasonable'. Further, 'Those whose needs are the most urgent and whose ability to enjoy all rights ... is most in peril, must not be ignored'.

Although the Constitutional Court said an earlier judgment by the High Court had erred in finding an obligation to provide children and parents with shelter, it acknowledged that the right in question was justiciable. It ordered the state to 'devise and implement within its available resources a comprehensive and co-ordinated programme progressively to realise the right of access to adequate housing'. This must include measures 'to provide relief for people who have no access to land, no roof over their heads, and who are living in intolerable conditions or crisis situations'.

Source: Government of the Republic of South Africa and Others v. Grootboom and Others 2001 (1) SA 46 (CC).

Sunstein (2001) describes the judgment – with its emphasis on reasonableness – as having balanced respect for the separation of powers, the role of democracy and the fact of limited resources against the requirement to attend to minimal needs. He sees it as novel and innovative, 'requiring not shelter for everyone, but sensible

priority-setting'. The court's approach is, Sunstein says, 'the most convincing rebuttal yet to those who have claimed ... that judicial protection of socio-economic rights could not possibly be a good idea'. Richard Calland noted that *Grootboom* and subsequent cases have eased some of the concerns of sceptics. 'They have seen how the rights framework can allow individuals and communities to penetrate macro-economic prudence and achieve specific results.'

Critics of the judgment say its attempts to keep firmly within judicial realms resulted in a judgment that lacks substantive content. Bilchitz (2007, p. 164) writes: 'Vague exhortations to be reasonable provide the state with little concrete idea as to what is required of it.'

Irene Grootboom died eight years later having not received the alternative housing the judgment had led her to hope for. However, the case did produce concrete changes at both national and municipal level. In the short term, basic services were provided to the affected community and in the longer term a programme of building low-cost housing was instituted. A National Housing Code was developed, covering housing assistance in emergency situations and upgrading of informal settlements. Richard Calland said the case had a 'very powerful impact on policy implementation and policy making' – changes that involved a 'significant shift of resources'.

Steve Kahanovitz pointed to two legacies of the case: the fact that there are now informal settlements in Cape Town to which basic services are provided; and the fact that residents do not feel at continuous risk of eviction. 'Those who want to evict know now that they can't without going through the courts ... This is a significant power shift.'

Providing content and setting deadlines

Another South African case, known as *Mazibuko*, shows that it is possible for judgments to provide concrete content to rights. The case dealt with the issue of free basic water and the compulsory installation of water meters. The High Court stated that its role had to go beyond judging whether or not the Government had been 'reasonable' and went so far as to put a figure on what the constitutional right to water meant in terms of free

basic water. The Supreme Court of Appeal similarly felt able to put a specific figure on this requirement (Chapter 5).

Richard Calland identified a ‘rapid’ maturing process:

[The courts] realized it was no use just coming up with beautiful judgments that don't work in practice and don't have practicable remedies. We have seen a real shift in how remedies are framed – with the courts starting to be more precise.

One criticism of the *Grootboom* judgment is that the court did not retain any form of supervision: the only legal avenue available to challenge the Government on subsequent inaction would be to initiate a new case (Bilchitz, 2007, p. 150). Judicial supervision has, however, proved possible – in cases both in South Africa and elsewhere. In Colombia, for example, the constitutional court heard a case concerning the socio-economic rights of communities displaced by conflict. The court held that the Government's failure to provide for them was unconstitutional. It gave the Government 54 days to produce a time-bound plan (Tomasevski, 2005, p. 3). The court has since issued further orders and received reports on implementation from the Government. Commentators note some improvements, including an explicit commitment from the Government to abide by the court's decision and the placing of displacement issues on the public agenda. However, they say much remains to be done (Cepeda-Espinosa, 2006; ESCR-Net; Rule of Law in Armed Conflicts Project). Christian Courtis noted that the court was able to be ‘bold’ in this case because it was dealing with systemic government failures. Unlike *Grootboom*, this case was dealing not with poor or ill-conceived policies, but with failure to address the issue at all.

The role of civil society

Interviewees cited the absence of strong civil society mobilisation on the issue of housing as one reason why implementation of *Grootboom* was weak. After the case, few actors continued to campaign or monitor implementation. Malcolm Langford noted that the lack of strong civil society mobilisation on housing issues coincides with

the fact that housing services are often delivered locally: national coalitions on local issues are harder to build. He adds that housing is an issue that mainly affects the very poor and as such attracts little ‘middle-class buy-in’, which can be an important component of mobilisation.

The Treatment Action Campaign (TAC) case (Box 20) tells a different story. This concerned access to anti-retroviral drugs. With AIDS-affected households more likely to experience poverty the issue has clear relevance to tackling poverty in South Africa (Sarelin, 2007, p. 462). Like *Grootboom*, the judgment was positive. However, the TAC judgment has been more effectively implemented. This was partly because the judgment provided more precise guidance but also because of the non-legal activities of the TAC. Malcolm Langford noted that the case was born out of a struggle that was already several years old: one that brought together a wide coalition of actors – the church, NGOs, unions, grassroots organisations and former anti-apartheid campaigners. Geoff Budlender noted that the political context enlivened the social mobilisation and advocacy work. Given the Government's controversial position on HIV/AIDS treatment, activists knew that the judgment would be politically – and not just practically or financially – difficult. The need to monitor and advocate for implementation was thus identified at an early stage.

The case illustrates how social mobilisation and advocacy can foster success – both in bringing cases before the courts and in ensuring that legal judgments are translated into change on the ground. Mark Heywood (2009, p. 22) credits the success of TAC's litigation to the fact that it ‘was not left to lawyers, but used to strengthen and empower a social movement’.

Box 20: The Treatment Action Campaign

The Government's programme for dealing with mother–baby HIV transmission meant that the drug Nevirapine was only available in two sites per province. The High Court had ruled that the programme was unreasonable – and therefore unconstitutional – to the extent that it restricted

access to Nevirapine and did not set out a time frame for expansion. The Government appealed, arguing that policy-making was the prerogative of the executive and that courts should not make orders requiring the executive to pursue a particular policy.

The Constitutional Court dismissed the appeal, holding that the policy of restricting Nevirapine was unreasonable. Further, it held that the court's power was not restricted to issuing declaratory orders; it also had a duty to ensure 'appropriate relief', including the power to make orders that affect policy. The court ordered the Government to devise and implement a comprehensive and co-ordinated programme to recognise progressively the rights of pregnant women and their newborn children. The Government responded to the case by instituting a national programme for the prevention of mother-baby transmission (Liebenberg, 2008, p. 100).

Source: Minister of Health and Ors v. Treatment Action Campaign and Ors 2002 (10) BCLR 1033.

In India, ongoing litigation concerning the right to food illustrates how legal and non-legal strategies can complement each other. In this instance, public concern around the issue of access to food was low when the legal case was initiated, despite stark realities, especially in drought-stricken areas. The Right to Food Campaign, a network of civil society organisations and individuals, initiated a legal case before the Supreme Court. The court has yet to issue a final judgment but has issued a number of interim orders, including on the provision of midday meals in government schools. The orders have provided civil society with a useful tool for campaigning and for seeking accountability and information (Muralidhar, 2008, p. 117). The Right to Food Campaign carries out activities including public hearings, public actions, conventions, research and lobbying: 'It soon became clear that the legal process would not go very far on its own. This motivated the effort to build a larger public campaign for the right to food' (www.righttofoodindia.org).

As a counter to this experience, Malcolm Langford noted that there may be instances where implementation of a judgment is easier without large-scale attention on the issue, especially judgments that require governments to take politically unpopular steps.

Conclusion

Interviewees and the literature highlight some difficulties and risks in using legal process to tackle poverty, which suggest that it may often be a strategy of last resort:

- In some instances, legal frameworks may be so lacking or the legal environment so hostile as to lead anti-poverty actors to focus on other, non-legal, strategies.
- Some cases may focus on extreme situations and may not be generalisable in a way that tackles systemic or widespread poverty.
- An obvious risk of pursuing litigation is losing. However, Malcolm Langford commented that losing can 'show the law to be an ass', and feed into debate about longer-term legislative change. Further, litigation can mobilise communities whatever the judgment.
- Litigation risks alienating potential allies, for example in government. Litigation can produce a defensive, reactive approach on the part of government. It can take resources away from proactive, co-operative work. Richard Calland describes this as the risk of 'fragmenting' government responses.
- Litigation is often costly, slow and inaccessible, especially to those on low incomes.

Where litigation on socio-economic rights has been pursued, courts have embraced the role of defining rights and ensuring that judgments are implemented. This jurisprudence is still young but has established the principle that such rights are justiciable.

When rights-holders use the law to claim and realise rights, success – in terms of concrete

changes to the lives of those affected by poverty – appears more likely when litigation is accompanied by campaigning and mobilising which promote policy solutions.

In addition to policy changes, interviewees said the outcome of successful litigation can include a shift in power. Steve Kahanovitz said that once an issue has been decided in court and protection explicitly confirmed – such as protection from forced eviction – communities and individuals are in a stronger position to claim not only the specific rights declared on, but others too. Knowing that your home is not at risk enables participation in public life, including other political campaigning.

5 Duty-bearers: implementing human rights

This chapter outlines selected examples of duty-bearers using human rights to tackle poverty. The chapter includes examples of both duty-bearers strictly interpreted – governments and their agencies – and non-governmental organisations which see themselves as having human rights obligations.

The examples accept the fundamental premise that poverty and human rights are connected. They vary, however, in their response to this premise, and in the extent to which human rights are used as a tool for creating and implementing solutions.

Box 21: Governments and NGOs working together

In some cases government, non-government and international organisations have collaborated to use human rights in anti-poverty work. In Ecuador, work carried out in the late 1990s by the United Nations Children's Fund, analysing the national budget, preceded collaboration between social groups and the executive and legislative branches of government. This work focused on the social impact of budgets and included developing a monitoring system (OHCHR, 2006b, p. 13). Mac Darrow called the output of this collaboration 'one of the best examples of implementing human rights standards through the national budgeting process'.

Governments using human rights

Governments have not used human rights in their anti-poverty work with any level of consistency. Where rights featured, they rarely formed the central pillar of the work. In some cases, as in Ireland, commitments to using human rights in anti-poverty strategies may be made, only to be removed later (Office for Social Inclusion, 2002,

2007). Often human rights are viewed as one perspective among others that should inform anti-poverty strategies. The examples in this section include work that has:

- framed poverty in human rights terms;
- considered individuals as having socially and legally guaranteed entitlements;
- interpreted rights as having correlative obligations held by identified entities;
- recognised that realisation of a broad spectrum of rights can contribute to the solution – the rights to freedom of expression and association, for example, as well as the rights to health or education;
- recognised that equality and anti-discrimination are integral to the work;
- incorporated meaningful consultation.

The examples do not feature use of international human rights law and standards as a guide to change or use of human rights as a tool for evaluation. In some cases there is explicit use of human rights language. In others, the work accords with human rights principles but is not explicitly described as such. Some interviewees acknowledged nervousness about human rights in government circles, due mainly to cost and the fear of litigation.

Interviewees commented consistently on the relevance of politics and history to government approaches to human rights: for example, Scottish devolution prompting a desire to do things differently, or the need to translate the human rights promises of South Africa's new constitution into reality. Mac Darrow of the UN Office of the High Commissioner of Human Rights noted that

breakthroughs in using human rights can come when there is an ‘enlightened administration’ and a ‘propitious moment in a country’s history’.

Box 22: Local governments using human rights

Some local governments have recognised explicitly certain human rights, committed themselves to using human rights standards to guide their work, or adopted charters of human rights. In the United States, these include:

- San Francisco’s local implementation of the principles of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- Chicago City Council’s 2009 resolution of support for the Convention on the Rights of the Child;
- a New York City bill on ‘Human Rights in Government Operations’, which would require the city to correct policies that have a disproportionately negative impact on certain groups.

These initiatives have often been the result of campaigning by grassroots and civil society organisations. Largely recent, their impact cannot yet be assessed.

Sources: www.sfgov.org; www.nychri.org

Giving effect to constitutionally protected rights: the right to water in South Africa

Rights protected by South Africa’s constitution include the right to water. The Government links this right to poverty, noting, ‘Efficient provision of [water] services can help to eradicate poverty and promote economic development’ (Department of Water Affairs and Forestry, 2003, p. iii). Barbara Schreiner, a former ministerial adviser, confirmed that realisation of the right to water was a key driver behind legislation and policy.

South Africa’s work in this area recognises and develops the human rights principle of individuals having claims and other entities having correlative obligations. The 1997 Water Services Act

places explicit duties on government and water authorities. Issues of equality and equal access are embedded throughout.

A significant policy step was the commitment to free basic water, announced in 2001. This established a minimum provision of 6,000 litres of free water per household per month (Department of Water Affairs and Forestry, 2001, p. 5).

Despite improvements, realisation of the right remains uneven. In February 2009, 15 per cent of all households and 25 per cent of poor households still lacked access to free basic water (Department of Water Affairs and Forestry, 2009). Devolution of water management to local government, decreased support from national government and increased pressure on local government ‘to become financially self-sufficient’ are cited as key reasons for difficulties in implementation. The adequacy of 6,000 litres per household has been widely debated and has been brought before the courts (Gowlland-Gualtieri, 2007, p. 7; COHRE, 2008, p. 35).

Despite the patchy realisation of the right to water, former government adviser Barbara Schreiner and Jackie Dugard of the University of Witwatersrand saw the use of rights as having been beneficial, both to civil society and to government. They said human rights have opened up ways of holding government to account. Jackie Dugard had seen disconnections reversed as a result of direct approaches to municipalities: ‘you don’t always have to go the whole way – with litigation – because they know you will’. Barbara Schreiner saw the approach as having given civil society ‘a tool, a benchmark’. Further, it has given those benchmarks to government. This, she believed, ‘keeps government honest ... and makes clear what has to be achieved’. She also described it as a ‘source of great pride to government officials ... it motivates people and makes them feel proud of what they’re doing’.

The Government’s use of human rights includes commitments to participation (COHRE, 2008, p. 35). Jackie Dugard said legislation and policy ‘is very much framed using a participatory model’. However, she noted, ‘in practice public participation is non-existent’. She identified a tendency within municipalities to conceptualise issues in technocratic ways and to view citizens as having little to contribute.

Creating rights and duties through legislation: tackling homelessness in Scotland

In 2003, the Scottish parliament passed the Homelessness etc. (Scotland) Act. The legislative package formed by this and the preceding 2001 and 1987 Acts has been described as ‘the closest thing to the practical implementation of the right to housing the world has yet seen’ (Tars and Egleson, 2009). A leading housing rights NGO says Scotland has ‘the most progressive homelessness law in Europe’ (www.cohre.org). The UN Committee on Economic, Social and Cultural Rights described the law, and its coverage of the right to housing, as ‘best practice’ (CESCR, 2009, para. 29).

The framing of the problem of homelessness in rights terms is clear in the Homelessness Task Force’s (HTF) assessment of legislative change, seen as ‘important in defining the rights of those affected by homelessness and the duties and obligations which local authorities and others have towards them’ (HTF, 2003, para. 6). One policy officer involved in the HTF and its successor, the Homelessness Monitoring Group, commented that there had been growing calls for legal protection of the right to housing and that the task force had considered in detail which elements of tackling homelessness best lent themselves to legislative protection.

The 2003 Act outlines in some detail rights and correlative obligations held by identified entities. These include rights to, and a duty to provide (Berry, 2004):

- assessment and advice;
- temporary accommodation for all homeless people;
- permanent accommodation for all unintentional ‘priority need’ homeless people;
- the duty on the state to progressively eliminate priority need, i.e. expand rights and provisions to all;
- the right to appeal decisions, i.e. the rights are explicitly recognised in the Act as justiciable;

- an obligation on authorities to develop plans to deal with homelessness.

The Task Force adopted a holistic approach to poverty, recognising that homelessness often results when other needs have not been met. However, this holistic thinking, while compatible with human rights principles, was not explicitly conceived as such. Nor did it extend to protecting rights beyond the right to housing.

The anti-homelessness work in Scotland also reflects commitments to non-discrimination, participation and empowerment (HTF, 2003).

Tangible changes have been identified as resulting from this work. By 2005, local authorities had put in place strategies for dealing with homelessness, and a number of complementary initiatives followed, including the Scottish Homelessness and Employability Network and a set of Health and Homelessness Standards. After the Act the number of homelessness applications rose; this was viewed positively as being the result of the increase in protection of rights. The number of people sleeping on the streets fell (Tars and Egleson, 2009).

The Act, the initiatives that informed it and those that followed it clearly have strong elements of using rights to tackle poverty. One policy officer who worked on the HTF said using rights provided overall coherence to the work and a narrative with which it was difficult for people to disagree.

While many elements of this process accord with using human rights as an anti-poverty tool, not all were recognised as such. Explicit references to ‘human rights’ in the accompanying literature are few and do not exist at all in the legislation. Where rights do feature they are seen as legal concepts. Work to ensure consultation, participation and a holistic approach to tackling homelessness accord with human rights but are not explicitly conceived as part of a rights-based approach.

NGOs using human rights in anti-poverty programmes

This section looks at NGOs that view themselves as having human rights responsibilities to work

with rights-holders to facilitate realisation of rights. Key examples come from the international development sector. CARE, Oxfam, Save the Children, ActionAid, Concern and Plan are among the larger agencies with commitments to using human rights to combat poverty.

Jennifer Grant of Save the Children UK (SCUK) explained that human rights inform SCUK's work in two ways. The first is to ensure that every SCUK programme is based on key human rights principles. The second is carrying out programmes with explicit human rights objectives. These human rights programmes, she argued, 'are about taking human rights-based approaches to the next step'.

Agencies that use human rights to tackle poverty see their work as including (ActionAid, 2004; CARE, 2004; IAG, 2004; Bode *et al.* 2005; IAG, 2007):

- an acceptance of poverty and rights as being connected;
- analysing the causes of poverty and power relations;
- participation of people in decisions that affect their lives;
- the realisation of the rights of all people regardless of identity;
- clarifying the obligations of the state and other duty-bearers and ensuring they are fulfilled;
- using rights to guide decisions;
- accountability, including of NGOs themselves.

The following examples (Boxes 23 and 24) illustrate different aspects of this work.

Box 23: Understanding power relationships: CARE in Bangladesh

In Bangladesh, CARE's analysis of power relations revealed 'the ways in which formal and informal institutions ... present barriers or opportunities for the poor to exercise rights'.

This realisation highlighted to CARE the fact that the very nature of its work – on improving livelihoods of small-scale farmers through integrated rice–fish production – had led it to work with powerful elites. The rights-based aim of working with less influential neighbourhoods, combined with a better understanding of the power relationships at play, precipitated the decision to use work in the area of sanitation as an 'entry point' to reach these communities. CARE's role in the sanitation work was largely confined to provision of information, support to the community to implement work and 'assisting the community to share their success with other communities nearby'. In this instance the rights-based approach not only influenced how something was done, but led to new decisions about *what* was done.

CARE notes that the successful implementation of the community-led sanitation project was followed by a wholly different project undertaken by the community on its own initiative – to pool private spaces to allow for collective cultivation of the vine potato, a crop traditionally used in hunger periods.

Source: Bode *et al.*, 2005.

Box 24: Education and poverty: improving education through building networks

ActionAid sees education as 'a fundamental right in itself and as an enabling right, a catalyst for human development in the fullest sense' (ActionAid, 2000b, p. 9).

ActionAid's rights-based approach has led it to shift its emphasis away from implementing specific education projects – 'building schools or paying for teachers' – towards 'persuading governments and institutions such as the IMF [International Monetary Fund] to invest in education' (ActionAid, 2008, p. 23). It has focused on building networks of local organisations in countries across Africa, Asia and Latin America to become 'policy interlocuters' (ActionAid, 2002a, p. 3). The underlying rights-based principles are that causes needed to be tackled, not just symptoms; and that governments needed to

take action to fulfil the right to education. This was seen as a step forward from NGOs being 'busy delivering services in a bid to patch up the gaps in education provision' (ActionAid, 2002a, p. 3). The approach was to support these networks and 'to let people develop ... analysis for themselves'. ActionAid's review of this work concluded that this flexibility allowed for 'genuine local ownership of the international effort' (ActionAid, 2002a, p. 2).

The review concluded that, in many countries, 'NGOs and [civil society organisations] are pressing for accountable, pro-poor policies for the first time and in an organised and sustained manner. Governments are beginning to feel the need to sit up and take notice' (ActionAid, 2002a, p. 2).

As well as supporting local networks to lobby government, ActionAid supported governments in lobbying the IMF. In Mozambique this resulted in a shift of IMF policy and IMF approval of the recruitment of 9,000 new teachers.

Sources: ActionAid, 2002a, 2002b, 2008.

Evaluating the rights-based approach

Our research revealed few systematic evaluations of the 'value added' of work to implement human rights as an anti-poverty tool. One exception is a report by the Inter-Agency Group on Rights Based Approaches, a network of UK-based NGOs. This report (IAG, 2007) looks at 14 projects – seven rights-based projects and seven non-rights-based projects. The research showed that rights-based projects 'are having considerably more success ... in attaining impacts that will lead to sustained positive change' (IAG, 2007, pp. 8–9). It concluded that this was achieved by looking at underlying causes, by connecting citizens and governments and by linking the work to vulnerability – not just asset accumulation. The author of the report, Sheena Crawford, said that of the benefits identified sustainability and heightened political agency of those experiencing poverty were the highlights.

Conclusion

Activity by duty-bearers to use human rights in anti-poverty work is episodic. Where human rights are used to frame policy or programmes, they can be peripheral or feature as one among many motivating factors. Rarely are human rights at the core of a government's anti-poverty work. Political and historical moments often contribute to the way in which human rights are embraced.

Gains from embracing human rights can be in process as well as outcome. These have included greater participation and accountability. However, paper commitments to participation have not always been fulfilled.

NGOs have increasingly taken on a view of themselves as duty-bearers with responsibilities to the rights-holders with whom they work. Using human rights has led them to look at underlying causes of poverty. Work to address these causes can include rethinking the very content of programmes. It has enabled communities to articulate and implement solutions.

Evaluation of the 'value added' of using human rights to confront poverty is scant. Interviewees commented on the need for larger-scale evaluation. Evaluation of NGO work indicates that key gains are the sustainability of positive outcomes and heightened political agency of those experiencing poverty. As examples of implementation grow, evaluation is essential to inform how using human rights is taken beyond the theoretical to the practical.

6 Connecting human rights and poverty in the UK

At four seminars in London, Belfast, Edinburgh and Cardiff, a range of human rights and anti-poverty actors discussed the environments in which they work, the extent to which human rights and poverty are already connected in the UK, and the potential for strengthening integration. This chapter presents an overview of these discussions, as well as drawing on relevant literature. However, it was beyond our scope to examine in detail how far human rights and anti-poverty strategies have been connected in the UK, and to what effect.

The political and economic context

The four UK seminars revealed some common challenges and opportunities for integrating human rights and anti-poverty work. The most urgent relate to the economic downturn and its projected impact in the form of rising unemployment and deep public spending cuts.

Participants noted that political and public debate about the Human Rights Act (HRA) is frequently negative: David Cameron has indicated that a future Conservative government would replace the HRA, which he accuses of hindering the fight against terrorism and creating an infantilising culture (Conservative Party Conference, 2008; www.conservatives.com).

Participants observed that mainstream political parties debate poverty largely through the prism of welfare reform, conditionality and compulsion; one said 'rights-based language may not be politically effective in that environment'. Some suggested the recession could further harden attitudes to people experiencing poverty and erode support for the idea of socially and legally guaranteed entitlements.

Other participants, however, saw the potential for human rights to keep poverty – as opposed to welfare reform – on the political agenda. Shared economic insecurity might create greater empathy for people experiencing poverty. Participants

spoke of an appetite in all four nations for a 'new paradigm' to shape public debate and policy around poverty. Some said human rights could help provide this by promoting the dignity and participation of affected communities, and by pushing to the fore the human rights principle of accountability in relation to public expenditure. However, the seminars highlighted the scarcity of authoritative voices to promote these ideas, particularly at a UK Government level.

Overlaid on these common themes are the distinctive political environments that have developed in the nations of the UK in the decade since devolution.

Participants in Belfast spoke of the 'sectarianisation' of poverty: perceptions among the Unionist community that socio-economic rights benefit the nationalist community had silenced or distorted political debate about the causes of poverty and how to confront it. In Wales, participants noted the prevalence of 'aspirational rhetoric' in relation to human rights but an 'implementation gap' in translating strategies into cultural, social and policy change (except, notably, the field of children's rights). Participants in Scotland saw potential to use human rights to promote anti-poverty goals, for example by using Scotland's human rights-based homelessness law (Chapter 5) as a 'battering ram' for improved service delivery; however, they suggested this potential remains largely unfulfilled.

Transforming debate about both poverty and human rights

Many UK anti-poverty actors see the language of human rights as complicating efforts to influence some audiences. In Northern Ireland, the Rural Community Network avoids talking about human rights because they are seen by rural communities as 'technical, inaccessible and oppositional rather than being about solutions and relationships'.

Participants in Cardiff described strong Welsh traditions of solidarity and collective action as jarring with commonly held perceptions of human rights as individualistic.

However, some participants had found human rights to be persuasive and revelatory to particular audiences. A third sector organisation supporting people with sight loss in Wales said rights language was a 'very powerful tool' to increase confidence and a sense of entitlement among individuals living on benefits.

In common with international experience, UK participants suggested that human rights values have broad appeal. Polling and qualitative research in the UK shows that most people respond positively to the language of dignity, respect and fairness, even if they believe that the HRA benefits 'undeserving' groups unfairly (EHRC, 2009, pp. 161–83). Some participants, however, noted that values language alone can be 'diluting' unless allied to human rights or equality provisions with deeper legal or policy content.

Participants suggested that linking human rights and anti-poverty work could help shift perceptions of both human rights and poverty. The parliamentary Joint Committee on Human Rights (JCHR) argues that:

rights such as the right to adequate healthcare, to education and to protection against the worst extremes of poverty touch the substance of people's everyday lives, and would help to correct the popular misconception that human rights are a charter for criminals and terrorists.

(JCHR, 2008, p. 56)

Opinion surveys suggest that economic and social rights are popular with the UK public. The 2006 Joseph Rowntree Charitable Trust State of the Nation poll found that 65 per cent of people thought the right of homeless people to be housed should be included in a bill of rights. Participants in Belfast said extensive consultation around the Northern Ireland bill revealed a 'striking' degree of cross-community support for legally enforceable socio-economic rights.

Notwithstanding the potential for using human rights to shift public debate, seminar participants highlighted widespread lack of awareness and understanding of human rights and their links

to poverty, among communities affected by poverty, the public, advice groups and other third sector organisations, and those who design and implement public policy. They identified a need to develop capacity and understanding among these constituencies, allied to evaluative work which explores the advantages of using human rights in anti-poverty work. The UK Government has said it does not believe that further raising of awareness of economic and social rights 'would be of practical benefit to the general public, or that it would necessarily lead to better standards of service' (Scottish Human Rights Commission, 2009, p. 4).

Using human rights to mobilise communities and pursue accountability

There is little evidence in the UK of communities and their allies using human rights to mobilise against injustice or to articulate their claims in human rights terms. The Scottish Campaign on Welfare Reform rejected using human rights because they were viewed as 'legalistic' and as requiring expertise that was lacking. Participants in Wales spoke of a 'poverty of aspiration' which prevented communities from seeing the state as accountable for deprivation. Participants in all four nations said the shame and isolation felt by people experiencing poverty can discourage mobilisation under a shared banner.

There are exceptions to these trends. The Participation and Practice of Rights Project in north Belfast has pioneered the use of human rights by communities to measure progress on local issues in addition to achieving participation and accountability (Box 15). The British Institute of Human Rights (BIHR) is supporting several London-based voluntary and community organisations that are working with and for people facing poverty or social injustice (www.bihr.org.uk/projects/poverty). BIHR says the project will enable organisations to use human rights to strengthen their voice and influence with policy-makers.

Evaluations of the impact of these initiatives will contribute to the evidence base for the efficacy of participatory approaches to connecting human rights and poverty.

At a national level, Democratic Audit promotes the idea of using human rights as a route to social justice (Weir, 2006; www.democraticaudit.com). The Equality and Human Rights Commission is exploring how its human rights and equality remit can be used as a basis for anti-poverty work (BIHR *et al.*, 2008).

A project at Queen's University Belfast aims to use human rights to strengthen the advocacy capacity of communities experiencing poverty in relation to Northern Ireland Assembly budgets (www.qub.ac.uk). The Scottish Human Rights Commission submitted a shadow report to the UN Committee on Economic, Social and Cultural Rights in 2009, highlighting among other issues the rights to housing and to health (www.scottishhumanrights.com).

Using legal process to combat poverty

In the UK, the European Convention on Human Rights and Fundamental Freedoms (ECHR) and, more recently, the HRA offer a degree of legal protection against poverty, largely through the use of what are viewed as civil and political rights.

Anti-poverty actors have used the HRA as part of strategies to achieve specific policy changes. The case of *Limbuela* required a change in UK Government policy on asylum support after the court ruled that destitution within the asylum system amounted to inhuman and degrading treatment. The judgment in the case of *T & S*, brought by the Child Poverty Action Group, forced the Home Office to give a cash equivalent to milk tokens to asylum-seeker mothers to prevent transmission of HIV to their babies.

Some participants noted that such cases do not always yield generalisable principles that can be applied to systemic aspects of poverty. Others spoke of untapped potential to use the HRA to tackle poverty. In addition, they highlighted the need to communicate more effectively the achievements of the HRA and case law in promoting changes to policy and practice that have reduced poverty in some circumstances.

Participants said individuals experiencing poverty face obstacles in accessing legal process and securing remedies – primarily cost, protracted

timescales and low levels of awareness. Sarah Clarke of the Child Poverty Action Group sees provision of legal advice services as ‘a vital anti-poverty measure’. Participants representing law centres expressed concern about decreasing resources available to do outreach work and the impact of market-driven reforms to legal aid.

In March 2009, the UK Government introduced a Green Paper on a Bill of Rights and Responsibilities. The JCHR (2008) and the Scottish Human Rights Commission (2009) say it should include the rights to health, education, housing and an adequate standard of living; however, the Government has effectively ruled out making such rights justiciable (Appendix B).

The Northern Ireland Human Rights Commission has drafted a Bill of Rights which recommends the inclusion of legally enforceable economic and social rights (NIHRC, 2008). However, seminar participants suggested the bill faced political obstacles, including an insistence by the nationalist community on an all-Ireland bill of rights.

Connecting human rights and poverty in public policy and service delivery

The JCHR (2004, p. 38) says ‘a rights-based approach can assist government in addressing poverty and Parliament and civil society in scrutinising its success in doing so’. Yet a report on using human rights to tackle UK poverty found no sustained linkage in public policy (BIHR *et al.*, 2008, p. 5). Broad-brush commitment to human rights is evident in, for example, the treasury guidance on resource allocation which says departments must ‘give consideration’ to human rights legislation, but offers no guidance about how to do so.

The devolved administrations of the UK have, in some cases, made stronger links between human rights and poverty in aspects of public policy. In 2004, the Welsh Assembly Government adopted the Convention on the Rights of the Child as the basis for its child poverty strategy and the mandate of the Children's Commissioner for Wales (WAG, 2004). Funky Dragon, the Children and Young People's Assembly for Wales, engaged

more than 12,000 children and young people in its *Our Rights, Our Story* report, later presented to the UN body monitoring on children's rights.

A government adviser at the Belfast seminar said using human rights would 'make it easier for us to talk to the different constituencies ... about the distribution of resources'. However, seminar participants said there was no official consensus about how to use human rights in anti-poverty work. They added that the implementation of anti-poverty strategies in Northern Ireland is often stymied by a combination of bureaucratic inertia, political inexperience and sectarian divisions, complicating efforts to 'graft' human rights onto existing approaches.

BIHR works with government departments, public authorities and advocacy groups to enable them to use human rights to challenge entrenched bad practice and promote human rights-based solutions. BIHR (2008, p. 18) recounts one case in which a support group used human rights to challenge a decision to remove children from a mother living in poverty, who was in temporary accommodation to escape an abusive father. Other examples involve using human rights to promote the dignity and autonomy of people using public services.

There is evidence that participatory human rights work – like that of the Participation and Practice of Rights Project in Belfast (see above and Box 15) – generates low-cost, practical solutions to problems experienced by people living in poverty and can help deliver best use of public funds. There is scope to develop replicable models of how to use human rights to influence the way decisions are made and services delivered to communities experiencing poverty. A specific opportunity was identified in Northern Ireland: the piloting of participatory human rights work as part of the ongoing process of testing Community Planning models.

Conclusion

The seminars showed that work to connect human rights and poverty in the UK is in its infancy. Participants identified several factors that would help strengthen this connection:

- greater awareness and understanding of human rights among policy-makers, third sector organisations and affected communities – including socio-economic rights and the Human Rights Act;
- guidance on using human rights to frame policy and practical solutions to poverty;
- evaluation of work linking human rights and poverty to demonstrate its pragmatic value;
- ensuring that legal process is accessible including through legal advice and legal aid;
- the promotion of human rights to policy-makers, public authorities and third sector organisations as a tool to enhance and complement existing work, including equality-based strategies.

7 Conclusions and next steps

Our international research allowed us to draw conclusions about the ways in which human rights are being used to confront domestic poverty outside the UK. Our four seminars debated the extent to which this international experience has resonance and lessons for anti-poverty actors in the UK. This chapter draws together all these findings. It ends with the authors' recommended next steps to strengthen integration of human rights and anti-poverty work in the UK.

Conclusions

Context is crucial to the success or otherwise of using human rights to combat poverty

In South Africa, the injustice of apartheid shaped the protection of human rights in the 1996 constitution. In the United States, the weakness of social safety nets and consequent levels of degradation and insecurity give human rights a resonance that might be harder to achieve in a country, like the UK, with a social democratic tradition. Contingent factors also play a role: changes in the political and economic climate, individual leadership and international events that strike a chord at the domestic level.

Human rights provide an analytical framework to understand poverty

Human rights conceive poverty as being multidimensional, encompassing not only a low income but also other forms of deprivation and a loss of dignity and respect. A human rights conception of poverty moves away from top-down, discretionary responses and towards the claiming of socially and legally guaranteed entitlements.

In the UK, some non-governmental anti-poverty actors acknowledge and sometimes embrace these ideas; however, examples of implementation are few. Within government there is little visible evidence that human rights are actively used to understand or address poverty.

Human rights can reframe poverty so as to transform public debate and shift (self) perceptions

Human rights have been used in some contexts outside the UK to challenge punitive public discourses which stereotype people living in poverty as fraudulent or feckless. The language of human rights shifts the burden of responsibility for poverty off those experiencing it, focusing instead on the role of duty-bearers, especially the state. Human rights emphasise the structural causes of poverty – such as government policy – rather than individual causes. Human rights have proved revelatory to some communities experiencing poverty – a banner under which to assert dignity and unite around shared injustice. Interviewees said human rights can give people living in poverty 'a sense of self' in relation to the state and a belief that they are worthy of investment.

Participants in the UK seminars differed in their perception of the potential to use human rights to change attitudes towards poverty. The potential was acknowledged but it was seen as challenging through lack of understanding and awareness and a belief that human rights language is not always politically effective.

The term 'responsibility' can have negative connotations in relation to poverty

International experience suggests the term 'responsibility' can have strongly negative connotations when used in relation to people experiencing poverty. In the United States, the rhetoric of personal responsibility underpinned retrogressive welfare reform. This experience suggests the need for UK anti-poverty actors to challenge the way notions of responsibility are used in debates around welfare reform and the proposed Bill of Rights and Responsibilities (Appendix B).

Some audiences have negative attitudes to human rights but these are not immutable

International experience suggests that, in some instances, communities experiencing poverty are (at least initially) wary of 'rights talk', seeing it as inaccessible or overly adversarial, and not necessarily pro-poor. Both official and public audiences sometimes associate human rights negatively with litigation or with what they perceive as 'undeserving' groups. Interviewees emphasised the need to 'translate' human rights so that they resonate with particular audiences. They said the language of human rights values, such as dignity, generally commands the widest assent. They advocated a strategic approach to reframing poverty issues for particular audiences, with the aim of embedding human rights in the popular imagination over time.

The need for this kind of strategic approach was apparent in our UK seminar discussions, and has also been identified in other literature (EHRC, 2009). Negative perceptions of human rights in the UK include a view that they are legalistic or irrelevant to issues of poverty. What was striking in the UK discussions was the suggestion that introducing socio-economic rights – and the significance of civil and political rights as an anti-poverty tool – more visibly into public debate may help challenge perceptions that human rights benefit only certain groups. Participants noted that the notion of human rights as empowering individuals living in poverty challenges the argument that the HRA creates an infantilising culture.

Communities can use human rights to mobilise and build alliances

Some communities and their allies that use human rights to mobilise against poverty outside the UK say they offer advantages against more top-down and discretionary models. A striking feature of the US experience is the way that human rights are used to attract new constituencies to anti-poverty work and to build alliances between disparate groups. Interviewees said this is a significant gain at a time when the differential impact of recession might threaten community cohesion.

Anti-poverty work in the UK is often focused on particular groups (migrants, children, people with disabilities, for example) or on particular issues

(housing, employment rights). Seminar participants noted that there is potential to use human rights to galvanise co-ordinated anti-poverty work in the UK but it remains largely untapped.

Human rights provide tools to monitor government policy for its impact on people experiencing poverty and to strengthen accountability

A variety of tools are used internationally to hold states accountable for their human rights obligations in relation to poverty. For example, human rights audits have exposed how tax systems and other aspects of macro-economic policy may violate human rights principles. The process of strengthening human rights accountability requires collaboration between human rights and anti-poverty actors who may be unfamiliar with each other's habitual frameworks. Interviewees highlighted the use of accountability mechanisms as a way of galvanising communities experiencing poverty. The pursuit of accountability can generate data, policy solutions and new understandings of poverty which may, in turn, open up spaces for engagement with the state and influence official action. This work may gain increased urgency if human rights are used to frame responses to the impact of recession on communities affected by poverty.

In the UK, tools for accountability (such as shadow reporting) have begun to be used to confront aspects of poverty. Potential exists to develop similar work focused on the devolved parliaments, the UK Parliament and local government.

Human rights are used to promote participation in decision-making by communities experiencing poverty

International experience shows that anti-poverty work is strengthened when the experience of people living in poverty is brought to bear on advocacy, policy development, legal representation and other relevant arenas. The participation of affected communities has resulted in the framing of legal cases and policy demands, and the seeking of remedies that reflect local realities and priorities. In other instances, communities have set targets for duty-bearers to fulfil their right to participate in decisions about how money is spent and services

delivered. Our international review and discussions with UK actors indicate that paper commitments to participation are hard to realise in practice, suggesting the need for sustained monitoring and mobilisation around this goal.

The full potential of human rights lies in promoting human dignity inside and outside the courtroom

For some actors, human rights are nothing if they are not legally enforceable. For others, the power of human rights lies outside the courtroom. This difference of emphasis risks creating an artificial disconnection between legal and political strategies. Interviewees said that, in the pursuit of dignity, there is no fundamental distinction between litigation and other forms of social action: the choice is a pragmatic one. Successful anti-poverty campaigns in South Africa, India and Nigeria, among others, have combined litigation with mobilisation and advocacy in pursuit of policy change and implementation.

In the UK, some human rights litigation has been accompanied by campaigning and advocacy; UK actors may have much to gain from examining these examples and strategies used in other countries.

Litigating for human rights presents both opportunities and risks

Constitutional and other legal protection of civil and political and socio-economic rights has achieved tangible results in tackling poverty in some contexts, including the UK. Jurisprudence on socio-economic rights has established that such rights are legally enforceable and can reduce poverty in some circumstances – confounding arguments against justiciable socio-economic rights, including arguments used by UK politicians (Ministry of Justice, 2009) (Appendix B). However, human rights gains in the courts might not impact upon policy and practice unless strategies are in place to ensure monitoring and implementation, including sustained social mobilisation around policy goals. There are obstacles and risks associated with litigation, and with the excessive ‘legalisation’ of human rights that neglects other strategies for promoting rights-based values such as political campaigns and social mobilisation.

Governmental use of human rights is episodic but has brought benefits

The record of governments using human rights as an anti-poverty tool is episodic. Rarely are human rights at the core of a government’s anti-poverty work. We present examples of governments using human rights to bring coherence to – and permit prioritisation within – policies and programmes to tackle poverty, like Scotland’s homelessness law, and to set transparent targets to measure progress, as with the right to water in South Africa. In the UK, there is little visible evidence of the UK Government using human rights as a policy tool.

Human rights encourage a wider understanding of the accountability of anti-poverty actors

NGOs, especially in the international development sector, increasingly view themselves as having human rights responsibilities. Some have used human rights to analyse the root causes of poverty and, in some contexts, to transform their working processes and their substantive goals. Evaluation of this work indicates that key gains are the sustainability of positive outcomes and heightened political agency of those experiencing poverty.

There was little evidence from the UK seminars that non-governmental anti-poverty actors are using human rights substantially to reshape their practices and goals or their relationship with the constituencies with whom they work. However, some poverty-focused NGOs have introduced aspects of human rights to their work and there is an appetite for more knowledge and understanding about how to use human rights. Some organisations that use human rights in anti-poverty work outside the UK (such as Save the Children) also use human rights in their work within the UK.

Human rights have the potential to enrich and extend equality-based approaches to anti-poverty work

Human rights have the principles of equality and non-discrimination at their core; this includes the right not to be discriminated against and the right to enjoy all rights on an equal basis. We have reviewed evidence of human rights being used to unite disparate groups, transcending identity

barriers. Interviewees suggest that human rights can render visible groups that fall outside the protection of anti-discrimination legislation, and can amplify their voice and open channels for redress.

Participants in our UK seminars strongly agreed that human rights, equality and non-discrimination formed a package, commenting that different frameworks could be used in complementary ways.

There is a need for more, and better resourced, strategic evaluation of the impact of using human rights in anti-poverty work

Interviewees and UK seminar participants said ‘the jury is still out’ as to the primary impact (positive or negative) of integrating human rights and anti-poverty work. Human rights have entered new terrain with the need for an evidence base to demonstrate their pragmatic value in confronting poverty. Participants in our research highlighted a lack of commitment at a national and international level – and among funding bodies – to pursue such evaluation. They said there is a need to ‘scale up’ existing fragmentary evidence by means of properly resourced longitudinal evaluations. This in turn requires thinking beyond quantitative, empirical approaches to develop methodologies that capture the behaviour change and outcomes that human rights interventions bring about.

Next steps: strengthening integration of human rights and anti-poverty work in the UK

This section sets out proposals to develop understanding of the impact of integrating human rights and anti-poverty work in the UK, and to strengthen integration where positive impact has been identified outside the UK. They are addressed to a wide range of actors, including governmental and non-governmental actors, affected communities and their allies, researchers and funders. They are grouped according to function; some individuals and organisations may straddle these functions.

To actors involved in public debate on poverty and/or human rights

- Use human rights language and principles to open up new ways of talking about poverty in the UK, moving debate away from a punitive or stigmatising discourse to one that focuses on socially and legally guaranteed entitlements. Child poverty may be especially fruitful given its higher visibility and proposed legislative targets; however, care should be taken not to mask other significant areas of poverty.
- Develop ways of using the experience of poverty to transform public debate about human rights, challenging perceptions that human rights are limited to civil and political rights, are infantilising or only benefit certain groups.
- Consider contributions to the debate about the UK Government’s proposed Bill of Rights and Responsibilities, challenging the use of notions of ‘responsibility’ in relation to people experiencing poverty and communicating the positive impact that is evident in other national contexts from having legally enforceable social and economic rights.

To actors currently linking human rights and anti-poverty in their work, including government and non-government, poverty-focused and rights-based organisations, implementation- and advocacy-based organisations, and funders

- Work to integrate human rights and anti-poverty strategies should be accompanied by evaluative, participatory research to generate evidence on its impact. This may require the development of new evaluative approaches.
- Funders should provide adequate support for such evaluations.
- Evaluations should be shared widely and their replicable lessons promoted.

- Practical guidance on applying human rights to public policy around poverty should be developed and shared with actors, including government actors, with potential to use human rights in their anti-poverty work.

To actors developing and promoting work linking human rights and poverty

- Consider the scope for replicating participatory human rights work such as that of the Participation and Practice of Rights Project in Belfast (Box 15).
- Consider using shadow reporting to UN treaty-monitoring bodies and participation in the Universal Periodic Review of the Human Rights Council as tools to hold governments to account.
- Undertake work to develop understanding of – and capacity to use – human rights in anti-poverty strategies, among communities affected by poverty, the public, advice groups and other third sector organisations, and those who design and implement public policy.
- Promote human rights as a tool that will complement and enhance existing frameworks, such as equality.
- Develop tools to advocate against and monitor public spending cuts to ensure that they do not fall disproportionately on people on low incomes.

To researchers and research-funding bodies

- Conduct baseline research on how far human rights and anti-poverty strategies have already been connected in the UK, and to what effect, especially in the area of public policy.
- Consider funding or undertaking participative evaluations of the impact of connecting human rights and poverty.

- Consider work to develop and use human rights-based budget analysis and auditing of macro-economic policy, focused on the UK Parliament, devolved parliaments and local government.

To actors involved in legal process and human rights

- Communicate more effectively the achievements of the Human Rights Act and case law in promoting changes to policy and practice that have reduced poverty in some circumstances.
- Undertake relevant action aimed at ensuring that legal process and other remedies – such as ombudsmen – are accessible, including through legal aid.

List of abbreviations

CERD	Committee on the Elimination of Racial Discrimination	SCUK	Save the Children UK
CESCR	Committee on Economic, Social and Cultural Rights	SERAC	Social and Economic Rights Centre (Nigeria)
COHRE	Centre on Housing Rights and Evictions	TAC	Treatment Action Campaign (South Africa)
DFID	Department for International Development (UK)	UDHR	Universal Declaration of Human Rights
EAPN	European Anti-Poverty Network	UNDP	United Nations Development Programme
ECHR	European Convention on Human Rights and Fundamental Freedoms	UPR	Universal Periodic Review
ECSR	European Committee of Social Rights		
EHRC	Equality and Human Rights Commission (UK)		
HRA	Human Rights Act		
HRC	United Nations Human Rights Committee		
HTF	Homelessness Task Force (Scotland)		
IAG	Inter-Agency Group on Rights Based Approaches (UK)		
IMF	International Monetary Fund		
JCHR	Joint Committee on Human Rights (UK)		
JRF	Joseph Rowntree Foundation		
KWRU	Kensington Welfare Rights Union (United States)		
NESC	National Economic and Social Council (Ireland)		
NESRI	National Economic and Social Rights Initiative (United States)		
NGO	Non-governmental organisation		
NIHRC	Northern Ireland Human Rights Commission		
NLCHP	National Law Center for Homelessness and Poverty (United States)		
ODI	Overseas Development Institute (UK)		
OECD	Organisation for Economic Co-operation and Development		
OHCHR	Office of the High Commissioner for Human Rights		
PPEHRC	Poor People's Economic Human Rights Campaign (United States)		
PPR	Participation and Practice of Rights Project (Northern Ireland)		

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UK: Homelessness etc. (Scotland) Act 2003

UK: Human Rights Act 1998

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R (Limbuela and Others) v. Secretary of State for the Home Department [2005] UKHL 66

R v. Secretary of State for Health and Secretary of State for the Home Department ex parte T and S [2002] EWHC 1887

Useful web-based resources

ActionAid: www.actionaid.org.uk

ATD Fourth World: www.atd-uk.org

British Institute of Human Rights: www.bihhr.org.uk

CARE International: www.careinternational.org.uk; www.promotingrights.org

The Centre for Equality Rights in Accommodation (Ontario, Canada): www.equalityrights.org/cera/index.cfm

Centre on Housing Rights and Evictions: www.cohre.org

Child Rights Information Network: www.crin.org

Collectif pour un Québec sans pauvreté: www.pauvrete.qc.ca

Department for International Development (UK): www.dfid.gov.uk

Department of Water Affairs and Forestry (South Africa): www.dwaf.gov.za

Equal in Rights: www.equalinrights.org/home

ESCR.Net: www.escr-net.org

European Anti-Poverty Network: www.eapn.eu

FIAN – FoodFirst Information and Action Network: www.fian.org

Homelessness Task Force (Scotland):
www.scotland.gov.uk/Topics/Built-Environment/Housing/access/homeless/htf

Interaction (US): www.interaction.org

Joint Committee on Human Rights (UK): www.parliament.uk/parliamentary_committees/joint_committee_on_human_rights.cfm

National Economic and Social Council (Ireland):
www.nesc.ie

National Economic and Social Rights Initiative (US):
www.nesri.org

Northern Ireland Human Rights Commission:
www.nihrc.org

Office for Social Inclusion (Ireland):
www.socialinclusion.ie

Office of the High Commissioner for Human Rights: www.ohchr.org

Overseas Development Institute, Human Rights project: www.odi.org.uk/odi-on/human-rights-day/index.html

Participation and the Practice of Rights Project:
www.pprproject.org

Poor People's Economic Human Rights Campaign (US): www.economichumanrights.org/members.html

Right to Food Campaign (India): www.righttofoodindia.org

Right to Water: www.righttowater.org.uk

Social and Economic Rights Action Center (Nigeria): www.serac.org/Pages.asp?id=298

Social Rights Advocacy Centre (Canada):
www.socialrights.ca

Townsend Centre for International Poverty Research: www.bris.ac.uk/poverty/background.html

Treatment Action Campaign (South Africa):
www.tac.org.za/community

United Nations Development Group – Human Rights Policy Network (Huritalk): www.undp.org/governance/programmes/huritalk.htm

US Human Rights Network: www.ushrnetwork.org

Appendix A:

International human rights law

The following instruments include a wide range of rights relevant to tackling poverty. The texts of these, and other human rights instruments, can be found at www2.ohchr.org/english/law/index.htm#instruments.

- Universal Declaration of Human Rights (1948);
- International Covenant on Economic, Social and Cultural Rights (1966);
- International Covenant on Civil and Political Rights (1966);
- International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- Convention on the Elimination of All Forms of Discrimination against Women (1979);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- Convention on the Rights of the Child (1989);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- International Convention for the Protection of All Persons from Enforced Disappearance (2006);
- Convention on the Rights of Persons with Disabilities (2006);
- Guiding Principles on Internal Displacement.

With the exception of the Universal Declaration and the Guiding Principles on Internal Displacement these instruments are treaties. Lists of state parties to each treaty can be found with the treaty text at

the above link. State parties to a treaty are bound by it. In some countries treaties are incorporated into domestic law through the enactment of specific legislation.

Key rights relating to poverty eradication include:

- the rights to equality and freedom from discrimination;
- the right to life;
- the right to be free from torture or from cruel, inhuman or degrading treatment or punishment;
- the right to freedom of expression;
- the right of peaceful assembly;
- the right to freedom of association including the right to form trade unions;
- the right to take part in the conduct of public affairs;
- the right to work;
- the right to an adequate standard of living, including adequate food, clothing and housing;
- the right to the highest attainable standard of physical and mental health;
- the right to education.

Appendix B: Human rights in the UK

The Human Rights Act and human rights commissions

The Human Rights Act (HRA) came into force in 2000 (1999 for the devolved administrations). The HRA makes it possible for people to take cases concerning the rights contained in the European Convention on Human Rights before domestic courts. Prior to the HRA, cases directly invoking the convention had to be taken before the European Court of Human Rights in Strasbourg.

The HRA aimed to foster a culture of respect for human rights and place them at the heart of public service delivery. Research covering Britain (EHRC, 2009) says such a culture has largely failed to take root among public authorities, due mainly to a dearth of leadership at a UK Government level and the absence until recently of a human rights commission. The EHRC opened in 2007, covering England, Scotland and Wales. It combines the work of the former equality commissions and has a mandate to promote understanding of the HRA. In 2008, Scotland opened a human rights commission dealing with devolved matters. The Northern Ireland Human Rights Commission was set up in 1999 under the Good Friday Agreement.

A Bill of Rights and Responsibilities

In March 2009, the UK Government introduced a Green Paper on a Bill of Rights and Responsibilities. The Green Paper sets out options for the status of the proposed bill. One is a purely declaratory and symbolic statement. Another is a statement of 'interpretative principles' which might inform legislation, as well as public authority and court decisions, while not necessarily giving rise to enforceable individual rights. A third is a set of rights and responsibilities directly enforceable by individuals in the courts.

The Green Paper effectively rules out the third option: it says the UK Government 'does not consider that a generally applicable model of directly legally enforceable rights or responsibilities

would be the most appropriate' (Ministry of Justice, 2009, p. 57).

The Green Paper talks of the 'pressing need to act to end child poverty' (Ministry of Justice, 2009, p. 31) but makes no other reference to poverty. With regard to socio-economic rights, it invites discussion on the advantages of articulating constitutional principles drawn from existing welfare provisions 'to reflect, in one coherent document, certain social and economic guarantees and the responsibilities and conduct expected of individuals' (Ministry of Justice, 2009, p. 43).

The parliamentary Joint Committee on Human Rights (JCHR) recommends that any bill of rights should include the rights to health, education, housing and an adequate standard of living (JCHR, 2008). It suggests the imposition of a duty on government to achieve the progressive realisation of the relevant rights, by legislative or other means, and to report to parliament on its progress. Addressing the Government's objection that legally enforceable economic and social rights would allow the courts to usurp democratic functions, the JCHR proposes that these rights would not be enforceable by individuals; rather, the courts would have a tightly circumscribed role in reviewing government actions to ensure that commitments were not being ignored.

Appendix C: List of interviewees

Catherine Albisa	Executive Director, National Economic and Social Rights Initiative	United States
Radhika Balakrishnan	Chair, US Human Rights Network; Professor of Economics and International Studies, Marymount Manhattan College	United States
Louise Beirne	Projects Officer, Combat Poverty Agency	Ireland
Ann Blyberg	International Human Rights Internship Program, Institute of International Education	United States
Nicola Browne	Research and Policy Officer, Participation and the Practice of Rights Project, Belfast	UK
Geoff Budlender	Advocate of the High Court of South Africa; former Director-General of the Department of Land Affairs	South Africa
Richard Calland	Associate Professor, Public Law Department, University of Cape Town; Programme Manager, Political Information and Monitoring Service at Institute for Democracy in South Africa	South Africa
Christian Courtis	Professor, University of Buenos Aires	Argentina
Sheena Crawford	CR2 Social Development Ltd	UK
Mac Darrow	Co-ordinator, Office of the High Commissioner for Human Rights of the HURIST (Human Rights Strengthening) Joint Programme between OHCHR and UNDP	Switzerland
Martha Davis	Professor, Northeastern University School of Law; Co-Director, Program on Human Rights and the Global Economy	United States
Jackie Dugard	Senior Researcher, Centre for Applied Legal Studies, University of Witwatersrand	South Africa
Diane Elson	Professor, Department of Sociology, University of Essex	UK
Willie J.R. Fleming	Chicago Coalition to Protect Public Housing	United States
Colin Gonsalves	Executive Director, Human Rights Law Network	India
Jennifer Grant	Global Rights Advocate and Adviser, Save the Children UK; Homelessness Team, Scottish Executive	UK
Cheri Honkala	National Organiser, Poor People's Economic Human Rights Campaign	United States
Helen Johnston	Senior Social Policy Analyst, National Economic and Social Council	Ireland
Steve Kahanovitz	Attorney, Legal Resources Centre	South Africa
Henrik Kristensen	Secretariat to the Social Charter at the Council of Europe	France
Vivian Labrie	Center for the Study of Poverty and Exclusion (CEPE), Quebec	Canada
Malcolm Langford	Research Fellow, South Africa Programme, Norwegian Centre for Human Rights; Director, Human Rights and Development Research Group, Faculty of Law, University of Oslo; MDGs Adviser to the Office of the UN High Commissioner for Human Rights	Norway
Felix Morka	Executive Director, Social and Economic Rights Action Centre	Nigeria
Bruce Porter	Director, Social Rights Advocacy Centre	Canada
Barbara Schreiner	Former Adviser to the Minister of Water Affairs and Forestry	South Africa
Eric Tars	Human Rights Staff Attorney, National Law Center on Homelessness and Poverty	United States
Flavio Valente	Secretary-General, Fighting Hunger with Human Rights (FIAN); former national rapporteur on the right to food, Brazil	Germany

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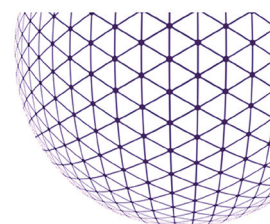
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