

# COMBATING EXCLUSION: WHY HUMAN RIGHTS ARE ESSENTIAL FOR THE MDGs<sup>1</sup>

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## 1 Introduction

The Millennium Development Goals (MDGs) represent a global consensus to reduce poverty. Drawn from the Millennium Declaration which was adopted in 2000 by the UN General Assembly, they aim to set concrete, time-bound and measurable targets that governments must meet by 2015. The MDGs have played a pivotal role in helping to concentrate international attention on issues of development and poverty reduction. They have also provided a focal point for civil society, which has mobilized nationally and internationally around the MDGs to challenge poverty and exclusion.

However, they do not fully reflect the ambition of the Millennium Declaration, which promised to strive for the protection and promotion of civil, cultural, economic, social and political rights for all (UNITED NATIONS, 2000a). One of the key challenges in this regard is that states' obligations under international human rights law are not adequately reflected in the MDGs. The MDGs – while covering areas where states have clear obligations under international human rights law such as food, education and health - are largely silent on human rights.

The MDG framework established global targets, which some states have chosen to adapt to their national context. Despite the merits of time-bound targets, as a framework for tackling poverty, the targets set up under the MDGs often leave out or ignore key requirements under international human rights law. For instance, Goal 2 aims to ensure universal primary education, but neglects the obligation under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to ensure that primary education is free, compulsory and of sufficient quality. These requirements are key, not just to comply with states' legally

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binding obligations, but to ensure that all children are truly able to benefit from MDG efforts to increase access to education. They are also essential if states are serious about addressing the barriers that many children currently face in access to education and ensuring that children from marginalized communities or who face discrimination are not left out. Concerns have already been voiced in this regard about a lack of focus on children with disabilities within the MDG framework.

The MDGs contains no requirement that states integrate human rights standards into MDG policies and programmes. While the MDGs include a commitment for states to integrate the principles of sustainable development into country policies and programmes (UNITED NATIONS, 2010a), there is no similar commitment to include human rights principles. While some countries have added some aspects of human rights to their national MDG plan (Mongolia, for example, added a Goal 9 on human rights and democracy), most MDG strategies and reports fail to refer to human rights in a significant and comprehensive way.

MDG Goal 8 – intended to represent a global partnership between developed and developing countries - requires developed countries to support the achievement of the MDGs, including through their global aid, trade and debt policies. However, it fails to specify that such policies should be consistent with international human rights standards. Development assistance, both technical and financial, has an important role to play in supporting countries to tackle poverty and achieve the MDGs. The role of international co-operation and assistance in achieving universal respect for human rights is also provided for in several treaties, including the UN Charter.<sup>2</sup> The 2008 Accra Agenda for Action, a reflection of international commitment to improve the use of development assistance to support the achievement of the MDGs, has also affirmed that: “Developing countries and donors will ensure that their respective development policies and programmes are designed and implemented in ways consistent with their agreed international commitments on gender equality, human rights, disability and environmental sustainability.”<sup>3</sup> This commitment should be reflected in national and international efforts to meet the MDGs.

In September 2010, world leaders will assemble at a UN Summit to assess their progress on the Millennium Development Goals. While it may not be possible to revise the global framework for the MDGs until 2015, governments can and should commit, at the Summit and in their national plans, to take concrete steps to ensure that over the remaining five years the MDGs are implemented in a manner which is consistent with human rights standards. Real and lasting progress on the MDGs can only be achieved if governments’ efforts are focused on realizing the human rights of people living in poverty.

This article outlines some of the ways in which the MDG framework falls short of the Millennium Declaration, and fails to reflect existing and universally agreed human rights standards. The article focuses on three main issues – gender equality (Goal 3), maternal health (Goal 5) and the problems faced by people living in slums (Goal 7) – as illustrative examples of the gap between MDG commitments and human rights standards. It argues that this gap is also one of the main factors behind the lack of equitable progress on the MDGs and argues that unless human rights issues are addressed, the most disadvantaged people in the world will continue to be left out.

### Obligations of states relating to economic, social and cultural rights

Under international law, states have an obligation to progressively realise economic, social and cultural rights (UNITED NATIONS, 1966, art. 2(1)). States are under a duty to take steps that are deliberate and concrete, and targeted as clearly as possible towards fulfilling these rights as expeditiously and effectively as possible (UNITED NATIONS, 1993, para. 2, 9). This is an immediate obligation, and the rate and level of progress that each state is expected to make should take into account the maximum resources available, both domestically and from the international community. This requires the adoption of national strategies and plans of action which set out how the state aims to realize these rights, and developing corresponding indicators and benchmarks (UNITED NATIONS, 2000b, para. 53).

States also have an immediate obligation to prioritize the realization of minimum essential levels of each economic, social and cultural right for everyone (UNITED NATIONS, 1993, para. 10; 2001, para. 17). This requires them to give priority to ensuring that everyone has, at least, minimum essential levels of food, water, sanitation, healthcare, housing and education. States are required to respect human rights by refraining from interfering directly or indirectly with people's enjoyment of human rights; to protect human rights by preventing, investigating, punishing and ensuring remedies where third parties infringe rights, and to fulfil human rights by taking legislative, administrative, judicial, budgetary and other steps towards the full realization of human rights. The obligations to respect and protect human rights are immediate and not subject to progressive realization, as are obligations to ensure non-discrimination and equality. If states' efforts towards the MDGs fail to take into account these key obligations, any progress towards achieving the goals is likely to be limited and to mask ongoing human rights violations, discrimination and inequality.

## 2 Human Rights Gaps in the MDG framework

### *2.1 Addressing exclusion and discrimination*

International human rights law requires all states to guarantee equality and non-discrimination.<sup>4</sup> The MDGs, in contrast, contain no explicit requirement for states to comprehensively identify and redress exclusion and discrimination.

While the Millennium Declaration reiterated states' commitment to "combat all forms of violence against women and to implement the Convention on the Elimination of All Forms of Discrimination against Women", gender equality and women's rights are only partly and very poorly reflected in the MDGs. Goal 3, to promote gender equality and empower women, has been reduced to a single

target – to eliminate gender disparity in education – and two complementary indicators on the percentage of women involved in paid employment and on political representation. This is a long way from states' obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which requires governments to address discrimination against women and guarantee equality in all areas (UNITED NATIONS, 1979, art. 1). International law also prohibits discrimination on other grounds, such as race, caste, ethnicity, disability and marital status. While those who are subject to these forms of discrimination are often among the most marginalised and disadvantaged sections of the population, the MDGs do not require states to take appropriate measures to eliminate such discrimination in law, in policy and in practice.

States are asked to disaggregate the MDG indicators on the basis of sex and urban/rural communities, as far as possible.<sup>5</sup> However, there is no similar requirement to provide disaggregated data for groups who face discrimination or are disadvantaged within a particular country context, such as Indigenous Peoples or minority communities. For example, a survey of 50 MDG country reports by the UN Independent Expert on Minority Issues showed that ethnic and linguistic minorities were mentioned in only 19 reports and only in relation to certain goals. Even when they were mentioned, information on issues affecting minorities or analysis of measures directed at minority groups were not provided under each of the MDGs.<sup>6</sup>

The proportionate nature of targets therefore raises concerns that states can demonstrate progress while failing to focus on the most disadvantaged and vulnerable groups. Lack of specific attention to disadvantaged and vulnerable groups in targets and indicators creates a real danger that efforts to achieve the MDGs could perpetuate and entrench poverty among such groups.

The MDGs' exclusive focus on poverty reduction in developing countries also neglects pockets of poverty in developed countries, which are closely related to discrimination and marginalization. For example, Roma communities in many European countries, such as Italy, continue to live in conditions that are in stark contrast to those enjoyed by the majority of the population. Many live in grossly inadequate housing and their access to services such as water, sanitation, education and health care is often inadequate or non-existent (AMNESTY INTERNATIONAL, 2009a).

## *2.2 Setting effective benchmarks for real progress*

The MDG framework does not require states to adopt national targets for their national context. It does not require states to adapt the MDG targets and indicators so as to reflect their obligations to prioritize the realization of minimum core obligations in relation to each economic, social and cultural right for everyone (UNITED NATIONS, 1993, para. 10; 2001, para. 17), and to give the necessary focus to the most marginalized sections of the population who face the greatest barriers in realizing their rights.

Some countries have adopted national targets, going beyond the global MDG targets. For example, Latin American countries decided to expand their MDG

commitments on education to include secondary education (OHCHR; UNICEF; NORWEGIAN CENTRE FOR HUMAN RIGHTS, 2008, p. 14). Kenya, South Africa and Sri Lanka – countries which recognize water and sanitation as human rights – have adopted national targets for increasing access to water and sanitation that are stronger than the global MDG targets (COHRE, 2009, p. 5, 7-8, 12, 20-21). However, many countries simply used the global targets and some have therefore adopted a far lower national benchmark for progress than is required under international human rights law.

Reliance on the global MDG targets alone can also give a distorted picture of progress. For example, the targets do not take into consideration the affordability and quality of services such as water. In part, the problem is due to a lack of data. For example, the Millennium Declaration specified a target of reducing by half the number of people unable to reach or afford safe drinking water (UNITED NATIONS, 2000, para. 19). However, the MDGs limited this goal to access to water as there is insufficient internationally comparable data on affordability. The indicators consider water to be safe if it is provided from a source likely to be safe, such as piped water or a protected well (WHO; UNICEF, 2010, p. 13). Therefore, piped water of poor quality that is provided from a polluted source can wrongly be counted as safe.

### *2.3 Ensuring participation*

The current MDG framework also does not explicitly recognize the right to participate actively and meaningfully in policies and strategies to achieve the MDGs, despite widespread recognition that the active engagement of affected communities is key to ensuring successful and sustainable outcomes. Participation of people living in poverty in the planning, implementation and monitoring of MDG efforts is the best guarantee for ensuring that these efforts actually benefit people.

The International Covenant on Civil and Political Rights (ICCPR) guarantees the right of every citizen to take part in the conduct of public affairs.<sup>7</sup> The UN Committee on Economic, Social and Cultural Rights has stressed that the right to participation must be an integral part of government policies, programmes and strategies (UNITED NATIONS, 2000, para. 54; 2003a, art. 11-12, para. 48). It has highlighted, for example, the vital role of participation in ensuring the effective provision of health services for all (UNITED NATIONS, 2000, para. 54).

For example, a review by the Secretariat of the UN Permanent Forum on Indigenous Issues of national MDG reports by 25 countries in Africa, Latin America and Asia/Pacific in 2006 and 2007 (UNITED NATIONS, 2006a, 2007c) found that, with very few exceptions, Indigenous Peoples' input had not been included in national MDG monitoring and reporting. The reviews also identified a lack of mechanisms through which to ensure the input and participation of Indigenous Peoples themselves in the design, implementation and monitoring of policies designed to achieve the MDGs.<sup>8</sup> Its 2010 desk review concluded that: "For future reports, the direct participation of indigenous peoples and their communities should be encouraged by their respective Governments, beginning

from the planning and preparation process”. It also stressed that: “[...] the free, prior and informed consent of indigenous peoples should be sought in all development initiatives that involve them. Indigenous peoples cannot be simply objects of study or targets of development projects, no matter how well intended, but must be active participants in policy planning, implementation and review” (UNITED NATIONS, 2010b, p. 39).

In order for participation to be meaningful, states must also fulfil a number of other rights and duties, including the rights to freedom of expression and association, and the duty to ensure the conditions in which human rights defenders can carry out their work.

### **Economic, social and cultural rights that are excluded from MDGs**

Some critical economic, social and cultural rights are not included in the MDGs, such as the right to social security and the right to health, including prevention and treatment of neglected diseases that continue to affect the lives of millions, such as river blindness, sleeping sickness, Chagas’ disease and leprosy. According to the World Health Organization (WHO), these diseases largely affect poor people living in rural areas in low-income countries (WHO, 2002). States are also required to establish national benchmarks for key economic, social and cultural rights issues which are not covered under the existing MDG framework.

## ***2.4 Providing accountability and remedies***

The current MDG accountability framework – such as voluntary monitoring and reporting at the national level, and UN reports on regional and global progress – is largely divorced from national and international human rights accountability mechanisms. As such, states can report on their progress towards the MDGs, with no reference to their human rights obligations, and without taking into account the outcomes of the scrutiny of their human rights performance as carried out by Treaty monitoring bodies. Without effective accountability for human rights, any progress on the MDGs will continue to be uneven and will not benefit the most marginalised people.

At the national level, accountability mechanisms such as judicial bodies, national human rights institutions, regulatory bodies and parliaments – can and should play a significant role in monitoring states’ efforts towards the MDGs and whether such efforts are in compliance with their human rights obligations, and in holding them to account. The judiciary should be able to monitor governments’ compliance with national and international law and require government bodies to carry out the necessary reforms to law, policy and practice to ensure obligations are fulfilled.

National human rights institutions; human rights commissions, Ombudsperson or Public Defender institutions should have the capacity and resources to be accessible to the public and to monitor national MDG plans pro-actively to ensure consistency



with a state's human rights obligations. Such bodies can also play a critical role in ensuring access to justice. They can carry out investigations on behalf of victims, call for necessary law and policy reforms, and represent claimants before courts. In order for these bodies to fulfil these roles, states must also ensure that their mandate covers all human rights, including economic, social and cultural rights. Similarly, regulatory bodies which are relevant to the MDGs – such as those dealing with water and sanitation, health and education – normally have the mandate and expertise to monitor the performance of public services and to require improvements, but often they do not explicitly assess compliance with human rights standards. National accountability would be strengthened if governments ensured that human rights standards were integrated into the mandate of such bodies and if these were required to receive individual complaints. Parliamentary bodies can also play an important role in ensuring oversight and monitoring of MDG efforts and, in particular, their consistency with a state's human rights obligations.

International accountability mechanisms play an important role in highlighting gaps in national monitoring and in areas where national systems do not comply with human rights standards. They can also help focus attention at the highest political level on human rights issues in the context of the MDGs. These mechanisms include international human rights treaty bodies, made up of committees of independent experts that periodically review performance and, in some cases, can hear complaints;<sup>9</sup> and the Universal Periodic Review (UPR) process of the UN Human Rights Council, which involves peer review by states - every four years - of states' human rights performance.

The human rights monitoring system has not yet played a prominent role in monitoring MDG performance. States generally do not report on their efforts to achieve the MDGs to such bodies and international human rights mechanisms, such as the UPR and treaty monitoring bodies, do not systematically assess actions taken to reach or surpass the MDGs. However, the treaty monitoring bodies could play a very important role in scrutinising states' efforts towards the MDGs in light of their human rights obligations, thereby ensuring that states' accountability for such obligations is not divorced from their MDG promises. In addition, international human rights mechanisms could address complaints from individuals and groups about human rights violations in the context of the MDGs, where access to justice at the domestic level has been denied to them. This, however, requires states to ratify the treaties allowing these mechanisms to receive complaints, such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (UNITED NATIONS, 2008)<sup>10</sup> and the Optional Protocol to CEDAW.<sup>11</sup>

While the UN Committee on Economic, Social and Cultural Rights has questioned developed countries on the amount of their development assistance, and has also required that all state Parties take due account of the obligations under the Covenant when acting as members of inter-governmental organizations, including international financial institutions<sup>12</sup>, there is no systematic monitoring of states' actions - as donors for example - and the extent to which these promote or hinder the realisation of human rights. In order for all states to be held accountable for their actions towards the achievement of the MDGs, they should be subject to scrutiny

by UN human rights mechanisms in order to monitor whether their actions in support of the MDGs – individually and as members of inter-governmental bodies – is consistent with their human rights obligations to respect and promote human rights for all, obligations which extend to those beyond their borders.

Consistency with human rights obligations - in all efforts to meet and surpass the MDGs – requires *all* states, both developing countries and those who provide support to them for meeting the goals, to be mutually accountable for ensuring that MDG policies and programmes are based upon human rights standards.

### 3 The need to integrate human rights in MDG efforts

The failure to adequately reflect human rights standards in the MDG framework can be illustrated by assessing Goals 3, 5 and 7. These Goals also show how the MDG targets and indicators do not acknowledge the human rights violations that can hinder progress on reaching the goals, and often undermine efforts to address poverty. In particular, the failure to integrate gender equality and women's human rights in all the MDG targets and indicators means that states are not required to address gender discrimination – in law, policy and practice - in their efforts towards *all* the MDGs. Goal 5 on improving maternal health and reducing high levels of preventable maternal deaths is an area that is considered the most off track, and where addressing underlying human rights issues is key to making progress. Goal 7 - intended to improve the lives of slum dwellers – is a stark example of how the MDGs fails to reflect the scale and scope of the problems faced by people living in slums, and the range of measures that are required to respect and promote their human rights.

#### *3.1 Promoting gender equality and empowering women (MDG Goal 3)*

It is estimated that, worldwide, 70 per cent of those living in poverty are women.<sup>13</sup> In many countries, women and girls continue to face barriers in getting decent work; participating in public life; and obtaining access to education, health care, adequate food, water and sanitation. Women living in poverty may also face multiple discrimination because they belong to Indigenous communities or minority groups or because of their race, caste, ethnicity, disability or marital status.

The MDGs as a whole fall short of the legal obligations of states under international law to address discrimination against women and to guarantee equality under each of the goals and targets. In addition, gender-based violence, a pervasive barrier to gender equality which threatens to undermine progress on all the MDGs, is not reflected in any of the MDG targets.

Gender equality and women's empowerment are widely recognized as essential for tackling poverty (UNIFEM; UNDP, 2009). It is therefore striking that they are so poorly reflected in the MDGs and that the gender-sensitive targets and indicators are both limited and inadequate (UNIFEM, 2008). While the targets and indicators for Goal 3 capture some important issues, they overlook other key areas. These include discrimination against women in law, such as civil, penal and



personal status laws governing marriage and family relations; women's property and ownership rights; and women's civil, political and employment rights.

The failure to integrate women's human rights fully into efforts to meet all the MDG targets means that the structural inequality and discrimination experienced by women is often not addressed in states' MDG policies and programmes.<sup>14</sup> In addition, the lack of consistency in disaggregating data on MDG initiatives means that information on gender discrimination and its intersection with other forms of discrimination are often overlooked (UNFPA, 2010a, p. 19).

Under international law, states have an obligation to prevent, investigate and punish acts of violence against women. Central to achieving this is ensuring that women who are subjected to violence can access justice and remedies for the harm they have suffered (UNITED NATIONS, 1995, para. 124). However, the MDG framework does not require states to address all forms of gender-based violence in their MDG plans, policies and programmes.

Discrimination and poverty can also make women in wealthy countries more prone to suffer from violence. In Canada, for example, AI has found that widespread and entrenched racism, poverty and marginalization put Indigenous women at heightened risk of violence; they experience significantly higher rates of violence than women in the population as a whole.<sup>15</sup> Discrimination has also resulted in deep inequalities in living conditions and in Indigenous women's ability to access government services. For example, they are often denied access to services and support, such as emergency shelters. They have also been denied adequate protection by police and government forces; those responsible for violence against Indigenous women are rarely brought to justice (AMNESTY INTERNATIONAL, 2009b).

Lack of protection for women human rights defenders and the failure to prevent and punish attacks and harassment against them make it harder for women to participate actively. Women human rights defenders are often targeted for gender-specific forms of harassment, discrimination and violence, designed to dissuade them and other women from demanding their rights and participating in public life, especially when they challenge gender stereotyping and discrimination.<sup>16</sup> AI has documented how women human rights defenders in Afghanistan and Zimbabwe have been targeted and attacked for speaking out against human rights violations, in order to stifle dissent and prevent others from speaking out (AMNESTY INTERNATIONAL, 2007, 2009c).

In order to ensure that they are fulfilling their obligations under international human rights law in their efforts to meet Goal 3, states are required to take a number of measures. These include: identifying and addressing gender discrimination in law, policy and practice in all their efforts towards all the MDGs, including by disaggregating data by gender and monitoring implementation to ensure that all MDG efforts explicitly tackle gender discrimination and inequality; identifying and removing the specific barriers faced by women and girls in realizing their human rights in all plans, policies and programmes to address poverty; abolishing laws that discriminate against women, and addressing traditional practices and customary laws that undermine women's rights; taking all necessary measures to

combat gender-based violence in all its forms and to ensure that women have access to justice and remedies when they have been subjected to violence; respecting and promoting women's right to participate equally and fully in all levels of decision-making and in public life, and ensuring that the rights of women human rights defenders are fully respected and promoted.

### *3.2 Improving maternal health (MDG Goal 5)*

Although a recent study (HOGAN et al., 2010, p. 1609-1623) claims that there has been some progress in improving maternal health, Goal 5 is considered an area where it is least likely that the 2015 targets will be met.

It is estimated that, globally, a woman dies every minute from pregnancy or childbirth-related causes. In addition, an estimated 10-15 million women a year experience serious complications that leave them with injuries or permanent disabilities (UNFPA, 2010b). Women who experience complications during pregnancy and childbirth often suffer long-term physical, psychological, social and economic consequences. Unplanned or unwanted pregnancies and the lack of available safe, voluntary and effective family planning and contraception also contribute to high levels of unsafe abortions that result in maternal deaths and morbidity. Inadequate monitoring and data collection of maternal deaths and "near-misses" contributes to under-reporting of these deaths and prevents a full understanding of their direct and indirect causes.

According to the UN Population Fund (UNFPA), as many as 99 per cent of the women who die each year of pregnancy-related complications live in developing countries. Complications relating to pregnancy are said to be the single largest cause of death among girls aged between 15 and 19 and women in developing countries (UNFPA, 2010c). The direct causes of most maternal deaths are: severe bleeding, infections, hypertensive disorders (such as eclampsia), prolonged or obstructed labour, and complications from unsafe abortions.

Levels of maternal mortality and morbidity differ both between and within countries. The disparities in the levels of risk faced by women are linked to a variety of factors, including multiple discrimination, poverty and neglect. The scope, targets and indicators for Goal 5 fail to acknowledge the variety of underlying factors that contribute to preventable maternal deaths and injuries. They do not, for example, adequately address human rights issues such as early or forced marriage; violence against women and girls; how discrimination and poverty prevent women from obtaining sexual and reproductive health care services; or how women are often prevented from making decisions about their own health and lives. These issues need to be systematically and comprehensively addressed if significant progress is to be made in reducing maternal mortality.

Inadequate data on maternal deaths and injuries, especially in countries with the highest rates of maternal deaths and morbidity, means that the mortality ratio (target 5.A) risks being misleading. The fact that there is no requirement to disaggregate the data also means that apparent progress may conceal a failure to improve maternal mortality and morbidity among disadvantaged and marginalized groups – such as

women living in remote rural areas, women living in slums, Indigenous women and adolescents. Similarly, the indicator on skilled attendance at birth is important, but does not address whether obstetric services are of sufficient quality, are available, accessible and equitably distributed (WHO; UNICEF; UNFPA, 1997).

In Peru, for example, women from Indigenous, rural and poor communities face particular barriers in obtaining maternal health care services as a result of entrenched discrimination. Some do not have identity documents and so cannot get the free health provision to which people from marginalized and poorer communities are entitled. Other barriers include the lack of clear and accessible information on maternal and child health services; the fact that health facilities are located far from their homes; prohibitive transport costs; discriminatory attitudes within health facilities; the failure to provide for culturally appropriate birthing methods; and communication difficulties – many Indigenous women do not speak Spanish and few health professionals speak Quechua (AMNESTY INTERNATIONAL, 2006).

Since 2006, the Peruvian government has taken some steps towards addressing these barriers. For example, they have promoted culturally adapted birthing methods; increased the number of maternal waiting houses and health insurance cover for rural populations; and introduced a system of targeted budget allocation centred on results. However, women living in remote areas and Indigenous communities continue to face difficulties in getting access to the care they need. Among the reasons hindering progress are inadequate implementation and monitoring of policies and initiatives and a lack of clarity around responsibility and accountability (AMNESTY INTERNATIONAL, 2009d). Unless Peru takes all the necessary measures to address the specific barriers faced by Indigenous women in accessing health care, any progress it makes on Goal 5 will fail to benefit the most disadvantaged groups and so mask ongoing and systemic discrimination.

Restricting efforts towards MDG 5 to simply increasing access to services, neglects states' pre-existing commitment to ensure gender equality and promote the full range of women's rights, including sexual and reproductive rights. These rights are set out in a number of key instruments including the Platform for Action, adopted at the Fourth UN World Conference on Women in Beijing (1995); the Cairo Programme of Action of the International Conference on Population and Development (1994); and CEDAW, to which 186 states are parties.<sup>17</sup>

Progress on Goal 5 requires the realization of sexual and reproductive rights – and the full respect for the right of individuals to decide freely on matters relating to their sexuality and reproductive life. This encompasses the rights to decide whether and when to be sexually active; to freely choose one's partner; to consensual marriage; to decide freely the number, spacing and timing of one's children; and to be free from unsafe abortion and gender-based violence, including sexual violence, and harmful practices.<sup>18</sup> Women's realization of their sexual and reproductive rights also requires other rights to be fulfilled such as the right to education; to food; to the highest attainable standard of health and the underlying determinants of health; and to equal protection before the law.

In Sierra Leone and Burkina Faso, while governments have acknowledged the need to improve maternal health and are taking positive steps to tackle it, they

have not sufficiently addressed key human rights issues that contribute to high rates of preventable maternal deaths – such as gender discrimination; early marriage and pregnancy; the denial of women’s sexual and reproductive rights; and women’s low socio-economic status (in the household and in society at large) and lack of decision-making power. In Sierra Leone, women face many barriers in obtaining necessary health care services, including long distances to health care facilities and ineffective referral services (AMNESTY INTERNATIONAL, 2009e). In Burkina Faso, financial barriers to health care contribute to high levels of preventable maternal deaths and injury (AMNESTY INTERNATIONAL, 2009f). Both Burkina Faso and Sierra Leone have acknowledged that women face significant financial barriers in accessing health care. In response to this situation, in April 2010 Sierra Leone introduced free health care for pregnant women and children under five. Burkina Faso has said that it is, in principle, in favour of removing financial barriers that prevent women from getting the healthcare they need. Both these developments are to be welcomed, and if adequately implemented could have a very positive impact on women’s access to essential care. However, the underlying violations of women’s sexual and reproductive rights must also be systematically addressed for long-term, sustained improvements in maternal health.

Barriers to healthcare also reflect disparities among different population groups and affect maternal health in developed, as well as developing, countries. In the USA, more than two women die every day from complications of pregnancy and childbirth. Approximately half of these deaths could be prevented if maternal health care were available, accessible and of good quality for all women without discrimination in the USA. For those who can afford it, the USA offers some of the best health care in the world. For many, however, that care is beyond reach. Despite the huge sums of money spent on maternal care, women, particularly those on low incomes, continue to face a range of barriers in obtaining the services they need. An individual’s ability to access health care depends on whether they have insurance and, if they do, whether it is private or public. Although members of ethnic and racial minorities make up only about 34 per cent of the population (US CENSUS BUREAU, 2008a), they constitute approximately half of the uninsured (US CENSUS BUREAU, 2008b, p. 21, Table 7), and as a result are more likely to go into pregnancy with untreated or unmanaged medical problems that pose added health risks during pregnancy.

In order to fulfill their obligations under international human rights law in their efforts to meet Goal 5, states are required to take a number of measures. These include: respecting the right to health by refraining from actions that interfere with women realizing this right, such as restricting women’s access to health care services where women do not have the consent of husbands, partners, parents or health authorities (UNITED NATIONS, 2010, para. 14). States must also ensure adequate protection of women’s right to health by preventing third parties from interfering with the enjoyment of this right. For example, states should ensure that harmful social or traditional practices do not interfere with access to sexual and reproductive health care (UNITED NATIONS, 2000b, para. 21). States are also required to take appropriate measures, whether legislative or otherwise, to ensure the realization of the right to health, including through the removal of barriers to accessing healthcare (including

financial barriers) so that all women can obtain necessary health care services – such as emergency obstetric care – when they need it (UNITED NATIONS, 1966, Art. 12). State must also identify and address gender discrimination in law, policy and practice, including in relation to women’s sexual and reproductive rights, and tackle human rights issues such as early and forced marriage, female genital mutilation, unsafe abortion and violence against women, including sexual violence.

Finally, states must ensure that there are adequate accountability mechanisms - judicial, regulatory, administrative and political - to ensure that there is effective monitoring, oversight and access to remedies for those whose sexual and reproductive rights are violated.

### *3.3 Improving the lives of people living in slums (MDG Goal 7)*

While a 2010 report by the UN Human Settlements Programme (UN-HABITAT) claims that “227 million people in the world have moved out of slum conditions since 2000, meaning governments have collectively surpassed the Millennium Development target by 2.2 times” (UNITED NATIONS, 2010e, p. 33), the number of people living in slums and informal settlements has actually increased over this period. Data collected by UN-HABITAT indicated that close to one billion people were living in slums in developed and developing countries by 2005 (UNITED NATIONS, 2006b, p. 18-22).<sup>19</sup> The latest data released by UN-HABITAT indicates that in the developing world alone, the number of people living in slums increased from 767 million in the year 2000 to an estimated 828 million people in 2010 (UNITED NATIONS, 2010e, p. 33). At least one in three urban residents therefore live in inadequate housing conditions that do not satisfy the requirements for adequate housing set out in Article 11(1) of the ICESCR (UNITED NATIONS, 1991, para. 8). These include 1) legal security of tenure; 2) availability of services, materials, facilities and infrastructure; 3) location; 4) habitability; 5) affordability; 6) accessibility; and 7) cultural adequacy.

UN-HABITAT’s global monitoring shows the extent to which the housing and living conditions in slums and informal settlements around the world grossly fail to meet these requirements. Examples of these failures range from the risks associated with the location of many slums and informal settlements in areas that are prone to floods, landslides and other natural disasters, to severely overcrowded, poorly constructed and inadequate housing.<sup>20</sup>

States are required under international law to take immediate and progressive steps to realize the rights to adequate housing and other human rights of people living in slums and informal settlements.

It is estimated that there will be 1.4 billion people living in slums by 2020. In Goal 7, the international community has committed to improving the lives of less than 10 per cent of people who live in slums (which in 2001 stood at over 900 million) (UNITED NATIONS, 2010e, p. 47). The target is also one of the most vaguely worded and asks for “significant improvement” in the lives of slum dwellers, without identifying what constitutes an improvement. The indicator for progress is the proportion of the urban population living in slums, which makes it possible



for states to demonstrate progress even if the total number of people living in slums has increased over the monitoring period. States have also been given an additional five years, until 2020, to meet this weak target.

The target is grossly inadequate when considered in light of the obligations of states under international human rights law to prioritize the realization of minimum essential levels of shelter and housing for all; to take deliberate, concrete and targeted steps towards achieving the right to adequate housing; and to prioritize the most disadvantaged and vulnerable groups when allocating resources.

The MDG framework ignores the crucial and immediate obligation on states to provide a minimum degree of legal security of tenure (UNITED NATIONS, 1991, para. 8 (a)). This is an essential precondition for protecting people living in slums from the underlying human rights violations that continue to drive and deepen poverty. It also provides the security people need to improve their own housing and living conditions and benefit from public services and schemes.

The vast majority of people living in settlements or slums considered “illegal” or “irregular” by governments have limited or no security of tenure and are extremely vulnerable to forced evictions. This can be the case even when the inhabitants own or are renting their homes. It is estimated that between 30 and 50 per cent of urban residents in the developing world do not have any kind of legal document to show they have security of tenure (UNITED NATIONS, 2006b, p. 92).

The effects of forced evictions can be catastrophic, particularly for people who are already living in poverty. Forced evictions result not only in people losing their homes, neighbourhoods and personal possessions, but also lead to fractures of social networks and communities. For example, Operation Murambatsvina in Zimbabwe, a programme of mass forced evictions and demolitions of homes and informal businesses, destroyed 32,538 small and micro-businesses across the country, devastating the livelihoods of 97,614 people (mostly women) who were targeted indiscriminately (AMNESTY INTERNATIONAL, 2007).

Despite the central importance of security of tenure in increasing access to a range of services and reducing the risk of other human rights violations, the indicator on tenure status (proportion of households with secure tenure) was dropped from the MDG monitoring framework (OHCHR; UNICEF; NORWEGIAN CENTRE FOR HUMAN RIGHTS, 2008, p. 40).

Lack of security of tenure also increases the risk of other human rights violations and may lead to people living in slums or informal settlements being excluded from essential public services and from city planning and budgeting processes. In many countries, it limits access to public water supplies and sanitation systems and is therefore also closely linked to the targets on safe drinking water and sanitation. The MDG monitoring framework, however, pays insufficient attention to these links.

In Cambodia, for example, AI has documented how some 15,000 Phnom Penh residents living in basic housing on the shores of the Boeung Kak Lake face displacement, due to work to turn the lake into landfill. Since then, and before any adjudication of their land ownership claims, around 1,000 families have been forcibly evicted by the authorities. The affected communities, many of whom are already living in poverty, fear that the development may drive them out of the capital city to an area where thousands



of others have been resettled following eviction, and which is effectively a new slum outside the city's perimeter, which lacks sanitation, electricity and other basic services and where job opportunities are very scarce. This is one example among many and stands in sharp contrast to the poverty reduction and development policies adopted by the Cambodian government as part of its efforts to meet the MDGs.<sup>21</sup>

People living in slums or informal settlements may also be excluded from protective legislation which applies to other residents. In Kenya, for example, landlords failed to provide sanitation and other services to people who were renting homes in informal settlements, contravening the Kenyan Public Health Act. However, the local authorities have chosen not to apply the law to landlords or developers who build and rent homes in slums and settlements (AMNESTY INTERNATIONAL, 2009g).

Although slums are located in urban areas, which tend to have better health, education and other services than rural areas, these services are not equally distributed among the urban population. When UN-HABITAT began to disaggregate data, it found that people living in slum areas were not benefiting from the "urban advantage" (UNITED NATIONS, 2006b, p. 102-127).<sup>22</sup> They lagged far behind urban non-slum areas in access to health care, education and employment and had rates of malnutrition and child mortality that were much closer to, or as high as, those in rural areas.

The fact that many slums or informal settlements are irregular also affects residents' access to services such as policing. As a result people may find themselves denied protection by the police and caught between the violence of criminal gangs and the police (AMNESTY INTERNATIONAL, 2005, 2008a). In *favelas* or inner-city neighbourhoods in Brazil and Jamaica the state is largely absent. The failure by the authorities to offer protection to these communities has allowed criminal gangs and drug factions to take control and dominate almost every aspect of life. For example, in some neighbourhoods gangs impose curfews and control transport systems and access to education, jobs and health care services (AMNESTY INTERNATIONAL, 2005, 2008a, 2008b).

People living in slums are also disproportionately victims of violent crime. A survey of women living in slums in six cities around the world carried out by the Centre on Housing Rights and Evictions identified violence against women as "rampant" in slums and the "strongest cross-cutting theme" of their study (COHRE, 2008, p. 14). Women experienced violence both within the home and outside, for example as they came back from work or on their way to use public toilets or communal facilities. Women have also described the difficulties of reporting domestic or other forms of violence to the police because of negative perceptions of people living in slums or just because of the absence of police stations in slum areas (AMNESTY INTERNATIONAL, 2008b; COHRE, 2008, p. 79, 103, 109).

The right of people to participate in developing and implementing slum upgrading programmes has also frequently been disregarded in MDG initiatives. In a slum upgrading programme in Nairobi, for example, residents were not given adequate information or genuinely consulted. This resulted in significant concerns for the community on issues such as whether the housing that they were being offered

was affordable and would meet their needs in terms of location and livelihoods. In 2006 the government said that it would designate slum upgrading areas as “tenure secure zones”. It also pledged to “determine appropriate secure tenure systems to be introduced in consultations with residents, structure owners and other stakeholders... and assure rights of occupancy to residents by first and foremost, eliminating unlawful evictions and providing certainty of residence” (AMNESTY INTERNATIONAL, 2009g). Four years later, these commitments have yet to be put into effect, leaving people uncertain and concerned about possible forced evictions during the project’s implementation (AMNESTY INTERNATIONAL, 2009g, p. 27).

In order to fulfil their international obligations in their efforts to meet target 7.D under Goal 7 on improving the lives of people living in slums, governments are required to take a variety of measures. They must respect the right to adequate housing by stopping and preventing forced evictions of people living in slums, including by enacting laws and policies to guarantee secure tenure. They must protect the right to adequate housing, including by ensuring protection against forced evictions and harassment by landlords and other private actors – including by extending protections in rental and housing legislation to people living in slums to enable them to challenge disproportionate rents and discrimination by private actors. They must fulfil the right to adequate housing, including by developing national housing strategies, slum upgrading, social housing and other programmes that are designed and implemented in a participatory manner and ensure that policies and programmes prioritize the most disadvantaged and vulnerable groups. They must ensure non-discrimination in laws, policies and programmes in slum upgrading or other housing programmes by, for example, ensuring that women are not excluded from slum upgrading or other housing programmes because of their marital status or other factors, or because of discriminatory inheritance or property laws. Finally they must ensure that people living in slums have access to accountability mechanisms so that they have access to a remedy where their rights have been violated.

## 4 Conclusion

International human rights standards provide an important framework for developing policies and programmes to achieve progress on the MDGs. Consistency with human rights obligations - in all efforts to meet and surpass the MDGs – requires *all* states, both developing countries and those who provide support to them for meeting the goals (including bilateral and multilateral development agencies and international financial institutions), to underpin their MDG strategies with human rights standards.

All states must ensure an adequate focus on the realization of minimum essential levels of economic, social and cultural rights for all, prioritizing those who are most marginalized and excluded, and must identify and address discrimination – including gender discrimination – across all the MDGs. This also requires states to adopt or modify laws, policies and practices to address all forms of discrimination. International human rights law requires governments - acting nationally and through international cooperation - to use human rights standards

to inform and guide policy dialogue and choices, poverty reduction strategies and the identification of priorities in all efforts towards the MDGs. As such, governments should review existing and planned laws, policies and programmes aimed at meeting the MDGs to ensure consistency with human rights standards, and adopt or modify laws, policies and practices to ensure greater protection for human rights. States must also ensure that those living in poverty are involved in MDG planning, implementation and monitoring at all levels. This also requires the equal participation of women and the provision of an enabling environment for the work of human rights defenders, including through guaranteeing people's rights to information, freedom of expression and association. There must also be effective national and international accountability mechanisms to ensure that all states respect, protect and fulfil human rights in all their MDG efforts and that there are effective remedies for any human rights violations.

The priority now is to focus on the implementation of the MDGs in a manner consistent with human rights by 2015. However, it is also important that any consideration of a new or revised global framework post-2015 gives due attention to the need to reflect states' existing obligations under human rights law. Any new framework should address discrimination comprehensively, establish global and national targets and timelines to fulfil minimum essential levels of economic, social and cultural rights for all, and ensure that there are effective national and international accountability mechanisms to monitor the realisation of goals aimed at addressing poverty and exclusion and to provide redress for failures to respect and promote human rights.

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## NOTES

1. This article is based on Amnesty International's publication: *From Promises to Delivery: Putting Human Rights at the Heart of the Millennium Development Goals*, AI Index 41/012/2010, June 2010.
2. United Nations (1966, Art. 2(1), ICESCR) states that: "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures." (emphasis added). The importance of international assistance and co-operation to the realization of human rights is also reflected in other international and regional human rights treaties such as the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.
3. Third High Level Forum on Aid Effectiveness, September 2-4 2008, para. 13 (c), Accra Agenda for Action, Accra, Ghana, available at [www.undp.org/mdtf/docs/Accra-Agenda-for-Action.pdf](http://www.undp.org/mdtf/docs/Accra-Agenda-for-Action.pdf), last accessed 24 May 2010.
4. See for example Article 2(1), International Covenant on Civil and Political Rights (UNITED NATIONS, 1966) and Article 2, Convention on the Elimination of All Forms of Discrimination Against Women (UNITED NATIONS, 1979).
5. Revised Millennium Development Goal monitoring framework, including new targets and indicators, as recommended by the Inter-Agency and Expert Group on Millennium Development Goal Indicators, contained in Report of the Secretary-General on the work of the Organization (UNITED NATIONS, 2007a, Annex II, p. 66).
6. Report of the Independent Expert on Minority Issues, Gay McDougall, (UNITED NATIONS, 2007b).
7. The Human Rights Committee has clarified that the "conduct of public affairs ... is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive

and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels." (UNITED NATIONS, 1996, art. 25, para. 5).

8. UN Permanent Forum on Indigenous Issues website, <[http://www.un.org/esa/socdev/unpfi/en/mdgs.html#\\_ftn5](http://www.un.org/esa/socdev/unpfi/en/mdgs.html#_ftn5)>, last accessed on: 24 May 2010.

9. In addition, the UN Human Rights Council has established Special Procedures, consisting of individuals or working groups, who can carry out independent enquiries into thematic or country human rights situations.

10. The Optional Protocol was opened for signature on 24 September 2009 and has been ratified by 2 states and signed by 33 states as of 20 August 2010.

11. Adopted 6 October 1999 and entered into force on 22 December 2000. The Optional Protocol has been ratified by 99 states as of the end of April 2010.

12. See for example, Concluding Observations of the CESCR on Germany (UNITED NATIONS, 2001b, para. 31) and CESCR, General Comment n. 14 (UNITED NATIONS, 2000, para. 39). See also Sepúlveda (2006, p. 287).

13. See Women, Poverty and Economics, available at [http://www.unifem.org/gender\\_issues/women\\_poverty\\_economics/](http://www.unifem.org/gender_issues/women_poverty_economics/), last accessed 24 May 2010.

14. On the occasion of the 15<sup>th</sup> anniversary of the Beijing Platform for Action, the Commission on the Status of Women stated that "gender equality perspectives are not well reflected in the current formulation of many of the Millennium Development Goals and their targets and indicators, and are often not explicitly integrated in strategies and plans to achieve the Goals. There is insufficient coherence between efforts to implement the Platform for Action and the strategies and actions to achieve the Goals and this lack of coherence is a contributing factor in the uneven and slow performance towards realizing many of the Goals" (UNITED NATIONS, 2010c, para. 2).

15. In a 2004 survey by the Canadian government, Indigenous women reported rates of violence, including domestic and sexual violence that were three and a half times higher than non-Indigenous women (BRZOZOWSKI; TAYLOR-BUTTS; JOHNSON, 2006).

16. For example, in its report Zimbabwe: Between a rock and a hard place – women human rights defenders at risk (AMNESTY INTERNATIONAL, 2007), Amnesty International documented the government's clampdown on women human rights defenders in Zimbabwe to crush dissent and prevent other women and men from becoming active.

17. The CEDAW Committee has stated that 'access to health care, including reproductive

health is a basic right under the Convention on the Elimination of All Forms of Discrimination against Women' (UNITED NATIONS, 2010d, para. 1).

It has also said that Article 12 of the Convention 'requires States to eliminate discrimination against women in their access to health care services, throughout the life cycle, particularly in the areas of family planning, pregnancy, confinement and during the post-natal period' and that 'Measures to eliminate discrimination against women are considered to be inappropriate if a health care system lacks services to prevent, detect and treat illnesses specific to women' (UNITED NATIONS, 2010d, para. 2, 11).

18. The UN Special Rapporteur on the right to the highest attainable standard of health has clarified that "In the context of sexual and reproductive health, freedoms include a right to control one's health and body. Rape and other forms of sexual violence, including forced pregnancy, non-consensual contraceptive methods (such as forced sterilisation and forced abortion), female genital mutilation/ cutting and forced marriage, all represent serious breaches of sexual and reproductive freedoms, and are fundamentally and inherently inconsistent with the right to health" (UNITED NATIONS, 2004).

19. According to UN-HABITAT a 'slum' is an area that combines, to various extents, the following characteristics: inadequate access to safe water; inadequate access to sanitation and other infrastructure; poor structural quality of housing; overcrowding and insecure residential status (UNITED NATIONS (2003b)).

20. At least three or four in every 10 non-permanent houses in cities in developing countries are located in dangerous areas that are prone to floods, landslides and other natural disasters. In 2003, approximately 20 per cent of the world's population was living in inadequate dwellings, which were overcrowded or did not have a sufficient living area. It was also estimated that 18 per cent of all dwelling units globally are non-permanent structures and 133 million people living in cities in the developing world live in housing that lack finished materials. Because of the difficulties of collecting data on this issue and lack of systematic assessment, these numbers may be "highly underestimated" (UNITED NATIONS, 2010e, p. 58, 62, 70, 137-139; UNFPA, 2007, p. 59-61).

21. "From the adoption of the Millennium Declaration in 2000, Cambodia has expressed its full commitment to the Millennium Development Goals (MDGs). In 2003, the global MDGs have been localized in Cambodia and these are called Cambodia Millennium Development Goals (CMDGs). The CMDGs reflects Cambodia realities based on a strong national consensus." (UNITED NATIONS, 2007d).

22. For the latest data see UN-HABITAT (UNITED NATIONS, 2010e, p. 52-119).

## RESUMO

Os Objetivos de Desenvolvimento do Milênio (ODMs) representam o consenso global sobre a necessidade de tomar uma atitude com relação à pobreza. Embora os ODMs tenham desempenhado um papel importante ao focar a atenção internacional em questões relativas ao desenvolvimento e à redução da pobreza, o artigo defende que os ODMs não refletem integralmente o nível de ambição da Declaração do Milênio, a qual prometeu o empenho na proteção e na promoção de todos os direitos humanos – civis, culturais, econômicos, sociais e políticos – para todos.

Este artigo descreve alguns dos aspectos nos quais o marco dos ODMs, embora compreenda áreas nas quais os Estados têm obrigações claras de acordo com o direito internacional dos direitos humanos - como alimentação, educação e saúde -, não reflete estes padrões. Três áreas principais são focadas – igualdade de gênero (ODM 3), saúde materna (ODM 5) e favelas (ODM 7) – para exemplificar as lacunas existentes entre os compromissos dos ODMs e os padrões relativos aos direitos humanos. Defende-se que tal lacuna é também um dos principais fatores por trás da falta de progresso equitativo nos ODMs. O artigo reforça a importância de garantir que os esforços para a consecução dos ODMs sejam consistentes com os padrões de direitos humanos; e que a não discriminação, a igualdade de gênero, a participação e a *accountability* estão no núcleo desses esforços para acabar com a pobreza e a exclusão.

## PALAVRAS-CHAVE

Objetivos de Desenvolvimento do Milênio (ODMs) – Direitos humanos

## RESUMEN

Los Objetivos de Desarrollo del Milenio (ODM) representan un consenso global acerca de la necesidad de combatir la pobreza. En el presente artículo se argumenta que si bien los ODM han desempeñado un importante papel al atraer la atención internacional hacia temas relativos al desarrollo y la reducción de la pobreza, no reflejan por completo la ambición de la Declaración del Milenio, en la que se promete luchar por la protección y promoción de todos los derechos humanos -civiles, culturales, económicos, sociales y políticos- para todos.

El presente artículo analiza algunos de los aspectos –como alimentación, educación y salud—sobre los cuales las obligaciones de los Estados en materia de derechos humanos no se encuentran debidamente reflejadas en los ODM. El artículo destaca tres temas principales: igualdad de género (Objetivo 3), salud materna (Objetivo 5) y asentamientos precarios (Objetivo 7), como ejemplos que ilustran las distancias entre los compromisos de los ODM y las normas de derechos humanos. Se argumenta que esta brecha es también uno de los principales factores que subyacen a la falta de avance equitativo en los ODM. Se hace hincapié en la importancia de asegurar que todos los esfuerzos por alcanzar todos los ODM sean plenamente coherentes con las normas de derechos humanos, y que la no discriminación, la igualdad de género, la participación y la rendición de cuentas se encuentren en el centro de todas las acciones destinadas a combatir la pobreza y la exclusión.

## PALABRAS CLAVE

Objetivos de Desarrollo del Milenio (ODMs) – Derechos humanos