

# THE INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY

## Speech

### Rights and Responsibilities of Human Rights Organisations

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## HUMAN RIGHTS AND GLOBAL SOCIAL EQUITABILITY

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1. There is general agreement that international cooperation is key to finding solutions to the world's social and economic problems. This is true not only because poorer countries lack the resources or expertise to remove poverty, illiteracy, and ill-health on their own, but because many international policy frameworks have widespread social and economic effects in poorer countries. But despite broad agreement on the need for international cooperation, there remains considerable uncertainty about the precise nature of the obligation of richer countries to assist poorer ones to attain a certain level of development. *When* do wealthier societies have a duty to help much poorer ones? Are such obligations merely *ethical* or do they include a legal dimension? What are the *limits* of a government's obligations to people in other countries? And to what extent do a government's duties abroad take priority over responsibilities to its own citizens?
2. These questions lie beneath all the broad areas of policy cooperation - trade, aid, debt, investment, taxes and tariffs, services, migration and labour, as well as political, economic and human rights conditionality, etc. They raise much wider questions of global responsibility.
3. For policy makers, the question often presents itself in stark terms: When are governments justified in spending resources abroad rather than at home? In what circumstances is the claim of people in other countries stronger than the claim of voters and citizens at home? And more difficult still: How are amounts spent abroad to be allocated relative to amounts spent at home? A subordinate but important political question quickly follows: How are officials (and citizens) to distinguish between resources spent abroad to protect national interests and resources spent abroad for altruistic reasons? When does this distinction matter?
4. Finally, to what extent does the behaviour of a (poorer) society or state alter the obligations of (richer) states? If a (poorer) country has a dysfunctional or despotic government, under what circumstances does this diminish or reinforce the obligation of (richer) countries to act to protect the rights of the people living in that country?

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5. Many of the sharpest political disputes about aid, trade, investment and conditionality turn around these questions.
6. A report recently published by the International Council, sets out an approach for responding to these questions (*Duties sans Frontières - Human rights and global social justice*, Geneva, 2003. Available at <http://www.ichrp.org/>). It links arguments based on human rights law, ethics and considerations of national and self interest and makes a case in favour of international action at a global level, taking account of the real legal and political environment - including assumptions of state sovereignty - in which policy-makers operate.
7. While the report focuses on economic and social rights rather than civil and political ones, it must be understood that all rights are closely interconnected and efforts to achieve economic and social rights in the absence of political and civil rights, or vice versa, are likely to be unsuccessful as well as undesirable.
8. A number of important points emerge from the report that can be summarised as follows:

#### **THE USEFULNESS OF THE HUMAN RIGHTS FRAMEWORK**

9. States that sign human rights treaties and agreements commit themselves to cooperate with other states, to the maximum of their capacity, to secure economic and social rights. Many references can be found in international human rights law to such commitments, although human rights law is not very specific about what the commitment implies. It does not make clear when, and how much, states should act abroad to promote economic and social rights.
10. In human rights law, the primary obligation to protect rights undoubtedly falls on national governments. Other states have a duty to act when the national state is unwilling or unable to fulfil its obligations. This might be described as the "do good" dimension of international obligation.
11. States equally have an obligation not to violate the rights of others abroad, and to act to prevent violations when it is in their power to do so. This is relevant in many areas of policy - wherever, for example, the policies or behaviour of (richer) countries create conditions that obstruct the ability of people living in developing countries from achieving their social and economic rights. This might be described as the "do no harm" dimension of international obligation.
12. Responsibility for violations of rights can often be clearly attributed. But this is not always the case, of course. Frequently, there is no simple or objective way to judge whether or when the policies of one country cause rights to be violated in another country; the chain of causality may be too complex or too indirect. Consider, for example, the difficulties of assessing the impact of debt policy on health or education provision. Nevertheless, the human rights framework does provide a foundation for making judgements. In addition, because it offers legal precision and justiciability, it has the potential to develop more precise tools for assessing government responsibilities and helping officials and other actors to reach transparent and objective judgements about the level and appropriateness of international action to protect economic and social rights and promote development.
13. In considering the application of human rights principles to international policies, particularly with respect to economic and social rights, it will no doubt be helpful to distinguish categories of problem; and do so in relation both to actions that need to be taken, and the responsibility of institutions to act. In some cases, a state or other actor is knowingly responsible for a violation. In others, the responsibility may be indirect or unknowing. In many cases, no particular actor can

plausibly be held responsible. For instance, while many people are impoverished because of human action, it is not reasonable to presume that all poverty is due directly or immediately to human agency. In some cases, finally, outside actors accept that they should take action even though they have no responsibility for the problem concerned. International support to deal with natural disasters is an obvious example in this category.

#### **OBLIGATION HAS INCREASED WITH CAPACITY**

14. It can also be said that, relative to the post-war era when the main international standards were approved and certainly relative to earlier periods of history, governments today have a greater responsibility to act internationally because they have more capacity to do so.
  - They are much better informed, in real time, about events in other countries and the impact of their policies;
  - They are much richer, and dispose of vastly greater resources;
  - Technical and scientific knowledge and expertise have enormously increased: richer societies are in a position to resolve problems that could not be resolved earlier and their power to do so will continue to increase;
  - Industrialised societies have far greater administrative and organisational capacity - though the weaknesses of international governance remain probably the greatest constraint on competent and prompt decision-making on international matters.
15. Taken together, these factors suggest that states now have a much stronger duty to act, and a duty to do more, than was the case when the human rights standards were drafted.

#### **THE EVOLUTION OF SOVEREIGNTY**

16. It is not enough to look only at human rights law, however. In practice, officials and governments are motivated by ethical values, other dimensions of law (not least principles of sovereignty), and considerations of national and self-interest.
17. The principle of sovereignty has clearly limited international action in third countries. While there are excellent reasons to protect the principle, it is also clear that sovereignty has been used to shield abusive states from international and national accountability.
18. In this respect, the argument put forward by the recent International Commission on Intervention and State Sovereignty might be extended to apply to non-military forms of intervention. The Commission set very hard "tests" for military intervention, but these are much easier to achieve consensually in relation to peaceful forms of co-operation over development programmes or policies on investment and trade. At the same time, the Commission's tests pick up some of the causes of tension between donors and recipients in relation to aid, conditionality and other areas of policy cooperation.

#### **PUBLIC GOODS AND NATIONAL INTEREST**

19. With respect to altruism, self-interest and national interest, it is legitimate and appropriate for officials and states to take account of national interest when they formulate international policies. In this sense, states cannot be expected to act only from altruistic motives. At the same time, national interest should obviously not be equated with simple selfishness, or with immediate short-term advantage. In many instances, the long term interest of states and countries coincides

with policies that are of general benefit. Efforts to secure international peace or reduce the incidence of sickness in the world, or adoption of an "ethical foreign policy" are quite reconcilable in this sense with considerations of self- and national interest.

20. It is helpful to consider public goods arguments in this context, because they realistically engage with the complex ways in which international policies combine national and collective benefit. It is increasingly true, as policies are integrated across the world, that the best results are likely to be achieved when states pool benefits and costs - and do so in a manner that shares the burden of financing and management in a fair and proportionate manner.
21. In conclusion, one should recognise that there are no magic solutions. The obligation on rich countries to act abroad is neither unconditional nor unlimited. However, principles of international human rights law usefully introduce the notion of obligation (even if the standards are still imprecise and do not have full legal weight) and provide additional arguments in favour of international action to improve respect for economic and social rights. When combined with ethical and national interest arguments, they build a strong case that richer countries have a duty to do more to help developing countries, and also ensure that their own policies do not obstruct the efforts of developing countries to promote economic and social rights.
22. The need for more international action cannot be contested. That not enough is being done to end poverty and protect economic and social rights (as well as political and civil ones) is evident. As Mary Robinson notes, "There has never been a greater need for simple and convincing arguments that explain, to governments and people alike, why action to end poverty, illiteracy, oppression and disease is right, is in the interests of everyone – richer and poorer – and requires combined and persistent effort from all parties."<sup>1</sup> Adding human rights arguments to more familiar ethical and self-interest arguments will be useful if it enables officials and others to discuss the need and responsibility for international action, [and the responsibilities to act that different institutions have,] in terms that are more positive and more specific.

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<sup>1</sup> Page 3 of *Duties sans Frontières - Human rights and global social justice*, Geneva, 2003.