

A Human Rights Approach To Localising The 'MDGs' Through Gender Equitable Local Development

Commonwealth Journal of Local Governance

Issue 4: November 2009

<http://epress.lib.uts.edu.au/ojs/index.php/cjlg>

Ronald McGill¹

United Nations Capital Development Fund, New York
United States of America



1. Introduction

Until now, the United Nations Capital Development Fund's (UNCDF) Gender Equitable Local Development (GELD) programme has not been presented within an explicit human rights framework. This is strange given that the human rights based approach to development (HRBAD) aims to ensure that all human beings can live their lives fully and with dignity. HRBAD is fundamentally about the healthy and full development of individuals and communities. In addition, one of human rights' central concerns is that people have equal access to the benefits of society. Initiatives to realize human rights therefore give priority to

¹ The original version of this paper was prepared by Ann Blyberg of the Institute for International Education, for UNCDF's planned Global Forum on Local Development. It was then revised, extensively in parts, by Ronald McGill (then) of the United Nations Capital Development Fund in New York, supported with specialist human rights inputs, by Verena Lahousen of UNCDF, Ethiopia. The opinions expressed are the aggregation of these authors and do not, at this stage, represent official UNCDF policy. Final editing was completed by Ronald McGill in November 2009. He is now the performance budget adviser to Ethiopia's Ministry of Finance and Economic Development (MoFED).

the most marginalized - the poorest - in a society. It is those individuals who have most difficulty in securing the basics that are essential to living their lives with dignity. Women in all communities are disproportionately represented among the poor. Thus, human rights have gender equity as a central focus. Put another way, we are dealing with the feminization of poverty. We are dealing with the concept of equal access (to development). In short, we are dealing with those who need (and deserve) greater priority in access to infrastructure and supporting services in order to reach a point of equality.

As such, three layers of analysis are required in order to give this paper meaning. First, is an understanding of HRBAD. Second, is the notion of equal access to development; a meaningless concept until standards are applied – suggesting either internationally accepted legally defined norms or a commonly held set of standards; the obvious being the Millennium Development Goals (MDGs). Third, is the concept of equitable interventions in order to bring the poorest sectors of the community to a point of equality; again, to reach the MDGs - the principle underpinning the GELD programme.

This paper is therefore concerned with the principles of HRBAD - their application through the filter of the MDGs, and the challenge of achieving the MDGs at the local level, through local government and public expenditure management (PEM) – the key to GELD.

2. Human Right Based Approach To Development (HRBAD)

Key principles in HRBAD

The international community has developed standards related to a wide range of civil, political, economic, social and cultural rights. These standards, which are legally binding on governments that have ratified the relevant treaties, can, when taken together, provide governments with valuable guidance in developing policies, making choices with regard to allocations and expenditure in a budget, and assessing budgetary impact. At the same time, using a human rights approach to GELD, for example, underscores the fact that governments have legal obligations to realize gender-equitable development. Looking at government a little more closely, two ideas are sacrosanct in HRBAD. The first is that of *standards*; the second, *principles*.

Human rights *standards* refer to the minimum acceptable level of standards for the achievement of a discernible impact – such as universal basic education, access to water and access to social justice; where these impacts are defined, ultimately, in terms of quantifiable targets. Human rights *principles*, such as participation, non-discrimination and accountability, specify conditions for a legitimate and accountable process for achieving those impacts. Hence HRBAD means the simultaneous, gradual achievement of human rights standards through processes that adhere to human rights principles (HRDG, 2009).

The Office of the UN High Commissioner for Human Rights (OHCHR) has said that, from a human rights perspective:

... Poverty can be described as the denial of a person's rights to a range of basic capabilities... one may say that a person living in poverty is one for whom a number of human rights remain unfulfilled – such as the right to food, health, political participation and so on.

Here, there is a mixture between standards or ends (food and health) and processes or means (political participation). It is crucial that this differentiation is kept in mind throughout this text.

Basic capabilities for development

From this 'key principles' perspective, working to ensure that people enjoy the full range of their human rights is, at the same time, working to combat poverty. The OHCHR² has suggested the following as the most common, basic capabilities that poverty undermines:

- being adequately nourished
- being able to earn a livelihood
- avoiding preventable diseases and premature mortality
- having basic education
- being adequately sheltered
- being able to ensure personal security

² OHCHR recognizes that capabilities missing in situations of poverty may vary from country to country and locality to locality, and in any event, should be defined by communities themselves.

- having equitable access to justice
- being able to take part in the life of the community.

By taking the 'standards-processes' argument a little further, we can see that apart from the last bullet above (which is entirely concerned with process), each of the other capabilities has both a process and a standards dimension. Each has to be analysed in terms of both. This is important and needs to be understood a little further in terms of specific 'capabilities', each referring to a human right for development.

In all cases, initiatives to realize people's human rights, through ensuring that they have certain basic capabilities, must be built on a sound understanding of the capabilities they currently lack and the reasons they lack them. Women often lack more and/or different capabilities than do men, or they lack them for different reasons. To address their specific situations, it is necessary to consider the specific obstacles that women face in trying to realize their capabilities. Some examples follow:

Capability	Examples of specific obstacles faced by women in achieving the capability
Being adequately nourished	Custom may dictate that women and girls eat after men and boys, and may consequently go hungry. In addition, water is essential to nourishment, and women often have the task of securing water for the household, which can require long trips to the local water source.
Being able to earn a livelihood	Women are often limited to taking care of the household and any children, thereby being unable to or discouraged from earning an independent livelihood.
Avoiding preventable diseases and premature mortality	One of the principal risks to women is pregnancy and childbirth.
Having basic education	Because of cultural norms, girls may be less likely to attend school than boys. Alternatively, walking long distances to school may put girls at risk in a way that boys do not experience.
Being adequately sheltered	Because of discrimination against women in landholding/owning, as well as inheritance, women's security of tenure is at greater risk than is men's.

Being able to ensure personal security	Women are often subject to sexual assault, including rape. Poor women who are homeless are particularly vulnerable
Having equitable access to justice	The poor have difficulty securing necessary legal services, and poor women typically have the least financial resources. Alternatively, customary dispute resolution systems may discriminate against women.
Being able to take part in the life of the community	Women are often prevented by cultural norms or family responsibilities from participating on an equal basis with men in public discussions.

International human rights law (as well as many national, constitutional provisions) guarantees people these basic capabilities. It also recognizes groups vulnerable to the fulfillment of their basic capabilities. Women face particular, and often very difficult, obstacles to achieving their basic capabilities. This recognition is reflected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). CEDAW does not create specific substantive rights guarantees but builds on existing international human rights guarantees. It is a non-discrimination treaty, providing useful detail on how to advance women's equality in the process of guaranteeing the rights detailed in other human rights treaties.

Obligation to fulfill: government's minimum core obligations towards GELD

With respect to GELD, economic, social and cultural (ESC) rights are the core rights or standards to be achieved. They also reflect guaranteeing the basic capabilities discussed above to overcome poverty. The application and implications of these rights need to be brought down to the local level.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)³ is the lead framework, from which governments have three obligations:

- The obligation to protect – preventing violence and other HR violations (e.g. safe access to school for children)

³ The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the principal international human rights treaty that addresses rights in the economic, social and cultural spheres. The body established to oversee implementation of the treaty is the Committee on Economic, Social and Cultural Rights (CESCR).

- The obligation to respect – abstaining from interfering within the guaranteed rights and freedoms (e.g. freedom of information; freedom to own property)
- The obligation to fulfill – intervening to provide basic infrastructure and services to support economic and social development.

In particular, the obligation to fulfill is spelled out in article 2(1) of ICESCR:

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*.

The italicised phrases are of particular importance. '*Maximum of its available resources*': this obligation means that governments must prioritize human rights when they make decisions on the allocation of resources. Moreover, even when a government's resources are very limited, it has an obligation to use those resources in a way that will have the maximum impact on the enjoyment of human rights, for example through performance budgeting.

'*Achieving progressively*': governments not only have the obligation to move consistently from year to year to expand the enjoyment of ESC rights, but they must not take any backward steps ('retrogression'). Adequate government statistics are relevant to this obligation, as they can be essential to determining the extent to which rights are being realized over time. To determine, for example, whether girl-child enrolment in primary school is increasing over time, it is essential to have sex-disaggregated data on primary school enrolment over the same period.

'*Adoption of legislative measures*': even when government resources are limited, the government must demonstrate its seriousness with regard to human rights through adopting appropriate laws, policies and plans. Looking at such obligations from a basic or minimalist perspective, for example to track progress in localizing the MDGs, suggests a requirement in international law.

International human rights law reflects the understanding that it is not possible for governments to realize their people's rights in a short time frame. One of the principal constraints, of course, is budgetary. Even when there is the political will, there may simply be too few financial resources in a country to fully realize the whole range of human rights. The UN body charged with overseeing implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Committee on Economic, Social and Cultural Rights (CESCR), has stated clearly that despite these inevitable limitations, there are certain fundamental things that all governments, regardless of resources, must do. These are called a government's 'minimum core obligations'. They are often spelled out in the General Comments produced by the CESCR about a particular right. Here are three examples:

The right to education: (General Comments 11 and 13)

- Guarantee access to public educational institutions and programmes on a non-discriminatory basis
- Ensure that education conforms to the objectives set out in article 13 (1) of the ICESCR
- Guarantee compulsory and free primary education for all
- Adopt and implement a national educational strategy
- Ensure free choice of education without interference from the State or third parties, subject to conformity with 'minimum educational standards'.

The right to health: (General Comment 14)

- Ensure the right of access to health facilities, goods and services on a non-discriminatory basis
- Ensure access to the minimum essential food
- Ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water
- Provide essential drugs
- Ensure equitable distribution of all health facilities, goods and services
- Adopt and implement a national public health strategy and plan of action
- Ensure reproductive, maternal and child health care
- Provide immunization against the major infectious diseases
- Take measures to prevent, treat and control epidemic and endemic diseases
- Provide education and access to information concerning the main health problems in the community
- Provide appropriate training for health personnel.

The right to water: (General Comment 15)

- Ensure access to the minimum essential amount of safe water

- Ensure the right of access to water on a non-discriminatory basis
- Ensure physical access to water facilities
- Ensure personal security is not threatened when having to physically access water
- Ensure equitable distribution of all available water facilities and services
- Adopt and implement a national water strategy and plan of action
- Monitor the extent of the realization of the right to water
- Adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups.

The stated minimum core obligations of various rights can be helpful to government bodies charged with developing policies, plans and budgets in key areas such as education, health and water. When faced with having to make decisions among competing claims, knowledge of the minimum core obligations can inform choices made.

It is essential to ensure that whatever government is doing to meet its obligations, the citizen has access to information. International human rights law guarantees people access to information (UDHR). This includes information about government policies, plans, programmes and budgets (UDHR 2). Access to information facilitates transparency and accountability, and is fundamental to meaningful participation in public affairs (Government of Ethiopia, 2009)⁴.

Encouraging and facilitating people's participation, and particularly women's participation, in public affairs is not just sound development policy. The right to information clearly concerns processes. Where the targets above include such things as (a) guarantee compulsory and free primary education for all; (b) adopt and implement a national public health strategy and plan of action; and (c) ensure access to the minimum essential amount of safe water, one recognizes that these are sound intentions but without quantification. The universal targets have already been set – the MDGs. We must therefore carry HRBAD into the MDG challenge, with an eye to achieving the MDGs at the local government level.

⁴ See section 7 for the regional level and section 8 for the district level; both entitled Opportunities for Citizens to Offer Input to Budget Preparation.

3. HRBAD To Achieve Millennium Development Goals (MDGs)

This section distinguishes between HRBAD and the MDGs. It then presents some of the MDGs and their supporting quantification. It closes by outlining the notion of localizing the MDGs through HRBAD.

HRBAD and MDGs

Achieving an MDG could be an important step towards realizing a related right. For example, eradicating hunger (Goal 1) would be an important step towards realizing the right to food. However, it is important to be clear on the differences between HRBAD and the MDGs. These include:

- The content of specific rights extends beyond those elements identified in the MDGs. For example, legal provisions related to the right to food speak not just about hunger, but also agrarian reform.
- Efforts to realize rights will and must continue beyond 2015. MDGs can be seen as benchmarks in the process of striving towards realization of specific rights. Even if a government achieves an MDG before 2015, it remains obligated to reach beyond the benchmark to achieve progressively full enjoyment of the related right.
- MDGs are not legally binding on governments, whereas human rights commitments made in the Universal Declaration of Human Rights and in relevant ratified treaties are. In addition, individuals may seek a remedy for a government's failure to meet its human rights obligations, but have no such redress with regard to failure to achieve an MDG.
- MDGs do not address the processes by which MDGs are to be achieved. Process is an important element of a human rights approach in any area. This includes rights to participation and people's access to relevant information.

In this light, it is crucial to understand what the quantified MDGs are because they establish the internationally agreed standards to be achieved by all governments in developing countries by 2015. They also start giving practical meaning to the challenge of how to achieve them through the public expenditure management system (PEM); the topic for the last section of this paper.

Three MDGS are highlighted here to give weight to this. They concern education, health and water.

EDUCATION	HEALTH goals 4 and 5 only (not 6)	HEALTH goals 4 and 5 only (not 6)	WATER
Goal 2: Achieve Universal Primary Education	Goal 4: Reduce Child Mortality	Goal 5: Improve Maternal Health	Goal 7: Ensure Environmental Sustainability
Target 3. Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling	Target 5. Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate	Target 6. Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio	Target 10. Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation
Indicators 6. Net enrolment ratio in primary education (UNESCO) 7. Proportion of pupils starting grade 1 who reach grade 5 (UNESCO) 8. Literacy rate of 15-24 year-olds (UNESCO)	Indicators 13. Under-five mortality rate (UNICEF-WHO) 14. Infant mortality rate (UNICEF-WHO) 15. Proportion of 1 year-old children immunized against measles (UNICEF-WHO)	Indicators 16. Maternal mortality ratio (UNICEF-WHO) 17. Proportion of births attended by skilled health personnel (UNICEF-WHO)	Indicators 30. Proportion of population with sustainable access to an improved water source, urban and rural (UNICEF-WHO) 31. Proportion of population with access to improved sanitation, urban and rural (UNICEF-WHO)

While the goals themselves are not quantified and represent qualitative intentions, each goal has one or several quantified targets to be achieved by 2015. In terms of performance budgeting (an analytical underpinning for gender-responsive budgeting – see Sharpe, 2003 and McGill, 2006), this is essential and needs to be reinforced. UNIFEM has affirmed that:

...Gender-sensitive indicators can be introduced within budget frameworks, especially those following performance-based formats, which are being adopted in many developing countries as part of their fiscal reform strategies. Performance-based budgeting provides opportunities to incorporate gender-sensitive indicators in budget performance indicators.

This issue is revisited in the final section.

The missing indicator here concerns the goal of achieving equality between women and men, girls and boys. It is as follows:

Goal 3: Promote Gender Equality and Empower Women

Target 4. Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015

Indicators

- 9.** Ratio of girls to boys in primary, secondary and tertiary education (UNESCO)
- 10.** Ratio of literate women to men, 15-24 years old (UNESCO)
- 11.** Share of women in wage employment in the non-agricultural sector (ILO)
- 12.** Proportion of seats held by women in national parliament (IPU)

Here, the indicators become important because they go further than the target concerning education. They extend to employment and political representation, though in the case of the latter, lamentably, only at the national level!

To meet the MDGs goals, one must look at both standards and processes. For standards, one has all four goals' targets and indicators. For processes, we need to ensure provision of full information to citizens and the resulting ability for communities to participate in the development process. For UNCDF, this is fundamental to the achievement of development at the local level through (ultimately) vibrant local governments with the energy and capability to be their location's local development agency.

Localising the MDGs Through HRBAD

This challenge – essentially that of localizing the MDGs through HRBAD principles – is the core issue of this paper. As a preliminary to the final section therefore, it is important to understand the concept of localising the MDGs from UNCDF's perspective.

There is an increasing recognition that to localise the MDGs means to deliver the necessary infrastructure and supporting services through the local government system – the institutional development focus of the UNCDF local development practice area. The first concern is therefore to build the local government system to be able to perform. This is the institutional development model (McGill, 1999). The result of this capacity building is to see *equitable* development proposals for infrastructure and services, delivered *economically*, *efficiently* and *effectively*: the 4 Es!

A key point here is to understand the concept of leverage of local development funds (LDF). UNCDF takes pride in securing partner contributions to programmes it has designed or been influential in designing. It reports explicitly on all such funding partnerships. What it does not do is to report on the leveraged result of LDF investments themselves. The principle is that every asset created by LDF investment must generate a commitment from government to provide and/or maintain the resulting service. Thus, if a health clinic is provided, central and/or local government must commit (on project approval) to providing the resulting service (on project completion). The same applies to schools, water systems, roads and so on. The concept here is that LDF is securing the provision of a reasonable service by providing the capital asset from which that service can be delivered. Recurrent funding for service provision is leveraged from mainstream budget sources.

This highlights the vital role of effective public expenditure management systems (PEM) to 'unblock the blockages' to local development. This brings the paper to its final theme – that of HRBAD and localizing the MDGs through PEM: the key to GELD.

4. HRBAD and Localising the MDGs Through GELD

This last section presents HRBAD in relation to poverty reduction and government policy reduction strategy papers (PRSPs). It then outlines the role of local government in HRBAD. Finally, it reinforces the application of HRBAD through performance budgeting.

Poverty Reduction and PRSPs

Government policies should reflect a society's priorities, and enabling people to enjoy their human rights should be a top priority. Consequently, a government's policies should reflect its human rights commitments and obligations. Human rights standards, among other things:

- Speak to *what* the policies and plans should be concerned about (provisions related to the rights to food, education, health, water, access to justice, and so on) – the challenge of standards
- Address *how* they are developed, implemented and monitored (the right to participation and access to information; the obligation of non-discrimination) – the challenge of processes.

For both, governments now produce PRSPs. A human rights approach would add important dimensions to discussions and decisions, but unfortunately, in developing their PRSPs, most governments do not use a human rights approach. The OHCHR has developed 'Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies', which are useful for a government wanting to ensure that its PRSP is compatible with its human rights obligations. The OHCHR sets out seven steps for the process of formulating, implementing and monitoring a human rights-based poverty reduction strategy. Three are offered below:

1. In developing the PRSP, the State should identify its national, (global) regional and international human rights commitments. International human rights standards related to specific rights are essential in developing the sectoral strategies in the PRSP (e.g. education, health, water), including defining the non-negotiable features. This comes down to *standards* that, at present, are acknowledged through the MDGs.

2. A human rights approach stresses the importance of participation by the poor at four stages: in expressing what they would like to see as the objectives of the PRSP; in the policy formulation itself; in implementation of the policy; and in its monitoring and assessment. In addition, article 7 of CEDAW obligates governments to take all appropriate measure to ensure that women participate on equal terms with men in the formulation and implementation of government policies. This comes down to *processes*.
3. Monitoring and accountability should take place at all levels of implementation. Monitoring can involve government agencies, including through the production of relevant disaggregated statistics. At the local level, where much of the service delivery actually occurs, civil society organizations and communities can be involved. This combines standards and processes because one is attempting to establish not only what has been achieved (the standards and their targets) but also, how they have been achieved (the transparent processes).

The inexplicable exclusion in the third statement is that of local government and its role as the 'binding address' in the local development process.

Local Government and HRBAD

Local government has a key role to play in advancing the enjoyment of human rights. Indeed, the principles and guidelines set forth by the OHCHR for the development of PRSPs, if appropriately adapted, can apply to local governments in developing institutionally integrated local development plans and institutionally specific strategies and budgets.⁵ OHCHR guidelines suggest, among other things:

⁵ The institutionally integrated development plan means that the specific local government is responsible for ensuring the preparation of a spatially defined development plan, to which all 'players' – the private, including community sector; central government, including its parastatals; and local government itself, whether single or two tier – come to an agreement as to what is best for the community. This is where development (i.e. investment) is – or should be – allocated *equitably*, so that poorer localities and groups get more, in order to bring them to a level of equality in terms of the MDGs. Each organization, including local government, then prepares

- Identify the poor: local government knows better than the national government who in its locality are the poorest and most marginalized. These populations often differ from overall national characteristics of the poor.
- Local governments need to know and can make use of national, (global) regional and international human rights standards (including CEDAW) in developing their strategy, and monitoring implementation of the same to assess their impact on substantive equality.
- Local government is best able to assess the role of discrimination in poverty in its locality.
- Just as with the national government, trade-offs and prioritisations made by the local government in its strategies and plans need to be in keeping with human rights norms.
- Participation is as important at the local level as at the national level (and in many respects, more feasible with regard to budget matters).
- Local governments have an obligation to establish effective monitoring and accountability mechanisms over the areas in which they have primary responsibility.

The key is to relate the entire planning and budgeting process to that of the MDGs and, in terms of this paper, its gender-based dimensions. In general, gender budgeting has “primarily been concerned with making gender visible in budgetary policies and processes...” (Elson, 2006) A human rights approach adds the following:

- Bringing international human rights standards into budgeting strengthens the legitimacy of concern for gender sensitivity in budgets, because human rights norms are law and accepted as such by governments.
- Incorporating substantive rights (e.g. right to health, education, and water) and standards into the budget process also allows for a systematic consideration of a range of issues of central concern to women.
- The complex understanding of equality and non-discrimination reflected in CEDAW, as well as the General Recommendations and reports coming from the CEDAW

its strategy and budget for the things it is directly responsible for, to ensure the provision of infrastructure and resulting services, *economically, efficiently and effectively.*

Committee, can inform and enhance the analysis of budget allocations, expenditure and impact.

- Applying normative rights once again legitimizes the importance of women's informed participation in the budget process.

If the question is: how does one give practical meaning to everything advocated so far? Then the answer is through the planning, budgeting, implementation and review process – generically defined as public expenditure management (PEM). This is because *everything* boils down to the raising and spending of money to achieve things. Or put more eloquently:

The budget is the most important economic policy instrument of government and as such, can be a powerful tool in transforming (any country) to meet the needs of the poorest (Budlender, 2006).

The key phrase here is 'policy instrument'. To cite the argument for local government:

All local government is locked into the annual budget cycle. The process of budget setting is the opportunity for strategic issues to be identified and acted upon. This is the policy development process. 'Experienced officials know that expenditure is policy; policy is expenditure. They are so intermeshed that any either/or answer about causation is foolish.' (McGill, 1988).

HRBAD Through Performance Budgeting

For this paper, the starting point is in performance budgeting. Its key principles can be found in McGill (2001). A human rights based approach can inform and reinforce performance budgeting in important ways.

- Both the human rights approach to budgeting and performance budgeting stress the central role of participation in the process, whether that participation is by community groups, civil society organizations or others.
- A government's human rights obligations should be central in developing the strategic framework and objectives analysis for a performance budget. These should reflect the overall priority that must be given to realizing human rights as well as the importance of equality and non-discrimination.

- The programmes and targets specified in performance budgeting can be (and in many cases should be) developed on the basis of an analysis of the current level of enjoyment of specific human rights, such as the right to education, health or food, with targets designed to help achieve a fuller realization of the specific rights. They should also reflect awareness of the government's minimum core obligations with respect to relevant rights, as well as its obligation to advance substantive equality.
- Activities and inputs would similarly be designed and implemented with human rights norms in mind, including non-discrimination and use of maximum available resources (recalling the relationship of this obligation to the economy of inputs).

Thus, the budget process must respond to the government's human rights responsibilities with regard to people's right of access to information and to participate in public affairs. Information on the budget should be readily accessible. This means not only that information must be available to people, but should be presented in a form that is accessible and understandable. This is perhaps easier to do at the local level than at the national level, but efforts should be made at all levels (Open Budget Initiative 02009).

In addition, a human rights approach means that people's participation should be facilitated at all stages of the budget process; through formulation, enactment, implementation and audit. With regard to GELD, this, of course, means particularly women's participation. Article 7 of CEDAW guarantees women equality with men in the rights:

- (a) To ... be eligible for election to all publicly elected bodies
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform public functions at all levels of government...

A human rights approach asks about the presence of women in government and their role in the formulation of the budget, as well as about women in the legislature and their role in its enactment. Are they adequately represented, and how actively are they involved in budget decisions? What is the role of women in the implementation and audit of the budget? This is

taken to mean *all* levels of government; not just the MDGs indicator concerning national parliamentary representation.

International human rights law stresses that the primary responsibility of a government is the advancement of the human rights of its people. If the government has ratified the ICESCR, it also has an obligation to use the maximum of available resources to advance economic, social and cultural rights. The overall composition of a budget should thus reflect a prioritization of areas related to human rights. In the context of local development, this would mean, for example, a prioritization of the areas of work, education, health, food, water, and housing. What share of the government's budget is directed to education; to basic health services; to ensuring access to drinkable water? Are other, non-essential, areas of the economy and society being allocated funds that should more properly be directed to these key areas? (UNDP 2005 and Government of Ethiopia 2009).⁶

Beyond questions about the overall composition of the budget, sectoral budgets should conform with human rights standards related to the specific sector. Particular attention should be paid to the minimum core obligations in each area as well as the requirements related to equality and non-discrimination, including those set out in CEDAW. For example:

- In the area of education, is universal primary education prioritized in the education budget? (Relevant CEDAW article: 10)

⁶ There is no hard and fast rule for how much of overall allocations should be directed to human rights-related areas, although the UNDP public expenditure benchmarks or the 20% guideline established in the 20/20 initiative coming out of the 1995 World Summit on Social Development have been used as guidelines. The Government of Ethiopia has allocated increasing proportions of its national budget to those sectors having a direct impact on poverty alleviation. Of the total expenditure budget (from all sources) of 52,459 million Birr, about 31,584.6 million Birr (60.2%) was budgeted for poverty-oriented sectors: Agriculture & Food Security, Education, Health, Roads, Water and Sanitation. The expenditure budgeted for poverty-oriented sectors was higher than the budget for the preceding fiscal year (2006/07) by 26.5% (of which recurrent increased by 34.6% while capital increased by 22.8%). (Plan for the Accelerated and Sustainable Development to end Poverty - PASDEP Annual Progress Report 2006/07, MoFED, Ethiopia, December 2007, p. 52) In particular, the largest sectoral outlays under PASDEP are in education (19%), health (19%), agriculture (14%), roads (13%), water (12%), energy (12%), housing (5%) and telecommunications (5%). (Country Report, Ethiopia, Economist Intelligence Unit, May 2009, p.25).

- In the area of health, is primary health care given a priority in the budget? Is immunization against major diseases prioritized? (Relevant CEDAW articles: 11(f), 12 and 14(b))
- With regard to water, are the funds allocated in such a way as to prioritise programmes designed to guarantee that every person has access to sufficient potable water? (Article 14(h) of CEDAW)

In addition to the obligation of non-discrimination, other government obligations should also play a role in shaping sectoral budgets. For example, allocations from year to year should reflect the obligation to *progressively achieve* the realization of a right. In the area of education, for example, this would mean that an increasing number of children should have access to primary education, and that the quality of the education should also be improving, regularly.

The obligation to use the *maximum of available resources* is particularly relevant to expenditures. Two examples illustrate:

- A national government budget may contain an adequate allocation in education funds, with most of those funds intended for local governments, where they are to be spent on teacher salaries, to buy books and so on. However, if the full funding does not reach local government due to leakage at various points along the way, then questions arise not simply about good governance, but about the national government's compliance with its obligation to use the maximum of its available resources to advance the right to education.
- Economy in the use of inputs is also essential. Waste or corruption, for example in procurement of textbooks or school equipment, is a also failure by the government to use the maximum of available resources to advance the right to education.

Economy of inputs and efficiency of outputs (or ensuring that the government uses the maximum of its available resources for human rights concerns) is greatly facilitated by citizen participation in expenditure tracking. The right to participate is an essential foundation for such initiatives in a number of countries. For example, the Civil Society

Coalition for Quality Basic Education (CSCQBE) in Malawi, which includes close to seventy civil society groups, is focused on the right to quality basic education and Malawi's progress in achieving 'Education for All' goals as well as MDGs. The coalition began its work when there was little visible improvement in education, despite increased national government allocations to basic education.

CEDAW's obligations to ensure non-discrimination and substantive equality with regard to gender apply to expenditures in a number of often complex ways. Some questions would be, for example:

- Are funds allocated for programmes targeting women being fully expended? If not, why not? If there is no sound reason, then there would appear to be discrimination in the failure to use the maximum of available resources.
- With regard to programmes that are not specifically directed to women, do the laws governing access to these programmes directly or indirectly discriminate on the basis of gender? This is often the case, for example, with regard to income transfer programmes, health insurance or social security benefits, where the laws confer the benefits on 'breadwinners'. This term effectively means the men in a household, as the women are often not in the formal workplace. If there is discrimination in allowing access to such programmes, then related expenditures would fail to comply with the obligations of non-discrimination and substantive equality set out in CEDAW.
- Even where the *laws* governing access to specific programmes (such as poverty-alleviation, education and employment creation) do not discriminate, are the *funds* being expended by those responsible in a non-discriminatory way, and in a way that advances substantive equality? To assess whether this is happening will likely require sex-disaggregated data about program beneficiaries.

The right to participate is important with regard to each of these situations, just as it is with regard to all government expenditure. The point about performance budgeting is that not only is participation embedded in its analytical and reporting processes but also, it compels standards to be set in terms of infrastructure and service targets. Ethiopia now makes these matters a little more explicit (Government of Ethiopia 2009). While some of the impact

assessment will depend on government information (e.g. gender-gap data), it is also possible for women's groups and other civil society organizations to be involved in 'citizen report cards' and other methods that can actually assist governments in assessing people's satisfaction with the impact of government expenditure.

5. Conclusion

Local development is a complex and challenging process; one that requires sensitivity to local concerns and contexts. Recognizing this, human rights do not dictate the adoption of specific strategies, policies or budgets. They do, however, set out essential goals and objectives (one of which is substantive gender equality) towards which governments must aim in their development efforts.

From the perspective of HRBAD, the ultimate test of the efficacy of a government's budget – and whether the government has fulfilled its minimum core obligations – is the budget's impact on the enjoyment of human rights. In this context, relevant questions include:

- Has the impact of the government's budget been one that has *protected* people's human rights? For instance, with regard to the right to safe working conditions, have the funds that the government has directed to regulating working conditions in a factory had the effect of improving the working environment?
- Have the increasing funds that a government has directed to specific sectors or programmes had the effect of *progressively achieving* people's enjoyment of the related human rights? For instance, have increased funds directed to local health clinics had the effect of enhancing people's enjoyment of their right to health by decreasing maternal mortality or infant mortality?

With regard to gender equity and obligations under CEDAW, the relevant question would be: has the government budget had the effect of advancing substantive equality with regard to the enjoyment of particular rights? The impact on gender equality can be assessed in a number of ways, including interviews with beneficiaries (e.g. did a poverty-alleviation scheme actually increase women's income?) and use of gender-sensitive indicators (female-specific indicators, e.g. maternal mortality rate, or gender gap indicators, such as the ratio of

female literacy to male literacy). If the results of such interviews or data analyses are that women's substantive equality has not been advanced in the particular areas, then the government is failing to live up to its obligations.

The goals and objectives of human rights are in many regards similar to the goals and objectives of current initiatives designed to further GELD. Human rights, however, can "add value" to initiatives to further GELD by:

- Mandating the prioritization in government policies and budgets of the poorest and most marginalized. Such a prioritization helps ensure that women, who are disproportionately poor, become more visible.
- Mandating a comprehensive consideration of the situation of women because human rights guarantee the full range of human concerns. These include food, health, housing, education, access to justice, personal security, and so on.
- Directing governments through CEDAW to analyse gender-blind language and laws to discern whether women's substantive equality is actually being furthered.
- Through minimum core obligations, obliging governments to fulfill internationally recognized standards. These compel choices to be made in favour of advancing human rights when developing policies and budgets in the face of serious constraints in resources.

In conclusion, gender-equitable local development can benefit significantly by using the internationally agreed legal framework of human rights; a framework that is, after all, rooted in the same concern that motivates GELD – ultimately that of human dignity.

Human rights are so often viewed as an abstract or political concept, disconnected from development in general and local development in particular. The motivation for this paper has been a recognition that to ignore human rights in development should simply not be permitted. In short, it is a plea for people to care about women's roles in their local communities and in society at large.

References:

- Budlender D 2006, *The Women's Budget*, Cape Town Budget Information Service, Institute for Democracy in South Africa, Cape Town, p.6.
- Convention on the Elimination of All Forms of Discrimination against Women 2003, Division For The Advancement Of Women, New York, accessed 27 November 2009, <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>.
- Elson, D 2006, *Budgeting for Women's Rights: Monitoring Government Budgets for Compliance with CEDAW*, UNIFEM, New York, p. 3.
- Government of Ethiopia 2009, *Layperson's Guide to Public Budget Process*, MoFED, Addis Ababa.
- Human Rights Policy Network 2009, United Nations Development Group, New York, accessed 27 November 2009, <http://hdr.undp.org/docs/network/hdr_net/2009/Summary_Ediscussion_HRPrinciples.pdf>.
- McGill R 1988, *Planning for Strategic Performance in Local Government*, Long Range Planning, Vol. 21, p.80; citing Hecllo, H. and Widlavsky, A 1982, *The Private Government of Public Money*, p.345.
- McGill R 1999, *Civil service reform in Tanzania: organisation and efficiency through process consulting*, International Journal of Public Sector Management, Vol. 12, No. 5, pp. 410-419.
- McGill R 2001, *Performance Budgeting*, International Journal of Public Sector Management, Vol. 14, No. 5, pp. 376-390.
- McGill R (ed.) 2006, *Achieving results; performance budgeting in the least developed countries*, Chapters 7 and 8, accessed 27 November 2009, <http://www.uncdf.org/english/local_development/uploads/thematic/UNCDF_pbb-July2006.pdf>.
- United Nations Development Programme 2005, *Millennium Development Goals*, UNDP, New York, accessed 27 November 2009, <<http://www.undp.org/mdg/basics.shtml>>.
- Ministry of Finance and Economic Development 2009, *Layperson's Guide To The Public Budget Process At Regional Level*, MoFED, Addis Ababa, accessed 27 November 2009, <<http://www.mofed.gov.et/images/Publication/Laypersons%20Guide%20Regional%20Level.doc>>.
- Ministry of Finance and Economic Development 2009, *Layperson's Guide To The Public Budget Process At Woreda Level*, MoFED, Addis Ababa, accessed 27 November 2009, <<http://www.mofed.gov.et/images/Publication/Laypersons%20Guide%20Woreda%20Level.doc>>.
- Norton A and Elson D 2002, *What's Behind the Budget? Politics, Rights and Accountability in the Budget Process*, ODI, London.
- Office of the United Nations High Commissioner for Human Rights 1976, *International Covenant on Civil and Political Rights (ICCPR)*, Art. 19, OHCHR, Geneva, accessed 27 November 2009, <<http://www2.ohchr.org/english/law/ccpr.htm>>.
- Office of the United Nations High Commissioner for Human Rights 2005, *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, OHCHR, Geneva, accessed 27 November 2009, <[http://reliefweb.int/rw/lib.nsf/db900sid/PANA-7DGFT9/\\$file/ohchr_dec2006.pdf?openelement](http://reliefweb.int/rw/lib.nsf/db900sid/PANA-7DGFT9/$file/ohchr_dec2006.pdf?openelement)>.
- Open Budget Initiative 2009, *The International Budget Partnership*, Washington DC, accessed 27 November 2009, <<http://www.openbudgetindex.org>>.

- Ramkumar V 2008, *Our Money Our Responsibility: A Citizens' Guide to Monitoring Government Expenditures*, The International Budget Partnership, Washington DC.
- Sharpe R 2003, *Budgeting for Equity; Gender Budget Initiatives Within a Framework of Performance Oriented Budgeting*, UNIFEM, New York, accessed 27 November 2009, <http://www.unifem.org/attachments/products/BudgetingForEquity_1stHalf.pdf>.
- UNIFEM 2006, *Promoting Gender Equality in New Aid Modalities and Partnerships*, p.6, United Nations Development Fund For Women, New York.
- United Nations 1948, *Universal Declaration of Human Rights*, Art. 19, Art. 21, ICCPR, Art. 25, and CEDAW, Art. 7, UN, New York, accessed 27 November 2009, <<http://www.un.org/en/documents/udhr>>.
- United Nations Capital Development Fund 2008, UNCDF, New York, accessed 27 November 2009, <<http://www.uncdf.org/english/index.php>>.
- United Nations Capital Development Fund 2008, UNCDF, New York, accessed 27 November 2009, <http://www.uncdf.org/english/news_and_events/index.php?record=45>.