

Special Rapporteur on extreme poverty and human rights

Magdalena Sepúlveda

Equality and access to justice in the post-2015 development agenda

The Millennium Development Goals (MDGs) have played an important role in placing key issues on the development agenda that might have otherwise been neglected. Thanks to the MDGs, governments and international actors have acted more decisively and with improved unity on poverty, hunger and other scourges on human development. Importantly, it has also resulted in the generation and collection of more targeted data on MDG issues, which have been used to convey powerful messages, to influence policies and shape national or international measures.

Experience shows that issues left out of the universal agreed agenda are not effectively monitored and reported on, and easily become blind spots when priorities are set, policies defined or budgets allocated. This is one key reason why the overall post-2015 development framework must explicitly aim to focus on and target those who are currently invisible: the poorest of the poor. Current limitations in measurement or data collection should not deter the international community from committing to a robust set of goals, targets and indicators focused on this segment of the population.

Thus, in the ongoing discussion about the shape and content of the post-2015 development agenda, the United Nations Special Rapporteur on Extreme Poverty and Human Rights adds her voice to those who are calling for the inclusion of a global and generic stand-alone goal on equality. Many actors have recognised that one of the weaknesses of the MDG framework has been its blindness to the issue of inequality and to the most extremely disadvantaged members of societies. Instead, in many instances governments have concentrated their interventions on those most easy to reach, rather than the poorest of the poor. Various studies have shown that inequality is rising across many developed and developing countries, and have also documented its detrimental effect on social cohesion and economic growth. Equality is, of course, also a fundamental human rights principle. A global goal and targets dedicated to eliminating inequalities will draw attention to this increasingly important issue, as well as to the needs of groups and individuals who are most disadvantaged. It will create incentives to end discrimination

and call for more effective ways of collecting disaggregated data on inequality, disadvantaged groups and the challenges they face.

The international community will only be able to achieve genuine advances in poverty reduction and social development by reducing the equality gaps in access to fundamental services. In this regard, working with a wide variety of stakeholders, the Special Rapporteur is proposing that in addition to a generic goal on inequality, a specific goal, target and indicators on access to justice should be included, on an equal footing with other key priority areas for development.

Inequality thwarts human rights enjoyment and social justice in every sphere of public life it pervades; justice services, mechanisms and institutions are no exception. The poorest and most marginalized segments of society, being women and girls, ethnic minorities, indigenous peoples, undocumented migrants or those living in rural areas, continue to be excluded from accessing justice on an equal footing with the most privileged segments of the population. This is the case in every country across the globe, even if the discriminatory patterns manifest themselves differently across regions and within countries.

The post-2015 development agenda should incorporate a stand-alone goal to ensure that access to justice is treated as a vital feature of human-centred social and economic development. Access to justice is a human right in itself, and essential for the realization of a range of other civil, cultural, economic, political and social rights. Moreover, it is a fundamental tool for tackling poverty. Without equal access to justice, people living in poverty are unable to claim their rights, or challenge crimes, abuses or violations committed against them, trapping them in a vicious circle of impunity, deprivation and exclusion. Equal access to justice can serve to protect and improve the income and livelihoods of people living in poverty but moreover it can promote their capabilities, choices, security and power.

Due to their lack of financial, social and political capital, people living in poverty are exceptionally vulnerable to crime, abuse and exploitation. Therefore, access to justice can serve a protective function, shielding them from plunging deeper into poverty through falling victim to criminal or illegal acts. Secondly, access to justice can serve a proactive role in the fulfilment of human rights. Effective and accessible justice systems can be tools to overcome deprivation, for example, through the development of progressive jurisprudence on economic and social rights, by enforcing the human rights, property rights and labour rights of people living in poverty or by remedying their exploitation by powerful public or private actors. Better legal empowerment of the poor can

also result in improved public services, bolster the social accountability of the state and create greater civic engagement in governance.

Thus, a specific target on access to justice would not only be in the interests of tackling poverty and inequality, but it would also contribute to the fulfilment of many other targets and goals.

Our world is a different place than it was in 2000 when the MDGs were agreed upon. Today, more stakeholders are devoting attention to access to justice and there is an increased awareness that it is crucial for equitable present and future development. A stand-alone goal on access to justice is needed because we cannot meaningfully tackle poverty in a context where there exists a two-tier rule of law: a secure reality for the privileged and only a rhetorical aspiration for the poorest and most disadvantaged.