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Human rights language and its absence in UN development visions

A discursive examination of the 2015 United Nations Sustainable Development Agenda and the character of human rights language

Johanne Oline Storgaard Brok

In this article I argue that human rights language, as a performative practice, is imperative to the social practice of human rights. The language plays an important role in establishing, maintaining and legitimizing the doctrine of human rights. I examine the role of human rights in development policy by considering a contemporary UN development document, and find that human rights language to a high degree is absent. Based on Norman Fairclough's understanding and model of discourse I argue that human rights language both represents and constructs human rights. In this sense the human rights practice is continuously changing through language. Meanwhile, the language of human rights maintains its "truth".

The UN agenda "Transforming our world: the 2030 Agenda for Sustainable Development"¹ was presented in the fall of 2015 as a 15 year plan

¹ United Nations General Assembly. 2015. *A/RES/70/1*, "Transforming our world: the 2030 Agenda for Sustainable Development".
(http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)

for global development. Within the Agenda the Sustainable Development Goals (SDG's) are presented. These 17 goals and 169 targets succeed the 8 Millennium Development Goals (MDG's) created in 2000 for achievement in 2015. The Agenda is produced by the General Assembly (UNGA) and is the result of two years of cooperation and discussion between the Open Working Group and civil societies.² The subject of analysis here is therefore a politicized document in which different discourses, interests and truths negotiate and compete. The SDG's differ from the MDG's in introducing sustainability as part of the development approach and in that they apply to all countries. The MDG's were partly achieved, but some of the goals recur in the SDG's. These goals consist of language that in turn can be seen as linguistic manifestations of discourses.

Human rights language

The term *human rights language* refers to the utilization of rights vocabulary or terminology. When using the word 'right' one automatically implies duty. For me to possess a right entails that you, someone or something else has a corresponding duty to respect, protect or fulfil my right.³ This relation between right-holder and duty-bearer can be interpersonal, but the duty-bearer may also be an institution, state or organization.⁴ The language of human rights additionally contains an element of *universality* and one of *equality*. Hence, all human beings have human rights and are equal. The universality principle also involves the duty-bearers.⁵ The premise and paradox of human rights is that humanity itself invokes rights. This is often mentioned in terms of the *inherent* dignity concept.⁶ This is of course a moral

² United Nations General Assembly. 2015. *A/RES/70/1*. p. 3.

³ Goodhart, Michael E. ed. 2013. *Human rights: politics and practice*. 2nd ed. Oxford: Oxford University Press. p. 54.

⁴ Goodhart, 2013, p. 367.

⁵ Beitz, Charles R. 2009. *The Idea of Human Rights*. Oxford University Press. p. 45.

⁶ Zigon, Jarrett. 2014. "Maintaining the "Truth": Performativity, Human Rights, and the Limitations on Politics." *Theory & Event* 17, no. 3: 13. p.1.

argument. The actual fulfilment of human rights is broadly recognized to involve legal codifying as well. Simultaneously, the language of human rights is a language of duty, power, universality and morality.

Additionally, human rights are often referred to as *inalienable* and *indivisible*. The inalienability of human rights lies in the impossibility of taking away rights from the right-holder. The indivisibility of human rights entails that, “[...] two rights be indispensable to each other in a wide range of situations”.⁷ It is the idea that human rights come as a package, and they are to be realized all together. Within the field of human rights the relation between state and person is central. It has been argued that citizenship rather than humanity invokes human rights.⁸ However, it is international custom that states are primarily responsible for securing the human rights of their own citizens.

Understandings of human rights language

According to Jarrett Zigon, human rights language is grounded in the Universal Declaration of Human Rights (UDHR) and repeated afterwards in numerous conventions. His understanding of human rights language is a performative moral language.

Thus, what can be called a performative dialogical relationship was established within the UDHR between the illocutionary and perlocutionary aspects of human rights language, and it was this original and necessary dialogical relationship that allowed this

⁷ Nickel, James W. 2008. "Rethinking Indivisibility: Towards A Theory of Supporting Relations between Human Rights" in *Human Rights Quarterly*. Vol. 30, no. 4. p. 991.

⁸ Arendt, Hannah. 1951. *The Origins of Totalitarianism*. World Publishing Company: Cleveland. p. 299.

language to become a possible “truth” in the world, and as such, establish limitations for the enactment of this “truth.”⁹

Zigon describes the truth of human rights as precarious and exemplifies this with the relationship of equivalence between dignity and human rights.¹⁰ He argues that legitimate political action is restricted within the human rights doctrine, and states that the application of human rights language is advantageous in creating awareness, but disadvantageous to the achievement of other political possibilities outside the human rights framework. Zigon is critical towards the central role of the state in the human rights doctrine and argues that this element limits the political possibilities of human rights language.

Similarly, Stephen Hopgood stresses the importance of human rights in the creation of numerous conventions and courts, and argues that this framework increasingly is considered an integral part of legitimate governments.¹¹ He challenges the effectiveness of this global norm. “Human rights language will be acceptable where it is diluted of all significance, and resisted or ignored where it still carries weight.”¹² Whilst recognizing the long-term potential of human rights language, he rejects the prospect of rapid social transformation in the name of this strategy.¹³

It is here that we find the real cause of the growing ineffectiveness of human rights as a movement for social change. They are: the decline of Western influence and the emergence (or re-emergence) of new powers, the politicization of human rights language, and pushback

⁹ Zigon, 2014, p. 6.

¹⁰ Zigon, 2014, p. 9.

¹¹ Hopgood, Stephen. 2014. "Challenges to the Global Human Rights Regime: are Human Rights still an Effective Language for Social Change?." *International Journal On Human Rights* 11, no. 20: p. 68.

¹² Hopgood, 2014, p. 71.

¹³ Hopgood, 2014, p. 67.

against human rights on principle, particularly in cases of religious belief.¹⁴

Hopgood argues that human rights language is both too familiar and vague, and as a result limitless claims of justice are expressed in its name.¹⁵ The hypocrisy of the Western countries, he argues, renders the human rights language illegitimate. The struggle of universalism and cultural relativism, along with the dispute about prioritizing 1st generation or 2nd generation human rights, are examples of elements that are continuously negotiated.

The paradigm of human rights has established a global norm of human dignity involving a legal content and an appeal to different cultures.¹⁶ In his cosmopolitan understanding of human rights, Henning Hahn connects human dignity to the individual's status as a global subject. Human rights language is expressed in numerous power relations, and Hahn points to the variety of political agents that make use of it.¹⁷ He describes human rights as the "*lingua franca* of political criticism."¹⁸ They serve as standards within the international political arena. Human rights language is or seeks to be globally legitimate and invokes claims of responsibility and attention.¹⁹ The politicization of human rights contributes to the perception of the language as a strategy. While human rights constitute a global norm, the applications and purposes change relative to the agent. To declare something in the name of human rights is to invoke or activate a moral language whose indivisibility principle renders a selective use invalid.

¹⁴ Hopgood, 2014, p. 69.

¹⁵ Hopgood, 2014, p. 70.

¹⁶ Hahn, Henning. 2013. "Human Rights as the Universal Language of Critique. A Political Approach." *Journal For Human Rights / Zeitschrift Für Menschenrechte* 7, no. 2: p. 52.

¹⁷ Hahn, 2013, p.47.

¹⁸ Hahn, 2013, p. 49.

¹⁹ Hahn, 2013, p. 55.

The language of human rights is more than just the utilization of a particular set of words. Rather, it is highly symbolic, political and performative. The performative element is central in the establishing of human rights as a language – a cohesive entity or “truth”. It emphasizes the many ways in which human rights language can be activated depending on who performs it and how they do it. At this point the outline of human rights language may appear hard to grasp. However, I will argue that this flexibility is a strength. Moreover, as it will become clear later on, the language of human rights corresponds to a social practice.

Sustainable Development Goals

The Agenda paints a depressing picture of a world where inequality, poverty, conflict, natural disasters, terrorism, environmental degradation and climate change rule. Pointing to the large number of people that are “denied a life of dignity”²⁰, the Agenda expresses the risk of collapse of societies and biological systems, and seeks to envision a new world.

The Agenda consists of three dimensions reflected in the 17 Goals; social, economic and environmental aspects. Goals 1-6 deal with the social aspect and resemble the MDG’s, where poverty, hunger, gender equality and education and health recur. Added to this dimension is Goal 6 on “Ensure availability and sustainable management of water and sanitation for all”.²¹ Goals 7-11 concern the economic aspects of the development Agenda such as economic growth, inequality and energy. Goals 12-15 cover the environment and deals with oceans, forests and climate. The remaining two goals involve peace and justice and a global partnership. The dimensions have specific goals, but are also integrated into all the Goals in one way or another.

The character of the language in the presentation of the Goals is commanding and diverges in that way from the other sections. Verbs are used

²⁰ United Nations General Assembly. 2015. *A/RES/70/1*, p. 5.

²¹ United Nations General Assembly. 2015. *A/RES/70/1*, p. 14.

in their imperative form and as a result a list of instructions is created, for instance, “Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation”²². An effect of this language use is that attention is brought to the verb and in turn the action. The presentation of the Goals and targets with focus on action inspires questions in the reader’s mind; who is the recipient of these commands? Who is responsible for the fulfillment of the Goals?

We commit to pursuing policy coherence and an enabling environment for sustainable development at all levels and by all actors, and to reinvigorating the Global Partnership for Sustainable Development.²³

Committing to ‘pursuing’ is a very vague phrase that in the end does not entail any commitment. It varies from the other verbs used such as ‘eliminate’, ‘eradicate’, and ‘ensure’ that imply necessary and great actions. The General Assembly gives the responsibility of achieving the SDG’s to “All countries and all stakeholders, acting in collaborative partnership”.²⁴ It is noteworthy that the ‘we’ in some parts constitutes both the author and the recipient. The ‘stakeholders’ are not defined as such, but civil society is mentioned several times. In addition to ‘collaborative’ the partnership is described as ‘multi-stakeholder’, ‘new’, ‘global’ and ‘revitalized’.²⁵ It may seem odd that the partnership is both new and revitalized, but the newness consists in the incorporation of non-state agents. The stakeholders can be both NGO’s and private firms.

²² United Nations General Assembly. 2015. *A/RES/70/1*, p. 18.

²³ United Nations General Assembly. 2015. *A/RES/70/1*, p. 28.

²⁴ United Nations General Assembly. 2015. *A/RES/70/1*, p. 1.

²⁵ United Nations General Assembly. 2015. *A/RES/70/1*, pp. 27; 11; 14; 28.

Human rights and development discourse

In the Agenda, the terms ‘equal’ and ‘universal’ are used frequently.²⁶ While universality and equality are imperative to the human rights doctrine, it cannot monopolize the terms and principles. Equality in development terminology often refers to the ensuring of economic equality of people in a given society. The use of the terms in the Agenda is in relation to access, that is equal or universal access to something.²⁷ In this way the terms are used in contexts that are related to the scope of human rights.

The new Agenda recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development), on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions.²⁸

The bracketing of the right to development indicates that the General Assembly considers it less important. It was adopted in 1986 as a human right and its primary concern was poverty.²⁹ The right to development embodies the connection between the fields of development and human rights, and has been argued to contribute to framing political development discussions in a rights-based approach.³⁰ In other words, the right to development opens up for the use of rights language in development policies. Development can also be seen as an instrument of human rights fulfilment.³¹ The General Assembly

²⁶ United Nations General Assembly. 2015. *A/RES/70/1*, pp. 10, 21.

²⁷ For instance: United Nations General Assembly. 2015. *A/RES/70/1*, pp. 3,6, 9, 15.

²⁸ United Nations General Assembly. 2015. *A/RES/70/1*, p. 9.

²⁹ Goodhart, 2013. p. 164.

³⁰ Kuosmanen, Jaakko. 2015. “Repackaging human rights: on the justification and the function of the right to development” in *Journal of Global Ethics*, 11:3, p. 313.

³¹ Goodhart, 2013. p. 162.

has chosen to exclude the right to development from the Agenda, despite its capacity of uniting development and human rights. It should be noted that the right to development is controversial both in academic and political contexts, and has been criticized of being too vague.³² The exclusion of the right to development in the Agenda can therefore be seen as a result of lack of political consensus on the matter.

In addition to the references to universality and equality, the Agenda includes a difference in the use of ‘human right’ and ‘right’. ‘Human rights’ are mentioned in the Agenda when referring to the doctrine of human rights as a whole. Thus, the plurality and cohesion of human rights is emphasized. ‘Right’ is applied when a specific right is mentioned, for instance, “[...] the right of self-determination of peoples living under colonial and foreign occupation [...]”³³. This right was coined in the UN charter.³⁴ A number of human rights recognized in the UDHR are mentioned, but without the use of human rights language, for instance, “Eliminate all forms of violence against all women and girls in the public and private spheres [...]”³⁵, here the right to security of person.³⁶ And “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking”,³⁷ concerning the prohibition of slavery in all its forms.³⁸

The human right to safe drinking water and sanitation is the only specific right described as a human right in the resolution.³⁹ The matter of a right to and distribution of water resources is highly disputed. As late as 2010 the

³² Goodhart, 2013, p. 165.

³³ United Nations General Assembly. 2015. *A/RES/70/1*. p. 9.

³⁴ United Nations. 1945. *Charter of the United Nations*, art 1:2.

³⁵ United Nations General Assembly. 2015. *A/RES/70/1*.p. 18.

³⁶ United Nations. 1948. *Universal Declaration of Human Rights*, art. 3.

³⁷ United Nations General Assembly. 2015. *A/RES/70/1*.p. 20.

³⁸ United Nations. 1948. *Universal Declaration of Human Rights*, art. 4.

³⁹ United Nations General Assembly. 2015. *A/RES/70/1*.p. 3.

UNGA recognized the right to water and sanitation.⁴⁰ It is noteworthy that this right is named a human right in the Agenda. It can be perceived as recognition of the global water resource problem. The distinguishing in the use of human rights and rights bears witness to an understanding of human rights as something cohesive.

The sustainable development agenda encompasses a variety of discourses. The “truth” of human rights is challenged by these other truths. The economy discourse present in the Agenda operates under a completely different logic than that of human rights. Human rights are morally based and find their legitimization in the normative. Development discourse might hold the potential of uniting the economy and human rights doctrines, as mentioned, by the right to development. Human rights and development share the norm of human dignity. Where the human rights doctrine involves the inherent right to human dignity, development studies deals with securing a minimum standard of living. Development as a field is interesting in that it praises a process, where human rights in contrast involve a final end. In the Agenda the development discourse is dominant. The elements of sustainability, economy and social discourses complement each other in supporting the development discourse. In this sense the integration of new discursive elements in the development discourse can be seen as an example of discursive change. The truth of development has changed to involve other fields. The human rights discourse is peripheral and not assigned much importance in the structure of the discourses.

Human rights as a practice

Human rights language as a practice exists within a broader social practice; the human rights practice, which includes all conversations and actions concerning the concept of human rights. This social practice stretches from the theoretical discussions to the actual work with human rights fulfilment.

⁴⁰ Risse, Mathias. 2014. "The Human Right to Water and Common Ownership of the Earth." *Journal Of Political Philosophy* 22, no. 2. p. 180.

The global norm of human rights can be seen as a social convention. In this sense, human rights language functions as a way of invoking this norm. The performativity of human rights language as a way of maintaining and reinforcing a “truth” reveals the relation between the language and the social practice. Social conventions guide agents in their actions within this social practice, the human rights practice.

An example of a convention functioning in the human rights language is the reaffirmation and recognition of previously established human rights programmes. This performative element as shown above is present in the Agenda. The conventions and the “truth” are thereby closely linked. In this sense, the language of human rights frames the social practice, while at the same time constituting its base. This is what Fairclough named the dialogical relationship between discourse and social structure.⁴¹ Thus, human rights language represents, signifies, constitutes and constructs that which is human rights. In addition to being a political strategy, human rights language is a practice that constitutes and constructs the social practice of human rights. If discourse reproduces and changes the world at the same time the limited references to human rights bear witness to the reluctance to unite human rights and development. Human rights are excluded from the particular visionary parts of the Agenda, but maintained as a formal element and base of the Agenda.

By now we have established that the human rights doctrine holds possibilities in the activation of the human rights language and in creating awareness. Additionally, as Zigon points to, it holds political limitations.⁴² His dichotomy of truth and limitation resembles that of Spivak; human rights versus human wrongs.⁴³ Both Zigon and Spivak argue that human rights constitute some kind of answer to the wrongs and offences seen in past and

⁴¹ Fairclough, Norman. 1992. *Discourse and Social Change*. Polity Press: Cambridge. p. 64.

⁴² Zigon, 2014. p. 9.

⁴³ Spivak, Gayatri Chakravorty. 2004. ‘Righting Wrongs’. *The South Atlantic Quarterly*, vol. 103, nr. 2/3. p. 523.

present. The human rights doctrine as something true, righteous and good in turn creates a dichotomous discursive world; the good versus the bad. This black and white perception entails limitations to the use of human rights language. The absence of human rights language in the Agenda may be seen as an expression of the complexities in question.

The absence of human rights

In the UN context it appears paradoxical that human rights are left out due to their universal claim, and meanwhile the SDG's are declared universal, integrated and indivisible. The matter of human rights in international policies and programmes ultimately becomes a discussion of universalism versus cultural relativism. This incongruence of universality and national political independence can be seen as an expression of the complicated negotiations that constituted the production of the Agenda.

The human rights doctrine has dominated international politics over the last decades. Its absence from the Agenda bears witness to a change in power or to its lack of applicability in the development context. The Agenda and the human rights doctrine share their highly politicized character. The Agenda is an expression of the many different interests in the international community. Similarly, these different interests are present in the use of the human rights language, a language that has been used to secure education for children in one place and has legitimized military intervention in another place.

A critique often directed at human rights is that there is a so-called human rights inflation, that is, an inflated increase in the number of rights and entitlements that fall under the umbrella of human rights. This perception can make for yet another possible explanation for the absence of human rights language in the Agenda; to express the SDG's in human rights terms would weaken the legitimacy of them, and in turn of the Agenda. However, many of the Goals and targets are in some sense equivalences to existing and recognized human rights.

Human rights are almost exclusively referred to as a unit in the Agenda, and the human rights language is not fully activated. Activating human rights language requires taking a stand within the social practice of human rights.⁴⁴ The mentioning of human rights in the Agenda has the character of presenting a name rather than a content. Thus, the term *human rights* appears hollow. The human rights practice encompasses the possibility of applying the human rights terminology or language as a means of legitimization.

The cohesiveness of human rights is claimed by the doctrine itself. The indivisibility and inalienability principle emphasizes this element. It may be so that the human rights language is left out of the development policy discourse due to its cohesive nature. However useful it may be as a legitimizing tool, the human rights language does not allow for ‘cherry-picking’. The Agenda would therefore need to be in congruence with all human rights principles, and hence the identification of duty-bearers would be necessary.

The absence of human rights language in the Agenda can also be seen as a result of its politically critical character. Though the Agenda contains a clear vision of change in the world, applying the human rights language would form a risk of criticising the current and former political practices and global structures. As mentioned above, the context of the Agenda is described in somewhat depressing terms and a number of challenges are listed. In this sense the Agenda does already include a critique of the world. The critique however focuses on negative results and effects rather than on the practices and structures of the international society.

The illocutionary element of ‘claiming’ is fundamental to human rights language, and this claiming involves a distribution of responsibility. In addition to the reluctance of states to commit legally to the Goals, the Agenda includes several matters in which responsibility is very difficult to place. Climate change and financial crises are examples of problems that are so complex that the identification of one responsible agent is impossible.

⁴⁴ Hopgood, 2014. p. 69.

The absence or lack of activation of the human rights language in the Agenda has many possible explanations and the language itself is fluctuating relative to the context, agent and purpose.

Conclusion

This article has examined human rights language in relation to the discourse of sustainable development. The aim was to evaluate the degree to and way in which human rights language is applied in the presentation of the SDG's and the post-2015 Agenda. The analysis showed that human rights were not applied as the framework for the Sustainable Development Agenda, and that the use of human rights language was limited to the recognition of human rights as a whole. Where human rights language could have been used the Goals instead had the form of a long list of tasks. As a result the responsibilities of implementing the Goals were distributed in a vague and unclear manner. I would argue that the Goals had less moral and semantic weight than if human rights language had been applied.

In order to disclose explanations for the absence of human rights language, I considered the relation between the discourses present in the examined resolution, and argued that the human rights discourse was challenged by economy, sustainability and in particular by development discourses. Additionally, I took into account the reluctance amongst states to legally commit to ambitious resolutions, and argued that this was decisive in the absence of human rights language.

Finally, I argued that the human rights language as a performative practice is imperative to the social practice that is human rights. The language plays an important role in establishing, maintaining and legitimizing the doctrine of human rights. The human rights language both represents and constructs human rights. In this sense the human rights practice is continuously changing through language, but the language maintains its "truth" in a performative manner.

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