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# Putting the ‘rights-based approach’ to development into perspective

ANDREA CORNWALL & CELESTINE NYAMU-MUSEMBI

**ABSTRACT** *This paper seeks to unravel some of the tangled threads of contemporary rights talk. For some, the grounding of rights-based approaches in human rights legislation makes them distinctively different to others, lending the promise of re-politicising areas of development work—particularly, perhaps, efforts to enhance participation in development, that have become domesticated as they have been ‘mainstreamed’ by powerful institutions like the World Bank. Others complain that like other fashions, the label ‘rights-based approach’ has become the latest designer item to be seen to be wearing, and has been used to dress up the same old development. We pose a series of questions about why rights have come to be of interest to international development actors, and explore the implications of different versions and emphases, looking at what their strengths and shortcomings may come to mean for the politics and practice of development.*

In the last few years, there has been growing talk amongst development actors and agencies about a ‘rights-based approach’ to development.<sup>1</sup> Yet while the approaches taken by international agencies have some ‘family resemblances’, there are fewer commonalities than talk of a singular ‘rights-based approach’ might warrant. Rather, there are plural rights-based approaches, with different starting points and rather different implications for development practice. In this paper, we seek to unravel some of the tangled threads of contemporary rights talk and to situate competing interpretations of ‘rights-based’ development against a backdrop of the emergence of a discourse on rights amongst development actors and agencies. We build on a number of recent reviews,<sup>2</sup> some of which have been narrower in their scope, focusing either on particular kinds of institutions<sup>3</sup> or on linkages with particular development frameworks, such as sustainable livelihoods.<sup>4</sup> We argue that today’s rights-based development discourse needs to be interrogated for:

- Where it is coming from: why rights, why now? What historical roots, acknowledged or unacknowledged, do current articulations of the links between human rights and development have?

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- What are the differences between the various versions and emphases of the rights-based approach articulated by different international development actors?
- What are their shortcomings, and what do these shortcomings imply for the practice and politics of development?

We begin with a brief consideration of the rationales and justifications for rights-based approaches to development. This is followed by reflection on implications that flow from treating rights as a normative framework for development and some of the dilemmas that have been pointed out by proponents of other approaches, such as sustainable livelihoods. We go on to explore a provisional history of rights-based approaches to development and share some preliminary reflections on how and why rights have become an issue at this particular time. The historical discussion juxtaposes current usage of rights language in development with talk of rights in other times, such as in anti-colonial struggles in the 1950s and 1960s and the movement for a New International Economic Order in the late 1960s, 1970s and early 1980s. We then zero in on definitions and distinctions used in the discourses of a range of international development agencies, in order to explore what a rights-based approach means to them and what it might consist of in practice. We conclude with a summary of key elements and differences in approaches to linking human rights and development and a brief discussion of the shortcomings that emerge across the board in contemporary international development agencies' talk and practice around rights-based approaches to development.

### **Situating the turn to rights**

#### *What does rights talk offer development?*

The various justifications for the value of rights in development can be classified into three broad categories: normative, pragmatic and ethical. The normative justification is that talking about rights put values and politics at the very heart of development practice. Hausermann argues that what is distinctive about a human rights approach to development is that it works by setting out a vision of what *ought* to be, providing a normative framework to orient development cooperation.<sup>5</sup> In doing so, she suggests, it brings an ethical and moral dimension to development assistance, one that by implication has been lacking.<sup>6</sup> By stipulating an internationally agreed set of norms, backed by international law, it provides a stronger basis for citizens to make claims on their states and for holding states to account for their duties to enhance the access of their citizens to the realisation of their rights.<sup>7</sup>

For some, the grounding of such a rights-based approach in human rights legislation makes such an approach distinctively different to others, lending it the promise of re-politicising areas of development work—particularly, perhaps, efforts to enhance participation in development—that have become domesticated as they have been mainstreamed by powerful institutions like the World Bank.

Others complain that like other fashions, it has become the latest designer item to be seen to be wearing and has been used to dress up the same old development in what may amount to the Emperor's New Clothes to occupy, as Uvin puts it, the high moral ground.<sup>8</sup>

Some commentators contrast a 'rights-based' with a 'needs-based' approach.<sup>9</sup> They argue that whereas a needs-based approach focuses on securing additional resources for delivery of services to particular groups, a rights-based approach calls for existing resources to be shared more equally and for assisting the marginalised people to assert their rights to those resources. It thus makes the process of development explicitly political.<sup>10</sup> The two can be motivated by radically different things: needs can be met out of charitable intentions, but rights are based on legal obligations (and in some cases ethical obligations that have a strong foundation in human dignity even though they are only in the process of being solidified into legal obligations). Commentators also draw attention to contrasts between the normative force of a rights-based approach and utilitarian-driven approaches such as 'low cost high impact' project approach and cost-benefit analysis. A rights-based approach, for example, is likely to give priority to severe or gross types of rights violations even if these affect only a small number of children, while these other approaches would offer a basis for justifying a focus on less severe types of violations that affect a larger number of children.<sup>11</sup>

There are also rather more pragmatic reasons for the use of rights talk. As we go on to suggest, the current architecture of aid makes new demands for ensuring accountability on the part of recipient states. Ferguson argues that to talk in terms of rights is in itself a 'vehicle for increasing the accountability of government organisations to their citizens and consequently increasing the likelihood that policy measures will be implemented in practice'.<sup>12</sup> But for actors keen on giving meaning to rights beyond the accepted boundaries of state accountability, the language of a rights-based approach in the development context also offers the possibilities for an expanded notion of accountability for rights to non-state actors. In its *Draft Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, the Office of the UN High Commissioner for Human Rights expresses this broader notion of accountability as follows:

Perhaps the most important source of added value in the human rights approach is the emphasis it places on the *accountability* of policy-makers and other actors whose actions have an impact on the rights of people. Rights imply duties, and duties demand accountability.<sup>13</sup>

Under international law, the State is the principal duty-bearer with respect to the human rights of the people living within its jurisdiction. However, the international community at large also has a responsibility to help realize universal human rights. Thus, monitoring and accountability procedures must not only extend to States, but also to global actors—such as the donor community, intergovernmental organizations, international NGOs and TNCs—whose actions bear upon the enjoyment of human rights in any country.<sup>14</sup> Uvin argues, 'the very move from charity to claims brings about a focus on mechanisms of

accountability. If claims exist, methods for holding those who violate claims accountable must exist as well. If not, the claims lose meaning'.<sup>15</sup>

Lastly, a rights-based approach can also serve as an opportunity to reflect more broadly on the power dynamics inherent in the practice of international development and on questions of ethics. For Eyben, for instance, to talk of rights is to talk about power and about the obligations of those engaged in development assistance.<sup>16</sup> What lies at the heart of such an approach, she contends, is an impetus to actors involved in development to engage reflexively with issues of power. As such, rights-based approaches can work both to sharpen the political edges of participation in the wake of the instrumentalism produced by mainstreaming, and to make critical linkages between participation, accountability and citizenship.<sup>17</sup>

### *Rights as a normative framework—competing perspectives*

Many of the debates about rights-based approaches have come to turn on the use of legislative instruments in development and on the usefulness of a normative framework that has its basis in international covenants and conventions. For some of those involved with promoting rights-based approaches, it is precisely because referents in a set of internationally agreed legal documents that talking of rights provides a different, and potentially more powerful, approach to development. Whilst many would concede that what is actually being promoted as rights-based is not in itself strikingly different to what a number of those working in development have been doing all along—such as advocacy and empowerment work to build political capabilities and consciousness, or work in participatory development to engage ‘beneficiaries’ in a more active process of social transformation—there is also a view that lending these practices the support of internationally agreed legislation *does* change the way in which they come to be viewed by development agencies and national governments. As such the label rights-based can serve as a means of legitimising a more progressive, radical even, approach to development.

Yet while talking in terms of rights-based development may offer a useful frame for development actors, one that may help wrest back notions like ‘participation’ and ‘empowerment’ from neo-liberal instrumentalism, invoking distant international human rights standards also presents its own problems. One is that most poor people have little access to the institutions that might enforce their rights and that the interface between different legal systems governing their access to entitlements makes the process of recognising and claiming rights complex.<sup>18</sup> The lack of acknowledgement by advocates of rights-based approaches of the wide range of strategies, tactics and institutions through which people frame and make rights claims *outside* of formal legal instruments and institutions is highlighted by the critique levelled at the RBA by the Sustainable Livelihoods in Southern Africa (SLSA) team.<sup>19</sup> Farrington points out other more pragmatic reasons for remaining suspicious of what this approach would actually be able to accomplish, arguing that finite financial resources demand the establishment of priorities, which in turn undermines the principle of indivisibility, and highlights the dilemma of dealing with competing rights.<sup>20</sup> These

differences of perspective turn on different views of the role of law and legislative instruments in development, a theme which is beyond the scope of this paper but is an important dimension of the debate on human rights and development.<sup>21</sup>

*Who is talking rights? The politics of location*

Rights-talk can function differently from different mouths. It depends who is speaking about rights and where they are speaking ... The same language that may be rhetorical fluff in one place may be words of extreme courage and radical change in another. The power of speech is the power to name and define things. The use of rights-talk in Washington or Paris might be used piously as new words for the same old liturgy in the cathedrals of international trade and development. ... But from another place (a slum or the scene of a rigged election) and spoken from another voice (that of a poor man or a woman land rights lawyer) the same words of rights-talk could function prophetically as a demand for redress to change and challenge power.<sup>22</sup>

As Hugo Slim so eloquently emphasises, rights-talk carries different entailments to other forms of development-talk. Unlike other approaches to development, taking a rights-based approach puts the spotlight on the politics of the location of development agencies. A commitment to participation, for example, is now voiced across the development spectrum, with the institutions of global governance using the same language as radical social movements. Rights talk brings with it the reciprocal notion of obligation, requiring those who use the language of rights to reflect on their own location.

The implications of the use of rights talk by the development assistance department of a donor nation-state to examine the international human rights obligations of another nation-state differ considerably from those implied if they were a multilateral lending institution or a global social movement. This is on account of the fact that both donor and recipient states have obligations under international human rights law. The obligations of one nation-state to another (e.g., under a treaty) and to its own citizens are considerably more established and precise than those of multilateral institutions or international NGOs. The accountability of multilateral institutions to beneficiaries of their programmes is an issue that is still in flux, as the discussion on multilateral institutions below will show. The accountability of international NGOs is often fractured between its dependence on the financial support of rich nation-states and the NGO's beneficiaries in developing countries. Discussion on what genuine NGO accountability would look like is only just picking up in earnest.<sup>23</sup>

Questions about the geopolitical location of the actors promoting and practising a rights-based agenda also echo concerns about the continuity of 'new' forms of development intervention that speak of participation, country ownership and rights with (neo)-colonial/imperialist 'development business as usual'. The Indian MP Jaipal Reddy, for example, draws a distinction between a rights-based approach to public policy at the national or local level, and a rights-based approach to development cooperation:

A rights-based approach to public policy is most desirable. It needs, however, to come from within. Movement away from political, economic or social oppression can only be sustainable when it springs from within a society and is in harmony with local culture and values. The rights-based approach to development cooperation seeks to bring about empowerment through external pressure and is based on the dogma that all that is required for poverty eradication is 'good' leadership, 'good governance' and the empowerment of ordinary people. That is patronising to say the least, as it is based on the assumption that good governance is the only missing link between national poverty reduction intentions and actual poverty reduction. The underlying approach seems to be of moral superiority of the donor and also of superiority with regard to insights into what would be in the best interests of the South.<sup>24</sup>

All this makes for an extremely complex configuration of interests, which impinge on how rights talk is articulated as well as how it comes to inform what is actually done.

### **Situating the rights-based approach: historical dimensions**

Locating the turn to rights historically further complicates the tale. What is now termed the rights-based approach to development has a relatively recent history in the discourse of international development agencies, emerging in the post-Cold War period in the early 1990s, and gathering momentum in the build up to the Copenhagen Summit on Social Development in 1995. Yet many of the principles which are articulated as part of this approach are not new. They have long been part of struggles for self-definition and for social justice long before the discourse of rights 'went global' in the post-World War II period. It is ironic to reflect on the framing of current rights discourses given these antecedents. Many of the tensions and possibilities that flow from the articulation of a rights-based approach to development need to be understood as emergent from longer-standing relations between the states, powers and institutions that are involved in current rights discourse.

#### *Precedents: 'rights' in anti-colonialism struggles*

Talk of rights in development may be new amongst international agencies. But struggles for the realisation of social, economic and cultural, as well as civil and political, rights have long been a feature of the political landscape in many developing countries. Rights talk was, and remains, a defining feature of resistance and liberation movements in developing countries; nationalist and anti-colonial movements framed their demands for self-rule in terms of the everyday constraints that colonial administrations imposed not just on their liberty, but on their livelihoods.<sup>25</sup> In these settings, the right to citizenship was not regarded in the classic liberal sense as something bestowed by a benevolent nation state, together with a bundle of entitlements to which individuals could lay claim. It was seen as something that needed to be fought for, and won, on the basis of prejudice against and the exclusion of the majority of the population, on their exclusion from participation in the decisions that affect their lives and

on the basis of the lack of obligation on the part of the state to guarantee certain basic rights. Manji argues:

The struggle for independence in Africa was thus informed, at the base, by the experience of struggles against oppression and brutal exploitation experienced in everyday life. These struggles constituted the emergence of a tradition of struggles for rights which was organic to and informed by the specific histories and experiences of those involved. ... The concept of rights was ... forged in the fires of anti-imperialist struggles. It was informed by the need to overthrow all forms (not just colonial) of oppression and exploitation, not by constructs which had either been embodied in the UDHR or imported into Africa by those nationalist leaders who had spent periods in exile or study in the imperial homeland.<sup>26</sup>

It was *in the act of struggling* that rights were articulated and came to form the basis for action for social justice.<sup>27</sup> Rights, in the broader sense of awareness of injustice, in contexts such as these was something that sprang from popular opposition to colonial rule—whether in incidents like the Aba Women's War in Nigeria or the rebellions of Kikuyu women in colonial Kenya, or the mobilisation of anti-colonial forces in Zimbabwe's Chimurenga wars and the non-violent direct actions led by Gandhi in India. It was with the advent of 'development', Manji charges, that the social energy created through popular organisation began to be dissipated as the state took over, codifying rights in 'laws and constitutions whose relevance or application was determined by the self-proclaimed, and increasingly unaccountable, guardians of the State'. The shift from rights to development, Manji argues, hastened the depoliticisation of 'poverty'. With it came the transmutation of the structures that had emerged to organise around basic rights into 'development' institutions.<sup>28</sup>

Some would charge that today's rights-based development resonates remarkably little with its politicised history, given the locus of those who are its principal promoters. What does seem evident is that scant attention appears to be paid to the fact that the very agencies who are trying to promote it have their own situated relationships with the countries in which they are engaging—the case of Britain and its ex-colonies being the most obvious example. Yet there are other dimensions of this history that are worth remembering. The colonial project was uneven and contradictory: it was not a seamless process of extraction and oppression. Spaces were opened through its contradictions for certain social groups, for instance women, to gain access to new opportunities and realise new rights that traditional society did not recognise.<sup>29</sup> This gave rise to tangible new opportunities for certain excluded groups. The paradox of the ways instrumentalist intervention was actively transformed by people into something that they could make use of in securing freedoms has considerable contemporary resonance.

*The right to development: demanding a new international economic order*

From the colonial era to the period after WWII in which 'development' began to be articulated as a project with the dimension of international cooperation, 'development' and 'human rights' were seen as separate domains.



'Development' was the terrain of economists, for the most part; 'human rights', the territory of lawyers and activists.<sup>30</sup> It was, Mary Robinson argues, the entry of newly independent southern nations into the UN in the 1960s and 1970s that spurred the beginnings of attempts to bridge the two domains.<sup>31</sup> The 1966 *International Covenant on Economic, Social and Cultural Rights* provided an important starting point for a host of Third World-led initiatives one of whose outcomes was the Declaration on the Right to Development in 1986.

The 1986 UN Declaration on the Right to Development marked one key milestone in a decade and a half of struggles by radical Third World states within the UN to pass a package of reforms that would result in a New International Economic Order (NIEO) that was fair to poor countries. The declaration is non-binding, and some view it as a watered down version of the radical redistributive measures sought by the NIEO movement. Nonetheless it does reflect some of the radical politics of that era. For instance, rather than confine itself to a conventional understanding of rights as being about state-citizen relations, it places an emphasis on the global dimension. Pointing to inequalities between North and South, it stresses the collective obligation of all states to create a just and equitable international environment for the realization of the right to development. It emphasises a collective duty of all states to eliminate barriers such as unfair trade rules and the debt burden, effectively pointing an accusing finger at the industrial countries. For this reason it has been opposed by western states. The voting pattern on the resolution adopting the declaration shows this North-South split.<sup>32</sup> Although eight industrial states voted in favour of adopting the declaration, this number dropped drastically when a subsequent resolution tried to lay out a detailed plan of action to put the Right to Development into practice (Res 41/133 of 4 Dec 1986).<sup>33</sup> This second resolution called for international co-operation aimed at stable and sustained economic growth and increased concessional assistance to developing countries. It called on states to build world food security, resolve the debt burden, eliminate trade barriers, promote monetary stability and enhance scientific and technical cooperation.<sup>34</sup> The industrial countries rejected this because they saw it as the imposition of one-sided obligations and an invasion into what should be, according to them, the discretionary/voluntary field of development assistance, where spelling out precise obligations is anathema.

Within the arena of international human rights practice there continued to be some resistance over the course of the later 1980s and 1990s to the types of rights that were seen as 'development concerns', e.g., shelter, water and food. Resistance to economic and social rights by the west (especially the US) has roots in the Cold War. The situation has changed since the end of the Cold War. The principle of the indivisible, interdependent and non-hierarchical nature of rights has become the mantra since the 1993 World Conference on Human Rights held in Vienna. However, social and economic rights still encounter a degree of scepticism (mostly US-led) as to their status as rights. Mainstream western-based HR NGOs only began to work on these since the mid-1990s. Indeed, the human rights movement has tended to remain aloof to issues of economic and social justice. Mainstream human rights groups such as Amnesty

International did not get into the language of “rights-based approach” to development’ until 2001–2002.<sup>35</sup>

The contemporary talk on rights based approaches within international development circles displays little awareness of the earlier struggles around the Right to Development. The absence of the Right to Development from the rights vocabulary of international development actors is explained partly by a deliberate effort to steer clear of the controversies raised by its reference to global inequalities. DFID for instance, makes no reference to the Right to Development in any of its two White Papers and only a passing reference in the Target Strategy Paper on rights.<sup>36</sup> The UK Foreign and Commonwealth Office specifically advised proponents of a rights-based approach within the UK Department for International Development (DFID) to exclude any reference to the declaration. DFID makes it quite clear that it does not ground its approach to development assistance in the UN Declaration on the Right to Development, and that its assistance is based on a moral—not legal—obligation to alleviate poverty.<sup>37</sup> The other partial explanation is simply staff’s lack of familiarity with these earlier struggles.<sup>38</sup>

### *Why rights, why now?*

Why then, in view of this history of hostility to the language of rights in the development sphere, have international development agencies shown less hostility (indeed in some cases, shown enthusiasm) to the mid-1990s discourse on ‘rights based approach’ to development? A confluence of factors has contributed to growing interest amongst development actors in ‘rights-based approaches’ to development, and we discuss each of these in brief below:

1. *The end of the Cold War.* The end of the Cold War made possible a more comprehensive view of rights as encompassing all rights: civil, political, economic, social and cultural. From this point it is not a long jump to framing ‘development’ concerns such as food security and population as issues of rights. There is less contestation over their status as rights claims, unlike in the sterile debates that characterised the Cold War era.<sup>39</sup>

2. *NGO activism.* A ‘development caucus’ made up largely of ‘development’ and ‘humanitarian relief’ NGOs, as well as disparate small groups or movements based in the South spearheaded a campaign for a rights-based approach at the World Social Development Summit at Copenhagen in 1995. The campaign was not spearheaded by the mainstream international human rights movement, as one would expect. But changes in the attitudes of mainstream human rights groups did influence this campaign. While the prominent core of the movement (namely large western-based NGOs) had remained aloof to issues of economic and social justice, this situation began to change around the time of the Vienna Conference on Human Rights in 1993. The Vienna conference is significant in that it was the first post-Cold War international conference on human rights, and therefore it emphasised the integrated nature of rights, thus raising the profile of economic and social rights. Thus, by the time of the Copenhagen summit there were a few

examples of collaboration between mainstream human rights NGOs and development-oriented NGOs.<sup>40</sup>

3. *Shifts in aid delivery.* In general, the disbursement of development assistance has begun to shift in recent years from sector-specific or project-based intervention to direct budget support to governments. Much aid still takes the shape of programme or project support, but budget support delivered through coordination between donors is becoming the new modality for aid. Budget support offers donor governments opportunities to influence the shape of recipient government policies and some opportunities to affect service delivery. But the challenge remains as to how donor governments can ensure that this money is actually spent accountably once it is released into the recipient country's treasury. The response has been to support a two-way process: reform and strengthening of public institutions on the one hand and bolstering the capacity of civil society to hold the public sector to account on the other.<sup>41</sup> Within this context, the turn to rights might be seen as a means through which the kinds of openly intrusive conditionalities that no longer befit today's rhetoric of partnership and policy dialogue can be brought in through another route.

4. *Rights as way of reframing participation.* Whilst broad-based participation is now seen as an important means through which rights can be claimed and gained, the effective separation between participation as a means through which projects and programmes were implemented, and participation as a political process involving advocacy and mobilisation dominated approaches to participation in the 1990s.<sup>42</sup> For some of those working with participation, the turn to rights at the end of that decade came as a way of re-politicising an approach to development that had turned instrumentalist as it was popularised in the mainstream. Rights talk provides a new frame within which to signal a move towards a more genuinely inclusive and democratic process of popular involvement in decision-making over the resources and institutions that affect people's lives. The focus of rights-based versions of participation is about shifting the frame from assessing the needs of beneficiaries or the choices of customers or clients, to foster citizens to recognise and claim their rights and obligation-holders to honour their responsibilities.<sup>43</sup>

5. *Distancing the discourse of 'rights-based approaches' from the right to development.* Finally, what has made the language of 'rights-based approaches' at least tolerable to the institutions that have been careful to keep the Right to Development at arm's length? We speculate that it is because the mid-1990s dialect of the rights language is shorn of any reference to the global inequality that is the central focus of the 1986 declaration. In the mid-1990s dialect, there is no conception of human rights duties beyond that of one's 'own state'. In fact, even though RBA language is being employed in the context of 'international cooperation' and in 'aid' it is quite clear that the funder countries, while insisting that they now see the people in the recipient countries as rights-bearers, they do not see themselves as bearing any defined duties that contribute to the concrete realisation of these rights. Beyond the acknowledgement that the primary duty

flows from the recipient state to its citizens, it is not clear where the funder countries position themselves in the 'rights-duties' equation.

### **What do international agencies say about a rights-based approach to development?**

Within as well as across agencies the term 'rights-based approach to development' is open to an enormous range of interpretations and is associated with a range of different methodologies and practices. A point of caution is necessary here: it would be problematic to draw any hard and fast conclusions about the normative influence of rights in what agencies do even when they have the most assertive declarations of support for rights. There is a limit to how much any generalisation can make sense of the politics of development policy and practice as well as the internal politics of development agencies. However, the contrasts that emerge from even the most cursory glance at what different agencies are saying and doing are worth some discussion and indeed further, empirically-based, investigation. The sections below explore some of the positions and perspectives of a series of international agencies of different kinds—multilaterals, bilaterals and international NGOs—and draw out contrasting perspectives on what rights-based development might mean in practice.<sup>44</sup>

#### *Multilateral agencies: UNICEF and UNDP*

At the heart of UN reforms since 1997 is the ideal that the realization of human rights would become the core value that drives the work of all UN agencies and other agencies that have a relationship agreement with the UN (such as the World Bank). Realization of this ideal would lead to genuine 'self-monitoring' by UN agencies. It would also mean that all the institutions and agencies would see themselves as sharing in the core mission of the UN as articulated in the UN charter, which includes the protection and promotion of human rights as one of the five main goals.<sup>45</sup> Although on the whole it seems that most UN agencies are still trying to figure out what a rights approach as such means, and what programming around it would entail, some UN agencies such as UNICEF and UNDP are ahead of the rest.<sup>46</sup> UNICEF's mission takes the UN Convention on Children's Rights and the UN Convention on the Elimination of All Forms of Discrimination Against Women as the organizing framework for UNICEF's work. At the practical level, UNICEF's approach to implementing a 'rights-based approach' involves integrating it into its Community Capacity Development strategy. This means going through five specific steps in programming, namely causality analysis to identify basic causes such as gender discrimination; analysis of the complex web of social and political relationships between rights-bearers and duty-bearers; analysis of capacity gaps that prevent duty holders (e.g., parents, communities and government agencies) from fulfilling their obligations; identification of 'candidate actions' to equip both rights-holders and duty-bearers in relation to a specific issue; and finally programme design, which involves aggregating the priority actions into programmes and projects sensitive to the level of society at which each action is being undertaken.<sup>47</sup>

Although the UNDP can fairly be described as a notable intellectual leader within the UN in elaborating the meaning of a 'rights-based approach' it has not—unlike UNICEF—translated it into a practical tool for rights-based programming to be applied to its poverty eradication and sustainable human development work. UNDP's key contribution has been at the conceptual level, as exemplified by its Human Development Report 2000 on Human Rights and Human Development and its 1998 statement on human rights and development.<sup>48</sup> The UNDP's explanation of the conceptual basis for a rights-based approach in their work is as follows:

The central goal of Development has and will be the promotion of human well-being. Given that human rights define and defend human well-being, a rights-based approach to development provides both the conceptual and practical framework for the realization of human rights through the development process.<sup>49</sup>

Toward incorporating this integral view of rights into its work at country level UNDP has teamed up with the Office of the UN High Commissioner for Human Rights. The strategies they have adopted include building the institutional capacity of national governments by supporting the creation of human rights commissions, partnering with NGOs involved in advocacy and human rights monitoring; equipping UNDP staff through training and production of materials; setting up a forum (HURITALK) to enable its staff to dialogue with each other and with other UN and bilateral agencies, NGOs and research institutions on human rights issues.

In general it appears that the UNDP's work on rights has leaned heavily toward governance institutions—parliamentary support, judicial reform, civil service reform, media support, and anti-corruption.<sup>50</sup> The available information suggests that UNDP has done less to integrate a rights focus into its programmes on poverty eradication and sustainable human development, a view that was confirmed by one development professional who worked with the UNDP in the past.<sup>51</sup>

#### *Multilateral agencies: World Bank*

The World Bank's position on human rights has evolved slowly from an outright rejection of the rights agenda as political and therefore anathema under the bank's Articles of Agreement; to arguing that the bank views its work as geared toward poverty reduction and therefore that it contributes to the realization of social and economic rights. The bank takes the position that its mandate does not allow it to become involved in rights of a civil and political nature or to take a position on rights in general, but that its work on good governance and anti-corruption creates the conditions necessary for the enjoyment of all rights, including civil and political rights.<sup>52</sup> This position gives the impression that the World Bank would like to be seen as promoting a rights-based approach to development through its current programming, and that there is no need for it to take any further specific steps to implement a rights-based approach. This position, and the bank's refusal to acknowledge the need for human rights accountability for any negative impact of its work, has earned it criticism from

civil society as well as from the UN Committee on Economic, Social and Cultural Rights.<sup>53</sup>

The bank's claim that its work promotes economic and social rights needs to be held up against other statements that the bank makes which are in tension with the achievement of basic economic and social rights. One example is with respect to the privatisation of water services, which is labelled 'rights-based water sharing'. A joint World Bank/ Netherlands water partnership program (operating in Brazil, Chile, Indonesia, Philippines and Yemen, with planned extension to India and Kenya) describes the objective of the 'water rights system' as 'stimulating the use of rights-based systems for the allocation of water in World Bank assisted projects (through market mechanisms)'.<sup>54</sup>

What is being described as 'rights-based' is no more than a system of tradable permits in water. The emphasis on 'allowing water to move from lower to higher value uses' and therefore 'increasing efficient use' suggests a focus on profitable use rather than adequate supply for all, and the system is therefore likely to favour large commercial users.<sup>55</sup> This contrasts with an approach that has been described by the same name—'rights-based'—in a UNICEF publication.<sup>56</sup> The emphasis is on securing basic levels of service for all, and on the need for regulation to ensure both efficiency and fairness, which the market alone cannot be relied upon to provide.

According to some commentators, it may only be a matter of time before the bank jumps onto the rights-based bandwagon. There are fears that the result might be the same kind of domestication and neutralising of notions with more radical histories that we have seen with the banks take up of 'participation' and 'empowerment'. Whatever the case, it appears highly unlikely that the bank would countenance putting themselves as an actor within the discursive frame as 'duty-holders'—or indeed rights-violators.

#### *Bilateral agencies: Sida*

Sweden has long been associated with the promotion of human rights as part of development cooperation activities. The Swedish government has had a long and close association with movements engaged in struggles for self-determination, particularly in southern Africa where direct support to anti-colonial and anti-apartheid liberation movements amounting to some 40 per cent of official spending in the region in the period 1950–1994 was given, despite labelling of such movements as 'communist' or even 'terrorist' by other western governments.<sup>57</sup>

Like UNDP, Sida's rights work has focused on institutions of governance and democratisation. Indeed, Sida does not generally use the term 'rights-based approach' to describe its work. However, it adopts a multidimensional definition of poverty which views human rights as providing a normative basis for poverty reduction. Notable is Sida's explicit naming of 'power structures and power relationships at all levels that affect the poor person's opportunities' because of the focus it places on issues such as discrimination as integral to understanding poverty.<sup>58</sup>

According to Senior Human Rights Adviser Inger Axell, steps are being taken

to translate Sida's commitment into tools for practice. Four key principles have been identified for use in developing a simple, generic, checklist to be used by staff for pre-appraisal of programmes: accountability; participation; openness and transparency; and equality in dignity and rights.<sup>59</sup> Sida is currently doing innovative work using power analysis as an entry point for bringing a rights focus to bear on country programming. The mandate given in recent shifts in policy to embed a rights perspective in every aspect of the organisation's work holds the prospect of moving beyond what has been at times a rather legalistic approach to human rights.

### *Bilateral agencies: DFID*

For DFID, the cornerstones of a 'rights-based approach', as articulated in its 2000 target strategy paper *Human Rights for Poor People*, are three principles: participation, inclusion and fulfilling obligation. Like Sida, DFID emphasises discrimination as one of the barriers to realising rights, putting social inclusion at the heart of poverty reduction. Participation is defined as 'enabling people to realise their rights to participate in, and access information relating to, the decision-making processes which affect their lives', which is arguably both a progressive formulation of the concept and at the same time a more restricted notion.<sup>60</sup> If simply having access to information is presented as 'participation', the concept gains considerable elasticity. It is clear, however, from DFID's target strategy paper and from subsequent moves to institutionalise a rights-based approach, that the most radical component of this move to rights is naming participation as in itself a human right, one that is prior to the realisation of other rights.

Analysing some of DFID's programmes, Piron observes that the focus of implementation appears to be on community participation in service delivery and civil society advocacy.<sup>61</sup> This is, she notes, not the same as 'demanding and being able to ensure the respect or protection of specific rights, such as, for example, the right to health or education'.<sup>62</sup> She also comments on the way in which talk of a rights-based approach has been used to tone down reference to human rights that might otherwise be perceived as 'too political' by certain governments. Whilst the TSP speaks of the right to *participation*, Piron shows how DFID's engagement with the right to *development* has been careful to emphasise the obligations of *national* governments, and suggests that DFID is rather more vague about their own human rights obligations as indeed those that they may have to people in the countries to which DFID gives development assistance.

Whilst DFID has supported the development of Participatory Rights Assessment Methodologies (PRAMS)<sup>63</sup>, it has not as yet issued formal instructions that require rights-based programming nor provided guidance as to how to incorporate a rights-based approach into impact assessment or policy development. Those country programmes that have taken up the approach have largely done so as the result of successful advocacy by Social Development advisers, and there is considerable diversity in the way in which 'rights-based approach' is understood and implemented across DFID.<sup>64</sup> With the recent period of turbu-

lence in the organisation as a result of internal restructuring, there have been some set-backs in implementing a rights-based approach within DFID.<sup>65</sup> Recent developments suggest, however, that new opportunities may be opening up with the reconfiguration of DFID's teams giving rise to a newly constituted team mandated to focus on exclusion, rights and justice, and a renewed focus on the potential of a rights-based approach in the governance arena.

*International development NGOs: CARE*

CARE launched its Human Rights Initiative in January 1999. For CARE a rights-based approach is about:

... achieving minimum conditions for living with dignity (i.e., attaining ... human rights—as validated by national and international law). A 'rights-based approach' ... empowers poor communities to claim and exercise their rights and enables those responsible to fulfil their duties.<sup>66</sup>

CARE has developed a framework known as the 'benefits-harms' analysis to examine and mitigate the unintended negative impact of CARE's work, as well as assess how differently positioned people within the same community may experience harm or benefit from the same intervention.<sup>67</sup> In addition, CARE takes up the responsibility of holding other key actors—such as governments, donors and partners—to account in accordance with their human rights obligations. For this, CARE has developed an analytical framework known as the Rights, Responsibilities and Root Causes Analysis.<sup>68</sup>

CARE tries to integrate a rights-based approach into their Household Livelihood Security (HLS) framework.<sup>69</sup> In doing this, CARE has zoomed in on the 'right to personal self-determination' as the organizing principle: enabling people to have the freedom to make decisions on their own well-being by securing their livelihoods. At the level of implementation in country programmes, for instance, in CARE-Kenya, the form that this integration of a rights-based approach into the household livelihood security framework takes depends on the viewpoints of the implementers, and this can sometimes present dilemmas: CARE-Kenya's 'Nuru strategy' focuses on increasing income. One agricultural project in Eastern Kenya focused on enabling farmers to organize into a company so as to afford private services for agricultural extension and marketing of their produce, rather than remain dependant on poor quality government services.<sup>70</sup> While the power to choose is consistent with the ethic of rights, opting out of public services by those who can afford it will simultaneously weaken collective voice for demanding governmental accountability, which is detrimental to the realization of rights.

*International development NGOs: ActionAid*

ActionAid is committed to integrating rights into its work on fighting poverty. ActionAid defines poor people as those who are 'suffering the injustice of the denial of basic human rights that should give them voice and citizenship'.<sup>71</sup> ActionAid has decided to evaluate their work in terms of gains in rights: the extent to which previously marginalized groups have become aware of their



rights, are able to actively participate in organizing around claiming them and are able to impact positively on public accountability.<sup>72</sup>

ActionAid has been bold about attributing poverty to unequal power relations, and therefore speaking of it as a violation of rights, and seeing a rights-based approach as a powerful tool for challenging those unequal power relations. ActionAid-Kenya, for example, adopts a two-pronged strategy to challenge denial of rights: first, by strengthening poor people and their organisations to claim rights; and second, by working ‘constructively but critically’ with governments, donors and the private sector so as to create an enabling policy and institutional environment for the eradication of poverty.<sup>73</sup> Among the major international development NGOs, ActionAid places the most emphasis on creating a favourable policy environment, both nationally and internationally, and therefore puts a lot of effort into policy advocacy campaigns. At the international level these have included the food rights campaign, which targets the WTO, in particular the General Agreement on Trade Related Aspects of Intellectual Property (TRIPS) and the Agreement on Agriculture, challenging actual and potential adverse impact on farmers in poor countries.

One question that emerges from ActionAid’s approach is how to negotiate their strong advocacy-oriented position (‘siding with the oppressed’) in the context of relationships with funders and host governments. Anecdotes about reactions of Kenya government and DFID-Kenya officials to an ActionAid-supported campaign with sugar farmers in Western Kenya showed clearly that this is an issue that ActionAid, their partner organizations and the communities have to negotiate time and again.<sup>74</sup>

### **Talking rights: differences and distinctions**

Any version of the rights-based approach needs to be analysed in terms of its normative content—that is, in terms of what ideals it invokes, what vision it represents, and how this vision is contrasted with existing practice and turned into a basis for reorienting development practice and practitioners.<sup>75</sup> In this penultimate section, we explore some of the points of contrast and reflect more broadly on the implications of the ways international agencies are talking about and doing rights-based development.

#### *Common principles, different emphases*

Most of the organizations highlighted above see a rights-based or human rights approach as a catalyst that can transform the practice of development from a focus on identifying and meeting needs to enabling people to recognise and exercise rights. Most organization’s strategies entail: (1) strengthening the capacity of duty-holders—generally state, but also increasingly non-state actors; and (2) building the capacity of citizens to claim their rights, either by working alongside them as advocates (as in ActionAid’s approach) and/or by seeking to provide opportunities for people to empower themselves (as in CARE-Kenya’s approach). The common principles of rights-based development then, might be seen to reside in shifting how development actors ‘do business’, offering

them—in theory—the potential to change their ways from unreflective patronage to the self-aware exercise of agency in support of those who are discriminated against and marginalised.<sup>76</sup> The way in which different organisations interpret this broad framework, and the role the approach is seen to play in the work of the organisations is, however, distinctively different.

There is considerable slippage in the discourse of international agencies between talk of 'human rights and development', 'human rights approach to development', 'rights-based approach to development' and so on. Different language may mask broadly similar purposes; similar terms may come to carry vastly different meanings. But there is a clear line of distinction to be drawn between agencies who take a more *legalistic* approach, using human rights as standards against which development interventions might be assessed, and those for whom the realisation of human rights is seen as *underpinning the entire development enterprise* and therefore provides a more broad-based normative framework which requires a re-definition of developmental goals.<sup>77</sup> For the latter, rights appear to offer, more than anything else, a way of framing an approach to poverty reduction.

A further line of distinction might be drawn between the discourse of rights as a means of addressing issues of accountability of state and non-state duty-holders, and as about enabling people to empower themselves to overcome obstacles to the realisation of social and economic rights, which may—as in the example of CARE's work in the agricultural sector in Kenya—involve 'opting-out' of public services rather than making demands on the state as duty-holder. This distinction further highlights the different degrees of emphasis among the agencies on the role of state institutions, for instance the contrasting approaches of the World Bank and UNICEF to the privatisation of water services.

### *Dimensions of difference*

From our analysis of the differences between approaches, it is possible to identify four ways in which human rights are deployed in rights-based approaches to development:

1. As a *set of normative principles* to guide the way in which development is done, as in DFID's Target Strategy Paper, Sida's multidimensional definition of poverty and ActionAid and CARE's statements of solidarity with the marginalised as a guiding principle for their work.
2. As a *set of instruments* with which to develop assessments, checklists and indicators against which interventions might be judged, as in Sida's guidance for country strategy processes and UNICEF's five-step assessment.
3. As a *component to be integrated into programming*—as, for example, in UNICEF's integration of rights into its Community Capacity Development approach or CARE's integration of rights into its Household Livelihood Security approach.
4. As the *underlying justification for interventions aimed at strengthening institutions*, whether to develop the advocacy skills of organisations representing marginalised people, as in the case of ActionAid, or to create or

strengthen accountable governance institutions as in the case of Sida and UNDP.

Each of these four dimensions has its strengths but also limitations and therefore pursuing any one on its own is likely to prove inadequate. For instance, regarding the rights-based approach as a broad set of principles defining an overarching approach to development can mean that the approach simply serves as a new way of repackaging interventions, one that does not need to refer to anything more than good intentions. At the same time reducing the rights-based approach to a set of instruments (e.g., a narrow set of international conventions) or a checklist to be ticked off runs the risk of making it yet another 'layer' to be considered, and something to which only tokenistic lip-service may be given. This also poses the additional risk of establishing a comfort zone within the bounds of well-established rights rather than allowing for a broader interpretation of human rights that would encompass much that development agencies might wish to pursue. With respect to the third dimension, the obvious danger of seeing rights as a component to be incorporated into programmes is that they become an add-on, with no intrinsic or organic influence on how things are done. The fourth dimension runs the risk of focusing only on formal institutions—as is the current practice of virtually all donor organizations—which may be inaccessible to marginalized groups and there is no guarantee that they will behave fairly. Strengthening the capacity of organisations of marginalised groups may help those particular groups exercise rights, but may have limited impact in terms of broader societal transformation. Mainstreaming a rights-based approach will therefore require work to promote *all four* dimensions.

### **Conclusion: transforming power relations?**

Ultimately, however it is articulated and operationalised by a development agency, a rights-based approach would mean little if it has no potential to achieve a positive transformation of power relations among development actors. It must be interrogated for the extent to which it enables those whose lives are affected the most to articulate their priorities and claim genuine accountability from development agencies, and also the extent to which the agencies become critically self-aware and address inherent power inequalities in their interaction with those people.

In the context of bilateral development assistance it seems difficult to envision this level of transformation because of the manner in which accountability channels in aid relationships are currently structured. A bilateral development agency's primary accountability is to citizens/tax payers in its own country, through the treasury. Accountability to the recipient state's government is of a loose diplomatic nature, rather than a legal one with clearly defined rights and obligations. Direct accountability to the communities who are the ultimate recipients is non-existent.<sup>78</sup> This is as much, if not especially, the case for NGOs, most of whom lack any defined accountability and are even less amenable to being held to account than multilateral or bilateral development actors. The only formal accountability communities can expect is from their own government.

Likewise, recipient governments have only a loose accountability to donor governments—accountability based on the power differential rather than on legal obligations.

Without the possibility of direct accountability in the international development assistance structure, is there any substance to the claim in current donor literature that aid recipients have now been transformed from 'passive beneficiaries' to 'rights-holders'? What rights exactly *do* they hold? A question for reflection therefore is, in view of the absence of accountability—the key ingredient that distinguishes a rights-based approach from a practice of development that is dictated by discretion and pragmatism—can the policies of bilateral agencies be described as rights-based? It seems fair to suggest that international development agencies—to varying degrees—use the language of rights-based approach to development largely to invoke the discursive power of the concept of rights, without intending to bear the weight of the entirety of consequences that flow from it.

When a rights-based approach is deployed in the context of bilateral and multilateral assistance programmes, where do the obligations lie? Obviously primarily with the recipient state to ensure that the aid is used in a manner that respects and fulfils its citizens' rights. What then is the position of the funding government: does it also invite upon itself obligations to monitor the recipient government's disbursement and use of its funds to ensure that it is consistent with human rights principles? Does it take responsibility for any negative human rights impact flowing from projects it has funded? None of these implications are explained clearly in any agency's policies. Perhaps it is the lack of clarity on corresponding duties that makes the contemporary language of rights in development less threatening to the governments of rich countries than the Right to Development?

A closer look at agency practice confirms that the devil lies in the detail. Given dubious successes with previous mainstreaming efforts, it is not difficult to see why there is so much scepticism around about the extent to which any changes in declared intentions are capable of transforming an industry as full of paradoxes and dissonance as that of development. In the current international climate, however, 'rights-based' hopes are as good as it gets. What they provide, as we argue at the beginning of this paper, is not just a set of conventions or legal instruments with which to back claims and press for duties to be upheld. Rights talk is above all talk of politics, of power and of social justice. It is talk that inspires and impassions, talk that animates and mobilises, talk that restores to people a sense of their agency and their rightful claim to dignity and voice. This kind of talk is too important to go the same way as other buzzwords such as 'empowerment'.<sup>79</sup> As Peter Uvin argues, discursive shifts can 'slowly reshape the margins of acceptable action, create opportunities for redefining reputations and naming and shaming, change incentive structures and the way interests and preferences are defined, and influence expectations'.<sup>80</sup> Drawing attention to the shortcomings of the kind of rhetorical flirtation with rights that is evident in the international development community is critical at this juncture if a rights-based

approach is to mean anything more than the latest flurry of cosmetic rhetoric with which to sell the same old development.

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## Notes

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- <sup>1</sup> These trends are captured in R Eyben, 'The rise of rights', Institute of Development Studies Policy Briefing, 2003; and evidenced in a range of recent documents from INGOs and donor agencies, from CARE's 'Defining characteristics of a rights-based approach: promoting rights and responsibilities', Atlanta, 2002, to DFID's Target Strategy Paper, *Human Rights for Poor People*, London, 2000. We discuss different agencies' discourses on the rights-based approach in more depth in a forthcoming IDS Working Paper, entitled: 'What is the Rights-based approach all about?' (Nyamu-Musembi & Cornwall, forthcoming).
- <sup>2</sup> For an excellent overview of these debates, see P Uvin, *Human Rights and Development*, Bloomfield: Kumarian, 2004; see also H Slim, 'A response to Peter Uvin, making moral low ground: rights as the struggle for justice and the abolition of development', *Praxis*, XV11, 2002, pp 1–5.
- <sup>3</sup> RC Offenheiser & S Holcombe, 'Challenges and opportunities of implementing a rights-based approach to development: an Oxfam America perspective', paper presented at Northern Relief and Development NGOs Conference, 2–4 July, Balliol College, Oxford, 2001. INTRAC, 2003.
- <sup>4</sup> C Moser & A Norton, *To Claim Our Rights: Livelihood Security, Human Rights and Sustainable Development*, London: Overseas Development Institute, 2001. J Farrington, 'Sustainable livelihoods, rights and the new architecture of aid', *Natural Resource Perspectives*, 69, 2001. SLSA Team, *Rights Talk and Rights Practice: Challenges for Southern Africa*, Cape Town: Programme for Land and Agrarian Studies, University of the Western Cape, 2003.
- <sup>5</sup> J Hausermann, *A Human Rights Approach to Development*, London: Rights and Humanity, 1998. This is a discussion paper commissioned by the Department for International Development of the UK Government in preparation of the Government White Paper on International Development.
- <sup>6</sup> Others would argue, of course, that such a vision is so infused with the values of the Enlightenment that its cultural and historical specificity undermines any claims to universality. See N Kabeer, *Citizenship and the Boundaries of the Acknowledged Community: Identity, Affiliation and Exclusion*, Brighton: Institute of Development Studies, 2002.
- <sup>7</sup> As the Committee on Economic, Social and Cultural Rights made clear, such obligation extends to the creation of enabling conditions rather than direct provisioning.
- <sup>8</sup> P Uvin, 'On high moral ground', 2002.
- <sup>9</sup> P Uvin, *Human Rights and Development*, Bloomfield: Kumarian, 2004.
- <sup>10</sup> U Jonsson, *A Human Rights Approach to Development Programming*, Nairobi: UNICEF Eastern and Southern Africa Regional Office, 2003.
- <sup>11</sup> Jonsson, *op cit*, 2003 (see chapter, 'Programming implications of a human rights approach').
- <sup>12</sup> C Ferguson, *Global Social Policy Principles: Human Rights and Social Justice*, London: DFID, 1999, p 23.
- <sup>13</sup> See Office of the UN High Commission for Human Rights, *Draft Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, available at [www.unhcr.ch/development/povertyfinal.html](http://www.unhcr.ch/development/povertyfinal.html).
- <sup>14</sup> UNOHCHR, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies*, available at [www.unhcr.ch/development/povertyfinal.html](http://www.unhcr.ch/development/povertyfinal.html), 2002, paragraphs 23 & 230.
- <sup>15</sup> P Uvin, *Human Rights and Development*, Bloomfield: Kumarian, 2004, p 131.
- <sup>16</sup> R Eyben, 'International development organizations and rights-based approaches', presentation to Rights and Power Workshop, IDS, November 2003. R Eyben & U Ramanathan, 'Rights-based approaches to inclusive development: perspectives on the implications for DFID India' Mimeo, 2002.
- <sup>17</sup> A Cornwall, 'Making a difference? Gender and participatory development', *IDS Discussion Paper*, Brighton: Institute of Development Studies, 2000; R Eyben & U Ramanathan, *op cit*, 2002; R Eyben, *op cit*, 2003; N Kabeer, *op cit*, 2002; J Gaventa, 'Introduction: exploring citizenship, participation and accountability', *IDS Bulletin*, 33(2), 2002, pp 1–11.
- <sup>18</sup> C Nyamu-Musembi, 'Toward an actor-oriented perspective on human rights', *IDS Working Paper* 169, Brighton: Institute of Development Studies, 2002; C Moser & A Norton, *op cit*, 2001.
- <sup>19</sup> See SLSA, *op cit*, 2003.

- <sup>20</sup> Farrington, *op cit*, 2001. However, this argument reflects a mischaracterisation of the principle of indivisibility of rights. Indivisibility does not mean that in working out policies in a context of limited resources it is impermissible to prioritise certain types of claims over others. Prioritisation is inevitable. However, the prioritisation must reflect reasonable use of the resources available and it must demonstrate that reasonable steps are being taken towards the progressive realisation of rights in a comprehensive manner, as required under article 2 of the International Covenant on Economic, Social and Cultural Rights. The process of prioritisation must also adhere to principles of non-discrimination, equality and participation, principles which would disallow trade-offs that result in injustice and violation of basic rights. For arguments along these lines see Office of the UN High Commissioner for Human Rights, 'Draft guidelines: a human rights approach to poverty reduction strategies', 2002; P Hunt, S Osmani & M Nowak, 'Human rights and poverty reduction strategies', Office of the UN High Commissioner for Human Rights (UNHCHR) Discussion Draft, February 2002.
- <sup>21</sup> See C Nyamu-Musembi, *op cit*, 2002; R Crook & P Houtzager (eds) 'Making law matter: rules, rights and security in the lives of the poor', *IDS Bulletin*, 32(1), 2001.
- <sup>22</sup> H Slim, 'A response to Peter Uvin—making moral low ground: rights as the struggle for justice and the abolition of development', *Praxis*, 17, 2002, cited in P Uvin, *Human Rights and Development*, Bloomfield: Kumarian, p 128.
- <sup>23</sup> R Archer, *Deserving Trust: Issues of Accountability for Human Rights NGOs*, International Council on Human Rights Policy, 2003.
- <sup>24</sup> J Reddy, 'Statement by Mr. Jaipal Reddy, Member of Parliament on Agenda Item 89: implementation of the first United Nations decade for the eradication of poverty at the Second Committee of 57th Session of Unga on October 30, 2002', available at <http://secint04.un.org/india/ind661.pdf>.
- <sup>25</sup> M Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, Princeton: Princeton University Press, 1996. N Kabeer, *op cit*, 2002.
- <sup>26</sup> F Manji, 'The depoliticisation of poverty', in: D Eade (ed) *Development and Rights*, Oxford: Oxfam, 1998, p 14.
- <sup>27</sup> Mamdani, *op cit*, 1996; F Manji, *op cit*, 1998; C Nyamu-Musembi, *op cit*, 2002.
- <sup>28</sup> F Manji, *op cit*, 1998, p 16.
- <sup>29</sup> One example of contradictions within the colonial project that opened up spaces for some social groups is in the area of marital relations. Chanock discusses the example of a colonial officer and a Chewa paramount chief in North Eastern Zambia in the 1920s who took it upon themselves to grant divorces to rural women who had been abandoned by their husbands. The husbands had migrated into mining centres and towns and had entered into relationships with other women and did not remit money to their wives. Yet the area's Native Authorities and the Catholic Missionaries would not allow them to divorce their husbands. The unilateral actions of the colonial officer and the Chewa paramount chief freed them to move on and explore new economic opportunities for themselves (M Chanock, *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia*, Cambridge: Cambridge University Press, 1985, p 152).
- <sup>30</sup> UNDP, *Human Development Report: Human Rights and Human Development*, New York: UNDP, 2000.
- <sup>31</sup> M Robinson, 'Bridging the gap between human rights and development: from normative principles to operational relevance', World Bank Presidential Fellows Lecture, 3 December 2001. Available at [www.worldbank.org/wbi/B-SPAN/sub\\_mary\\_robinson.htm](http://www.worldbank.org/wbi/B-SPAN/sub_mary_robinson.htm).
- <sup>32</sup> There were 146 votes in favour. Industrial countries that voted in favour of the declaration include Australia, Belgium, Canada, France, Italy, Netherlands, New Zealand and Norway. The single vote against the declaration came from the United States. Eight abstained, including Japan, Germany and the United Kingdom. Source: I Brownlie, 'The human right to development', Commonwealth Secretariat, Human Rights Unit Occasional Paper, November 1989.
- <sup>33</sup> On this subsequent resolution, eleven states voted against (United States, Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, Netherlands, Portugal and the United Kingdom). The total number of votes in favour fell to 133. Australia, which had voted in favour of the first resolution, abstained this time around. Source: I Brownlie, *op cit*, 1989.
- <sup>34</sup> I Brownlie, *op cit*, 1989, p 12.
- <sup>35</sup> Amnesty International, 'The rights-based approach to development: indivisibility and interdependence of ALL human rights', statement of Colm O'Cuanachain, Chairperson, International Executive Committee to World Social Forum, Porto Alegre, 2002.
- <sup>36</sup> DFID, *Eliminating World Poverty: A Challenge for the Twenty-First Century*, White Paper on International Development, London: DFID, 1997. DFID, *Eliminating World Poverty: Making Globalisation Work for the Poor*, White Paper on International Development, London: DFID, 2000. DFID, *Making Government Work for Poor People: Strategies for Meeting the International Development Targets*, London: DFID, 2001.
- <sup>37</sup> LH Piron, 'The right to development: a review of the current state of the debate for the department for international development', Overseas Development Institute, 2003. Available at [www.odi.org.uk/pppg/publications/papers\\_reports/dfid/issues/rights01/index.html](http://www.odi.org.uk/pppg/publications/papers_reports/dfid/issues/rights01/index.html).

- <sup>38</sup> A workshop on 'Rights and Power' held at IDS in November 2003 included an exercise to draw out the key historical events that have influenced the emergence of rights based approaches in development. When the Declaration on the Right to Development was mentioned by one of the authors no more than four of the 26 participants drawn from donor agencies had ever heard of it.
- <sup>39</sup> See P Uvin, *op cit*, 2004, for a fuller discussion of the emergence of human rights discourses within the development arena.
- <sup>40</sup> P J Nelson & E Dorsey, 'At the nexus of human rights and development: new methods and strategies of global NGOs', *World Development*, 31, 2003, pp 2013–2026.
- <sup>41</sup> R Jenkins & AM Goetz, 'Accounts and accountability: theoretical implications of the Right-to-Information Movement in India', prepared for workshop Strengthening Participation in Local Governance, IDS, 21–24 June 1999. AM Goetz & J Gaventa, 'Bringing citizen voice and client focus into service delivery', *IDS Working Paper 138*, Brighton: IDS, 2001.
- <sup>42</sup> J Gaventa & C Valderrama 'Participation, citizenship and local governance', background note prepared for workshop Strengthening Participation in Local Governance, IDS, Brighton, 21–24 June 1999.
- <sup>43</sup> R Eyben & U Ramanathan, *op cit*, 2002; R Eyben, *op cit*, 2003; A Cornwall, *op cit*, 2000.
- <sup>44</sup> For a fuller presentation of the positions of various international development agencies see C Nyamu-Musembi & A Cornwall, 'What is the 'rights-based approach' all about? Perspectives from international development agencies' IDS Working Paper XXX, Brighton: IDS, 2004.
- <sup>45</sup> Skogly & Sigrun, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, London: Cavendish Publishing Limited, 2001, p 101.
- <sup>46</sup> Efforts to come up with a consistent practice throughout the UN are being made through an inter-agency forum coordinated by the UN Development Group (UNDG). The UN Development Group comprises several UN agencies and related international organizations, among them UNDP, UNICEF, UNFPA, UN Habitat, UNCTAD, the World Bank, International Labour Organization and the Office of the UN High Commissioner for Human Rights. For a full list of members see [www.undg.org](http://www.undg.org).
- <sup>47</sup> See Urban Jonsson, *A Human Rights Approach to Development Programming*, UNICEF Eastern and Southern Africa, 2003.
- <sup>48</sup> UNDP, *Integrating Human Rights With Sustainable Human Development: A UNDP Policy Document*, New York, UNDP, 1998, p 7.
- <sup>49</sup> UNDP: [www.undp.org/rbap/rights/Nexus.htm](http://www.undp.org/rbap/rights/Nexus.htm).
- <sup>50</sup> See [www.undp.org/oslocentre/hrmap](http://www.undp.org/oslocentre/hrmap).
- <sup>51</sup> Interview with Sir Richard Jolly, Institute of Development Studies, 5 June 2003.
- <sup>52</sup> World Bank, *Development and Human Rights: The Role of the World Bank*, 1998.
- <sup>53</sup> United Nations, Economic and Social Council, Committee on Economic, Social and Cultural Rights, 'Globalisation and economic, social and cultural rights', statement by the Committee on Economic, Social and Cultural Rights, issued on 11 May 1998 and available at [www.unhchr.ch/tbs/doc.nsf/385c2add1632f4a8c12565a9004dc311/0fad637e6f7a89d580256738003eef9a?OpenDocument&Highlight=0,globalization](http://www.unhchr.ch/tbs/doc.nsf/385c2add1632f4a8c12565a9004dc311/0fad637e6f7a89d580256738003eef9a?OpenDocument&Highlight=0,globalization). Similar criticism has been made by the UN Sub-Commission on the Protection and Promotion of Human Rights. See J Oloka-Onyango & D Udagama, 'UN Sub-Commission on the promotion and protection of human rights, globalization and its impact on the full enjoyment of human rights', E/CN.4/Sub.2/2001/10, paragraph 72, available at [www.unhchr.ch/huridocda/huridoca.nsf/Documents?OpenFrameset](http://www.unhchr.ch/huridocda/huridoca.nsf/Documents?OpenFrameset). See also DL Clark, 'Boundaries in the field of human rights: the World Bank and human rights: the need for greater accountability', *Harvard Human Rights Journal*, 15, 2002, p 217.
- <sup>54</sup> Bank/Netherlands Water Partnership Program, Water Rights Concept Note (managed by A Subramanian & J Briscoe). For this and other relevant materials see [www.worldbank.org/water](http://www.worldbank.org/water).
- <sup>55</sup> Bank/ Netherlands Water Partnership Program, Water Rights Concept Note (managed by A Subramanian & J Briscoe). See also M Thobani, 'Tradable property rights in water: how to improve water use and resolve water conflicts' in: *Public Policy for the Private Sector*, available at <http://rru.worldbank.org/view-point/HTMLNotes/34/34thoban.pdf>. For other relevant materials see [www.worldbank.org/water](http://www.worldbank.org/water)
- <sup>56</sup> See Nigam *et al*, 'Financing of fresh water for all: a rights-based approach', UNICEF, 1998.
- <sup>57</sup> Sellström, Tor, *Sweden and National Liberation in Southern Africa*, Uppsala, Sweden: 1999
- <sup>58</sup> Sida, *Education, Democracy and Human Rights in Development Cooperation*, DESO, Stockholm: Sida, 2001, p 2. See also *Country Strategy Development: Guide for Country Analysis from a Democratic Governance and Human Rights Perspective*, DESO, Stockholm: Sida, 2001. Many thanks to Helena Bjuremalm for sharing these documents with us.
- <sup>59</sup> Interview with Helena Bjuremalm, 4 February 2004.
- <sup>60</sup> OFID, *Human Rights for Poor People*, London, OFID, 2000.
- <sup>61</sup> LH Piron, 'Learning from the UK Department for International Development's rights-based approach to development assistance. A Report for the German Development Institute, London: ODI, 2003.
- <sup>62</sup> Piron, 2003, *op cit*, p 20
- <sup>63</sup> See Centre for Development Studies, University of Swansea, [www.swan.ac.uk/cds/ARCHIVED-RESEARCH/PRAMS](http://www.swan.ac.uk/cds/ARCHIVED-RESEARCH/PRAMS).

- <sup>64</sup> See Piron & Laure-Helene, 'The right to development: a review of the current state of the debate for the Department for International Development', available at [www.odi.org.uk/pppg/publications/papers\\_reports/dfid/issues/rights01/index.html](http://www.odi.org.uk/pppg/publications/papers_reports/dfid/issues/rights01/index.html).
- <sup>65</sup> Piron, 2003, *op cit*; see also LH Piron & F Watkins, *DFID Human Rights Review: A Review of How DFID Has Integrated Human Rights into its Work*, London: Overseas Development Institute, 2004.
- <sup>66</sup> [www.careinternational.org.uk/resource\\_centre/humanrights.htm](http://www.careinternational.org.uk/resource_centre/humanrights.htm).
- <sup>67</sup> CARE, *Benefits-Harms Handbook*, Nairobi: CARE International, 2001; CARE, *Benefits-Harms Facilitation Manual*, Nairobi: CARE International, 2001. For additional materials on CARE's experience with a rights-based approach to programming see also 'Defining characteristics of a rights-based approach', *CARE, Promoting Rights and Responsibilities Newsletter*, February 2002; and 'CARE's experience with adoption of a rights-based approach: five case studies', available at [www.careinternational.org.uk/resource\\_centre/humanrights/final\\_case\\_studies\\_merged\\_june\\_24\\_02.pdf](http://www.careinternational.org.uk/resource_centre/humanrights/final_case_studies_merged_june_24_02.pdf).
- <sup>68</sup> CARE, *idem*.
- <sup>69</sup> See [www.kcenter.com/phls/rba.htm](http://www.kcenter.com/phls/rba.htm).
- <sup>70</sup> Interview with Muhoro Ndong'u, (then) Assistant Country Director, Nairobi, 10 April 2003.
- <sup>71</sup> See [www.actionaid.org/policyandresearch/policyandresearch.shtml](http://www.actionaid.org/policyandresearch/policyandresearch.shtml).
- <sup>72</sup> ActionAid, *Fighting Poverty Together: Participatory Review and Reflection 2001*, CD-ROM, 2002.
- <sup>73</sup> ActionAid-Kenya, 2002, Country Strategy Paper 2002–2005, p 1.
- <sup>74</sup> ActionAid staff involved in the Sugar Campaign were summoned to a meeting convened by DFID (from whom ActionAid receives substantial funding) to 'clarify' their approach to the campaign. There appeared to be a perception that the campaign was an attack on British commercial interests: at the time, two British firms held lucrative contracts to manage sugar factories that were under receivership. Interview with Peter Kegode, ActionAid Consultant on Sugar Campaign, Nairobi, 15 August 2002.
- <sup>75</sup> C Moser & A Norton, *op cit*, 2001.
- <sup>76</sup> R Eyben, 'Donors, rights-based approaches and implications for global citizenship: a case study from Peru', in: N Kabeer (ed) *Meanings and Expressions of Citizenship*, London: Zed Books, 2004.
- <sup>77</sup> In practice, things are rather more blurred, as recourse may be made to particular rights at the same time as arguing for broadly-based facets of development processes, such as the importance of participation and inclusion.
- <sup>78</sup> Some development agency practitioners have suggested possible innovative ways to fill this gap. See, for example, R Eyben, *op cit*, 2004.
- <sup>79</sup> M. Moore, 'Empowerment at last?', *Journal of International Development*, 13, 2001, pp 321–329; A Cornwall & K Brock, 'What do buzzwords do for development policy? A critical examination of "participation", "poverty reduction" and "empowerment"', paper presented to UNRISD's Linking Social Knowledge and Policy conference, Geneva, April 2004.
- <sup>80</sup> P Uvin, *op cit.*, 2002, p 2.