The Implications for Northern NGOs of Adopting Rights-Based Approaches

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Acknowlegements

1 Introduction

Rights-based approaches are becoming well established in the lexicon of development. NGOs, donors and other development actors are talking about them and many have explicitly adopted them in their work. Others are in the process of adopting them. For many others, rights-based approaches remain a mystery and they are still working out their response to them. The environment of development practice is rapidly reaching the stage at which any serious player must at least have a position with respect to rights-based approaches.

There are still many unanswered broad questions about rights-based approaches. How far can they move beyond the rhetoric to make a fundamental change in the way that development actors go about their work – in particular how can they transform power relationships between donors and recipients of development aid? They are hailed by some as a universal response to globalisation. Others wonder if it is all yet another passing fad, which will cause a considerable amount of excitement and absorb considerable effort, but yield few tangible results before fading from the limelight. Proponents of rights-based approaches tend to make grand claims and, if these prove to be valid, they hold great potential for representing a genuine paradigm shift in development practice.

We do not claim to provide definitive answers to these questions. Instead, the purpose of this paper is simply to present the experience of some Northern NGOs[1] in engaging with rights-based approaches. We have focused on how different NGOs' responses to rights-based approaches have affected the nature of the organisations, the way they do their work and their relationships with partners and other key stakeholders. We hope that this paper will be of particular value both to those working in NGOs which are new to the idea of rights-based approaches, and also to those working in organisations which have taken a stance in order to provide some alternative perspectives.

We have observed that while there are always more and more papers being prepared on rights-based approaches, there have been few attempts to bring together the various approaches of different NGOs. Much of the literature is focused on one organisation and its particular understanding and implementation of a rights-based approach, or it is more conceptual work looking at the philosophical and theoretical underpinnings of rights-based approaches. Here we have made a first attempt to give an integrated and accessible overview of how rights-based approaches are being taken up within northern development NGOs. This has been a major challenge and we hope that the final result, which has taken a long time in coming, makes a distinctive contribution to the literature.

The structure of the paper is framed around INTRAC's model of organisations made up of three interlocking circles which represent: i) the nature the organisation (its

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[1] Throughout this paper, we use the term 'Northern NGOs' to refer to NGOs based in industrialised states (the North), which are raising funds and support for work in developing countries (the South). This seemed appropriate as the focus of the research has been on European NGOs, but we recognise that this terminology does not reflect the geographical realities. All terms for these categories (North/South, industrialised/developing, rich/poor etc.) are problematic, so we can only apologise to those who find our choice of words inappropriate and ask them to bear with us.

mission, values, strategy etc.); ii) its activities (programmes, policies etc.); and iii) its relationships (with communities, donors, public etc.). We show how adopting a rights-based approach is affecting these different aspects in Sections 4, 5 and 6. Before getting there, we first highlight some of the factors which have brought together human rights and development discourses and pushed rights-based approaches to the fore (Section 2). Section 3 outlines the different interpretations of rights-based approaches which have been adopted by NGOs, and their relationship with legal standards and 'needs-based' approaches. In conclusion (Section 7), we try to bring together some of the broad issues which emerged in this research and highlight some of the many questions which remain unanswered.

1.1   Research process

This paper is based on the findings of research carried out by INTRAC and South Research among 17 Northern European NGOs.[2] This research started as an initiative of INTRAC's NGO Research Programme, which brings together a group of European NGOs to explore topics of common interest through research and exchange of ideas in a regular forum of open discussion among members. The research was first proposed in 2002 when many members of this programme were either in the process of moving towards rights-based approaches or considering how they should respond to the increasing interest in rights-based approaches in the development field. The basic question for the research was to ask, what are the implications for development NGOs of adopting a rights-based approach?

INTRAC and South Research carried out qualitative interviews with 17 NGOs, focusing on four broad areas of enquiry:

- What does the rights-based approach mean to your organisations?
- If your organisation has a rights approach, are there any instruments through which the rights-based approach is applied by your organisation?
- If your organisation has a rights approach, has the rights-based approach affected your stakeholders yet?
- Do the norms and values of your organisation affect whether the rights-based approach has been adopted?

This was accompanied by a review of the literature and a preliminary report was prepared and presented at a workshop of NGOs in 2003. A much longer draft report was then completed in August 2003 drawing on the findings of the comments and new insights discussed at the workshop. This was widely circulated and received considerable comment, much of which is hopefully incorporated within this final paper.

1.2   Scope and limitations of the research

The scope of this paper is quite narrowly focused on the experience of Northern NGOs. Although we include some anecdotal evidence about the impact of adopting rights-based approaches for the primary stakeholders in NGO programmes (i.e.

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[2] ActionAid, CARE, Christian Aid, Concern Worldwide, Cordaid, DanChurchAid, Islamic Relief, Norwegian Church Aid, Novib (Oxfam Netherlands), Oxfam International, Oxfam GB, International Save the Children Alliance, Save the Children (Sweden), Save the Children (UK), Save the Children (Norway), Tzedek and World Vision.

those whose lives NGOs hope to see improving as a result of the NGOs' work), there is no rigorous research into the difference that the shift to rights-based approaches is making to people's lives. Until this question can be resolved, it may be argued that we should be treating rights-based approaches as an unproven path. Lacking answers to these questions, we do not try to draw conclusions that support or reject the promotion of rights-based approaches.

This is a rapidly evolving and a hotly debated area among both practitioners and academics in development. In many cases we have found it impossible to pin down the position of many of the NGOs in a form which can confidently be presented here. Some organisations do not have a formally stated position or are in the process of forming one. They have given us access to their thinking and documents of work in progress on rights-based approaches, but understandably they are reluctant to see such material overtly cited in this paper. Even where NGOs have established a strong position on rights-based approaches and published their stance, it may yet have to be internalised throughout the organisation. As a result, different members of staff may offer quite different interpretations of the current policy. Moreover, as the overall research from its start to the completion of this paper has continued over a period of three years, the position and programmes of some NGOs may have changed during the process. Therefore, this paper should not be seen as presenting the formal organisational views of the NGOs interviewed, but rather a snapshot of the views of the individuals interviewed and literature reviewed.

2   The Rise of Rights-Based Approaches to Development

Over the past decade there has been a partial and incomplete convergence of civil and political human rights NGOs, and development NGOs. Human rights agencies, traditionally focused on legal and political rights, are coming to recognise that development organisations play an important role in enabling people to gain access to their full human rights, including economic, social, and cultural rights[3]. Development NGOs, some of which may have previously steered clear of human rights issues as too 'political', are increasingly recognising that the denial of people's rights often lies at the root of many of the problems that the NGOs aim to address.

It is possible to look at the rise of rights-based approaches to development through many lenses. Here we look very briefly at some of the philosophical, political and pragmatic forces that have worked to push rights-based approaches to the fore. We make no claims to give a comprehensive account, but aim to present a brief summary to give sufficient background for the discussion in later sections.

2.1   The philosophical roots of the rights discourse

In Western thought, the concept of universal human rights has a long history which can be traced back to the Enlightenment of the 18th century. Thinkers such as Thomas Hobbes, John Locke, Jean-Jacques Rousseau and Thomas Paine among others challenged the notion of the divine right of monarchs to rule their subjects. In its place they established the concept of liberal society based on a social contract between individuals and the state. This rested on the idea that individuals had

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[3] See Annex 1 for a summary of key human rights legal instruments.

inalienable rights, which the state was obliged to uphold. Chief among these were the right to life – i.e. self-preservation – and the pursuit of happiness, which was generally understood at the time as the right to private property. These new ideas of the 'rights of man' contributed directly to the revolutionary movements in Europe, in particular the French Revolution, and underpinned the new American Constitution, which was the first to elaborate the rights of citizens.

Hegel expanded on this materialist notion of rights in a liberal state to include the mutual recognition of each other as citizens, regardless of race or ethnicity (but without mention of gender). This Hegelian understanding of liberalism is closer to a modern understanding as it encompasses a recognition of human dignity (Fukuyama 1992: 200). In practice, Kojéve argued that Hegel's 'universal liberal state' should uphold and protect the rights of individual human beings. These should arise from a discussion between citizens setting the terms of reference for the state; citizens should be recognised by the state as individuals and not as members of a particular tribe or nationality (Strauss 1991).

Much of the literature on rights has drawn on these European Enlightenment roots and this has resulted in human rights often being associated with Western tradition. This perception has enabled the rise of a powerful critique of human rights as a Western idea, which does not have universal applicability. Amartya Sen's work on entitlements, which highlights the inextricable links between development and freedom, has made a crucial contribution to the theoretical underpinnings of a rights-based approach to development. Sen observes that the value of freedom is not confined to one culture only, and the Western traditions are not the only ones that prepare us for a freedom-based approach to social understanding. He argues strongly that the values underpinning fundamental human rights have universal roots which can be traced through any culture (Sen 1999).

These philosophical developments in establishing the rights discourse can be summarised by reviewing the changing basis of the social contracts between individuals and the polity (Rijnierse 2003). With the Enlightenment and the French Revolution which separated church and states, it is possible to see a shift from a local social contract based on ethnic and religious alignment to a national social contract based on the rights of citizens in a secular state. The move towards rights-based approaches can be seen as a shift towards a global social contract based on universal norms enshrined in human rights legislation – part of the process of globalisation. As Rijnierse points out this must not be seen as a simple progression from local to global social contracts. In some cases, states have collapsed and people have been forced back to ethnic or religious communities. In most cases, there is some element of each form of social contract operating at the same time. See Annex 2 for more details.

2.2   Divergence between rights and development

The philosophical ideas of rights for all, upheld by the state, have always been undermined by the practical struggles for power and resources within and between states. The continuation of slavery in the newly independent United States immediately showed that the rights enshrined in the constitution were not automatically granted to all. The European liberal democracies did not extend the rights of their citizens to those who they colonised. The horrors of the Second World War – in particular the excesses of the fascist ideology in Europe – gave rise to the Universal Declaration of Human Rights in 1948. But, this did not automatically result in its application worldwide.

From the outset, the history of human rights has been one of struggles: from the anti-slavery movement, the struggles against colonial domination, the fight for workers' rights – and more recently women's rights. Such struggles have been and are being fought by a broad range of civil society actors. Many of these arose from Latin America and the Indian sub-continent – regions that are now seen as particularly receptive to rights-based approaches (see Section 4.2 below). However, as political change was achieved, the new states' concern for the rights of their citizens faded.

Manji (1998) describes the process in Africa. During the anti-colonial struggles in Africa, human rights were forged out of an emerging national consciousness against European oppression, that would ultimately provide legitimacy to an African nationalist leadership. He argues that that the emerging African middle class of the state machinery saw its task as the 'sole developer' and 'sole unifier' of society and defined itself as having an interventionist role in 'modernisation and development'. Popular organisations that had thrown the leadership into power began therefore to be seen as an obstacle to 'development'. There was no longer a need for popular participation and the civil and political rights that rested on the basis of the independence struggle soon came to be seen as a 'luxury', to be enjoyed when development had been achieved.

In the post-war period, the Bretton Woods institutions, the IMF and World Bank invested heavily in European economic reconstruction, and their success in economic terms successfully took the edge off demands for new civil and political rights. In the last quarter of the 20th century, these institutions progressively took over as commanders of the economy in many developing countries, through instruments such as the structural adjustment programmes. These curbed the power of the developing states and imposed social and economic measures that strengthened the social forces and alliances which would provide globalised access to resources by the multi-laterals and the multi-nationals (Chossudovsky 1997).

The goal of development increasingly became that of solving 'poverty' rather than improving rights and freedom. Development programmes thus began to serve existing political alliances and to create the basis for private capital accumulation. This de-politicisation of poverty (Manji 1998) was aided by separating international aid from trade policies. This tended to increase the prejudice of the Northern public by reinforcing the view that 'developing countries could not help themselves and therefore need you'.

Many development NGOs came to accept their role in a 'subsidy model of development', addressing the results of skewed social relations and inequality, rather than the origins of such conditions (Fowler 1995). NGOs had to present themselves as 'politically neutral' in order to be recognised by the state, and many have internalised this position – they have come to believe it. It had the pragmatic advantage of allowing NGOs to work in situations of crisis caused by the unequal social relations and rapid capital accumulation. Protests by development NGOs could jeopardise their relationship with governments, their privileges and their funding; therefore, this was left mainly to human rights organisations.

This separation of human rights and development was exacerbated by the environment of the Cold War, where fundamental debates over economic and social rights against civil and political rights were played out (Theis 2004: 10). It was much easier to agree over the 'neutral' ground of development in the form of new infrastructure, services and technical assistance.

As the Cold War eased, the sharp divisions between rights and development started to blur. In 1986, the UN passed the Declaration on the Right to Development, which clearly established the link between economic development and progress on human rights. This declaration is not binding. Another major move was the Convention on the Rights of the Child in 1989, which has now been signed by all states except the US and Somalia. This convention 'affirmed the comprehensive nature of human rights and the close connections between civil, political, social, economic and cultural rights' (Theis 2004: 11).

2.3   The lessons of experience

In retrospect, it should not be surprising to find that the depoliticised technocratic approach to development has failed to deliver the anticipated changes in the lives of 'beneficiaries'. If anything, the situation of the poorest deteriorated further as the gap between rich and poor widened. This did not stop development aid and the number of NGOs increasing during the eighties and nineties – but they often tended to focus as much on how to deliver rather than on what to deliver. The language of participatory development was increasingly couched in terms of effectiveness, efficiency and sustainability, putting the accent on professionalism and the technical capacity to deliver.

By the 1990s, it was becoming clear that development was not working as hoped. It was widely recognised that too much of development practice had been focused on the symptoms of crisis and was failing to tackle the underlying causes. In response, the narrow discourse which was largely focused on economic outputs (income measures for poverty) has been steadily stretched to take in a broader understanding of poverty, through concepts such as livelihoods, social capital and so on. Many of these ideas have come together in the sustainable livelihoods approach, which started to make a bridge towards the discourse of rights (Conway et al. 2002).

The search for new approaches and the drive to bring about sustainable change in the conditions facing huge numbers of people living in poverty, have driven development NGOs to change their practice over the years. In particular, there have been major shifts in thinking and practice on participation, accountability and advocacy; these changes have been important in preparing development NGOs to embrace rights-based approaches.

Participation – increasing participation has long been seen as good development practice. Yet, there are widely different notions of participation used in practice (Cooke and Kothari 2001). At one extreme, it may simply refer to people taking part in project activities, such as attending a training session. At the other, it refers to people taking a role in the initial assessment, management of the activity and monitoring and evaluating the results. It is this latter, deeper level of participation that is likely to be taken as a mark of a rights-based approach.

In recent years, there has been a convergence of concern with citizen engagement in policy formulation and implementation and with 'good governance', broadening political participation to include a search for new, more direct, ways through which citizens may influence governments and hold them accountable (Cornwall and Gaventa 1999). Both of these shifts contribute to new discussions of participation as citizenship and as a social as well as a political right. This idea fuelled a debate on

both the notion and the rights of citizens.[4] It encouraged development agencies to promote the individual as the centre of development. This idea is the basis of DFID's rights-based approach as well as the Cotonou Agreement signed in 2000 between the European Union and 77 African, Caribbean and Pacific Countries.[5]

Accountability – the upward accountability of development agencies to their donors is no longer seen as sufficient. There is an increasing recognition that development actors have a responsibility to account to those whom they serve. A community that is more aware of its rights is more likely to make demands of development agencies and ask them to account to the community for their decisions and actions.

Advocacy – this has played an ever increasing role in many, if not most, development interventions as a set of techniques for raising awareness, challenging the status quo, and calling on different actors to take up their responsibility to bring about change. An important aspect of any rights-based approach should be to ensure that individuals and communities are aware of their rights (and corresponding duties) under international law. Although they may have limited opportunities to avail themselves of these rights, they will have even less chance if they are not known.

2.4   Some basic human rights principles

The combination of this internal pressure from within the 'development community' to move away from needs-based approaches, and the dramatic changes in the wider political context with the end of the Cold War, has created an enabling environment in which rights-based approaches can be formulated. Before moving on to see how this is brought into the work of NGOs, it is important to introduce some of the key principles of human rights which shape the way they are adopted in development practice.

De Gaay Fortman summarises some fundamental points about the changes brought about by moving towards a rights-based approach:

> What then are the implications of a rights-based approach for the struggle against poverty and deprivation? Firstly, that struggle is deepened because it is now placed in a normative, ethical setting: it is no longer a matter of just economic interests but of **right.** Secondly, that struggle is widened to involve the whole community in which the community live: **public justice** is at stake. Thirdly that struggle is lifted up to the global level: realisation of those rights is a **universal** responsibility (De Gaay Fortman 2001: 53).

The principle of universality is of critical importance. 'Human rights treaties establish the basic civil, political, economic, social and cultural entitlements and freedoms of **every human being – anywhere in the world – at all times**' (Theis 2004: 2 – emphasis in original). It is never a question of people deserving to have their rights upheld – if they are human they have these rights. Moreover, these rights are **inalienable**. All people have the same human rights from birth which cannot be given up or taken away.

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[4] The literature on the concept of citizenship related to political, social and civic rights is vast, and we make no attempt to review it here.
[5] For a detailed analysis of the agreement from the international trade union's point of view see 'Cotonou Agreement: Trade Union Report', European Trade Union Federation, September 2000.

Rights are not plucked from the air as something which will be achieved as if by magic. Alongside every right, there are corresponding **responsibilities**. Primarily, states are responsible to ensure that all the rights of all people are upheld. This must include the state ensuring that it does not violate the rights of people, that it prevents others violating their rights, and it takes positive action to ensure that rights are upheld. Within the human rights framework, states are the main **duty bearers**. At the same time, all individuals also have responsibilities to respect the rights of others, as do other actors such as private companies and NGOs.

Another fundamental principle of human rights is that they are **indivisible and interdependent**. Under this principle, we cannot be selective, upholding some rights while denying others. For example, if the state does not provide protection from domestic violence, the right of women and children to health will be undermined (Theis 2004: 3).

As a result, within a human rights framework, the ultimate goal must be to achieve rights for all. We cannot set a goal of 80 per cent of children having access to primary education. All children have a right to education. However, in recognition that the capacity of duty bearers to fulfil rights may be severely limited, especially in poor countries, the concept of **progressive realisation** has been developed. This allows states to make progress towards achieving the fulfilment of rights at a pace which is determined by their resources (Theis 2004: 4).

3   NGO Perceptions of a Rights-Based Approach

One of the first challenges faced by NGOs considering adopting a rights-based approach is to define what they mean by the term. This is not straightforward as there are many interpretations among different NGOs. Half of the NGOs interviewed for this research acknowledged that they perceived rights-based approaches differently from others. Moreover, as noted at the beginning of this paper, there are not only differences between organisations but also internal differences:

> Agencies use different rights-based approaches. Even within an organisation, different country programmes may use different strategies. One size of RBA does not fit all (Theis 2004: 19).

These differences are not confined to the NGO world. The website for the Office of the United Nations High Commissioner for Human Rights states, 'there is no single, universally agreed rights-based approach, although there may be an emerging consensus on the basic constituent elements.'[6] Nevertheless, it does put forward a definition of a rights-based approach as follows:

> A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.
>
> Essentially, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development.[7]

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[6] www.unhchr.ch/development/approaches.html (accessed 14th November 2005)
[7] www.unhchr.ch/development/approaches-04.html (accessed 14th November 2005)

3.1 Rights-based approaches related to international law

For some NGOs, a rights-based approach is quite tightly focused on human rights legislation enshrined in international law. For example, from its foundation in 1919, Save the Children has campaigned for the rights of children. It put forward the world's first declaration of children's rights in 1923, which formed the basis for the UN Convention on the Rights of the Child, which was finally adopted in 1989:

> The UN Convention on the Rights of the Child underpins all of Save the Children's work. All children are equal, and have human rights such as the right to food, shelter, health care, education and protection from violence, neglect and exploitation. Our work is driven by a commitment to making a reality of the UN Convention on the Rights of the Child.[8]

The mission and vision of the International Save the Children Alliance are described as follows:

> Save the Children fights for children's rights. It delivers immediate and lasting improvements to children's lives worldwide.
>
> Save the Children works for:
>
> - a world which respects and values each child
> - a world which listens to children and learns
> - a world where all children have hope and opportunity[9]

Save the Children's work is then focused on working with both rights holders – to enable them to demand their rights – and duty bearers, particularly states – to hold them to account for the respect of rights and to build their capacity to meet their obligations. Their rights-based approach and the relationship between right holders and duty bearers is summarised in Figure 1.

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8   http://www.savethechildren.org.uk/scuk/jsp/whatwedo/theme.jsp?section=equalityrights (accessed 14th November 2005)
9   http://www.savethechildren.net/alliance/about_us/mission.html (accessed 14th November 2005)

Figure 1: Save the Children – rights-based approach

Duty bearers

Demand their rights

Strengthen accountability of duty bearers

Strengthen equality and inclusion and fight discrimination

Support people to demand their rights

Fulfil their obligations

Right holders
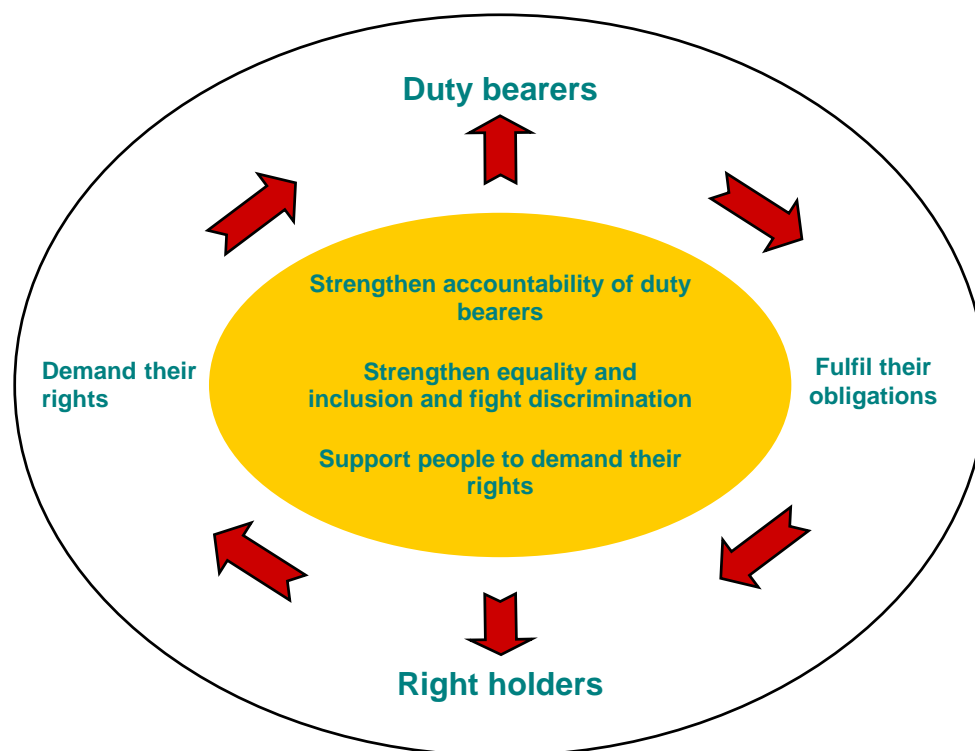
(Source: Theis 2004: 4)

3.2 Rights-based approaches reaching beyond legal standards

Given its role in the development of the Convention of the Rights of the Child, it is perhaps easier for Save the Children to align itself very closely with that Convention as the basis for its work. For other development NGOs, there is no one legal instrument which so closely matches their vision for social change. For them, adopting a rights-based approach must reach beyond the legal framework to encompass issues of social justice and empowerment. The human rights framework provides a vital normative and universal basis for addressing poverty and unequal power relations; but, development NGOs want to see not only the letter but also the spirit of the law fulfilled.

The starting point for Oxfam International is bringing about policy and practice changes in the countries in which it operates. These policy and practice changes have been have been formulated as 'strategic change objectives' linked to five aims that are framed in the language of rights – the right to livelihoods, right to basic social services, right to life and security, right to be heard and right to identity: gender and diversity (see Table 1). These do not restrict their scope to the rights enshrined in international law but are also clearly focused on addressing inequality. As De la Varga puts it:

> For us the rights-approach not only introduces dignity, but other different and challenging questions relating to what we do, and how we do it. As we perceive it, there is an indivisible continuum of human rights and we assert the **indivisible link between human rights, economic development and social justice**, contrasting with narrower views of well-being based on economic foundations alone. Highlighting these

links allows us to place 'equity' and 'the right to an opportunity' at the very centre of the debate. (De la Varga 2003 – emphasis in original).

Table 1: Strategic change objectives & basic rights from Oxfam's Stragic Plan

Basic Rights	Strategic Change Objectives	International Instruments
1. Right to a sustainable livelihood	1.1 Food and income security 1.2 Employment	– International Covenant on Economic, Social and Cultural Rights – International Labour Organization Standards – Intellectual Property
2. Right to health and education	2.1 Health 2.2 Education	– International Covenant on Economic, Social and Cultural Rights
3. Right to life and security	3.1 Saving and protecting lives 3.2 Conflict reduction	– Rights under International Humanitarian Law (Geneva Conventions)
4. Right to be heard	4. Right to be heard	– International Covenant on Civil and Political Rights
5. Right to identity	5.1 Gender equity 5.2 Overcoming discrimination	– Women's rights – Rights of specific groups

While Oxfam has used the language of rights to reframe its global aims with human rights at the centre, other NGOs have adopted a rights-based approach as a basic strategy to achieve their aims – such as poverty reduction or improvement in living standards – without bringing the language of human rights into these aims. For example, ActionAid has adopted a rights-based approach as an integral part of its fight against poverty. It attributes poverty to unequal power relations which are demonstrated in the violation of basic rights. In taking a rights-based approach, ActionAid's vision remains focused on addressing poverty, and it explicitly states that it will focus on those rights most clearly related to poverty:

> Our long-standing commitment to participation, and our drive for sustainability lead us to adopt a rights-based approach in all of our work. We will seek lasting solutions through the establishment and enforcement of rights that entitle poor and marginalised to a fair share of society's resources…
>
> We support the contemporary understanding of the Universal Declaration of Human Rights, which recognises the interdependence of social and economic rights on the one hand and civil and political on the other. Within this framework, we will focus on the rights to education, food, healthcare, water, livelihood, information and participation, and security and protection, which are essential for overcoming poverty (ActionAid 1999: 12–13).

This focus on how rights-based approaches can contribute to a broader aim of eliminating poverty is echoed in other NGOs. Concern Worldwide has two basic principles to guide their rights-based programming:

- To always aim towards poverty elimination.
- To build their approach from their practical experience. This will happen in consultation with the poor themselves and with people who have to use the policies in their everyday work.

For CARE International, the human rights framework identifies the minimum conditions necessary for people to be able to live with dignity. Achievement of these rights is essential for people to live in peace and 'reach their full potential as human beings' (CARE 2000). It defines its rights-based approach as follows:

> A rights-based approach deliberately and explicitly focuses on people achieving the minimum conditions for living with dignity. It does so by exposing the roots of vulnerability and marginalisation and expanding the range of responses. It empowers people to claim and exercise their rights and fulfil their responsibilities. A rights-based approach recognises poor, displaced and war affected people as having inherent rights essential to livelihood security – rights that are validated by international law (CARE 2000).

3.3   Rights-based approaches and needs-based approaches

For many NGOs, the shift to a rights-based approach is presented as marking a radical departure from a needs-based approach motivated by philanthropy or charity.

> A rights-based approach involves not charity or simple economic development, but a process of enabling and empowering those not enjoying their economic, social and cultural rights to claim their rights (Cohen 2004: 7).

> It signifies a move beyond philanthropic charity and self-help to that of demanding that those with power ensure that the poor and marginalised can enjoy their rights (De la Varga 2003).

This is a particularly important change for development NGOs, many of which started as a charitable response to human suffering and have continued to operate in areas of extreme deprivation over many years. The shift to rights-based approaches not only changes the way the NGOs present the case of those about whom they are concerned – for example, rather than NGOs providing health services, demanding that the state meets its obligations to ensure people's access to health – but also the way that NGOs view their own relationships with people. Rather than seeing themselves as organisations working on behalf of beneficiaries, NGOs are working with rights holders. In some respects, while recognising the state as the primary duty bearer, development NGOs often position themselves as duty bearers, who are answerable to rights holders for their work and must ensure that they are responsible for any violations of rights.

The change in basic outlook arising from moving from needs-based to rights-based approaches is reflected in changes to the way that development NGOs organise themselves and go about their work. Some of these are summarised in Table 2 and these are discussed further in Sections 4 and 5.

Table 2: Comparing a needs-based and rights-based approach

Needs perspective	Rights perspective
Private charity	Public, political, moral and legal responsibility, obligation and duty
Voluntary	Mandatory
Welfare, alms, charity	Legal entitlements, claims, guarantees, justice, equality, freedom
Address symptoms	Address root causes
Partial goals (example: 80% of children are immunised; aim to deliver services to the largest number of people)	Complete goals: all people have the same rights (80% immunisation coverage means the right to immunisation has not been realised)
Hierarchy of needs - some needs are more important than others e.g. food before education	Rights cannot be divided, they are indivisible and interdependent
Needs vary according to the situation, the individual and the environment	Rights are universal – the same everywhere
Providing welfare services (object of needs)	Empowering (subject of rights) – right holders are empowered to claim their rights
Determination of needs is subjective and locally determined	Rights are based on international standards
Short-term perspective, filling gaps	Long-term perspective
Service provision	Awareness raising of all groups
People deserve help	People are entitled to help
Governments ought to do something but nobody has definite obligations	Governments have binding legal and moral obligations
People can participate in order to improve service delivery	People are entitled to help
Given scarce resources some people may be left out	All people have the same right to fulfil their potential
Each piece of work has its own goal but there is no unifying overall purpose	There is an overarching goal to which all work contributes

Source: International Save the Children Alliance

3.4 Maintaining alternative approaches

It is easy to gain the impression from those who have wholeheartedly adopted a rights-based approach that it represents the 'right' approach to development and it is only a matter of time before others follow suit. However, rights-based approaches are not universally accepted as an appropriate framework and some NGOs focus on other norms and values as a basis for their work. For example, they place concepts such as justice and solidarity at the centre of their work.

In particular, many of the faith-based organisations involved in this research did not make any claims to have adopted a rights-based approach. This is not to say that such organisations are not aware of, or concerned about, human rights. All the organisations contacted in this research emphasised the importance of achieving human rights as a crucial part of the development agenda. However, some faith-based NGOs suggested that human rights are implicitly incorporated within their religious values base. As a result we find some faith-based organisations that reject the notion of a rights-based approach to development, while others have adopted it wholeheartedly.

For example, Christian Aid does not describe itself as adopting a rights-based approach to development and it prefers to frame its work in terms of 'marginalisation' and 'justice'. In the 50th anniversary year of the Universal Declaration of Human Rights, Christian Aid affirmed the rights of all people as 'made in the image of God' (McGee 1998). The Christian Aid report argues there need be no contradiction between a target-based approach and a rights-based approach to development. 'Targets can be a way of operationalising people's rights, while a rights-based approach is a reminder that quality and sustainability of provision are as important as quantitative achievement' (McGee et al. 1998).

World Vision does not have an explicit and overarching rights approach. Rather it is developing a rights policy and engaging with both child rights and disability rights directly. It is committed to lobbying and advocating in both these areas (World Vision 2001 and 2002). Through their involvement with and commitment to child rights, the organisation is increasingly working with the rights agenda through the lens of its own Christian value base (interview 2003).

Cordaid released a 'Working Document on Human Rights and Democracy' in 2001 (Lucardie 2001). This emphasised the place of justice within the Catholic value system of the organisation and describes Cordaid's policy on facilitating rights in the following way:

> Cordaid is…making an explicit choice to be present, together with its partners, in countries in which there is no decent government, with the aim being to promote human rights and democracy by reinforcing the social centrefield (civil society) (Lucardie 2001).

It is important to highlight that there are faith-based organisations that subscribe to an explicit rights approach. For example, DanChurchAid highlights the direct link between its overall objectives (democracy, peace and reconciliation, food security and access to basic social services, relief and rehabilitation) and fundamental human rights:

> DanChurchAid's rights approach aims at promoting the rights and freedoms of the poor, marginalised and oppressed people through means that address and remove the barriers to people's enjoyment of their rights. The rights approach encompasses all types of rights, civil, political, and cultural as well as social and economic, as these are indivisible (DanChurchAid 2003).

Its adoption of a rights-based approach to development was a part of DanChurchAid's evolution and is consistent with its history of radical support for rights in both developing nations and Denmark (interview October 2003).

These debates about the acceptance of rights-based approaches are not restricted to faith-based organisations. For example, MS Denmark describes its work in terms of solidarity rather than an explicit rights-based approach. Solidarity is one of its core values, which appears in the mission statement and it has gone to great lengths to ensure that solidarity lies at the base of all its partnerships and activities (MS Denmark 2001). In a long-term study of relationships between MS Denmark and its partners, their partnerships have been confirmed as being 'based around notions of solidarity and civil society strengthening' (Brehm 2001: 55). Again it must be emphasised that its rejection of a rights-based approach is not the same as a rejection of human rights. MS Denmark has engaged with the rights agenda for over a decade, most clearly articulated in its work with refugees and displaced persons.

4 Bringing a Rights-Based Approach into the Organisation

Given the range of perspectives and definitions of rights-based approaches outlined above, it is inevitable that there will be a variety of views of how adopting a rights-based approach will affect an organisation and its work. There is perhaps more potential for consensus on the way rights-based approaches might affect programming (see Section 5). However, this research showed that NGOs have quite different perspectives on how adopting a rights-based approach is related to their organisational foundations. Some suggest that rights-based approaches are nothing new within their organisation as their work has always been concerned with promoting rights. Others see the shift to rights-based approaches as a fundamental change bringing a new set of values into the organisation. Some respondents suggest that this talk of rights-based approaches is simply new terminology for what they are already doing. Some imply that they will use the language of rights in as far as donors demand it, but they do not expect it to affect their work. Figure 2 attempts to summarise these different perspectives by considering the degree of change for the organisation's foundation (mission statement, values, long-term strategy – white hemisphere), and its superstructure (programming – grey cone).

Figure 2: The effect of rights-based approaches on organisations

Taking existing rights base into programme

Rights changing foundation and working into programme

Rights language but no change in foundation

Rights base remains external to organisation
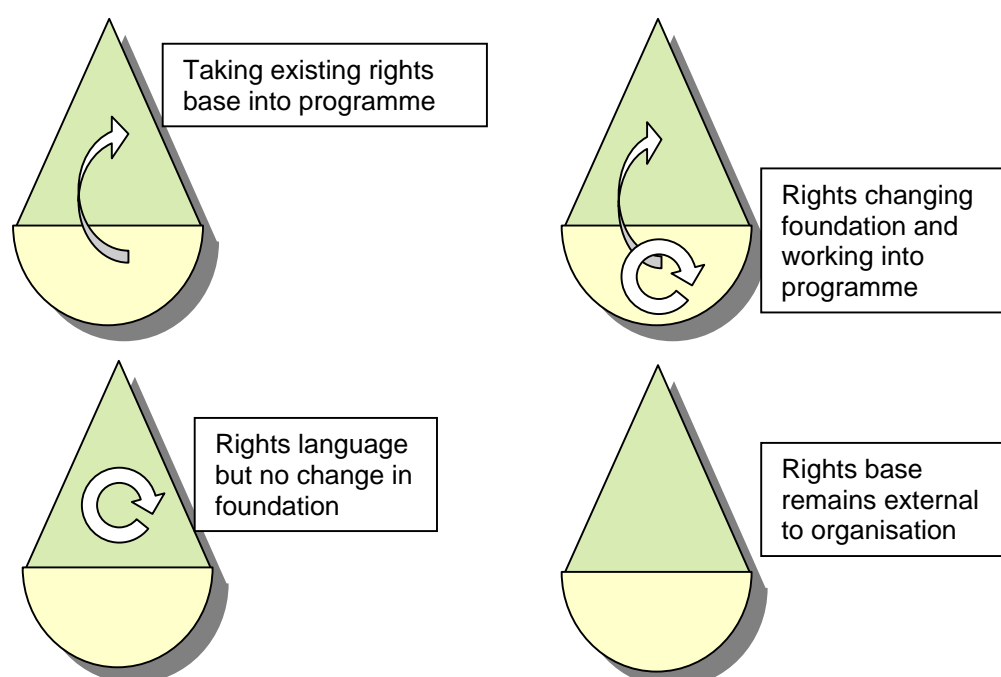
All the NGOs that have adopted a rights-based approach acknowledge that they are part way through the process of change towards becoming rights-based organisations. In fact, as the understanding and experience of rights-based approaches evolves, there is a widespread sense that this process will be a dynamic one rather than having a fixed end state – when an NGO can claim it is fully rights-based.

The pace and uniformity of adoption varies significantly between organisations and we found various different ways of introducing rights-based approaches. The strategies employed by the NGOs fall into three broad categories:

- **Corporate** – a strategic policy decision (often in the North) determines the introduction of a rights-based approach at all levels and for all departments. Partners in the South are assessed on their capacity to contribute to policy and practice changes and encouraged to take the approach on board.
- **Bottom-up** – the definition, use and introduction of a rights-based approach is determined by the local partners or the field offices of the organisation.
- **Thematic** – a rights-based approach is applied to specific themes and issues, such as children, migrants or disabled people. This builds skills in the use of rights-based approaches and encourages experiments with its use in other sectors or for other themes.

These are discussed in more detail below.

4.1 Corporate – taking the strategic direction from the North

If a rights-based approach is seen as involving fundamental change in the organisation, the changes envisaged become a matter of principle rather than an option for further discussion. Although there may be considerable debate among all stakeholders around the decision to adopt a rights-based approach, once it has been formally adopted, it is disseminated from the centre, often in the North, as a corporate policy.

Some NGOs, notably those in the Oxfam family, have established an overall vision for adopting rights-based approaches and defined global rights-based objectives to which all programmes should contribute. This process of working out from the policy to implementation has caused significant levels of upheaval, including reviewing the required competencies of staff and the overhaul of procedures for establishing partnerships with Southern NGOs. Inevitably, it has resulted in changes, both voluntary and imposed, in both staff and partners.

4.2 Bottom-up – responding to the field

The majority of NGOs contacted for this research stressed that the decision to take on a rights-based approach, and the subsequent progress in adopting it throughout the organisation, was heavily dependent on the attitude and commitment of partners and staff in the South. For some organisations, it was pressure from the South that initiated the change in approach. For ActionAid, it was experience from Southern counterparts that brought rights-based approaches to the fore – and the first in-depth critical workshops on rights-based approaches took place at national and regional levels (interview 1/3/03). CARE described its move towards a rights-based approach as arising from the field staff who were concerned about the limited impact of their work (interview 16/4/03).

Once adopted as a general approach, many NGOs accept and often encourage considerable flexibility in the interpretation and application of rights-based approaches within the organisation. As Theis (2004: 19) puts it, 'one size of RBA does not fit all. Recognise differences and use them as strengths'. With its decentralised structure, ActionAid does not have one corporate statement of what it means by a rights-based approach – it aims to reflect the different views of the poor with whom it works. As a result, there are different interpretations used within the

various countries where it works. For example, in India the role of the state is visible and criticised and ActionAid's rights work focuses on using the legal system to push the state to uphold its obligations. In contrast, in Bangladesh, the emphasis is on collective action and grassroots work (interview 1/3/03).

These more decentralised strategies for introducing rights-based approaches do highlight regional differences across the world. In some contexts, where rights-based approaches resonate with a history of struggle and citizens' engagement in local forms of activism, and where the state has resources to provide basic services, NGOs have found it much easier to adopt rights-based approaches. It was noticeable that in interviews, NGOs repeatedly referred to Latin America, the Indian sub-continent and the Caribbean as the regions which most readily picked up on rights-based approaches. In contrast, many organisations are finding it harder to bring the approach into their programmes in Africa, where many NGOs are still focusing on service delivery, and the Middle East where many states and some elements of civil society reject rights language and concepts.

4.3   Thematic – the rights-based approach 'on trial'

As a response to the diverse and often difficult political environments in which NGOs have to function, some have opted for a step by step approach towards introducing rights-based approaches – starting in selected countries or introducing pilot projects. For example, DanChurchAid piloted the approach in Cambodia and DANIDA reviewed the experience. This review highlighted weaknesses in the levels of staff knowledge of rights issues, the lack of instruments to put the approach into practice and the difficulty of achieving uniformity in applying the approach across all areas of work in Cambodia. These lessons have helped to inform DanChurchAid's subsequent application of rights-based approaches elsewhere.

For others, a rights-based approach has been applied in particular areas of work, even when the NGO as a whole is not making any claim to becoming a rights-based organisation. For example, Christian Aid is using rights-based approaches in its work on specific issues such as with Dalits and child labour. Similarly, Cordaid's work with minorities, victims of violent conflict, the elderly, children and women is focused on an analysis of rights and increasing the capacity of partners in terms of knowledge of human rights and democracy. Neither of these NGOs would describe themselves as a rights-based organisation.

4.4   Conclusion

In reality, NGOs often use a mix of these strategies for introducing a rights-based approach. For example, the formal policy rolled out from the headquarters will be taken up most quickly in areas where staff or counterparts are already committed to using rights-based approaches in their day to day work.

However, in other cases the changes do not resonate across the organisation so positively and the shift towards a rights-based approach in one area can cause resistance and conflict elsewhere. Even where all agree on the move towards rights-based approaches, there is not necessarily consensus on what form the rights-based approaches should take. It was noted in this research that such internal challenges and misunderstandings were more evident in NGOs which maintained a number of parallel organisational cultures – either from a history of merging separate NGOs or strongly defined divisions between departments. In such cases the rights-based

approach (or different versions of rights-based approaches) could be identified with particular interest groups rather than the whole organisation.

5 Rights-Based Programming

A key question for NGOs as they consider moving towards a rights-based approach is how it will look in practice. Adopting a rights-based approach is more than simply advocacy for the implementation of rights legislation by states and adherence to a code of conduct. How does it change the way that NGOs identify their areas of work? What do they see as appropriate programme objectives? How do they approach their primary stakeholders? How do they design programmes?

5.1 Bringing together the universal and the specific

One of the major challenges to applying rights-based approaches in practice is to relate the universal principles enshrined in international law to the specific context in which people are embedded. Rights are often expressed in a language that is completely alien to many people, especially when they are presented through legal instruments. Moreover, local groups and communities are structured around very different 'social contracts' that entail different codes of behaviour, and different notions of 'rights' and 'duties'. This can create a barrier to people's initial participation in thoughts, reflection and action around rights issues. The social consciousness of rights is therefore shaped by contextual factors. People's acceptance of certain rights is 'culturally' conditioned, while other rights may be very hard for people to make any sense of, let alone take action to claim them.

As a starting point for any rights-based programming, it is necessary to find a rights reference point which is locally understood, makes sense and has meaning. Only then will people be willing to act to combat, prevent and redress human rights violations and turn themselves into claimants. The commitment, strategies and activities needed to achieve this in such diverse cultural and political environments have been summarised by Brouwer (2001: 74–75) in the 'Seven As' as follows:

- **Affection:** in the sense of moral indignation which makes a commitment to human rights different from the needs approach;
- **Analysis:** revealing the symptoms of violations of rights and the structural causes of these violations, many of which are rooted in unequal power relations;
- **Alliance-building:** to ensure added-value of different analyses and strategies, which strengthens joint action and builds respect and trust between different civil society organisations and within society as a whole. This requires investment in the institutional development of alliances;
- **Assistance:** in the sense of redressing injustice, which always incorporates an empowerment element. It includes awareness raising and education, which is a task for human rights groups, the state and development groups alike;
- **Advocacy:** aimed at immediate announcements of injustice and addressing the policies behind it, for which education and awareness raising, articulated in language understood by the people, are prerequisites;
- **Action:** economic and political empowerment which places people and their needs as defined by themselves first, rather than resources and their availability;
- **Accountability:** of the state, NGOs and the private sector: which is a prerequisite for the realisation of human rights and development, but it is deficient in many

different regions and contexts. The promotion of accountability requires the strengthening of institutions.

5.2   Building on good programming

As noted in Section 2, the lessons of experience and past failures have been one of the forces which have encouraged NGOs and other development actors to take up rights-based approaches. It is therefore to be expected that many practical measures for implementing rights-based approaches build on good practice in development – especially in areas such as participation of and accountability to primary stakeholders. Rights-based approaches to programming require the introduction of a new rigour and discipline to analysis, planning, implementation and monitoring and evaluation (see Box and Table 3 below).

Implications of a Human Rights-based Approach to Development Programming of UN Agencies

Experience has shown that the use of a human rights-based approach requires the use of good programming practices. However, the application of 'good programming practices' does not by itself constitute a human rights-based approach, and requires additional elements.

The following elements are necessary, specific, and unique to a human rights-based approach:

a)   Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.
b)   Programmes assess the capacity of rights-holders to claim their rights, and of duty-bearers to fulfil their obligations. They then develop strategies to build these capacities.
c)   Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.
d)   Programming is informed by the recommendations of international human rights bodies and mechanisms.

(Piron and Watkins 2004: 107)

Table 3: Good programming versus rights-based approach to programming

Good Programming	Rights-based Approach to Programming
Successful development leads to respect for human rights	The realization of human rights is the central goal of development
Human rights activities are a separate sectoral area of work	Human rights activities are core to development
Respect for human rights is a useful tool to promote political stability and peaceful resolution of conflict	Human rights are a necessary part of government development policies and should also be integrated in the way that development programmes are delivered
People cannot be developed. They must develop themselves	People are subjects of rights to which they are entitled
People, including the poorest, should be recognised as key actors in their own development rather than passive beneficiaries	People, especially the poorest, should be empowered to claim their rights. This empowerment will include awareness raising, capacity building, and meaningful participation in realising their rights
Empowerment of stakeholders is important	Most stakeholders are duty bearers in some

but not a strategy in itself: more a component of advocacy, capacity building, service delivery etc.	form or another. Therefore, empowerment of stakeholders is central. They are the ones who will be involved in the realisation of their rights. The role of outside agencies is to act as a support and as a catalyst for action as determined by the stakeholders
Role of stakeholder analysis is useful for social mobilisation, programme development and evaluation as it identifies accountability in the community and society	An analysis of the relationship between claim holders and duty bearers is essential in order to be able to build capacity with the relevant (groups of) people
Programmes should be developed on the basis of situation analysis that identifies problems and their immediate and underlying causes. These should be addressed either simultaneously or in sequence	Understanding causes at all levels: immediate, underlying and basic is essential. All causes must be addressed in respect to indivisibility of rights

Source: O'Flynn adapted from Jonsson (2000)

5.3   Tools for rights-based programming

In this section we present a few of the many methods and tools which are being constantly developed, adapted and refined by a wide variety of NGOs in their efforts to put rights-based approaches into practice. We make no attempt to cover the full range of materials which are becoming available. Much more detail can be found on resource websites. These include Child Rights Network (http://www.crin.org/hrbap/) and CARE's rights-based approach resource centre (http://www.careinternational.org.uk/resource_centre/rba_index.php). We focus here on those methods which are explicitly focused on introducing rights-based approaches to programming, rather than those which are concerned with other aspects of good programming.

Where rights-based approaches are adopted, they should feed into every phase of the programme cycle and we will use here the four stage version of the programme cycle that Save the Children has adopted for its Child Rights Programming:

- **Situation analysis**: how to make an analysis of the status of the child in a population and how to analyse the underlying causes of problems and the observed trends.
- **Setting priorities**: based on the analysis, how to identify priority areas for the organisation to tackle.
- **Implementation strategies**: once these key issues have been identified, how to plan the programme strategies.
- **Monitoring and evaluation**: how can the programme be assessed and learning achieved

We expand on each of these in the rest of this section.

5.3.1   Situation analysis

It will be impossible to adopt a rights-based approach in practice, if it does not underpin the basic analysis of the situation in which a development NGO is considering intervening. For many actors, one of the main benefits of adopting a rights-based approach is the way that it forces them to challenge the status quo and

ask difficult questions. For example, within a rights-based approach, it is not acceptable to say that people cannot make a living because the market for their products has collapsed, as if that were a natural state of affairs. We have to enquire further and ask why this market collapse has occurred, what factors (and people) lie behind it and who is benefiting from it – to follow a trail of analysis which will highlight where people's rights are being abused and who is violating them.

At a minimum, a rights-based situation analysis must address the following questions:

- What is the situation of rights for the affected group/individuals? Which rights are being violated and by whom?
- What are the immediate as well as the underlying causes of violations and obstacles to fulfilment (including attitudes and cultural practices)? This must include various levels of enquiry to drill down below the surface and start approaching the more fundamental causes.
- What are the views of the population on rights and rights violations? How far are they aware of their rights and any violations? What are their priorities for action?
- Who are the duty bearers responsible for upholding rights and preventing violation? How far are they aware of their responsibilities and do they have the capacity to uphold them?

There are various ways of structuring this analysis. One tool that was developed for Novib (Oxfam Netherlands) to assess human rights work, was the Rights Analysis Matrix. The matrix analyses how rights and duties are **respected**, **protected** and **fulfilled** in relationships between different development actors. This includes the vertical relationship between the state and the citizens as well as the horizontal relationship between citizens (Madsen 2001 and NORAD 2001) – see Figure 3.

Figure 3: Horizontal and vertical relationships of rights and duties
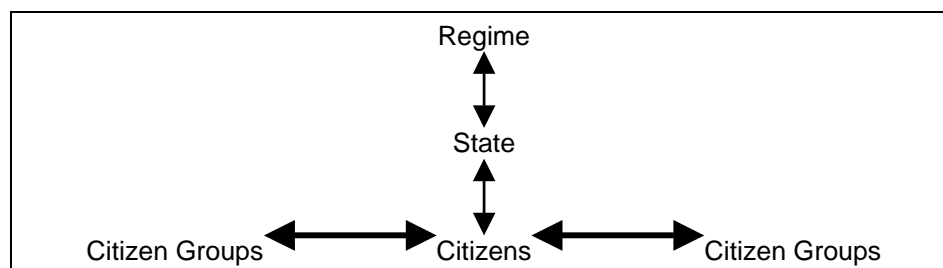
The Rights Analysis Matrix was designed to help NGOs identify why people's rights are being neglected, to devise appropriate strategies for improving human rights and to design an impact assessment. If used at the programming level the Rights Analysis Matrix refers to the key conventions of the rights-based approach in Annex 1. See Table 4 for a worked example of a Rights Analysis Matrix.

- The question **how rights are respected** analyses whether or not the international agreed and ratified civil, political, social and economic rights of the individual in a particular country or region are acted upon, as well as identifying why certain rights have not been ratified or made accessible to citizens.
- **Obligations to protect** raises the question whether the conditions exist (i.e. are the laws, institutions and protective measures in place) to ensure rights are protected by taking appropriate action in case of direct violation and in case of failures to provide and facilitate.

- The question of **fulfilment** verifies how far citizens have been able to benefit from rights and what are the reasons for citizens or groups of citizens not benefiting.

Table 4: Rights Analysis Matrix

Obligations / Impact	Problem / constraint	Strategy / means
RESPECT	**Government:** no recognition of right in law, custom, local regulation or existing laws are inadequate / unjust	Advocacy toward legislature or local justice, public litigation leading to change of law or/and practice
	Citizen level: rights not respected / recognised by the community, husband, parents, village head	Legal literacy strategies to change perceptions of rights and duties
PROTECT	**Government:** inadequate protection from key enforcement institutions (police, human rights commissions) leading to impunity	Advocacy toward key enforcement institutions. Assistance to facilitate the work of the enforcement institutions.
	Citizens: lack of inclination to report abuses or be a witness, ending with impunity within family and community. Behavioural patterns violating certain rights.	Development of para-legal skills and collective confidence to break pattern of repression.
FULFIL (facilitate and provide)	**Government:** poor policies, inadequate allocation of resources, barriers to private initiative & NGO action, lack of provision of services of assistance in time of emergencies	Policy influence on local and national government, scrutinising budgets, district development plans
	Citizens: employing own means to survive, organise, seek education	Increased commitment to make resources available and use own resources effectively

Source: Adapted from Madsen (2001)

A rights analysis can lead to new forms of development initiatives that may have the potential for creating fundamental changes. For example, a rights analysis in Uganda highlighted the problem of secure access to land as a major concern, especially for women (see box below). Having brought them to the foreground, it is then possible to design interventions to address such issues.

Success for 'The Land Alliance'

The Land Alliance in Uganda has been fairly successful in lobbying the Ugandan Government to undertake more research on customary land rights so as to include the rights of women to land in the legislation. The Land Alliance is a coalition consisting of forty organisations as well as individual members. Its main objective was to establish a Ugandan Land Law which would allow farmers – men and women – to become owners of the land they cultivated, the acceptance of customary land rights and the establishment of a Land Fund for disadvantaged farmers. The Ugandan Land Law has gone through Parliament but has not been enacted. Consequentially the Alliance has been asked to train personnel for the Ministry of Lands and to assist in establishing 'land rights' information centres in four districts. One of the principal lessons is that in future a more concerted effort is necessary that combines lobby work with actions at the grass-roots level. This is difficult because apart from the fact that only half of the members were really active, the Coalition found it difficult to sustain the interest of its members up to and beyond the acceptance of the law in Parliament. (INTRAC and South Research 2002)

For their problem analysis, CARE International has worked with the 'Causal-Responsibility Analysis Matrix' (see Tables 5 and 6), which they have adapted from a UNICEF model (Jones 2002). This starts from the observable problem (the outcome) which needs to be addressed and works back through immediate, intermediate causes to the fundamental cause. At each level, the analysis asks what is the gap between the current situation and the minimum standards set out in international human rights law. It then asks who are the duty bearers who are responsible for addressing these gaps. Although the primary duty bearer may be the state in many cases, the analysis must also consider the many other key actors who may have a critical bearing on whether rights are actually realised – these may range from individuals to private companies, international organisations and NGOs. The final stages are to ask why these key actors are not meeting their obligations and consider action which may encourage or enable them to do so in the future.

Table 5: Causal-responsibility analysis matrix

Causal analysis Outcomes	Unrealised rights	Responsible Actors	Why inaction?	Ways to promote action
Immediate causes				
Intermediate causes				
Fundamental causes				

Table 6: Causal-responsibility analysis: HIV/AIDS worked example

Causal analysis High prevalence of HIV/AIDS	Unrealised rights	Responsible actors	Why inaction? Ways to promote action
Unprotected sex; male partners unfaithful	Rights to life, health, security of person and privacy	Affected women, male partners	Empowerment of men and women through rights and responsibilities awareness raising
Limited awareness, services; Males control sexual relations, no recourse for abuse	Rights to education, health services; Right to a legal remedy	Affected women, local leaders, national government (Health Ministry, court system)	Mobilising women's groups and linking them to legal assistance; Promotion of mechanisms for legal recourse
Limited Information, Education & Communication, limited service provision; male-dominated culture, women's inferior legal status	Rights to non-discrimination, equality before the law (esp. marital and property rights)	Affected women, civil society organisations, national government, public at large, international donors	Joining public campaigns, civil society networks, and/or policy advocacy efforts on behalf of women's rights

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5.3.2 Setting priorities

On the basis of the rights-based situation analysis, NGOs have to determine if there is a role for them in addressing the situation and, if there is, they must draw up appropriate plans of action. But what sort of action is appropriate within a rights-based approach? In many cases, the emphasis is put on providing support to governmental and non-governmental organisations in the following areas:

- Applying political pressure (research, lobbying and campaigning) to influence the legislature and government policy;
- Improving governance, accountability and transparency at all levels (state and non-state);
- Supporting agents of the state to create/strengthen legal mechanisms and improve their capacity to respond to citizens rights;
- Strengthening popular organisations so that people can put forward their own demands;
- Encouraging people to assume their rights through civic education, awareness raising and popular communication.

ActionAid's Asia region held a workshop in 2000 to consider how it would put its rights-based approach into its programmes at local, national and international levels. The workshop concluded that:

> Our 'interventions' will take the form of partnerships at all levels – our aim is to use our resources and comparative advantages to create space for others (pro-poor groups, activists, the poor themselves) to build lasting influence and leverage.

Using this basic principle they drew up a set of strategic approaches to contribute to their objectives of addressing immediate poverty issues and listening to poor people and helping them to make their voices heard. For each of these approaches, they suggested a range of interventions (see Table 7).

Table 7: ActionAid Asia – areas of intervention for rights-based programming

Approach	Local	National	Regional/International
Expressing solidarity, mediating	• Accountability to community • Encourage middle class including own staff to participate in community life of the poor • Give exposure to smaller organisations / leaders, to share ideas with wider audience	• Constant and consistent reinforcement of our solidarity through mass media • (Local<->national<->international) Reinforcing belief that change is possible – we can do it	• Creating space in international for a for groups representing the poor (WTO, etc.)
Building networks and strategic alliances	• Identifying/linking activists to activists • Strengthening relations with local decision makers (political & non-political)	• Alliances & sharing with other international NGOs, influencing them to move to rights-based work • Supporting legistators, building alliances with them, e.g. supplying them with budget information, secondment into	• Linking local, national and international policies • Organising campaigns (national <->international)
Capacity building facilitators	• Disseminating awareness of rights, legal literacy • Training in organising and advocacy • Training of local leaders and officials (alliances with those who can expose us to many other tools and methods)	• Voter education (local<->national) • Building our own profile, influence & power in order to better leverage/protect • Promoting gender issues & good gender practice within networks that we support	• Capacity building through South–South networking • Demystifying World Bank, International Monetary Fund, World Trade Organisation for nation/local activists
Policy and legislative influences	• Analysis of whether rules and regulations translated into practice • Publication and dissemination of research findings, opinion pieces etc. • Test boundaries of existing laws & jurisprudence – taking cases from local incidents to court or using human rights mechanisms (local <-> national)	• Analysis of how far policies are translated into rules, regulations of bureaucracy • Developing policy alternatives – providing technical expertise on policy & legislation drafting (national & international) • Providing national networks with information and analysis on policies of international actors and their impact on poor people.	• Using regional political groupings. Lobby donor agencies in country • Analysis of discriminatory or incoherent policies
Promoting information, transparency and accountability	• Social audit and budget analysis • Transparency in budget – budget presentation • Promoting access to IT for the poor		• Budget audits feed into donor Country Strategic Plans, debt relief, etc. Right monitoring reports
Mobilising public opinion and awareness	• Public hearings • Creative communication: songs, dance, theatre • Producing pamphlets, posters etc. • Training local journalists	• Establishing contacts with National Press • Using opinion polls, participatory videos • Telling the story to potential outside supporters of the cause, through posters, videos, photos, media symbols	• International campaign actions. Global week of action, solidarity marches, etc. Recruit international leaders to back our cause. International media e.g BBC world service, FT, CNN

Source: Adapted from ActionAid Asia 2000

Such interventions are clearly related to addressing rights issues, but it is widely recognised that they are not sufficient by themselves. Where duty bearers do not have the will or the capacity to meet their obligations, any responses will take a long time to turn the situation around. Rights-based approaches cannot yield instant solutions and while the root problems may be addressed, there are likely to be ongoing symptomatic problems which need immediate redress. In the most extreme examples, where people are denied the right to adequate food, a rights-based approach which refuses to address the symptoms (lack of food) and focuses exclusively on the causes (insecure land tenure) may yield a long-term result (changes in the law) but fail to help chronically hungry families survive to see it.

Save the Children tries to balance its approach by basing its action on its 'Three Pillars'. The first of these is practical actions to directly address violations. The second is strengthening the infrastructure to overcome constraints. The third is to ensure accountability and monitor progress in child rights as well as building a constituency of support for children's rights among individuals in the government, professions, the media, private sector and civil society.

5.3.3 Implementation strategies

The changes brought about by adopting a rights-based approach do not stop at the level of analysis and planning, but must be carried forward into the manger in which activities are carried out. It is possible to develop rights-based goals, carry out a rights-based situation analysis which highlights areas of intervention and then move on to implementation in a way that is neither participatory nor accountable to the people whose rights are being violated. This can be a particular danger where action to address rights issues is focused on changing legal frameworks in national governments. INTRAC's recent work with the Roma in Europe has highlighted the danger of pursuing rights-based goals without ensuring that the implementation process is consistent with a rights-based approach (see box below).

Addressing Roma rights in Europe

Over the last decade, considerable effort has been put into improving the situation of Roma in Europe, in particular by putting pressure on states to introduce new legislation on minority rights. – especially in the case of EU accession states. Huge resources have been put into Roma programmes, which have focused on ensuring that appropriate legislation to secure Roma rights is put in place and have set the achievement of new statutes as their goal. Monitoring and evaluation at the national level (e.g. number of violations of rights, cases brought to court) might show that such programmes are successful and achieving their aims of improving the Roma people's access to rights.

However, this is not bringing about the social change desired by the Roma communities themselves and envisaged by those advocating for legal changes. Reports from Roma communities suggest that they still perceive that their situation has not changed. Moreover, there is a widespread perception that the benefits of any changes brought about by the new legislation have accrued to a limited elite of Roma that has captured the process, often through their control of campaigning and advocacy NGOs or their professional expertise as lawyers. In practice, Roma communities remain discriminated against. Social and economic indicators show that they are routinely marginalised in many aspects of life (employment, education, healthcare, housing, etc). (INTRAC 2004)

A major challenge for NGOs adopting right-based approaches is to keep the interventions grounded in the lives and experience of the people most concerned. In some cases, the analysis and planning may result in some interventions which appear the same as those adopted before a rights-based approach was adopted. However, the way in which the NGO goes about its work may well need to be different. As an NGO moves from a needs-based towards a rights-based approach, it requires a change in the relationship between the NGO and the people with whom it works. At the most basic level, this means the attitudes and behaviour of the NGO staff must demonstrate that they are working with rights holders rather than beneficiaries. ActionAid Asia's table of interventions (Table 7 above) recognises this as they suggest that their work must 'encourage the middle classes, including their own staff, to participate in the community life of the poor'.

CARE puts forward a set of seven principles for rights-based programming *and* has then elaborated what this means for the way that it goes about its work. For example:

> We stand in solidarity with poor and marginalized people whose rights are denied, adding our voice to theirs and holding ourselves accountable to them – This implies that:
>
> - We have the courage to take a stand in the face of opposition, confronting, in a spirit of principled engagement, those responsible for the denial of rights;
> - We do not accept funding where a significant portion of the poor and marginalized people we intend to support feel that such funding will impede realization of their rights;
> - To those we serve, we systematically provide:
>   - All important program information;
>   - Opportunities to orient, assess, and reorient our programs.
> - We ensure that poor and marginalized people take the lead in determining an acceptable pace of change and level of risk.

See Annex 3 for a complete list. Most of these principles are concerned with the way people go about their day to day work within the organisation. These have been included in its training on rights-based programming, where participants are asked to mark how far the programmes they are involved in reflect each principle.

5.3.4   Monitoring and evaluation

Most organisations find monitoring and evaluation a difficult task for any programmes, and bringing a rights-based approach to it appears to create new levels of complexity. Many of the NGOs involved in this study have been at the forefront of attempts to change the nature of monitoring and evaluation and about one third of them claimed to monitor the effectiveness of their own rights-based approach. However, they have found that the move towards rights-based approaches has demanded new ways of monitoring and evaluating programmes.

Many NGOs' monitoring and evaluation systems focus on the basic level of activities and outputs, which are relatively straightforward to assess – especially when they lend themselves to quantitative indicators that can be easily recorded and aggregated. However, since rights-based approaches aim to address fundamental causes of problems rather than simply the symptoms, the assessment of their progress must look beyond the programme activities to how far they are contributing to changes in the rights situation. This is much harder as we have to consider a

broader range of factors, many of which might lie outside the programme's direct sphere of influence. Moreover, the nature of rights-based interventions draws in many different actors and change takes place over a long time. Teasing out how far one particular programme has contributed to change is not straightforward.

Another concern for rights-based programming is that the monitoring and evaluation system should be consistent with the rights-based approach. At the least, the programme must follow good practice in ensuring monitoring and evaluation is participatory and emphasises 'downwards' accountability to the communities where the NGO is working. What is to be monitored and evaluated becomes an area of negotiation with communities and may prove contentious. While the development NGO may want to understand the contribution of its work to positive change in the overall rights situation, the community may have other concerns about the local impact of an NGO's presence and have less interest in the wider picture.

Taking a rights-based approach, therefore, raises many questions about what should be monitored and evaluated, how it should be done and by whom. There has been some progress in developing frameworks for the monitoring and evaluation for right-based programming but there is much scope for further work.

South Research considers achieving rights a long-term strategic goal and suggests that we need to assess progress by looking at the logic of rights-based programming. This moves from contextualising rights in a particular setting, to raising awareness of rights within the community, to creating action and sustainable change. For each of these steps they suggest the type of indicators which could be applied to assess progress. This is presented in the 'rights-continuum matrix' (Table 8).

Table 8: Rights Continuum Matrix

Effect & Impact	Indicator
Sustaining	Breadth and growth of the social basis for gaining rights and taking responsibility
Activating	Levels of action by different actors
Awareness raising	Evidence of new insights and motivations for engagement
Contextualising	Ability to link laws, regulations and behaviour to the local situation, customs and culture

Source: South Research[10]

Identifying appropriate indicators for monitoring rights-based approaches is a major problem and both Save the Children UK and ActionAid have introduced monitoring systems which start without them. Save the Children UK has developed a Global

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[10] The 'Rights Continuum Matrix' was developed by South Research based on the 'Educational Continuum Matrix', by Prof. Jan Servaes & Prof. Luk Dekeyser of the University of Brussels (2002).

Impact Monitoring System (GIM) as a framework for its monitoring and evaluation. This requires regular stakeholder meetings (including children, adults, government, donors and partners) to review the achievements and failures of Save the Children's programmes on five dimensions of change (see Figure 4). The process starts with open discussion but over time the stakeholders are likely to be able to identify clearer criteria for assessment and indicators will emerge (Theis 2004: 95–6).

A review of GIM in 2003 found that these dimensions of change were useful for learning what works in bringing about impact, although it was less useful when the programme objectives were not clear. It also found the involvement of external stakeholders was essential to increase the transparency and accountability of Save the Children. The process is time and labour intensive and, although it has been accepted by some donors, it has not removed the need for other forms of management reporting (Theis 2004: 97).

Figure 4: Save the Children UK Global Impact Monitoring – Dimensions of Change
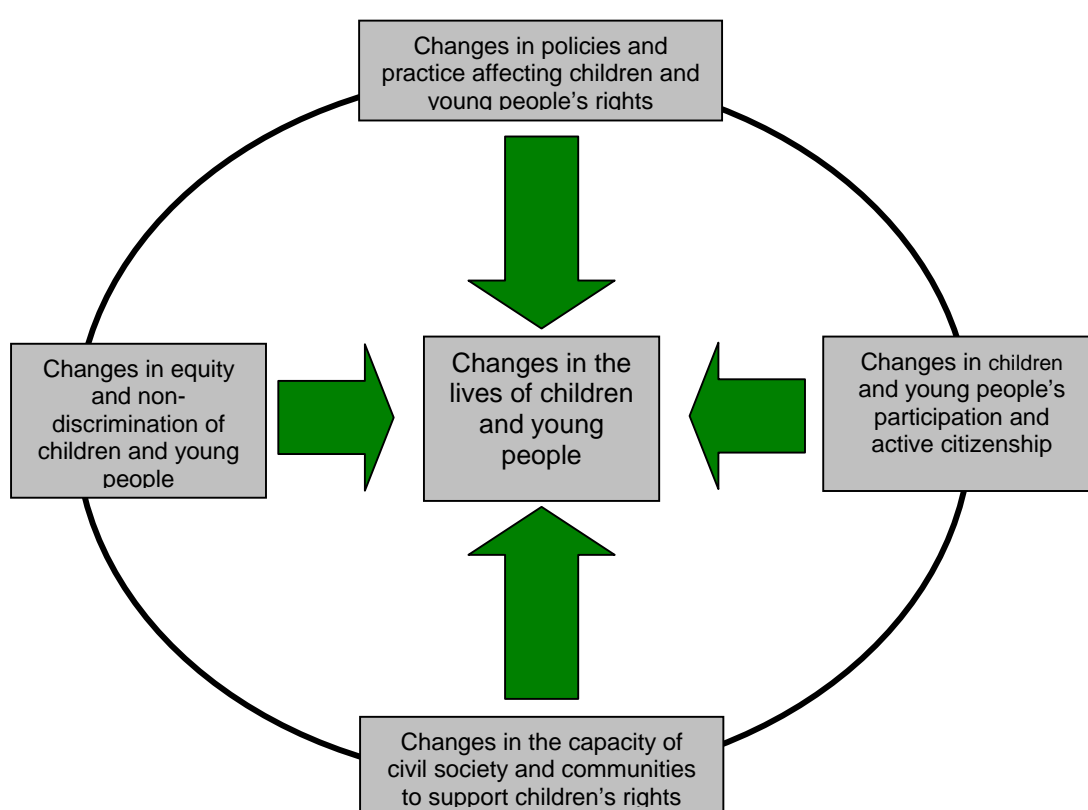
(Source: Theis 2004: 96)

ActionAid also saw that the adoption of a rights-based approach also required a monitoring and evaluation system. It introduced its Accountability, Learning and Planning System (ALPS) in 2000.

> ALPS lays out a framework for involving communities and partner organisations closely in all aspects of our programme work, including planning, budgeting, monitoring and reviewing. In time, we hope that this system will allow more creative and honest assessment of change and create space for staff to listen to and engage with the concerns of poor people. More critically, the approach puts poor people at the centre stage in learning, analysing and responding to their own situation.

In other words ALPS challenges our own hold on power, and forces us to relinquish it. Key elements of ALPS are its emphasis on accountability to the poor, particularly women and girls, rather than just to donors, and its goal of sharing information freely between ActionAid and the people with whom it works. The only thing fixed about the system is its principles; the procedures described in it are open to change and aim to be as minimal as possible. (www.actionaid.org/policyandresearch/mae/oas.shtml)

ALPS can be summarised as: a) a set of minimum requirements for planning and accountability which describe the reviews and reports required within the organisation; and b) a set of principles describing how these requirements should be met (see Table 9).

Table 9: ActionAid ALPS

The minimum **ALPS as core set of requirements**	*The quality* **ALPS as principles**	
• Strategies at each level (programmes, countries, functions, regions, ActionAid) every three to five years	• Increased accountability to poor people, partners and other key stakeholders	
• Three year rolling plans – with annual updates	• Encouraged greater participation of poor people and partners in planning, budgeting, monitoring and assessing the value of interventions	
• Annual participatory review and reflections at all levels, functions, themes	• Supported a better analysis of gender and power	
• Annual reports for ActionAid globally, regional programmes and divisions	• Reduced burdensome reporting, and encouraged learning, critical reflection and innovation	
• Strategic/External (consultant led) reviews of work at each level after 3–5 years	• Promoted feedback loops and better management decision-making processes	
	• Improved our understanding of the cost of interventions and their impact	
• Appraisals for new countries, markets	• Fostered a culture of transparency	

Source: Guijt 2004: 5

ALPS is an attempt to embed the idea of rights and justice in AA's systems. The essential principles of ALPS are closely linked to ActionAid's mission and strategy: promoting greater accountability to the people on whose behalf money is raised, gender equity, transparency and empowerment of the poor. The system was supposed to give citizens, particularly the most marginalised groups, opportunities to influence and choose the direction of development that AA would take – and to hold AA accountable to their choices (Guijt 2004: 5).

This move towards such an empowering approach to planning, monitoring and evaluation has created significant challenges for ActionAid. Guijt's review suggested that the core requirements and principles need to be reassessed and that more investment is needed to improve the uptake of the system. She also observes that where ActionAid is most fully engaged in rights-based approaches and staff are having to tackle very difficult rights issues, it may be too much to ask also for the methodological innovations required by ALPS (Guijt 2004: 5). As with the review of Save the Children UK's GIM, she also found that it was important to find the balance between the innovative system, largely based on qualitative data, and the more standard management information systems – 'more efforts are needed to reach a

good balance between the analytical use of quantitative and qualitative information' (Guijt 2004: 26).

5.4   Adopting a rights-based approach as a process, not an event

As the examples discussed above show, bringing a rights-based approach into programming takes a lot of time and effort. Inevitably, the demystifying of international covenants to make them accessible in appropriate programming tools and guidelines, benchmarks and indicators is a slow process. There might be much to be gained by closer collaboration between development agencies but this is made more difficult by the lack of consensus on how a rights-based approach should look in practice.[11] There is a lot of material available in the public domain, especially through the internet, but much of it is not consistent or compatible.

Therefore, those who want to find a package of 'tools' that will show them how to take up rights-based approaches in their programmes will be disappointed. Perhaps, as the ActionAid experience with ALPS suggests, the description of the tools – the diagram, the matrix or whatever form it takes – is likely to be less important than the process of working through the principles and attitudes underlying the application of any tools. Achieving the fundamental shift in the balance of power between development NGOs and their stakeholders that is envisaged by rights-based approaches will need more than new management systems.

6   The Immediate Effects of Adopting a Rights-Based Approach

In this section we consider how the shifts in NGOs' goals and programming associated with adopting rights-based approaches, as described in the previous two sections, ripple out to affect other aspects of NGOs. Since every organisation is different and there is no standard way to incorporate rights-based approaches within an organisation, we cannot suggest a simple relationship between cause and effect. We do not claim, 'if you adopt a rights-based approach in this way, this will happen'.

However, our research and discussions with various NGOs have highlighted some general areas where the move towards a rights-based approach has been felt most, and we outline these in this section. For many development NGOs, the major upheaval associated with adopting rights-based approaches has resulted from their shift away from the delivery of services towards advocacy and lobbying, as they move to become actors in social and political transformation. In many cases, NGOs and their partners are very accustomed to dealing with needs rather than rights and are often reluctant to take on rights-based approaches. The process of change can therefore meet both internal and external resistance. As a result, it is not uncommon to find both 'assistentialist' (or charitable) as well 'structuralist' (or transformative) approaches to poverty within the same organisation, with all the potential confusion and tension that can bring. There are organisational risks involved in the change and these need to be considered as soon as possible. CARE has summarised some of these in its 'Risk Assessment Filter Tool' (Kercher et al. 2004) – see Figure 5.

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[11] INTRAC, Research Workshop Notes on Rights-Based Approaches, May 14 2003.

Figure 5: CARE's RBA Risk Assessment Filter Tool

When operational Problems become actual Risks – Examples

Problems & Worries in the Field	Evolving Risks — usual 'change' risks	Evolving Risks — RBA specific risks[1]	Possible Mitigation
• new (legal?) knowledge required	exhaustion of staff	intimidation of staff ("jurisphobia"), potential loss of experienced staff	training, communication, allow 'non-legal' perceptions of law
• need to re-consider own behaviour & attitudes, relinquishing control		frustration of & conflict between staff, potential loss of experienced staff	allow open discussion, critique & constructive conflict
• little organisational support for innovation		frustration/burn-out of staff, potential loss of experienced staff	atmosphere of trust, encourage 'trying out', allow failure
• lack of organisational coherence		possibility of RBA process never unfolding full potential or of collapsing e.g. with new (key) staff	'rooting' RBAs by aligning all departments and planning processes
• budget constraints	budgets temporarily over-stretched, e.g. for training	*specific RBA risks questionable: potential of non-monetary, societal resources for RBAs often neglected*	
• time intensiveness		difficulty of getting long-term funding, disillusionment/disappointment from staff & communities demanding results	awareness raising re. value of long-term engagement/effort, on-going monitoring & evaluation
• deterring effect of rights terminology on donors, governments, communities		loss of donors, (potentially even physical) danger for participants/staff in oppressive regimes or conflict	convince donors, look for new donors, avoid rights language (new risk: watering down concept!),staff training (policy analysis, diplomacy)
• new methodological requirements (e.g. evaluation, accountability)	over-concentration of fin. & human resources on 'technical' development	*specific RBA risks questionable: method. buy-in perhaps just from so far less contracted sectors (econ.,legal)*	

[1] Possible grouping of risks: physical, financial, conceptual, organisational

6.1   Implications for NGO staff

The need for specialised staff and a well thought out strategy to move rights-based approaches from the level of policy to implementation and programming poses considerable challenges in terms of professional capacity. At the most basic level, the change in orientation and activity of Northern NGOs requires changes in the profile of staff and their job descriptions. For some, especially those involved in the delivery of 'frontline services', this may be profoundly threatening as their posts are reviewed and possibly axed. New staff may be required who can bring in the specialist knowledge of human rights and the experience to bring them into practice. At least one NGO referred to their now employing more lawyers.

The experience of International Save the Children Alliance (ISCA)

A recent report for ISCA suggested the initial promotion of child rights programming was presented in legalistic terms and without making it clear how it related to development. This resulted in resistance among staff in country offices because:

- 'it appeared to undermine the value of work and ways of working into which people had made considerable investment;
- it was not at all clear to staff how to translate the abstract principles into programmatic practice;
- the use of legalistic language combined with the new concept of 'rights-based programming' served to mystify rather than clarify what was being promoted;
- rights focused on individual claims were difficult to implement in cultures where family and community responsibility are the underlying values' (Lansdown 2005: 27)

At every level in an organisation, adopting rights-based approaches will require training input, even for those staff whose jobs may not appear to be affected. All the NGOs involved in this research are providing support to staff in the transition which occurs when they are introducing rights-based approaches. It may be relatively simple for the programme staff to immerse themselves in rights-based approaches, but this also has to work out to the support staff and initial points of public contact in both North and South. If adopting a rights-based approach is to bring a fundamental change in the relationship between development NGOs and their primary stakeholders, this must start with the attitude of the guard who first allows people into a compound, or the receptionist who answers the telephone to a potential supporter.

Moreover, in many organisations adopting a rights-based approach towards external stakeholders, questions should inevitably arise about the rights of its staff and the style of management across the organisation. If there is no consistency between the internal practices and the external message, the prospects for bringing about transformation in NGO relationships and practices seem limited.

Adopting rights-based approaches can create new, and potentially fatal, difficulties for NGO staff. In the worst cases, where focusing on rights brings the NGO into direct conflict with those violating rights, either the state or other interest groups, the staff can become targets for intimidation, imprisonment, violence and murder.

6.2   Implications for relationship with stakeholders

Almost by definition, adopting a rights-based approach should change the relationship between development NGOs and their primary stakeholders in poor communities. At the same time, it will also have profound implications for the relationship between Northern NGOs and their partners, donors and Northern constituency and states.

6.2.1   Relationships with states

Taking a rights-based approach forces NGOs to take a critical stand against the practice of states, in both the North and South, where it is in flagrant violation of rights or not conducive to the promotion and protection of rights. In the North, this is often concerned with issues such as the sale of arms, conditions of trade, abuse of asylum law and so on. This will extend into concern about the interaction between states, such as the support given to repressive regimes or armed intervention, like that taken in Kosovo in 1999 or ongoing in Iraq since 2003. Rather than simply responding to the resultant problems, those taking a rights-based approach must engage in research, awareness raising, campaigning and lobby work to challenge the behaviour of states.

Where Northern states are also their major donors, NGOs always face a difficult balance between receiving state funding and retaining some voice with the state, and avoiding being co-opted into the state's agenda and being shut out of any policy dialogue. Adopting a rights-based approach is likely to sharpen this dilemma even further, especially where states claim to adopt a right-based approach in their development policy – as in the UK, Norway and Sweden.

The potential for conflict with the state may be even greater in the South where Northern NGOs are working as guests in countries where human rights are not respected and their position in the country may be quite precarious. A state which

may welcome an international NGO that provides support for health or education services may be less enthusiastic if the NGO starts to criticise the state for its failure to provide such services itself. International NGOs have always faced difficulties and controversy in knowing how to work in repressive regimes where there are clear abuses of human rights on a massive scale and they have to find the balance between speaking out and staying in the country. Adopting a rights-based approach may extend these difficulties as international NGOs are forced to reconsider how they engage with other states, which are involved in lower-key failure to uphold their citizens' rights.

6.2.2   Relationship with donors

While some donors are convinced that solving the issue of governance is crucial to equitable development, and therefore advocate a rights-based approach, most donors do not recognise the link. Some donors, particularly charitable foundations, may have explicitly philanthropic objectives, and be nervous of NGOs moving into the more political rights arena.

Other donor, such as USAID, are very sceptical about rights-based approaches and proposals for funding to such sources need to avoid explicit rights language (see Lansdown 2005: 26). In fact, many bi-lateral donors still use development aid funds as 'small change' to gain access to internal markets, resources and lucrative contracts, or increasingly since 9/11 they see development aid as a tool to serve their security interests. NGOs that are very reliant on governments for grants and contracts can find it very difficult to take a principled stance against the government's practices.

Even where donors, such as DFID, claim to have adopted a rights-based approach and make it a condition of funding for NGOs, it may still be difficult for recipient NGOs to reconcile with their own understanding of rights-based approaches. For example, while a donor insists on a rights-based approach, it may still require a detailed logical framework which specifies detailed outputs and processes which NGOs are contractually obliged to follow – often within too short a timeframe.[12] This may make it hard for NGOs to work with the participatory processes required to bring a rights-based approach into programming, as these may demand more flexibility in both outputs and timing.

While there is plenty more that can be said about the complex relationships between NGOs and their donors, the point here is that when an NGO adopts a rights-based approach it is likely to add to that complexity and may entail NGOs losing the support of some donors while gaining support from others.

6.2.3   Relationships with partners

Adopting a rights-based approach can also cause major upheaval in the partnerships between Northern and Southern NGOs. This will depend on where the drive towards rights-based approaches originates. In some cases, NGOs interviewed reported that they had reviewed their partnerships in the South to see how far they fitted with the

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[12] Although it is very likely that NGOs may have more room to manoeuvre than they think as some donors are open to more innovative approaches.

new objectives and ways of working. While some have made changes to their partner 'portfolio', others expressed reluctance to drop 'weak' partners.

Most organisations expect that the change from a needs-based to a rights-based approach that is really 'owned' and institutionalised will be a long haul. Change involves partners and alliances in dialogue on issues such as accountability, transparency and norms of behaviour between partners. Agreeing on a rights-based approach will involve scrutinising organisational values, political engagement and negotiating 'partnership'. It should involve Northern NGOs being more open to partners refusing, disagreeing and analysing their operations.

The changeover may be gradual and will signify an investment in capacity building. For example, Concern and ActionAid have invested in support for their partners to become familiar with rights-based approaches. However, Concern observed that it is often working at the local level in areas where it does not have many partners to choose from, and it is unlikely readily to find partners that are willing and able to take on rights-based approaches.

Experience is showing that using rights-based approaches can sharpen the analytical capacity and clarifies the role and positioning of partner organisations in the development process – see box below.[13]

ActionAid's experience

The focus on rights has concentrated the emphasis on leadership within the rights context. Stakeholders can no longer be passive. Instead they can be facilitated by ActionAid to exert their own agency in their own context. Leadership skills and understanding of the concept of leadership have become high profile within the organisation. Without leaders there are fewer catalysts for engaging in specific rights struggles for and on behalf of communities. ActionAid cannot do this; it has to be the community or group leaders who are the catalysts. With leadership training, lobbying and advocacy can be combined with service delivery for a more holistic approach to development.

It has also been argued that one of the main implications of adopting a rights-based approach for ActionAid has been the increase in high quality analysis from stakeholders in the South. Both the volume and the quality of the research have increased, as has the number of stakeholders involved. There has been a dramatic increase in funding of Southern researchers, most of whom are involved in ActionAid in some way. Consequently the number of internal and external publications authored and/or edited by Southern stakeholders has notably increased. This is matched by the commitment of ActionAid to disseminate these research findings to the wider development community.

Another critical concern is the potential security risk brought to Southern partners if they engage in discussions on human rights. National NGOs that are involved in rights and governance issues are much more vulnerable to intimidation and violence than their international counterparts. As Northern NGOs negotiate their partnerships, they may, perhaps inadvertently, put indirect pressure on their Southern counterparts to move into these more political spheres. Northern NGOs must make themselves aware of the potential risks to Southern partners, and consider any measures they

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[13] Interviews with Save the Children UK and ActionAid.

can take to offer protection, perhaps through some form of 'benefits-harms analysis' (see CARE 2001).[14]

6.2.4   Relationships with Northern constituencies

It has been argued that rights do not 'sell' in the countries where the donations are collected because the donor population does not always comprehend them (Slim 2001). NGOs can face difficulties in explaining the role of the organisation and the effectiveness of a rights-based approach to the home public. Charities relying on the public for money find that pressing the apolitical, victim-oriented philanthropic button is easier than 'enlightening' people on rights issues. This has been particularly the case for some NGOs in the US. For example, CARE is known in the US for 'feeding starving babies' rather than defending human rights (Interview, April 2003). Save the Children US has found:

> that in the political and cultural environment in which it operates, it has proven impossible to 'sell' human rights in funding or communication terms, and it has had to trade the need to maintain its funding stream and market position as a leading implementor of development programmes benefiting children against a public commitment to child rights and child rights programming (Lansdown 2005: 7).

This research has found that there appears to be a gulf within some NGOs between their public relations or marketing teams and the programme or policy teams (see also Lansdown 2005: 25). The former argue that rights are impossible to advertise, while the latter argue that rights must be publicly and graphically emphasised over needs – no longer are the poor there to be 'helped', rather they are only poor because they are being denied their rights. Therefore, advertising should highlight the poor not as victims, but as marginalised from access to their right to development.

The experience of some of the NGOs involved in this research suggests that this dichotomy is too simple. The general public can embrace rights-based approaches, although they may appeal to a different section of the population. DanChurchAid's[15] experience shows that whilst rights alienated some more traditional public supporters, it attracted a young more politically active cohort of supporters. Similarly, Novib argued that through advertising rights issues in its awareness campaigns it has attracted more sectors of the community, including school children and other youth in an unprecedented manner. Save the Children Sweden now finds that its supporters expect a rights-based approach from the organisation.

7   Conclusion

The mantle of rights-based approaches is spread widely across the development arena, covering organisations, programming and the notion of development itself. As this paper hopefully makes clear, there is no one rights-based approach that can be taken up as a package within development NGOs. Instead there are a wide variety of

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[14] This risk will also extend to the individual citizens and communities who are the primary stakeholders of Southern partners and they should be included in any benefits-harms analysis.

[15] INTRAC Rights-Based Approach Research Workshop, 14 May 2003.

interpretations and associated practices and this paper has attempted to highlight some of these.

While many people are talking about rights-based approaches, it is always difficult to establish how far they are discussing the same things. There is still the danger that the notion of rights-based approaches could come to mean all things to all people: a loose and ill defined idea, which everyone can adopt as they can interpret it to fit their own interests. There are perhaps parallels with the idea of 'participation', which has been widely incorporated into the development process, but results in limited discernible difference in the lives of people, as the practice of many NGOs, which is invariably described as 'participatory', continues largely as before.

However, there is little doubt that the convergence of human rights and development discourses has the potential to bring important changes in development practice. It is easy to see that the various changes in organisations outlined in this paper do bring about a new and richer understanding of development processes. Bringing in the consideration of rights is pushing development practitioners to consider more structural analysis and aspire to greater transformation in society than is possible if focused on perpetually meeting 'beneficiaries' needs. A recent DFID review concluded that adopting rights-based approaches added value to development work in three key areas (Piron and Watkins 2004: 79–81):

- **Normative value** – provides normative framework, setting out clear international standards, focuses attention on excluded groups, discrimination and access to services. Aims to transform relationship of state with citizens – enhancing state accountability and empowering citizens to claim rights and entitlements. 'People are no longer seen as beneficiaries with needs, but active citizens with rights and responsibilities.'
- **Analytical value** – helps to set development objectives, puts issues of politics, power relations, state accountability, state–society relations, and genuine participation at the centre of analysis and interventions, challenging some of the most difficult barriers to poverty reduction.
- **Operational value** – the practical implications of rights-based approaches share a lot with development good practice. They emphasise the need to work with both rights holders and duty bearers.

These results are echoed in the findings of this paper and are largely shared by the various interpretations of rights-based approaches. Indeed, many of those organisations which do not claim to adopt a rights-based approach, would recognise these advantages from their engagement with the rights discourse.

However, while many development actors are talking about rights-based approaches, the question needs to be asked 'a rights-based approach *to what*'? While they all may be comfortable with giving human rights a prominent, or even central, position in their work, some important distinctions emerged around the *object* of the rights-based approach.[16]

1   Rights-based *organisations*: where the core mission of the organisation is the fulfilment of human rights – for example, Save the Children.
2   Rights-based *programming*: where a human rights analysis is brought into all programming and guides the approach to work, but it does not describe

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[16] We are grateful to Carin Ästrom from Save the Children Sweden for highlighting the importance of these distinctions.

the overall aim – for example, ActionAid, which retains its central vision of addressing poverty.

3   Rights-based approaches to *development*: where the overall goals of development are expressed in the language of rights and become effectively identified with the achievement of rights – for example, Oxfam's 'strategic change objectives'.

These distinctions are quite subtle but they raise important issues. It is possible to be a rights-based organisation, without necessarily being engaged in rights-based programming – Save the Children, which was established as a rights-based organisation in 1919, only adopted Child Rights Programming in 2000. It is also possible to engage in rights-based programming without becoming a right-based organisation.

For those who take to the third perspective – the rights-based approach to development – limiting the focus on rights to programming may appear too instrumental. From this view, if the ultimate goal of development is the achievement of rights for all, it is a good, or virtuous, thing in itself and needs no further justification; we do not need to ask if it works.[17] The problem is that in order to talk of a rights-based approach to development, which does adequately capture all the goals of development such as ending inequality and poverty, it is necessary to extend the notion of rights beyond those in the legal framework (see Section 3.2). However, this leads to difficulties in delimiting exactly what a right is. Unfortunately, if we go too far from the legal notion of human rights we wander into difficult territory. Does it make sense to talk of someone having a 'right' if that right cannot be upheld in international law? Where should the lines be drawn?

The formulation of basic entitlements to education, health care, food, clothing, housing and employment as human rights raises expectations (De Gaay Fortman 2001). This highlights the question of who has the right to draw on the available resources. Everybody is 'entitled' to, but what section of the population or which individuals have the means, ways and capacities to realise their 'entitlements'? Claims are an excellent entry point to discuss the reasons for the actual distribution and use of the available resources in a community, country or region. The essence of the rights-based approach to development is exactly to ensure a more equitable distribution and the sustainable use of the resources. This will only occur when the more marginalised sections of the population believe it is their right to claim more, they have these rights protected through legislation (see box), and they have the capacity and competence to pursue their claims. In Sen's (1981) terms, they gain the capacity to claim their entitlements.

The right to food in India

Under the principles of State policy, it is written that citizens have a right to a decent life. This is defined as 'shelter, food and work'. However, although written down, these rights were not realised. Thus there were situations in India where there were huge buffer stocks of food available, but the State bodies refused to share it, for example in Orissa. Through the ActionAid India's right to food campaign the courts have ordered the Government of India to establish a monitoring mechanism to ensure that food is accessible for all. The campaign also successfully lobbied for the right to food for the disabled, children and older people. In this way ActionAid India has identified tangible effects on the poor in this context. The

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[17] In a similar way, where the ultimate goal of development is taken to be the eradication of poverty, we take it for granted that achieving that is sufficient – we do not ask about whether it contributes to a yet higher goal such as making people happier.

There are many organisations, including those who embrace the incorporation of human rights into their development work and claim to take a rights-based approach, who remain uncomfortable with trying to squeeze everything into a rights box. It is difficult to define development only in terms of rights: what failure of rights produces an outcome of poverty? The right of children to education is a specific and useful goal, however this goal does not necessarily equate to 'development'. Some argue that one has to 'feel' rights before they can be realised. Human rights have to be pursued with considerable sensitivity to the existing, culturally embedded notions of what is right. It is often better to discuss human values and only later make the link to formal rights (Lucardie – personal communication). For instance, concepts of respect, dignity, justice and peace have often proved to be particularly good universal starting points for broaching the issue of rights.

On a very pragmatic level, concepts of human rights are quite alien within many communities and may not be accepted. Many NGOs have found it much easier and more productive to avoid bringing rights to the foreground in their work. For example, in recent work on establishing rights-based monitoring and evaluation in Uganda, INTRAC and Save the Children Denmark faced the major challenge of trying to ensure the full participation of children in a community where adults did not accept the idea of child rights.[18] It was only possible to move forward by avoiding the terminology of rights while trying to keep to the rights-base – taking the Convention on the Rights of the Child as an inspiration and motivation.

In many respects the move away from needs-based approaches and service provision can be seen as very positive as it forces development actors to consider root causes rather than addressing the symptoms. It does seem that there is a need to look more closely at the linkages between service provision and the rights-based approach. For those who adopt the rights-based approach to development, the place for NGOs engaging in service delivery and directly addressing 'needs' is very limited. Moreover, there is often an implication that such activities are at the least inferior or at worst morally wrong. This raises problems as NGOs try to adopt a rights-based approach to development as it undermines the value of existing work and staff. Perhaps more disturbingly, it also opens NGOs to the accusation of ignoring grass-roots organisations and switching their funding from service oriented projects to 'empowerment' (including lobbying and advocacy) without sufficient consultation with the communities' beneficiaries. Save the Children also pointed out the fear that it can be counterproductive:

> A further challenge raised by some [International Save the Children Alliance] members – those concerned about the impact of the rights-based approach – is that in transferring greater resources to advocacy, country programmes could risk losing the very evidence base from which to gain legitimacy in advocating change (Lansdown 2005: 48).

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[18] It is important to note that this is not in any way a judgement on the community – many societies accept the idea of child rights without it necessarily changing how adults relate to children!

Moreover, there has been very limited research to verify the ultimate impact of rights-based approaches on citizens as the primary stakeholders in the process of development. What difference does it make to these people's lives? Such a question of effectiveness may seem irrelevant to those who take a rights-based approach to development and adopt it as an ethical stance.

The problem comes into sharp focus in situations where people are facing situations of extreme life-threatening needs – particularly in humanitarian emergencies. Put very starkly, if we insist that the only response from NGOs to desperate poverty is to help a person claim their rights from the state or other duty bearer, have we fulfilled our moral obligations as human beings to the plight of another? As far as we know, no development NGO is taking such a stance – all recognise the requirement for humanitarian response. The difficulty is making this fit within a rights-based approach (Lansdown 2005: v).

Until states are willing and able to fulfil the basic rights of their citizens, there will remain an argument for other actors to fill the gap through service delivery. This may be very unsatisfactory and it may even prolong the failure of the state or other duty bearers. However, with the constraints on time and resources, who is equipped with the moral authority to decide that the lives of the present generation, who cannot survive until their rights are enforced, should be sacrificed for the future?

On balance then, while bringing human rights into development organisations and practice opens up new and powerful avenues for raising the stakes and addressing fundamental causes of inequality and poverty, it is inappropriate to be too purist about it. There are doubts about the rationale for equating rights and development, and trying to build up too rigid a framework may prove counterproductive. Rights-based approaches are not going to provide any magic bullet to tackle development issues and exaggerating the claims for them will undermine the potential benefits.

The evidence of this paper suggests that the move towards rights-based approaches is changing development thinking and practice. Even where NGOs reject the adoption of an explicit rights-based approach, they are increasingly using rights analyses as a way of bringing about change and enabling people to become development active and take their place as active citizens.

> There is abundant evidence that many people live in environments that, far from being conducive to local implementation must be regarded as hostile to any efforts for the protection of basic human dignity. In such adverse conditions human rights tend to function as political instruments to mobilise dissent, protest opposition and collective action (De Gaay Fortman 2001: 50).

However, if rights-based approaches are to be more than another set of programming tools to sit alongside those for participatory development, gender mainstreaming and other development fashions – which have offered great promise but struggled to deliver on them – much will depend on how far they change the fundamental relationships between NGOs and their primary stakeholders. The question of whether rights-based approaches represent a new paradigm or are a bit of fad that will soon be superseded by the next development trend is still open. As Paul O'Brien from CARE observed, time will tell:

> My guess is that the shelf life for your average (NGO) fad is about five years. I've been doing human rights work for CARE since September 1998 – about four and a half years. If I'm right about the fad lifeline and

> RBA is a fad, I've got a wee job security problem – in about six months, I need to start looking for new work. You won't be surprised to hear, therefore, that I spend a lot of time wondering about whether RBA is just a fad in CARE (O'Brien 2003).

NGOs and development actors have been talking about rights-based approaches for more than five years now, but we have yet to see if they will remain at the forefront of development policy and practice for years to come.

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Some useful websites

Care Rights-Based Resources Centre
http://www.careinternational.org.uk/resource_centre/rba_index.php

Child Rights Information Network
http://www.crin.org/hrbap/
http://www.odi.org.uk/rights/index.html

Human rights-based programming
www.therightsapproach.org

Annexes

Annex 1: Basic instruments of international human rights law

Date	*Instrument*
1948	The Universal Declaration of Human Rights
1950	European Convention on Human Rights
1951	UN Convention Relating to the Status of Refugees
1965	Convention on the Elimination of all Forms of Racial Discrimination
1966	UN International Covenant on Civil and Political Rights
1966	UN International Covenant on Economic, Social and Cultural Rights
1967	UN Protocol extending the 1951 Convention of the Status of Refugees internationally
1969	American Convention on Human Rights
1974	Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa
1979	Convention on the Elimination of All Forms of Discrimination Against Women
1981	African Charter on Human and People's Rights
1984	Convention Against Torture
1986	UN Declaration on the Right to Development
1989	UN Convention on the Rights of the Child
1994	Convention on the Status of Refugees
1998	International Criminal Court established
2003	European Charter of Rights (Draft)

A much more detailed list and the texts of the relevant conventions can be found through the UNHCHR (www.unhchr.ch) as well as the full text of United Nations treaties in selected subject areas. In most of these texts (before the Preamble) the status of ratification is inserted as a link. The status includes an update on reservations made by the ratifying states. Information relating to state reporting to the different treaty bodies as well as the status of ratification both by country and by treaty is available on (http://unhchr.ch/tbs/doc.nsf). For general information on UN and human rights see www.un.org/rights/. For updated information on the ILO Conventions and their ratification see www.ilo.org/public/english/index.htm). For the text of the African Charter see http://www.africa-union.org/home/Welcome.htm.

Annex 2: The changing face of social contracts

Different social contracts co-exist simultaneously and give rise to different perceptions of human rights (Rijnierse, 2003).

The dominant ideology reflects the ideal to install representative democracy in every state, as is the case with neo-liberalism in the West at present. From a **local perspective** the logical succession does not reflect reality. National states have imploded in many places and many communities have been forced back to rely on ethnic or religious communities (Kaplan 1997).

Ethnically or Religiously Social Contract	National Social Contract	Global Social Contact
Primary characteristic: Non-technical society	**Primary characteristic:** Industrial society	**Primary characteristic:** Contemporary information
Public responsibility: Religion / lineage / Reproduction Culture	**Public responsibility:** Economic Development, Defence of National territory, Civil Law	**Public responsibility:** Social Development, Information, Environment & Peace
Struggle for man power	Struggle for economic resources	Struggle for social space
Identity discourse	Development discourse	Empowerment discourse
Leading democratic concept: Brotherhood	**Leading democratic concept:** Equality	**Leading democratic concept:** Freedom
Ritualised decision-making	(Supra) national government , indirect representation	Transnational institutionalised communication
Communal democracy: rights of the individual	Representative democracy: Reallocation of resources	Reflexive democracy: Creation of social space.
Contextually defined civil rights & duties	Civil rights & civil duties	Universal socio-economic rights & duties

From a mainly Western perspective the table can be read as a succession of hegemony of the three different forms of social contract (Ethnic-Religious > National > towards Global). The French Revolution can be seen as the transition from the Ethnic-Religious to a National social contract by separating the church from the state as the major paradigm shift. **Globalisation** puts the national state under pressure and alters the political and legal rules of the game (including an increased role of a European Commission). Representative democracy at the national level as a political instrument is not adequate to meet the needs of the global community, which is de facto shaped by the dominance of the multinational corporations (Hertz 2000)

The transition from the current international state system – understood as a compilation of sovereign states – to a **global political system** may imply a fundamental paradigm shift as Western society has known during the French Revolution (Guéhenno 1990). Global governance based on the principle of subsidiarity has not yet become fully operational.

Annex 3: CARE's Principles of Rights-Based Programming

1. ***We stand in solidarity with poor and marginalized people whose rights are denied, adding our voice to theirs and holding ourselves accountable to them*** – This implies that:
   - We have the courage to take a stand in the face of opposition, confronting, in a spirit of principled engagement, those responsible for the denial of rights;
   - We do not accept funding where a significant portion of the poor and marginalized people we intend to support feel that such funding will impede realization of their rights;
   - To those we serve, we systematically provide:
     - All important program information;
     - Opportunities to orient, assess, and reorient our programs.
   - We ensure that poor and marginalized people take the lead in determining an acceptable pace of change and level of risk.

2. ***We support poor and marginalized people's efforts to take control of their own lives and fulfill their rights, responsibilities, and aspirations*** – This implies that:
   - We cede power in our programming to the people we serve, ensuring they are increasingly represented and heard in program decisions;
   - We support rights and responsibilities awareness raising;
   - We facilitate the empowerment of poor and marginalized people and the development of their capacities to fulfill their rights and responsibilities;
   - We enable poor and marginalized people and their organizations to participate in governance and decisions affecting their lives;
   - We assist poor and marginalized people to recognize and manage the risks associated with social change.

3. ***We hold others accountable for fulfilling their responsibilities toward poor and marginalized people*** –This implies that:
   - We work with others to identify and categorize responsible actors at all levels;
   - We create and/or facilitate opportunities for poor and marginalized people to safely confront and interact with responsible actors;
   - In a spirit of principled engagement, we confront responsible actors and encourage and, where appropriate, assist them to meet their responsibilities;
   - We help to transform power relations in favor of poor and marginalized people;
   - We join forces with others to promote and pursue the adoption and implementation of pro-poor, pro-rights policies.

4. ***We oppose any discrimination based on sex/gender, race, nationality, ethnicity, class, religion, age, physical ability, caste or sexual orientation*** – This implies that:
   - We exemplify nondiscrimination across all our operations;
   - We work with poor and marginalized people to overcome such discrimination;
   - We promote open dialogue about any such form of discrimination;
   - We do not partner with any organization that practices such discrimination without openly confronting and seeking to redress it;
   - We differentiate and disaggregate social information so as to uncover and address hidden discrimination.

5. ***We examine and address the root causes of poverty and rights denial*** – This implies that:
   - We look closely and systematically at social, political and economic structures, especially power relations, at all levels;
   - Our analyses include the active and meaningful participation of poor and marginalized people;
   - We are committed to acting at local, regional, national, and international levels, as necessary, to address these root causes;
   - We advocate in public spheres with, and/or on behalf of, poor and marginalized people.

6. ***We promote nonviolence in the democratic and just resolution of conflicts contributing to poverty and rights denial –*** This implies that:
   - We continually assess our programs to ensure that our actions neither create nor sustain violent conflicts;
   - We include conflict management (recognition, prevention, resolution) plans in our programs;
   - We oppose the promotion or practice of violence, whether against or by the people we serve.
7. ***We work in concert with others to promote the human rights of poor and marginalized people –*** This implies that:
   - We actively support and are willing to follow the leadership and initiative of others, seeking to add value to their work;
   - We welcome and seek the engagement of other actors in our own initiatives;
   - We explore whether and how alliances can give us and those we serve greater leverage for the realization of rights.

The Implications for Northern NGOs of Adopting Rights-Based Approaches

Emma Harris-Curtis, Oscar Marleyn and Oliver Bakewell

This paper presents the experience of Northern NGOs in engaging with rights-based approaches. It is based on research carried out by INTRAC and South Research among 17 Northern European NGOs. The research focuses on the particular challenges international NGOs face when translating rights policies into operational reality. The paper explores the different ways NGOs interpret rights-based approaches and how they have put them into practice. It also reflects on the organisational implications of adopting rights-based approaches.

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