

IDS Policy Briefing

In partnership with the Development Research Centre on Citizenship, Participation and Accountability

The rise of rights

Rights-based approaches to international development

International development agencies are increasingly using rights-based language. But how can their policy and practice support people's own efforts to turn their rights into reality?



The cornerstone of rights-based approaches is the idea that people are citizens with rights

Rights-based approaches

These approaches have evolved and joined together from several streams of thought and practice. One of these is based on the international legal human rights framework, a set of United Nations conventions and covenants. Ratifying countries have to report to UN committees on their performance with respect to that right. Some UN committees permit civil society to submit an alternative report if not satisfied with the government's performance.

Another stream has grown primarily out of a myriad of social, cultural and political struggles and debates in both North and South. The process of 'legalisation' is just one aspect of the story. Rights-based approaches are inspired by autonomous movements such as those of women, the landless and indigenous peoples which often include demands for participation in decisions which affect their lives. A third trend, identified by political scientists, emphasises an historical evolution from clientelism to citizenship.

In reality, the practice of development agencies is a blend of all these. The extent to which any one stream predominates depends on the governance structure of the agency and its institutional culture. The meaning and importance of rights-based

approaches are often contested within an agency and official policy statements tend to reflect a compromise between views. Agency practice may be a better indicator of which stream is favoured.

Some international agency approaches

The **UN Development Programme** seeks to align core UN values and its operational activities, making human rights a crucial link between governance and poverty reduction. **Sida** (Swedish development agency) and **DFID** (British) are often cited as the bilateral agencies most advanced in rights-based approaches. They analyse the structural causes of poverty, focusing on discrimination, exclusion and inequality, and supporting participatory processes.

The World Bank is cautious in official remarks about rights. Bank staff note that the Comprehensive Development Framework, Poverty Reduction Strategy Papers and the World Development Report on Poverty reflect human rights principles: fair and inclusive institutions, empowerment, accountability, transparency and participation.

International NGOs also vary. **ActionAid** supports struggles by particular groups of people rather than focusing on particular kinds of rights. **Oxfam** includes rights not explicitly drawn from the international framework, for example the right to be heard.

Central issues

While some people believe these new rights-based approaches offer the potential for a fundamental and positive change for international development agency relations with governments and civil society in aid recipient countries, others remain puzzled as to their relevance for achieving the Millennium Development Goals.

Some observers suspect that agencies have appropriated the 'rights' language without changing their underlying beliefs.

Rights-based approaches are challenging. They reveal difficult issues concerning the legitimacy of action, the practice of power and lines of accountability.

The full implications of putting a rights-based approach into practice remain to be tested.

Rights are evolving

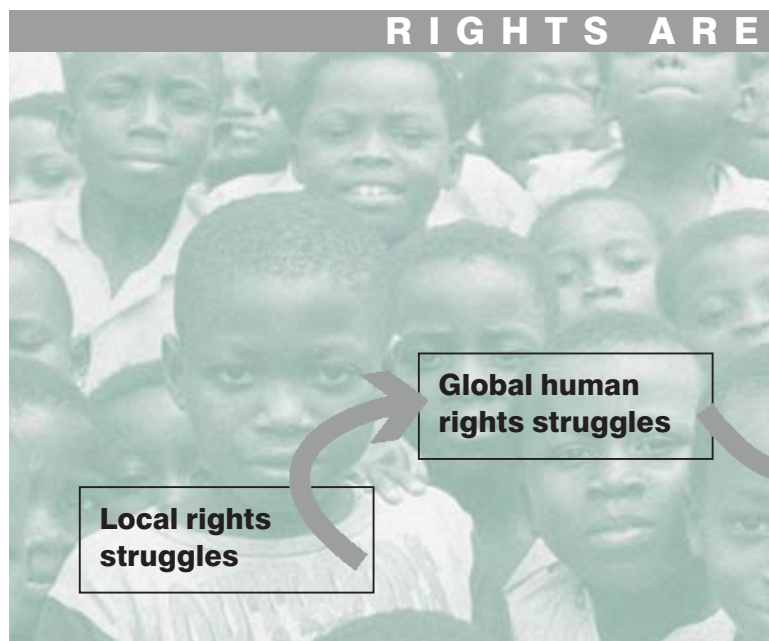
Until recently donor governments have been mainly interested in promoting fairly narrow definitions of human rights related to civil and political liberties as an aspect of good governance. A rights-based approach is generally understood to be broader than this because all rights, including economic, social and cultural rights, are considered indivisible, inter-related and inter-dependent. This approach reflects a holistic understanding of the nature of well being. If a child is denied the right to good quality education it will be harder to realise her right to participate as an informed citizen in the democratic process. A poor farmer who cannot enjoy his right to equality before the law is at risk of losing his livelihood when a more powerful neighbour seizes his land.

Some economists are worried about an approach that would allow citizens to make claims on the state for the fulfilment of their economic and social rights. They argue this puts at risk prudent fiscal management. But all rights cost money. Civil and political liberties for example require a police force and a judiciary. Deciding which rights are most important, and require priority funding in relation to the state's resources, becomes a political debate in which all citizens have a right to participate. From this perspective the right to participation can be seen as the entry point to realising all other rights.

The right to participate is the right to claim other rights. Understanding participation as a right, rather than an instrument for greater aid effectiveness, has been one of the biggest shifts in agency thinking in recent years. It means switching from a technical to a political understanding of development.

Claiming and establishing rights has been and is a political process and the list of internationally recognised human rights is by no means immutable. Over the last 30 years there has been a debate over whether new 'solidarity rights' should be added. These would include the right to development, the right to peace and security and the right to a healthy environment. Solidarity rights contain a concept of global citizenship and the rights and responsibilities that go with that.

The Right to Development is a contested solidarity right. The UN Declaration notes that 'States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realisation of the right' and that 'effective international cooperation is essential in providing [developing] countries with appropriate means and facilities to foster their comprehensive development'. Despite the weak language many developing country governments see the Right to Development as potentially a legally binding claim for some form of global distributive justice, including claims to aid, debt relief and fair terms of trade, for example the removal of agricultural subsidies in rich countries. The OECD countries resist this interpretation and the matter continues to be debated in a sterile manner by the United Nations.



Power, politics and claims

A rights-based agenda for development agencies includes responding to popular movements and local leaders in many parts of the world who are adapting and expanding the rights framework as a basis for claiming social justice. Local action will contribute to shaping future international standards. Meanwhile agencies are becoming more realistic about timescales for the fundamental change that expands rights. Such change has often been messy, sporadic, conflictive and unpredictable. Some of the issues agencies are confronting include:

- **Individual versus collective rights:** Human rights traditions in Europe and North America emphasise universality rather than the local, and individual autonomy as against values of community membership and responsibility.

These latter are stronger in some other cultural traditions, for example in many parts of Asia. Thus OECD countries challenge some developing country governments who stress the role of the state in maintaining order and who emphasise the wellbeing of the collective, as for example, with the one-child policy in China. An agency's rights-based response would be to support greater discussion in the country itself concerning society's values and priorities, and it would facilitate the inclusion of voices who may be marginalised.

- **Beneficiaries, stakeholders, clients and citizens:** Development agencies have moved from perceiving the ultimate recipients of their aid as beneficiaries to seeing them as either stakeholders or clients/customers. On the other hand, a rights-based approach sees people as citizens. A citizen connotes someone with rights rather than someone receiving welfare or buying services. People become agents and subjects, rather than objects, of their own development. It is not for the agencies to decide whether and by how much people should participate in the decisions that affect their lives. This shift in perception highlights issues of balancing multiple lines of accountability between state and citizen, donor and recipient.

“Deciding which rights are most important becomes a political debate in which all citizens have a right to participate”

EVOLVING



- **Rights and responsibilities:** Rights are inalienable. Migrants or refugees have rights as much as the citizens of the country. Nevertheless, rights do imply responsibilities, for example paying taxes. In highly exclusive societies, many people pay taxes but do not perceive themselves as citizens with rights. They are clients dependent on extracting concessions from more powerful patrons who run the government and control the resources.
- **Working on both sides of the equation:** Empowerment programmes for poor people will not change the relationship without equivalent changes in the behaviour of state institutions. Oxfam in Peru, for instance, believes that a rights-based approach has the potential to provide a new vision for Peru, one in which the focus is on dialogue between state and citizens rather than the state imposing and the citizens resisting; it allows citizens to consider their responsibility as well as the responsibility of the state.

Human rights have often been seen as a matter of rights and responsibilities of individual citizens vis-à-vis the state, excluding the issue of rights-based relations between citizens. Matters such as domestic violence were traditionally not seen as a concern of the state. Today we are appreciating that social citizenship implies mutual respect for each other's rights. Another new and contentious issue is that of the direct rights of citizens in relation to the responsibilities of global actors such as transnational corporations whose legal entity may be in another country.
- **Rights, needs and poverty:** Until recently most development agencies saw themselves as reducing poverty by meeting 'basic needs'. This derives from utilitarian economics and seeks to achieve the greatest happiness for the greatest number. It is usually seen as welfarist with someone else making decisions concerning people's needs. In contrast, the Office of the United Nations High Commissioner for Human Rights (UNHCHR) has issued draft

guidelines on a human rights approach to poverty reduction: 'The rationale of poverty reduction no longer derives merely from the fact that the poor have needs but also from the fact that they have rights – entitlements that give rise to legal obligations on the part of others'. Critics have commented that this approach is too legalistic considering that one of the challenges for poor people is making the law work for them, rather than for the elite. Neither does it consider actor-oriented perspectives which see rights as shaped through actual struggles informed by people's own understandings of what they are justly entitled to.

- **Rights on the ground:** Both rights-based and sustainable livelihoods approaches are about claims and entitlements. Rights approaches have tended to start from a normative position as to what peoples' entitlements should be while sustainable livelihoods approaches look at what is happening on the ground and the presence or absence of assets or entitlements. Both approaches can be fairly technical and 'top-down'. However, an actor-oriented approach, either in terms of rights or of livelihoods, recognises the multiplicity of overlapping, and sometimes conflicting, formal and informal institutional arrangements that people draw on and negotiate among in claiming rights (and making claims) to secure livelihood resources. In either approach agencies must avoid the technocratic trap of focusing on methods, indicators and frameworks that 'sanitise' political processes.

Rights-based approaches: implications

Priorities for development agencies in their relations with government and civil society in aid recipient countries:

- **Be explicit about principles** by reference to an internationally agreed set of values. This should provide shared perspectives but rights can sound threatening or difficult for governments to manage politically in countries where there are intense differences between sections of society on issues such as women's reproductive rights. Also, rights-based approaches may be seen as a western imposition. A number of countries have 'rights-based constitutions', recognising economic, social and cultural as well as civil and political rights, for example India and South Africa. Agencies could seek to structure their action and language to match nationally constructed rights agendas.
- Perceive people in aid recipient countries as **partner citizens** rather than voiceless beneficiaries. This has major implications for agency relations with those recipient governments suffering from a democratic deficit and who may not be accountable to the poor citizens that are the focus of donors' interests. Hence the increasing popularity of aid programmes to promote democracy and better governance. To avoid this leading to accusations of interfering with other countries' political and social systems, agency staff need to develop skills in political analysis and diplomacy. Because all countries are members of the United Nations, UN agencies tend to have greater legitimacy and credibility with recipient governments on human rights than do bilateral agencies or international NGOs based in the North.

Rights-based approaches: implications *(continued)*

● **Analyse unequal power relations** and identify means to change these. In Bangladesh ActionAid investigated how power was used by institutions such as local government as a stepping stone to removing the misgovernance and institutional injustices that produce inequity and injustice. IDS research in southern Africa has explored the complex politics of actors and institutions at ground level. Legal entitlements can be irrelevant unless the local institutional context is conducive to encouraging effective rights claiming by poor people.

● **Promote equality**, non-discrimination and address the barriers which prevent the most marginalised from claiming their rights. This requires social and gender analysis and a preparedness to support civil society advocacy. In Bolivia, Sida and DFID funded a civil society campaign by marginalised indigenous communities to realise their right to legal identity. The campaign highlighted the difficulties poor people face in procuring identity cards. The lack of these cards denies them the right to vote, to attend secondary school, to inherit property, to apply for micro-credit and even get legally married or buried.

● Work with governments and civil society to provide the **enabling environment for citizens** to acquire the voice and knowledge needed to improve their own lives and hold the state accountable for its obligations to respect, protect and fulfil their rights.

● Emphasise **empowerment of the poorest people and those to whom no-one listens**. Rights-based practice strengthens agencies' capacity to support those struggling for social justice, while recognising that the actors themselves may not define their struggle in such terms. International funding of social mobilisation organisations, such as Nijera Kori in Bangladesh, helps agencies appreciate the

complex institutional and political dynamics of claiming rights on the ground. Agencies must act also responsibly when supporting powerless people to take risks in starting a struggle which they may not win. In Vanuatu women micro-entrepreneurs going to agency training programmes were subjected to physical violence by the men of their village.

● **Exploit the potential of legal systems** to promote justice for people living in poverty. The Ford Foundation helps NGOs build individuals' legal awareness and train paralegals. They offer legal aid and expand the opportunities of poor people to use the justice system. Groups bring test cases geared to change legal doctrine or public attitudes.

● Pay more public attention to **governments' reports to UN committees**. This signals development agencies' commitment to support and strengthen the application of the human rights framework.

● Encourage recipient **governments to be fully accountable to their citizens**. Agencies need to work on both sides of the equation. The Poverty Reduction Strategy process has helped some governments listen more to their citizens; agencies supported local civil society action to make this process more transparent and accountable.

● Make explicit and put into practice the **rules of engagement between agencies and their partners** based on mutual accountability, responsiveness and transparency. The OECD Development Assistance Committee in 2000 noted that an agenda for strengthening ownership and partnership has already emerged in recent years, including common frameworks for programme implementation, partner-led co-ordination, transparency, enhanced use of local capacities and joint monitoring and evaluation.

Further reading/resources

Eyben, R and Ferguson, C (forthcoming): 'Can donors be more accountable to poor people?' in Leslie Groves and Rachel Hinton (eds), *Inclusive Aid: power and relationships in international development*, London, Earthscan

Gaventa, J, 2002: 'Introduction: Exploring Citizenship, Participation and Accountability', *IDS Bulletin*, Vol 33, No. 2, IDS, Brighton

Norton, A and Elson, D, 2002: *What's Behind the Budget? Politics, Rights and Accountability in the Budget Process*, London, ODI

Nyamu-Musembi, C, 2002: 'Towards an Actor-Oriented Perspective on Human Rights'. *IDS Working Paper*, 169, IDS, Brighton

Useful websites

Citizenship DRC
www.drc-citizenship.org

Citizenship DRC/ Eldis resource guide
www.eldis.org/rights/rba.htm

IDS Participation work
www.ids.ac.uk/ids/particip

UN High Commissioner for Human Rights
www.unhchr.ch

Credits

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