

HUMAN RIGHTS AND DEVELOPMENT

Peter Uvin

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A few words about rights

- Having enough of something is not the same as having a right
 - must be “socially guaranteed”, i.e., “arrangements [exist] so that one will be able to enjoy the substance of the right even if –especially if—it is not within one’s own power to arrange.” (Shue)
 - ← law (if enforced)
 - ← values and norms
 - ← organization & power & resources

1 - Rhetorical repackaging

- Very popular
- Need for high moral ground (competition through discourse rather than demonstrated success)
- See popularity of Sen
 - very little impact on practice
 - no change in accountability
- But may be the beginning of real change

2 - conditionality

- Spontaneous reflex –similar to what human rights org's do.....
- Mostly CP rights
- No change in expenditure patterns, except country selection
- Largely considered a failure (*see the economic and political conditionality by the IMF and the Bank*)

conditionality does not work

- **unethical** (*works better on the weak and unimportant than the others; depends on opinions in other countries*)
- **never fully implemented** (*other interests and goals; other assessments; need to move money*)
- **does not produce desired results** (*temporary, strategic compliance; undone with the other hand, pressure-dependent,..*)
- **destroys that which it seeks to achieve** (*fosters extraverted relations, underlines domestic accountability; can backfire through appeals to nationalism,....*)

- conditionality is about shortcuts and absolute power, the alluring but false idea that “our” money can “buy” human rights (and that, of course, we just know what is to be done).
- But there is another problem than the externality and ineffectiveness one we discussed until now

Human rights are too indeterminate

- Relatively easy to know when they are violated, but much harder to judge progress

← moot about concrete arrangements

← Hard to judge margin for manoeuvre, likely alternative, choices among second bests, opportunity cost (post-genocide Rwanda)

← too sensitive a trigger, constantly risking to trip off conditionality

→ Complicated judgment required, necessarily appearing ad-hoc, and for which the human rights edifice in its absolutism is totally unprepared (non-rights considerations are likely to dominate)

- Possibly: more participatory, partnership-like instruments, where benchmarks are set jointly and medium/long term: PRSPs with a serious human rights component, or Memorandum of Understanding
- Haven't seen those work until now, though

3 - Positive support

- Money spent on actual human rights – related programming
- Still mainly CP, but some ESC work
 - New sectors: justice, governance, civil society, democracy, human rights support
- Espec. strong in post-conflict countries
 - many successes, but strong sense of sub-par accomplishment

- Very difficult: aims are long-term, non-linear, unpredictable, reversible
- Mainly work on formal and western-inspired organizations → we get the form, but not the substance or process...
- Technicalization of political projects
- Too large a gap between grandiose aims and small projects
- Deep resistance from local powers (understandably for this is often highly political)
- Deficient knowledge → easy cheating
- Usual development aid problems (inappropriateness of project tool; negative influence of money; exteriority of aid; lack of coordination,...)

4 - Rights-based approach

- Entire redefinition of aims and approaches to development
- integration into a new paradigm: development and rights become different but inseparable aspects of the same process, as if different strands of the same fabric. The boundaries between human rights and development disappear, and both become conceptually and operationally inseparable parts of the same processes of social change.

The usual spiel is that an RBA entails two major changes:

- Aims: a rights-based approach creates claims and not charity (the *end* of development aid differs—a new vision emerges)
- Process: the way development actions are implemented changes (the *means*, the processes, are different, even if many of the goals remain the same)

- Slim: move from the sentimental, paternalistic and privileged discourse of philanthropy and charity, to the political, egalitarian and empowering ideology of rights and duties
- Still unclear, though: what does it mean to have a right? (a legal text? an enforceable claim? a socially guaranteed outcome? a capability? an aspiration? a value?) What does it take to make it happen? (law, power, values, alliances, knowledge, institutions...)

Value-added of human rights

- Human rights as ways of seeing and talking
- Human rights as a way of getting the process right
- Human rights as tools for creating institutions

1. Building institutions

- Development is about building institutions
–not about money, needs, cost-benefit analyses, shadow prices, or improved seeds
- So, for that matter, is the field of conflict resolution...

The sustainable and wide achievement of development outcomes necessarily requires

- institutions dedicated to the achievement of these goals (legal + non-legal; formal + non-formal,...)
- constellations of power and preference that push for the creation and maintenance of such institutions
- resources to actually feed these institutions to achieve their aims

If development is truly about institutions, this poses major problems of

- communication (how to talk about that?)
- strategy (how to conceive of the goal? who sets the agenda?)
- tactics (where to start, what tools to use? who sets the agenda?)
- ethics (how to avoid imposing from the outside? who sets the agenda? how to use power intelligently?)

→ Human rights allow us to deal with this...

From above: legal aspect

From below: social mobilization aspect
(Piron)

From within: accountability focus

2. Heuristic devices

- human rights act here as a heuristic device, broadening the definition of the problems to be addressed and the solutions to be found as well as, consequently, the range of actions required to affect them.
- different fields of endeavor, from the very technical to the political; and at different levels, from the local to the international

- RBA is not about merely asserting the existence of legal claims and abstract categories, but about political and social struggles, in which codified human rights are lenses of analysis, tools that crystallize the moral imagination, and visions of an empowering and non-discriminatory future –all tools in the political and social change, but no substitute for either

3. Process is everything

- Condoned too much in the name of outcome
- Too small to make much of a difference in outcomes in any case

→ what is left is usually the process

→ Policy experiments (Rondinelli)

→ Human rights can act as quality seal for process

Concretely...

- Naming and shaming –no
- HR training of employees, partners, the people; official HR institutions --not really
- Capacity-building of local HR NGOs –why not...
- Advocacy at home: clearly part of it
- Work with new partners in North and South: sure

- Rule of law approach: not the same as democracy, nor exclusively a legal thing. ... Can take many non-legal forms: the multiplication of channels of information and (administrative and social) mechanisms for redress; the mobilization of grassroots and citizen power in favor of certain rules and procedures; a systematic and constant concern with the creation of all types of mechanisms of accountability, information, control, and redress, available to all citizens; the example given by the behavior of aid actors themselves; project-based mechanisms of redress

- Create incentives for collective action, promote environment (incl. state) propitious to self-organization : not only support to some favored NGOs (Unsworth; Jodhi & Moore: "The environment in which poor people and external organizations interact is frequently inimical to collective action by the poor. It is characterized by so much uncertainty and arbitrariness that investment in collective action is not worthwhile. External agencies should concentrate more on creating incentives for collective action, above all by removing the obstacles that they themselves create.")
 - tolerance, predictability, credibility, rights

- The inwards look 1. Local employees and partners are aware of the HR stakes in their own societies: they deal their entire lives with these, incl. by avoidance, protection, active participation in violations, silence...
- create atmosphere of critical internal debate about HR with staff and partners. People may begin reporting the truth to their superiors (orally where the written word is too scary), create explicit ethical bases for joint action, develop with senior foreign staff strategies of advocacy and protection of their employees, and learn to think in advance through the likely impacts of various scenarios of action.

- The inwards look 2. The quality of the workplace of aid agencies can be evaluated in human rights terms: are minorities, lower castes, vulnerable groups, or women, for example, treated equally in hiring and compensation? Do local employees participate significantly in organizational decision-making? Is there oversight and counter-power in internal management? And towards clients & partners?
- While not strictly human rights matters, they are a good place to begin when it comes to adopting a rights-based approach –an instance of getting your own house in order before spreading the gospel to others

- The inwards look 3: occasional outside human rights scrutiny of agency portfolios and practices. Danger: given the mode of functioning of human rights organizations, agencies may come out of these assessments looking evil, stupid, or inefficient. This could lead to backlashes against both the development agencies if these results were widely known, and against the notion of human rights within development circles.
- organize these harm-benefit assessments as internal, confidential, processes, applied only to *past* projects. Such a self-analysis could function as a training tool for employees to understand causal relations, project design changes, and simply clarify their own assumptions and principles.

Some general insights for development practitioners

- Human rights place the bar higher: development work is about contributing to the creation of claims and social guarantees. This entails much higher obligations for those who engage in development work: their aims and their processes ought to conform to human rights standards. They must pay more attention to structures, to accountability, to agency, to participation, non-discrimination, transparency and redress –applying all these to themselves as much as to local actors.

- Human rights are political, not legal matters. Providing human rights training to employees, partners, and/or target groups may be useful, but it is not what the introduction of human rights in development is about. The same holds for legal initiatives, such as support for human rights commissions, ratification of human rights treaties, re-writing of laws, or support to justice systems. The key issues in a rights-based approach to development lie both upstream and downstream from these legal initiatives, in the social, political, ideological, cultural and economic dynamics of societies –and in agenda setting, organization, information, and the like

- Human rights are like a gas: they will permeate the entire development enterprise. Introducing human rights in the practice of development cannot be limited to creating a few new human rights projects, no matter how well designed they are. If agencies, be they governments, NGOs, or international organizations, profess attachment to human rights in their development aims, they must be willing to apply the rights agenda to *all of their own actions* (the inward focus) and to the global political, social, and economic dynamics within which rights problems are nested (the outward focus). In the absence of these moves, the human rights agenda is little more than a projection of power.