

**The Right to Development and the Rights-Based Approach to
Development:
A Review of Basic Concepts and Debates**

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INTRODUCTION

Human rights are defined as the “basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status” (Amnesty International, 2011). When human rights and development commingle, development is understood as a gradual process involving pro-poor growth and improvements in equality. This understanding attempts to redefine the market-based neoliberal approach to development, which tends to recognize progress simply as increased economic growth regardless of whether or not this growth is equitable (Sengupta, 2003).

When human rights are considered, distribution of wealth is a predominant focus related to development outcomes (Hansen & Sano, 2003). Participation is also a large component of development focused on human rights, whereby allowing communities and individuals to advocate for access to freedoms and entitlements enhances the process of pro-poor growth (Hamm, 2001; Nelson & Dorsey, 2008).

The contributions of human rights and development can be studied through an empirical or normative lens. The empirical study of human rights examines what currently exists in the world in a practical sense. This includes an analysis of treaties and conventions through an evaluation of enforcement mechanisms, one that attempts to penalize human rights violations; through the study of related institutions and social movements; and through a descriptive analysis of these processes (Goodhart, 2009). Conversely, the normative study of human rights engages in discussions related to concepts such as democracy, freedom and rights. It is opinion-based insofar as it relies on arguments that support or refute theories on human rights by clarifying concepts through philosophical justification and moral evaluation (Goodhart, 2009). In its assessment of the human rights-based approach to development, this literature review makes use of both empirical and normative studies, highlighting the accomplishments and benefits of the approach as well as the barriers it faces in implementation.

First, human rights are explored as a concept, tracing the notion of rights from their origins to their modern day understanding in theory and practice. Second, the so-called third generation of human rights and their growing linkages to development are explained, making a distinction between the right to development and the

human rights-based approach to development. Third, the contributions and challenges associated with rights-based approaches to development are assessed. Specifically, the rights-based approach is debated as being either a tool that enhances the neoliberal policy agenda or an approach that empowers grassroots involvement in development by encouraging a cross-sectoral perspective. The United Nations’ Millennium Development Goals (MDGs) are evaluated in this section to explain how development and human rights, despite many perceived and real commonalities, do not always reinforce common agendas. The role of civil society is also explored with a focus on how NGOs collaborate on issues of shared concern to form global networks that can effectively influence the process of development through the application of a rights-based approach. Finally, this review concludes with several recommendations on how to improve the effectiveness of the rights-based approach by addressing several of the weaknesses and criticisms identified in earlier sections.

HUMAN RIGHTS AS A CONCEPT

The concept of human rights is complex and includes both philosophical and theoretical underpinnings. This section reviews the framework of the human rights agenda and its historical evolution in a global context, linking this explanation to the more recent amalgamation of human rights and development; two concepts that are now often perceived as interdependent both in theory and practice. National laws and the international system are also compared and contrasted with a focus on the United Nations’ human rights regime and its various political and legal instruments, which act as the primary regulatory bodies of the human rights regime.

THE EVOLUTION AND STRUCTURE OF THE INTERNATIONAL HUMAN RIGHTS REGIME

Human rights are modern (with humanist, rationalist and individualist sensibilities), political (linked to ‘natural law’) and revolutionary (focused on emancipation) (Goodhart, 2009). In Western political history, human rights and the language that accompanies these rights were largely developed during the Enlightenment period, stemming from ideas about individual liberty and the rights of man. Present-day concepts of human rights also evolved from earlier Christian ideals that promoted natural law and natural rights, ideals that developed in scope and meaning from

the Enlightenment onwards, with the post-World War II period influencing many changes in the human rights regime (Langlois, 2009; Pogge, 2008).

The foundation of the international human rights system, the United Nations' Universal Declaration of Human Rights (UDHR), was adopted by the United Nations General Assembly in 1948. The declaration is composed of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Specifically, the UDHR defines the moral urgency that arose in the post-War context; the document outlines rules but does not express the philosophical underpinnings associated with the emergence of modern human rights (Langlois, 2009). The declaration is both contemporary and practical in its purpose. Furthermore, although the UDHR is a document that is global in focus, it is based on the normatively universal ideology of liberal rights, which are not ascribed to by all traditions and communities across the globe (Langlois, 2009).

The international UN system organizes the law governing human rights, largely through the UDHR. When nations fail to adequately protect the rights of their citizens through their laws and institutions (or lack thereof), the international system is meant to step in and supplement these failings (Sengupta, 2003). The structure of this system involves various governing bodies and applies the Charter of the United Nations, which regulates all member nations.

The primary UN charter body governing human rights is the Human Rights Council (HRC), a component of the UN's General Assembly. The HRC is charged with monitoring states' compliance with human rights commitments and it reports to the Office of the High Commissioner for Human Rights (OHCHR). The International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) also have systems for monitoring human rights issues under their specific purviews.

Secondary treaty bodies also exist, which apply only to states that have ratified specific treaties. Furthermore, criminal justice mechanisms are in place, whereby individuals can be held to account for their actions through ad hoc international tribunals organized by resolutions of the UN Security Council and its International Criminal Court (ICC) (Smith, 2009). Overall,

this system requires a certain degree of international cooperation to succeed.

In practice, treaties and declarations of the UDHR are the main instruments of enforcement in the realm of human rights. These cover a variety of areas, such as the abolition of slavery, humanitarian laws and laws of war, and the protection of minority and labour rights, among others. They contain both negative and positive legal obligations, which, respectively, either permit action or inaction on human rights issues (Smith, 2009).

States agree to a specific treaty by becoming signatories and show consent of a treaty by ratifying it. Treaties typically require a specific number of signatories to be enforced. This consensus-based system is problematic because of the various loopholes it presents. Primarily, it must be understood that the signing of treaties can be a symbolic political act. A state can covet acceptance within the international community, seek to improve their reputation, or attempt to appease critics through the signing of a treaty despite the fact that doing so does not guarantee their full compliance (Smith, 2009). Furthermore, some treaties allow for states to apply reservations, which are mechanisms that allow for the opting out of certain treaty provisions (Smith, 2009). In addition, during emergencies that threaten state stability, depending on the treaty in question, states may have the option to derogate rights, meaning they do not have responsibility for any rights violations that may occur during emergency situations (Smith, 2009).

HUMAN RIGHTS IN REGIONAL AND NATIONAL CONTEXT

It also must be highlighted that in addition to the UN system, regional human rights systems for monitoring and enforcement are also present. These establish a "system of rights and freedoms that reflects regional characteristics" (Smith, 2009, p. 40). The American Commission on Human Rights, the European Court of Human Rights, the African Charter on Human and Peoples' Rights, and the Arab Charter on Human Rights are examples of these regional bodies. Additionally, on a national scale, systems for monitoring and enforcing human rights exercise states' responsibility for upholding rights within their borders as signatories of international treaties, for example, through written constitutions (Smith, 2009).

FIRST, SECOND AND THIRD GENERATION RIGHTS

The treaties and declarations of the Universal Declaration for Human Right (UDHR) are classified as upholding either first, second and third generation rights. First generation rights tend to be associated with negative obligations and second and third generation rights with positive obligations.

First generation rights refer to liberty rights; those which relate to civil and political rights such as freedom of religion, freedom of speech and association, the right to vote, and the right to a fair trial (Langlois, 2009). These are codified in the UN's International Covenant on Civil and Political Rights. Civil rights include the rights of the individual including freedoms related to speech, religion, and the press, as well as safety from discrimination based on gender, religion, race, disability, age, sexual orientation, and national origin, for examples. Political rights refer to justices in the law such as the right to vote, freedom of association, and the right to a fair trial.

Second generation rights uphold the more controversial idea that certain basic rights and standards of living should be available to everyone (Langlois, 2009). This includes, for example, the rights to education, to basic levels of subsistence, and to health care and housing. These are sometimes referred to as 'the rights of the poor' since vulnerable citizens most often lack equal access to these rights (Farmer, 2005). Second generation rights also include the right to participate in cultural and religious practices, especially when these represent minority rights. Such rights are outlined in the UN's International Covenant on Economic, Social and Cultural Rights.

Finally, third generation rights refer explicitly to the rights of groups and communities, for example the recognition of minority groups, social identity and culture (Langlois, 2009). The instruments that uphold these rights are various UN declarations dedicated to specific causes, including the UN's Declaration on the Right to Development, which was adopted by the UN in 1986 approximately thirty-eight years after the UDHR was established (Sengupta, 2000). Of course, doubts in regards to whether or not concepts such as development can be instilled as rights stem from debates about their justiciability (Sen, 2003; Sengupta, 2000). However, it must be recognized that justiciability is not the only means through which human rights can be made effective (Sen, 2003). Looking beyond

legislation, political and social advocacy as well as public pressure can be applied by the international community to leverage support and participation (Kanbur, 2007; Sen, 2003).

MONITORING THE INTERNATIONAL HUMAN RIGHTS REGIME

Regardless of whether or not rights are universally acknowledged, it is understood that all countries that have signed The Charter of the United Nations accept the rights outlined in the Universal Declaration for Human Rights (UDHR). Furthermore, if a state violates a UN treaty or declaration that it is signatory to, the UN and its member states are responsible for enforcing legal accountability. That being said, states are not explicitly forced to participate in the international human rights regime by becoming signatories to the UDHR or related treaties (Smith, 2009). Not all countries sign human rights treaties; this is largely because states realize that if they sign a treaty but do not implement the rights in question there are likely to face repercussion from peers in the international community, for example, in the form of economic sanctions (Kanbur, 2007).

Evidently, peer pressure is believed to play a role in a state's decision about whether or not to participate in the human rights regime or to sign particular treaties. It can also influence countries to participate in the system, whereby one country decides to sign a treaty because other countries have signed it (Kanbur, 2007). Furthermore, signing and ratifying treaties may produce benefits. For example, developing countries may qualify for financial assistance from donors if they commit to upholding certain rights (Kanbur, 2007).

However, interestingly, to counter this argument, empirical studies reveal that as treaties are increasingly signed they are not necessarily complied with at the same rate (Hafner-Burton & Tsutsui, 2005). Regardless, the international human rights regime must be careful not to alienate states from taking part in this legal system (Smith, 2009). This is because while there are no formal mechanisms of enforcement, at least a degree of monitoring can occur through participation, which must therefore be encouraged (Smith, 2009).

CRITICISMS AND JUSTIFICATIONS OF THE INTERNATIONAL HUMAN RIGHTS REGIME

The human rights framework in this global context focuses on international law and enforcement/monitoring mechanisms, which present tensions that are at the root of various criticisms. Some academics argue that, in line with the development agenda, the signing of international conventions on human rights signals a shift in opinion and a strengthening of the poverty reduction movement, despite that the resulting changes may be slow (Kanbur, 2007). Others identify a “rising gap between states’ propensity to join the international human rights regime and to bring their human rights practice into compliance with that regime [which] challenges the efficacy of international law and questions the authenticity of states’ legal commitments to protect the lives of their citizens” (Hafner-Burton & Tsutsui, 2005, p. 1374).

Such a decoupling process has resulted in a gap between practice and policy; as more treaties are ratified by more states the repression of human rights by regimes that are signatory to these treaties has actually increased. This occurs in part because of weak institutional monitoring mechanisms whereby ratifying treaties acts as a ‘window-dressing’ or shield against criticism for human rights abuses.

On the other hand, “this process of ‘empty’ institutional commitment to a weak regime paradoxically empowers non-state advocates with the tools to pressure government towards compliance” (Hafner-Burton & Tsutsui, 2005, p. 1378). As such, it is necessary to consider the role of civil society in helping to enforce the human rights regime, as is discussed in subsequent sections. It is also important to remember that despite any philosophical rhetoric, human rights are a political project that aims to defend certain convictions in terms of specific normative traditions, rights declarations, and the implementation and the preservation of liberties and freedoms from the power of the state (Langlois, 2009).

Furthermore, linked to these criticisms, claims for human rights as they are organized under this international system have been rejected for various reasons. As mentioned, current conceptions of human rights largely took root in the Western world. Critics thus claim that since the rights advocated for are perceived as universal in nature, the system risks perpetuating cultural relativism. It also encourages a lack of respect for non-Western traditions. Moreover, human rights can be associated with forms of

imperialism. States that identify with this stance might explain it as such: “we *do not* agree with you imposing your will on us, because we *do* agree with you that we have certain rights to liberty of action and belief” (Langlois, 2009, p. 20).

Evidently, perspectives that are not formalized within the current system tend to be overlooked. For example, feminists feel that certain gender dynamics are not adequately examined. They argue that there are problems with how the public and private spheres are divided and valued in the field of human rights. Group rights and religious challenges, among others, may also arise to complicate the agenda, whereby some of the rights commonly espoused are not universal and may apply to specific groups only (e.g. minority groups or certain religious sects) (Langlois, 2009).

This system is also underwritten by what is described as legal positivism, whereby human rights are said to exist only because of the legal institutions we have put in place. These institutions apply human rights and make claims based on legal rather than moral grounds. In countries that lack strong legal or political institutions it is often the case that human rights are one of the most important causes to fight for, although it may be difficult to do so if the institutions required to uphold human rights are not effective (Langlois, 2009).

Despite these criticisms, the global system regulating human rights does make certain human rights violations justiciable, which can, over time, shift the balance of power to be in favour of human rights and related issues such as poverty reduction (Kanbur, 2007; Sengupta, 2000). The following section includes a discussion of the rights-based approaches that consider development to be a process that engages in equality and pro-poor growth, looking beyond the limitations of the established legal framework.

THIRD GENERATION RIGHTS: THE RIGHT TO DEVELOPMENT & THE RIGHTS-BASED APPROACH TO DEVELOPMENT

Third generation human rights are specific to the realm of development in both practice and theory. This section introduces the co-evolution of human rights and development and also provides current context by contextualizing human rights in today’s global order. Human rights are intended to be empowering and they aim to give voice to disadvantaged individuals and

groups and to build alliances between different actors. In fact, “Human rights norms develop because people claim that certain conditions of life are entitlements and demand that they become recognized as human rights”, as is espoused by the capabilities approach (Fakuda-Parr, 2009, p. 165). The struggle for human rights can be described as one of the processes of development, meaning that economic gains should not be the only focus of development. Such people-centered models have evolved over time, from community development (1960s), to the world employment programme (1970s), then to the basic needs approach (1970s into the early 1980s), and finally to the human development and capabilities approach (1990s onwards), which describes rights as entitlements (Fakuda-Parr, 2009).

THE EMERGENCE & INTERDEPENDENCE OF HUMAN RIGHTS AND DEVELOPMENT

The process of decolonization and the onset of the Cold War both served to separate the notion of political and economic rights. This encouraged development and human rights discourses to evolve in their own separate ways, with human rights being perceived as a threat to national sovereignty (Hansen & Sano, 2003). After the demise of the Soviet Union, the two concepts again began to coalesce and were met with “a recognition of the need to strengthen the international community in a globalized world, where the challenges to be addressed stretched beyond the bounds of any single nation” (Hansen & Sano, 2003, p. 39).

This change was influenced also by the popularization of participatory methods and the concept of entitlements and capabilities, which challenged earlier development paradigms of the 1950s to 1970s (Mohan & Holland, 2001). It also went hand-in-hand with the increasing emphasis on good governance in development that arose in the 1990s, which aimed to counteract the failures of the structural adjustment programs (SAPs) implemented throughout the 1980s. This movement emerged to address a lack of government accountability in the developing world and was said to reassert the role of the state as the central development actor (Hansen & Sano, 2003; Uvin, 2007).

There are several ways through which human rights are incorporated into development. The right to development (RTD) and the human rights-based approach to development (commonly referred to throughout as the rights-based approach) both promote the distribution of economic and social benefits and aim

to provide alternatives to the current market-driven focus of the neoliberal era (Fakuda-Parr, 2009; Nelson & Dorsey, 2003). These approaches, as well as the capabilities approach, which serves to compliment the ideals of the rights-based approach, are explained below.

THE RIGHT TO DEVELOPMENT (RTD)

The Right to Development (RTD) focuses on resource transfers, trade, and financial markets and aims to uncover inequalities between countries through its link to the dependency theory. The approach is centered on the collective; benefits should be shared rather than concentrated in the hands of individual people or nations. RTD also takes the stance that it is the obligation of rich countries and powerful corporations to assist rather than hinder the Global South in regards to key concerns such as aid, trade, finance, technology, and debt relief. This perception of development as a right is ascribed to in the development discourse largely by developing country governments and human rights academics looking to promote human rights in international law. Furthermore, in defining the progress associated with development, RTD does not concern itself with the growth of gross national product (GNP), export generated incomes, level of industrialization, etcetera (Sengupta, 2003). Instead, it emphasizes pro-poor growth strategies that redistribute wealth and other resources, both internationally and on a more localized scale within nations.

It is important to mention that the New International Economic Order (NIEO), a movement popularized in the 1970s, was influenced by RTD. The NIEO campaigned for the international redistribution of resources in the global political economy and for equal representation in the international financial institutions (IFIs), namely the International Monetary Fund (IMF) and the World Bank. It thereby challenged the legacies of colonialism by reasserting control over resources and by calling for greater self-determination (Fakuda-Parr, 2009; Uvin, 2007). Although the NIEO failed as a movement and the momentum shifted towards structural adjustment as opposed to international reform, shortly after its demise, in 1986 the ‘right to development’ was adopted as a UN resolution.

Specifically, the right to development, as expressed within the Declaration on the Right to Development is (1) a human right; (2) takes into account both UN covenants represented under the UDHR and enshrines

the rights expressed in them freely, equally and fairly; and (3) is the obligation for duty-holders of the individual, state and international scales to uphold (Sengupta, 2000). It also explains development both as an individual and collective right; however, this definition lacks a clear delineation outlining exactly which institutions are responsible for upholding the rights of the collective (Hamm, 2001). Unfortunately, “This nourished the suspicion of Western industrial countries, who thought it likely that governments of the South perceived of themselves as the right-holders and those of the North as the duty-bearers, meaning that the latter were obliged to give development aid” (Hamm, 2001, p. 1009). This notion contributed RTD’s lack of popularity as an internationally backed policy.

Nonetheless, subsequently, the Vienna Declaration of the 1993 World Conference on Human Rights reaffirmed the adoption of the 1986 Declaration on the Right to Development. However, as of yet, no treaty has been created to legally enshrine this declaration. Thus, while the declaration represents legal consensus on the global scale, it is very vague and lacks clearly established obligations (Uvin, 2007). Overall, although it is an influential starting point that played a key role in the popularization and convergence of the human rights and development agendas, RTD is not often applied in international development policy debates and has not been very successful in terms of its advancement as a concept. This is largely because it is not established as a treaty but only as a UN resolution; it has no binding force and does not include any obligation to transfer resources as promoted by the ideals of the NIEO (Fakuda-Parr, 2009; Uvin, 2007).

THE RIGHTS-BASED APPROACH TO DEVELOPMENT

More recently, during the 1990s, the policy statements of development organizations began to focus on human rights. Civil society groups and development practitioners gradually influenced and expanded upon the incorporation of human rights in development, which led to the popularization of the rights-based approach. This approach builds on the successes and rectifies the failures of past approaches, including RTD (Fakuda-Parr, 2009; Mohan & Holland, 2001). As the more successful approach of the two, the rights-based approach has exerted greater influence in practice and theory. As such, the rights-based approach is the main focus of this literature review.

As a discourse, the rights-based approach to development grew out of negative reactions to SAPs and neoliberalism. Like RTD it is concerned with inequalities; however, it looks at inequalities both between and *within* countries. Therefore, it should be understood that the rights-based approach to development is a holistic concept that draws upon our understanding of the RTD:

A rights-based process of development is not the same thing as the right to development. Any process of development, or for that matter any activity, can be rights-based, if it is carried out in a manner consistent with human rights standards. When that process of development can be and is claimed as a right, it can be the object of the right to development. There may be several different ways a country can develop. Only some of these ways may be rights-based; that is, conforming to the standards of human rights and consistent with the definition of development given in the Declaration [on the Right to Development] (Sengupta, 2003, p. 11).

As will be elaborated on, through this approach, development came to be seen as a support to human rights rather than an antagonist. When human rights enter the picture, the concept of development is broadened beyond its primary focus on economic development to include emphases on equality and participation (Fakuda-Parr, 2009). It thus “attaches political rights and responsibilities to fundamental aspects of human needs and well-being” (Mohan & Holland, 2001, p. 182).

In accordance with the Universal Declaration for Human Rights (UDHR) and other treaties, the rights-based approach to development does not discriminate. It focuses on empowering disadvantaged groups by improving equity, reducing poverty, and challenging the dominant neoliberal doctrine by applying participatory methods (Hamm, 2001; Nelson & Dorsey, 2008). This approach relies on the principles and tools of human rights in the development process, taking the stance that if people are empowered they can determine their needs and set the stage for development. The approach holds that human rights are universal and indivisible, placing a strong focus on accountability, participation, and empowerment (Hansen & Sano, 2003). This identifies rights-holders as claimants of aid and relief as opposed to passive recipients. All of the actors involved in the development process are thus required to be accountable “not only to outcomes, but to the process

of development” (Hansen & Sano, 2003, p.49). Vulnerable populations, such as minorities, women and indigenous peoples, are given more of a voice through the rights-based approach. This increases the overall participation in development programming as well as the public’s participation in development *via* programming, meaning that the project cycle of development work must be managed and evaluated through a human rights-based lens (Hansen & Sano, 2003).

The key duty-holders examined through the rights-based approach include civil society organizations, development practitioners, donor nations and organizations, think tanks and academics, UN agencies and IFIs, national and local governments/authorities, and private companies (Hansen & Sano, 2003). Significantly, the growth of civil society in democratizing nations, known as the third wave of democracy, went to great lengths to promote this agenda in the Global South. This goes hand-in-hand with the proliferation of NGOs in the developing world, particularly those involved in activist work. NGOs worldwide have successfully formed global networks to promote human rights advocacy, social justice and the increased flow of information and ideas (Fakuda-Parr, 2009; Nelson & Dorsey, 2007; 2008). These movements and their achievements have been highly influenced by the rights-based approach.

THE CAPABILITIES APPROACH

Finally, as previously mentioned, closely related and complementary in focus to the rights-based approach is the capabilities approach to development. This approach also aims to critique the neoliberal world order while enhancing dignity and freedoms, which are often referred to as capabilities as opposed to human rights (Fakuda-Parr, 2009). Amartya Sen’s (2000) capabilities approach explains freedom of choice as an important factor in development: “When these freedoms are claimed and recognized as rights, the well-being of people then reflects their level of enjoyment of all these rights and development as improvement of well-being takes on the meaning of expansion of freedom and realization of rights” (Sengupta, 2003, p. 13). In this way, development and democratic freedom were linked together throughout the 2000s with the UN’s literature and seminal works written by influential thinkers such as Sen playing a large role in the expansion of this approach (Uvin, 2007). Evidently, although they may apply a slightly

different discourse, the rights-based approach and the capabilities approach work hand-in-hand.

HUMAN RIGHTS IN DEVELOPMENT: CHALLENGES AND CONTRIBUTIONS

It is now widely recognized, but not without conflict, that “Human rights can be the consensual framework for development policy because the moral commitment to human rights is universal, the majority of states have ratified major human rights treaties, and some core rights are universally valid because of customary law” (Hamm, 2001, p. 1013). This section examines specific themes and arguments for and against human rights as a concept aligned with development theory and practice. Critiques of the human rights agenda in development are explored, with particular attention paid to the how the rights-based approach to development does not adequately challenge existing power structures and remains Eurocentric in focus. The Millennium Development Goals (MDGs) are used as an example of how, in practice, human rights have not effectively played out in the realm of development. Conversely, the positive contributions of civil society in relation to the human rights agenda, including development NGOs based in both the North and the South, are highlighted.

THE RIGHTS BASED APPROACH TO DEVELOPMENT: NEOLIBERAL POLICY TOOL OR EMPOWERING CROSS-SECTORAL PERSPECTIVE?

Rights-based language, policy priorities and methods have worked to shift the focus of development towards the right-based approach. However, some criticize this as ‘rhetorical repackaging’ and believe that mainstream policy instruments, for example, poverty reduction strategies, have not been effectively influenced by the rights-based approach and thus remain neoliberal policy agenda-setting tools (Mohan & Holland, 2001; Uvin, 2002; 2007). This section explores many of these claims, giving weight to arguments that recognize the value of human rights-based approaches to development while also realistically outlining the weaknesses of these approaches.

The rights-based approach, specifically its focus on good governance, is sometimes described as a new form of conditionality. This is because despite its claim to make developing country governments accountable to their citizens, the rights-based approach tends to

overshadows national sovereignty by defining what 'universal' rights and values should be the focus of state policy. This is similar to the Global South's previous experience with multilateral and bilateral donors, which have often used debt to broker control over policy in Southern nations through economic instruments such as SAPs and by employing strict lending conditions (Mohan & Holland, 2001; Uvin, 2002).

This setback is rooted even further back in history, with colonial legacies relating to current day relationships. In Africa, for example, it is not difficult to understand why there is distrust of the human rights agenda as a result of the colonial past, which created a "bifurcated state" structure, with its distinction between 'rights' and 'customs' and the association of rights with colonially-derived privileges" (Mohan & Holland, 2001, p. 179). It is also necessary to consider that there tends to be mistrust of the state in the post-colonial nations. This is largely because there is little sense of local ownership in relation to the roles and responsibilities of the governments in these nations, a problem that worsens "when the state is simultaneously the perpetrator of rights' abuses and the institution through which grievances should be aired and addressed" (Mohan & Holland, 2001, p. 189).

Furthermore, the Western-focused ideology of human rights does not always give weight to local experiences and culture because it emphasizes universal values as opposed to local traditions (Mohan & Holland, 2001). This argument may come into conflict with the perspective that certain practices, regardless of local customs, should be considered a violation of human rights. Female circumcision is one of the most widely cited examples of this. Female circumcision, a practice that is known to be harmful to the health of women, is often challenged through a universalizing lens. The debates that take place in regards to this practice are not typically about whether the practice itself is legitimate. Instead, while it is often recognized and respected that the tradition is rooted in culture, it is also assumed to be a violation of human rights. This is largely because of the dangers it is associated with. Thus, in the realm of development, the discussions that do take place tend to consider what approach should be taken in order to address the dangers associated with such culturally embedded practices; for example, education and awareness campaigns carried out by development NGOs or the rule of law? (Coomaraswamy, 2002).

Another issue of concern relates to how governments' propensity or even willingness to participate in the human rights agenda in relation to development influences the effectiveness of the rights-based approach in practice. For one, there can be tension between tradition and human rights, customary law, and the formal legal system of the international community. Mohan & Holland (2001) explain this in the African context: "Despite claiming to recognize Africa's uniqueness and diversity, and hence the legitimacy of its customary legal practices, these can conflict with universal principles or are simply not taken seriously by constitutional lawyers (in part because they are not codified)" (p. 187).

Secondly, Mohan & Holland (2001) and Pogge (2000) note that capacity also plays a role, since in the developing world legal professionals are not always well trained or independent of political influence, making it difficult to uphold the human rights agenda on a legal basis. Even civil society is affected by this lack of capacity, since for many citizens in the developing world, becoming involved in campaigns that aim to improve access to rights is not a major priority in comparison to the day-to-day struggle for survival (Pogge, 2000).

Such problems with the rights-based approach to development can also occur when a government, either a donor government or a government of the Global South, refuses to work with organizations that include a rights-based approach if it does not agree with the politics of these rights in practice or on paper. As such, in some circumstances, the rights-based approach can actually prevent or ignore the principles of human rights "to ensure that nothing gets done for poor people. Thus, rhetoric or not, rights-talk can simply be a bad tactic in certain situations" (Slim, 2002, p. 2). This is especially true when success in the area of poverty reduction means fulfilling targets rather than gaining an equality of outcomes, for instance, by reducing the poverty of those closest to the poverty line (and thus ignoring those deepest in poverty in order to quantify success) rather than reducing poverty by overall headcount (Pogge, 2000).

It is also of significance that the development agenda's focus on good governance in the 1990s focused primarily on political rather than community-based participation, which many critics point out to be a less direct approach that does not consider needs at the community-level (Mohan & Holland, 2001). The shift

towards greater empowerment in the 2000s encourages more political participation of the poor and vulnerable. In this context, “the neo-liberal establishment has successfully repositioned itself with respect to the rights-based agenda by championing accountability, transparency and the role of citizen participation in demanding their rights” (Mohan & Holland, 2001, p. 183).

However, Uvin (2002) points out some of the contradictions associated with this line of thinking. Powerful actors remain in control as they collaborate and set the agenda of the rights-based approach and ideological leaps are made when framing these policy agendas. Meanwhile, the contributions that Western institutions play in global inequality remain largely unaddressed with human rights abuses in the Global South and committed *by* actors *of* the Global South being the main focus. The Global North’s violations of the developing world are not a major concern in policy and practice. As a result of this biased focus, the human rights agenda is often resented in the developing world even as the rights-based approach attempts to advocate for greater participation.

Moreover, related to concerns about authenticity, it is often argued that the rights-based approach is merely ‘rhetorical repackaging’ that is the result of development theorists and practitioners ‘taking the moral high-ground’ (Uvin, 2002; 2007). Development agencies claim to have been do-gooders working in the name of human rights since their inception (Uvin, 2002). Essentially, as development became inclusive of the human rights agenda many organizations claimed that they had always been focused on rights – in the past they had merely been using different language to express the rights-based ideas of the present. Essentially, the same “policies that were once justified by their potential to improve investor confidence are now justified for their human rights potential” (Uvin, 2007, p. 600). As a result, organizations that have not been challenging the status quo receive praise, which is often self-perpetuated. Uvin (2007) thus takes the stance that development organizations and actors must focus inwards to identify flaws in the development community and of the international system more broadly. He believes this regardless of the fact that “much scholarship argues that discourse changes have real-world impacts: they slowly redefine the margins of acceptable action; create opportunities for redefining reputations and shaming; change incentive structures and the way in which interests and preferences are

defined; [and] influence expectations” in the long run (Uvin, 2007, p. 599).

On a more positive note, NGOs, community-based organizations (CBOs) and church groups have included human rights in their practice, beyond rhetoric, which Uvin (2002) overlooks (Slim, 2002). For example, in Latin America, movements focused on land rights, democracy and access to livelihoods have been framed through a human rights lens. Such movements have influenced and radicalized the work of NGOs in Europe and North America. This so-called Latin American style of development contrasts with the more scientific and paternalistic approach to development (Slim, 2002).

In addition, although the rights-based approach to development may be rhetorical on some levels, for example, as spoken by academics and Western-based institutions; “from another place (a slum or the scene of a rigged election) and spoken from another voice (that of a poor man or a women land rights lawyer) the same words of rights-talk could function prophetically as a demand for redress to change and challenge power” (Slim, 2002, p. 3). Similarly, as expressed by Hamm (2001), “...where a more cross-sectoral perspective for problem-solving is emerging, where both development policy and human rights are freed from bloc thinking, there are chances for the furtherance of a human rights approach to development” (p. 1007). Finally, rights-based development shifts the focus from a moral framework and from a focus on welfare policy to one that relies on right-holders’ legal claims, the duties of donors, and the accountability of governments receiving development aid (Hamm, 2001). Of course, this process relies on international cooperation, since in practice legal obligations have not been recognized.

Interestingly, Pogge (2000) identifies the need for change in the current global human rights system to rectify some of the existing problems through such forms of international cooperation and through the support of national policies. He states that:

Our global institutional order is to be assessed and reformed principally by reference to its relative impact on human rights fulfillment. This is one way of saying that human rights in our time have global normative reach: A person’s human rights entail not merely moral claims on the institutional order of her own society, which are claims against her fellow citizens, but also analogous moral claims on the global institutional

order, which are claims against her fellow human beings (p. 55).

When human rights are thought of in the context of global institutions, it is difficult to conceive of international diversity in order to create a set of common standards of judgment. This is because there is only one global order at one given time, and only one universal standard for human rights can be applied to this singular order.

Furthermore, in the words of Pogge (2008), “any institutional order is unjust if its imposition foreseeably produces an avoidable massive human rights deficit, and that the existing global institutional order is severely unjust by this standard” (p. 263). Human rights standards in a given country are determined by both national and international policy; global forces matter, as do local voices at the community scale. It is recognized that “Global problems have an impact on the regional, national, and local level. They can no longer be dealt with effectively merely on the state level” (Hamm, 2001, p. 1007) and thus international cooperation on the interdependent issues of human rights and development is required.

From this perspective, our diverse views about the conception of human rights should not be about winning so-called ‘ideological propaganda victories’; they should genuinely be about the fulfillment of human rights, which requires working together to achieve the necessary institutional reforms (Pogge, 2000). At the same time, it is argued that national policy has proven to be more dynamic than international policy and should thus take on a more central role where it has the capacity to do so, since our global order has changed at a very slow pace in comparison and since reasonable alternatives to the current global order seem sparse (Pogge, 2000). As will be discussed, NGOs and other community-based initiatives have been stepping in to provide support to governments and local communities, or to advocate for rights-based approaches to development where the state and/or the international community have neglected to do so effectively.

THE MILLENNIUM DEVELOPMENT GOALS AND HUMAN RIGHTS: EXAMINING STRENGTHS AND WEAKNESSES

This section presents a case study on the Millennium Development Goals (MDGs), providing current and CDHR: Ferguson

practical examples of how development and human rights are not necessarily mutually reinforcing. Specifically, although they are vastly different, the MDGs must be mentioned in relation to human rights-based approach to development. This is because the UN often refers to the MDGs as reflective of the rights-based approach, a reference that is disputed (Hansen & Sano, 2003).

The MDGs were born out of ideological conflict. During the late 1980s and the 1990s, the era of the so-called Washington Consensus, neoliberal policies began to charge user fees for essentials such as access to clean drinking water. These user fees were implemented despite the reality that many citizens of the developing do not have the resources to pay for such necessities. In response to development projects that established the privatization of service delivery at expense of the poor, the United Nation’s Human Development Report was launched in 1990 in order to present an alternative vision of pro-poor development, paving the way for the formation of the MDGs (Saith, 2006). Indeed, the creation of the annual Human Development Report was followed by the United Nations’ (2000) Millennium Declaration, which helped to establish the MDGs in order to consolidate “different waves of earlier unachievable goals and promises” made during UN summits and other similar international conferences (Saith, 2006, p. 1169).

The MDGs and the rights-based approach to development are useful to compare, since they both attempt to refocus the development enterprise, although they often do so in different ways (Nelson, 2007). The two overlap in terms of their focus on core social and economic rights and they both highlight specific human rights priorities as development priorities. Moreover, the MDGs are goals that can be applied as an accountability framework for world leaders and their commitments in terms of both development and human rights. However, while the MDGs help promote human rights they also contradict them in some respects, especially when these goals are examined through the lens of the human rights-based approach to development.

In regards to their fundamental purpose, insofar as both the MDGs and the rights-based approach to development make an effort to shame donors into action based on goals and rights, it has been argued that these attempts have not been effective for either approach: “In practice, neither [economic, social and

cultural] rights nor the MDGs has an effective means of holding donors or governments accountable to their pledges or policies” and monitoring or enforcing rights or pledges is not a strength of either approach (Nelson, 2007, p. 2046).

Moreover, unlike the rights-based approach, the MDGs are specifically criticized for neglecting to examine inequality or discrimination; they do not concern themselves with the structural causes of poverty, such as access to land, labour and fair wages (Nelson, 2007). Rather than focusing on complex social systems, they instead seek a quick impact without attempting to mobilize change in how industrialized countries view the global economic order. On the other hand, the rights-based approach does not employ indicators but does make use of legally binding statements that are meant to express the rights to which all humans are entitled (Nelson, 2007). Both approaches may also be slow to create change in global institutions and may focus on rhetoric rather practice; however, the rights-based approach at least addresses inequality at the theoretical level.

That being said, the MDGs do have strengths in that they are time-bound and quantifiable, which makes them instrumental as normative objectives that can define long-term visions, evaluate benchmarks against which progress can be measured, and plan targets that can frame priorities for policy development and resource allocation (Fakuda-Parr, 2008). The MDGs are also helpful in terms of advocacy work because they provide room for negotiation between governments and international agencies or donors (Saith, 2006). However “while sustained media exposure and campaigning might well have familiarized a section of the population of the developed economies with the MDGs, this need not translate automatically into appropriate change in terms of political behaviour and action” and certain topics remain overlooked in MDG-related advocacy pieces (Saith, 2006, p. 1196). Furthermore, through the MDGs’ attempt to implement the UN Charter in a more practical and measurable manner, certain human rights values are overlooked (Fakuda-Parr, 2008).

As Nelson (2007) asks: whose goals and whose objectives are being measured by the MDGs? Similarly, as expressed by Fakuda-Parr (2008), the MDG targets do not likely translate well onto local or even nation scales. This is because “applying globally set quantitative targets in national planning runs counter to

the local specificity and ownership that are also MDG principles, and that are widely recognized as good practice” (Fakuda-Parr, 2008, p. 4). All in all, it depends how the targets are defined (either as global or national targets), which is unclear, and whether the countries that apply them do so in an adaptive versus and adoptive manner that suits local circumstances and conditions (Fakuda-Parr, 2008).

As a form of measurement, the MDGs also do not give enough credence to the quality of outcomes because, for example, “Gender empowerment cannot be corralled into a single goal or target – it is a profoundly cross-cutting force” (Saith, 2006, p. 1174). As such, some established targets might actually lead to human rights abuses. For example, in order to reach measurable poverty reduction goals while maximizing their budget, governments may choose to distribute resources to those closest to the poverty line as opposed to the poorest, who are the most in need of assistance (Saith, 2006).

The MDGs are also critiqued for their omissions of participation and equality. Nelson (2007), for example, describes the MDGs as:

A careful restatement of poverty-related development challenges, in language that avoids reference to rights; they are a donor country interpretation of key issues, for a donor-country audience. Rights-based approaches, by contrast, seek to link the development enterprise to social movements’ demands for human rights and inclusion, and to tie development to the rhetorical and legal power of internationally recognized human rights (p. 2042).

As mentioned, through his discussion of these two approaches, Nelson (2007) unpacks whose rights and whose goals are being addressed and/or achieved. He notes that authors such as Fakuda-Parr (2008) believe that MDGs are useful because they provide measurable goals and an accountability framework through the established benchmarks for the international community. However, he argues that “monitoring does not equal accountability, and accountability ‘outward’ to a donor agency is rarely enough to promote the kind of social change envisioned by the MDGs” (Nelson, 2007, p. 2045).

Furthermore, the MDGs focus more on donors and their funding commitments rather than on human rights and global power structures. Nelson thus perceives the

MDGs as being overly ambitious and of focusing simply on increasing aid when in reality poverty reduction is not only about money it is also about policy and international economic order. The goals also neglect to challenge the current neoliberal strategy and do not encourage out-of-the-box thinking, which instead comes mainly from NGOs and academics (Saith, 2006). That being said, it seems that “the monolithic MDG bandwagon [is] already beginning to influence the priorities and direction of academic research and investigation” (Saith, 2006, p. 1180). There is pressure for funders and organizations receiving funds for development work to align with the MDGs in order not to be left behind in terms of their ability to participate and influence the development agenda (Saith, 2006).

In alignment with this critique is the argument that goals do not fulfill human rights; for example, halving poverty does not give equal access to this human right and therefore, strongly stated, MDG-1 can be described as a betrayal of human rights (Pogge, 2007). The MDGs also do not establish strong partnership goals (see MDG-8) and the goals that are established are top-down and technocratic in their planning and implementation, focusing too squarely on quantity as achievement (Pogge, 2007). As evidence of this, in an empirical study examining the priorities of poverty reduction strategy papers (PRSPs), which are an instrumental component of the Millennium Declaration and the UN Development agenda, Fakuda-Parr (2008) finds that human rights are not a major focus. In fact, PRSPs often “neglect the broader agenda of equity, pro-poor growth, employment, hunger and nutrition, social integration, environmental protection, democratic governance and human rights, science and technology, and partnerships” while focusing largely on reducing income poverty and enhancing economic growth overall (Fakuda-Parr, 2008, p. 13).

Evidently, the formation of the specific MDGs do not adequately consider past development failures and as a result they unlikely to be achieved (Nelson, 2007). Furthermore, because the MDGs are set globally they have the potential to disempower local peoples and governments. The goals thus have not been fully embraced by actors who identify with the human rights-based approach to development (Fakuda-Parr, 2009).

In general, the MDGs should deepen “their focus on symptoms to embrace the language of guaranteeing rights, diminishing inequality, reducing social exclusion, and promoting justice” (Nelson, 2007, p. 2050). This is

because once the UN-sponsored campaign and other policy instruments such as the Human Development Report become less of a focus in the realm of development once the donor money supporting these campaigns stops flowing, meaning that the MDGs will not be sustainable. Moreover, pro-poor growth must become an MDG on its own if PRSPs and other similar instruments are to be likely to focus on more vulnerable individuals (Fakuda-Parr, 2008). In addition, allowing for the local adaptation of the MDGs in policy implementation will also improve local ownership and thus outcomes (Fakuda-Parr, 2008).

Although the MDGs do strive to produce positive outcomes, it does not necessarily do justice to associate them with the rights-based approach to development. Despite the similarities of the two approaches, they possess some very broad differences that cannot be reconciled without overhauling the current MDG targets and their overall focus on specific measurable results that do not always work to effectively uphold the human rights agenda. This practical example therefore serves to illustrate how human rights and development are not always mutually reinforcing.

THE INTERSECTIONS BETWEEN HUMAN RIGHTS AND NGOS: THE ROLE OF CIVIL SOCIETY

This section examines the linkages between NGOs and human rights, highlighting their contributions to the human rights agenda in development to provide further examples of how human rights ideals can be more successfully embedded within the practice of development. Since the merging of the development and human rights agendas, NGOs are focused on economic, social and cultural rights as well as political and civil rights (Nelson & Dorsey, 2003). While it is not new for dominant policy norms under neoliberalism to be challenged, it is new that human rights principles are being mobilized to do (Nelson & Dorsey, 2007). Non-state actors that are focused on economic, social and cultural rights have established global networks, allowing them to cooperate with like-minded organizations and institutions to more effectively act “as a counterweight to corporate power and liberal trade rules” (Nelson, 2007, p. 2044).

In fact, both theory and practice have seen greater commitment to rights-based approaches to development influenced by the concepts of rights, entitlements, and capabilities, which have been linked to markets and state activities (See Nelson & Dorsey,

2008; Sen, 2000) as NGOs and international agencies such as the UN have engaged in the promotion of human rights through their work. Examples of NGO activism in this area include the fight for stronger environmental and/or labour policies for multinational corporations (MNCs) working in the developing world or for fairer trade regulations to improve access to essential medicines, among many others.

This paradigm shift is evidenced by the increasing popularity of the rights-based approach to development, by more collaborative advocacy work undertaken through the cooperation of development and human rights NGOs, and by human rights groups' adoption of economic language within their discussion of rights (Nelson & Dorsey, 2003). NGOs use various methods to gain leverage on human rights issues related to economic and social policy at both the national and international level and with various governmental, inter-governmental and/or corporate targets. These include rhetorical appeals that reference international standards; evaluations of the performance of governments in terms of the services they provide or the aid projects they contribute to; and the litigation of human rights claims through legal channels (Nelson & Dorsey, 2007). Many of these approaches also often focus on partnerships and make use of education and advocacy to engage communities.

In addition, it is critical to understand that many international development NGOs have adopted a rights-based approach as a strategic tactic to remain credible in the current environment while also meeting their own requirements as organizations: "Development NGOs react to political and economic changes that affect their work and its impact, and they also react to pressures from funders and perceived competitors and to trends in the field as manifested in the work of leading agencies and influential thinkers and writers" (Nelson & Dorsey, 2008, p. 92). As such, adopting the rights-based approach is both a political act and methodological choice whereby development organizations move beyond service delivery towards advocacy.

This focus on human rights, environmental and labour standards, and poverty reduction has progressed slowly, while the regulations promoting global market expansion as well as civil and political rights have witnessed a more rapid advancement (Farmer, 2005). New rights advocacy (NRA) has emerged to address this phenomenon and it refers "to advocacy on social,

economic or development policy, at local, national, or international levels, which makes explicit reference to internationally recognized human rights standards" (Nelson & Dorsey, 2007, p. 189). Although such advocacy has not been very successful in influencing G-8 countries in its effort to shape international policy, including that of the IFIs, NGOs have been engaging in more convincing forms of political advocacy.

The role of the state and of national governments can be expressed while also looking beyond these relationships to examine how international institutions, global trade, and transnational corporations influence the policies and actions of these governments within the developing world, as well as how this may influence rights (Nelson & Dorsey, 2007). These relationships imply a shared responsibility between actors to uphold human rights standards, as an agenda that "implicitly broadens accountability, shifting form from a sole focus on the 'violating state' and assigning co-responsibility to the actors that may create the obstacles for those states to the realization of human rights in a global economy" (Nelson & Dorsey, 2007, p. 202).

NGOs have thus established the rights-based approach as one that examines claims and outcomes (Uvin, 2007). This includes an examination of the root causes of inequalities and poverty by uncovering discrimination, which can open up opportunities for these communities to participate in the development process and to gain access to their rights. Through this process participation becomes entrenched as a right that must include the elements of planning, implementation and the evaluation of outcomes throughout the policy process, which relates to the relationship between the state and civil society (Hamm, 2001).

Furthermore, "The move from needs to rights, and from charity to duties, also implies an increased focus on accountability" as greater participation from the communities in the developing world via the mechanisms of civil society allow citizens to call into question the legitimacy of their governments (Uvin, 2007, p. 602). On this local scale it is not the treaties that operate in practice that are of greatest significance, but the pressure exerted by these non-state actors (Hafner-Burton & Tsutsui, 2005). On the other hand, international civil society can also take action through INGOs such as Amnesty International, which can pressure governments in the Global South to fall into line with the human rights regime by publicizing any abuses and by encouraging other governments to

penalize states that engage in abuses through sanctions. In most instances, codified legal standards give weight to the claims that NGOs make as they appeal to international human rights principles and standards (Nelson & Dorsey, 2007).

NGOs understand development work as a right and a goal rather than as a need and a gift (Nelson & Dorsey, 2003). Referring back to Sen's (2000) work, Nelson & Dorsey (2003) describe this perception as the duty of governments and NGOs to assist citizens in fulfilling their individual entitlements. These understandings are now being defined based on globally established standards and agreements through international human rights treaties. This moves the responsibility to uphold human rights beyond national borders to emphasize the international responsibilities of wealthy countries and it also serves to strengthen international advocacy by linking human rights and development organizations together, which had previously operated in two distinct sectors (Nelson & Dorsey, 2003).

Shared goals increase the chances that opportunities can be capitalized on through joint campaigns, for example, those that promote corporate-social responsibility and advocacy such as the Clean Diamonds campaign and the International Right to Know campaign, as well as countless other campaigns that work towards the protection of vulnerable people including people living with HIV/AIDS, child soldiers and indigenous peoples. Much of this challenges the market-oriented development ideal popularized in the 1980s and extends beyond economics in focus. For example, as NGOs network with one another, as well as with governments and agencies, they have formed innovative approaches to influence corporate behaviour and extractive industries in areas linked to economic, social and cultural rights such as food, water and agrarian reform, access to essential medicines, and debt relief (Nelson & Dorsey, 2003).

Overall, NGOs of all kinds can play a significant role in enhancing the legitimacy of human rights regimes, particularly through their interconnections across the international community. However, today's global NGO networks can also experience tensions and may end up diminishing the role of local civil society organizations based in the developing world: "Civil society has generally been the motive force behind human rights legislation and its role must continue although this is to be in collaboration with states, international organizations, and corporations, which may further

erode the 'independence' of civil society" (Mohan & Holland, 2001, p. 184). Just as donor nations and the international human rights regime can place conditionalities on developing country governments, INGOs can place conditionality on LINGOs (Nelson & Dorsey, 2003). Moreover, the tension that tends to exist between INGOs and developing country governments is potentially changed and even sometimes reversed when the two come together to "work against the constraining effects of trade rules, economic policy conditionality, and corporate leverage" (Nelson & Dorsey, 2007, p. 190). As they uphold human rights through development activities, rather replacing the role of the state, NGOs both from the North and South must assert the position that the state must uphold its various obligations in the developing (Nelson & Dorsey, 2003).

Ultimately, if such conflicts are managed and the relationship between Northern and Southern NGOs can produce equal partnerships while working alongside of or in cooperation with state actors, it does seem that global networks can have a positive outcome. An empirical study undertaken by Hafner-Burton & Tsutsui (2005), supports this positive outcome: "Government ratification of international law does not improve human rights practices alone, but a country's linkage to international civil society (through INGO memberships) can and does influence governments to change their human rights practices for the better" (Hafner-Burton & Tsutsui, 2005, p. 1386). As such despite Uvin's (2002; 2007) argument that rights have merely been repackaged and included as rhetoric in the realm of development, the current rights-based development agenda does have real outcomes and also encourages innovative partnerships that actively explore underexploited links between different rights and development issues.

This speaks to "the efforts of some practitioners, including practitioners in NGOs, to move beyond theoretical and rhetorical support for the integration of development and human rights to programmatic and policy measures that integrate them in practice, and that challenge and stretch the mandate and structures of existing organizations" (Nelson & Dorsey, 2003, p. 2014). While they often work from a small and grassroots scale upwards to influence policy, new ways of advocating for change via global NGO networks tend to be effective, whereas, on the other hand, larger scale efforts such as the NIEO have not seen such success.

IMPROVING THE EFFECTIVENESS OF THE HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT

Although the rights-based approach to development is useful and effective in many respects, various suggestions on how to make the approach a more meaningful one exist. These recommendations address the international, national, regional and local scales. They pertain to governments, institutions and non-state actors in both the Global South and the Global North.

RECOMMENDATIONS

Nationally, human rights should be incorporated in legislation but also become normalized in society. This normalization must be an inclusive process that does not overlook minorities and which involves both civil society and a free press, in addition to democratic elections (Mohan & Holland, 2001). Locally, a focus on participation and decentralization may also be required to enhance civil society's ability to monitor human rights abuses (Mohan & Holland, 2001). Fortunately, there is now an emphasis on how to build the capacity of LNGOs and community-based organizations, which necessitates the evaluation of a long-term process rather than the measurement of outputs (Mohan & Holland, 2001). Regionally, establishing human rights codes such as the African Charter are a good option that will work towards the creation of "a 'best fit' solution which balances universality with politico-cultural specificity" (Mohan & Holland, 2001, p. 188).

Internationally, implementing redistributive tax policy may prove useful. For example, an approach such as the Global Resources Dividend (GRD) (also known as the Tobin Tax) or a Robin Hood Tax would allow governments to maintain control over the resources and/or finances in their territories but also enforce the payment of a proportional dividend on the exchange of goods, services and/or capital (Pogge, 2000). The proceeds of this dividend would be redistributed globally to the poor to "ensure that they themselves can take care of their basic interests and defend these effectively against the ambitions of politically and economically more powerful persons and groups" and to therefore reinforce dignity (Pogge, 2000, p. 60). Even in the cases when governments are corrupt, international organizations and LNGOs can be used to redistribute funds on behalf of these ineffective institutions, which will require strengthening through other policy options.

Development organizations themselves must focus inwardly to improve their policies by assessing their own internal flaws (Uvin, 2007). Western proponents of the human rights approach to development do not look inward closely or often enough: "Over consumption in the north, a history of colonialism, environmental degradation, protectionism, the dumping of arms in the Third World, the history of shoring up past dictators, the wisdom of structural adjustment, and globalization are not on the table for discussion" (Uvin, 2002, p. 6). Similarly in the West, we must learn to choose "our moral standard in such a way that the institutional order it favors will allow a wide range of values to thrive locally" (Pogge, 2000, p. 68). NGOs and other related actors based in the developing world must be given greater voice in this evaluation of the development apparatus.

Furthermore, Hansen & Sano (2003) caution that there are certain areas where human rights-based approaches should play a less significant role in development; rights-based approaches should not be viewed as a panacea that will solve all of the problems of development practice. For example, since human rights are expressed as indivisible (meaning that no one right is more important than any other), it follows that in practice an organization's focus on one or more specific rights should not overtake others. All rights should be pursued with caution, especially if promoting one right has the potential have a negative impact another right (Hansen & Sano, 2003).

Furthermore, perhaps the rights-based approach is not the solution to the past failures of the development paradigm, to which an important question is posed: "...when development policies have failed, is it because of a failure to include a rights framework, or is it because of political interference, corrupt state leaders and institutions, inadequate resources or capacity, or local class or political struggles?" (Hansen & Sano, 2003). This concern points out that the rights-based approach should not be used as a crutch or a universal remedy for the failings of development work. The development agenda's focus on human rights should not blindside the sector and prevent it from thoughtfully examining and evaluating the many other practices and approaches with which it is engaged.

Relating to Uvin's (2002; 2007) critiques regarding the rhetoric of rights-based development as opposed to its success in practice, language must not be used to hide the intentions of specific policies:

A human rights approach to development requires an explicit human rights language in order not to be watered down to some implicit measures. Terms like good governance, human dignity, or human security might introduce the notion of government obligation only through the back door. This would dilute human rights standards and undermine the validity of the consensus over human rights (Hamm, 2001, p. 1022).

As a result, developing a practical and well-defined framework would also likely help conceive of the policy process. Furthermore, educating development actors to better understand human rights standards would improve the outcome of policy, as well as the ability to foster effective forms of international cooperation (Hamm, 2001; Pogge, 2000). Overall, the rights-based approach requires more concrete applicability in practice, for example, through benchmarks that allow for quantitative evaluations of human rights standards in development; however, simultaneously, it must also be recognized that qualitative information also provide a good indicator for when and how rights have been violated (Hamm, 2001). That being said, the danger of targets set by mechanisms such as the MDGs also pose undeniable risks that must be considered.

CONCLUSION

Despite that the development sector has typically gravitated towards trends, it seems that the rights-based approach to development has the potential to offer something new in that it presents a viable alternative to many of the current and popular neoliberal strategies. It strives to shift the framework away from one that focuses on a charitable discourse and on the creation of international targets such as the MDGs towards an approach focused on providing equal opportunity. It understands that there are internationally recognized rights and entitlements that all global citizens should have access to and that the international community is obliged to collectively promote the achievement of these rights in a participatory manner. Nelson & Dorsey (2008) expertly describe this phenomenon:

[The rights-based approach] calls for a new set of rules for development practice, a reconceptualization that involves a radical change in the authority and power of the development industry. By calling for governments' policy and donors' projects and programs to be accountable to a set of internationally recognized

standards and principles, rights-based development would give poor people's organizations and movements a source of leverage in demanding improved services, transparent decision making, meaningful participation and freedom from discriminatory treatment, and real accountability over policy outcomes (p. 95).

It seems that a unique response is occurring through the evolution of the rights-based approach. Although it is not without flaws it may act as a valid starting point from which to challenge the outdated norms, misplaced theories, and ineffective strategies often associated with the practice of development.

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