

Towards a Theory of Change: Human Rights and Development in the New Millennium

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COST ACTION IS 0702: The Role of the EU in UN Human Rights Reform Working Group II on Human Rights and Development Tools

AHRI members of COST Action IS 0702 on the role of the EU in UN Human Rights reform have established since 2009 a specific Working Group II of researchers focused on the sub-topic of human rights and development tools, including a particular focus on EU and UN institutions.

The major output of this work is an edited volume: *Towards a Theory of Change: Human Rights and Development in the New Millennium* (Routledge, 2013).

In addition to this, the team has prepared *a series of policy briefs* to help translate the research findings into concrete recommendations for European, UN and other development policy makers. These briefs are presented here.

The added-value of this research is that it employs a *theory of change framework* in the analysis of how human rights inform development work at local, national and

international levels. The contributions ask how the expansion of human rights into development work affects *organisational and operational change* and investigates the role of different actors in bringing about change.

The Working Group believes this research can inform key EU and UN policy instruments such as the EU Agenda for Change, the EU Strategic Framework and Action Plan on Human Rights and Democracy, and the UN Development Group's Human Rights Mainstreaming Mechanism.

Our research findings support the need to move beyond rhetorical mainstreaming or discreet human rights projects to the operationalisation of human rights principles and standards at all levels of engagement.

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COST (European Cooperation in Science and Technology) is one of the longest-running European instruments supporting cooperation among scientists and researchers across Europe, and is mainly supported by the European Union's 7th Framework Programme for Research and Technological Development. (<http://www.cost.eu>)

AHRI (Association of Human Rights Institutes) consists of 43 member institutions based in Europe that carry out research and education in the field of human rights. (<http://www.ahri-network.org>)

http://www.cost.eu/domains_actions/isch/Actions/IS0702

The Drivers of Human Rights Change in Development

Hans-Otto Sano

What are the drivers of human rights change in development? In raising this general question, the chapter seeks to address three specific questions:

- How are human rights integrated into development? What are the major entry points?
- When and how do human rights become institutionalized in development?
- What influence do human rights exert in development? How important is it in combating poverty? Necessary or contingent?

The chapter argues that there are three major doors through which human rights enter into the development discussion and practice: as a value inspiration; as human rights principles, mostly part of efforts to implement human rights-based policies; and as legal obligations.

The value inspiration leads to a mix of human rights and human development approaches where human rights become part of a broader people centered agenda.

Human rights principles and human rights-based approaches (HRBA): participation and inclusion, accountability, non-discrimination and equality are often-used human rights principles. The overlap with governance criteria is strong with regard to the principles of participation and accountability. HRBAs draw on human rights principles, but may also work with human rights standards. Many programs or projects that are rights-based will combine principles and standards.

Human rights legal obligations and adjudication: This is human rights at the legal frontier, whether in the form of international law guiding domestic policy or in the form of domestic incorporation of human rights standards and obligations which are applied in adjudication and in administrative regulation.

Development actors are opening these doors for different reasons - for example, because they believe that some development-related actions are inherently wrong although they may lead to a desirable outcome, or because they rely on evidence showing that human rights may guide efforts of

reducing poverty and empowering marginalized groups. Human rights therefore become integrated in development for normative as well as for instrumental reasons. Human rights are an important part of the development discourse of many actors, and have played an increasingly pronounced role during the last decade. However, an important observation is that the human rights discourse and application of human rights norms, principles and law are very rarely the sole instruments guiding development action.

The observations made in this chapter relate to the importance of development actors in framing human rights activities. However, the way these actors are institutionally anchored internationally and nationally is of overriding importance to the way in which human rights is brought into the development scene. The institutional vantage points and the motivation for struggles and advocacy, the arena of engagement and interaction, are decisive factors in determining how consistently a human rights agenda is pursued. Human rights change depends not only on transnational advocacy or national advocacy for that matter, but on perceptions of legitimacy and effectiveness. Domestic actors may decide to comply with human rights norms because of perceptions of legitimacy. Other actors may take a strategic approach to rights standards and principles based on evaluation of their effectiveness in redressing specific forms of injustice. The nature of human rights integration therefore changes with actors, institutions, and the nature of motivation.

The different actors involved and discussed in the article are:

1. International development organizations including UN agencies, bilateral donors, and sometimes even national governments with regard to value dimensions.
2. UN organizations, bilateral donors, and international and local civil societies working on principles and human rights-based approaches.
3. The human rights apparatus, the differential role of courts in various parts of the developing world, and the role of central or local governments following up on these court rulings.

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The Drivers of Human Rights Change in Development

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It is argued in the chapter that the integration of human rights in development contributes to poverty reduction. This happens through prioritization of non-discrimination especially relating to gender, but it also occurs as a result of efforts to reinforce social rights implementation and empowerment. These developments are strengthened by the efforts to enhance participation and the accountability of duty-bearers. The conceptual vehicles that bring these initiatives within the reach of the poorest populations are the application of human rights-based approaches including principles and standards. While the latter are often supported by international NGOs, it remains local civil societies and community based organizations which bring these efforts within the reach of the marginal groups. Supreme and constitutional courts can become important drivers of legal dispute adjudication in favor of marginal populations. The applicants in court cases are often the middle classes or the elites, but the court rulings and the follow-up measures by domestic governments can result in measures of implementation that reach the poorer parts of the population.

Human rights-based efforts and the application of human rights or constitutional law do not impact all sectors evenly. Social rights, gender equality, migration, and in a few cases efforts to change attitudes or behavior, are where human rights approaches prevail. In these sectors and with regard to these themes human rights are offering a vocabulary and a methodology which have often provided a source of inspiration for domestic NGOs.

Finally, governance and human rights approaches overlap, especially during recent years when demand-led governance has appeared as an important instrument. While human rights principles and the criteria of governance are distinct, it has also been argued in the chapter that the broad practices of work are largely the same: an emphasis on agency and advocacy, a focus on empowerment reaching marginal groups, and strong efforts to engage service providers and duty-bearers, whether public authorities or private sector managers. In terms of the fundamental efforts of creating constructive accountability, it is often only the language used which is distinct. Concerning impacts on the poorest sections of the population, it would be hard to conclude which approach serves the population the best based on the evidence available.

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Overcoming the Protection/ Promotion Dichotomy Human Rights Based Approaches to Development and Organisational Change within the UN at Country Level

Wouter Vandenhole

Several institutional reforms are underway at the United Nations (UN) in order to strengthen development cooperation efforts and human rights implementation at the country level. Efforts to mainstream human rights in development programming and planning have been frustrated by organizational, contextual and leadership obstacles. In addition, mainstreaming human rights has been marginalized by other development agenda's and approaches. The *Delivering as One* initiative is yet another attempt to increase the UN system's impact through enhanced integration. Its contribution to human rights-based approach is uncertain, though. On the human rights side, the Office of the UN High Commissioner for Human Rights has been expanding its network of field presences, in order to support the implementation of human rights on the ground. It has also deployed human rights advisors in UN country teams. More often than not however, a wide gap between development and human rights actors within the UN persists. This chapter aims at examining the primarily organizational impact that consecutive institutional reforms of the UN presences at the country level have had on mainstreaming human rights in development cooperation, and which actors and factors have facilitated or inhibited change.

Organizational change within the UN with regard to the introduction of human rights-based approaches at the country level has been determined by agency (leadership, capacity, accountability, role definition) rather than by structures. United Nations Country Teams and Resident Coordinators have been key drivers of organisational change.

Conceptually, human rights based approaches to development (HRBA) have not been a major driver for change within the development branch of the UN. While the effect of the introduction of HRBA on *development* may always remain limited, for the UN is believed to be too small a player to influence development, some impact may have occurred on the *process of development* by increasing the participation of the people concerned.

Human rights-based approaches to development can only work if the disconnect of the UN development players with the work of the UN human rights actors (like the UN human rights treaty bodies) is removed.

The protection-promotion dichotomy at the organisational level has to be given up. A fundamentally different understanding of how to relate to governments in order to effect change. Development actors believe in a partnership with governments and define their role as the promotion of human rights, while human rights actors are believed to take a more adversarial or confrontational role (protection of human rights).

Mistaken beliefs about the implicit theory of change guiding the UN human rights actors need to be given up as a precondition for any meaningful endeavour by UN development actors to engage in human rights-based approaches in order to change human rights outcomes and impact of their work. Operational theories of change in the human rights field do not exclusively focus on naming and shaming; some put processes of persuasion or socialisation central. Moreover, human rights treaty bodies do not adopt a confrontational approach in their monitoring of state parties' performance, but engage in a constructive dialogue.

Results-based management in the field of human rights-based approaches to development, which seems to assume a direct causal chain between interventions and results, may spoil rather than facilitate human rights change on the ground. There is no evidence for assuming a simple cause-effect relationship. Rather, a multidimensional, complex understanding in the field of human rights seems warranted.

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EU Development Cooperation: The Contours of Engagement at the Global and National Levels

Mirjam E.H. van Reisen and Daniel R. Mekonnen

The EU is the leading sponsor of development cooperation in the world. Its development cooperation is subject to compliance with treaty obligations. Chief among such obligations are the promotion of human rights in the framework of democracy and good governance as are defined by the Lisbon Treaty and other development instruments of the EU, such as the Cotonou Agreement. We discuss the development aspirations of the EU from the viewpoint of a clearly defined theory of change that promotes a rights-based approach to development. One of the major gaps in extant academic literature on human rights and development is the absence of a clearly defined theory of change which guides policy and practice of development actors, such as the EU.

Taking this as a point of departure, we build our discussion on the various theories of change for donor agencies as expounded by Rosalind Eyben et al and some discussion papers and policy documents developed by the Department for International Development (DFID) – UK. We espouse the need for a strategic thinking about how change occurs in those countries where the EU invests via its development cooperation instruments. We ask as to how the EU can best use its development cooperation instruments effectively in support of change processes that will lead to better and more sustained outcomes for people living in poverty.

We argue that there is a casual link between human rights and development on the one hand and democratic accountability and development on the other. We understand human rights as encompassing the element of democratic accountability or democratic governance without which human rights cannot be respected or protected. In elaborating this, we discuss two examples that explain our assessment of the extent to which EU development cooperation can make real change in the lives of poor people. The examples recognise the role of the EU in the global policy framework affecting poor countries, as well the

new central role of the EU in determining relations with third countries. In the first case elaborated we identify democratisation of global governance as crucial for sustainable policies that will benefit poor countries, who at present lack voice at the international level. The first example discusses the prevailing development practice of the EU with the African, Caribbean and Pacific countries (ACP) in general. In our second example we discuss Eritrea as a pertinent case study to interrogate the extent to which some development actors, such as the EU, may at times be seen as spoilers of change instead of being seen as drivers of change. In relation to the ACP Group, we observe that the EU needs to play a pivotal role in order to create international governance structures that are more responsive to the development aspirations of the developing world.

We argue the need for the group of poor countries to have voice in global governance and point to the responsibility of the EU to promote this, which is also, almost certainly, in its own interest. Our second case study shows that in some instances the role of the EU as a development partner can be severely constrained by lack of clarity of purpose to an extent that it may even be seen as condoning the deplorable situation of human rights violations in countries such as Eritrea. Based on these observations, we call for a revised EU strategy on development cooperation both at the global and local levels.

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Standardised practice: From international labour standards to development practice

Hugo Stokke

The chapter looks at the operative work of the International Labour Organisation (ILO) in combating child labour. The International Programme on the Elimination of Child Labour (IPEC) is the main arm of the ILO addressing child labour world-wide. Drawing on organisation theory, it is argued that progress towards eliminating child labour can be advanced by taking direct action by removing children from the workplace and enrolling them in educational institutions combined with compensation for children and their families, but also by creating an enabling environment through advocacy, law and policies. The chapter discusses how progress towards this goal can be measured and what types of indicator would be most appropriate for measurement. The chapter examines a selection of projects that feature direct action and combinations of direct action with the creation and promotion of an enabling environment.

The main conclusion is that fulfilment of direct action objectives has been more successful than fulfilment of the objectives of promoting an enabling environment. This may be due to a number of reasons. Direct action objectives are easier to measure, more feasible within the time and resource constraints of the standard project cycle, and within the control of project management. For the objective of promoting an enabling environment, the opposite is the case. It is more difficult to measure what is an enabling environment, the feasibility of creating and promoting one within the constraints of the project cycle is debatable and progress on this front is largely beyond the control of project management.

The policy implications of these conclusions are that both these main objectives should be considered separate activities and hence difficult to combine within a standard project framework. Given the limits and constraints of a time- and resource-bound project, activities should be adapted to these constraints and basically aim at tangible outcomes.

Within the aid industry, donors are preoccupied with achieving results in order to justify the spending of state revenue to their political constituencies and taxpayers. Creating and promoting an enabling environment are altogether too open-ended an endeavour to be easily fitted into the usual project framework and the results, if any, cannot be assured, and are, therefore, potentially risky.

The main policy recommendations, drawing on this chapter, are two-fold. If the accent is on achieving results within the standard project framework, projects should aim at generating benefits for targeted groups; the targets and benefits and the means to generate them should be specified as precisely as possible. This will achieve piecemeal change at the micro level and leave the macro level largely untouched. However, if the objective is to achieve institutional change at the macro level, the standard project concept may have to be radically rethought. Such objectives may require long-term engagement, different types of competence and an institutional presence that goes beyond the turnover of project managers. Institutional memory and continuity are key elements in such a presence.

However, the theoretical question of what comes first, the cart or the horse, remains unanswered. Is macro institutional change a prerequisite for micro piecemeal change to succeed on a sustainable basis or can successful micro change be a factor in pushing for macro institutional change? There are no ready answers to those questions, and projects aiming to achieve both objectives might find themselves overstretched.

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Human Rights Indicators and MDG Indicators: Building a Common Language for Human Rights and Development Organisations

Gauthier de Beco

This chapter deals with the integration of human rights indicators and Millennium Development Goals (MDGs). After discussing relationships between human rights and development organisations as well as complementarity between human rights and development, it examines the use of MDG indicators to monitor human rights and that of human rights indicators to monitor the MDGs. It also looks into the practical and substantive obstacles to convergence between human rights and MDG indicators.

In order to understand the spoilers and drivers of organisational changes, the chapter relies on the theories of change examined in the introductory chapter. Special attention is given to the inward looking theories of change, as the chapter is principally concerned with the internal dynamics and priorities of human rights and development organisations. The theory that changes in organisations are produced by adopting new approaches is especially referred to, as the integration of human rights indicators and MDG indicators requires that these organisations adapt their methodologies. By assessing the changes in approaches that are taking place in human rights and development organisations through shifts in focus and interdisciplinary discussions, the chapter shows how indicators help to build a common language for these organisations. As far as human rights organisations are concerned, this is in particular applied to the Office of the UN High Commissioner for Human Rights (OHCHR).

This chapter shows how MDG indicators can be converted into human rights indicators and human rights indicators incorporated into the MDG indicators with reference to the recent work of the OHCHR. This double process could help both human rights and development practitioners to improve monitoring both human rights and the MDGs. MDG

indicators could help to establish benchmarks for the progressive realisation of economic, social and cultural rights, which could bring a more practical dimension to human rights, whereas human rights indicators could ensure that the MDGs embody human rights obligations, as provided for in the Millennium Declaration. While this allows human rights organisations to pay greater attention to implementation and take advantage of the MDG process, it could also help development organisations to adopt human rights-based approaches to development. Human rights indicators and MDG indicators can thus compensate for their respective shortcomings and enable human rights and development organisations to link their respective agendas.

The OHCHR should be encouraged to continue its work on integrating human rights into the MDGs and the EU to support and take it into account in its external relations activities.

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A Change of Road for the Rights-Based Approach? A Reflection on Piloting a Health-Enabling Mobile Technology Programme in Kwazulu-Natal, South Africa

Stephen Porter

In order for human rights-based theories of change to be relevant for grassroots development organizations they need to tangibly direct practitioners to programme actions. The current UN human rights-based development framework is not practical enough, and is difficult to apply at the grassroots of development work. This argument is based upon a reflection of the experience of implementing a mobile technology pilot, called Impilo, that sought to improve people's access to health services in Umkhanyakude in the north of KwaZulu-Natal, South Africa. A tangible conception of rights directs attention to processes that help to apply key concepts of human rights in programming. The principle of joint production of information between those who produce and those who and use public services is argued to be a potential avenue to sharpen rights-based theories of change.

Rights-based work should focus on implementing programmes that provide a basis for citizenry and state to interface through the use of information. Applying the principle of the joint production of information is key in developing a tangible, concise rights-based programme theory that helps to get different interests producing and using information.

Joint production is a practical set of tests that guides implementation by defining the process of how service providers (state) and people regularly enter into discussion around programme issues and occasionally redefine action based on information. The joint production mechanism highlights three tests that define a process for generating useable information.¹

- Information sought needs to be salient. Saliency can be achieved by seeking answers to important issues in time for decision-making: Does the information gathered answer weighty questions?

- The process and evidence needs to be seen as legitimate by interest groups by being unbiased and inclusive. Strengthening legitimacy can be attained through the involvement of the stakeholders who would use the information: Do the interests involved see the information as fair?

- The method of generating information needs to be credible. Credibility depends on the information passing appropriate tests of validation. The extent of validation depends on the issues that need to be understood and the timeline for decisions, rather than a predefined Gold Standard: Are the results seen as trustworthy by interests?

These tests stand in contrast to other evaluative processes that do not promote information use. Such processes generally focus on methodology, with experts defining questions, who undertake extractive data gathering procedures with limited feedback.

Application of the principle of joint production helps to work through three issues with current UN rights-based theories of change:

- Analysis is focused on the most relevant issues to local stakeholders, rather than ranging across a multitude of legalistic human rights concepts;

- Recognition is given to the importance of developing capacity of organisations to use information; and

- Human rights concepts are grounded through the process of joint production (vernacularization) rather than elite legal concepts being forced into community settings.

Joint production is not an easy option. Expertise is required in a number of fields, such as community development, information synthesis and vernacularization of human rights. However, through applying the joint production principle the rights-based theory of change becomes less amorphous and easier to perceive because of the prioritization of actions and information flows with important interests. This can help to bridge accountability gaps by preparing the ground for shared conversations on action.

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1. Clark, William.C., Mitchell, Ronald.B., and Cash, David.W. (2006), 'Evaluating the Influence of Global Environmental Assessments', in Ronald.B. Mitchell, et al. (eds.), *Global environmental assessments: information and influence* (Cambridge: MIT), 1.

The Ethiopian Law Governing Civil Society Organisations: Divorcing Human Rights and Development?

Sisay Yeshanew

In recent years, many governments have been using the gaps in accountability frameworks and the calls for harmonization of the development efforts of governments, civil society organisations (CSOs) and donors to introduce legislations that restricted the operational space for CSOs. One such law is the 2009 Ethiopian Proclamation providing for the registration and regulation of charities and societies. This Proclamation classifies CSOs based on the law under which they are formed, the nationality of their members and their source of funding. It then allows only CSOs that are formed under Ethiopian law, are constituted by Ethiopians and derive 90 per cent of their funds from local sources to work on issues of human rights and conflict. Other CSOs (called resident and foreign NGOs) may only do development and relief work. Although the government justifies the restrictive elements of the law by the need to ensure the accountability of CSOs and the local ownership of human rights and governance issues, the approach it followed overreaches these otherwise legitimate purposes. The restrictions of the law rather appear to have been born out of a tension between CSOs and government.

Following the introduction of the law, more than half of the CSOs that existed before the advent of the law ceased to operate. Many CSOs, which used to work on human rights and governance issues, either wound up their programmes or changed their focus to development. The legislation restricted the contribution of NGOs in promoting and applying human rights-based approaches to development – resident and foreign NGOs because of the rights aspect of the approaches and Ethiopian NGOs because of funding constraints. In allowing foreign and resident NGOs to engage in poverty reduction and other development interventions while prohibiting them from engaging in human rights and governance issues, the Proclamation in a way divorces human rights and development in as far as the work of CSOs is concerned. The study finds that the restrictive elements of the law are not compatible with international and national human rights and development-policy instruments that Ethiopia has signed or adopted.

CSOs and donors have carried out various levels of negotiations with the government with a view to exclude the restrictive elements of the law or at least minimise their effects. The opportunities of consultation that were availed at the drafting stage were used to introduce some changes, but they did not succeed in excluding the limitations relating to funding and division of areas of operation. After the law came into force, focus turned to enabling CSOs cope with the changed legal and regulatory environment. A CSO taskforce and the Development Assistance Group in Ethiopia have, for example, established the adaptation and tracking facilities to help CSOs cope with the law and to engage in continuous dialogue with the government.

Multilateral and bilateral negotiations have led to some informal exceptions to the application of the law. While the EU delegation to Ethiopia has reportedly received the nod of the government to its argument that the European Development Fund, including its Civil Society Fund, be considered as local money for it was granted to the Ethiopian Government, the UNDP did not succeed in getting a formal agreement to its similar argument with regard to its civil society grants. Exemptions were also made in relation to funding to Ethiopian NGOs that participate in or benefit from the multi-donor support programs called Protection of Basic Services and Democratic Institutions Program. The problem with the informal exceptions is that the government may always renege in situations where it believes that the objectives of the law are somehow defeated.

Overall, attempts to introduce changes to the limitations of the law have had little success because of the government's determination to pass the law and implement it anyway. It must, however, be noted that both CSOs and donors could have been more assertive in their dealings with the government. CSOs should have, for example, tried the avenue of contesting the constitutionality of the Proclamation based on its contravention with the freedom of association, the right to development and other relevant rights that are guaranteed under the Ethiopian Constitution.

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The Ethiopian Law Governing Civil Society Organisations: Divorcing Human Rights and Development?

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Donors could have also attached their recommendations for some basic changes to the substantial aid that they provide to the Ethiopian government. The rhetorical justification of the law by the need to counter the usage of CSOs to promote foreign interests should have been met with more stern arguments from the side of development partners. This is not to suggest that confrontation is a better option to dialogue, but rather to indicate that a carrot-and-stick approach could be better than the 'soft speak' that seems to have emboldened the government in its positions on the restrictive elements of the law. The timidity of the donor community in dealing with what is considered to be a big issue of cooperation would give the impression that the development partners are concerned more about the continuity of their partnership with the government than the effectiveness of their engagement. Of course the lead in putting up pressure for change should be taken by CSOs in Ethiopia, but donors can play a supportive role.

Despite the implementation of the restrictive elements of the law, the tension that had reigned in the immediate aftermath of the law has been clearing by the day. In addition to supporting more assertive actions, development partners including the EU and UN agencies, should provide non-monetary support to Ethiopian CSOs, strengthen and work with CSOs to which the law does not apply, such as traditional community-based structures, school clubs, human rights centres based in Universities and facilitate special agreements with the government that lead to the exemption of their partner CSOs from the application of the law.

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Anti-Development Development: ActionAid's Human Rights-based Approach and its Impact on Organisational and Operational Change

Paul Gready

ActionAid was formed in the UK in 1972 as a child sponsorship charity and is a leading international development NGO. Since the 1970s it has moved from child sponsorship, to child focused community development and finally to a human rights-based approach to development (HRBA). The organisation has over a decade of experience of working with HRBA. An analysis of its work is timely because it has just undergone its third strategy review and a new international strategy, People's Alternatives for a Poverty-Free Planet, was signed off in July 2011 (for the period 2012-17). The new strategy contains an explicit theory of change:

We believe that an end to poverty and injustice can be achieved through purposeful individual and collective action, led by the active agency of people living in poverty and supported by solidarity, credible rights-based alternatives and campaigns that address the structural causes and consequences of poverty.

ActionAid's work raises the question of whether adopting an HRBA is purely a programming commitment or should apply to all aspects of an organisation's work. ActionAid illustrates both how HRBA is grafted onto and reframes previous ways of working (such as child sponsorship), and how HRBA is itself shaped by particular organisational histories. Organisations are generally more willing to take on new approaches than they are to cast off old ones. Hence change occurs through the creation of hybrid approaches and layered organisational archaeologies rather than through clean breaks with the past. ActionAid has also undergone far-reaching attempts to align all aspects of its work (and not just programming) with HRBA. While this project is still work in progress, impressive attempts have been made in areas as diverse as accountability procedures, governance structures and organisational review processes. Change has proceeded through cycles of misalignment and realignment; organisational and operational change are clearly interlinked. Strangely, given this comprehensive embrace of HRBA, a coherent

approach to HRBA programming was only set out in 2010, with the publication of Action on Rights: Human Rights-based Approach Resource Book. A second edition of the resource book People's Action in Practice: ActionAid's Human Rights Based Approach (2012), attempts to apply HRBA to all aspects of organisational activity. With these documents and a new international strategy in place the organisation can claim to have gone further than any other international NGO to integrate human rights into all aspects of its work.

Policy relevant findings:

ActionAid's work illustrates an important way in which organisations change. New organisational approaches encounter established organisational cultures, histories and ways of working, and individuals with diverse personal histories and professional allegiances. The new is informed by the old, while the old is recast in light of the new.

HRBA is mainly applied within ActionAid and elsewhere to programming. Work still needs to be done to create an evidence-base to support the approach and to develop programming tools to deal with tough programming choices and contexts.

Attempts have been made by ActionAid to align other aspects of its work with its approach to programming, thereby aligning operational and organisational theories of change. In the process cycles of misalignment, realignment and misalignment are created. These can be productive, creating a dynamic, reflective organisation, or destructive if an organisation simply accumulates irresolvable tensions between approaches and staff.

Adopting an explicit theory of change should help an organisation achieve the kind of consistency and dynamism described required.

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Countering Violence Against Children in the Philippines: Positive RBA Practice Examples from Plan

Karin Arts

Positive rights-based approach (RBA) development practice examples tend to be under-reported. If documented and shared more widely, such examples could become powerful resources for practitioners, policy makers and academics alike. Much experimental RBA practice focusses on child rights. It is therefore no coincidence that the chapter underlying this policy brief draws from the experiences of the child-focussed development NGO Plan. Plan is strongly committed to child rights-based approaches (CRBAs), as it expresses in its vision on change called 'child-centred community development'.

The chapter provides a critical analysis of interventions on violence against children (VAC) undertaken by Plan Philippines and supported by Plan Netherlands. In line with the seminal 2006 UN World Report on Violence Against Children (the Pinheiro Report), and with the contents and principles of CRBA, Plan sees violence against children as a child rights violation that needs to be ended structurally. The state is the primary duty bearer in this regard. In the case example, Plan Philippines deliberately engaged the state to perform in that role.

The reviewed project practice concentrated on four main areas of intervention: rights-based birth registration (which is a crucial basic condition for child – and child rights – protection), anti-trafficking, child abuse and juvenile justice. There was a clear display of the main features of CRBA across this practice, evolving around taking the UN Convention on the Right of the Child as a main framework for action and set of substantive goals to pursue; working by the general principles of the Convention (especially non-discrimination and participation); and striving for structural solutions brought about by combined efforts of governmental and non-governmental actors. This was underpinned by a relatively solid evidence base in the form of studies and reports on VAC in the Philippines, and through gathering and disseminating statistical data on the incidence of VAC in certain specific areas.

Policy relevant findings and conclusions

Working on development according to a rights-based approach usually opens up a complex and lengthy process, the progress of which is very much determined by the particular context in which it takes shape. This particular case example clearly underlines the added value of working on the basis of an explicitly articulated theory of change that directs concrete action taken on the ground. The combination of inward and outward-looking theories of change, and concrete policies and instruments of change are crucial success factors therein.

However, the case example also shows that both the articulation and the application of theories of change demand a lot from organisations, in terms of: substantive focus; information and knowledge; situation and capacity analysis; staff skills; the ability to make the required long-term commitments to working for change; and sustained and contextual implementation capacity. Nevertheless, in the end, once these assets are indeed mobilised for the sake of realising one's articulated outward and inward looking theories of change, the chances of success are good. All in all this justifies paying more attention to theories of change in both development and human rights work, by both state and non-state actors, in the future.

At the same time, straightforward but impactful implications emerge both for organisations who themselves work for change along RBA lines and for their funders, which on both accounts include the UN and the EU. Almost all project/programme experiences that were reviewed in this case study point out that the classical three year project cycle format is not necessarily amenable to RBA goals and processes. Given the complexity of the goals pursued by RBA interventions and their focus on structural solutions, a project cycle of minimally five years was pleaded for by many involved in Plan Philippines VAC practice.

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Countering Violence Against Children in the Philippines: Positive RBA Practice Examples from Plan (Cont'd)

Likewise, the focus on eliminating structural causes raises complicated questions about when and how to end interventions. For example, poverty eradication might be required. However, this goal might be too large to handle for a child-focused development organisation such as Plan. In preparation of a responsible rights-based end of an intervention, a conscious, clearly argued and communicated exit strategy then is very important as well. Finally, prevention of rights violations or deficits in the first place should be key.

Lobby and advocacy will often be crucial elements of rights-based interventions, e.g. to achieve law reform (at all levels including the local) and adoption of policy instruments. Awareness raising, skill training and other support activities are important as well. In the particular case example presented here it is e.g. key to break the silence around VAC.

While networking and collaboration with others will often be an absolute prerequisite for efficient and effective RBA work, close collaboration with others will often make it more difficult to determine the exact impact of a single actor's efforts. This is an aspect that should be accounted for in RBA project evaluations. In addition, the documentation, focus and level of specificity of evaluations often falls short of what would be required for a proper evaluation of RBA interventions, in light of its emphasis on finding structural solutions to rights deficits for all. Understandably, evaluations often focus on the details of a particular project or programme soon after it ended or when a decision on extension has to be made. The process nature of RBA would be much better served if such evaluations were more often combined with efforts to look back over a longer period of time. Particular good (and as a second priority maybe also bad) practice examples could also be recorded much more explicitly, and then become rich material for sharing and individual, collective and institutional learning.

Specific follow-up recommendations for UN and EU

Working on development according to a rights-based approach usually opens up a complex and lengthy process, the progress of which is very much determined by the particular context in which it takes shape. In response to the above-listed findings, RBA (or for that matter other) development interventions conducted, funded or otherwise supported by the UN and the EU would do well to incorporate the following aspects:

- an explicitly articulated theory of change that directs concrete action taken on the ground;
- combine inward-looking and outward-looking theories of change;
- appreciate the complexity and the lengthiness of RBA processes, and the demands they put on the organisations that design and implement RBA interventions as compared to 'ordinary' development interventions;
- where appropriate, allow for longer project cycles than currently is the standard, so as to allow time for the RBA process to unfold completely and for sustainability to be pursued and guaranteed;
- when RBA interventions have to be terminated, go by a conscious, clearly argued and communicated exit strategy;
- prevention of rights violations or deficits in the first place should be key, and is to be promoted through lobby and advocacy; awareness raising; skill training and other activities;
- RBA often requires deep collaboration between various actors, which makes it more difficult to distinguish the effects and/or impact of the work done by single actors. This has implications for evaluations of RBA interventions;
- Evaluation records and the documentation and sharing of good RBA practice examples have to be stepped up.

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Means, Modes and Methods: Donor Support Strategies for Child Rights in Kenya

Arne Tostensen, Hugo Stokke and Sven Trygged

This chapter examines how two donors – Norway and Sweden – have committed resources and applied various modes and methods of intervention for promoting child rights in Kenya. Initially we pose the question: what works and what does not work in order to bring about social change with respect to child rights? Typically, donors commit aid resources through two main channels: state-to-state collaboration or through civil society organizations (CSOs). Furthermore, their modes and methods are principally mainstreaming and targeting. The former entails keeping the best interests of the child in mind at all times across the entire policy terrain and infusing every intervention with a child rights perspective. In other words, mainstreaming is a cross-cutting concern to ensure that its paramount importance is heeded. In principle, mainstreaming requires the entire donor organisation to be capable of implementing it, e.g. possessing the requisite knowledge and practical skills to inject a child rights perspective into every intervention. By contrast, targeting is a selective approach for directing resources to pre-defined categories of children in order to provide them with tangible benefits. Mainstreaming is more befitting state actors and tends to address the upstream legal and policy environment that has a bearing on all human rights interventions. It should be recalled the state is the principal duty-bearer in terms of the International Convention on the Rights of the Child. Targeting is usually associated with civil society downstream projects but could also, in principle, be state-run.

Mainstreaming and targeting are not mutually exclusive in operational terms. Rather, an approach combining mainstreaming and targeting is the advisable policy option. Such a complementary approach is informed by a complex theory of change, comprising multiple actors and methods adapted to the societal context of Kenya. Based on project experiences with both prongs inferences are made about their relative merits. We find that mainstreaming is best applied to state agencies, and targeting to CSOs due to their flexibility and rapidity of response. CSOs are best placed for short-term, rapid change, but for long-term incremental, systemic change, government interventions are the

preferable option. For aid interventions to succeed, the required resources must be provided, while adapting the interventions to the purpose at hand and applying sound methods for designing and implementing the preferred modes.

Taking full account of the changing environmental context is paramount, both in terms of existing policies and institutional framework that bear on the efficacy of actions. Attention should be given to the role of actors – principally institutional actors. In their capacity as drivers of change, institutional actors are up against wider societal structures. Thus, an actor perspective can only be meaningful when considered within a broader societal context as the arena in which the struggles for change unfold. Dialectical, mutual interaction between actors and the wider context also suggests the need for addressing internal organisational changes to complete the picture. Organisational actors in their pursuit to change the external environment are themselves affected by the resistance they encounter.

In view of the above depiction of the context, a complex theory of change is called for in order to take account of multiple actors, means, modes, methods, layers, and structures. One needs to go beyond the conventional logical framework analysis (LFA) that donors routinely use when designing interventions. The LFA tends to be internal to the interventions. Its limited scope underplays the broader contextual environment and how it impinges on the implementation process and outcomes. However, applying a complex theory of change is demanding analytically and in terms of data gathering. Still, there is no escaping such an approach if one wishes to acquire an understanding of the change processes that carry hope for fulfilling child rights.

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Can Legal Empowerment Grounded in Human Rights Lead to Social Change?

Bård A. Andreassen

The legal empowerment argument, for instance advanced by the UN Commission on Legal Empowerment of the Poor (2005-2008), states that if people have access to justice and formalized rights to their property and resources, they are in a better position to plan their lives and make strategic choices that can move them out of poverty. However, billions of people are deprived of access to legal institutions, or functioning rule of law systems, and hence, are unable to use legal measures in their struggle to climb out of poverty. This argument reflects a clear-cut theory of how law can be used proactively to advance social change. Yet testing this theory on empirical evidence shows that legal strategies of change are embedded in social and political contexts. These contexts need to be carefully studied and understood in order to develop realistic and effective policy interventions that support legal empowerment mechanisms.

Several policy-related inferences can be drawn from empirical studies of legal, and the broader notion of human rights, empowerment. Firstly, legal empowerment is not just about access to legal institutions but also about reforming the political-legal context (institutions, laws, practices): are governments actively pursuing legal reforms that support people's awareness of their rights; are support mechanisms introduced for accessing legal institutions; are local and traditionally accepted mechanisms of arbitration employed in resolving social conflicts that complement (or pre-empt) litigation? Such questions need to be addressed when practical policies and programs are developed.

Secondly, popular trust in legal institutions is essential for legal strategies to work. Demanding and supporting judicial reforms that may enhance trust is an important social prerequisite for legal empowerment as a strategy of change.

Thirdly, legal strategies of change also require institutional and political compliance with legal decisions, for instance decisions resulting from public interest litigation (PIL). The effectiveness of PIL depends on institutional commitment and compliance with legal decisions; when institutions are weak and corrupt, PIL as a strategy for social improvement (e.g. in right to food cases) is seriously undermined.

Addressing empowerment entails a focus on power. There has been little systematic analysis of power in the human rights literature; in effect, power it has not been adequately reflected in local, national or international human rights advocacy. Empowerment represents a change in power relations and a human rights approach implies a change in the balance of power between rights-holders and duty-bearers. Citizens in position of power, e.g. holders of public office (or other 'high' power, such as economic power) should operate with respect for people's human rights. This is the essence of human rights accountability. The human rights doctrine implies that rights of citizens are respected, protected and fulfilled, and this chapter argues that this entails that practices of power are continuously checked against human rights principles.

It follows from this observation that legal empowerment entails mechanisms for producing power, and 'negotiating' and altering power relations in society. This makes legal empowerment controversial, sensitive and 'political' in the sense that it has adversarial impact on powerful actors and elites. Yet, this change of power relations is what legal empowerment is about, and what theories of change in human rights and development need to disentangle: legal empowerment of the poor implies opening up new spaces for claiming rights by people living in poverty, e.g. by awareness-raising, training and other means of rights advocacy. For development actors, the fact that legal empowerment represents countervailing power of people deprived of basic rights (e.g. the landless, the urban shantytown dweller) may pose a significant operational challenge in need of being seriously addressed.

Empirical evidence suggests that changes of power relations (inherent in the notion of empowerment) have social requisites such as collective action by networks and alliances that facilitate awareness about rights and social capacities for demanding accountability by public institutions and governing elites. Policies for social change in this field need to understand the institutional mechanisms of social actors and forces.

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Can Legal Empowerment Grounded in Human Rights Lead to Social Change?

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A practical inference of this analysis is that legal empowerment actors should be aware of how closed spaces of power prevent them from having a voice in processes of social change. At the same time, the research also indicates that empowerment may have social transformative capacities at the individual level in local communities (e.g. by solving land disputes) as well as systemic impact through institutional reforms that give people access to legal institutions and related conflict-resolving mechanisms (local arbitration).

Lastly, legal and the broader notion of human rights empowerment both require a 're-politicization' of human rights-based development strategies that emphasise that improvements in everyday lives for people living in poverty by the use of hard and soft law (in short, litigation and arbitration). This requires that public institutions are held accountable for their human rights obligations and that this accountability is continuously monitored and demanded by social and civic actors, including bar associations, the media sector and civil society in general.

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