Human Rights and Development

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A Rights-Based Approach to Development

In the previous chapters on conditionality and positive support, the concepts of development and human rights remained separate; rights were a (usually small) complement to development work—either a consideration to be added when making funding decisions or a sector to be funded in addition to other, “regular” development fields. Even though the saliency of human rights had increased, the latter were still considered to be logically distinct concepts, aims, or practices—and, let’s face it, from the perspective of most development professionals, clearly secondary.

At a higher level of integration, however, a new paradigm of rights-based development is emerging among certain agencies. At this level, development and rights become different but inseparable aspects of the same process, as if different strands of the same fabric. The boundaries between human rights and development disappear, and both become conceptually and operationally inseparable parts of the same processes of social change. At this, the highest level of integration [discuss in this book], development comes to be redefined in terms that include human rights as a constitutive part. All worthwhile processes of social change are simultaneously rights-based and economically grounded, and should be conceived of in such terms. This makes intuitive sense, for at the level of human experience these dimensions are indeed inseparable (Craig Scott 1999, 635–36).

A story may illustrate the point well. A few months into the refugee crisis in Zaire that began in the summer of 1994 after the Rwandan genocide, a colleague went to Goma for an assessment of the health and nutrition situation in the camps. Upon return, he told me that nutrition intakes in the camps were high, as were vaccination rates and access to health care. As a matter of fact, he added proudly, these rates were better than they had been before people fled their homes. As I put down the phone, I realized that my colleague had just described the basic needs and even “human development” approach as implemented by the main development actors: great attention had been paid to health care, nutrition, vaccinations, and the other so-called basic, human dimensions of development. If that is true, then, according to the progressive vision of development then in vogue, people in these camps were “more developed” than before. We intuitively feel that this is nonsense, of course. When people are deprived of their freedom, live in constant fear, cannot move or work as they wish, and are cut off from the communities and the lands they care about, development has emphatically not taken place.

This story tells us that there is no way to separate human rights from economic and social improvement; the terms mean nothing without each other and can only become meaningful if they are redefined in an integrated manner. [Maslow is dead; there are no basic needs. It also tells us, once again, that the process by which development aims are achieved is as important as the actual products. Processes can build on, strengthen, neglect, or undermine local capacities, local networks, local knowledge and ways of generating it; they can also fail to respect people and their dignity or their cultures. In that case, the aid given further reinforces the state of deprivation, even though more calories may temporarily be available. The same insight about the fundamental importance and inseparability of both human rights and development also flows from participatory assessments of deprivation and poverty. A few years ago Robert Chambers, father of the rapid, participatory, rural appraisal approach to development research, synthesized decades of work with local communities throughout the world (Chambers 1995). He argued that from the point of view of the poor, what he calls the condition of deprivation is about much more than lack of income. Deprivation is characterized by social inferiority, isolation, physical weakness, vulnerability, seasonal deprivation, powerlessness, and humiliation. And the World Bank (2000), after a process of interviewing thousands of poor people worldwide, now describes poverty as multidimensional: poverty, as the poor themselves see it, goes far beyond low income, encompassing also a lack of access to health and education, as well as vulnerability, voicelessness, and powerlessness. Effective poverty alleviation requires that each of these dimensions be addressed. This also strongly suggests the need for further research in each case where outsiders seek to promote social changes—research that need not be heavy handed and time consuming but that at least addresses local dynamics and perceptions: What is already being done by local people to address the problems? What do they think they...
have learned? What are the constraints they identified made their work difficult in the past?

The same sort of point has also been made from a theoretical perspective, and by none better than Amartya Sen, who in Development, Amartya Sen synthesizes many of these insights. He defines development in terms of the expansion of capabilities or substantive human freedoms, "the capacity to lead the kind of life he or she has reason to value" (Sen 1999, 87). He rightly adds that "despite unprecedented increases in overall opulence, the contemporary world denies elementary freedoms to vast numbers—perhaps even the majority—of people." He goes on to argue for the removal of major factors that limit freedom, defining them as "poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, neglect of public facilities as well as intolerance or over-activity of repressive states" (Sen 1999, 1; see also UNDP 2001, 19).

An interesting part of Sen's work is his treatment of the mutually constitutive and simultaneous links that exist between freedom (human rights) and development:

There is the often asked rhetoric: What should come first—removing poverty and misery, or guaranteeing political liberty and civil rights, for which poor people have little use anyway? Is this a sensible way of approaching the problem of economic needs and political freedoms—in terms of a basic dichotomy that appears to undermine the relevance of political freedoms because the economic needs are so urgent? I would argue, no, this is altogether the wrong way to see the force of economic needs, or to understand the salience of political freedoms. The real issues that have to be addressed lie elsewhere, and they involve taking note of extensive interconnections between political freedoms and the understanding and fulfillment of economic needs. The connections are not only instrumental (political freedoms can have a major role in providing incentives and information in the solution of acute economic needs), but also constructive.... I shall argue that the intensity of economic needs adds to—the rather than subtracts from—the urgency of political freedoms. There are three different considerations that take us in the direction of a general pre-eminence of basic political and liberal rights: their direct importance in human living associated with basic capabilities (including that of social and political participation)
their instrumental role in enhancing the hearing that people get in expressing and supporting their claims to political attention (including the claims of economic needs)

Such ideas have made great inroads in international development discourse. Take this statement, for example, from the milestone UN secretary-general's 1994 Agenda for Development, specifying the relations between development and human rights:

Democracy and development are linked in fundamental ways. They are linked because democracy provides the only long-term basis for managing competing ethnic, religious, and cultural interests in a way that minimizes the risk of violent internal conflict. They are linked because democracy is inherently attached to the question of governance, which has an impact on all aspects of development efforts. They are linked because democracy is a fundamental human right, the advancement of which is itself an important measure of development. They are linked because people's participation in the decision-making processes which affect their lives is a basic tenet of development. (UN 1994, par. 120; see also UN 1997)

Note that this was written six years before Sen's book by an institution that is not exactly a harbinger of philosophical innovation. Hence, we have to at least acknowledge that these ideas have been around in the development field for a long time. Rather than congratulating ourselves on how smart and insightful we have become since we all read and began quoting Sen's work, we ought to ask why we have not acted on these ideas before. And this is where we encounter the limits of Amartya Sen's major contribution to development. Sen does not move beyond the level of broad paradigmatic insight, nor does he try to. He did state and clearly reaffirm important and well-argued conceptual insights, but he did not even begin to talk about their implementation, which is what the present book sets out to do. This is hardly cause for discarding Sen's major contribution; no one person is obliged to do everything. What it does mean, though, is that agencies, by signing up to Sen's vision, remain uncommitted to anything more than improved discourse.

All this begs a question: why the constant barrage of praise for and reference to Sen's seminal contributions to the development field? The reason is deeply linked to the constant search for moral high ground that occupies so much of the development community. Indeed, competition for
scarce resources is tough for actors in the development enterprise (Duff
2001, 223). Yet, contrary to the market, money is never made but only spent (and in the billions of dollars a year, at that); the voices of the user of the services supplied are hardly heard; actions are rarely critically evaluated; and product-quality measures are almost totally unknown. In that world, as in, say, academic fund-raising, the development of attractive visions is the primary recipe for survival and growth. Such visions combine the appeal of science with the moral high ground, and their essential function is just that—providing visions of oneself, markers of identity, trademarks of progressiveness. Many of the ideological changes the development community goes through are traceable to this imperative, and the glorification of Sen’s fine work is no exception to this. As said above, with deeply insightful and stimulating conceptual formulations, along with zero practical guidelines or obligations, there is nothing to lose in Sen. Adopting his vision costs next to nothing—it is a pure win-win situation for aid agencies.

But there is one more reason for the popularity of Sen’s work, and that is that he has been able to restate well-known things intelligently in economic-sounding language. Amartya Sen is an economist by profession, and a good one at that. Over the years he has constructed a body of work that is erudite, methodologically and theoretically sound, empirically rich, as well as—a rarity in his profession—resolutely multi-disciplinary and informed by a deep ethical vision. The fact that he is an economist employed by prestigious universities such as Harvard and Cambridge, and who is therefore, at first sight, certifiably serious and authoritative, speaking in the language of the dominant ideology, *economics*, adds to his appeal—an appeal that has come to border on sanctification since he received the Nobel Prize. We, the softies, the do-gooders, the marginal ones, need every economist who comes our way!

Yet, what is the concrete impact of this new thinking? What do development actors do differently when they redefine development along the lines of Sen’s ideas? It is interesting here to look at the institution whose discourse has most taken over Sen’s ideas, the UNDP. Its excellent *Human Development Report 2001* dealt with human rights, human development, and the relations between the two. The report is full of interesting insights and, indeed, has a very distinct intellectual feeling, much more than, say, your typical World Bank report, or even a UNDP report of a decade ago. This is what the section that describes the practical implications of “promoting rights in development” proposes:

- launch independent national assessments of human rights
- align national laws with international human rights standards and commitments
- promote human rights norms
- strengthen a network of human rights organizations
- promote a rights-enabling economic environment. (UNDP 2001, 112)

As we can see, the first four are of the kind we already described under the heading of positive conditionality. These are all potentially useful activities, but they do not reflect any mainstreaming of human rights into development practice; they are simply small, technical add-ons. Only the fifth one seems to offer the potential of going further:

How to create an enabling environment in which public policy can most effectively provide resources for advancing human rights? First, the public sector must focus on what it can do and leave for others what it should not do. . . . Second, with this division of labor, the state can focus on the direct provision of many economic, social, and civil rights. . . . Third, the major economic ministries, such as finance and planning, need to integrate rights into the economic policymaking process. . . . Fourth, the private sector also has responsibilities in creating an enabling economic environment. Chambers of commerce and other business organizations should contribute to efforts to further improve human rights. (UNDP 2001, 116)

Is this all the new approach amounts to? A standard repetition of the end-of-the-1990s liberal dogma of the sanctity of economic growth and human resource development combined with some pious statements that ministries and corporations ought to integrate human rights into their work? How would this come about, this brave new world in which finance ministries and businesses all work for the promotion of human rights? All this resembles very much what I was writing in my earlier section on rhetorical repackaging. In addition, note that none of the human rights objectives relates to the UNDP itself or to the aid enterprise more broadly. In addition, all the recommendations are to be implemented “out there,” in the “Third World,” without requiring a critical look at oneself. There is no notion here that a rights-based approach (RBA) to development is something that starts at home or has implications for how aid agencies work.

The rights-based approach to development, then, seems like a lot of rhetorical fluff with little in the way of hard content—and that has also been the spontaneous reaction I encountered when mentioning it to practitioners
in the field. Many of them are turned off by what they perceive as the fluffiness of it all: they wonder how the famous RBA will concretely help them to do things better on the ground as opposed to writing nicer documents.

And yet, more is possible. Human rights, when deeply integrated with the practice of development, can be a very powerful addition and correction. Talking about the integration between human rights and development can be much more than adding to the moral high ground. As Hugo Slim states so well:

Rights-talk can function differently from different mouths. It depends who is speaking about rights and where they are speaking. Human rights can sound and act very differently when they are spoken from what Gustavo Gutierrez [sic] calls “the underside of history”—the muddy side where people pay the price for those walking along the top. The same language of rights that may be rhetorical fluff in one place may be words of extreme courage and radical change in another. The power of speech is the power to name and define things. The use of rights-talk in Washington or Paris might be used piously as new words for the same old liturgy in the cathedrals of international trade and development. This might indeed be repackaging of old wine in new bottles as Peter Uvin suggests. It represents the power of re-dressing rather than power of dress. But from another place (a slum or the scene of a rigged election) and spoken from another voice (that of a poor man or a woman land rights lawyer) the same words of rights-talk could function prophetically as a demand for redress to change and challenge power. (Slim 2002)

Anyone who looked at the life or read the writings of another Nobel Prize winner, Burmese political leader Aung San Suu Kyi, will realize that her declaration that “the struggle for democracy and human rights in Burma is a struggle for life and dignity. It is a struggle that encompasses our political, social and economic aspirations. The people of my country want the two freedoms that spell security: freedom from want and freedom from war. . . . Democracy and human rights are indivisible from the culture of peace and therefore essential to sustained development” (Kyi 1995; see also the Dalai Lama 1999, 3–4) is more than fluff. This is a vision for which she and many other people are willing to risk their lives.

In the next pages, I try to tease out what, concretely, a rights-based approach to development entails, and how it would differ from standard practice. I try to identify “new” things rather than simply repeating what I (and others) have already stated. Let me begin by stating that the rights-based approach to development changes the nature of the game not because it edicts rights as fixed properties or legal certainties or because it somehow leads us to discover brand-new actions or services we would never have thought of beforehand. Rather, there are two basic ways in which the rights-based approach to development differs from its predecessors, and they permeate all we do when we “do” development. First, an RBA creates claims and not charity (the end of development aid differs, and consequently the whole process of thinking about it, of defining the nature of the problem, changes as well—a new vision emerges). Second, an RBA affects the way development actions are implemented (the means, the processes, are different, even if many of the goals remain the same) (Sengupta 2000a, 568).

Vision

The RBA focuses on claims and thus duties and mechanisms that can promote respect and adjudicate the violation of rights (Hamm 2001, 1014). As CARE states, “[O]ur human rights focus will mean that we view those we serve as rights-holders, not simply beneficiaries or participants” (Neggaz 2001, 15). This should affect the nature of the response, moving away from charity toward structural change. As Urban Jonsson from UNICEF correctly states, comparing

needs-based and a rights-based approach to nutrition, . . . the essence of the differences is that in the former ‘beneficiaries’ have no active claim to ensure that their needs will be met, and there is no binding obligation or duty for anybody to meet these needs. In contrast, a rights-based approach recognizes beneficiaries as active subjects of (claim-holders) and establishes duties or obligations for those against whom a claim can be held. (Jonsson 1999, 49)4

A Rights-Based Approach as a Framework for Analysis

A major part of an RBA, then, is that it employs a different lens for analyzing the nature of the problems the development enterprise seeks to address (Jonsson forthcoming). Maybe the clearest statement of this can be found in a recent document by the Committee on Economic, Social and Cultural Rights:
The real potential of human rights lies in its ability to change the way people perceive themselves vis-à-vis the government and other actors. A rights framework provides a mechanism for reanalyzing and renaming 'problems' like contaminated water or malnutrition as 'violations' and, as such, something that need not and should not be tolerated. Rights make it clear that violations are neither inevitable nor natural, but arise from deliberate decisions and policies. By demanding explanations and accountability, human rights expose the hidden priorities and structures behind violations and challenge the conditions that create and tolerate poverty. (CESCR 1998)

The Human Rights Council of Australia states it well too: “Looking at poverty through the human rights lens—as a denial of human rights—enables a richer understanding of the different dimensions of poverty and encourages a more comprehensive policy response to the structural causes of poverty” (Frankovits and Earle 2000, 7).

An RBA draws the attention away from aggregates and averages—from GNP, average growth rates, numbers of the poor and malnourished—toward individual claims conferring rights and duties. As a result, development practitioners begin thinking more in terms of policy, inequality, exclusion, and discrimination—and not just poverty as a fact of nature or some original state everyone departs from. The switch this entails could be dramatic, going far beyond the mere conceptual (although that in and of itself is an important change already). In the words of the Human Rights Council of Australia, regarding the right to education:

Promoting and protecting the right to education is not simply a matter of increasing the national education budget. The realization of the right to education depends on focusing on issues of discrimination and access to education, especially at the primary school level; of taking into account the degree to which local communities can exercise their right in guiding education and in providing support for their children’s education. It is not necessarily about buildings but about the resources and policies to enable all children to enjoy the right, regardless of their geographic location, their gender, race, language or ethnic origin. (HRCA 2001, section 3)

Clearly, then, the rubber of an RBA starts hitting the development asphalt when it leads to a more macro-institutional approach to development work, seeking to empower people through legal and policy reforms that establish key conditions for the enjoyment of their rights—access to land and water, matters of intellectual property, laws and policies that end discriminatory practices of various kinds, and the like. Any organization working within a human rights framework should have a much more automatic predisposition toward legal and policy change that is carried by local communities and individuals.

In the development field this type of legal and policy change has typically been done by the World Bank and the IMF rather than NGOs or even bilateral aid agencies. At most NGOs have worked in a reactive mode, opposing structural adjustment policies of the Bretton Woods institutions, for example. The RBA would change that: all agencies, whether multilateral, bilateral, or NGO, would begin to think of their work in terms of policy, law, institutions, exclusion, and nondiscrimination. We will come back to this. First, we must discuss some important issues related to rights, claims, accountability, and justiciability (the capacity to get a claim enforced in a court). As we will see, this discussion is not legal hairsplitting but rather very important to bring us to understand the political nature of a rights approach to development.

**Accountability**

At the heart of any rights-based approach to development are concerns with mechanisms of accountability, for this is precisely what distinguishes charity from claims (Frankovits and Earle 2000, 7; Mukasa and Butegwa 2001; De Feyer 2001, 285; UNDP 2001). As the Human Rights Council of Australia states: “Accountability is key to the protection and promotion of human rights” (HRCA 2001, 2). Indeed, the very move from charity to claims brings about a focus on mechanisms of accountability. If claims exist, methods for holding those who violate claims accountable must exist as well. If not, the claims lose meaning. It is at this level, clearly, that a rights-based approach to development is bound to differ significantly from a basic-needs approach. An RBA will focus more on social structures, loci of power, rule of law, empowerment, and structural change in favor of the poorest and most deprived, as well as mechanisms for redress in case of violation. It will work on information and redress. We will come back to this later.

The question of accountability lies at the very heart of development. Many of the governments of poor countries are not accountable to their citizens. This is in part because of their history of colonization: the state was created to extract resources for Europeans rather than be accountable
to its citizens, and that model of state-society relations has been continued after independence. It is in part maintained by the practice of development aid, which, as we discussed above, maintains new and orientated systems of political accountability—all the more so after a few decades of Cold War politics and “blind” development aid. No technical progress is sustainable or beneficial to the poor without improvements in accountability. The RBA has the merit to force this issue onto the agenda—not necessarily because it has anything scholarly to say about colonialism and the like, but because when one begins speaking about rights and claims, one automatically ends up talking about mechanisms of accountability.

In the case of human rights, any discussion of claims and accountability immediately brings us to the thorny issue of justiciability, that is, the capacity to adjudicate a claim before a court of law, or, in another definition, whether the matter is appropriately resolved by the courts. By what means shall violators of human rights be held accountable if, as is so often the case, local legislation that conforms to human rights standards does not exist or local courts do not function well? Most human rights scholars rightly argue that justiciability is not a necessary condition for a human right to exist (Sengupta 1999, pars. 21–23; Sengupta 2000a, 538; Obiola 1996, 380; Eide 1989, 10). As Henry J. Steiner and Philip Alston state:

The right to political participation . . . will hardly be vindicated by a court within an authoritarian regime. . . . It remains nonetheless a human right, to be vindicated in most instances through paths and strategies distinct from the formal legal system. (Steiner and Alston 2000, 275)

Indeed, if human rights existed only if they were justiciable, then they would lose almost all their bite, because they would by definition amount to no more than positive law (Donnelly 1989; UNDP 2001, 25). So, the absence of justiciability does not mean a human right ceases to exist.

Linked to this is the observation that many human rights are of an imperfect nature, meaning that it is not possible to match each right claim with clearly corresponding duties and duty holders. This, too, makes life more difficult, for it is evidently preferable to be able to name clearly “who’s in charge,” so to speak, and whose head has to roll when things go wrong—as would be the case in, say, contract law. Regarding human rights, instead of perfectly linking rights to duties or duty holders, it is argued that “the claims are addressed generally to anyone who can help,” and the rights become “norms of behavior or action” (Ben 1999; UNDP 2001, 24). In short, human rights do not lose their saliency because they are imperfect.

All of the above, however, may make us wonder if human rights—and especially ESC ones—are, indeed, simply castles in the air. Sure, human rights are claims to better treatment, but we do not know from whom that treatment should come or how much better it should be or what to do if no better treatment is forthcoming. Are human rights, then, only nice intellectual or rhetorical constructions, beautiful dreams maybe but, like all utopias, devoid of concrete relevance, especially for the hands-on kind of people who work for the development enterprise? Our answer is a clear no. Human rights are concretely usable tools.

To begin with, it is not true that ESC rights are not justiciable. Justiciability is certainly possible for some rights, or for some aspects of all rights. In addition, other, nonlegal paths for ensuring enforcement of rights exist. As to the point that justiciability is possible for some rights, the Committee on Economic, Social and Cultural Rights argued in a recent general comment that “there is no Covenant right which could not, in the great majority of [legal] systems, be considered to possess at least some significant justiciable dimensions” (CESCR 1998, par. 10, lists many of these rights). In all societies there are laws on the books—or such laws could be written—that render certain aspects of ESC rights violations subject to litigation. Uncompensated expropriation, corruption, outright theft, and unsafe working conditions—all phenomena that frequently occur throughout the world and produce major violations of the ESC rights of the poor—are illegal in almost all countries, with very specific laws applying to these crimes. They are justiciable. This may not happen in practice, because the parties affected are too poor and powerless, or the justice system too corrupt to deal with these cases in an efficient, informed, and impartial manner, but that does not mean that they are unjusticiable by nature. It just means that improvements in rule of law are crucial for this aspect of human rights accountability.

In addition, the Committee on Economic, Social and Cultural Rights argued, some ESC rights, such as equal rights for men and women, the right to form unions and to strike, and quite a few others, are immediately justiciable (see Steiner and Alston 2000, 277). Again, such laws may not yet exist or may not be enforced, but that is not a problem of these rights being unjusticiable by nature. Here, too, judicial reform and litigation can be important parts of a human rights strategy, although they are not the only ones.

But the more important point is to demonstrate that there exist many nonjudiciary, nonlegal, and yet effective enforcement mechanisms to ensure
that claims can be met, accountability exercised, and violations addressed. Accountability is not only a matter of being able to litigate in courts of law. After all, the impact of human rights on the behavior of states was never exclusively a matter of judicial enforcement; rather, it has always taken place through a variety of mechanisms, including dissemination and internalization of norms, redefinitions of the interests and legitimacy of actors, collective learning about strategies and policies, and the like (Koli 1997, 1999). Similarly, societies contain many nonlegal ways of regulating themselves, and people constantly make claims that are not backed up by courts alone. These include the systematic mobilization of shame and the development of international coalitions mobilizing it; the pressure emanating from the spread of shared expectations and socially acceptable discourses; the mobilization of grassroots and citizen power in favor of certain rights; the certainty that international aid actors will speak out loudly against violations and will extend support to local actors opposing these violations; and the creation of ombudsmen, whistle-blowers, and other administrative complaint mechanisms. All these may be second-best solutions when compared to formal mechanisms of justiciability, but they do suggest that there are many alternative ways by which accountability can be fostered. All these, as well, are part and parcel of a rights-based approach to development.

An important insight, then, is that this is one field where human rights actors and development actors can work together well (Benoit et al. 2000, part IV). The human rights actors tend to be better at the legal matters influencing legal frameworks and policies, improving judicial systems, and he like. The development actors tend to be better at the on-the-ground stuff: organizing people, creating mechanisms for information sharing and networking, and so on. Both together could work well on innovative domains such as the creation of alternative mechanisms for complaint and redress. Coalitions between these organizations, then, would make eminently sense.

**Human Rights Is a Political Matter**

At the end of the day, then, notwithstanding the seemingly clear and formal legal basis upon which human rights claims rest, the nature of the utilities that are created by human rights claims is a deeply political and constantly shifting matter. What is socially and legally feasible and warranted is never fixed. It is not about merely asserting the existence of legal claims and abstract categories (Craig Scott 1999) but about political struggles, in which codified human rights are tools that crystallize the moral imagination and provide power in the political struggle but do not substitute for either.

There is another reason why an RBA is a deeply political one: when one begins moving beyond charity and technical assistance to the realm of claims and rights, one also begins focusing much more on social structures of inequality, exclusion, and oppression. As CARE’s policy paper on the RBA rightly states:

A rights-based approach deliberately and explicitly focuses on people achieving the minimum conditions for living with dignity. It does so by exposing the root causes of vulnerability and marginalization and expanding the range of responses. It empowers people to claim and exercise their rights and fulfill their responsibilities. A rights-based approach recognizes poor, displaced, and war-affected people as having inherent rights essential to livelihood security, rights that are validated by international laws. (CARE 2001)

There is no misunderstanding the implications of this language: if one adopts a rights-based approach to development, the nature of the job becomes an essentially political one, dealing with power and policy. The struggle may focus at times on the law, but its nature is political. This means that the pretense of technical neutrality falls away:

A rights approach demands that we be in solidarity with project participants who are suffering human rights violations, whether in the form, for example, of absolute poverty neglected by the government, discriminatory treatment, or unchecked violence. The concept of neutrality, of not taking sides between warring and political parties, is one that CARE has embraced since our earliest days. As an independent humanitarian organization, it is sensible for CARE to aspire to be neutral. More problematically, we have interpreted our commitment to neutrality in many parts of the world as a commitment to be apolitical. . . .

A commitment to the principle of solidarity suggests that we do away, once and for all, with the notion that CARE is an apolitical organization. . . .

A rights approach affirms the importance of systematic identification of the underlying, or “root” causes of vulnerability and of a commitment, wherever possible, to confront such causes in our work. Root causes are often systemic or structural, residing at the societal
or even global level. This requires us to constantly question why people are marginalized. Historically, CARE, in our problem analysis leading to program design, has shied away from examining root causes and considering how we might address them.

The reasons for our traditional reticence lie in the perception, as discussed above, that CARE is an apolitical organization and that our strengths as an organization are in the delivery of supplies, technical assistance, and education at the community level. Regarding the former, the fact is that CARE’s interventions are always and inevitably political, in the sense that they effect the local balance of power, and a rights approach challenges us to be more intentional in how we affect political structures and systems. (Neggaz 2001)

Some commentators have described this as a “solidarity” or “social justice” approach to development—a vision that has been on the table for decades. Catholic Relief Services, for example, has for a decade tried to go through a similar conceptual shift, calling it a “justice lens,” and basing it on a combination of human rights ideas and Catholic social teaching about justice.

Clearly, a major possible effect of such a political approach to development is that it may put development agencies in a more confrontational position toward developing country governments as well as social power structures there (and, indeed, other aid agencies such as the World Bank and the IMF, as well as foreign policy establishments of donor countries). This is very difficult to do, for many reasons. One we discussed above: the limitations imposed by sovereignty. These are most evident for international organizations, composed of governments, and often forbidden to engage in politics. But bilateral organizations suffer from similar limitations. Such explicit political engagements carry a diplomatic price. This is what the institution of sovereignty does. It does not—far from it—make international interference in developing country politics impossible; it simply makes it costlier and riskier than had it not existed. Even NGOs, a priori the least committed to sovereignty, feel this cost, for governments can make their lives very difficult indeed (to the point, in certain extreme cases, of kicking them out of countries and intimidating their personnel, especially local employees). Note that it is not only governments that can do this; so can paramilitaries, guerillas, warlords, local ruling families, and robber barons of all kind. These are not actors to whom the rules of sovereignty apply; hence, there is more going on here than merely sovereignty at work. Power at work may be a better image.

In addition, the development community lacks familiarity with as well as tools for analyzing politics. Issues of exclusion, racism, insecurity, discrimination, and representation have historically not belonged to its agenda, and the kind of personnel it employs—from economists to engineers, from agronomists to demographers—are primarily technical in outlook. All these issues are difficult and unclear, and so-called developed countries have hardly resolved them at home. To begin addressing them requires a strong and explicit political analysis—possibly both of issues at home and in developing countries (and, for the former colonial metropoles, of the past and its consequences). This may create conflicts with many current and potential employees and funders, and pose danger for staff in the field. Humanitarian agencies, working under tough conditions of acute violence, negotiating tenuous access to vulnerable populations on all sides of conflicts, face this issue most (Minar 2002), but even development actors tend to worry about the loss of perceived neutrality, the risks to personnel, and the antagonization of potential partners or gatekeepers. Adding politics to development, then, makes the job a lot harder.

Process

The second main aspect of an RBA is the realization that the process by which development aims are pursued should itself respect and fulfill human rights (Sengupta 2000b, pars. 15ff.; UNDP 2001, 22). André Frankovits thus argues for the need “to apply the human rights practices to the aid program itself and not simply to attempt to assess the human rights implications of aid’s outcomes” (Frankovits 1996, 125).

I am deeply convinced that the process is as important if not more important than the result in most development work. There are a number of reasons for this. For one, the dollar amounts of development assistance are much too small and too thinly spread across regions and sectors to make much of a major or long-term material difference in the lives of the poor across the globe. Development aid simply cannot significantly affect poverty and deprivation for more than a lucky few. In most cases, then, that which can last, and which can eventually affect many more people, is the establishment, strengthening, weakening, or destruction of institutions. In addition, development assistance, even if successful in achieving its own technical goals, has often accommodated, contributed, or spawned dynamics of inequality, corruption, and social exclusion. All too often these political, social, and institutional consequences are important, negative,
and difficult to reverse—sometimes outweighing whatever the projects managed to produce in terms of roads, vaccines, seeds, credits, or ministry reorganization. In short, good processes are considerably more important for long-term development than good products.

The rights-based approach to development argues that any process of change that is being promoted through development assistance ought to be “participatory, accountable, and transparent with equity in decision-making and sharing of the fruits or outcome of the process” (Sengupta 2000b, 21–22). In other words, it ought to respect the dignity and individual autonomy of all those it claims to help, including the poorest and the most excluded, including minorities and other vulnerable, often discriminated against groups; it ought to create opportunities for their participation—opportunities that are not dependent on the whim of a benevolent outsider but rooted in institutions and procedures. This means we are talking about a particularly strong and deep form of participation here, one which goes well beyond the standard practice in much development work. Andrea Cornwall and Alice Welbourn state it well, talking about “realizing rights to sexual and reproductive well-being”:

In doing so, we seek to reclaim the transformative potential of participation as a process through which those who are otherwise excluded from the decisions and institutions that affect their lives can exercise rights to voice and choice as agents rather than as instruments or objects. (Cornwall and Welbourn 2002, 2)

Their book contains many examples of what they believe to be required for such a deep participatory approach, including the “provision of a safe environment for self-expression, discovery, and negotiation, for which good facilitation is crucial,” and “building on existing knowledge and practices,” including those of ordinary people and marginal groups, and “a shift towards a more equitable power balance between service providers and users” (Cornwall and Welbourn 2002, 13–14).

Note that this is where a rights-based approach to development can go significantly beyond the dominant neoliberal paradigm. While it shares with the latter a refusal to accept the workings of corrupt, authoritarian, oppressive states, it does not believe that unfettered markets will by definition provide the solution; markets do not guarantee participation by the excluded, nor do they concern themselves with dignity. The rights-based approach to development, then, allows one to go beyond the usual dichotomy between ideologies that glorify either the state or the markets (and are unwilling to see the limitations and perversions of either). It argues that the functioning of any system, including a market-based one, is subject to the judgment and limitations that come from the fact that all human beings have inalienable human rights. It argues that processes of accountability, participation, inclusion, justice, and social guarantees have to underlie both the market and the state, and that under all conditions these matters are deeply political.

Nice as this sounds, it still poses the “so what?” question. After all, the insight that all development ought to take place in a participatory manner, with priority given to the poorest and the most excluded and based on institutions of accountability and transparency is hardly revolutionary for the development community—even though it may have been rarely implemented. The same applies to the realization that institutions, laws, policies, and politics matter or that both markets and states can exclude people. In the next pages I try to tease out some practical implications of a rights-based approach to development. What can development practitioners concretely do differently when they adopt a rights-based approach to development? How would they move away from current standard practice or normal professionalism? I outline a series of possible changes, most of which I have seen occur at least once in the field; they are possible, and some agencies have already acquired quite some experience with these changes. It may not be possible or necessary to do all of these things simultaneously, although many of them do go hand in hand.

Some Practical Implications of a Rights-Based Approach to Development

Knowing the Human Rights Law Machinery

As we have already discussed, and rather unsurprisingly, the actions that come most easily to mind when one introduces human rights into development work are often legal in nature; they are straightforward in their execution, seem directly related to human rights law, and are not too threatening for anybody. Possibly the most popular way of introducing human rights into development practice is by dispensing training—the favorite solution for all problems in the development world, for that matter. The need for more human rights training—of aid agency staff, of partner agency employees, of specific target groups (the military, journalists, teachers), or of the entire population at large—is mentioned in almost every document I have seen on the rights-based approach to development (Frankovits and
Earle 2000, 13; Mukasa and Butegwa 2001; Hamm 2001, 1023). In practice, this often amounts to dispensation by capital-based lawyers, employed by a university or a specialized NGO, of rather legalistic knowledge on treaties and articles. It does not do any damage for people to read and discuss the Universal Declaration on Human Rights and the two 1966 covenants; it is also easy, cheap, and can be done on the side.

For other legal formalists, an RBA leads to the possibility for “development policy to be included in the human rights monitoring mechanisms of the UN” (Hamm 2001, 1016) or “the examination [by development actors] of periodic reports by the UN Committee on Economic, Social and Cultural Rights” (Frankovits and Earle 2000, 13). The Geneva-based UN human rights mechanisms constitute some of the most powerless, underfunded, toothless, formulaic, and politically manipulated institutions of the United Nations. Even the human rights NGOs by and large neglect them. For development work to be discussed there, or for development workers to read these discussions, is about as useful to on-the-ground change as knowing the lyrics to “We Are the World” is to ending world hunger.

I do not want to sound cynical—and I realize I do. Knowledge is a good thing. These things will not hurt anyone and may well be part of what it means to live in a society where human rights are deeply respected. It is also possible, even likely, that the spread of these texts, discourses, and associated institutions provides tools for the emergence of counter-discourses, adds legitimacy to new concerns, allows critical local actors to invoke this language, and so on. There is thus no a priori reason not to invest in this line of work. Honesty obliges us to admit that it is also possible that this sort of legalistic work produces negative impacts: it might le-legitimize human rights discourses by rendering them blatantly rhetorical, by coopting civil society human rights activists into meaningless tructures, or by reinforcing legalistic readings of human rights texts at the expense of their political meaning. The concrete impact of this sort of formal legal work on social and political change must be studied on a case-by-case basis; it will neither be always good nor always bad. But let’s ace it, the popularity of this sort of work is primarily due to the fact that it constitutes a safe, legal, technical conduit to avoid the real issues of power and politics. If the RBA amounts only to adding a thin layer of human rights law on top of the development cake (not to reuse the cherry nage), not much will have changed.

**Capacity Building**

Adopting a rights-based approach to development encourages development actors to broaden the range of their potential partners and work with local human rights NGOs. It must be noted that funding local human rights NGOs was also discussed in the previous chapter on positive support, demonstrating once again that the categories employed in this book are not as tight as they at first may seem.

Investing in local human rights NGOs’ capacity building produces a number of benefits. It fits with the general desirability of capacity building and of supporting domestic, internal dynamics as opposed to exogenous ones. It also allows outside organizations to create some distance between the politics of advocacy and themselves; it is not they who engage in explicit political analyses or confrontational human rights work but local organizations, which they happen to fund. Often, to ensure they cannot be burned by the human rights fire, foreign agencies will finance only specific projects of local human rights NGOs, projects that are preferably couched in the most apolitical and non-confrontational terms.

The last decades have witnessed a growth in development funding for human rights organizations; from being nonexistent less than two decades ago, this has become a rather mainstream activity now, especially in post-conflict societies. Where previously local human rights organizations had either no external funding at all or only minimal support from some Western foundations and human rights organizations, nowadays local human rights organizations—who are many more in number, moreover—have routine access to several sources of external support. The amounts are still small, to be sure, especially compared to those available for traditional development activities, but this increase still constitutes a major trend. And it is not only money that is given; support also includes technical assistance and advice, training, and networking. A few more progressive NGOs, such as NOVIB, try to go beyond this technical, arms-length support, identifying more deeply with the struggles of their partners and supporting them programmatically in more visible and political ways. Such an approach clearly is at the outer fringes of standard development practice, drawing much more on models of political solidarity than traditional development assistance.

This work poses many difficult issues. In many countries there is always uncertainty about the quality, independence, and motives of local human rights NGOs. Are they truly independent of the powers-that-be? Are they really nonsectarian and objective? Do they not censor themselves too much? Are they more than vehicles for the power ambitions of their leaders? Are they just coalitions of the loudest mouths? Whom do they exclude? Whose voices are drowned by their noise? What are the relations of power within these organizations? Tough questions to answer—we are lucky that we are not required to ask them of ourselves—because the
interplay of personal motives and severe political constraints is often difficult if not impossible to disentangle.

Questions become even harder to answer when development practitioners question their own assessments and motives, as they should. Why do they prefer certain human rights organizations and not others? How deep does their understanding run of local civil society and the range of opinions on trade-offs and proprieties, even regarding human rights? Why do some donors finance human rights organizations while others fund only government policy and are silent on human rights violations? After all, funding decisions here amount to outsiders taking sides in often very contentious and complicated local debates, whether deeply culturally rooted issues such as women's rights and religious freedoms, or highly politically sensitive issues such as transitional justice, or economically complicated issues related to privatization and debt recovery. I am not saying this ought or be done—indeed, it cannot be avoided, for even not taking sides always ends up benefiting one side more than another—but rather asking about the quality of analysis underlying these choices.

The going gets really tough when local human rights NGOs are threatened, mainly by governments but sometimes by non-state actors as well. What are the roles and the responsibilities of development actors funding the programs of local human rights NGOs when the latter are repressed, imprisoned, and otherwise harassed? How are they to "defend defenders"? Aid agencies' political support may be more invaluable than their financial contribution; to speak out when local partners are repressed is crucial. Bilateral agencies, which are less easily shed around, can, and do, bring a certain clout to the table. For many country high-level aid agency representatives (and embassy personnel), human rights are some of the most difficult ones they have.

Hence, while providing funding and capacity building to local human rights NGOs seems an evident step to take in an RBA, it is also a very implicated one. As I wrote recently in a paper to aid managers in Rwanda:

It is important to protect the major independent human rights NGOs in Rwanda not because they are the only good or engaged people in town, or the most democratic, representative, and well-managed ones, but because of the chilling effect their disappearance would have on all other organizations. But it must be very clear that this matter is emphatically not about them only. Civil society in Rwanda is about much more than a few human rights organizations, important as they may be, and strengthening human rights dynamics requires all of them, not only the few specialized ones. Behind them and besides them there are many other organizations of civil society that may not be so well-connected to a very vocal international pressure group (the international human rights community) but that are equally important to Rwanda's future, composed of committed people, and in possession of a vision of change. An exclusive focus on a few human rights organizations may be even counter-productive, for it antagonizes people against them, distracts from their own weaknesses (thus making them more vulnerable to eventual implosion from within), and allows the destruction of civil society elsewhere to continue, outside of the spotlight directed only to human rights organizations. (Uvin 2003b)

Yet, support to local human rights NGOs remains important work. It is not a magic solution, but it is one that must be part of a rights-based approach to development.

Advocacy

The next step, of course, is for international development actors themselves to engage more in advocacy. Note that we refer here to campaigning about policy issues that affect developing countries, and not to the investigation and documentation of specific individual human rights abuses, which we will deal with in the next section. We are talking here, then, about campaigns for arms embargoes; pressures on corporations that invest in war zones or in countries with regimes that are systematically violating human rights; campaigns for rich-country trade-policy reform, for lowered prices on essential medicines, and so on. All these issues have a human rights component, of course, and advocacy campaigns around them may well include human rights NGOs, but they are not the bread-and-butter work done by the specialized human rights NGOs.

For many development NGOs, what the rights-based approach to development boils down to in practice is increasing attention to advocacy. This is so for two reasons. First, to the extent that a human rights lens implies a process of looking at root causes and policies of exclusion and discrimination, advocacy seems a logical consequence; to speak out and to pressure for change would surely be the normal response. Second, advocacy and campaigning are the defining features of the international human rights movement and widely seen as synonymous with human rights work.

This equation between advocacy and human rights is simultaneously appealing and scary to many aid practitioners and managers. They fear that they are ill-equipped for the risks and difficulties inherent in advocacy;
that it may endanger their relations with the powers-that-be and undermine their traditional development work on the ground; or that it may alienate their funding sources, whether public or private, and thus endanger the financial survival of their organization.

Indeed, while advocacy is an evident practical step for organizations seeking to move onto the RBA path, it poses many tough questions as well, with major unresolved ethical dimensions. One such question relates to trade-offs in cases where advocacy and more traditional forms of development assistance conflict. Developing country governments may not like these advocacy campaigns, and neither may funders. If agencies, by taking on strong public positions, are forced to end their programs on the ground, are they hurting poor people in order to maintain a principle (even if they think the principle is to the benefit of those same poor people) or hurting people in the short run in return for a possible benefit in the long run? Supposedly, they could ask the poor themselves: do the latter prefer more advocacy in their name, or more microcredit, health care, and technical assistance? Agencies shall, of course, do everything they can to combine both activities—and indeed, research demonstrates that many NGOs are able to be both confrontational and collaborative with local governments—but this still does not solve the hard cases where trade-offs do exist.

Most advocacy done by development NGOs takes place in rich countries and is directed toward rich-country governments or major international organizations. This makes sense for two main reasons: first, it avoids the difficulties on the ground described above, and second, as the famous JK robber Biggs said when asked why he robbed banks, “that’s where the money is.” Similarly, influencing the behavior of the United States or the World Bank seems logical because that’s “where the power is.” When the concerns and interests of poor country NGOs and social movements can make it to the agenda of powerful actors, this constitutes a potential breakthrough. As a matter of fact, influencing remote but powerful actors (who can in turn also put pressure on poor-country governments) can constitute an efficient, indirect strategy for local organizations to affect their government’s policies. But a tough issue here is who sets the advocacy agenda.

The role of the United States is central in advocacy. First, it is still the world’s most powerful state, and its leadership role, although contested, is till a reality. Second, the US government is especially vulnerable to NGO lobbying. This is partly because American politics is imbued with a culture of lobbying and partly because the executive branch is very dependent on Congress. Third, US NGOs are the largest and best funded in the world, and some are especially skilled in advocacy and lobbying. As a result, Congressional policymaking provides the Washington NGO community and those abroad with whom it links regular opportunities for influencing the behavior of the most powerful state. Every two years, for example, the US Congress must approve the IDA replenishment; environment NGOs use the occasion to lobby for stricter environmental standards, and development NGOs for more participation. Through this, some critics charge, it is largely US NGOs that set IDA policy. Thus, third-world governments paradoxically are more influenced by the pressure emanating from rich-country NGOs (and often brought to bear indirectly through rich-country governments and international organizations) than from their own civil society.

As a result, the impact of global civil society, as it has been called, reflects the world’s imbalances in power and resources to the benefit of actors in rich countries (for case studies, see Jordan and Van Tuijl 1998). First, a limited number of Washington-based NGOs—self-appointed people, at the end of the day—have disproportionate power to influence international outcomes in the name of humanity and the world’s poor. One of the privileges of the wealthy and powerful has always been to define the condition of poverty and devise solutions for it, and the trend seems to be continuing in NGOs. Although most of these NGOs honestly seek to speak for the interests of the poor and the oppressed (or for all of humanity), they have no structural obligation to do so—it all depends on their motivations, values, perceptions, and ideologies. Not surprisingly, there have been and are major disagreements between these NGOs and their “partners.” For example, many third-world development NGOs differ sharply in their attitude toward the World Bank (and foremost the IDA, the soft loan arm of the World Bank) from American environmental NGOs. The latter, largely critical of the Bank, are willing to curtail IDA resources unless stringent environmental criteria are met, while the former are much less radical (Alexander and Aburge 1997, 13, 20). Similarly, many third-world organizations, including women’s groups, sharply disagree with the central importance attached in US NGO circles to family planning and the “population problem.”

Second, this situation gives the US foreign-policy establishment—as well as its counterpart in other Western countries such as France, Germany, or the UK—a major opportunity to filter worldwide NGO impact. This happens both because NGOs, to be successful, attenuate their positions according to what is acceptable to the US foreign-policy establishment and because the latter is truly the decision-maker in the matter. For example, the United States has been willing to take on the participation agenda, and push the World Bank on that account, but has been totally unwilling to
ke on the structural adjustment agenda that is equally, if not more, important to third-world NGOs and poor people (Nelson 1995, 23). The United States has also been unwilling to accept the emerging international legal personnel landmine regime, although the NGOs lobbying for it are unused.

What we are describing here is simply the basic political dynamic that occurs whenever significant inequalities of power coexist: agendas, priorities, and strategies will be defined by and filtered through the powerful (vin 1999b). This dynamic does not simply disappear because the intentions are good or the vocabulary is one of human rights. On the other hand, a rights-based approach to advocacy has the advantage of building on a rather solid conceptual basis and shared language, namely, the corpus of international human rights law. This is a strength that her campaigns may not have. Yet, as by definition not all human rights violations are being addressed—let alone successfully so—in these interventional fora, the above described ethical and operational issues do not appear.

e Violations Approach

When asked what human rights mean in his work, Anton Baaré, a friend and colleague in charge of a human rights and governance project in Uganda (nded by Danida), stated: “The rights-based approach may not clearly tell us what ought to be, but it surely tells us what not to do.” In the debate about how to move ahead with ESC rights, a number of human rights specialists have suggested that the most fruitful short-term stance would be to monitor actual violations of these rights: “While much of international debate on economic, social and cultural rights focuses on their progressive realization (and thus deploring that resources are inadequate, which leaves matters at the level of arbitrary progress), a fruitful initial approach to monitoring these rights would be to monitor actual violations of rights” (Sano 2000, 746–47).

Clearly, apart from the well-known CP rights violations, activities causing encouraging forced displacement or the restriction of movement; the taking of land without compensation or the destruction of land rights; corruption and clientelism in the use of donor funds; arbitrariness or systemic bias in employment and promotion; racial and ethnic discrimination in access to education—all of these violate human rights, often right under donors’ noses. Development actors adopting a rights-based approach to implementation could do two things when confronted with such violations: they could speak out about them, and they could ensure that they themselves do not participate in such policies.

Past development practice shows precious little of either. Many such violations have been condoned or supported, on a daily basis, by development agencies throughout the world, often within the direct realm of their own projects. The reason is not because aid employees are evil or corrupt, but rather because the political and institutional environment within which they act pushes them toward ignorance and/or acquiescence. Part of what facilitates this acquiescence is a development ideology that exclusively focuses on economic growth and social services, allowing many of these political and social processes to continue unchecked. A “violations approach,” implemented as part of a move to an RBA, would undermine much of the acquiescence with ESC and CP rights violations that currently prevails in the development business.

A violations approach can also be legally applied to international organizations, which are large players in the development field. The UN Committee on Economic, Social and Cultural Rights summarized the legal human rights obligations of UN agencies as follows:

In negative terms . . . international agencies should scrupulously avoid involvement in projects which, for example, involve the use of forced labor in contravention of international standards, or promote or reinforce discrimination against individuals or groups contrary to the provision of the Covenant, or involve large-scale evictions or displacements of persons, without the provision of all appropriate protection and compensation. In positive terms, it means that, wherever possible, the agencies should act as advocates of projects and approaches which contribute not only to economic growth or other broadly defined objectives, but also to enhanced enjoyment of the full range of human rights. (CESCR 1990, par. 6)

There has been some enthusiasm in the human rights community about adopting a violations approach to ESC rights, for the work it entails—monitoring and exposing violations—is the bread and butter of human rights organizations. FIAN and Equality Now are unique examples of human rights NGOs that have employed such an approach for more than a decade. Human rights rapporteurs in charge of specific rights—education, for example—tend to do it (Tomasevski 2003). Human Rights Watch, the largest US human rights NGO, has recently begun broadening its scope
ude ESC rights, adopting by and large a violations approach that effect within its existing mandate and operational style:

focus particularly on situations in which our methodology of stigation and reporting is most effective, such as when arbitrary discriminating governmental conduct lies behind an economic, il and cultural right violation.

Pay special attention to economic, social and cultural rights tions when they result from violations of civil and political rights. (W website)

statement suggests, the work is still basically limited to those cases civil and political rights violations have economic, social, or cul grips, and ESC rights as such still play only a marginal role in Rights Watch's work. Similarly, throughout the years it took me this book, Amnesty International has been going through a pro reflection with its worldwide membership on whether it should "full spectrum" approach—an approach that includes ESC rights— an rights advocacy. While it seems likely that Amnesty Internati will eventually do so, it has still not happened. Note that for all organizations, ESC rights are simply small add-ons to their "nor andates; they are not re-conceptualizing their aims in a more fun il way or shifting paradigms as the development community does 2002, 6).

ess clear what the development community ought to do with the approach. In theory, a violations approach has a number of ges for aid agencies seeking to integrate human rights into their next work. It forces them to go beyond the usual feel-good de vel-hortic and ideological blinders that ignore rights abuses. It could the focus of attention away from states to include international , firms, or NGOs—potentially including the development system nally, in exposing violations local partners would become aware npact of current economic and political practices, as well as of ts to resist these, and they may well take more of the initiative for to their own hands (Sano 2000, 747; see also Chapman 1996). A is approach, then, could act as an empowerment device. et, a violations approach may be less than appropriate for devel actors. It is unclear how they would take this mandate, for ey are hardly prepared. What methodology would they use? Should ements employees be trained in human rights violations data col And what should they do with the information collected? Should they engage in naming and shaming with all the attendant confrontational consequences? There seem to be many reasons to answer these questions negatively.

Development agencies live within a different political and social environment than human rights organizations. They stay longer on the ground, work more closely with much larger numbers of local partners, are more dependent on state collaboration, have many more local employees and partners who may not share such an antagonistic ideology and surely did not sign up to take the kind of risks human rights work entails, and are much more imbued (still not sufficiently in most cases, but surely more so than human rights NGOs) with a sense of the historical, political, and social constraints encountered in societies. A violations approach is bound to become rather antagonistic, and, unlike the case of supporting local human rights NGOs, the antagonism may be direct, without intermediaries between the development actor and the offending government. Develop ment actors work in a world of trade-offs, of community and government ownership, of small, incremental changes—all of which a violations approach does not seem to fit into well.

Hence, both mandates are very different and fulfill important functions that are, a priori, of ethical importance. It is necessary to have watchdogs, organizations that expose violations, without fear, and—why not?—without compromise. There need to be some actors that do not make political compromises, that are not afraid to endanger their programs on the ground (partly because they hardly have any), and whose sole concern is to speak for those whose voices are silenced. The pressure they create remains indispensable for action; without it, it is too easy for everyone involved—the governments and the aid community—to look the other way, avoid rocking the boat, and lower their expectations. We need human rights organizations, social movements and interest groups, and possibly some highly politicized development NGOs to do this work consistently, untainted by the usual temptations of justification and accommodation. And at the same time, we need other organizations to do the long-term work, to be on the ground, to make some compromises, to strengthen a broad range of institutions, and so on. They should do this without being blind or complacent, but also without copying specialized human rights NGO mandates.

In the preceding paragraphs, I argued that while an explicit concern for human rights violations committed in the name of or in the process of development, is important, a strong violations approach based on investigating and documenting human rights abuses is not the best path forward for development actors. At the same time, there are situations where development (and, more so, humanitarian) agencies have played a role in
documenting human rights violations. What can we learn from that? In addition, there are three approaches that development actors can adopt that, while falling short of a full violations approach, may still bring some of its benefits and strengths—the setting of standards, the pointing out of discrepancies between rhetoric and reality, the identifying of policies and actors that violate human rights, the creation of pressure for change. What these three approaches share is that they adopt a “lite” violations approach primarily to development agencies’ own work.

To begin, then: In quite a few cases, development actors, and even more humanitarian ones (for they often work in zones where massive violations take place and where few other formal organizations continue to exist) actually are prime sources of investigation and documentation of human rights abuses. As they are often the only foreign actors present in areas where such abuses occur, and they seem relatively neutral, people come to them with tales and documents regarding human rights violations. The policy of most aid workers is to pass these on to the professional human rights organizations—national and international NGOs or NHRMs or human rights organizations. This is very risky for them when those responsible for the rights abuses get knowledge of this activity, and indeed, especially in the humanitarian case, it has repeatedly led to revenge killings. Courageous and noteworthy as this behavior is, it is not the same as the adoption of a human rights strategy by these same organizations. Passing such information happens “off the side,” in an ad hoc manner, by necessity as silently as possible, and typically as fast as possible.

The main case I know where international development and humanitarian actors have tried to go beyond an ad hoc policy is Afghanistan, here, as part of the strategic framework, significant attempts were made to establish an international aid community to deal with human rights violations. The strategic framework has been evaluated negatively by many (for example, Duffield et al. 2001), but it did constitute a unique laboratory for issues that concern us here. Norah Niland provides an excellent analysis and set of lessons from her three-year experience in Afghanistan during and after the Taliban. According to her, those adopting an RBA need to build coalitions that are as large and as wide as possible, so they do not stand alone; they need to feed their analyses into high-level UN and bilateral decision-making (embassies, special representatives, and the like are less vulnerable than specific aid agencies on the ground); and they need to be extremely careful, impartial, and context-sensitive, shining their lights usually on violations by all sides, and being willing to point out progress, hievements, and constraints as well as violations (behaviors that the specialized international human rights NGOs usually seem incapable of pulling off) (Niland 2003). Organizations could usefully begin such work on certain rather widely accepted economic and social rights, seeking to build coalitions of local and international actors that analyze issues that are not central to local high politics, providing a fine-tuned analysis of constraints, dynamics, progress made, steps to go, and so on—not to forget a self-critical look at donor practices in these fields. This way, they build on the strength of development organizations: their presence on the ground, their networks, their long-term vision, their sense of what is possible rather than what constitutes the moral high ground. None of this is easy, and even if well done, it may invite strong reactions, which is why coalitions of actors, high-level support, and the highest standards of impartiality and integrity are so important.

Let us continue now with a discussion of three methods for development actors to apply a “lite” violations approach to their work. One possible path is through work on human rights impact assessments, executed during the phase of project design, implementation, or evaluation (for example, NORAD 2001). Such methodologies can even be applied to development programs and policies (WTO policies, for example). As a consultant for CARE wrote:

Benefit-harm analysis is intended to help us understand and, to the extent possible, anticipate and shape (i.e., maximize) the net positive impact our interventions are having. This type of analysis allows us to make sure that we are not ourselves violating or harming human rights attainment in the communities we serve in the course of our projects. (Neggaz 2001, 19)

These methods force practitioners and managers to do what we described above: name problems in different terms, before projects and programs start and while they are ongoing. It is a sign, however, of the weakness of the human rights agenda that, contrary to environmental impact assessments, the human rights agendas are still implemented rarely, and only voluntarily, and with methodologies that are ad hoc. No aid agency publishes annual reports on the human rights consequences of its development lending, for example (McGoldrick 1996, 806), even though calls for the use of such a methodology were already made by the UN secretary-general in 1979 (CESCR 1990, par. 8b).

A second solution resides in the application of the notion of non-regression. The non-retrogression rule essentially interprets the indivisibility
of human rights as implying that no progress on one human right may be justified by reductions in the enjoyment of another one. In other words, development actors must ensure that in their attempts to promote the fulfillment of a particular right, they do not remove, violate, or decrease the preexisting attainment of another. It may be impossible to achieve all rights simultaneously (even though they are on a conceptual level all equally important, indivisible, and interdependent), but it is at least possible to avoid adopting strategies that endanger, undermine, or weaken existing levels of rights enjoyment (Sengupta 1999; Sengupta 2000b). The non-retrogression principle then provides a clear minimum standard for critical analysis of any development intervention and could constitute the basis on which to build a violations approach strategy. It does not judge every lack of full achievement of every human right as equally condemnable, but only-regression from the prevailing situation. In other words, rather than focusing on all deviations from perfection (which is bound, for poor countries and the actors operating there, to produce a long list of failures and faults), it begins from the existing situation and judges trends and actions from there onward. Note that, although qualified this as a minimal approach, it is still a tough criterion by which to judge actions and policies. To do it honestly requires a well-informed judgment about current rights (not just conditions that happen to prevail, but rights, that is, socially guaranteed equitable treatment of all people as citizens) and a critical analysis of how proposed and on-going projects, programs, or policies affect current enjoyment of rights in all spheres of life and by all groups within society. Some of that work is being done by organizations that oppose structural adjustment policies, for example; they demonstrate how existing rights to water are endangered by proposed privatization policies. This is important work, where legal and development scholars and movements can find each other.

A third way ahead is for development organizations to subject themselves to occasional outside human rights scrutiny in order to ensure that their own processes and practices conform to human rights standards. One could envision development organizations extending formal invitations to human rights organizations critically to analyze aid agency portfolios and practices from a human rights perspective. True, this is risky: given the mode of functioning of human rights organizations, development actors may well come out of these assessments looking evil or ill-equipped for the job. Any agency working in countries where significant human rights violations take place, for example, may be simply condemned by the human rights purist as wrong-headed on the grounds that it should have withdrawn. This would be unfortunate, for it could lead to backlashes against both the development agencies, if these results were widely known, and against the notion of human rights within development circles. The fear of exactly that happening makes it very unlikely that aid agencies will voluntarily consent to such assessments. It may be best to organize harm-benefit assessments initially as internal, confidential processes applied only to past projects, trying to tease out the human rights dimensions involved as learning exercises. Such a self-analysis could function as a training tool for employees to better understand the nature of the challenge of adopting a rights-based approach to development in a particular context.

Development actors who do consent to such a self-analysis could reap significant benefits from it. It could encourage them and their employees to confront the deeply social and political nature of the problems they seek to address. It could also force them to face up to their passive (if not active) complicity with the dynamics of exclusion, discrimination, and human rights violations that exist in many development programs. This may lay the groundwork for the adoption of a true rights-based approach to development.

**The Inward Look**

Many local employees and partners of development organizations are very aware of the human rights stakes in their own societies and in their own professional practice; they constantly deal with these matters in many ways. They may try to protect some people from potential or actual abuses by using their own networks and authority (or they may try to heap abuse on some people by using the same tools—there is, after all, no automatic reason why employees and partners of development agencies should be totally immune to the temptations of human rights abuse). They may try to avoid becoming targets of human rights abuses themselves by toning their own rhetoric and aligning themselves clearly with foreigners and/or with sufficiently powerful groups inside the country (including, possibly, groups that are guilty of human rights violations). They may try not to rock the boat by under-reporting human rights problems to their (foreign) superiors and by misrepresenting the situation on the ground, including closing an eye to how project funds, employees, and partners are part and parcel of ongoing patterns of discrimination and exclusion. Most of the foreigners who are in senior positions in the aid system typically understand little of these multiple strategies used by local employees to deal
with the constraining human rights environment they live in. To the extent that the foreigners see human rights violations, they tend to see only the very visible instances—the famous dissidents who were unlawfully arrested, the dramatic disappearances of opposition figures—and fail to notice the equally important and pernicious daily forms of exclusion, discrimination, and lack of respect for human rights, and the way their own employees and funds are part and parcel of these daily dynamics. To the extent that they wish to act upon human rights outcomes, they too often invest solely in a few visible national human rights NGOs and legal mechanisms (important and positive as this may be).

All development agencies would benefit enormously if they managed to create an atmosphere of critical internal debate about human rights with their own staff and direct partners. Agencies would have to invest significant time in creating the required atmosphere of understanding and trust and security to make this happen; it will not happen overnight. But if agencies manage to do this, they can radically reinvent themselves: people may begin reporting the truth to their superiors (orally in cases where the written word is too scary), create explicit ethical bases for joint action, develop with senior foreign staff strategies of advocacy and protection of their employees, and learn to think in advance through the likely human rights impacts of various scenarios of action. All these would be breakthroughs—truly new ways of living a rights-based approach to development in a daily way. This may sound ideal and rather hard to achieve, and it probably is, but any progress along these lines is part of the implementation of an RBA.

Another internal process-related aspect of the rights-based approach to development is for development agencies explicitly to set out to comply internally with human rights standards. The quality of the workplace of aid agencies can be evaluated in human rights terms: Are minorities, lower castes, vulnerable groups, or women, for example, discriminated against in hiring and compensation? Do local employees participate significantly in organizational decision-making? Is there oversight and counter-power in internal management? One may argue that these issues are not strictly human rights matters (they are, after all, hardly matters of public guarantees for all citizens), but they seem to be a good place to begin when it comes to adopting an RBA—an instance of getting one’s own house in order before spreading the gospel to others. These are complicated issues, of course, but also issues that are often important for many employees, local and foreign alike. Making progress on these matters, then, may convince them that the organization is serious when it talks about an RBA and that it is willing to look critically at itself. This can only help staff morale and internal ownership—apart from being the right thing to do.

Rule of Law

All organizations that seek to adopt a rights-based approach to development should focus their work on dramatically improving the rule of law at the level of daily life. It is worth nothing to have laws and policies—even if these laws and policies conform to human rights standards—if they are not implemented, if certain groups are excluded from them, if the relevant facts are not known to most people, if channels of redress do not function, if laws are systematically circumvented, or if money, guns, and political influence always tend to get the better of them. In many countries there are no or few instances of control of and redress for the many small and large abuses of power, instances of corruption, and the like that ordinary people suffer from.

Rule of law is crucial to a rights-based approach to development because it empowers ordinary people. Whatever the nature of the laws on the books—even if none of them explicitly refers to human rights standards or conforms to human rights—where rule of law exists, where there is an expectation that laws are applied, and rules are to be followed, where knowledge about the rules and the actions undertaken is widely spread, and where mechanisms of redress and counter-power exist, people can start organizing for social change (including changing the law to conform more to human rights standards). Without rule of law providing a basis for it, no human rights victories will ever be won by local people. Development actors interested in promoting human rights outcomes can do no better than using all their clout, imagination, networks, and resources to strengthen rule-of-law dynamics.

Rule of law is not the same as democracy, nor is it primarily a legal thing. Admittedly, in the longer run the mechanisms of accountability that are created by electoral democracies are propitious to the rule of law. They create incentives for elected people from the local to the national level, to ensure that laws not only represent the interests of a majority of people, but also are applied (for, if not, elected people would presumably lose their jobs). Note that this does not guarantee laws that conform to human rights, but simply that laws, even “bad” ones, are applied. But, for many developing countries this is far away. Elections are hardly more than contests between competing systems of clientelism; high-quality and critical information is not widely available; and many other historical, social, and economic conditions on which democracies rest are not present. Progress,
However, can be made, slowly but surely, and it can constitute one of the
ases on which, eventually, functioning democracies arise.

Progress on establishing rule of law is in part, of course, a matter of the
gal and judicial sector; writing good laws, including civil and criminal
cedures must be part of it, along with judicial reform that seeks to
antee the competence and independence of the judiciary sector, and a

ity of legal-aid organizations, as well as ways that render the func-
ing of courts less expensive and time-consuming (World Bank 2000b,
ap. 6). This sort of work requires not only technical competency but
so an explicitly political yet hands-off approach by the international com-
unity. Examples of the latter include the long-term provision of signif-
ental salary complements; the creation of peer networks of discussion with
id feedback by foreign judges; continued training; and a strong, clear,
did consistently applied commitment by donors not to tolerate intimida-
tion against judges and their families.

But the promotion of the rule of law—and this is a most important
int—can also take many nonlegal forms: the multiplication of channels
formation and (administrative and social) mechanisms for redress;
\[e\] the mobilization of grassroots and citizen power in favor of certain rules
ed procedures; the example given by senior politicians who demonstrate
ough their own behavior their respect for the rule of law and their
jection that others will do so as well.

It seems that there are three main ways to promote rule-of-law improve-
ents—or any other, more direct human rights and governance improve-
ent. First, there are legal and judicial changes, taking place at the level of
\[e\] state, that craft the public-sector machinery to create the desired out-
tomes. Without the right laws and competent and independent judges, the
le of law will not come about. But improved laws are not enough; they
be more theoretical or cosmetic if they are not implemented well or
all. This essentially requires counter-power. The second mechanism, then,
control: any and all mechanisms that increase the capacity and
llness of citizens to know the laws, to be aware of when their rights
being violated or circumvented, and to seek redress. This is no longer
atter only of the public sector or of legal texts, but of the flow of
ormation, of the capacity for analysis, of paths for seeking redress and
ponse. The third mechanism lies at the level of the aid machinery itself:
it's very presence and its resources, it can act as a mechanism for in-
asing rule of law—or fail to do so. As the World Bank admits: "Most
vestment projects and institutional reform projects, whether at the com-
nity level or at the national or global level, underestimate the need for
formation and underinvest in information disclosure and dissemination" (World Bank 2002, 15).

Improving flows of information for the poor is one of the most import-
nts international aid actors can assist with: We know from basic
political-science thinking that the dismantling of asymmetrical in-
formation is crucial for the establishment of civil society and eventually of
democracy (see, for example, Diamond 1999). But the point can be made
mpirically also. I have repeatedly been told by practitioners that when
all and poor farmers have access to at least two independent sources of
formation, their degree of empowerment rises dramatically. Suddenly
they can compare information about prices, policies, rights, and rates with-
out being dependent on middlemen and local leaders, and they can make up
their own minds on these matters, avoiding themselves of opportunities
that may have existed but were denied them for lack of information and
nowledge (in other words, like markets, systems of governance need wide-
spread information to function effectively). No wonder that in India the
ight-to-information movement that has come into existence in the last
decade is considered by many an enormously powerful tool for any struggle
social change and human rights. And note that the information re-
quired is of an absolutely mundane nature. Harsh Mander and Abha Joshi
ugue that these campaigns are the corner stone of empowerment and hu-
man rights in India; the examples they give include the following (partial
list):

- All estimates, bills, sanctions, vouchers, and muster rolls (statements
  indicating attendance and wages paid to all daily wage workers) for
  all public works.
- Criterion and procedure for selection of beneficiaries of any govern-
  ment programme.
- Per capita food eligibility and allotments under nutrition supplemen-
  tation programmes, in hospitals, welfare and custodial institutions.
- Rules related to award of permits, licenses, house allotments [and so
  forth].
- Rules related to imposition of taxes.
- Copies of all land records.
- Statements of revenue, civil and criminal case work disposal.
  (Mander and Joshi 2001, 3)

When the World Bank undertakes participatory anti-corruption sur-
evys or Brazilian and Indian NGOs publish citizen report cards and
scorecards on state government behavior (CRS 2003, 5-7; World Bank 2002, 232 ff.), they are at the very least laying the groundwork for a rights-based approach to development. I strongly believe that this—increasing the channels of information available to ordinary people about ordinary things—is absolutely a rights-based approach to development. It may not be about the famous professor imprisoned for teaching things the powers-that-be did not want to hear (although that is important too), but it is about human rights nonetheless.

Sometimes aid actions themselves have to take the lead, at least for those domains that fall within their control. Take a fascinating example: the Kecamatan Development Programme (KDP) managed by the World Bank in Indonesia. The program is basically a giant distributor of small grants to kecamatan, the lowest level of Indonesia’s decentralization; people at that level can use the grants to invest in a jointly decided upon and managed project. They have a very large degree of freedom in the use of these block-grants. Interest in such block grant projects is growing everywhere, not because they will eradicate poverty but because they may contribute to achieving a set of higher-order aims, such as promoting decentralization and local-level community engagement therein, acting as a learning school for local democracy, strengthening local conflict resolution mechanisms. What interests us here in this project, however, are the manifold small mechanisms the World Bank created to ensure that corruption, clientelism, and local abuse could be counteracted. The following is a list of measures taken by the project (see World Bank 2003a, 11; World Bank 2003b):

- **Direct transfer of funds**
- Funds pass through local government “in situ” only
- **Community control**
- Villagers control budgets
- Financial formats are simplified so villagers can understand them.
- Public accountability meetings
- **Transparency**
- Community notice-boards, village meetings
- Complaints database in newspapers
- **Monopolies—breaking**
- Financial transactions require three signatures
- Procurement requires three quotations
- Breaking monopoly over information: facilitators

**Monitoring and supervision**
- By Alliance of Independent Journalists, NGOs—criticism and publicity encouraged
- Intensive ongoing supervision by network of hundreds of facilitators
- Sanctions and follow-up
- Handling Complaints Unit, World Bank has power to block disbursement

In essence, these mechanisms seek to ensure that people possess correct information, tools for control, and mechanisms of redress. I believe that this is rule-of-law work and an instance of a rights-based approach to development, even though it may not involve a single explicit reference to human rights law. Note that some of the most original mechanisms can be found at the bottom of the list. Further, they are all dependent on the World Bank’s presence and its willingness to act as a counter-power—and this is where the originality but also the contestation come in. Indeed, the World Bank obliged the government of Indonesia to accept that the Independent Journalists Alliance (which was still formally banned at the time of the signing of the agreement) would write a number of independent investigative articles every year about the project’s unfolding in particular locales; it similarly insisted on a key role for independent NGOs in a system of province-based monitoring, as well as independent impact evaluation studies to be conducted by the Demographic Institute at the University of Indonesia. Finally, the World Bank made a contract with a commercial company to act as an ombudsman to the project; villagers can file complaints about manipulation and interference through a special post office box or through the Complaints Handling Unit established at the central KDP secretariat (Sardjuna et al. no date; World Bank 2003b).

The World Bank is clearly throwing its weight around here. The government of Indonesia (or any other government I have ever worked with) would not have created these mechanisms by itself. Nor are these mechanisms as currently set up ultimately sustainable; they depend on the World Bank’s money and its presence, and to some extent deliberately avoid and work around the official public mechanisms of accountability and control. This is what makes these mechanisms contested: they seem to depend a lot on pressure from outside, the sort of heavy-handedness for which the World Bank is infamous. And yet, there is something appealing about the setup of this project. I have just evaluated a project in Rwanda that is extremely similar in its aims and methods (it too consists of block grants
to the lowest decentralized level in the country, with the aim of promoting local collective action and engagement in decentralization) but lacks the World Bank's mechanisms of independent control and counter-power. The difference is dramatic. The former is beset by a multitude of small irregularities that together may add up to disempowerment and risk negating the aims of the project, while the latter seems much closer to achieving its aims (admittedly, the history and level of state capacity of Rwanda and Indonesia are also not really comparable). In countries where the rule of law does not exist, where corruption and clientelism prevails, and where human rights are regularly violated both in high politics and low politics, it may be that only outside agencies can create, at least temporarily, the mechanisms required for rule of law to emerge. Without their engagement, it will not spontaneously occur. How much pressure to use and in favor of what types of mechanisms are clearly very difficult questions to answer, and the answers will probably vary from country to country, but these are not questions development actors can avoid by hiding behind nice rhetoric about ownership and local capacity.

This, then, is what an RBA can amount to, among others: a systematic and constant concern with the creation of mechanisms of accountability, information, control, and redress, available to all citizens, and especially those who are historically most subject to exclusion and discrimination; a willingness in development agencies explicitly to address these things and not act as if they are not problematic; a capacity to look critically at their own practice, from the top of the agency to the bottom, and the creation of a professional atmosphere that encourages this; a desire to learn and innovate in the creation of small mechanisms for daily adaptation to the human rights challenges faced by ordinary people.

But there is more.

Re-conceptualization of the Overall Aims of Development Agencies

One of the main advantages of a rights-based approach to development is that it can bring people to reframe the nature of the problems they seek to address and the levers for change they can employ. As I outlined earlier, human rights art here as a heuristic device, broadening the definition of the problems to be addressed as well as, consequently, the range of actions required to affect them.

Take the fight against hunger. In the usual approach to development, this was achieved primarily by technical projects to increase national food production through improved seeds and the use of more and better inputs. When these programs were criticized for not sufficiently targeting the poor, projects increasingly came to target smallholders or women (which does not mean they were always very successful at such targeting). Public-health practitioners added nutrition projects targeting children, pregnant women, or other "vulnerable groups." Environmentalists insisted on a higher priority for projects that fight erosion or soil impoverishment. Others, meanwhile, said the problem of hunger was not due to a lack of food but rather to a lack of income; they argued that the key to overcoming hunger is to increase the incomes of the poor, since higher incomes will create demand in markets, which will be satisfied through the supply of imports, national trade, or increased local production. Still others have argued that what is really needed is the creation of off-farm employment, allowing families to diversify and increase income streams, possibly reinvesting parts of these in the intensification of agriculture. Still others would focus on small-scale, community-initiated initiatives, producer cooperatives, and community storage mechanisms.

The key point here is that all these debates, interesting as they are, employ an almost exclusively technical and expert-based perspective. They draw on insights from agronomy and economics, public health and environmental sciences, with some occasional anthropology thrown in for good measure. A human rights perspective, however, could dramatically change all that. It would begin by redefining the problem in terms of guaranteeing the right to food to all people in a country and then try to identify the factors that limit the promotion, protection, and provision of specific groups' right to food. The focus, then, would fall on a very different set of problems: the wide range of mechanisms that exclude some groups from services or resources the state makes available; the way discriminatory employment, land, credit, inheritance, or education policies exclude certain groups from the possibility of fending for themselves; how the practices of local and multinational corporations undermine or strengthen people's capacity to feed themselves; the impact of monopoly marketing boards or monopsony traders on the prices received by smallholders; the absence of social security programs intended to ensure that all people, regardless of gender, ethnicity, and income, have access to basic health care and nutrition. The list could continue. The point is that this approach to development has the potential to become broader—as well as rather radical, it must be said.

The distinction among respect, protect, and provide may act as a useful analytical device here. Respect: What do we as development practitioners
need to do to avoid harming people, reducing their rights? What discriminatory practices shall we not accept inside our own organizations or in our relations with our clients and partners? To what standards of behavior do we hold our partners and other relevant organizations? Protect: How can we support people when they organize to end violations of their rights? What kind of pressure ought we exercise to make actors desist from human rights violations? What kind of oversight bodies, counter-powers, mechanisms of accountability and redress could ensure that violations will occur less frequently in the future? Provide: How can we strengthen actors’ capacities to provide for satisfaction of their own rights? What influence can be exerted on states, international organizations, and the international community to assure the provision of rights? How can we help people directly? The resulting actions—even if all motivated by the simple and single right to food—will be in different fields of endeavor, from the very technical to the political, and at different levels, from the local to the international (for an interesting discussion, see Frankovits 2002). Oxfam International is an excellent example of an organization that has gone through such a process:

The Oxfams focus on the realization of economic and social rights within the wider human rights continuum. Equity is key in the realization of these rights. Equity is about making the rules fair for poor people and ensuring that justice prevails... Five rights-based aims provide the framework for Oxfam’s work in the coming years. Their unifying theme is to make globalization work for poor and excluded people by establishing and implementing new “fair rules for the global economy.” (Oxfam 2001, 7, 9)

For each of the five key rights Oxfam identified—the right to a sustainable livelihood, the right to basic social services, the right to life and security, the right to be heard, and the right to an identity—it sets out a series of strategic change objectives. These range from strengthening accountable local social change organizations to public campaigns for debt relief; from pressure on the World Bank’s PRSPs to campaigns for fair trade; from improvements in preparedness for disaster response to research on the environmental needs of the poor in order to inform its campaigns for environmental regulation. Oxfam is quick to point out that it cannot meet these objectives all alone; it will need to cooperate with many other organizations, including primarily those representing the poor themselves and human rights NGOs.

Choice of New Partners

One of the major—and by now totally evident—consequences of a rights-based approach to development is that it encourages development actors to identify different partners. In an RBA, development actors are no longer limited solely to traditional development partners, namely, organizations that locally reproduce the discourse, aims, and strategies of the foreign agencies themselves. Indeed, throughout the world a large array of organizations exists that does what human rights are all about, as described in this chapter: promoting human dignity through the development of claims that seek to empower excluded groups and that seek to create socially guaranteed improvements in policy (including but not limited to legal frameworks). These groups, often without ever saying so, “do” human rights (see also Cornwall and Welbourn 2002, 1). They do it differently from the usual manner of international human rights NGOs—the “naming and shaming” approach. They do it through grassroots organization, collective mobilization and bargaining, changing values throughout society, pushing for change in laws and policies and institutions, confronting discrimination (not only by governments but also by non-state actors, whether for profit or not). They may be composed of professionals, or they may be social movements; they may be alone or part of large networks that cross regions, countries, and continents. They deal with HIV/AIDS; sex trafficking; homelessness; discrimination along ethnic, gender, regional, religious, or linguistic lines; and access to water and land. Improving their capacities for learning and networking, their degree of internal democracy and representativeness, and their impact on other actors is part of rights-based development work.

The choice of local partners can be made using human rights criteria as well, privileging organizations that live by—as opposed to talk about—human rights standards, organizations that are internally democratic (for example, non-exclusionary in their membership) and representative of excluded groups. They can be assisted to become more accountable, better organized, more effective, and the like—progressive donor organizations have quite some experience with this.

This may be the moment to reflect more on the risks of external (financial) support. Does an RBA tell us anything about the way funding relationships ought to be construed? This is, after all, a very complicated issue, where good intentions often end up producing less than optimal results. The problems typically identified with donor funding include its short-term, administratively heavy, externally driven nature, leading both to inefficiency and to a strong sense of distrust and reproach among recipients.
Another fundamental problem relates to the prime instrument of funding, namely, the project—a typically short-term, time-bound, and predetermined set of actions with a clear aim, time line, and budget. At the same time, the donor side of the relationship is worried about dependence. There is the nagging fear that financial support creates a dependency relation, in which
he recipients, counting on continued outside support, ceases to invest in	heir own capacities (Ostrom et al. 2002). There is also the fear that large
loans removes local leaders from their social bases, turning them into
dwarfs, at home in the international aid circuit more than in the commu-

nities they claim to represent, capable of proposing fundable projects
ut short-circuiting their own bases.

Does a rights-based approach to development allow us to avoid such
outcomes? A priori, it seems that the notions of transparency and partici-

pation that are so central to an RBA in general could be usefully applied to
particulars of the funding relationship as well. This would suggest
a greater clarity in the way donors make their decisions about part-
s and funding as well as offer much more local control over sectors and

properties. Possible systems include:

- long-term program support for organizations with proven track records,
  allowing them to grow on their own rhythm and through their own
  learning;
- separating accompaniment and technical support to local organiza-
  tions from the mechanisms that channel funding to local organiza-
  tions' projects, with the former being available for a large number of
  local organizations in creating their own development plan, and the
  latter being available to those who submit successful proposals to foun-
  dation-like autonomous agencies (partly advocated by Hyden 1993;
  see also discussion by Ojo 1998);
- supporting networks of NGOs and CBOs for a long period of time,
  giving them significant decision-making power about the nature of
  the support, with simple rules seeking to guarantee equitable distribu-
  tion among members and between members and the center (often
  the center of these networks receives a disproportionate share of the fund-
  ing at the expense of the members);
- public knowledge, discussion, and audits of the management costs of
  the intermediaries (usually Northern NGOs who channel the funds
  from donor agencies to local NGOs, often at disproportionate cost);
- mechanisms, as discussed above, that strengthen and diversify the ca-
  pacity of all people involved to know what money is flowing where,

why, and how, and that ensure that possibilities for correction and
redress exist (major advances in transparency are bound to be part of
any such mechanisms);
- clear rules and procedures allowing for negotiation of funding rela-
  tionships rather than unilateral imposition by donors.

These are not impossible, and yet they are so rarely achieved.

It also seems that as the focus shifts from services to rights, the exclu-

sive focus on money may weaken as well. Let me explain. In the tradi-

tional development approach, money is at the heart of the game. Whether
development assistance is seen as filling the gap between insufficient local
savings/foreign currency and required levels of investment, or whether it is
simply a matter of providing more social and economic services to the

poor—money is the core of what development cooperation is all about.

There is no development relation without significant injections of money.

In a rights-based approach to development, money is much less crucial, at
least in a first run. What matters are organizational capacity, mutual

influence, internal and external accountability, exchange of innovation and ideas,
mechanisms of voice and control and redress, inclusive processes of deci-

sion-making, increased availability of information, improvements in
policymaking and legal environments and the quality of justice, and the

like. While none of these things comes for free (and none comes easily or
rapidly), none of them depends solely or primarily on massive injections
of external funding.

All the above clearly pleads for relationships between donors and re-

cipients that are more long-term and programmatic rather than of a short-

term, project/service delivery nature—away from the subcontracting rela-

tionship that still prevails in much development aid and toward genuine
partnerships. Admittedly, these things have been discussed for decades and
little progress has been made, apart from European NGOs, who tend to
be significantly ahead of the other players. An RBA can restate the impor-

tance, the urgency, of this sort of work, but it cannot really make it hap-

pen. Fundamentally, a lot of the institutional and procedural aspects of
the daily business of development cooperation make the sort of different
funding relationships described above difficult. The RBA, then, at the end
of the day, poses a very uncomfortable question for donors: what is it in
their own structures, attitudes, behaviors, and incentive systems that makes
progress along these lines so excruciatingly slow? The RBA, then, moves
upward from the field to the top levels of any development agency, requir-

ing fundamental decisions about its systems and procedures.
Conclusion

A rights-based approach to development contains great potential to alter profoundly the way the development enterprise goes about its business. Truly implementing it constitutes a radical change, though, demanding changes in choices of partners, the range of activities undertaken and the rationale for them, internal management systems and funding procedures, and the types of relationships established with partners in the public and nongovernmental sectors. An RBA, in other words, deeply affects the sorts of relationships that development actors have with actors on the ground (and even the scope of "the ground," which moves from the local to the global) as well as the way they function as organizations. It requires both external and internal changes.

The RBA is not the solution to all problems, a magical key that will finally unlock the gates of development nirvana. It is a lens, a way of looking at the world, of defining struggles and partaking in them. History shows that social struggles are messy, long term, and complicated, and thus an RBA will by necessity display these features as well. It seems likely that not all development agencies will be able to adopt the full RBA described in this chapter, nor should they necessarily. Multilateral organizations, especially, with their global state membership, their size, and their bureaucratic weight, seem to be structurally unable to do so—or at most they can only slowly adopt a few of the less radical tenets of the RBA (for the case of UNICEF, see Jonsson forthcoming). Bilateral agencies possess more of a margin for maneuvering, and NGOs more so still, and hence I would expect and hope that change in the direction of an RBA will take place primarily here.

Final Synthesis and Questions

Human rights are seen not as inalienable property but as claims, stakes, and occasionally as trumps which people play out locally and globally, nationally and transnationally. These rights emerge, not from declarations, but from a culture of conflict over human dignity and self-preservation.

—Michael Geyer, member of Human Rights Program at the University of Chicago

In this conclusion I begin by synthesizing the main arguments of the book—a brief reminder of the key practical insights for those who struggled through the entire thing or a lengthy executive synthesis for those who came straight away to the conclusions. After this synthesis I step back and identify some broader, more conceptual insights about what it means to accord human rights a central place in the practice of development. This part should be of relevance to human rights specialists as well. Finally, I deal with two questions that came up repeatedly throughout this book but were never fully solved. The first one deals with the need to make choices among rights, which is often required in the real world, as development practitioners well know. In case of lack of resources, how do we set priorities? In case of a conflict between rights, how do we make trade-offs? The second question is the one of interventionism. Much of what I propose in this book seems to constitute a license for ever further interventionism by outside actors, often unmatched by knowledge, legitimacy, modesty, or accountability. Is it possible to temper, constrain, and counterbalance the evident risks this poses? How do we marry outside support with internal autonomy? I have no clear, single, or fixed answers that will solve these questions once and for all. The way we face up to them lies at the heart of