

## Winners and Losers from Rights-Based Approaches to Development

*What can be gained and what might be lost through adopting a rights-based approach to pro-poor development?*

University of Manchester, 21–22 February 2005

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1. The title of this conference invites us to reflect on the strengths and weaknesses of rights-based and development approaches, with a particular focus on poverty elimination. In addition, it asks: Who wins and who loses from adopting one or another approach? It's a large agenda. In response to this large agenda, let me first apologise for not being present throughout the meeting: it is my loss – the abstracts clearly raise many important and difficult aspects of the questions we are asked to discuss. In the time I have, I will offer a few general remarks and hope they are not so condensed that they are opaque.
2. Let me begin with differences the in character of human rights and development approaches. I am conscious of this difference because, though now I work for an organization that examines problems and dilemmas that occur when implementing rights, my own background is not in human rights – I'm not a lawyer for example – but in development, broadly defined. I think it is a good place to start because (in my view) these differences help explain why attempts to mainstream human rights – whether in development, governance or economics and whether at UN, government or NGO level – continue to experience difficulties and certainly require time to sort out. The “dialogue” between rights supporters and development practitioners is just a few years old – “mainstreaming” at UN level only started at the end of the last century – so we are at the very beginning of the process we are discussing.
3. Unlike political and economic theorists, or development and governance practitioners, whose traditions are pragmatic – and unlike for that matter the anglo-saxon legal tradition – human rights is systemic. It is built around a body of principles, and derives policy from them. Many things follow, including many of the approach's real and claimed weaknesses.
4. The systemic approach means that the human rights framework is more transparent and orderly than other frameworks; it is more consistent, more logical. Not for nothing do human rights proponents emphasise the value they attach to universality and interdependence. They do believe that the system they advance is powerful because it has very wide application and because rights are consistent with one another (in most cases) and mutually supportive. Freedom of expression is inconsistent with the continued practice of torture, it underpins not just political participation but access to economic and social rights and so forth. It follows, however, that human rights supporters cannot

change course easily, are not flexible, do not easily engage in policy-making in one area – (provision of water) without regard for others (education, political participation). They find it difficult to negotiate, to trade. In all these respects they differ from other approaches that change their methodologies quickly if it makes sense to do so.

5. It does not help communication either that many human rights activists are unfamiliar with the history and traditions of other disciplines. They do not necessarily know that development professionals worked for many years to arrive at their notions of participation and inclusion. Many believe that human rights invented and brought such ideas to development. This lack of knowledge, of course, is often mutual.
6. It is unfortunate but not surprising that as a result human rights proponents have earned a reputation for moral grand-standing, for judging the performances of others without dirtying their own hands in the mucky business of development; or that relations between human rights practitioners and professionals rooted in other disciplines – economists, development experts, governance advisers – are often hedged with private criticisms that underpin the unwillingness of many institutions (NGO, government and international) to engage fully with a rights approach.
7. What are these criticisms, and are they justified? Time is too short to discuss them in detail. They do need to be brought into the light, however, because we will not be able to understand where the human rights framework can be helpful, or needs help, until this work has been done. Let's list some of the criticisms quickly, to put them on the table.
8. Number one: Human rights are “political”. It is claimed that human rights advocates are inherently critical of government, interested in blaming rather than changing. This is one face of the “won't dirty their hands” critique mentioned above. Personally, I don't think the claim stands up. The role of watchdog is a vital one even if it is inconvenient. Moreover, many more human rights organizations are associating with government institutions in reform processes. Interestingly they are doing so precisely because they see that shaming and blaming are not enough: if institutions are too weak, or are dysfunctional, shouting at them won't help. The criticism is weak principally, however, because the fault of being “political” can be (and frequently is) levelled as tellingly against development agencies. They are said to intervene in other countries, to do so in their own national interest or to suit their own convictions, and to do so unaccountably because of the power their aid budgets bestow.
9. Another criticism is that human rights methods focus on individuals and on individual rights rather than duties. Leaving aside the right to development and other attempts to promote collective rights, this has some truth. It is a strength of development and economics approaches that they address macro-objectives and long term investments. They can envision large processes of change, and plan through short term disruption and loss towards long term gain.
10. This links with two other criticisms of human rights advocates – that they think only in the present tense, and allow only unidirectional progress. This approach, it is argued, is

deeply at odds with the experience of development. Development advocates are modernists and progressives but they assume that some will suffer in the process, that people living now will suffer some loss for the benefit of the next generation or their children; development is a long and mucky process. A realist of this kind thinks human rights advocates are not able to balance benefits for the many against loss for a minority, or great benefits in the future against manageable loss now. As a result (it is claimed), obsessed by detail, they cannot see the big picture. They condemn progress that takes one pace back in order to go two steps forward. They are only concerned about violations *now*, here, in this place.

11. There is some truth in this. Human rights advocates do find it difficult to contextualise loss, and violations, either in space or time – or to relativise the loss of one group of people against the gains of a larger group. This weakness is also a strength, however. It is clearly one of the cardinal failures of much development, and certainly much economic planning, that they have concentrated on long term benefits or benefits to the majority and ignored losses suffered by more invisible communities or minorities. This is a case where the very particular interest that human rights has for individuals, and for those who suffer discrimination or loss, provides a proper balance, a conscience one might say, for the macro focus of much development and economic planning.
12. Then, there is the “refusal to choose” criticism. Human rights advocates are said to duck hard decisions, for example between two goods (education or health, roads or sanitation), and to reject the discipline of limited resources and scarcity that economists take for granted.
13. This is also a more real challenge, I think. For the reasons already mentioned, human rights advocates do find it difficult to trade, to prefer one right at the expense of another. They don’t like to allow that a schoolteacher should be employed *instead* of a nurse whose services are equally essential. However justified theoretically, this attitude can encourage a soft or aspirational approach to decision-making.
14. This said, I would make two comments. One is that work is now being done – for example within the WHO and in many countries on budget-analysis – which may enable decision-makers to apply human rights principles and methods usefully to decision-making. Secondly, it is a strength of human rights that it perceives progress in an interconnected way. Education cannot be improved successfully without improving health, health cannot be improved without improving access to food, and so forth. This parallel discipline, complementary to the discipline of scarcity, usefully discourages “quick fix” or “single cause” approaches that have plagued many development models in the past.

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15. We could continue. What emerges from such a list, I think, is that success and failure depend on what standard of judgement is used – and that, at present, the standards against which development approaches and human rights approaches are judged are often neither explicit or shared, and may not be the best or most appropriate ones to use.

16. For example, neither development nor human rights have a good record when it comes to influencing or profoundly changing worst cases. The very poorest countries, the least strategic and least resourced, have not made the fastest progress towards ending poverty, even when (some would say because) they have received large volumes of aid. The big success stories currently are countries like China, and in the past were countries like Korea. Similarly, human rights reforms work best in states that have the capacity to be rule-based, where there is an active civil society and a strong judicial tradition etc. In fact, it is an odd idea to suppose that economic and social development would work best in the poorest and weakest societies, or that human rights reform would advance easily in societies that are most resistant to its values. Yet both movements are most often judged against the worst cases.
  17. [It might also be said that the human rights and development movements are both progressive: they seek to change, to modernise, to bring into being new worlds, more prosperous, more humanly fulfilling, more just; and in so doing, they also seek to remove, to expunge, forms of behaviour and relationships that impede what they perceive to be progress. In some respects both are therefore revolutionary movements; at least their proponents think they are. From other points of view, they may be conservative, entrenching already out-of-date ideas – that Western ethical and legal principles are universal, that aid promotes rather than obstructs independent economic development or that the rich countries will ever disinterestedly help the poor. Many who are outside both movements see them as eventually oppressive, representing the values of a powerful establishment that desires to entrench its legal and economic institutions across the world.]
  18. A critical question is therefore to understand which criticisms are sound, and which ones are “straw men”. To what extent do the two sides have different or comparable strengths? To what extent are they complementary (or antagonistic)? And to what extent do they share the same weaknesses?
  19. The truth is that no system works in theory: it works in practice, because people make it work and fit it together. A human rights framework that is applied to the letter, without judgement, will produce absurd results. And development plans – especially large ones – introduced without judgement, produce white elephants and catastrophes, as we know.
  20. We are at the point where we must try things out, work together to see whether we are using the same terms to mean the same things and to see what works. My own bet is that the human rights framework will not always be useful but will provide some very useful political and economic and social tests for *taking decisions* and then for *evaluating* them.
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21. In the remaining time I have, I would like to point out two core strengths the human rights framework and make a point about the inclusiveness of both the human rights and development approaches, which is central to their political and moral credibility.
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23. the first strength is the opposite face of another criticism: that human rights is abstract and legalistic. I have said already that the framework is systemic, and that this is a source both of strength and weaknesses. It is legal as well – in my view inescapably – and this means that it is relatively complex to use. It is complex, first, because human rights is both a popular language, with which almost everyone can identify – the language of human dignity that is found in the initial statements of the Universal Declaration – and at the same time, a set of rather precise understandings reached by governments through negotiation. These agreements are not romantic; they represent what governments believe to be the realistic limits of their moral and political and economic obligations in relation to their citizens. Certainly lots of politics there, but lots of realism too. This is undoubtedly one of human rights great strengths. Its language is grounded; relatively precise; and can be used by governments to negotiate with one another. The collateral of this is that the simple and noble assumptions of human rights are girded with legal conditions that limit their application in practice. This is what makes them realistic, and potentially (if not actually) effective – and is the second reason why their application is complicated and often counterintuitive.
24. No other public or official language is available that provides anything like the same range and power, or precision, as the human rights framework. This makes it really very important. Compared to it, development can be morally appealing but does not have the force of law. The same can be said about good government. Law may not be applied; governments may behave illegally: but the human rights framework offers levers of influence that other discourses do not.
25. This is also one foundation of human rights' legitimacy. It is legitimate because it has been signed by governments, yet is independent of the interests of a single government; and it has legal authority. In addition to its useful forms of leverage, this is a further reason why those working on economic and development policy should look carefully at where they can adopt the language of rights, because very often their policies do not have the same legitimate roots, and are often accused if being illegitimate in important ways. Representing the interests of the powerful. Ignoring the sovereignty of poor countries. Overriding democratic principles. Detached from accountability etc.

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26. Let me turn to a second underlying strength, which is particularly relevant for discussion of poverty. Let's be hopeful and imagine ourselves four or six years from now. We remember 2005 because the big OECD governments (except the US which joined in 2008) all signed up to 0.7. The G-8 has agreed to cancel the poorest countries' debt and approved new financial mechanisms that freed for development an amount of new money equal to the aid budget. The IMF has revalued its gold reserves. The world has united around "MDGs+". What core obstacles would still stand in the way of progress on poverty?
27. Well, quite a number of course. But the most important might be capacity: the capacity of poorer countries to absorb and manage, invest and reinvest, much larger flows of resources effectively. This of course is a political as much as an economic problem.

Absorption capacity has been a source of political risk since the OECD refocused aid on the poorest rather than a wider range of developing countries. It is the same risk that occurs when large donors, impressed by the quality of work of some small NGOs, overgive and destroy them.

28. There is no simple way to grow effective financial and governance institutions quickly. They need to be rooted in societies, and to have earned their legitimacy. This said, I think human rights can make a distinctive and vital contribution in this area too. Here I will refer to yet another criticism, which is particularly misplaced. Human rights advocates are still sometimes blamed for undermining sovereignty and imposing foreign international values on countries. This is a variant of the “HR are political” argument. It is misplaced because the human rights framework is in fact highly focused on national obligations; it puts the responsibility and authority of national governments at the centre of its arrangements and it does so precisely for the reasons I indicated earlier: the framework was negotiated and agreed by governments in all their realism. [This is a strength but you will not be surprised to hear me say it is a weakness as well – the difficulties of agreeing when international actors can legitimately intervene in the affairs of other countries (peacefully let alone forcefully), to protect life for example, is extraordinarily difficult to make progress on as a result. But that is another story.]
29. A fundamental merit of the human rights framework is that it puts in place a range of mechanisms and tests that oblige governments to be more transparent and accountable than they would normally wish to be. The big practical tests that the human rights framework requires – inclusiveness (non-discrimination), communication of information, political participation in decisions, and accountability (above all) – all have the effect of sharpening the performance of public (and eventually private) institutions. But they also make them legitimate. If a rights regime is in place, those whom institutions affect have access to information about their policies, are able to make their views known, and can see that the institutions concerned are obliged to report upon and justify their conduct. And again, the system has a legal foundation, with the additional precision and legitimacy that this implies.
30. Once again, no short cuts are available. There is no magic wand. Human rights activists are as dismayed as everyone else by the glacial pace of most institutional improvement, and as depressed as developmentalists by the ineffectiveness of their advocacy. In the longer term, nevertheless, the human rights framework offers a route towards achieving better institutions, and it is a sounder route than most because it creates mechanisms that generate local and national legitimacy – as well as better performance. The system does not impose foreign values (development does that far more often, and more arbitrarily). It puts the onus firmly on national governments to be publicly accountable. And it does so legitimately, because national governments have signed the standards in question.
31. For me, this is a second core reason why governance and development professionals should look for ways of drawing on the human rights framework wherever they can when they seek to strengthen capacity and institutional performance. It is not always easier to

do so; nor is the human rights framework quicker or more effective. But it builds in political and democratic legitimacy, and this is a priceless commodity if one is seeking sustainable change.

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32. Let me end with a final comment about poverty and inclusiveness. I have tried to argue that one of the strengths of human rights is that it focuses on those who are excluded. It requires policy makers to ask: Who has not benefited? Who has been forgotten? Who has been excluded? It offers valuable corrective tools to development planners, who are predisposed to sum progress and overlook the often somewhat invisible minorities who do not benefit.
33. For very good reasons, development organizations have refocused on poverty in recent years. The political test of development policies now is whether they reduce extreme poverty. I have suggested this creates a political risk – that the wider public could become disillusioned with the whole project (at national level and in donor countries) if quick progress is not made (although quick progress may be impossible).
34. There is another political risk that both movements ought, however, to avoid. Neither are minority movements. The objective of development is, or ought to be, that the whole of society benefits from it. Of course that must include the very poor, the marginalized and excluded, the least resourced, the most oppressed. They are the acid test of commitment. But *all* should benefit from development and progress, and those who are poor cannot in fact be made better off unless society as a whole prospers. This is a crucial political message, if we want pro-poor policies to win the support of the middle class in middle income countries, or of the broader public in industrialised countries. Development is about everyone, not just the prosperous – but not just the poor either.
35. The same is true of human rights. Every person is entitled to claim his or her rights. They empower everyone. This is a much broader message than one which focuses only on the very poor, only on political prisoners, only those who suffer systemic discrimination. In this respect, the universality of human rights is central to its credibility. If the project is to work politically, they must have appeal to the prosperous as well as the poor – and must remain relevant to both. In fact this is where their true power lies: we do all benefit if everyone is treated justly, if we all feel safe, if people are protected against extreme poverty, if all are healthy and educated. The obligation to include the excluded is clearly there: it is the acid test of justice. But the legitimacy and authority of the project – and the legitimacy and authority of the development movement too – lie in their universal interest and appeal. If we do not communicate this, we will fail in the end to achieve either.

Thank you.