sur

international journal
on human rights

4

2006
Number 4 • Year 3
English Edition

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HUMAN RIGHTS
UNIVERSITY NETWORK
SUR

ISSN 1806-6445

SUR - INTERNATIONAL JOURNAL ON HUMAN RIGHTS is a biannual journal published in English, Portuguese and Spanish by Sur - Human Rights University Network.
It is available on the Internet at <http://www.surjournal.org>

SUR - HUMAN RIGHTS UNIVERSITY NETWORK is a network of academics working together with the mission to strengthen the voice of universities in the South on human rights and social justice, and to create stronger cooperation between them, civil society organizations and the United Nations. Conectas Human Rights, a not-for-profit organization founded in Brazil, is home to Sur. (See website <www.conectas.org> and portal <www.conectasur.org>. To access the online version of the journal, please go to: <www.surjournal.org>.)

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Prol Editora Gráfica Ltda.

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We would like to thank Carolina Almeida Antunes Rossini <carolrossini@fgv.br> from the Center of Technology and Society of the Getúlio Vargas Foundation <www.direitorio.fgv.br/cts> for its collaboration in the adoption of Creative Commons by the Sur Journal.

We would also like to thank the following professors for their contribution in the selection of papers: Alejandro Garro, Bernardo Sorj, Christof Heyns, Laura Musa, Fiona Macaulay, Flavia Piovesan, Florian Hoffmann, Jeremy Sarkin, Malak Poppovic, Paul Chevigny, Richard Claude, Roberto Garretón, Usha Ramanathan, and Vinodh Jaichand.

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ABSTRACT

This paper underlines some of the weaknesses and strengths of human rights and development approaches, in order to indicate a more effective framework to address poverty and exclusion.

KEYWORDS

Human Rights – Development – Poverty – Exclusion

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THE STRENGTHS OF DIFFERENT TRADITIONS: WHAT CAN BE GAINED AND WHAT MIGHT BE LOST BY COMBINING RIGHTS AND DEVELOPMENT?*

Robert Archer

The policy connections between "human rights" and "development" have been much discussed recently. One reason is that human rights and human rights law have a more prominent place in international policy. Another is that official development policies have come to focus on poverty and its causes much more explicitly, and as a result policy-makers have been drawn into considering the relational character of poverty ("who causes it, who has a responsibility to prevent it?"), which in turn has led some towards a "rights-based approach". A third is that, coming from the opposite direction, rights activists recognized that, having focused for many years primarily on civil and political rights, they needed to engage no less deeply with social and economic rights if they were to remain relevant. This has led them into contact with development activists and professionals who often have a much deeper experience of working closely with poor people and communities.

Building ties has not been a simple matter, however. Activists and professionals on both sides take pride in their own tradition and its values – and they are rarely familiar with those of the other side. Development professionals have often felt that the highly ordered system that human rights

*This is an edited version of a paper presented to a conference organized in February 2005 by the Institute for Development Policy and Management of the University of Manchester, titled 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? Sur would like to thank the University for permission to reproduce the paper in this form.*

See the notes to this text as from page 89.

professionals promote, with its legal language, is invasive and sometimes inappropriate; while rights professionals have been impatient with development's fundamentally pragmatic character.

This situation invites us to reflect carefully on the strengths and weaknesses of rights-based and development approaches. What can be gained by borrowing from one tradition to the other – and what might be lost? In particular, where are the poorest people likely to benefit or lose? This paper examines, lightly, some of the issues.

Criticisms of rights

First of all, then, in what ways are the human rights and development approaches different in character? Unlike political and economic theories, or development and governance models, which are pragmatic, the human rights' approach is systemic in character. 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.

Its 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. The system they advance is so powerful, not only because it has wide application, but because rights are consistent with one another (in most cases) and mutually supportive. Freedom of expression underpins both political participation and access to economic and social rights. The right to health care is relevant to achievement of many other rights, not only the right to life, 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, for instance) without regard for others (education, political participation). They find it difficult to negotiate, to trade. In this they differ from more pragmatic approaches that change their methodologies quickly if it makes sense to do so.

It does not help communication either that many human rights activists are unfamiliar with the history and traditions of other disciplines. For example, they often do not know that development professionals worked for many years to arrive at their notions of participation and inclusion. Many believe that human rights thinkers invented and brought such ideas to development. This lack of knowledge - which, of course, is often mutual – is a major obstacle to straightforward communication across disciplines.

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 hands in the mucky business of development; or that relations between human rights practioners and professionals rooted in other disciplines – economists, development experts, doctors, 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.

What are these criticisms, and are they justified? This paper cannot discuss them in detail, but they do need to be brought into the light and examined, because we will not be able to understand where the human rights framework can be helpful, or needs help, until this has been done. We have space to list a few examples, in illustration.

One is that 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. I don't think this 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 will not be enough to transform government or society. In particular, where institutions are indeed incompetent or dysfunctional, shouting at them won't help. The criticism fails principally, however, because the fault of being "political" can be 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.

A second 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 economic 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.

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, messy 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, rights

advocates fail to 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.

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 the human rights´ approach 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.

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.

This is also a more real challenge. 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.

This said, two comments are relevant. 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.

Drawing comparisons that are useful

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, at present, the standards against which development approaches and human rights approaches are judged are often neither explicit nor shared, and may not be the best or most appropriate ones to use.

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, which have human rights assets" such as an active civil society and a strong judicial tradition. 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.

It is therefore vital to understand which criticisms are sound, and which ones are "straw targets". This means assessing the extent to which the development and human rights traditions have the same or different strengths and the same or different weaknesses.

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) that are introduced without judgement produce white elephants and catastrophes, as we know.

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. The time for theorizing is not necessarily past, but what is needed most is more experience of tying things out to see what works. Initial experience suggests that the human rights framework will not always be useful but that it does provide helpful political and economic and social tests for planning and taking decisions and then for monitoring and evaluating them.[1]

If this prediction is right, we can foresee ahead of us a rather confused period, in which organizations of different kinds will try out many different ways of working. Some will very consciously apply human rights methods and principles. Others will work in more heterogeneous ways; and many, while applying human rights explicitly, will act in ways that are consistent with human rights. Much good development practice is consistent with the latter approach. The lessons that emerge will be similarly inconsistent and difficult to compare; but where human rights methods and practice do indeed provide benefits (by increasing the effectiveness of policies that are supposed to reduce poverty, or reduce risks for those implementing such policies) they will increasingly be adopted. In such ways, the use of human rights in development will become mundane in ways that it is not today, and human rights activists will perhaps learn to tolerate the piecemeal adoption of human rights methods that development activists are almost certain to prefer.

Strengths of human rights

In this context, two core strengths of the human rights framework should be underlined.

The first strength is the opposite face of another criticism of human rights: that they are abstract and legalistic. It has been noted that the framework is systemic, and that this is a source of both strength and weaknesses. Reflecting this, the framework also takes a legal form, and this means that it is complex to use.

It is complex, first, because human rights is at once 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 *technical* one. Human rights law sets out rather precise understandings reached by governments through negotiation. These understandings 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. This political realism is one of the great strengths of human rights. Because the language of rights is grounded on negotiation, and its requirements are relatively precise, it 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 – but it is a second reason why, in practice, their application is complicated and often counterintuitive.

Yet no other public or official language provides anything like the same range of reference, or precision. This makes the human rights framework 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. Human rights law may not be applied (and very often it is not); governments may behave illegally (and very often they do): but the human rights framework offers levers of influence that other discourses lack.

This is also one of the core foundations of human rights' legitimacy. It has deep legitimacy because it has been signed by governments - yet is independent of the interests of a single government and has formal legal authority. The policies of development organizations do not have legitimacy of this sort. Development organizations of all colours are often accused of being illegitimate in important ways – of representing the interests of the powerful, ignoring the sovereignty of poor countries, overriding democratic principles, lacking accountability etc. This is a further reason why those

working on economic and development policy should look carefully at where they can usefully adopt the language of rights.

A second underlying strength is particularly relevant to discussion of poverty. Let us be optimistic and imagine the position ten years from now. The OECD[2] governments (except the US which is about to do so) have signed up to 0.7. The G-8 has agreed to cancel the poorest countries' debt and approved new financial mechanisms that free 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."[3] What core obstacles would still stand in the way of progress on poverty?

Quite a number of course. But an important one would 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. Absorbtion capacity has been a source of political risk since the OECD refocused aid on the very poorest rather than on a wider range of developing countries. It is the same risk that occurs when large donors, impressed by the quality of work of small NGOs, overgive and destroy them.

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, human rights can make a distinctive and vital contribution in this area. 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 "human rights 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.[4]

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.

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.

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.

Inclusiveness is a common value

I will 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.

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).

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 pro-poor policies are 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.

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.

NOTES

1. The International Council recently did some work on the policies of local governments that sketched in some of this experiential reasoning. See international Council on Human Rights Policy, "Local Government and Human Rights", 2005.

2. *Organisation for Economic Co-operation and Development.*

3. *Millennium Development Goals.*

4. Yet again, this strength has generated a weakness. 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 - has frequently paralysed policy making. But that is the subject for a different paper.