DEVELOPMENT RESEARCH METHODS

Week 7, Lesson 1: Operationalizing Rights-based Approaches to Development

Development Research Methods
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What we will cover in today's lecture

1. What is Rights-based approach to development? The Principles and Concepts
2. Operationalizing Rights-based approach
3. Challenges of implementing a Rights-based Approach

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A Rights-based Approach to Development- Some perspectives 1

- A conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. Essentially a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development. (OHCHR Website, 2004).

- Describes situations not simply in terms of human needs, or of development requirements, but in terms of society's obligations to respond to the inalienable rights of individuals, empowers people to demand justice as a right, not a charity, and gives communities a moral basis from which to claim international assistance when needed. (UN Secretary General Kofi ,1998).

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A Rights-based Approach to Development- Some perspectives 2

- Having the courage to build local, national, and global movements that argue for specific duties to be met by governments, corporations, and individuals that will enable all people to enjoy their rights. Above all, it involves abolishing the development enterprise as a neo-colonial programme of correction administered from rich to poor and replacing it with a common political project that recognizes everyone's equal rights and judges the behaviour of all on the basis of how they realise or violate these rights. (Hugo Slim, 2002).

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Development and the Human Rights Agenda-1

- Socio-economic development is regarded as part of the human rights agenda dating back to the time the Universal Declaration of Human Rights (UDHR) articulated economic, social, cultural, civil, and political human rights in a single document.
- Ideological divisions between the western liberal democracies (which championed civil and political rights) and the East Bloc (which prioritized economic, social and cultural rights).
- The rise of an 'international civil society' in the post-Cold War period brought human rights to the forefront.
- A host of world summits held from 1990s onwards, as its feature, highlighted the discourse on the relationship between human rights and international development cooperation.

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Development and the Human Rights Agenda-2

- During late 1990s, with the launching of UN reforms, the Secretary General, called for mainstreaming of human rights in all of the UN's development work.
- Rights-based Approaches taken up by several organizations such as CARE, Save the Children and UNICEF. Some bilateral donor agencies, e.g., Sida and DFID began promoting rights perspectives in their assistance.
- Further impetus in 2000 with launching of UNDP's Human Development Report with human rights and human development as its focus.
- Human Development Report- a compelling argument for an integrated approach to development, drawing upon the principles of international human rights and the strategies of human development to advance dignity and well-being.

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The Principles and Concepts of Human Rights

- 'Social and political guarantees necessary to protect individuals form the standard threats to human dignity posed by the modern state and modern markets' (Donnelly, 1989).
- Human rights take departure in the International Bill of Rights which comprises the Universal Declaration of Human Rights and the consequent International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) in 1976.
- Other central human rights documents:
  - Convention on the Rights of the Child (CRC),
  - Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
  - International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

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Rights-holders and Duty-bearers

1. Rights-holders:
   a. All people belong the this group
   b. We have human rights simply because we are human beings
   c. These rights are held equally and inalienably
2. Duty-bearers:
   a. **States** are the principal duty bearers
   b. **State** is legally obliged to respect, protect and fulfil all human rights for all citizens
   c. To facilitate, provide and/or promote rights
   d. Acts as a regulator or facilitator of other actors who provide services, such as the market and civil society
3. Other actors:
   a. Moral duty-bearers: organizations and institutions have moral obligations
   b. Exist at the local levels; NGOs, trans-national corporations, regional organizations and the United Nations

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Obligations of State Parties to International Human Rights Law

1. The obligation to respect
   a. To abstain from carrying out, sponsoring or tolerating any practice, policy or legal measure violating the integrity of individuals
   b. Legislative and administrative codes take account of guaranteed rights
2. The obligation to protect
   a. To prevent the violation of rights by other individuals or non-state actors
   b. Access to legal remedies in case of violations occurring
3. The obligation to fulfil
   a. Involves issues of advocacy, public expenditure, governmental regulation of the economy, the provision of basic services, etc
   b. Active measures necessary for guaranteeing opportunities to access entitlements

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Obligations of other parties

1. Primary duty-bearers

- Example parents for children, teachers for students, doctors/nurses for patients, etc.

2. Secondary duty-bearers

- Example institutions and organizations with immediate jurisdiction over the primary duty-bearers

3. Tertiary duty bearers

- Example institutions and organizations at a higher level (NGOs, aid agencies, private sector organizations)

4. External duty-bearers

- Example countries, institutions, organizations with no direct involvement, example, WTO, UN, INGOs, Security Council, African Union

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Towards Operationalization of a Human Rights Approach

- Human rights perspective

a. Recognizes that there is an intrinsic link between poverty and human rights at the policy and strategy level
b. Mainstreams human rights by applying them consistently throughout the development cooperation process
c. Not guided by the realization of *all* human rights for *all* people as the foremost goal

- The human rights-based approach has many elements in common with other approaches used by development practitioners. For example, the emphasis on participation in development work resonates with the right of individuals to take part in the conduct of public affairs and the related rights of association, assembly and expression.

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Illustrations of the Differences between a Needs Approach and a Rights Approach

Needs Approach	Human Rights Approach
Works toward outcome goals	Work towards outcome and process goals
Recognizes needs as valid claims	Recognizes that rights always imply obligations of the state
Empowerment is not necessary to meet all needs	Recognizes that rights can only be realized with empowerment
Accepts charity as the driving motivation for meeting needs	States that charity is insufficient motivation for meeting needs
Focuses on manifestations of problems and immediate causes of problems	Focuses on structural causes of problems, as well as manifestations and immediate causes of problems
Focuses on the social context with little emphasis on policy	Focuses on social, economic, cultural, civil and political context and is policy-oriented

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Rights-based Analysis

1. Takes departure in the principles of equality and non-discrimination.

2. The analytical framework

3. Aims to determine what immediate, underlying and structural obstacles there are to realizing rights.

4. Must necessarily identify responsible duty-bearers.

- Encompass aspects of a society's social, cultural, legal and political dynamism
- Aims to capture the root causes of the perpetuation of poverty, exclusion, discrimination and power
- The problem analysis takes departure in whose rights and what rights are not being realized

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Features that distinguish the rights-based approach from other approaches-1

1. Legal Basis

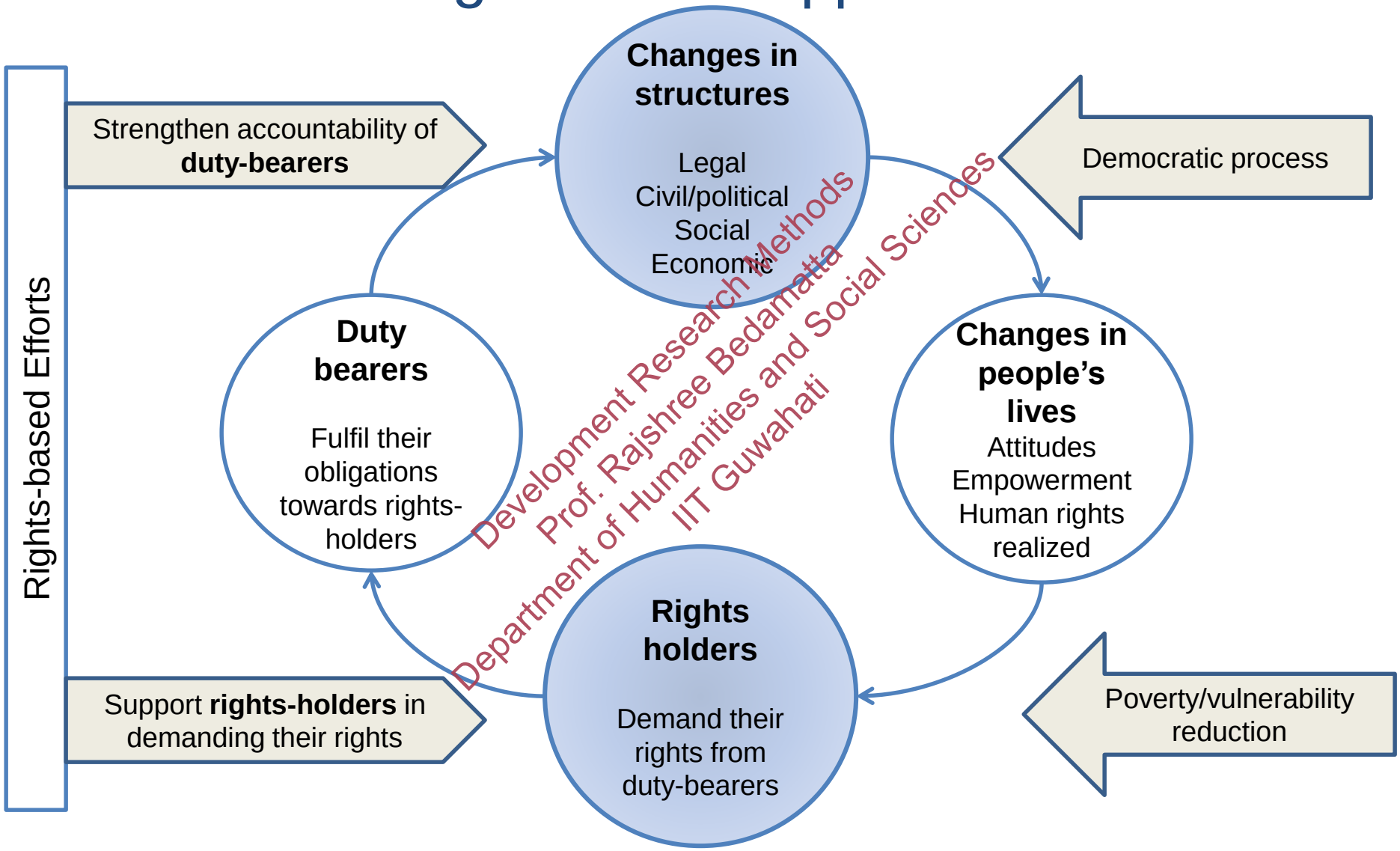
A. International law specifies obligations that are legally binding under international law

B. A 'two-pronged strategy'

- **Strengthening duty-bearers** to fulfil their obligations
- **Empowering rights-holders** to claim their rights

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Rights-based Approach



Source: Mikkelsen, 2005

Features that distinguish the rights-based approach from other approaches-2

2. Normative Framework-Key principles

I. Universalism and inalienability

- Universalism- every woman, man and child are entitled to enjoy his or her rights by virtue of being human.
- Inalienable rights means that they cannot be taken away from someone or voluntarily given up.

II. Equality and non-discrimination

- Development effort should focus on the empowerment of excluded groups.
- Strengthening the State actor's capacity to realize the rights of these groups.

III. Indivisibility and inter-dependence of human rights

- Enjoyment of one right is indivisibly interrelated to the enjoyment of other rights.
- Principle of non-retrogression-prioritization of some rights must not deliberately be at the expense of other rights.

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2. Normative Framework-Key principles-2

IV. Participation and inclusion

- An entitlement guaranteed by international law.
- Must aim for free, active and meaningful participation of targeted communities.

V. Accountability

- To demand accountability means moving development from the realm of charity to that of obligations.
- Aims to strengthen a government's accountability to ensure good governance.

VI. Rule of law

- Disputes should be solved through adjudication by competent, impartial and independent processes.
- Access to the judicial machinery to invoke their rights to institute legal proceedings for appropriate redress.

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3. Process Goals

1. Human rights are necessary:
   - **Active**-dependent on the participation of individuals and groups
   - **Practical**-they must be applicable in the daily lives of people

2. Rights should not only be promoted and protected by duty-bearers, but practiced and experienced by rights-holders.

3. The approach regards the realization of human rights as both an outcome goal and a process goal.

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Tools for Operationalizing a Rights-based Approach

1. Draft guidelines for a rights-based approach to poverty reduction (OHCHR, 2002). (Office of the United Nations High Commissioner for Human Rights)

2. UNDP and OHCHR have also developed a simple checklist for programme staff (UNDP/OHCHR, 2003).

3. Human Rights Council of Australia (2001) has been a source of inspiration to NGOs developing a rights-based approach.

4. NORAD (2001) has developed a handbook on 'human rights assessment'. (Norwegian Agency for Development Cooperation)
   - Assists practitioners in asking the relevant questions concerning human rights, implementing and monitoring them.
   - Includes a simple scoring tool for assessing how a programme affects human rights, people's awareness about their rights.

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Human Rights Impact Analysis Tool- *After* NORAD, 2001

Human rights issue	Score	Follow up
AWARENESS		
1. What is the programme's assumed/actual impact on equality and on-discrimination?		
2. Has the population directly affected been informed about the programme?		
3. Does the programme respect/has it respected everyone's rights to seek and impart information relevant to its implementation?		
EMPOWERMENT		
4. Does the programme respect/has it respected the right to express views freely in the preparation and implementation?		
5. Does the programme promote/has the programme promoted participation in decision-making of groups affected?		
7. Does the programme respect /has it respected the right to just and favourable conditions of work?		
8. Does the programme affect/has it affected the fulfilment of the right to an adequate standard of living for target groups and other people affected?		
9. Does the prgramme affect/has it affected the opportunity of people for self provision in terms of income generating activities?		
10. Does the programme address the right to compensation for those negatively affected?		

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Legend for scoring:
PI-Positive Impact **NC**-No Change **NI**-Negative Impact **NA-** No Information Available

Components of a Rights-based project-After Human Rights Council of Australia, 2001

1. People involved in the project have a thorough knowledge of the international human rights framework
2. Initial negotiations with the agency of the receiving government make it clear which right(s) is at issue
3. The feasibility study involves communities themselves in the design of the project
4. Communities are provided choices and they are given undertakings regarding the project
5. Information is provided, including the communities entitlements and their decision-making powers
6. The timetable of outcomes includes the provision of penalty clauses
7. Access is provided to the project decision makers and to grievance procedures
8. Guarantees are given in case of project failures to ensure the provision of services
9. Explicit provisions for relevant information and skills regarding entitlements would be standard part of the project package
10. At the feasibility study stage, project designers analyse the other rights that are breached in the area
11. Negotiations with provincial and local government authorities make it clear which right (s) is at issue
12. The responsibility for project evaluation and monitoring includes the participation of communities.

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source: Mikkelsen, 2005

Challenges of implementing a Rights-based Approach

1. Inadequacy of state legal apparatuses, inconsistencies between law and practice, and poor awareness of human rights among state actors and citizens.
a. Although a majority of states have ratified the human rights treaties, many states have not codified the treaties into the domestic legal framework
b. Even when there is a formal coherence between domestic law and international human rights law, the policies and practices in a country may be applied in ways that are contrary to human rights principles
c. Many poor countries often suffer from under-developed legal and judicial systems that debilitate the rule of law
d. Citizens may be unaware of their rights, which makes it impossible for them to claim them
e. Poor people are often deterred from approaching the formal legal system.
2. Cadre of development workers
a. The international development community has inadequate knowledge of the human rights regime
b. There is comparatively little experience of applying rights based approaches and insufficient practical guidance available
3. Limitations of the international human rights framework
a. The international system for responding to violations of human rights is often accused of being ambiguous and sluggish
b. There is no independent international judiciary to assist in enforcing human rights in member states.

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Human Rights, Freedom and Poverty Reduction

- Rights-based approach to development, as both a strategy and a tool, is a better position to address the broad concepts of poverty and poverty reduction.
- Provides the poor with an internationally recognized legal basis for their free, active, and meaningful participation in the development process.
- A considerably larger scope for preventing violent conflict.
- A paradigm shift to reduce poverty.
- Poverty alleviation is a question of poor people's deprived rights and freedoms.

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References used for this lecture

- Britha Mikkelsen “Methods For Development Work And Research A New Guide For Practitioners”, Second edition, 2005, SAGE Publications.

For a comprehensive literature on the topics covered in this lecture it is also suggested that students go through the reference list of the above cited book.

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