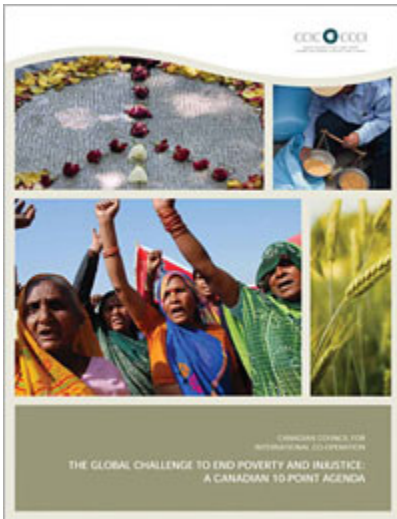


Human Rights

Human Rights and our Shared Agenda

By Gauri Sreenivasan



The work of CCIC and its members over the past forty years—for development, for social justice and for an end to inequality and poverty—has always been, at its heart, a struggle for human rights. This collective work, spanning continents and generations, reflects an ethical and moral imperative that is deeply felt in our sector— whether rooted in politics, faith, or both—to resist global injustice, demand fairness, and insist on respect for the fundamental equality and dignity of human beings everywhere. This imperative is the bedrock of human rights.

The CCIC Code of Ethics reflects that human rights are an essential element of our sector’s Principles of Development. Yet we have not always characterized our work as human rights work, nor has the

"development agenda" more generally been understood to be about rights, least of all within the official aid regime. For decades human rights was seen as “political” work, not the business of development. After the end of the Cold War, however, much of the official development agenda became about re-building formerly communist societies. There has been a renewed interest among donors in the importance of democracy, human rights, and the rule of law. Correspondingly, the link between governance, including the role of civil society, and development outcomes has been increasingly mainstreamed in the aid regime.

In 2007, CCIC undertook, together with the membership, a major renewal of our shared policy agenda. *The Global Challenge to End Global Poverty and Injustice: a Canadian 10-point Agenda* was released in early 2008. The Agenda reflects the increasing adoption by the membership of a more explicit and intentional rights-based approach, where development, as recognized in the UN Declaration on the Right to Development, is a comprehensive process leading to the full enjoyment of all human rights. This trend is most obvious in our policy discourse (rights, accountability, justice), but also evident in the programs and Southern partnerships of many members—from work on children’s rights, to health programming, to support for organizations fighting for women’s equality, and alternatives to corporate-led globalization. The mantle of human rights is not difficult to take up; it is familiar to many and certainly comfortable to all.

If the “gut politics” of our sector has always had a justice and rights orientation, how and why does the adoption of a more explicit human rights framework strengthen our work? And what are some of the challenges and weaknesses it also entails?

From Charity to Justice

The foundations of the International Human Rights system are not new. The United Nations adopted the Universal Declaration of Human Rights (UDHR) in 1948, shortly after the birth of the UN itself. The Universal Declaration asserts that “All human beings are born free and equal in dignity and rights.” It lays out the basic civil, political, economic, social and cultural rights that all human beings should enjoy.

The rights in the non-binding Declaration were subsequently codified as legally binding obligations in two treaties, known as the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights. The historic evolution of other core treaties, and numerous declarations to further flesh out the framework of international human rights is well-documented. ¹

While human rights have long been codified and recognized by the international community, they have not led development discourse. Development work through the past decades has been dominated by a “donor–recipient” model. The model focuses on fulfilling needs. The “donor” has the active role, and the “recipient” a passive role. Even where recipients are encouraged to define their needs, the power framework and the discourse has been charitable—one of assistance and aid.

Much of the solidarity and development work of our sector rejects this charitable approach to development, recognizing that inequitable arrangements between North and South, as well as within countries, are both undesirable and fundamentally unjust. In the South, many of the movements for independence, for development and equity that we have accompanied for decades have been framed in terms of human rights including the right to self-determination, and reflect the expectation that States must deliver on fundamental obligations to citizens.

Outside of popular movements, work with communities and marginalized people has been conceptualized as support for the empowerment of citizens and communities by themselves for themselves, and reflects the appreciation of the rights of people to claim what is justly theirs.

"The original notion of development was to open up spaces for deprived social sectors who were themselves often deeply involved in the struggles for self-determination. In that context the Universal Declaration of Human Rights was conceived, and the United Nations was set up to promote processes which subsequently gave rise to the concept of development....

There is a major crisis in the philosophy, the reality ..of development work which, instead of being a process to create conditions for self reliant...communities, has become simply a project."– Miloon Kothari

"Introduction" in *Development and Social Action*: Oxford: Oxfam.

The human rights framework makes explicit this shift from charity to justice. Every human being is recognized as a person and as a rights holder, who can and should claim their entitlements under these rights from the governments elected to represent and serve them. As the United Nations Population Fund notes, there is a critical distinction between work to fulfill the rights of people and aid to meet the needs of beneficiaries. "A need not fulfilled leads to dissatisfaction. In contrast, a right that is not respected leads to a violation, and its redress or reparation can be legally and legitimately claimed."²

Core elements of a human rights approach for Global justice

There are a number of core elements of a human rights approach that resonate well with the work of our sector. The human rights framework speaks to and validates key points of our shared analysis of global justice issues, as reflected in the *10-Point Agenda*.

The Role of the State

The Human Rights framework recognizes and underscores the role of states—their legal and political obligations as the duty bearer for rights, and their key role as *facilitator* of a development process that enables the fulfillment of rights. A human rights approach is in tension with a vision that sees a need to minimize the role of the State on principle, and is inconsistent with the view that the market alone can be relied on to deliver social and developmental outcomes to citizens. Governments can never be relieved of their role as guarantors of rights. As the declaration of the 1993 UN Conference on Human Rights in Vienna asserted, "the protection and promotion of human rights is the first responsibility of governments."

States have three levels of obligation: to respect, protect and fulfill human rights.

- The obligation to *respect* means States must refrain from any action that interferes with or curtails the enjoyment of human rights.
- The obligation to *protect* requires States to protect individuals and groups against human rights abuses by non-state actors.
- The obligation to *fulfill* means that States must take active steps (provide an institutional framework) to enable people to enjoy their human rights in practice.

While states are immediately obligated to observe civil and political rights, the

International Covenant on Economic Social and Cultural Rights (ESCR) recognizes that realizing those rights will be a progressive process over time given the varying ability of states to fulfill them at different stages of development. This concept of “progressive realization” is robust, however. The obligation to fulfill requires expeditious and continuous action towards fulfillment of ESCR rights, taking account of resource constraints, and guarding against regression.³ The concept of progressive realization can act both as a measurement tool for monitoring state compliance on ESCR rights, and a planning tool for sequencing policies and programs.⁴ It is also important to note that the obligations to “respect and protect” ESCR rights are immediate, and not subject to progressive realization.

The human rights framework thus insists on the accountability of governments for fulfillment of human rights. But the human rights framework is not exclusively about states and governments—to the contrary, human rights start with people.

Citizens, social movements and people power

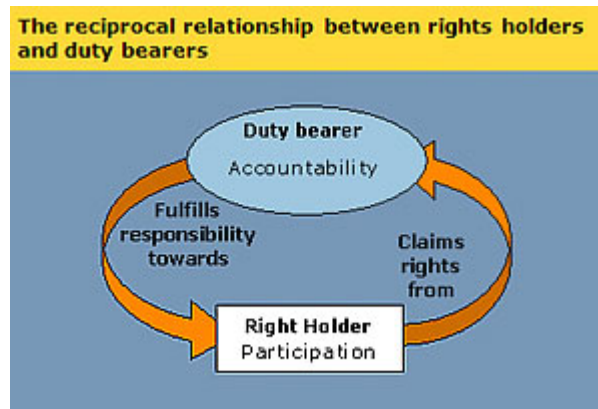
The founders of the United Nations recognized that states do not grant us our human rights. All persons have rights by virtue of membership in the human family. These rights are inalienable. But all citizens must *act* to claim their rights, and to provide meaning and content to those rights. The experience of CCIC’s members, through 40 years of international solidarity and cooperation work with Southern partners, speaks to this point. From the fight for women’s equality, or for decent pay and safe working conditions, to struggles for land and resources for Indigenous people and marginalized groups, the organization of citizens in community and movements is a key driver of progressive social change, and what, at that end of the day, compels governments to act.

“Legislation and court orders can only declare rights. They can never thoroughly deliver them. Only when people themselves begin to act are rights on paper given life blood.”– Dr. Martin Luther King, Jr.

One of the weaknesses of the human rights system has been its overemphasis on governments and courts as the primary locus for action for rights. Given the often repressive nature of states, and their capture by elite actors who may resist equality and human rights for all, it is important to note that the human rights framework underscores that citizen action is the engine of the development process, and the engine of state accountability.

It is the reciprocal, and dynamic relationship of people and their governments (see figure) that provides the key to the enjoyment and fulfillment of rights. Human rights treaties on their own provide little guidance, for example, about the means to fulfill rights (though numerous UN bodies have been working to contribute analysis and guidelines on these issues). How the market should be managed, how services must be delivered, whether trade treaties should have this form or that form, is not the stuff of human rights obligations.

Citizens, through democratic debate, civic action, and engagement with other actors in society, including governments and corporations, must negotiate and promote their ideas on how rights should be fulfilled—and there is no one solution. But the human rights framework insists on core principles to observe as citizens and states, and other non- state actors, organize to develop their societies. These principles are to guide development processes, and they resonate deeply with the work of our sector.



Human Rights Core Principles ⁵

Universality

The principle of universality of human rights, by which all people everywhere are entitled, is a cornerstone of international human rights law. Universality speaks to our common humanity and is the well spring of global solidarity. Universality also implies that development processes involve citizens in every society claiming their rights. It speaks to our common agenda across national contexts, and frames the search for effective global governance. The universality of rights provides a means for connecting our lives and our struggles to those in all corners of the world.

Non-discrimination and Equality

Article 1 of the Universal Declaration of Human Rights affirms the fundamental equality of all human beings. As such, all persons have equal claim to their rights and dignity. Non-discrimination is a principle that links and underlies all human rights, and which asserts that, given the inherent equality of human beings, no one should suffer discrimination on the basis of race, gender, age, language, sexual orientation, religion, disability, and other specified categories. The principle of non-discrimination is present in all the major human rights treaties and is central to some of the key conventions. The struggle for women's rights for example, is fundamentally a struggle to recognize women's equality to men, and is strongly reflected in the Convention on the Elimination of All Forms of Discrimination against Women.

The principle of non-discrimination also provides clear guidance for government priorities and activism. In a human rights framework, those who have least access to their rights, and are most discriminated against in society — such as the poorest of the poor — become priorities for public policy action. This bias to prioritize the interests of those most marginalized, and to give primacy to their perspectives on development, is mirrored in the work of our sector.

Participation and Inclusion

A human rights approach underscores the rights of people to participate in, and have access to information related to decision making that affects their lives, as codified in the International Convention on Civil and Political Rights. Participation is recognized both as a right and an end in itself, and as a vital means to ensure individuals can shape the development process and its outcomes. Since all people have participation rights, special care must be taken to guarantee the rights of minorities, and the inclusion of those historically marginalized.

Effective participation requires not only fundamental freedoms and security of the person, but transparency of process, to ensure access to relevant information required for the exercise of decision making rights.

Indivisibility and Interdependence

The human rights system is built on the principle that all rights — political, civil, economic, social and cultural — are equally important. Rights are also interrelated and interdependent, in the sense that the fulfillment of one right depends, in whole or in part, on the fulfillment of the others. In turn, the denial of one right impedes enjoyment of others. This speaks to the holistic nature of the human condition, and of the importance of integrated approaches and holistic analysis in development work — understanding that attaining good health is not possible in a context of war and insecurity, that hunger prevents learning, that education is central to the exercise of political rights, or that gender inequality must be tackled to address food insecurity in households and communities.

Accountability

States, and other duty bearers, are answerable for the observance of human rights. When they fail, rights-holders are entitled to seek redress before a competent court (or other adjudicator) in accordance with the law. This is also known as the right to remedy. Individuals, the media, civil society and the international community play important roles in holding governments accountable for their obligation to uphold human rights.

The principle of accountability is central to a rights-based approach, and to a view of

development as an inherently political process to promote equality, end poverty and guarantee all citizens access to a full life with dignity and rights. Citizens must be able to hold governments to account for development outcomes, assessed explicitly against core principles of non-discrimination, transparency and progressive realization of rights etc.

And it's the law

The fundamental strength of the human rights framework is that all of these core claims of citizens, and these principles for how development must be assessed and promoted, are not just the political views of some, but a matter of national and international law. In our work for development and social justice, we are bolstered by the fact that our core goals — equality, decent work, an end to hunger, exploitation and violence — are not just hopes, but rights. Those in positions of power, formal and informal, are obligated under law to uphold those rights to which they are signatory⁶, and to defend their choices and priorities against human rights principles.

The human rights framework provides no silver bullets, since the struggle against interests and power remains real, and the violation of rights rampant. But human rights are, and have proven to be, a powerful basis for mobilizing citizens and movements. Invoking binding legal obligations is a vital tool in campaigns for political and policy change at local and global levels.

No silver bullet: Challenges and areas for further work

To say that the human rights framework fits our agenda, and to speak of its strength and applicability as an analytic framework for our work, is not to say there are no weaknesses or challenges for us in embracing this approach.

As noted earlier, one weakness of the human rights community has been a tendency to focus exclusively on states and intergovernmental bodies as the entry point for action for rights. While it is governments that have the obligation to respect, protect and promote rights, not all human rights strategies can be about government action. Human rights strategies must recognize the agency and participation of rights holders as key.

Legal action is one common approach to human rights work. This includes ensuring that those who have violated rights are held to account through the law, and those who have suffered violations can seek redress through the courts.⁷ But while this is important, judicial process remains inaccessible to all but a few of the world's most marginalized people. Indeed, the enforceability of human rights is weak in general. In the international human rights system, UN treaty bodies and the Human Rights Council can monitor, document and condemn violations of human rights in different national contexts. But, unlike other areas of international law (such as trade and investment treaties), there is little to compel states to change their actions, or provide compensation or redress to citizens.⁸ This hierarchy of power between the international treaties that set out rights of investors and corporations compared to those codifying human rights is

a fundamental challenge to the achievement of global development goals.⁹

It is important to recognize that human rights need to be made real, not just through major policy achievements, as in legal reform, but in qualitative improvements in the day to day lives of citizens. So, while important, the work of human rights lawyers and policy makers is not enough. The formation of a women's cooperative or a trade union, the training of independent journalists, strengthening education, increasing food security, building an awareness of rights, increasing women's capacities and self esteem, can all be means to enable citizens to claim rights, and to demand accountability for their fulfillment from political leaders.

"Where, after all, do universal human rights begin? In small places, close to home — so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."— Eleanor Roosevelt

Another emerging, but still weak, area of work on the human rights framework concerns the duties and obligations of corporations with respect to human rights. The Universal Declaration of Human Rights states in its preamble that “every organ of society must respect human rights and secure their observance.” In today's globalized world, the increasing influence of corporations, not only in the market, but in civil and political society, is redefining the boundaries of both power and accountability. While states remain the primary duty-bearer of rights in the current human rights system — and must protect citizens from violations by non-state actors, including corporations — there are increasing calls to formalize the rights obligations of corporations, themselves.¹⁰

Next Steps

An important area for further exploration is broadening our understanding of how to undertake development work in practice in a way that is more explicitly consistent with human rights principles. This requires more critical reflection, and then action, to close the gap between our commitment to human rights and equality and the actual practice of our work and partnership relationships.

There are a variety of organizations and documents that discuss the human rights framework and what its application means in different contexts, from rights-based approaches to development programming,¹¹ to different methodologies for the assessment and monitoring of the human rights context in communities and countries, to discussion of tools for advocacy work and policy making, such as human rights impact assessments.¹² As we move forward on achieving the *10-point Agenda*, further

exploration of these issues will be required.

Finally, it is important to recall that the human rights framework is not the only framework through which to assess and develop our work for global justice. Whatever the claims and aspiration of humans to fulfill their rights, the limits and capacities of the global environment also challenge us to apply a framework of sustainability to our work. We must promote not only the rights of human beings but also the protection of biodiversity, and the health and resilience of ecosystems, if we are to secure a future for all life and generations to come.

Just as we have much to learn from the human rights community as we chart our agenda for the next ten years, so too we must understand and build links to the environmental community to ensure a holistic approach to citizen empowerment, gender equality, sustainable human development, and effective systems of governance from local to global levels.

Gauri Sreenivasan is CCIC's Policy Co-ordinator.

Find Out More

- [What is a rights-based approach to development?](#)
- [Association of Women's Rights in Development \(AWID\)](#)

Endnotes

1. For an overview of Core Human Rights Treaties and other Human Rights Instruments see the website of the OHCHR <http://www2.ohchr.org/english/law/>
2. The Human Rights-Based Approach: United Nations Population Fund. <http://www.unfpa.org/rights/approaches.htm>
3. The Human Rights & Democracy (2007). *The Human Right to Food in Nepal*.
4. See General Comment 3 of the UN Committee on ESCR and *International Human Rights Law* on the website of the UNHCHR <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>
5. This section setting out human rights principles draws liberally from several sources including *The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies* http://www.crin.org/docs/resources/publications/hrbap/HR_common_understanding.doc, *The Human Rights-Based Approach*: United Nations Population Fund. <http://www.unfpa.org/rights/approaches.htm>, and *Human Rights Impact Assessment for Foreign Investment Projects*, 2007; Rights & Democracy <http://www.dd-rd.ca/site/>
6. All UN member States have ratified at least one of the core human rights treaties, and 80% of States have ratified four or more.
7. Indeed the "justiciability" of rights is a central characteristic i.e. if a right cannot be claimed by some process (legal or otherwise) then it is not a right.

8. Where national justice systems are in good working order, violations of civil and political rights can be more easily pursued through the law. The establishment of the International Criminal Court has also been a watershed institutional development to allow prosecution of serious offences, such as war crimes, at a global level where national court systems are unable to do so. For information on how legal cases have been used to enforce ESCR rights see the Case Law Database of the International Network on ESCR. <http://www.escr-net.org/caselaw/>.
9. For more on the weakness of the international human rights protection system relative to international trade and investment system see S. Shrybman (2007). *Human Rights and Access to Water*. Preliminary Submissions of the Council of Canadians Blue Planet Project
10. Canadian CSOs and others around the world have been following with interest the work of John Ruggie, the Special Representative of the UN Secretary-General on Business and Human Rights, who was tasked in 2005 with developing ways to better appreciate the impact and activities of transnational corporations on human rights. See <http://www.business-humanrights.org/Gettingstarted/UNSpecialRepresentative> for key documents.
11. UN agencies have adopted a HR framework that identifies that their programmes of development cooperation should contribute to the development of the capacities of 'duty-bearers' to meet their obligations and of 'rights-holders' to claim their rights. See *The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies*. http://www.crin.org/docs/resources/publications/hrbap/HR_common_understanding.do and *What is a rights-based approach to development?* <http://www.unhcr.ch/development/approaches-04.html> See also the work of Oxfam Canada on their approach to human rights programming elsewhere in this issue.
12. Rights & Democracy has been doing leading edge work on human rights impacts assessment tools for investment and on means to monitor and assess the realization of the right to food in different country contexts. See <http://www.dd-rd.ca/site/>