

Abstract

This dissertation sets out to explore what appears to be a fast growing trend within the international community towards making human rights the point of departure of its development agendas. Alongside the new rights agenda lays the agenda derived from the international development targets, which mainly focus on poverty and human development. Subsequently, the importance and focus has been increasing within the international community over the past few years on a new approach which combines human rights and development. This approach is most commonly known as the rights-based approach to development (RBA).

In this dissertation the objective is to seek an understanding of what the RBA is and if it can live up the expectations placed upon it, such as it being the key to ending poverty and making development work a thing of the past. The study uses qualitative research methods in its attempt to realize its objectives. A sizeable amount of data collection in the form of literature researched and analysis was conducted along with interviews and observational analysis. In order to get a sense of how the RBA is understood and used by international organizations and to some degree how it works on the ground the study focused its attention on the UNICEF National Committee in Iceland and the Save the Children organization in Iceland

The dissertation concludes that there are many difficulties and challenges faced by the RBA. The promoters of the RBA need to demonstrate that the approach is more than just rhetorical fluff that offers little to the real problems faced by people on the ground. RBA must be designed, applied and understood in such a way that development workers and practitioners without being human rights lawyer, PhD in development studies or carrying any other professional title can participate in and benefit from the approach. Furthermore, difficult moral and judicial question are also faced by the RBA. However it is the researcher's opinion that if the critical issues identified in this dissertation can have a satisfactory solution this approach will be a force to be reckoned with and can offer a window of opportunity and hope for positive change in international development.

Úrdráttur

Mannréttindi skipa sífellt veigameiri sess innan alþjóðasamfélagsins, þar með talið innan þróunargeirans. Samfara auknu vægi mannréttinda hefur sú hugmyndafræði notið vaxandi fylgis að efling mannréttinda sé órjúfanlegur hluti árangursríkrar þróunarsamvinnu. Afsprengi þessarar hugmyndafræði er hin svo kallaða „réttindamiðuð nálgun að þróun“ (e. *rights-based approach to development*) sem sameinar bæði hugsjónir og markmið mannréttinda og þróunar.

Markmið þessarar meistararitgerðar í þróunarfræðum og alþjóðasamskiptum er að varpa ljósi á þá hugmyndafræði sem býr að baki réttindamiðaðri nálgun að þróun. Leitað er svara við spurningum á borð við hvað réttindamiðuð nálgun að þróun sé og hvort hún geti mögulega staðið undir þeim markmiðum sem margir telja að hún geti komið til leiðar, eins og til dæmis að þróunarsamvinna verði óþörf. Rannsóknin byggir á eigindlegri aðferðafræði en slíkar rannsóknir fela m.a. í sér að safnað er fjölbreyttum gögnum sem rannsakandinn síðan túlkar. Tekin voru viðtöl og þátttökuathuganir framkvæmdar, auk textagreiningar samkvæmt þessari aðferðafræði. Í því augnamiði að auka skilning á upplifun starfsfólks alþjóðlegra stofnanna sem notast við réttindamiðað nálgun, og að vissu leiti hvernig nálgunin virkar í framkvæmd, var sjónum fyrst og fremst beint að Barnahjálpi Sameinuðu þjóðanna og Barnaheillum á Íslandi.

Það er niðurstaða rannsóknarinnar að víða er pottur brotinn þegar kemur að réttindamiðaðri nálgun að þróun. Talsmenn þessarar nálgunar þurfa að sýna fram á að nálgunin sé meira en uppskrúfuð orðræða sem býður ekki uppá raunverulegar lausnir á þeim vandamálum sem fólk í þróunarríkjum stendur frammi fyrir. Réttindamiðuð nálgun að þróun þarf að vera þannig úr garði gerð að þeir sem starfa innan þróunargeirans þurfi ekki að vera mannréttindalögfræðingar, doktorar í þróunarfræðum eða bera sambærilega titla til að taka þátt í og njóta þess sem nálgunin hefur uppá að bjóða. Réttindamiðuð nálgun að þróun stendur einnig frammi fyrir flóknum siðferðilegum og réttarfarslegum spurningum. Þrátt fyrir allt er það þó skoðun rannsakandans að takist talsmönnum nálgunarinnar að bæta ákveðinn vanda sem nálgunin stendur frammi fyrir þá sé hún sannarlega komin til að vera og hefur alla burði til að vera boðberi vonar og jákvæðra breytinga á þróunarferlinu.

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Introduction

There seems to be a fast growing trend within the international community (both within the United Nations (UN) and other international bodies) towards making human rights the fulcrum of its development agendas. The new rights agenda runs parallel with the agenda derived from the international development targets, which mainly focus on poverty and human development. Consequently, the importance and focus has been increasing within the international community over the past few years on a new approach which combines both human rights and development. This approach is most commonly known as either the rights-based approach to development or the human rights-based approach to development.

Much praise and excitement has surrounded the debate of the rights-based approach. However, it is legitimate to ask whether a rights-based approach offers value-added over a poverty or human development approach? Is a rights discourse simply another form of advocacy for human development or does it signal the beginning of a new era; a new framework for all stakeholders that guides the development agendas?

Thus, the aim of this research is to make an effort to answer these questions, and many others that arise, such as: What is a right-based approach to development? What are human rights? How do human rights and development relate? Is there a consensus among development practitioners and staff at international organizations, on what that approach means? What is the rhetoric surrounding human rights and development in the academia? How does it work in the field?

There are mainly two reasons why this research topic was chosen. Firstly, there is the researchers general interest in the issue of human rights (in theory and practice), sparked largely by volunteering for Amnesty International in 2004. Secondly, receiving a full scholarship to study for one year (2006-2007) as a Visiting Research Scholar at the prestigious, University of California, Berkeley, presented a unique opportunity to really delve into the topic of human rights. This led to the researchers “discovery” of the rights-based approach to development, an approach which brings together the researcher two main fields of interest (i.e. human rights and development).

In chapter one the historical background of human rights (its visions, concepts and ideology) from its religious origins to its role within the United Nations are broadly examined. The relationship between human rights and human development is also discussed. The theoretical background for the study will be presented in chapter two, consisting of a literature review of issues related to the rights-based approach. In chapter three, the study looks at the critical debates surrounding the rights-based approach and some challenges it faces. Then in chapter four the research design of the study is outlined. Furthermore, the chapter presents the background of choosing a research topic. The rhetoric surrounding human rights and the rights-based approach to development in one of the worlds most extinguished academic institutions (as representative of the academic community) will be the subject of chapter five. Through the ethnographic apparatus, mainly the observational analysis, the researcher examines how the issues and concepts of human rights and a rights-based approach to development are approached in that influential community. Chapter six then narrows the focus of the rights-based approach to address its effect on issues concerning the rights of the child. Chapters seven and eight, present an overview of the history of the United Nations Children's Fund (UNICEF) and Save the Children (SC) and the theoretical background behind their project/program application of the rights-based approach to development.

Finally, the interviews and observational analysis conducted at UNICEF's and SC's country offices in Iceland will be outlined in chapter nine followed by discussions and the conclusion of the research.

Chapter 1: The origin of human rights

This chapter will attempt in broad-brush strokes to shed light on the history and origin of human rights and how it relates to international development. It will begin by looking at the religious visions that constituted the birth of human rights ideology followed closely by its philosophical visions. The focus is then narrowed towards the West where it can be said that human rights got structured into the legal and moral framework that are known today, especially with the foundation of the United Nations. Finally, the relation between human rights and human development will be discussed. What, if anything, do they share in common? How did their “union” bring life to the so called Rights-Based Approach (RBA) to development? These and other questions will be discussed in this chapter which should shade some light on the enormous historical context that the approach (i.e. an RBA) originates from.

1.1. The birth of human rights

Professor Lauren¹ (1998: 4) points out in his book, *The Evolution of International Human Rights*, that

...the historical origins of powerful visions capable of shaping world events and attitudes like those of international human rights are rarely simple. Instead they emerge in complicated and interrelated ways from the influences of many forces, personalities and conditions in different times and diverse settings.

According to Lauren (1998), the history of human rights, or more correctly, the vision of it did not really have any single birthplace or origin, such as Western cultures or societies. It can be traced to different parts of the world, different

¹ Prof. Paul Gordon Lauren is an internationally-recognized scholar and teacher on international relations, diplomacy and human rights.

cultures, religions and philosophies. In fact, it has been with men and women ever since they abandoned nomadic life and settled in organized societies.

In addition to being complex, Lauren (1998) argues, the visions of human rights can also be very disturbing and deep, because they have a way of striking at our very core and compel us to face difficult and disturbing issues, such as human nature and what it means to be human, these visions view both the best and the worst of human behavior and question how we ought to relate to one another. They force us to examine the purpose of government and the exercise of power and last but not least question our own actions and values in relation to those who suffer. Lauren points out the evolution of human rights did not start with assertions of entitlement or demand for human rights but with the discussion of *duty*.

1.1.2 Religious visions

If I define my neighbor as the one I must go out to look for, on the highways and by ways, in the factories and slums, on the farms and in the mines, –then my world changes. This is what is happening with the “option for the poor,” for in the gospel it is the poor person who is the neighbor par excellence....

Gustavo Gutiérrez, *The Power of the Poor in History*.²

Despite their vast differences, complex contradictions, internal paradoxes, cultural variations, and susceptibility to conflicting interpretation and fierce argumentation, Lauren (1998) argues, all of the major religions seek in one shape or form to speak to the human responsibility to others. Therefore, they share a universal interest in addressing the integrity, worth and dignity of all persons and consequently, the duty toward other people who suffer without distinction (Lauren 1998).

In Hinduism, for example, the worlds oldest religion, the sacred scriptures address “the existence of good and evil, wisdom, the necessity for moral behavior,

² A quote taken from Paul Farmer’s book, *Pathologies of Power: health, human rights and the new war on the poor* (2005:139).

and especially the importance of duty (*dharma*) and good conduct (*sadachara*) towards others suffering in need” (Lauren 1998: 5). All human life, no matter who it belongs to, is considered sacred and worthy of love and respect. According to Lauren, the most important ethical principle found in Hinduism, and one that became very important to Mahatma Gandhi, is the non-injury of others. It is universally and directly stated as follows: “Non-injury (*ahimsa*) is not causing pain to any living being at any time through the actions of one’s mind, speech or body” (Lauren 1998: 5).

Similar trends can be found in Buddhism, maintains Lauren (1998). Some 2500 years ago its founder, Siddhartha Gautama also addressed the universal issues of human relationships, the equal worth of the life of each person and the showing of compassion for other people’s pain and suffering. Siddhartha Gautama also adamantly attacked the caste system in India of his day consequently opening his order to everyone, regardless of his or her social or political position. His followers were urged to practice universal brotherhood and equality. Perhaps the following quote by the current religious leader of Buddhists, the Dalai Lama, helps explain the kind of ethics this religious tradition is based on? “The world’s problems will be solved only by showing kindness, love and respect for all humanity as brothers and sisters...and if we understand each other’s fundamental humanity, respect each other’s rights and share each other’s problems and sufferings” (Lauren 1998: 6).

It is hard to say whether one should include Confucianism in this section on religious tradition or if it should be better suited among the philosophical ones. Given that it is and was practiced in much the same way as a religious tradition, it can be argued that it belongs here. As mentioned in Lauren’s (1998), book Confucian put much more enfaces on human relationships and ethical life than on spiritual matters in the realm beyond (as other religions tend to). According to Confucianism, “harmony and cooperation exist when all persons honor their duty and responsibility toward others, overcoming their own self-interest and egotism, treating all human beings as having equal worth, and recognizing that within the four seas, all men are brothers” (Lauren 1998: 7). A well-known Confucian dictum gives a good insight into this philosophy: “If there be righteousness in the heart, there will be beauty in the character. If there is beauty in the character, there will be harmony in the home. If there is harmony in the home, there will be order

in the nation. If there be order in the nation, there will be peace in the world.” (Lauren 1998: 7).

Islamic doctrines are no less true to the aspects of shared brotherhood and duty to one’s neighbor. Among its pillars are: charity, justice, sanctity of life, personal safety, freedom, mercy, compassion and respect for all humans (Lauren 1998). Islam also teaches that there should exist absolute racial and religious equality. According to Lauren, the religious equality that Islam guarantees is probably the first charter of freedom of conscience in human history. A similar charter can now be found in article 18 in the *Universal Declaration of Human Rights* (UDHR) (25+ Human Rights Documents 2005: 6).

The Jewish religion, or Judaism, is based on a monotheistic theology and as such speaks of the shared fatherhood of God to all people and the fundamental importance of the creation of human beings as members of one family and as individuals endowed with worth (Lauren 1998), therefore making all humans equal. Its scriptures also talk about the responsibilities or duties of individuals towards each other. A good example of these obligations can be found in the well known and dramatic story of the two brothers, Cain and Abel. A short version of the Biblical story is that, Cain is the tiller of the soil, and Abel, his brother, a keeper of sheep when Abel cannot be found the Lord asks Cain about his brother’s whereabouts and well-being. Attempting to escape blame and any responsibility for a murder, Cain denies knowing and then seeks refuge by posing a universal and enduring question: “Am I my brother’s keeper? As Martin Buber (1966: 86) points out in his book, *I and Thou*,, this disingenuous and false reply has been the subject of countless books dealing with “human nature, ethical behavior towards others, social justice...the rights of foreign strangers in ones own land, the existence of one law that establishes a uniform standard of treatment and equality for all, and responsibilities toward those in need”.

The tenets of Christianity are, needless to say, no less true to the aspects of being a brother’s keeper, Lauren maintains (1998). On the contrary the importance of responsibility and compassion for one another is even extended. During his ministry more than two thousand years ago, Jesus continually challenged the authorities and social system of his day. In his teachings he stressed for example the importance of love, forgiveness, compassion, equality of all persons in the sight of God, of loving one another as he loved us (i.e. unconditionally), and

consequently he stressed the responsibilities and/or duty to protect and care for one another. It is interesting to note, Lauren says, Jesus also demonstrated a level of respect for women, children and outsiders that was highly unusual in his day.

Like all visions, the various religious visions that have now been mentioned represent precisely that – a vision, not reality (Lauren 1998). And despite their various different approaches none of them could escape “secularization, perversion, or corruption in one form or another and in ways that provide a pretext for governments to engage in repression at home and aggression abroad or allowed the powerful to mask their greed” (Lauren 1998, 8). As Lauren (1998: 8) points out “in religious terms, humans often proved themselves to be precisely that –all too human.”

However, one must not forget or ignore the fact that there have always been people that have attempted to act on the teachings of their religious mentors or prophets. In Lauren’s (1998: 9) words these people “lived in particular historical times and places that conditioned and at times determined what they could reasonably accomplish...[m]ore often than not, they reflect simply an orientation of heart and spirit”. Although they may not always have been successful, that does not diminish the ultimate value of the ideal they or future generations were aiming for. As Lauren shows, these actions yielded three important contributions to the evolution of international human rights. First, the values, normative standards, and ideals that those religious traditions established were extremely important sources of inspiration and strength for those who fought or campaigned for human rights, not the least during times of oppression, persecution and hardship. Secondly, by seeking to develop a universal sense of obligation toward humankind or moral imperative these religious traditions helped establish an ingredient vital for any and all international human rights: a concept of responsibility to common humanity. Any demands or claims for human rights would have remain unanswered, localized or isolated unless there had been people in other places in the world who believed that they had responsibilities to protect others regardless of where they might be placed in the world o what station they belonged to, in other words they felt they had ‘duties beyond borders’. Third, these religious traditions provided an inherent beginning for discussions about rights by developing concepts of duties. “Duties and rights are closely interrelated

and correlative concepts because the responsibilities of some imply rights that can be claimed by others” (Lauren 1998: 9).

1.1.3 Philosophical visions

Through out the centuries religious people weren't the only ones to contribute to the evolution of international human rights by pondering over difficult question about human relationships, either as individuals or groups. Moral and political philosophers contributed their fair share as well. In Lauren's (1998) careful description of the philosophical origins of international human rights, he shows how philosophic thinkers in all corners of the world wrestled with similar issues and concerns. Just as the religious thinkers the philosophers reflected on questions like the meaning of social justice, human nature and responsibilities and duties to other people, to name a few. What sets them apart, however, from the religious thinkers, and apart from their many differences of perspective and diverse approaches is the fact that they sought to understand and answer these complicated questions trough “secular inquiry and human reason” (Lauren 1998: 10) but not through divine revelation or scripture.

Although, as previously mentioned, ideas and concepts about general human rights did not originate in one geographical area, time, culture or even form of government, it does not mean that all societies have always subscribed to the same believes and values. Meaning that the ideas and values in question were approached in different ways and, maybe more importantly, the way they were practiced differed among different geographical areas, cultures and ages. However, it is necessary to recognize that the moral worth of each person is a belief that “no single civilization, or people, or nation...or even century can claim as uniquely its own” (Lauren 1998: 11). Thus there seems to be a common denominator between these various ideological origins that led to the formation of international human rights as we know them today. Even though it cannot be said that human rights evolved from a single origin there is no denying the crucial part played by the West. What the West most importantly provided was “not a monopoly of ideas on the subject, but rather much greater opportunities for visions such as these to receive fuller consideration, articulation, and eventually implementation” (Lauren 1998: 12).

During the Enlightenment, Western philosophers began to defend and debate what was then known as “natural rights” or “laws”. In his book Lauren (1998: 16) cites a French philosopher, Denis Diderot, who described “natural law” in his *Encyclopédie ou dictionnaire raisonné des sciences, des arts et des métiers* (1755) as being understood by all people and that “[t]hey provide the most basic foundation for human society by defining what is naturally and universally just for all human beings without any reference to kings, aristocracy, popes or bishops, class country or time period.” As noted by Lauren, Diderot challenged existing authority when he used such language of equality and individual rights for all. Diderot’s ideas about natural law were made perfectly clear when he asserted. “Tell yourself often: I am a man, and I have no other true, inalienable natural rights than those of humanity” (Lauren 1998: 16).

In *The Evolution of Human Rights* Lauren (1998: 16) remarks:

Such philosophical ferment and expressions of natural law and natural rights, stressing as they did ‘inalienable’ and ‘unalterable’ individual freedom from control whether in politics, trade, societal conventions, intellectual endeavors, or religious belief, provided inspiration and justification for the revolutionary struggles against absolutist regimes that convulsed the West at the end of the eighteenth century.

Lauren (1998) argues that that European monarch provoked the challenges in the first place by refusing to adapt to changing times and relinquish some of their powers and privileged positions. Their failure to respect the most basic freedoms and equalities found in the philosophy of natural law fueled the public to demand them, or as Lauren puts it: “absolutism prompted man to claim rights precisely because it denied them” (1998: 16).

The first war to be fought based on those ideas was the one between the American colonists and their British masters in 1776. The outcome of that war was the so called “Bill of Rights” which invoked entitlements to life, liberty and property for all men (Lauren 1998). One of the most influential revolutions in history, the French revolution, which started in 1789, yielded most of the civil and political rights we know to day in its declaration of The Rights of Man and

Citizen. As Jonsson (2003) points out in his book *Human Rights-Based Approach to Programming*, it is clear that despite criticism from liberal economists in the 19th century the human rights ethic was instrumental in achieving a number of key human development transformations, such as the abolition of slavery, recognition of trade unionism, and quest for universal suffrage.

1.3. The United Nations

The formation of the UN has played a pivotal role in the way human rights are understood today. The Charter of the United Nations, signed on June 26th 1945, begins by reaffirming a “faith in fundamental human rights, in the dignity and worth of the human person, equal rights of men and women and of nations large and small...” (25+ Human Rights Documents 2005). It continues by stating that among the purposes of the United Nations one is,

...to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples...[and] to achieve international cooperation ...in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion... (25+ Human Rights Documents 2005: 5).

In article 56 of the Convention “all members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55” (25+ Human Rights Documents 2005: 2). Despite the fact that human rights constitute the very foundation of the UN, the organization did not put them very high on its list of priorities. The main reason for this, according to Weston (1992), is the many different interpretations member states have on human rights, which is not helped by “the Charter’s many vague and ambiguous human rights clauses” (Weston 1992: 23). Another reason human rights weren’t in the forefront was due to the big divide between civil and political rights (CPR) on the one hand and economic, social and cultural rights (ESCR) on the other during the Cold War. Although there are still some remnants of this division the gap has become increasingly smaller over the past couple of decades

(Jonsson 2003). As Jonsson points out in his book the sudden revival of human rights as a major instrument within the UN is to a large extent due to the commitment and work of the UN's former Secretary-General, Kofi Annan. Only a few months after taking office in 1997 Mr. Annan announced his plan for UN reform. He set up an agenda which included a stronger human rights promotion and peacekeeping operations (Global Policy Forum n.d.). In a statement to the Commission on Human Rights in 1999 he announced:

As the Secretary-General of the United Nations I have made human rights a priority in every program the United Nations launches and in every mission we embark on. I have done so because the promotion and defense of human rights is at the heart of every aspect of our work and every article of our Charter.

(UN Cyberschoolbus. n.d.).

At the United Nations Millennium Summit, in September 2000, the largest-ever number of world leaders agreed to a set of time-bound and measurable goals and targets commonly known as the Millennium Development Goals (MDGs). They include eleven goals relating to development and poverty eradication. The Summit also adopted the Millennium Declaration, which outlines a wide range of commitments in human rights, good governance and democracy (UN 2002).

In December 2000, the General Assembly adopted a resolution that encouraged all actors, including all UN organizations, member states, the Bretton Woods Institutions, the World Trade Organization, civil society organizations, and the private sector to partake in the implementations of the Millennium Declaration and achievement of its goals (Jonsson 2003).

At the 57th session of the General Assembly in 2002 the Secretary-General, Kofi Annan, introduced his report: Strengthening of the United Nations: An Agenda for Further Change. In it he further emphasizes the promotion and protection of human rights as they are "the bedrock requirement for the realization of the Charter's vision of a just and peaceful world" (UN 2002: 2).

The above mentioned series of initiatives has caused all UN agencies to recognize human rights in their work, and inspired UN development agencies to develop a human rights-based approach to development (Jonsson 2003). The

process of adopting a human rights approach has not been easy or accepted by all. Nonetheless, The World Bank and many UN agencies – including UNDP, UN Division on the Advancement of Women, UNFPA, WFP, UNICEF, WHO, FAO, ILO, UNDAF, the UNAIDS secretariat – have declared their commitment to human rights, and most have issued policies and guidelines aimed at bringing a human rights orientation to their work. Many bilateral development agencies – such as CIDA, the U.K’s DFID and Sweden’s Sida, as well as development NGO’s – such as Action Aid, OXFAM, Save the Children and Care have increasingly adopted a human rights language in their work and subsequently seem to be leaning more and more toward a human rights-based approach to development (Jonsson 2003).

Before delving into the issue of rights-based approach to development (RBA) we will first look briefly at the backland of human development and how it subsequently emerged with human rights approaches.

1.2.1 Human Development and Human Rights

In the Declaration on the Right to Development, adopted by the General Assembly on the 4th of December 1986 it is stated that:

... development is a comprehensive economic, social cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from.... (25+ Human Rights Documents 2005: 95).

The Declaration further reminds states under the Charter of their obligations “to promote universal respect for and observance of human rights and fundamental freedoms for all without distinction of any kind ... (25+ Human Rights Documents 2005: 96). Thus the Declaration is essentially saying that international human rights and human development are in essence one and the same thing, sharing common goals and visions. However, it has only been in the last few decades that the two disciplines (i.e. human rights studies and development

studies) began sharing knowledge and experience that eventually brought them close enough together to form the so-called rights-based approach to development. Let us take a quick look at the two “schools of thought”, their parallel evolution and eventual “union”.

The debate surrounding international development has for the most part been focused on the connection between economic growth and development (i.e. rapid economic growth was seen as the key to human development). For several decades now it has become more widely accepted that human well-being should be the main objective of development and that this objective can not be reached by economic means alone. According to Jonsson (2003), this attitude in international development practice towards a more “humanitarian” or “people-centered” approach owes a lot to the work of the United Nations Development Program (UNDP). In chapter 1 of the 1990 report, (its first human development report) titled *Concept and Measurement of Human Development*, The United Nations Development Program defines development as follows:

Human development is a process of enlarging people's choices. In principle, these choices can be infinite and change over time. But at all levels of development, the three essential ones are for people to lead a long and healthy life, to acquire knowledge and to have access to resources needed for a decent standard of living. If these essential choices are not available, many other opportunities remain inaccessible.³ (HDR 1990: 10)

This definition implies a new vision of human development which the agency has been active in promoting. Jonsson (2003: 6) points out that the UNDP’s analyses “have contributed to an improved understanding of the relationship between economic growth and human development.” By this he means that it is not solely

³ Since 1990 the UNDP’s definition of development has been subject to some changes and evolution –mostly in the form of additions, such as sustainability etc. In 1996, for example, the agency divided international development into three different, yet equally important components comprising: (1) capability to be well nourished and healthy, (2) capability for healthy reproduction, and (3) capability to be educated and knowledgeable (Human Development Report 1996).

a question of one or the other, economic growth *or* human development, but a complex relationship of the two.

In his latest book, *Development as Freedom*, the esteemed economist Amartya Sen (2000) defines development as the expansion of capabilities or substantive human freedoms for each person “to lead the kind of life he or she has reason to value” (Sen 2000: 87). This definition basically combines human rights with human development. What Sen’s definition also shows is a shift in development approaches which go beyond an emphasis on basic needs – that dominated the development seen from the 1980’s and onwards – towards increasing peoples choices or freedoms.

In the final decades of the twentieth century, human rights and human development were both recognized as important dimensions of international affairs but did not interact or exchange much knowledge or experience. They evolved on separate, yet parallel tracks that only recently have begun to intersect with one another. According to Marks (2003), this intersection has not been studied to any proper degree, whether it is in policy documents, by the “development school” or “the human rights school”. As Marks points out in his paper, “The human rights framework for development: seven approaches”, one can define, at the conceptual level, human rights and human development “with a sufficient degree of abstraction as to be virtually identical...” – since both deal with the importance of the human condition – “...and essentially unimpeachable” (Marks 2003: 1).

Chapter 2: Rights-based approach to development

In recent years several different development approaches have emerged that build on the human rights framework. They include the so-called rights (or human rights)-based approach to development (RBA/HRBA). In this chapter a close look will be taken to the nature and/or concepts, definition(s) and value of that approach for development practice and thinking and how it relates to child development and their rights as they are set forth in the CRC and other human rights documents.

2.1. What is a human rights-based approach?

According to Ljungman (2004) human rights-based approaches have gained more attention in the development discourse in the last decade. Although there does not seem to be any single or universally agreed definition of what constitutes as a rights-based approach or, in other words, an approach that is based on the human rights framework for development there are indications that such a consensus is slowly emerging. However, the most frequent linking of human rights and human development in policy has been the so-called rights-based approach to development. There are a few definitions describing what a RBA to development stands for. In 2004 The United Nations Office of the High Commissioner for Human Rights (UNHCHR) defined a RBA to development as being:

...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 intergrades the norms, standards and principles of the international human rights system into the plans, policies and processes of development. The norms and standards are those contained in the wealth of international treaties and declarations (UNHCHR 2004: 2).

Only two years later this same UN agency had revised its definition as follows:

A rights-based approach to development is 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. It seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress.

Mere charity is not enough from a human rights perspective. Under a human rights-based approach, the plans, policies and processes of

development are anchored in a system of rights and corresponding obligations established by international law. This helps to promote the sustainability of development work, empowering people themselves – especially the most marginalized – to participate in policy formulation and hold accountable those who have a duty to act (UNHCHR 2006).

Clearly, this latter definition has been considerably revised and a few well known development and human rights concepts have been added such as – *sustainability*, *participation* and *empowerment* from the development discourse – and *most marginalized accountability* and *duty* from the human rights discourse. Given this description is probably the most recent description of the RBA to development, it offers the most holistic definition of the approach compared with a few other definitions found during the course of this research

Not surprisingly perhaps, the Human Rights Council of Australia (HRCA) is much more centered on the international human rights law aspect in its definition of a RBA, according Sengupta, Negri and Basu, in their book *Reflections on the Right to Development*, when the HRCA defines RBA as:

A body of international human rights law is the only agreed international framework which offers a coherent body of principles and practical meaning for development cooperation, [which] provides a comprehensive guide for appropriate official development assistance, for the manner in which it should be delivered, for the priorities that it should address, for the obligations of both donor and recipient governments and for the way that official development assistance is evaluated (Sengupta *et al.* 2005: 28).

In her report *A Human Rights Approach to Development*, Julia Häusermann (1998: 32) writing for the Department for International Development of the United Kingdom, defines the human rights approach to development as one that:

...puts people first and promotes human-centered development, recognizes the inherent dignity of every human being without distinction, recognizes and promotes equality between women and

men, promotes equal opportunity and choices for all..., promotes national and international systems based on economic equity, equity in the access to public resources, and social justice, and promotes mutual respect between people....

This definition appeals much more than the above mentioned definitions to one's sense of social justice or moral values. In a way it can be described as being of a more romantic nature than the HRCA one.

According to the UNDP publication, *A Human Rights-Based Approach to Development Programming in UNDP – Adding the Missing Link* (2004: 2) a rights-based approach constitutes a:

...holistic framework methodology with the potential to enrich operational strategies in key focus areas. It adds a missing element to present activities by enhancing the enabling environment for equitable development, and by empowering people to take their own decisions. It brings in legal tools and institutions – laws, the judiciary and the rule of law principle – as a means to secure freedoms and human development. It is further based on the recognition that real success in tackling poverty and vulnerability requires giving the poor and vulnerable both a stake, a voice, and real protection in the societies where they live. A human rights-based approach is not only about expanding people's choices and capabilities but above all about the empowerment of people to decide what this process of expansion should look like.

Despite several differences, most of the above definitions share important commonalities that help support the understanding of what an RBA to development implies. These include, for example, an express linkage to rights (or laws) as they are captured in the UN Charter, the Universal Declaration of Human Rights and subsequent legally binding human rights instruments. Consequently underlining the importance of the inalienable, universal, non-negotiable, indivisible and interdependent nature of human rights.

Ljungman (2004). argues that accountability on the part of states, policy-makers and international actors whose actions affect the rights of people is

another crucially important element that sets the RBA apart from other development approaches. Making people active agents of change instead of passive recipients of aid. Moving development efforts away from the realm of charity to that of obligation can also make the process of monitoring progress a lot easier.

Another concept that many agencies use when defining their understanding of a rights-based approach to development (including UNIFEM, UNDP and OHCHR) is the concept empowerment. However, as Frankovits (2002) notes this phrase is often used by those intending to simplify the human rights approach reducing it to the so-called PANEL analysis, which is the acronym for *participation, accountability, non-discrimination, empowerment and linkage* to human rights. According to Frankovits (2006: 54), Stefan Priesner made the following remarks about the participation, empowerment and linkage to human rights aspects of the PANEL analysis: "...[they] are good for guidance, but may be more confusing than adding value. I am still convinced that if the principle of non-discrimination is taken seriously we can come to a fundamentally different programming". Thus, not everyone agrees on the importance of certain concepts of the approach.

The concept of participation resonates throughout most RBA definitions. It is well known to most development practitioners from earlier development approaches but adapts well with the RBA. It encourages collective action and alliances rather than individual efforts. Equality the rights-based approach means that a normative stance on the half of the oppressed and excluded should be taken in all development efforts, thus focusing on marginalized groups like women and children. And last but not least, the concept sustainability implies that efforts should be directed at the root causes of the problems, such as structural injustice, instead of considering only the effects of that problem, such as poverty (Jonsson 2003).

As mentioned above the commonalities discussed above between various definitions of the rights-based approach give an idea of some of the more important concepts included in most agencies' understanding of the approach.

2.2. Adopting a rights-based approach to development.

In her article, Ljungman (2004: 7) identifies three basic features that distinguish a rights-based approach to development from other development approaches. These are:

- a) The legal basis
- b) The normative framework
- c) The process of realizing the overall goal in which the process is a goal in itself

2.2.1. Legal basis

The fundamental difference between a rights-based approach to development and other development approaches is the claim by the former that others have duties to facilitate the fulfillment of people's rights and fundamental freedom which thereby necessitates action. This claim is based on international law that specifies obligations that are legally binding under international law. According to Ljungman (2004), states have agreed to these binding international legal obligations by ratifying or acceding to the international human rights treaties. That requires them to take necessary legislative, administrative or policy measure and to provide appropriate remedies in case of violations. In relation to implementation, a state commits itself to report on its practices and performances.

The fact that the RBA is backed by international law means that it accepts the universal legitimacy of the conceptual framework that essentially consists of duty-bearers and rights-holders. By identifying rights-holders and their entitlements and duty-bearers and their obligations it works towards strengthening the capacities of rights-holders to make their claims of duty-bearers to meet their obligations (UNHCHR 2004). Therefore, it can be said that the core strategy of the RBA to development is a two-pronged one, where the aim is to realize rights by: a) strengthening duty-bearers to fulfill their obligations and b) empowering rights-holders to invoke their rights (Ljungman 2004). Although these two "poles" (rights-holders vs. duty-bearers) are at the center of the approach it is still a dynamic approach which leaves room for additional contexts and specific elements to be added depending on the circumstances.

2.2.2. Normative framework

There are four key pairs of principles that are derived from the human rights instruments that constitute the rights-based approach's normative framework. According to Ljungman (2004) these are:

| | | |
|------------------|-----|--------------------|
| ➤ UNIVERSALITY | and | INDIVISIBILITY |
| ➤ EQUALITY | and | NON-DISCRIMINATION |
| ➤ PARTICIPATION | and | INCLUSION |
| ➤ ACCOUNTABILITY | and | RULE OF LAW |

Table 1: Key pairs of principles in the RBA's normative framework.

2.2.2.1. Universality and indivisibility:

The principle of universality implies that every woman, man and child is entitled to enjoy her or his human rights simply by virtue of being human. It is this universality of human rights that distinguishes them from other types of rights – such as citizenship rights or contractual rights (R. Shigekane, verbal reference, September 28 2006).

The principle of universality requires that no particular group, such as poor women and children, be left out of the reach of development assistance programs (UNDP 2004). Universalism also implies that the rights are inalienable in that they cannot be taken away from someone or voluntarily given up. As Ljungman (2004) points out in her article, what this means for the RBA to development is that special efforts are required in making sure that sufficient knowledge and understanding of human rights and their indivisibility and inalienability exists both among individuals and communities. In practice, it is probably safe to say that this implies that all development programs both should include civic education and raise awareness and/or motivate authorities. Firstly, the education would have to be both an effort on its own and also an integral part of specific development initiatives, which would enhance knowledge about human rights and duties. In order for such education to be effective the information would have to be presented in an accessible way for all (taking into account high illiteracy in many regions and geographically isolated groups for example) Secondly, it is imperative to raise awareness and/or encourage motivation among principal duty-

bearers (as well as the range of local, national and international moral duty-bearers) through dialogue and advocacy, making sure the knowledge of human rights exists on both sides of the table, so to speak.

2.2.2.2. Equality and non-discrimination

The principle of equality is a fundamental principle in human rights, according to the UDHR (25+ Human Rights Documents 2005). It confirms that every human person is entitled to human rights, whether he or she is living in poverty and social isolation or is visible, abundant and articulate. It means that all people within a society enjoy equal access to the available goods and services that are necessary to fulfill basic human needs. As stated by international law, “the principle of non-discrimination prohibits discrimination in the enjoyment of human rights” in any way, shape or form – “such as race, color, sex, languages, religion, political or other opinion....” (UNDP 2004: 7) According to the UNDP:

Equality before the law or in practice prohibits discrimination in law or in practice in any field regulated and protected by public authorities. Thus, the principle of non-discrimination applies to all state policies and practices, including those concerning healthcare, education, access to services, travel regulations, entry requirements and immigration (UNDP 2004: 7).

What this means for RBA to development is that the development effort should, as Ljungman (2004: 9) puts it “target excluded groups that may, for instance, have inadequate access to social services. These groups may be discriminated by state policies and practices and/or cultural practices or, in other ways enjoy less [ESCR] than others.”

2.2.2.3. Participation and inclusion

Participation is not just a principle but also a right in itself – as stated in article 1 of the Declaration on the Right to Development (1986: 1):

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human right and fundamental freedoms can be fully realized.

What this means is that participation is not simply good or desirable in terms of ownership and sustainability but it carries a legal and moral component represented in rights which have profound consequences for the design and implementation of development activities (UNDP 2004). In the words of the OHCHR's (2004: 27) report:

Participation means ensuring that national stakeholders have genuine ownership and control over development processes in all phases of the [development] programming cycle: assessment, analysis, planning, implementation, monitoring and evaluation. Human rights standards influence the conditions as well as the reasonable limitations of participation. For processes to be truly participatory, they should reflect the requirement for “active, free and meaningful” participation under the United Nations Declaration on the Right to Development. Women in rural areas have the right to participate in development planning at all levels (Convention on the Elimination of all forms of discrimination against Women, art 14) and children's views must likewise be taken into account (Convention on the Rights of the Child, art. 12). However, the right to participate in public affairs (International Covenant on Civil and Political Rights, art. 25) does not necessarily give particular groups of people an unconditional right to choose any mode of participation.

2.2.2.4. Accountability and the Rule of Law

The UNDP (2004: 8) presents the following statement:

States have the primary responsibility to create the enabling environment in which all people enjoy all human rights, and have the

obligation to ensure that respect for human rights norms and principles is integrated into all levels of governance and policy-making.

Thus, the principle of accountability is derived from the States' duties (or other duty-bearers) which in turn are derived from rights. To demand the accountability of policy-makers and other actors whose actions' impact on the rights of others, as Ljungman (2004), Jonsson (2003) and Theis (2003b) argue contributes to moving development from the realm of charity (or needs-based development approach) to that of obligation, making it easier to monitor progress. In the next section of this chapter the main difference between the needs-based and rights-based approaches will be discussed further.

Therefore, in Ljungman's (2004: 12) view, and many others who have contributed to the literature on the subject of a rights-based approach to development it is "arguably the most important value-added of a rights based approach". The principle of accountability, therefore, requires that governments (as the legal and principle duty-bearer): a) accepts responsibility for the impact it has on people's lives, b) co-operates by providing information, undertaking transparent processes and hearing peoples views and, c) responds adequately to those views (UNDP 2000).

Furthermore, the UNDP (2004) and Uvin (2004) both argue that the principle of accountability can not be separated from the principle of the Rule of Law, which is where the comparison between the two ends on the topic. The UNDP's understanding of the principle of the Rule of Law is essentially a legal understanding. It includes for example: access to justice and redress for abuse of human rights, resolution of competing claims and the just distribution of public resources. The organization maintains that rights must be protected by law and arbitrated by competent, unbiased and independent processes, and not through some capricious discretion. Now, as Uvin (2004) argues it is well known that such impartial and independent processes are often scarcely available in many developing countries. Non-the-less, the UNDP document goes on to stating that "without a sound legal framework, without an independent and honest judiciary, economic and social development risk collapse...the rule of law ensures that no one is above the law, and that there will be no impunity for human rights violations" (2004: 8). Many authors, including Uvin (2004), have argued that the

legal resource is the hardest hurdle to jump in achieving rights, especially so in countries where legal resource is most needed, but also in others: for example, in India, which has a well-developed legal framework, it has been estimated that it would take 350 years to clear the current backlog of court cases, even if no new cases were added (verbal reference by Beth Neitzel⁴)

Clearly, many developing countries (and in some cases the more developed ones) lack the means and resources for a sound and just legal systems. When applying RBA to development it is therefore necessary to require conditions for transparency and avenues for challenging and seeking redress for decisions or actions negatively affecting rights. While it is up to duty-bearers to determine the appropriate mechanisms of accountability themselves, all mechanisms must be accessible, transparent and effective (OHCHR 2002). As Ljungman (2004) points out, other duty-bearers – such as donors, NGO's, aid organizations and development practitioners – are accountable in the same way.

The four pairs of principles (universality and indivisibility, equality and non-discrimination, participation and inclusion, accountability and the rule of law) described above are at the center of a rights-based approach. In her article, Ljungman (2004) states that only those programs that use all of the above principles should be allowed to call themselves rights-based approaches. In her opinion those agencies that only use some or parts of the principles are really 'just' applying a rights-based perspective – which she explains as possibly signaling a gradual approach to a full fledged RBA to development or some kind of first step in that direction. Others, for example, Jonsson (2003) and Theis (2003b), when speaking of the rights-base approach seem to mix that quite freely with the term rights-based perspective. Hence, it appears to be somewhat debatable whether or not the term perspective applies to an "actual" RBA or if it should only be used when talking about some kind of precursor to a RBA. In Uvin's (2004) view it is certainly not necessary to apply to the letter every aspect of the approach every time. It depends on the agency or organization in question each time as well as the location and origin of the programs being implemented.

⁴ Beth Neitzel is an honors PhD student in the Faculty of Political Science at the University of California Berkeley.

2.2.3. Process goals

In a rights-based approach to development the process of achieving a development goal is as important as the outcome of that goal. Furthermore, as Theis (2003b, 5) points out, rights-based goals differ from partial and time-bound development goals. They “are 100% goals or visions that relate directly to the realization of human rights”, meaning, they are only fully realized when all women, men and children enjoy these rights completely. Thus, they require more specific focus and co-operation between agencies and other stakeholders. Also, because they are 100% goals they naturally may take longer to be fully achieved.

Because it can be presumed that an individual is the subject of his or her rights as well as an active participant in his or her development, rights need to be both active – dependent on the participation of individuals and groups – and practical – they must be applicable in the daily lives of people (Ljungman 2004). As stated by the Human Rights Council of Australia (2001) it is thus important for the realization of human rights that they are not just promoted and protected but also enjoyed and experienced, which emphasizes again, the relationship between duty-bearer and rights-holders. Among the most important rights and freedoms in this respect are the right to information, freedom of expression, the right to take part in the conduct of public affairs and the right to participation in the development process (Mikkelsen 2005).

2.3. Needs-based approach versus a rights-based approach

Jonsson (2003) argues that a rights-based approach to development shares many elements with preexisting development approaches – such as the emphasis on participation, the focus on transparency to promote good governance and various empowerment strategies. In the history and process of both development work and human rights work many useful tools have been created that are still fully valid and useful for a RBA to development. In other words there is no need to reinvent the wheel. However, although the needs based approach shares many common features with the rights-based approach and despite the fact that human rights are in essence needs-based claims there are some fundamental differences between the two approaches that need to be outlined. Jonsson holds that, without a doubt, the most important difference separating the needs-based approach from the

rights-based approach is that the former doesn't assume the existence of duty-bearer. As he points out: "When demands for meeting needs have no 'object', nobody has a clear cut duty to meet needs, and rights are vulnerable to ongoing violation" (2003: 20).

One of the main goals of basic-needs approaches is usually to obtain additional resources to help people gain access to services. In contrast, the equity principle in the RBA to development calls for a more equitable distribution of existing resources so that everyone has access to the same resources (Jonsson 2003). This often means involvement in political debates, either directly between the development practitioner and relevant duty-bearer or by assisting people to assert their rights. Quoting Jonsson again (2003: 20): "While a basic needs approach does not necessarily recognize willful or historical marginalization, a human rights approach aims directly at overcoming such marginalization".

Another important difference between the two approaches, also noted by Jonson (2003), has to do with motivation. As noted earlier, in order for people to enjoy their rights, the duty to fulfill them needs to be met by the appropriate or accountable duty-bearer who in turn needs to be motivated by the claims of rights-holders to do so. But because basic needs can, in principle, be met through charitable action alone they deny the existence of such acceptance, because it doesn't take rights and responsibilities into account. Therefore, in a rights-based approach compassion and solidarity replace charity, as Jonsson (2003: 20) explains:

A requirement of the human rights approach, then, is that insofar as possible, everybody must have a human rights 'heart' reflected through decisions and actions. Decisions and action must be taken in recognition that every human being is a subject of rights, not an object of charity or benevolence. While charity often disempowers the poor and other vulnerable people, creating dependence, solidarity empowers people and enhances their capacity to improve the quality of their lives.

Table 2 illustrates some differences between the commonly applied needs-based approach and the rights-based approach to development (Jonsson 2003: 21).

| Needs-based approach | Rights-based approach |
|---|--|
| Needs are met or satisfied | Rights are realized (respected, protected, facilitated and fulfilled) |
| Needs are not necessarily universal | Human rights are always universal |
| Basic needs can be met by goal or outcome strategies | Human rights can be realized only by attention to both outcome and process |
| Needs can be ranked in a hierarchy of priorities | Human rights are indivisible because they are interdependent; there is no such thing as “basic rights” |
| Needs can be met through charity and benevolence | Charity and benevolence do not reflect duty or obligation |
| It is gratifying to state that “80% of all children have had their needs met to be vaccinated.” | In a human rights approach, this means that 20% of children have not had their right to be vaccinated realized |
| The government does not yet have the political will to enforce legislation to iodine all salt | The government has chosen to ignore its duty by failing to enforce legislation to iodine all salt |
| Needs do not imply duties or obligations, although they may generate promises | Rights always imply correlative duties or obligations |

Table 2: Needs-based approach vs. rights-based approach (Jonsson 2003: 21)

Chapter 3: Criticism and challenges

It would be an overstatement to claim that there exist a widespread consensus on the nature and scope (i.e. definition) of international human rights – and consequentially rights-based approaches, although there is a general acceptance of the core principles. Some of the most basic questions have not yet received conclusive answers – and are likely to remain contested for the unforeseeable future. Weston (1992) mentions some of the more common questions that are currently disputed – such as: are human rights to be viewed as divine, moral or legal entitlements? Should they be validated by intuition, custom, social contract theory, principles of distributive justice or as prerequisites for happiness? Are they to be understood as irrevocable or partially revocable? Should they be broad or limited in number and content? And so on and so forth. An attempt to settle, specifically these questions, will not be made in this chapter, or this dissertation for that matter, they merely give an idea just how many issues surrounding the concept of human rights are still unclear. However, a closer look will be taken, for instance, to the questions of the universality of human rights, the practicality of the so called rights-discourse in development and what some believe to be nothing more than a fluffy rhetoric. Finally some light will be shed on the much contested cultural relativism.

3.1. Rights-discourse: Utopia or reality?

Among the many who have challenged the universality or, maybe more to the point, the universal practicality of human rights is the universally recognized magazine *The Economist*. Two articles, in the August issue of 2001, take on the question whether human rights and human development should be integrated. In the first article the author wonders whether it helps to think of poverty or inadequate health care as violations of basic rights (Economist 2001a)? The other wonders if it makes sense to broaden the concept of human rights (i.e. ESCR) in developing countries where these “new rights” (2001a: 9) are either ignored or

simply do not exist. Supposedly, one could guess that the author of this piece is an American, since he seems to think of economic, social and cultural rights as “new rights” as if they just attained legal codification, but such a view is quite common especially within the U.S. who is among the relatively few states that have not yet ratified the covenant (Save the Children Sweden n.d.). Putting the nationality of the author aside we shall look at how he outlines the most principal arguments for and against economic, social and cultural rights.

Economic, social and cultural rights represent the most common set of issues development programs (whether rights-based or otherwise) tend to focus on. Among the more popular arguments against second generation rights, (as they are often referred to) is that they include “positive liberties” (i.e. freedoms/rights *to*). It is a widely held belief that the so-called “negative liberties“, also known as civil and political rights (i.e. freedoms/right *from*) have a higher status than the ESCR. For example, the CPRs are thought to be cheaper to protect since they call for acts of omission rather than commission and they cannot clash with each other (Economist 2001a), which makes them easier to interpret from a legal point of view. Contrastingly ESCR can be very expensive to provide – such as the right to healthcare – and thus governments are sometimes compelled to choose some and ignore others simply because they lack the economic means to provide them.

Although there certainly is a lot of truth to the notion that ESCR have a greater margin for interpretation than their fellow CPRs, reality is not quite so clear cut, as pointed out by the Economist (2001a). There certainly are fiscal limits to the protection of most first-generation rights (CPRs) just as there are to second-generation rights (ESCRs). National defense and criminal-justice systems – both belonging to CPR’s – are not exactly cheap to maintain. But how does all of this relate to rights-based approach to development? In the Economist article, which surveys this from a practical point of view (as opposed to philosophical), it is maintained that in order to promote ESCR in the poorer countries of the world – which is certainly the task at hand for RBA to development – the rights in question would have to be promoted and protected in the vaguest and most general terms possible in order to have any kind of universal scope to them. As such, the Economist concludes, those rights will either mean nothing, if they are regarded as just empty cliché’s, or, if the “intention is to move from stating rights

to enforcing laws” (2001a: 9), they risk becoming constitutionally dangerous or even undermine the sovereignty of the country.

Another risk the Economist (2001a) predicts is “that trade and other international agreements may be framed to punish countries that violate those rights”, similar to the conditionality-ideology of the World Bank’s much controversial Structural Adjustment Programs (WHO: 2007). This could have unforeseen effects on the poor, possibly leaving them worse off than they were to begin with.

The second Economist (2001b) article, *Writing Wrongs*, is highly skeptical that the lobbying for human rights – especially ESCR – will be successful. The article discusses, for example, how it has become increasingly popular among development organizations and various human rights bodies to champion economic, social and cultural rights. Organizations like Oxfam, Britain’s leading overseas-development charity, has for example presented its belief in “rights to a sustainable livelihood, and the rights and capacities to participate in societies and make a positive change to peoples lives” (Economist 2001b: 19).

Another example given in the article explains how various UN bodies have begun to apply rights-based approaches in their work. One of those is the World Health Organization which has asked the international community to recognize health as a human rights issue. The article concludes that the main reason for this increased mandate of certain human rights and international development bodies – particularly regarding the ESCR – is mostly due to the fact that they have lost faith in other remedies and believe that perhaps CPRs are a bit beside the point in many of the “least developed” countries and therefore have turned their focus onto ESCRs. The article supports this belief by quoting a well-noted scholar in the field of Human Rights Policy, Michael Ignatieff,⁵ who says that “[a]ll the gains in civil and political rights that have been made [in Botswana] will be wiped out by the catastrophic losses in economic and social rights. At this level of incidence of AIDS the virus destroys the infrastructure of a society. It cuts into the defenses that make civil and political rights possible” (2001b: 19).

⁵ Michael Ignatieff is the director of the Carr Center of Human Rights Harvard University’s Kennedy School of Government.

It is curious how the article interprets Ignatieff's statement. The Economist's interpretation is that human rights campaigners (and thus RBA promoters) can neither blame the failure of stopping catastrophic disease (or other development efforts) on political abuse (since there is little to none political abuse in countries like Botswana) nor can they recommend CPRs as a way to stop the spread of AIDS. Thus they switch to ESCRs. The article claims that all the Ignatieff's statement proves is that PCR's are not the answer to the plight of poor countries.⁶ This is quite a shallow interpretation of both Ignatieff's statement and the expanded mandate as discussed above. A different understanding can be found in the very words of the article itself – to expand the mandate or “broaden their remit” (2001b: 19) does not imply dumping one set of rights –such as CPRs – for another (i.e. ESCR). It implies taking ESCRs into account (for a change), recognizing the indivisibility of rights. The broadening of the remit signals a more holistic view of both human rights work and development work.

In addition, the Economist (2001b) article finds that the reason why so many aid agencies, development organizations and human rights campaigners are increasingly leaning towards ESCRs in their work, is because they hope that using rights-discourse will shake world leaders, especially in the wealthier countries, out of their ivory towers. They hope that by using rights-discourse and shifting the languages it will affect existing perceptions, concepts, attitudes and last but not least decision making (Jonsson 2003). This point is made clear in another quote by Ignatieff, in the Economist (2001b: 19), where he maintains that doing something about AIDS in Africa is not about public-health prevention or charity but about duty. The rights-discourse, according to Ignatieff, is simply a tool to leverage money to fulfill this duty: Or, in other words, when “calls for generosity can only pluck weakly at the sleeves of rich governments, perhaps unsubtle claims of legal obligation will twist their arms“ (Economist 2001b, 19).

According to Peter Uvin's (2002) article, *On High Moral Ground: The Incorporation of Human Rights by the Development Enterprise*, the main reason why so many working in the international development field have adopted such

⁶ A popular belief, based on Amartya Sen's ideas within the international community holds, in short, that democracy (necessarily respecting CPR) is the key to solving the problem of poverty in the world (Sen 2000).

rights-discourse is because it provides a moral authority and political appeal. The development community is constantly faced with the need to regain the high moral ground in order to refute criticism and mobilize resources. Uvin maintains that in an era where the development community faces a serious crisis of legitimacy, both among insiders and outsiders, it is tempting for the development community to disguise itself in the human rights mantle, especially if it does not bring about any fundamental changes in thought or action.

Other scholars besides Uvin (2002), including Ljungman (2004) and Slim (2002), criticize today's development rhetoric and the way rights-discourse is being "bandied about in the development rhetoric" (Ljungman 2004: 18). The study for this dissertation came across numerous bilateral and multilateral aid agencies who claimed that all their development assistance contributes to human rights (mostly ESCR). A similar argument is made in Uvin's (2002) article where he point out that following an increased focus on economic and social rights and subsequent demand that they play a major role in development assistance, an apparent reformulation of the donors terminology has occurred. Uvin tracks the shift in terminology from the World Bank statement at the 1993 Conference for Human Rights in Vienna, to numerous assertions by individual donor agencies where the claim is made that all development assistance contributes to economic and social rights. Therefore, whatever the nature of the projects might be those donor agencies wholeheartedly claim they contribute directly to the fulfillment of a particular human right (e.g. right to education, right to health, etc.). For example, a project that has an agricultural element instantly become a project that contributes to the fulfillment of the right to food, whatever the nature of process of the project might be.

Michael Windfuhr⁷ (2000) points out that when discussing the integration of ESCR the misunderstanding often come up that it simply means providing whatever the rights may entail (e.g. food, education, health, etc.), when the principal meaning of a rights-based approach is to talk about the relationship between a state and its citizens.

⁷ Michael Windfuhr is the founder of the Food First Information and Action Network, a leading human rights organization advocating for the right to food.

Ljungman (2004) accentuates that in order to prevent the watering down of the approach, (e.g. asserting that a program/project is a RBA one just because it aims to provide things that can be connected to human rights), the key elements that distinguish it from other service-based approaches must be safeguarded.

Uvin (2002: 2) approaches the rights-based development rhetoric from a different corner. He forcefully criticizes the right-based approach to development, accusing it of being nothing more than “old wine on new bottles” or providing, at best, a fig leaf for the continuation of the status quo. His criticism might lead one to think that he was not too concerned about the watering down of the meaning of a RBA to development or it being reduced to a mere buzzword. It seems he feels it was never anything more than that to begin with. In his article, *On High Moral Ground: The Incorporation of Human Rights by the Development Enterprise*, Uvin (2002) leaves little in his criticism of the new rhetorical discourse of incorporating human rights into development theory and practice, or, as has been discussed in this paper, the rights-based approach to development.

Uvin (2002) points out some serious problems in the habit of incorporating human rights and human development. Not only does he think that this approach has produced a simple sleight-of-hand, he thinks that it is flat out wrong. He claims that “it overlooks the tensions between the logics of human rights and development” (2002: 3). One does not automatically imply, equal, or subsume the other. In his article Uvin shares the opinion with Donnelly (1999: 611) that “sustainable human development simply redefines human rights, along with democracy, peace and justice, as a subset of development...such a definition fails to address the relationship between economic development and human rights ...” According to Uvin (2002) it is an ambiguous claim that development project and programs by definition constitute an implementation of human rights, which, as previously discussed in this dissertation is what mainly sets them apart from service-based or needs-based approaches.

Not surprisingly, Uvin (2002) also feels very strongly about the claims some scholars have made about the rights-based approach representing a major change in the way human development is practiced. This is made clear in a response article to Peter Uvin by Hugo Slim *Making Moral Low Ground: Rights as the Struggle for Justice and the abolition of Development*. Here Slim says: “Then, finally perhaps, we could also do away with the very word “development”.

The common struggle for human rights and social justice would at last bring the end of the era of development” (2002: 5).

One of Uvin’s (2002) arguments against the claimed importance of human rights in development practice is made through an example of the much discussed importance of participation to the RBA to development. Uvin states that this argument is eagerly presented as a major breakthrough that everyone should feel exceptionally delighted about, despite the fact that development practitioners have been proposing exactly the same thing for decades, with very little to show for it. Uvin continues his argument, saying that human rights specialists, most of whom are lawyers, can be forgiven for writing this kind of nonsense on the grounds of their ignorance. However, when development practitioners write such things it amounts to deliberate misrepresentation.

Uvin (2002) also criticizes, quite convincingly, the good governance policy, especially the way it is being pursued by the World Bank. It is sudden shift from a more technical rhetoric on how to improve investor confidence through good governance has now been reformulated into a more human rights-based discourse, at least according to Uvin “in documents meant for human rights activists” (2002: 5). If true, that certainly supports Uvin’s claims that much of the human rights conversation amounts to little more than rhetorical repackaging. As Uvin points out, the spirit and intent of the Universal Declaration of Human Rights and the following two Covenants on ESCRs and CPRs was not to shore up “banking reserve requirements, improving accounting standards, or liberalizing current accounts when they constructed the original human rights edifice” (2002: 6).

Clearly, Uvin’s (2002) views on the rights-based approach in the development regime are not exactly optimistic. He feels they represent:

... little more than fluff, self-congratulation, and more or less hidden transcripts of power. ... Much of [RBA] is about the quest for moral high ground: draping oneself in the mantle of human rights to cover the fat belly of the development community while avoiding challenging the status quo too much, cross-examining oneself, or questioning the international system...” an forgetting that “[t]he people in whose name the innovations are adopted did not fight for this change. It is not part

of a fundamental reshuffling of the cards of power or a redistribution of resources worldwide: no such dynamic has occurred (2002: 10).

Thankfully for those who still have faith in the rights-based approach to development the supporters of the approach still outnumber the critics. One such is Hugo Slim (2002) who agrees with much of what Uvin (2002) says in his criticism, although he feels Uvin paints a rather dark picture of the approach. Slim (2002: 1) agrees, along with many others who have written on the subject,⁸ that there is indeed much to worry about “when the powers-that-be adopt the liberationist language of the oppressed and drape their projects in revolutionary garb”. Uvin’s assertions that the people who are supposed to benefit from this approach (i.e. the poor) neither asked for it nor fought for it, are simply not true, according to Slim. He points out that the world’s poor are not isolated to Sub-Saharan Africa, but are certainly also found in South America, South-Asia, and South-Africa – in societies where the idea of “human rights has played a central part in their struggle for development, social justice and peace” (2002: 1).

Another topic Slim feels Uvin overlooks in his article, and deserves attention, is the way in which human rights ideology is contested. Some rights, Slim points out, for instance those concerning gender or childhood, can be “contested at the periphery of a majority of rights that are generally accepted” (2002: 2). Thus states or groups can argue moral or cultural relativism on particular rights or even reject the whole human rights enterprise on the ground of it being a “bossy and superior aspect of Western hegemony serving western [values and] interests” (2002: 2).

Contestation over rights talk can plausibly do more harm than good when an organization uses the rights-based approach (and the language that accompanies it) when dealing with governments or groups that reject the human rights regime or refuse to abide by international law. Such a situation could, for instance, easily arise between a government and an organization like UNICEF, where the government refuses to work with UNICEF because it doesn’t like the politics of child rights and the state obligations that accompany the program. Such

⁸ See Farmer, P. (2005), Frankovits, A. (1996), Ljungman (2004), Ellis (2006), Jonsson (2003) and Theis (2003b) name but a few.

a government could just as well be a right-wing U.S. and/or Somali⁹ government as an aid recipient government. Those arguing against the practicality of using rights-discourse in poverty reduction schemes or development efforts, such as the two Economist-articles previously discussed, make a valid point in such situations. So, it is absolutely possible that using rights-discourse can at times simply be a bad tactic, illustrating the need for adaptability of the RBA to specific contexts and cultures. But just how much – if anything – should a promoter of the rights-based approach be willing to compromise in touchy or sensitive situations? The next section tries to answer that question.

3.2. Cultural relativism

One of the more prominent, popular arguments against the values of human rights, and thus rights-based approach, is that it goes against the values of non-Western cultures. Spokesmen of the so-called “Asian-values” as well as religious fundamentalists have been active in pointing out how some human rights ideas and values do not coincide with certain cultures and traditions (Sen 1997; Ignatieff 2001).

In his book, *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, Abdullahi An-Na'im (1992) tries to reconcile two conflicting views regarding the standards and promotion techniques of international human rights. One holds that human rights and the way they are promoted and implemented, may not be universal enough because both lack legitimacy in major cultural tradition. The other maintains that:

[T]hese standards and machinery are universal because the vast majority of governments have either participated in the formulation process or subsequently ratified the relevant international instruments. They also warn against the dangers of claiming cultural relativity as a pretext for justifying human rights violations (1992: 3).

⁹ The United States of America and the Somali Republic are the only states that have not yet ratified the Convention on the Rights of the Child.

An-Na'im calls his proposition to bring these two opposing views together a cross-cultural approach. His approach seeks to "explore the possibilities of cultural reinterpretation and reconstruction through *internal cultural discourse and cross-cultural dialogue*, as a means to enhancing the universal legitimacy of human rights" (1992, 3).

In his article *The Attack on Human Rights* Michael Ignatieff (2001: 103) refutes such approaches as being "bland and unconvincing". He says that "...attempts at fusion between the Islamic world and the West have never been entirely successful: agreement by the parties actually trades away what is vital to each side..."

Surely cross-cultural approach has a lot to offer in the current debate on cultural relativism. However, one cannot help but wonder where the "discounts" will be given in such an approach. Sadly, women and children are the first to come to mind. As Ignatieff (2001) points out in his article, a lot of the religious contestations to human rights come from the "realm" of Islam. In fact, the Islamic challenge has been there from the very beginning when the UDHR was being drafted in 1948. According to Ignatieff, the Saudi-Arabian delegation was particularly concerned about two articles of the convention, namely articles 16 and 18. The former relates to the right to marry and form a family. It gives both men and women equal right as to marriage, during marriage and at its divorce. Furthermore article 16 states that "marriage shall be entered into only with the free and full consent of the intending spouses" (25 + Human Rights Documents 2005: 6). The latter article has to do with freedom of thought, conscience and religion, where the religion part was the most objected to by the Saudi-Arabian delegation.

The following argument, quoted in Ignatieff (2001: 103), made by the Saudi-Arabian delegation at the time of the drafting of the UDHR in 1948 illustrates clearly the prevailing conflict between Western human rights activist and the Islamic world:

...the authors of the draft declaration had, for the most part, taken into consideration only the standards recognized by Western civilization and had ignored more ancient civilizations which were past the experimental stage, and the institutions of which, for example,

marriage, had proved their wisdom through the centuries. It was not for the Committee to proclaim the superiority of one civilization over all others or to establish uniform standards for all the countries of the world.

Here he argues both for the Islamic faith and patriarchal authority. The Saudi delegate in effect argued that the exchange and control of women is the very reason for the being or existence of traditional cultures, and that the restriction of female choice in marriage is central to the maintenance of patriarchal property relations (Ignatieff 2001). On the basis of these objections to Articles 16 and 18, the Saudi delegation refused to ratify the declaration (Ignatieff 2001).

In the years following the 1948 drafting of the UDHR, the relations of Islam to human rights have only worsened, especially after the Islamic revolution in Iran in the 1970's (Ignatieff 2001). Since then, Islamic figures have come onto the scene and questioned the universality of human rights. Strictly speaking from their religious perspective they are correct to do so as Ignatieff points out in his article and maintains that the rights to marry and establish a family, to freely choose one's partner is a direct challenge to the religious authorities in Islamic society. Ignatieff argues that the Islamic authorities enforce the family choice of spouse, polygamy, and other restrictions on women's freedom in the name of their religion. Furthermore, according to Islamic religion it is blasphemous according to the Koran to regard a person as a sovereign individual which the universalizing rights discourse undeniably does (Ignatieff 2001).

Some authors from within the Islamic community have dared to question such fundamentalist interpretations of the Koran. The controversial Somali/Dutch activist, Ayan Hirsi Ali (2007) has paid a dire price for invoking her universal human freedom of thought, conscience and religion (Art. 18), speaking publicly about the need for the religious reform of Islam and fighting for the rights of Muslim immigrant women.

Regarding human rights individual address, Ignatieff (2001) points out that adopting the values of individual agency does not necessarily mean adopting Western ways of life, which seems to concern many Islamic leaders (and some Western scholars as well). Believing one has the right to be free from oppression, bondage and gross physical harm, for example, does not mean one needs to adopt

Western dress, speak Western languages or even approve of the Western lifestyle for that matter. This, Ignatieff (2001) convincingly points out in his article acknowledging that the universality of human rights does not, and should, mean that traditional cultures are delegitimized as a whole. The women in Afghanistan who seek protection at human rights agencies do not necessarily want to stop being Muslim women. They do, however, want to combine their traditions with professional health care services, provide by a woman, and education opportunities. They seek protection at human rights agencies hoping they can defend them against persecution and other form of violence they endure for claiming such rights.

Therefore it is precisely the individualistic nature and universal legitimacy that makes human rights attractive to non-Western people and explains why the fight for those rights has become a global movement. Ignatieff (2001) maintains that the language of human rights is the only universally available moral dialect that verifies the claims of women and children who are faced with oppression in patriarchal and tribal societies.

Still, accusations on human rights being culturally insensitive and pro-Western values do not just come from outside the West but also from within the West itself. As Ignatieff (2001) points out, an influential current in political opinion has swept through the West, particularly noticeable on university campuses. Frequently stated claims in the West include, for instance, that human rights are “a Western construct of limited applicability ... a twentieth-century fiction dependent on the rights traditions of the United States, the United Kingdom, and France and therefore inapplicable in cultures that do not share this historical matrix of liberal individualism” (2001: 110).

Chapter 4: Research Methodology

In his book, *The Foundations of Social Research: Meaning and perspective in the research process*, Michael Crotty (1998) discusses the connections between methods, methodology, theoretical perspectives and epistemological theory. He emphasizes the importance of choosing the right research methods when

conducting a research and that the researcher supports his choice in methods. This chapter will, thus, explain the research objective, choice in methods, the research process and what led to this particular research theme.

The objective of this dissertation is to study the narrative of an RBA to development from the academic rhetoric to the international organizations policy making and finally to take a short glimpse at how it works in the field. An effort is made to determine whether it is simply a rhetorical concept or if it can possibly have lasting effects on the ground. The main questions the research seeks to answer are: What is a right-based approach to development? What are the origins of human rights? How do human rights and development relate? Is there a consensus among development practitioners and staff in international organizations of what that approach means? What is the rhetoric surrounding human rights and development in the academia? How do multi-national organizations and non-governmental organizations understand it and apply it in their programs? How does it work in the field?

4.1. Qualitative research

In this research the so-called qualitative research method is employed, which has become increasingly popular in the social sciences in the past two decades or so. In their book, *Collecting and Interpreting Qualitative Materials*, Norman K. Denzinger and Yvonna S. Lincoln describe qualitative research as a field of inquiry in its own right, which crosscuts disciplines, fields, and subject matter. They pay attention to the fact that the term ‘*qualitative research*’ is surrounded by “a complex, interconnected family of terms, concepts, and assumptions” (1998: 2).

As Denzinger and Lincoln (1998) describe it, qualitative research has a multi-method focus, approaching the research matter from an interpretive, naturalistic perspective. Therefore, the subject matter is studied in its natural setting where the qualitative researcher attempts to make sense of or interpret the phenomena or information according to the meaning people bring to them. Qualitative research comprises the studied use and gathering of a variety of empirical materials – case study, personal experience, introspective, life story, interviews, observational, historical, interactional, and visual texts.

Denzing and Lincoln (1998) describe the qualitative researcher as a *bricoleur*, a term used by several social scientists, including Levi-Strauss. In his book, *The savage mind*.

Levi-Strauss (1966) describes a bricoleur as “a Jack of all trades or a kind of professional do-it-yourself person” (p. 17). Therefore, “the qualitative researcher-as-bricoleur uses the tools of his or her methodological trade, deploying whatever strategies, methods, or empirical materials are at hand” (1998: 3). Denzing and Lincoln emphasize that choice of tools depend on the research question and context of the setting. They maintain that the bricoleur can never be completely objective. The researcher’s history, class, gender, race and those of the people in the setting will always influence at some level the process and findings of the research.

4.2. Ethnography

The ethnography constitutes both the tradition the research is based on, given the researchers background in anthropology, and parts of the methods used in collecting data and analyses of that data. It is the method the researcher is most familiar with through studies in anthropology.

Ethnography is a branch of cultural anthropology, which many anthropologists consider to be the essence of the discipline (Barnard 2004). It is a form of research focusing on the sociology of meaning through close field observation of socio-cultural phenomena. Typically, the ethnographer focuses on a community or culture, which nowadays does not necessarily have to be a geographical community or culture. It can also consider other types of communities –such as work, leisure, organizations or firms, etc. The main methods used in ethnographical research are interviews and observational analysis as well as review of the literature pertaining to the community or culture in question. Ethnographic research is usually holistic, believing that symbols cannot be understood in isolation but instead are elements of a whole. Increasingly, however, ethnographic research has begun focusing on specific elements of a community or culture which takes away some of its holistic approach. On the other hand, ethnography is always about interpreting a culture or a community (Creswell 1998).

4.3. Literature analysis

Prior to carrying out interviews, a sizable amount of literature was read, including library and journal research, reports, scholarly articles, newspaper articles, policy papers and organizational documents. The compilation of the relevant literature was done through the University of California, Berkeley, bibliographic databases, electronic journal services and the web, as well as asking people with knowledge and experience in the subject for useful material. The data used for this part of the research was collected from August 2006 until June 2007. This part of the research was mainly done to gain a broader awareness of the past and present debate around an RBA to development. Effort was made to identify specific themes, concepts and ideas in the text and how they connect or differ from each other. From this process the basic research questions evolved. Observational analysis was also conducted during lectures, seminars, conferences and out-doors meetings, writing down notes and memos of the researcher's experience and detailed descriptions of what went on during those events.

4.4. Interviews and observational analysis

Multiple data collection strategies were incorporated during the second part of the research, which is expected to lead to a greater validity of the research (Mirron 1998). The methods employed were mainly qualitative in nature or according to the ethnographic tradition. They included direct observation and analysis, classroom observation, two interviews via e-mail, one interview via instant messenger, since meeting that person was not possible due to time and location constraints, one group interview and four semi-constructed interviews with open ended questions, according to the traditions found in ethnographic research, were also conducted.

The interviews were both expected to serve in their own right to gather fresh data and to serve as a methodological triangulation leading to greater validity of the research. The group interview and semi constructed interviews were shaped more as a conversation and it was kept in mind that an interview is a social, interpersonal encounter and not merely a data collection exercise. The

group interview and semi-structured interviews were recorded using a dictaphone and fully transcribed.

Furthermore, in order to determine key-issues, the researcher looked for codes and themes as expressed in the transcripts. Themes were then examined for meaning and/or high priority in relation to the research. The data used for this part of the research was conducted from October 2007 until June 2008. The data analysis took place during that same period with a few intermissions due to the researcher's personal circumstances.

Finally, it should be noted that the qualitative data analysis methodology involves a significant amount of subjective judgment and as Knodel (1993:43) argues "...interpretation is facilitated by the fact that statements can be examined within the broader discussion and in light of information available from other sources".

4.5. Limitations

While as much as possible was done to ensure that the data of the research is as credible as possible, it is still subject to a number of limitations. Firstly, in qualitative research the centrality of the role of the researcher might sometimes contribute to a research bias, where personal interpretations could be selective or in other ways not present "the truth" or relevance about the issue researched. Due to the fact that the researcher has been involved in the campaigning and promotion of human rights through work for Amnesty International a few years ago, the danger of selective interpretation is particularly relevant. Secondly, the global scope of the research topic and lack of material means caused certain limitations. For instance, it would have been very difficult to conduct interviews in a broader setting – such as visiting foreign SC country offices and UNICEF committees. Although a bigger sample of employees working for different country offices or committees would have been valuable for the study, the lack of resources (mainly financial) and time constraints made that impossible. Finally, the small size of the organizations where interviews were conducted posed certain limitations, mainly regarding the sample size for interviews (i.e. the number of people that can be interviewed) as well as the researcher's commitment to maintain anonymity of the interviewees. The relatively small size of the Icelandic community can also produce certain challenges or limitations for the research, particularly regarding the issue of anonymity.

4.6. Choosing the research topic

There are mainly two reasons why this research topic was chosen. First of all, as mentioned above, the researcher worked as a volunteer for Amnesty International, back in 2004, and became interested in the values and visions of international human rights. Therefore, it cannot be denied that the researcher already had rather strong opinions about the value of human rights when choosing the research topic (thus making an impartial analysis an even greater challenge at times).

The second reason has to do with a scholarship the researcher got as a Visiting Research Scholar at the University of California, Berkeley. The purpose of the application was first and foremost to have a better opportunity to study human rights. Once there the researcher realized what an enormous field international human rights are, and that the focus for the research would have to be narrowed considerably. In short, the process of doing so initially took the research in many different directions but finally anchored it with the rights-based approach to development. Given that the researcher is a student of development studies and international relations, the synthesis of those two schools of thought (human rights and development) is quite fascinating and a worthy topic to research.

The first encounter with the actual rights-based approach came at an international conference at Berkeley in early March, called “Stopping Mass Atrocities: An International Conference on the Responsibility to Protect”. At that conference many noted scholars, politicians and practitioners in the international arena spoke about the application of human rights as a tool against mass atrocities – such as genocide. They also spoke about RBA to development as some kind of “holy grail” and the largest cause for optimism in the field of development, which immediately triggered the researcher’s interest.

Coincidentally, at the same time, the researcher was taking a historical course in theories of development studies which spurred thoughts of post-modernism and neo-imperialism or colonialism, making the subject even more interesting. The first question to arise was: does this new approach (RBA), which is quickly coming of age, really hold as much promise as one is made to believe?

The sub-title of children's rights came mostly through conversations the researcher had with her adviser at the University of Iceland, prof. Jónína Einarsdóttir, and through previous BA-studies the researcher did on human trafficking and how that affects women's rights (which are closely tied to children's rights). The fact that both of the organizations studied for the research (SC and UNICEF) deal with the rights of the child also contributed to leading it on the path of studying the approach from the perspective of children's rights.

Regarding the reason why SC Iceland and UNICEF Iceland were chosen as research fields, it was mainly due to the fact that the international organizations that those two country offices belong to are among the most advanced, according to the literature data examined, and most experienced when it comes to dealing with the rights-based approach to development.

Chapter 5: The academic community and RBA

The University of California, Berkeley, is thought to be one of the world's premier research universities and its faculties are renowned for both teaching and scholarships. According to the Office of Vice Chancellor for Research homepage:

It is committed to maintaining a research environment conducive to creating and freely disseminating the very best scholarly contributions and scientific discoveries. Berkeley is consistently rated among the top institutions in the world for the quality and breadth of its research enterprise, for the scholarly distinction of its faculty, for the excellence of its Ph.D. programs, and for the amount of funding received for support of its research program ... (UCBerkeley 2008).

Being a Visiting Research Student in that community during the one year period from 2006 until 2007 one quickly feels what might be defined as a kind of undercurrent running through the community where the prominence or importance of certain concepts, theories and issues is evident. Just walking

through the campus – especially Sproul plaza – where students come together to raise awareness to various issues, one quickly notices how certain issues seem to take more space than others. Issues concerning human rights as well as those that have to do with American foreign policy seem to be high on the student community's priority list. For example, students seem very concerned about what is going on in Darfur and the international communities' inability to stop the atrocities and horrible human rights violations that are currently going on over there, the Bush administration's action in Guantanamo, Fair Trade between the "developed" and "developing" countries, globalization (pros and cons), freedom of religion and a sea of other, often, human rights related issues.

What is being campaigned and sometimes literally shouted out in the streets and plazas of the Berkeley Campus often echoes the overall themes being discussed in the classrooms – in the professors' lectures and literature. When glancing over the list of courses available to graduate students in the department of International and Area Studies¹⁰, one quickly realized that human rights are 'in' today! To name but a few of the courses the researcher took there were: International Human Rights in Theory and Practice – a popular course taught by my professor Rachel Shigekane. The course surveyed the field of international human rights, but more explicitly from a legal point of view (perhaps not surprisingly since the professor is after all an attorney).

According to the syllabus, the overall goal of the course was to "encourage students to analyze the events of the world and of our community through an international human rights framework" – a goal which seemed to be a success judging from the students communities' engagement in debates, student newspapers, public campaigning etc. that had a human rights twist to it – (it should however be noted that the interpretation of these events is without a doubt affected by the researchers personal interest in the cause and concept of human rights!). It appears the main recurrent themes throughout the course were:

¹⁰ IAS (International and Area Studies) is the hub for global and international activity on the Berkeley campus. Its mission is to promote global citizenship by strengthening the University's position as a preeminent international resource. IAS develops and coordinates international research, teaching, and service programs, and also reaches out, through publications and activities, to assist other institutions who wish to bring a global perspective to their work.

universality, indivisibility, inalienability, freedom, duty, justice and equality (ísl. *jafnræði*).

Another course I took, called, Global Poverty: Challenges and Hopes in the New Millennium, discussed development from different perspectives including human rights. Some of the main themes were: poverty, global citizenship, human rights, Millennium Development Goals, Social and Environmental Justice and empowerment. The themes and concepts that recurred the most, apparently, throughout most of the classes taken, especially the two aforementioned, were; the MDGs, globalization, security, human rights, justice and poverty. The same can be said for the international conference attended for this study in early March 2007, *Stop Mass Atrocities: An International Conference on the Responsibility to Protect (R2P)*. There the focus was mainly on three concepts; human rights, development and security.

Although the discussion during that particular conference did not specifically focus around the rights-based approach, it dealt with a lot of issues (mostly political ones) that directly related to it, such as the obvious: human rights and development and the not so obvious like sovereignty and democracy. Those concepts are of great importance to the evolution of a RBA and how it is currently being used and might be used in the near future.

The argument surrounding the concepts in question that many academics seem to be making is that they are, in one way or another, partially responsible for underdevelopment, mass atrocities (e.g. war crimes and crimes against humanity), lack of respect for international human rights and poverty reduction. Let us take a closer look at one of the key concepts discussed at the conference in relation to the RBA.

Sovereignty is one of those concepts that are much debated in academic circles, such as Political Science, International Law, and International Relations. The doctrine of sovereignty – often the counter to the internationalization of human rights – was in the previously mentioned conference, R2P, repeatedly referred to as one of the biggest hindrances facing the international community when trying to protect civilian populations from mass atrocities (be it war crimes, crimes against humanity, natural disasters, etc.). In other words, inaction is repeatedly defended on the grounds that “state sovereignty trumped the international community’s responsibility to protect” (Human Rights Center 2007).

The international community's responsibility to protect is based on the aforementioned UDHR and other international instruments under the auspices of the United Nations (e.g. ICESCR and ICCPR) and therefore it is a responsibility directly derived from human rights and why sovereignty is sometimes seen as the 'enemy' of human rights or at least what stands in the way of human rights working "as they should". The claim at the R2P Conference and in much of the academic debate seemed to be for the need of a new definition of the concept of *sovereignty*, or, as some would say, correction of the misunderstanding of the true meaning of the concept.

The talks during the conference were usually very inspiring and full of hope for the future (if guided "of course" by human rights principles). The feeling perceived from those talks and subsequent discussions regarding the key concept of sovereignty was that in an increasingly globalizing and cosmopolitan world it was really just a matter of time before this big lion (i.e. sovereignty) would be out of the way. Points were made, for instance that more and more power is being transferred from national governments to large international organizations (e.g. UN, European Union etc.), causing a shift in meaning of the concept.

The most optimistic speaker at the conference was probably the key speaker and former Foreign Minister of Australia Mr. Gareth Evans. Since 2000 Evans has been president of the Brussels-based International Crisis Group¹¹, whose aim is to resolve or prevent deadly conflict. Evans spoke a lot about the international community's responsibility to protect human rights and in so doing human dignity and fundamental freedoms. He discussed the urgency for the international community to be given the means of protecting human beings from gross human rights violations and emphasized that resolutions 1674¹² and 1706¹³, both of which were passed by the UN Security Council in 2006, provide such

¹¹ The International Crisis Group is an independent NGO working with some 120 full-time staff on five continents to prevent and resolve deadly conflict.

¹² Resolution 1674 was adopted by the UN Security Council on April 28th 2006. The resolution reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity

¹³ Resolution 1706 was passed by the UN Security Council on August 31st 2006. The resolution was intended to resolve the Darfur conflict.

means. The problem, however, according to Evans is that few countries that have recently obtained independence are willing to give up certain aspects of their sovereignty needed for the full implementation of these resolutions. Most of the countries in question are in the developing world (e.g. Africa and Southeast-Asia) where we also have most of the conflicts in the past 50 years or so. In short, Evans was optimistic that with the strengthening of human rights and the UN those countries could be “reasoned with”.

Evans argued that without strong reconciliation built on the principles of the rights-based approach (legitimacy, empowerment, accountability, transparency, participation, equality and non-discrimination) then conflict resolutions would remain an elusive quest. He talked about how the only way to safeguard against a return to violent division was for human rights and reconciliation to be intertwined.

Mr. Lee Feinstein¹⁴, also a speaker at the R2P conference, was more moderate in his optimism for the future of human rights as the key to secure peace and security in the world. Feinstein was more concerned with the problems and hindrances for that to become a reality. He mentioned, for example, cultural relativity as a real obstacle and also the political hotbed that surrounds the concept of sovereignty and of human rights.

The main conclusion or lesson from the conference is probably that the respect for and application of human rights, preferably within an approach like the rights-based approach, is one of the key ingredients to solving many of the world’s problems. Just the name of the conference suggests it, *Responsibility to Protect*, where responsibility (i.e. duty) and protection are known to be among the cornerstones of human rights ideology (be it religious, philosophical, legal or other). Still, it was widely recognized that there still is a long way to go and many obstacles need to be overcome first which inevitably will take time

¹⁴ Lee Feinstein is senior fellow for U.S foreign policy and international law at the Council on Foreign Relations. He was principal deputy director of the policy planning staff under Secretary of State Madeleine K. Albright (the Clinton Administration), and served as a human rights adviser on the 2005 congressionally mandated Task Force on U.S. Interests and the United Nations.

5.1. Conclusion

The concept HR, RBA and other related concept are all hotly debated in the highest ranked universities in the world. The observational analysis from Berkeley indicates that in the academic community human rights and the rights-based approach have a significant tailwind in their favor. While some are optimistic and seem honestly to believe that the solution to the development problems is emerging, at least theoretically, others are more cautious. In the chapters to come we will examine further the RBA and focus on international organizations that have officially embraced this current trend within development cooperation. Interestingly, both these organizations aim to enhance the rights of children.

Chapter 6: The rights of the child

This chapter narrows the focus of a rights-based approach to development towards its effects on the rights of the child. First, the Convention on the Rights of the Child (CRC), one of the main tools in the advocate's toolkit, will be introduced. Second, a big issue concerning the rights of the child (right to survival (life) and development and the rights to education and equality) will be briefly outlined.

6.1. The Convention on the Rights of the Child

Children's rights have seized the world's imagination in an unprecedented way. The United Nations Convention on the Rights of the Child, often referred to as the CRC or the UNCRC, is an international convention setting out the civil, political, economic, social and cultural rights of children. It is monitored by the United Nations Committee on the Rights of the Child that is composed of members from countries around the world (UNICEF 2004).

Governments of countries that have ratified the CRC are required to appear before the Committee on the Rights of the Child to be examined on their progress with regards to the advancement of the implementation of the CRC and the statues of the rights of the child in their country. Each country is given one

day to make their case before the committee (verbal reference Lucy Smith¹⁵ 2007).

The CRC has been ratified by more countries than any other treaty at an unprecedented speed (Child rights campaign 2007). On November 20th 1989 it was adopted into international law as an advisory resolution, coming into force on September 2nd, 1990 (25+Human Rights Documents 2005). Out of a 193 there are only two member states of the United Nations who have not ratified the Convention, the United States of America and Somalia (UNICEF 2007a).

Even though the USA was a crucial participant in the decade-long drafting process of the CRC they only signed it in 1995 but never followed through with their ratification process (UNDP 2000). Somalia on the other hand has neither signed nor ratified it. It should be noted, however, that the political situation in Somalia has been very unstable for many years. Ever since President Siad Barre was overthrown in 1991 it has been without a functioning central government (BBC world news 2007).

The United States on the other hand have no such excuse. The main reasons given for the U.S.'s failure to ratify the convention are both political and religious. In 1995 when Madeleine Albright, at the time the U.S. Ambassador to the United Nations, signed the CRC it was generally supported by President Bill Clinton (Child rights campaign 2007); despite this support it was not submitted to the Senate for its advice and consent, due to procedural and political barriers. Procedurally, it is the general policy of the United States to thoroughly evaluate the constitutionality and potential impact of a treaty prior to giving its consent for ratification. It is already known that certain provisions of the CRC conflict with U.S. laws –such as article 37, which prohibits the sentencing of juveniles to life imprisonment with no opportunity for parole (R. Shigekane, verbal reference, September 19th 2006). Those laws have been heavily debated both within and outside the U.S.

For instance, the Germany-based, Foundation for the Rights of Future Generations, has proposed lowering the voting age in America to thirteen. The

¹⁵ Lucy Caroline Smith is a Norwegian lawyer and emeritus professor of law at the University of Oslo, where she acted as rector from 1993-1998. Smith is a member of the UN Committee on the Rights of the Child until 2009.

Foundation's spokesman, Jorg Tremmel, argues for this proposition on the ground of a recent case in Florida, where the twelve year old Lionel Tate was convicted as an adult of first-degree murder. Tremmel points out that if a twelve year old can be prosecuted as an adult then the same twelve year old is capable of understanding the voting process (Anderson 2001).

Conflicts with U.S. law are however not the only objections the United States has to the Convention. The administration of President George W. Bush has explicitly stated its opposition to the treaty. At the UNICEF second preparatory meeting for the upcoming Special Session on Children, held on September 19th 2001, the U.S. stated in its presentation on the CRC that:

The Convention on the Rights of the Child may be a positive tool for promoting child welfare for those countries that have adopted it. But we believe the text goes too far when it asserts entitlement based on economic, social and cultural rights. ... The human rights based approach ... poses significant problems as used in this text (Anderson 2001).

The European Union's (EU) stance on the CRC is quite contrary to the stance of the U.S. as can be seen by a statement given by the ambassador Thomas Hammarberg, head of the Swedish delegation, when he spoke on behalf of the European Union and 13 other countries aligned with the EU's statement on the assembly (Iceland included). Hammarberg said: "In our opinion the rights-based approach should be the lead theme throughout the text. ... the full implementation of the Convention on the Rights of the Child is the overarching objective" (Anderson. 2001).

It should be noted, however, despite the U.S. and practically the rest of the world's conflicting views regarding the CRC, the U.S. has ratified a few optional protocols to the Convention – including the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, and the Optional Protocol on the Involvement of Children in Armed Conflict (Child rights campaign 2007). Aside from the United States' opposition to the CRC the fact still remains that it is the world's single most comprehensive and ratified international agreement on the basic protections that should be accorded to children.

6.1.1. Basic human rights standards and the CRC

As stated by the United Nations Children’s Fund (2007a) the basic standards and obligations of the CRC set minimum entitlements and freedoms that should be respected by governments and individuals. The philosophy of the Convention is based on “respect for the dignity and worth of each individual, regardless of race, color, gender, language, religion, opinions, wealth, birth status or ability and therefore apply to every human being everywhere” (UNICEF 2007a). One of the key principles of the Convention is that all decisions made on behalf of children must be guided by “the best interests of the child”, regardless of who makes those decisions (the state, parent or guardian, or any other person). The Convention also recognizes that children are not the property of their parents, or of anyone else, but are fully-fledged human beings with human rights (Amnesty International 2005).

That being said, the CRC expressively recognizes that parents have the most important role in the bringing up of children. Thus, they (or a child’s guardian) are vital to children’s wellbeing. Article 5 of the Convention states that:

State Parties shall respect the responsibilities, rights and duties of parents ... to provide, in manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention (25+Human Rights Documents 2005: 81).

Other guiding principles in the Convention include: the right to life (survival) and development, non-discrimination, adherence to the best interest of the child and the right to participate.

The following section looks more closely to some of the rights found in the first general principle – the right to life (survival) and development.

6.1.2. The right to life and development

Survival and development rights are among the guiding principles of the CRC. Included in those rights are children's rights to adequate food, shelter, clean water, formal education, primary health care, leisure and recreation, cultural activities and information about their rights. As UNICEF (2006b) points out, these rights require both the existence of the means to fulfill the rights as well as access to them.

On the day of General Discussion on the "Implementing Child Rights in Early Childhood" in 2004, Patrice Engle, senior advisor for UNICEF, New York, gave a keynote speech. In her speech Engle talked about the importance of the first years of life, when the trajectory of a child's future begins to be set. Besides the obvious importance of the survival of the child this also includes other aspects of the child's life – such as its height, learning ability, willingness to trust people, self-esteem and risk of getting diseases later in life (UNICEF 2006c).

There are many pressing issues facing the survival and development of children today. For example, it is estimated that around 9.7 million children under the age of five die each year from preventable diseases. According to UNICEF's homepage (in 2007) at least 18 million low birth-weight babies are born each year in addition to 50 million child births that are never registered. In developing countries it is estimated that over a 150 million children from 0-4 suffer from malnutrition, which contributes to half of all deaths of children under the age of 5. The learning abilities of more than 3 million children is threatened each year by iodine deficiency and more than 40% of children in developing countries also suffer from anemia (UNICEF n.d.).

Despite these depressing facts and figures there is, however, some cause for optimism. According to UNICEF's newly released report, *Progress for Children: A World Fit for Children, Statistical Review*, the year 2006 marks the first year in recorded history when the number of children dying before their fifth birthday falls below 10 million. In comparison, it is estimated that around 20 million children were dying before they reach 5 years of age in 1960. Still, despite such hopeful developments one must not forget that there are still many countries, most of whom in Sub-Saharan Africa (SSA), who have not been able to reduce

their child mortality rates. In fact, many of the SSA countries have made little or no progress in reducing child mortality in recent years (UNICEF 2006c).

6.1.3. The right to education and equality

It is a well known fact that a country's future is directly tied to the education of its children. According to UNICEF's Annual Report 2006 world leaders have begun to realize this fact and take action accordingly. Increases in school enrollment and attendance reduce the number of primary-school-age children who are out of school from 115 million in 2002 to 93 million in 2005-2006 (UNICEF 2006a). However, it is utterly unacceptable that 93 million children – most of whom are girls living in SSA and South Asia – do not get basic quality education.

UNICEF and other organizations fighting for the rights of children have been active at pointing out the obvious: education enhances lives and helps bring an end to poverty and diseases. It provides the necessary means for sustainable development.

There are numerous benefits to be gained with education – such as equipping girls and boys with the necessary skills and knowledge to adopt healthy lifestyles, which can, for instance, protect them from diseases like HIV/AIDS. As educated individuals children are more likely to take an active role in social, economic and political decision-making when they grow up to reach adolescence and adulthood.

As noted above education is still a distant dream for many children – girls especially! The statistics speak for themselves when showing that out of the 93 million children who are not in school, 62 million are girls. According to 2002-figures 24 million girls who were out of school live in SSA and 85% of all girls who are out of school live in SSA, South Asia, East Asia and the Pacific. Two-thirds of the world's 781 million illiterate adults are women (UNICEF n.d.).

One can easily conclude from those figures that increasing girls' primary and secondary education is really where the rubber hits the road when dealing with educational programs – especially in the developing world. As the former secretary general of the UN, Kofi Annan, said in his address to the Millennium Assembly: “There can be no significant or sustainable transformation in societies, and no lasting reduction in global poverty, until girls receive the basic quality

education they deserve, and take their rightful place as equal partners in development” (UNICEF 2006b).

Anyone with a beating heart will agree that all the figures mentioned above are nothing short of an international scandal, especially in light of the affluent availability of resources in the more developed countries. A rights-based approach to development appeals to those who have the power to mobilize those resources, regardless of any type of borders –national or international – that might separate them from those in need. It is their duty, according to the principles of international human rights to do so. Thus, the rights-based approach to education, for example, aims at the often deep-rooted societal inequalities, whichever shape they may take, that keep children from enjoying their rights to education, adequate healthcare, a good start in early childhood development and the numerous other rights they are entitled to, according to international laws found in the CRC.

Chapter 7: UNICEF and the RBA to development

In this chapter one of the two organizations studied for this research will be introduced to the scene, namely the United Nations’ Children’s Fund (UNICEF). First, there is a brief overview of the historical origins of the organization, both internationally and in Iceland. Second, UNICEF’s adoption of the rights-based approach to development and its application in development programming for children will be discussed.

7.1. The history of UNICEF

The United Nations Children’s Fund was established one year after the Second World War on December 11th 1946. Originally it was known as the United Nations International Children’s Emergency Fund (Nobelprize 2007a). Its creation was a response to the needs of millions of children who faced famine and disease in Europe (University of Montana 2006). UNICEF’s mission was to feed and clothe these children and provide healthcare to them. UNICEF distributed

various articles of clothing to five million children in twelve countries, vaccinated eight million against tuberculosis, rebuilt milk-processing and distribution facilities, and, at the height of its work in Europe, provided a daily supplementary meal to millions of children (Nobelprize 2007a)

The organization's mandate was extended in 1953, as it became a permanent member of the UN General Assembly. To name a few of the organizations campaigns, following the extended mandate, UNICEF successfully launched a global campaign against a disease called yaws, which was disfiguring millions of children and can be cured with penicillin (UNICEF n.d). UNICEF also conducted campaigns against tuberculosis, leprosy and malaria (Nobelprize 2007a). It made provisions for environmental sanitation and encouraged maternal and child healthcare education.

In 1959 the UN General Assembly adopted the first Declaration of the Rights of the Child, which defines children's rights to protection, education, healthcare, shelter and good nutrition. Two years later, in 1961, UNICEF broadened its interests and scope of issues concerning child welfare. Hence, it did not focus its attention primarily on health issues concerning the child as education also became an important priority issue for UNICEF. Thus, UNICEF provided assistance for teacher education and curriculum reform, allocated funds for pre-vocational training in usable skills and promoted information on the uses of technology (Nobelprize 2007a)

In 1965, UNICEF was awarded the Nobel Peace Prize for the promotion of brotherhood among nations. The UNICEF Executive Board passed a resolution on November 19 1965, where they expressed their deepest gratitude for this award and said they

[C]onsidered the award a recognition of the importance of the welfare and rearing of children in a spirit of friendship among nations for peace in the world, and a tribute to cooperation on behalf of children among governments, United Nations agencies, and other international organizations... (Nobelprize 2007b).

In the 70s and 80s UNICEF focused more of its attention on elevating the quality of life for children living in the developing countries by coordinating its efforts

with the governments concerned. Among UNICEF's most prominent work during those two decades was, for instance, the adoption of the Breastfeeding Code in 1981 by the World Health Assembly. By encouraging breastfeeding UNICEF attempted to diminish the threats to infant health. Another key campaign was the, Child Survival and Development Revolution, which was based on four basic techniques: growth monitoring, oral rehydration therapy, breastfeeding and immunization. UNICEF did not hold back its criticism of the Structural Adjustment Programs¹⁶ in a landmark study called, Adjustment with a Human Face (UN System of Organizations, n.d). The report prompted a global debate on how to protect children and women from the malign effect of the economic adjustments and reforms taken to reduce national debt in poor countries.

As previously mentioned, 1989 was an important year for the rights of children when the CRC was adopted.

7.1.2. UNICEF: mission and mandate

In 1996 UNICEF's Executive Board declared that the CRC was the frame of reference for UNICEF (UNICEF 2001). Its mission statement declares that "UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential" (UNICEF 2001: 2). It further emphasized that the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) underpinned the mandate and mission of the organization.

As an international development organization, guided by its mandate and mission statement to advocate for the protection of children's and women's rights and to help meet their basic needs, UNICEF has worked since the 1989 adoption of the CRC to identify ways in which normative processes of international human rights law can inform and guide development work for children and women (UNICEF 2001). As Dorothy Rozga, author of the UNICEF report, *Applying a human rights-based approach to programming: Experiences of UNICEF*, points

¹⁶ For more information on SAP's see: World Health Organization. (2008). *Structural Adjustment Programmes (SAPs)*. Retrieved February 12th 2008 at <http://www.who.int/trade/glossary/story084/en/index.html>.

out the organization moved from viewing the CRC primarily as a basis for global advocacy, during the 1990, to exploring its role, and the role of CEDAW, as normative frames of reference for the design and implementation of programs of cooperation with national partners.

7.1.2.1. Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women is an international convention adopted in 1979 by the UN General Assembly. It came into force on September 3rd 1981. Perhaps not surprisingly, the United States is the only developed nation that has just signed but not ratified the CEDAW. A few developing countries have neither signed nor ratified it, either on anti-feminist grounds or religious grounds. The Islamic countries, for example, claim it is culturally biased towards the Western nations, much like human rights in general. Therefore those countries (i.e. Iran, Nauru, Palau, Qatar, Somalia, Sudan and Togo) have placed reservations on the elements that they feel contradict with Islamic Sharia law (DAW 2007).

Jonsson (2003) points out that to attain gender equality CEDAW requires compliance with certain strategic principles that are also important for a human rights-based approach to programming. Gender-based disparities must be identified and eliminated. Consequently, another strategic principle is that affirmative measures must be systematically implemented to assist women to realize their rights. Removal of social injustice and barriers brought about by unjust construction of gender roles must be a focus of interventions. This will also help girls to realize their rights more quickly.

CRC and CEDAW are complementary and mutually reinforcing. Historically, respect for children's rights has always been preceded by an increasing realization of women's rights (Jonsson 2003). Sometimes this relationship is clear and direct, as in the case of mother-to-child transmission of HIV; the violation of women's reproductive health rights is a key cause of this phenomenon Women's rights to control their sexual and reproductive health is, therefore, key to HIV/AIDS prevention. Domestic violence and gender-based abuse represent a threat to the realization of these rights. Jonsson advocates that measures must be taken to eliminate these threats, as they almost always have a

negative impact on children's wellbeing in the family and the community. Girls are at particular risk of violence and abuse when gender-based violence is not addressed and adequate measures taken to raise women's and girl's overall social status.

7.2. UNICEF's process towards a RBA

During the 1990s UNICEF made rapid changes in its approach to development. As Jonsson (2003) points out, those changes employed a normative, but a need-based approach. The 1990 World Summit for Children (WSC) provided a new normative based for UNICEF's work and was the first of a number of global conferences that followed a similar pattern: governments agreed on global targets, endorsed a Plan of Action, and strongly emphasized the need to monitor the achievement of the targets. It was widely agreed that the WSC targets represented "global moral minima" for children worldwide, and a "social contract" between political leaders and the World's Children (Jonsson 2003). But like all previous social contracts, the WSC entailed promises, not obligations. Thus, "Keeping the promise" became a political slogan for advocacy and social mobilization by UNICEF and others

Because of the limitation of voluntary action and promises, the strategies used to promote the WSC targets remained in the tradition of needs-based approaches. Development efforts in the 1990s based on this approach were very successful in reducing infant and child mortality rates by increasing immunization coverage, increasing the use of oral rehydration therapy, vitamin A supplementation, and a few other health and nutrition interventions, according to Jonsson (2003). They were less successful, however, in achieving some other goals with more complex causality – such as protein-energy malnutrition, maternal mortality, education, sanitation, and hygiene. As Jonsson points out these areas require that individuals, families, and communities become empowered in a way that service delivery-focused basic needs strategies cannot normally achieve.

The ratification of the CRC by nearly all of the world's countries in the early 90s meant a totally new work environment for UNICEF and other similar organizations. Ratification means that a government is legally bound to realize

and guarantee all of the rights enshrined in the CRC. Therefore it is a moral and legal obligation, which promoted the WSC goals from being promises to being inalienable human rights obligations for children that states, or governments, where obliged to fulfill (Jonsson 2003).

With a new Mission Statement in 1997 and an understanding of the CRCs potential for its child rights work, it appears UNICEF was the first UN agency to program for human rights (Frakovits 2005). One can thus accurately assert that UNICEF moved quickly after the former UN secretary general, Kofi Annan, announced that human rights should be the basis for all major UN activities in 1997 (Jonsson 2003).

Following the adoption of the Mission Statement came a period of intense effort to explain the main concepts underlying a rights-based approach to development and outline a logical process for applying this new approach to its programs. The result came in 1998 when UNICEF published a document titled, *UNICEF Guidelines for Human Rights-Based Programming*. The document brought together many ideas which sought to give concrete, operational meaning to the term human rights-based approach to programming (Jonsson 2003).

In June 1999 another important document, *Program Cooperation for Children and Women from a Human Rights Perspective*, was presented to the UNICEF Board (UNICEF 2001). This document highlights how the normative framework of international human rights standards should guide UNICEF's practical work in fulfilling its mission and mandate, and describes how the framework has strengthened programs.

7.2.1. Communication – the process of realizing rights.

According to a number of UNICEF documents on RBA to development and programming, communication is featured as a key element, one that other rights are built upon. As Jonsson (2003) explains, communication is an integral part of a community's life. The ways people communicate reflect existing power relations and the structural and systematic realities within a community. Therefore, communication is central to the extent to which human rights are realized. As Jonsson further points out one should not see communication or participation as simply a set of techniques or tools for ready application to a variety of circumstances, but rather as an integral part of the development process.

The right to communicate and participate, for that matter, is made crystal clear in a number of international conventions. That however does not mean that claiming those rights in daily life is a straight forward process. In daily life, there are countless factors that influence the way people communicate – such as geographical area, culture, religion, economic system and power structure. According to Jonsson (2003) one of the main reason people are marginalized and subsequently do not enjoy their rights, is because they don't have access to those who hold power and thus cannot communicate effectively. Without the ability to communicate effectively, first among themselves and then with duty-bearers, it is impossible for them to alter the social context within their communities and to negotiate change.

One thing development practitioners have learned is that information alone (the content of messages) is not enough to empower people to claim their rights (Jonsson 2003). Communication must be in the form of a dialogue or discourse between both rights-holders and duty-bearers. Thus, communication occurs effectively when the people both transmit created messages and receive it. Therefore the realization of rights is triggered by the process of this form of communication, when people on both sides of the table acknowledge the other in the decision-making process.

In theory, from a rights-based perspective communication interventions should give a voice to rights-holders who for some reason aren't able to speak equally and effectively, for instance women and children. It should also help duty-bearers to become more willing and able to listen to the views of all social groups and include them in the decision-making process (Jonsson 2003). In practice, however, it can be very difficult for an outside agency, like UNICEF, to assist with interventions of this nature without alienating one or the other (rights-holders or duty-bearers). When they, for example, try to help rights-holders to communicate in this way with duty-bearers they alter the existing power-structure of a community, which can meet powerful resistance from those with a vested interest in the status quo.

Encouraging women or children to speak out, for example in societies where traditional male dominance has prevailed for centuries or the objection of cultural practices that give certain people or groups respect and/or power prevails, will inevitably meet considerable resistance and has to be approached with

caution and respect. Nonetheless, it is the researchers' belief that most fundamental societal changes will be met with resistance. The amount of resistance probably depends on who encourages change and how.

Jonsson (2003) points out, the agenda of the RBA to development and development programming, when it comes to communication and the process of development, is to establish a process in which rights-holders set the development agenda, not duty-bearers. This however, holds obvious problems, such as the above example, that need to be overcome somehow. The UNICEF employee in Africa, interviewed for this research, gives additional examples of just how difficult it can be in practice to implement this communication process. She said that when working on a National Children's Policy a heated debate emerged about whether left handed children should get a special attention in the policy, as being disabled. Examples such as this one, that to most educated and/or Western people seem absolutely absurd, are relatively common when the rules of participation are applied. The employee adds the question whether it can ever be justified to ignore such ideas from the ground (this example is further discussed in chapter 9).

Furthermore, this example gives an idea of the problems faced in the field when looking at a problem from the ground-up, as supposed to from the top-down. It appears that what this shows is that qualitative and holistic approaches – like the RBA – necessarily entail a lengthier, more complex process of gathering information and ideas from different voices within a community. That however, does not mean that all of those voices are correct. But perhaps with this pool of information the authorities can subtract useful information about what is important to different groups within the community.

It is impossible to answer the question posed by the UNICEF employee without further information on the reason why those left-handed people are considered having a special disability and it being an obstacle in life. Is it simply a backward idea – much like Western ideas about the same issue a few decades ago – or is it possible that it actually impairs the quality of those children's lives in some way? Without such basic information it is fruitless to attempt to take that discussion further. Nonetheless, the point Jonsson (2003) and other advocates of the RBA are possibly trying to make when they emphasize communication, participation and process – from both sides of the table – is to create an atmosphere or process where people of power listen to the lay people and the poor

people in the community, no matter how “crazy” or “stupid” their ideas might seem to be. Creating communication channels between marginalized people and the authorities encourages people to speak up, despite their lack of “professional” knowledge on a subject.

Additionally, one cannot help but wonder whether the outcome of this sort of exercise could lead to a fundamental prerequisite for a functioning democracy – could it possibly be a conscious or sub-conscious aim of this approach to give developing countries a sort of a ‘101 lesson’ in how democracy works? If so, the question that follows will be whether human rights can function in a non-democratic country? Many, including Norman (2005) and Langlois (2003) believe that human rights and democracy cannot be separated as many human rights advocates wish for – assuming the link between human rights and democracy can be harmful for the further acceptance of human rights within international society. The opposing argument is, as Norman points out, that “human rights and liberal democracy are not merely complementary, rather they are interdependent. A democracy that is substantive as well as procedural cannot function without human rights, just as human rights ... cannot function without democracy” (p.35). Similarly, Langlois concludes that human rights without democracy are simply standards and norms, but not rights as such.

Although the questions discussed above are certainly legitimate as, they are still a bit of a digression from the main subject of this research.

7.3. Theoretical components of a RBA within UNICEF

Jonsson (2003), who according to the UNICEF employee in Africa is the organization’s main ‘torchbearer’ on the subject of an RBA to development, explains the key concepts and tools for a RBA to development programming. For example, he emphasizes the Triple A process – assessment, analysis, and action – and explains how people can use this approach to become agents of their own development and consequentially realize their rights. He also underscores the importance of communication, as discussed earlier, and that of capacity building, both of which make this whole process possible. Finally, he dots the “I” with a conceptual framework for applying these tools to children’s rights.

According to Jonsson (2003) development requires the satisfaction of at least two conditions. First, a desirable outcome, and second a satisfactory process to achieve that outcome. Most of the goals set at the WSC focused on desirable outcomes, but, as Jonsson points out, in order for development to be effective and sustainable it needs to entail high-quality process as well. Participation, local ownership, empowerment, and sustainability are all well known concepts believed necessary for a high-quality process. All of this sounds fine and dandy but is it really that simple? According to the interviewee at UNICEF’s office in Africa it is not, as can be seen in the final chapter.

Let us nonetheless first take a closer look at what Jonsson’s (2003) theoretical propositions for RBA programming include. In his book he illustrates how the level of outcome and quality of process define a two-dimensional space for social action (see Fig. 1).

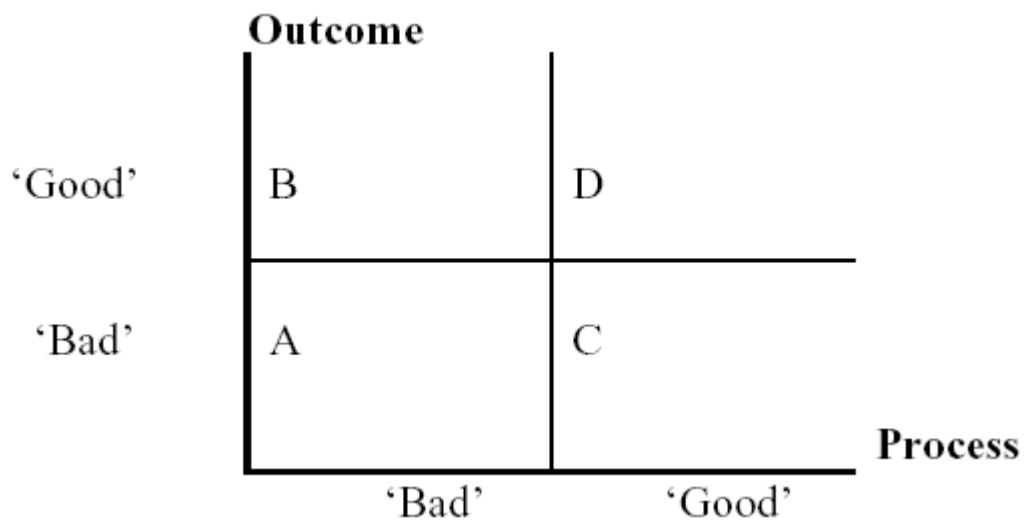


Figure 1: Outcome and Process (Jonsson, 2003: 27)

According to Jonsson (2003) most development starts at A – bad outcome and bad process – and the desired final stages are D – good outcome and good process. Unfortunately as Jonsson points out many development programs get stuck with either good outcome but bad process or vice versa – bad outcome but good process. Some immunization programs have for example become trapped in B, and a few local, community-based programs get trapped in C.

Jonsson (2003) sees two main factors responsible for development programs getting stuck or trapped in either the B or C box of the above illustration. First, there is the relatively slow process that has been made in the past ten years in achieving quality monitoring of process. According to Jonsson (2003) this is mostly due to the fact that “good process” has seldom been defined and appropriate indicators – such as participation, women’s empowerment and sustainability – have not been developed. The second factor, responsible for development programs losing their track, is that far too many economic and development agencies prefer outcome-focused approaches (UNICEF being no exception) (Jonsson 2003).

Given how the focus has been so prominently placed, in past and to some degree present, on indicators like economic growth and a range of other outcome-oriented factors, it is in a sense understandable how it might be difficult for many practitioners and technocrats to break free of that mode of thought and embrace the often slow, long term process inherent in the RBA to development and programming. As indicated by the views of the UNICEF employee in Africa that her co-workers see the approach more as a beautiful concept or ideal than an actual tool in praxis.

However, according to Jonsson (2003), the rights-based approach to development and programming is not an either-or approach (i.e. outcome or process) and it is well applicable in practice. He proposes the so called Triple A Approach as one of the key mechanisms to enable a rights-based development. In essence the Triple A Approach is about repeating three fundamental processes of decision-making over and over again, representing a sort of “learning-by-doing” process or “self-evaluation”, as Jonsson calls it.

The first fundamental process of decision-making is, *assessment* of a problem, then comes the *analysis* of the problem and finally the *action* to reduce or solve the problem. This is then followed by re-assessment, re-analysis and new action and so on and so forth (see fig. 2). So that is why Jonsson (2003: 28) calls this Triple A approach a “learning-by-doing” approach, because over time it reflects a learning process where the actor is constantly improving his or her capability to cope and manage. Jonsson holds that “strengthening the capacity of all actors to engage in this process is at the heart of human rights approach to development”.

With that in mind, one might say that the UNICEF staff in the Regional Office in Africa should view the experience of lack of community ownership in the so-called “UNICEF projects” as a learning experience that they can improve upon next time.

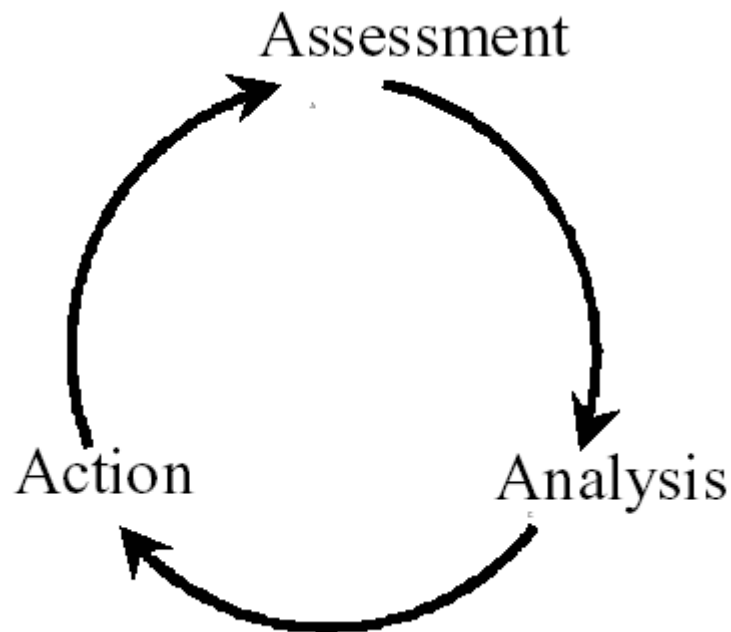


Figure 2: The Triple A Process (Jonsson 2003: 28)

It is important to note that the Triple A processes are not really a new phenomenon. They already occur at all levels of society. Poor people constantly adapt and change their survival and coping strategies as the context changes and as they receive and understand new information. Therefore it should be understood that poor people are key actors in their own development because they already engage in this process (Jonsson 2003).

According to Jonsson (2003) the most important parts of capacity and capacity development are the abilities to assess and analyze a situation, to make informed decisions for action, and to learn from the results of the action. The information flow from assessment to analyzes, action and re-analysis (monitoring) fuels the Triple A Process. Consequently, even though a decision might be a rational one, given the information it is based on, that information may be based on myths and misinformation resulting in rational decisions that are nonetheless inadequate or wrong decisions.

Information is the fuel of the Triple A process, further highlighting the important role of communication which becomes increasingly more crucial – and complex – as we move from individuals and household to larger organizations and “systems.” Communication is the tool which enables individuals within a group or organization to ensure that they:” a) agree that there is a problem; b) agree on the major causes of the problem; c) agree to pull their resources together to address these causes, and finally, d) agree on the major lessons learned in the process” (Jonsson 2003: 29).

This clearly shows the fundamental importance of communication, but it also highlights the key importance of another human rights principle – participation.

Another important proponent of the Triple A Process is to understand why a problem is considered a problem in the first place, not just how decisions about how to deal with it are made. Jonsson (2003) asks what it is that makes people take responsibility for addressing problems. What, for example, drives people to want to fulfill certain duties in relation to children? According to Jonsson it is the feeling of responsibility or motivation which is also responsible for driving the whole Triple A Process. Jonsson illustrates this by a symbolic heart, which he places in the center of the Triple A cycle (see fig. 3).

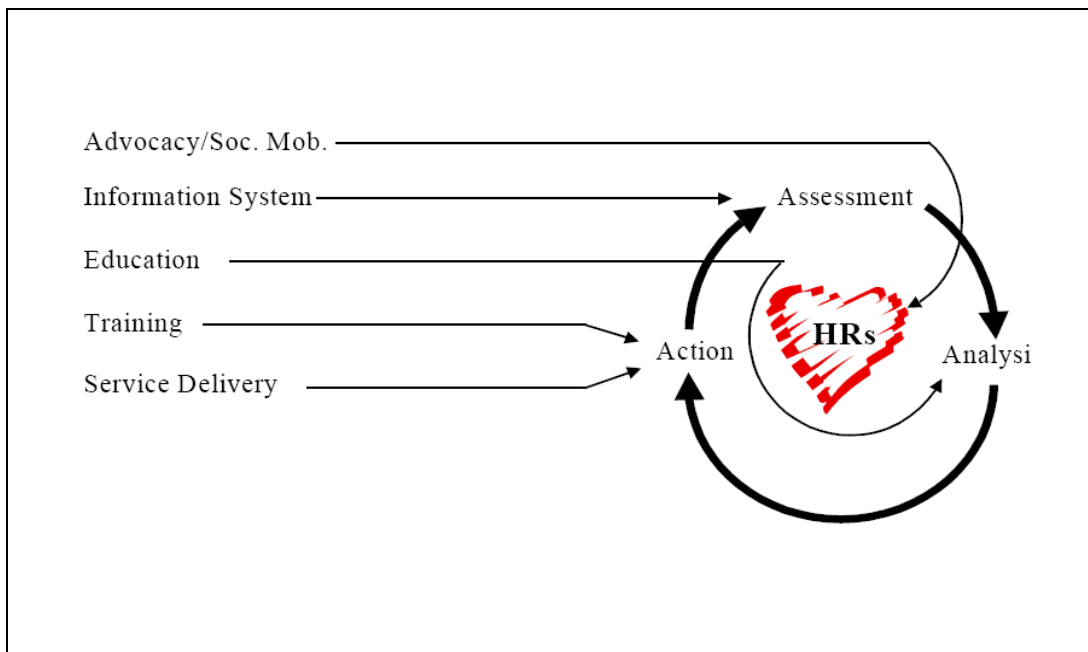
According to Jonsson (2003) there are two important dimensions in a holistic approach to social problems, the scientific and ethical dimensions. The scientific dimension deals with what can be done while the ethical one deals with what should be done. As Jonsson (2003) explains science is objective, ethics are normative. Therefore, science advances mostly through observation and logical deduction, whereas ethics advance by reaching consensus through dialogue, reflection and enquiry. Thus, development must always be seen and understood from both a scientific and ethical perspective. For instance, whether or not more resources should be devoted to children’s survival and development can be argued both scientifically and ethically. An argument from a scientific perspective can be that investing more resources in children’s well-being means investment in “social capital” for the future. Ethically, however, that same argument could simply be that children have a right to survival and development. As Jonsson (2003: 29) points out “the scientific dimension is essentially the capability to understand – to

“analyze” – a problem within the Triple A circle – while the ethical aspect is the heart in the middle”.

There are three ways to improve The Triple A Process. They are first and foremost to strengthen the assessment, analysis, and or action process. In principle, such improvements can be made by “outsiders” (like development agencies) employing one or a mix of generic strategies, the most common of which, according to Jonsson (2003) are advocacy and social mobilization, information, education, training and service delivery (see fig. 3).

As figure 3 shows, each of these strategies normally aim at strengthening a particular component of the Triple A Process. If it thus is possible to determine which components of the Triple A Process need to be strengthened in any given programming context, it will be possible to use program resources more efficiently.

Figure 3: The impact of generic strategies on the Triple A Process.



(Jonsson 2003: 30)

It is important to note that this discussion on the theoretical components of a RBA to development and programming within UNICEF, as Jonsson explains it, is not exhausting. It merely tries to bring forth some of the more important parts in hope that it might give the reader some idea as to what it is meant to entail.

It is interesting to compare Jonsson's standpoint on the RBA to development and programming with the UNICEF employee's experience in Africa of the approach. Despite the fact that Jonsson is supposedly UNICEF's main torchbearer on the subject of rights-based approach to development and programming a UNICEF staff member working in his area of influence does not feel UNICEF staff uses the approach much in practice. Why? As discussed in chapter 9 the field employee explains it as being too complicated, among other things.

Chapter 8: Save the Children

This chapter starts with a short outline of history of the second organization studied for this dissertation, Save the Children (SC). Notably, the nature of Save the Children is in many ways different from that of UNICEF although both organizations share many similarities as well. Some of the differences between the two are for instance due to the fact that Save the Children is a NGO (Non-Governmental Organization) whereas the UNICEF is an inter-Governmental Organization. As of late the operations of SC have not been centralized. That means that each national chapter has had considerable autonomy concerning, for example, projects and programs as well as what sort of policy and/or theoretical methods they choose to follow. It could be understood, therefore, with a few exceptions, that what has in the past bound the Save the Children organizations together (other than the name) is the fact that they all followed the same overall goal of bettering children's lives globally, within the framework of the CRC., At the turn of the century (1999-2000) however, there has been a steady move within the organizations toward a more centralized policy and unified front, all of which will be discussed in more detail later in this chapter. This independent nature of Save the Children makes it however rather complicated to go over its history, as they branch out all over the world. Therefore, the historical overview shall be limited to that of Save the Children United Kingdom (UK), as it is where the organization was founded, in the early 20th century. Subsequently, the history of SC Iceland will be overviewed.

Secondly, the united policy SC now claims to follow will be examined, that of a RBA to development. The chapter will view how the policy is represented and how it seems to be understood, (i.e. defined) and how programming should be done accordingly.

8.1. History of Save the Children

The first Save the Children organization was founded in May 1919, in London, the United Kingdom, by Eglantyne Jebb and her sister Dorothy Buxton in the aftermath of World War I. Shocked by the horrors of the war they were determined to secure improvements to children's lives all over the world, even the most remote corners (Save the Children 2008a, 2008b).

Among the organization's first task in 1919 was to provide aid to young survivors in war-ravaged Vienna. A few years later, in 1923, Eglantyne Jebb writes the Children's Charter, which was subsequently adopted by the League of Nations as The Declaration of the Rights of the Child. This historic document laid the foundations which the CRC later build on (Save the Children 2008b). As can be seen by the adoption of the Children's Charter in 1923 the 1920's was a decade where children's rights were in the forefront at SC.

SC was not expected to be an ongoing organization, but it was called upon time and again to deal with emergency situations. Not long after the organization was founded Dorothy stepped back to focus her attention on her political campaign. But her sister Eglantyne was a force to be reckoned with. She is described as being charismatic, persuasive and committed, and her ideas about children's welfare were well ahead of her time (Save the Children n.d.). Under her leadership Save the Children soon had a reputation for being a highly effective relief agency, able to provide essentials quickly and inexpensively (Save the Children n.d.).

Nearly a decade later, in 1932, the organization was founded in the United States, being the first SC organization established outside the UK. The American Save the Children Fund was set up by John Voris and other concerned citizens as a means to help American children during the Great Depression (Save the Children n.d.).

In the UK, the 1930's were marked by the organization's growing influence and international scope. As can be expected, the work of Save the Children in 1940's was mostly influenced by the Second World War. During the war SC were forced to withdraw from many occupied countries in Europe and focus their attention more on domestic projects, such as play-centers in air-raid shelters in large cities, junior clubs and residential nurseries (Save the Children n.d.). But there was also a lot of post-war planning going on as well. As soon as 1946, Save the Children had over a 100 persons working in post-war Europe helping children, displaced people, refugees and concentration camp survivors.

At the onset of the 1950's SC was involved in many programs concerning children in Africa and Asia (mostly concerning education and healthcare). Only two years after the Korean War began in 1950, Save the Children had sent its workers there and they kept working there for more than 20 years (Save the children n.d.). At the end of the decade most of the organization's funds were going towards work in Asia.

The highlights of the 60's and 70's seem to have been the emphasis on development in the third world and one project at home (i.e. Northern Ireland). In 1972 Save the Children organizations in several countries, including Norway, Sweden, Denmark and the U.S, formed the International Save the Children Alliance, which it is safe to say is the greatest example of a unified front and cooperation among the many SC chapters.¹⁷

According to, Save the Children's UK website Save the Children's work during the 1980's concentrated on protecting people's dignity against the increased TV coverage of the many disasters that hit the developing world during that time, the most high-profile one being the 1984 famine in Ethiopia. Although the media attention proved very lucrative for the organization (and many more like it) there came a point when people questioned the possible negative effect this was having for people involved in those crises. In many people's views it perpetuated negative and destructive stereotypes of people living in the developing countries as being weak, helpless and dependent. In order to protect people's dignity SC, for example; started an education, prevention and treatment

¹⁷ Chapter is a branch, usually restricted to a given locality, of a society, organization, etc. (e.g. The Connecticut chapter of the American Red Cross).

project to fight the growing prejudice and misconception around the spread of HIV and AIDS and did some pioneering work with prisoners' children (Save the Children n.d.).

In the 1990's Save the Children had in a way come a full circle because that decade put primary emphasis on children's rights, especially concerning their rights during and after times of war. Save the Children worked for instance a great deal with children affected by war in Iraq, Sudan, Somalia, Mozambique and many other war-ravaged countries. SC campaigned for the rights of child-soldiers and for the rights of children forced from their homes by war. It also encouraged children and young people to speak out about their experiences and fight for positive change (Save the Children n.d.).

8.2. Save the Children's RBA

According to the researcher's interlocutor at Save the Children in Iceland, as well as several papers and documents published by Save the Children UK and SC Alliance, the rights-based approach to development is the guiding framework and reference point in all their programming. According to the second edition of *A Handbook for International Save the Children Alliance Members* written in 2005 about rights-based programming, SC began to develop the concept of Child Rights Programming (CRP) in the late 1990's. This programming method is clearly based on the rights-based approach to development. In the *Handbook* CRP is defined as follows:

Child Rights Programming is a framework for the analysis, planning, implementation, and monitoring and evaluation of all relief and development work with children. It brings together a range of ideas, concepts and experiences related to child rights, child development, emergency response and development work within one unifying framework. It is primarily based on principles and standards of children's human rights but also draws heavily on good practice in many areas of work with children (e.g. the study of children's physical, emotional, cognitive, and social development; childhood studies; early

childhood education; child psychology etc.) as well as good development practice more generally (Save the Children 2005:6).

But how is RBA to development defined and understood within the International Save the Children? According to Joachim Theis (2003a: 1) who has both written and given consultation on several SC reports and papers regarding the rights-based approach to development, RBA primarily promotes “justice, equality and freedom”. It also tackles the power issues that are at the root of poverty and exploitation.

To achieve its goals the approach makes use of internationally recognized standards, principles and methods found in human rights, social activism and development (Theis 2003a). Thus, in Theis’s (2003b) view, RBA promotes three main principles: the accountability of duty-bearers, the participation of right-holders, and equity/non-discrimination. This is a much simpler understanding than for example Jonsson’s. Still, Theis also recognizes that although directly meeting needs and fulfilling rights certainly helps people it does not necessarily strengthen the accountability of duty-bearers, nor does it strengthen people’s own ability to claim rights.

It is however not only the duty-bearers who have a responsibility for rights to be met. In his *Brief Introduction to Rights-based Programming* written on behalf of SC Sweden, Theis (2003a) points out that the international donors’ community has an obligation to ensure that its social and economic policies are based on and promote international human rights standards, such as free and compulsory education for all children. Donors, Theis argues, are responsible to allocate adequate resources for health and education programs. And they have an obligation to ensure that debt payments and economic restructuring do not force poorer countries to cut back on the provisions of basic social services, (like the SAP did), and leave poor countries without the resources to, for example, provide education for all children. He also claims that donors have a responsibility when it comes to removing agricultural subsidies and trade barriers that deny poor countries’ access to rich country markets. Hence, duty-bearers are not necessarily just the government of a particular developing country but also the donors’ community at large.

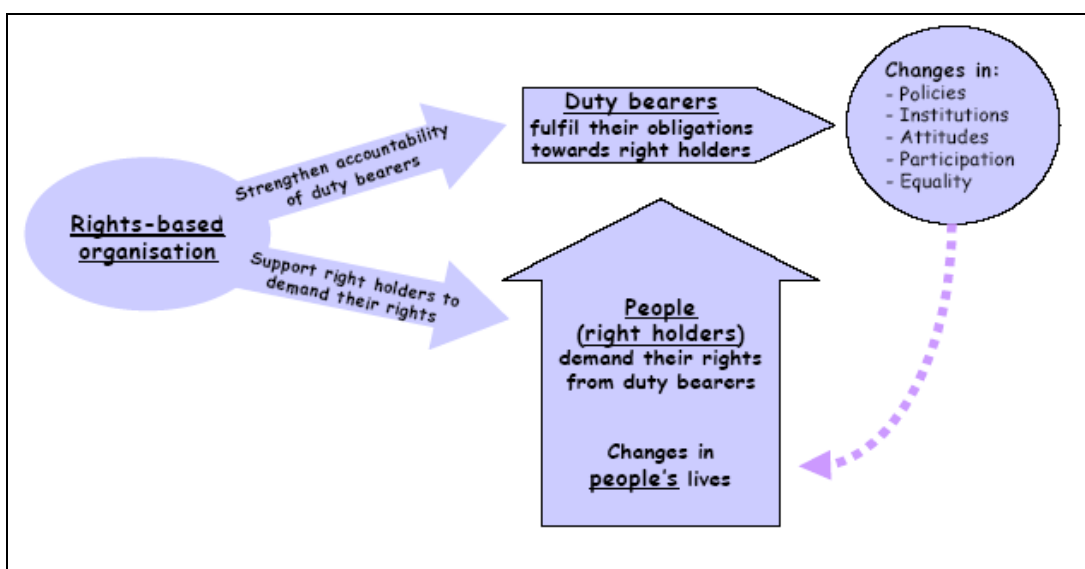
The most pivotal point in Theis's (2003b) argument for the application of a RBA to development is nonetheless the need for change in the way international development is being practiced. He believes RBA to development is the best bet for that change to take place. As he rightfully points out, much more is needed to implement human rights than simply ratifying an international treaty. It requires that states and other duty-bearers:

- Change policies, laws and programs;
- Promote economic policies that enable rights;
- Ensure more effective enforcement of laws against rights violations;
- Allocate larger budgets and more resources for poor, marginalized and at-risk people;
- Change awareness, attitudes, behaviors, practices, norms and values;
- Improve the quality, relevance and responsiveness of institutions and services;
- Create opportunities for greater participation of rights holders in decisions and in claiming their rights; and
- Gather better data about people and monitor the fulfillment of their rights.

(Theis 2003a: 2)

The diagram below summarizes the key principles to a rights based approach as Theis (2003b) explains it. One clearly sees what a great role change plays in the overall picture for Theis, and thus Save the Children.

Figure 4: This's model of a rights-based approach to development



(This 2003b: 4)

Clearly many things need changing and consequently time and money are needed to make those changes. As has been shown in the previous chapters, poor countries often have limited capacities and resources to fulfill rights. This (2003b) recognizes this fact but points out that although there is a clause in the treaties that permits the progressive realization of rights this principle should not be abused and there are still many things that can be done that simply require different choices and emphasis. A country's poverty does for example not excuse it for violating freedom of expression or information nor from failing to provide protection against torture, discrimination, etc.

Chapter 9: UNICEF Iceland and SC Iceland

It is interesting to see how the RBA theory and policy has thrived in the Icelandic environment especially given that the National Committee for UNICEF Iceland and SC Iceland are both relatively small and young compared to the headquarters history.

Before proceeding any further, it should be noted that the purpose of the interview with the employee in the field was more to get some sense of how an RBA to development works at its most important site; on the ground. However, it is important to bear in mind that this is only a glimpse into the field. Further research and work in the field would have to be conducted to come to a more meaningful conclusion. Nonetheless, the information I got from this interview gives an idea how people in the field and development practitioners perceive this approach, at least in certain parts of Africa.

Going briefly over the history of the National Committee for UNICEF in Iceland one can see that it is one of the youngest National Committees in the world. The first sign UNICEF might set up an office in Iceland came in March 2003, when representatives from the Regional Office in Geneva visited the country. A year later, on March 12th UNICEF's National Committee in Iceland was officially established. In December that same year UNICEF became a private institution with Baugur Group as its main sponsor. Together with its young age and "special status" as a private institution UNICEF Iceland has focused mostly on fundraising in the past few years. However, there seems to be a broadening of scope in its mandate in the near future as my interview with its employees suggests.

As for SC Iceland it was founded on October 24th 1989, the United Nations Day, and currently has around 12000 members. Like other national SC organizations it is an NGO and is financed by membership fees, donations and fund-raising activities. In recent years SC Iceland has along with its sister organization, SC Norway, participated in the development of primary school education in a small village in Cambodia and they have joined with the Icelandic Association for Human Rights and the Icelandic Teacher Training College in

operating a number of courses in schools on children's and human rights, to name but a few of their programs (Barnaheill 2008)¹⁸.

9.1. Everything rights-based

All the employees interviewed emphasized that all their work is done according to the RBA to development. The UNICEF employees say that they have heard a lot about the rights-based approach within UNICEF. One of them first came across it in her Graduate studies and when she started working for UNICEF she has often seen it in UNICEF reports and documents and knows it is an important theory and practice within the organization. They also tell the researcher how it is an important topic during International UNICEF conferences and meetings they attend. So it is fair to say they are no strangers to the RBA. As one of the UNICEF employees says "... okay UNICEF has switched over to the rights-based approach... than naturally it is integrated into everything, so you speak it, sleep it and eat it, you know". They explain how it slowly gets "chiseled in" when everything is rights-based and how you start to speak this language and think accordingly. One of the employees says that they have never really caught themselves going "hey this is rights-based or this is not rights-based...because everything somehow flows from it [the RBA]".

When asked how they understand the RBA the employee who has higher education in the field of development takes the floor, so to speak, and seems fairly up to speed on the basics of what the approach entails and the other one concurs. The way employee A understands RBA to development is that human rights are promoted through development work and "that the perspective is from a human beings point of view...after all these are *human rights!*" she says. She emphasizes that the recipients of development assistance have the *right* to development and that both parties (donors and recipients) are accountable for the process: "...so that money is not being thrown away in some charity purpose, but this should be an accountable process between two parties which builds on a normative framework that as many people as possible have been involved in..."

¹⁸ See a full list of SC Iceland programs at www.abotinn.is/barnaheill/index1uk.htm.

As for SC Iceland their employee says that SC Alliance has for several years now defined itself as a rights-based organization and therefore SC Iceland does so too. There are, however, still several SC organizations that do not define themselves as rights-based (not yet at least), illustrating how SC is not yet a fully centralized body. As the employee explains, SC only started to work towards being more centralized about a decade ago. Although a lot has been achieved so far and most of the work is now done in cooperation with the International SC Alliance Secretariat in London there is still quite a long way to go.

It is clear that employee C believes in the rights-based approach to development and shares a story from the field to that effect about a project they are sponsoring where the RBA is being applied and she had the opportunity to visit and see first hand how it was working on the ground. According to employee C, the whole community is very engaged in the program, where both grownups and children are being educated on child rights and child protection. What affected the employee the most were the children themselves who had created a play about the importance of child rights with the help of a grownup instructor. “The children were very much aware of the importance of good education for all!” *she says*, which seems to have been the main objective of this program. The children also seemed to understand who was responsible for making sure all children had the opportunity to receive education and enjoy other rights they were entitled to; says employee C, also that parents or guardians have certain obligations and duties to fulfill when it come to children and that government agencies, like child protection agencies, have duties too. The children thus had some understanding of what were the appropriate channels to take when claiming rights “I feel”, the employee says, “that this is in a way a measuring stick for progress and this program shows that this [RBA] is working very well”. However this measuring stick for progress has not been officially recognized, employee C admits, because there has not yet been any evaluation made for the program. However, SC employees who had been working on this program were convinced of its effectiveness. Employee C explains that when asked about the programs effectiveness the local SC staff replied that:

in just one year there has been a fundamental change in this community, the children, for instance, are much more confident

and open than before and everyone is working together to ensure that the rights of children are being met.

“That’s really impressive”, adds employee C.

When asked how employee C learned about the rights-based approach to development she says she mostly learned about it through conferences and meetings she attended on behalf of SC Iceland but much of the knowledge also came from SC Norway, with which SC Iceland has been working closely over the past few years. Employee C describes how interesting it is to see such a huge and publicly recognized organization, as SC Norway, which has totally defined itself as a rights-based organization. When asked if the RBA to development has been totally integrated into all of SC Norway’s work, employee C replies “oh totally, totally! And, of course, so have we [SC Iceland] in our work. Domestically and abroad, and then there is the CRC...”

9.2. Convention on the Rights of the Child and the Millennium Development Goals

Besides having the RBA as their official policy both SC Iceland and UNICEF Iceland share the emphasis to be guided by the MDGs and the CRC, which is in fact is part and parcel of their mandate in their project choice. One of the UNICEF employees says that “there isn’t a single press release that doesn’t mention the MDGs”. For instance, UNICEF Iceland tries to keep its focus on specific countries, like Guinea-Bissau and Sierra Leone, where it consciously works on education goals and child survival, “goals that are directly related to the MDGs”, says UNICEF employee B, “besides of course all our work being done according to the CRC...it [the CRC] is of course directly linked to the MDGs”. Therefore, all their program work, the employee explains is done because they want to reach a certain Millennium Development Goal. At SC Iceland the employee also argues that the MDGs are very important in guiding the organizations project choice. However, they see the education goal as being the most important of them all. “The way we see it”, employee C explains, “you can’t achieve the other goals unless you provide basic education ...”. So, according to employee C, the SC model has basic education in the middle and all the other goals are linked to that.

As previously mentioned both these organizations view the CRC as their most principal document by which they operate. The employees seem to agree that it is their duty, both domestically and abroad to promote and protect the rights granted to children according to the Convention.

9.3. Advocacy and politics

When asked about some of the keywords connected to RBA, like advocacy, both of the employees at UNICEF Iceland say they are very familiar with that concept. Employee B says that it is one of those new things that are coming in strong right now. “It’s basically taking over everything and most of the National Committees have now created an advocacy officer position, although sometimes it’s 50% advocacy and 50% communications”. Employee B explains how the advocacy focus has also brought increased focus back to the problems at home (in the donor countries). “National Committees have, for instance, been advocating for more government action and awareness with issues such as violence against children in their own country...according to UNICEF’s mandate those offices have every right to work on such projects...” The biggest problem employee B sees with increased advocacy is that the Regional office in Geneva and the headquarters in New York are not ready yet. Although it is currently being worked on UNICEF has not made an official statement or document regarding various important issues and problems in Western societies. “They have it completely covered regarding the developing countries”, says employee B, “but how should it be in Western societies?” The employee explains that for example UNICEF Holland has been dealing with a lot of problems regarding immigrant children in Holland: “... there are many problems such as parents who are immigrants can be evicted but not the children, for example.”

According to the employee some UNICEF National Committees have been advocating the government to raise awareness to rights that are being violated against Western children and joining hands and working together to face such local problems. “The National Committees in Denmark and Canada have been working together to identify what are the most pressing issues facing Western children...in Denmark at least they decided to focus on violence against children”. According to the employee this kind of advocacy with government and

other agents is rapidly increasing and being formulated around the concept of rights, or child rights in this case. The employee says that when she returned back from a meeting on advocacy she was all “fired up” for UNICEF Iceland to take a stand and prepare their own statement, which it now has done but need to finalize it by getting expert opinion on it.

Employee B mentions how Western National Committees like the Portuguese and Spanish offices have wanted to have an opinion and take a stance on highly sensitive and political issues like gay marriage. Employee B says that the need is there from the National Committees but the Regional Offices are struggling to follow. However, there is now a special department in Geneva that deals specifically with advocacy issues and many National Committees have employed lawyers to help them work out some of the legalities of their statements.

The development at UNICEF, entering into a more political sphere than before, which often involves taking a clear stance on many politically sensitive issues, is a direct effect of the RBA to development. As Uvin (2004) argues that this is a necessary step if the organization truly wants to be known as engaging in a rights-based approach one, something discussed in more detail in the discussion of this chapter.

Although these political advocacy issues usually have to do with the Western world UNICEF has also taken what could be argued is a political stance on issues in the developing world, such as Female Genital Mutilation (FGM). As employee B encounters, she recently returned from a Sub-Saharan African country where UNICEF has been advocating the government to ban FGM for years. In the developing countries, UNICEF has been involved in advocacy much longer than in the West, one could say from the early days of the international human rights wave. “This is in part due to lack of knowledge in these countries and quite frankly incompetence”, says employee B. “I mean the lack of education just drips of everything so UNICEF has to take a much more political approach”. She says that for instance in the case of the campaign against FGM, which arguably is a highly political issue, UNICEF practically had to write the bill banning FGM, because of extremely high staff turnover in Africa and thus lack of qualified staff.

The employees at UNICEF recount other examples that illustrate UNICEF’s move towards being a more politically active organization. These are examples

that they have found when reading documents about UNICEF programs in other countries, as employee B says:

I was wondering if UNICEF is an apolitical organization; than I was just listening to a speech given by the director of UNICEF India, which is the largest National Committee, and he was saying that what would create the biggest results is trying to lobby, maybe he didn't word it quite like that, but to try to lobby and advocate the government and you know just hammer this through there. But you know India is of course a country where there is enormous inequity and they really need to divide their resources more fairly.

Her point was that the biggest National Committee is encouraging the use of a political tool, advocacy, to get its objectives through at the government level. Therefore it can hardly be said that UNICEF is not a political organization.

One of the process-related claims that an RBA makes of its followers is, that you get your own hose in order before spreading the gospel to others. Therefore the question is posed to employee B if she feels there has been an increase in rights-based discussions and/or behavior within the UNICEF Iceland office. She says that in many ways there has been but she has not associated it before with the introduction of an RBA: "There has been all sorts of work going on just in the past year, we've been working on a Guidance Handbook and Rules of Conduct relating to things like fundraising, gender mainstreaming, etc." She says that although the initiative comes from themselves it is a reaction of a certain trend that is going on in most of the Western National Committees at least. Uvin's (2004) arguments, regarding that, being a rights-based organization means that the international organizations who are based in a more human rights friendly society or environment (who usually represent the fundraisers or donors) give a sort of support network to their partners or organizations that do not operate in countries respective of human rights, are discussed during the interview. In Uvin's arguments he further suggests that the organizations or Country Committees that enjoy a greater degree of freedom support their fellow Country Committees by creating an atmosphere of critical internal debate about human rights among its staff. When asked if she is familiar with such ideas within UNICEF, employee B

says that such an inward look has not yet happened, at least not in Iceland. She says that in the UNICEF National Committee in Africa she just returned from, no such critical internal debate is going on. She says that to her it appeared as if people just do not really possess this revolutionary spirit of protest or civil disobedience. “On May 1st” she says “everyone was just going: “let’s have a party”, you know. And I asked if there wasn’t going to be a march to state claims and such and they all looked at me quite surprised and said: NO, you get killed if you do that....”

Another aspect of an inward look, which also reflects on staff education/information is that those who are not directly connected, - so to speak - to the programming, information or advocacy side of the operations, namely the board members of both of those organizations and executive of one of them, admitted they either did not know much about the approach or had even heard of it before. One board member told me that he knew of this approach through his own personal studies but it had never been discussed or applied during board meetings, as far as he knew.

9.4. Fundraising

As of yet both SC Iceland and UNICEF Iceland are primarily raising funds to support different projects and programs in the developing countries. Fundraising or more specifically how fundraising activities are performed has a direct link to the RBA as can be seen for instance in the high importance the approach gives to the concept of process and how it should be rights-based.

The employee at SC Iceland says that part of the reason why the organizations want to become more centralized and have what they call a “unified presence” is because it leads to a more productive use of the funds and a better project outcome. At UNICEF Iceland the employees explain how they sometimes have had to be cunning in their fundraising in getting sponsors to support their programs, “like in Nigeria we knew we needed to put money in the vaccination program”, says one of the UNICEF employees. Thus, they looked for Icelandic companies who were doing business there and asked if they wanted to support this program and not just do business. Employee B talks about the problems of raising money for development programs in the poorest countries and unstable ones,

because it is important for sponsors that the money they give yield results and are not attached to high risk factors, which is inevitable in fragile states. Nonetheless, UNICEF Iceland has been able to attract support for programs in two fragile and low-income states such as Sierra Leone and Guinea-Bissau.

As for SC, employee C says that it can be a challenge to raise funds for “unpopular” projects like children’s education in war-torn countries and that sponsors do not always think about the bigger picture like methodology, ideology and approaches that are used by the organization they are sponsoring. The tendency is to only look at the outcome or the overall goal but not what effects it will have on the community in the long run (i.e. its sustainability) or the actions taken in the process of reaching that goal. She says that a certain charity organization has been doing very well in fundraising by appealing to people’s desire to “Do Good” without much consideration of the long term effects.

9.5. Knowledge

In both the UNICEF interviews and the SC interview the subject of, knowledge of the rights-based approach, comes up. The employee at SC says that they do not get any education on the RBA, it is completely in the hands of each National Committee. “The big SC offices like Britain, the USA, Norway and other Scandinavian countries have bigger funds so they can afford to offer their staff such education” says employee C. She also says that because of their size they can afford to always have someone in the field, which inevitably creates valuable experience that those employees then bring back home to share with the rest of the staff in donor countries. Employee C says that she misses not having this kind of knowledge and education for everyone that works for the organization:

You see I used to work for another international organization. Then we were going in a completely opposite direction from being highly centralized to being more decentralized... and then we were regularly going to seminars for employees from all over the world.

The UNICEF says that they do not get much formal education on the approach from UNICEF. As mentioned earlier they both have university education where

one of them at least has learned about RBA but otherwise they have mostly read about RBA in reports and information booklets. “Then we also learn about it through conversations with the communication people in Geneva”, says employee B. The European Regional Office for UNICEF is in Geneva and it seems to guide and control much of the operations and activities of country offices in Europe, especially the National Committee in Iceland. “We are of course the youngest country office” says one of the employees. “They usually come up with the ideas for what programs we should support...we start by asking Geneva; can we support this program?, I think it’s like that”, says employee B. “They coordinate everything”, says employee A. In the same vein, SC Iceland relies on SC Norway for coordination and guidance. “They are close by ...”, says employee C, “you don’t have to travel far to go to Oslo so there is very comfortable access and because I’m in charge of those foreign projects, for now at least, I have been going there a lot ... and through communication with them I have thought a lot about these things [the RBA] because we are only just beginning to support other programs...”.

Both of these organizations, therefore, rely a lot on expert knowledge and guidance and to fulfill their expanding mandate they need increased expert assistance. In relation to UNICEF’s emphasis on advocacy, one of the employees says that in order to be able to follow and monitor the many things that concern children’s rights they need more expert knowledge. “We aren’t really experts in children’s affairs...there is no one here with expert knowledge like that, so it would be REALLY time-consuming to follow everything”. Hence, the plan at UNICEF Iceland is to create a board of experts that would serve to assist and give comment on UNICEF Iceland’s public statements and give opinions regarding their advocacy issues and what ever is being debated in society. “We can have like opinion on things such as conviction age needs to be raised and thing like that you know... and we would have some expert on immigration matters on the board because that’s becoming an increasingly bigger issue”, says one of UNICEF Iceland employees.

Lack of expert knowledge is not just a concern at UNICEF Iceland. Employee B tells me that lack of qualified and educated staff causes many problems for UNICEF National Committees as well as many government ministries in the developing countries, especially in Africa. She tells me that the

staff turnover in these countries is very high so you are always starting from scratch. Low levels of educated staff poses a particular problem for an RBA because of its “demands”, one could say, for considerable knowledge and Graduate level education on issues and concepts like human rights and international law.

9.6. Project choice

UNICEF Iceland and SC Iceland have similar emphasis when it comes to project choice. At the top of their list is education and healthcare. To a certain degree one can see how the project choices reflect a shift in policy within the organization, at UNICEF there has been a shift from “early childhood development” to “child survival”. As one of UNICEF’s employees explains:

[I]t’s all according to the emphasis the particular National Committee has, like when we were starting, everything was about this “early childhood development” so we supported that...then there was a shift in directors and assisting director or something in Guinea-Bissau and the emphasizes changed in the country ...

According to employee A during the needs-based era “UNICEF was a real trail blazer...you know they introduced the oral rehydration therapy”. She explains how UNICEF has been criticized for abandoning that approach and projects but personally the employee feels that it is all connected: “... rights-based approach is the rights to have your *needs* fulfilled and that is the right to develop ...”. The employee says that perhaps it is also just some kind of nostalgia: “... I don’t know how many children were saved just with this simple thing [oral rehydration therapy], you know that was a huge power [for UNICEF] ... the rights-based approach is of course more complicated and you have a political twist...”

At the International SC Alliance as well as SC Iceland the main focus has been on educating children in conflict-affected fragile states. Employee C says that a new chapter began for SC in 2005, of which RBA to development is a major part. The Alliance decided to work on one big international project from 2005 to 2010, which would be to provide quality education for children in

conflict-affected fragile states. Employee C says that she asked why this emphasis and was told that these children represent the greatest need: “I think it is 77 or 72 million children that are without adequate education and thereof half are in conflict-affected fragile states”.

9.7. Ownership, participation, democracy

Employee C talks about how the concept ownership has become one of the key concepts since the adoption of the RBA. It is clearly visible in the work that the Norwegians are doing, argues employee C and says that you see it for instance in the fact that almost all of the employees in developing countries are local: “That has a big impact on ownership...because it [the program] is theirs...and that way you get knowledge into the society and they can maintain it and continue working on those programs”. At UNICEF Iceland, ownership is not really mentioned but the issue of participation and democracy is talked about as important elements of an RBA to development. Employee B says that it is probably because of the RBA that child participation in the community is now part of the pie chart for UNICEF assistance. Employee A adds that it is not just refined to the developing countries but it also applies to the more developed ones and points out that “a few years ago we had no youth councils, now we have youth councils in all sports and recreational councils and it’s against the law not to have youth councils in primary schools...”. The establishing of youth councils clearly relates to democratic traditions, one of the principal objections the RBA has had to face, as employee A points out: “Active youth-democracy is clearly on the rise globally, modeled on Scandinavian and European examples.” The employee gives an example about the positive effects of this new development, which she seems rather passionate about:

There is clearly a new era emerging. Like the other day the country director for Nigeria came to visit and he talked about what a unique opportunity this empowerment of the youth entails. They have a youth parliament (isl. ungmennafing) and one day the Minister of Education was called to visit them and there she just got the core of it all you know. Information she couldn’t have gotten anywhere else. She goes to

the regional offices for education and asks ‘are there any problems’ and everyone replies ‘no, no, no problems here’ and then she just meets the kids and gets a whole other story you know ‘my friend got raped by her teacher and that teacher want money to give us good grades’ and she just got a direct connection with the grasroot.

Therefore, employee A feels that empowering the youth and introducing a more democratic style approach is an incredibly important tool and a catalyst for change because it engages the young people who have the most fertile ideas.

This definitely comes with the rights-based approach that children have the *right* to participate in the community. But they might not have the *need* for it, although we might need to hear it. So you don’t really benefit like this from a needs-based approach. So child participation was really introduced with the rights-based approach.

Employee A says that of course you can criticize this because it is based on Western values, in the same way human rights are often criticized. She points to the fact that the field of development is such an incredibly diverse field and immensely complicated that you will always have criticism: “I mean there are biases that maintain that all that development cooperation does is prevent the natural from happening which is the peoples bloody revolution against their oppressors...”.

Employee C, at SC, also feels that child participation is hugely important although personally she would like to see more of it at SC Iceland; “We [the various SC offices] are in very different stages when it comes to child participation, and we, SC Iceland have not come far”. The employee talks about how she regrets that, because it is part of how all the SC organizations define themselves since the RBA became their policy: to be advocates for children and to protect their rights, their right to be heard and to participate in the community.

9.8. Rights-Based Approach in the field.

At the beginning of the interview the question is posed whether the UNICEF employee has heard about the Rights-Based Approach to Development and she says she has but at her Regional Office they refer to it as HRAP (Human Rights Approach to Programming). A discussion is had whether she feels the approach is being implemented in UNICEF programming in the field. She says that “it is difficult to say because UNICEF is not a typical NGO which has its fingers in everything”. “They work mainly with governments, either at the local or district level, she says and adds that “when we have meetings with the government we try to invite community based organizations from the district [in the spirit of RBA] but almost without exception the leaders of those organizations are men because they usually rule in those kinds of organizations...”; because of this it can be difficult for them to maintaining equality. She says that certain elements of the approach are being implemented, such as, creating a District Workplan which people on the ground are responsible for making. It includes the programs and projects the people on the ground would like to see implemented in the next year. She says that when making this Workplan people try to bear in mind whether UNICEF can support some of those programs. They also have HRAP training down at the community level, where people are being taught how to write project proposals and apply for financial support for those programs, along with human rights education. However, when asked if she feels HRAP is the guiding principle during the whole development process at UNICEF she says:

Sadly, no. It is much more a concept that everyone is familiar with but is not always used in practice. Personally, I don't know of many UNICEF programs that are originated from the community [people's claims]. It is far more common that the ideas originate from UNICEF or the government and are then implemented on the ground...

She believes the UNICEF staff is generally positive towards the approach, because it is a beautiful concept, but does not use it much in practice. “It is simply too complicated to apply on a day to day basis” she says and “besides we are doing a lot of office/bureaucratic work, where we are moving money around from

UNICEF to the government to support the government in the implementation of projects”.

9.9. Knowledge in the field

Regarding staff education and general knowledge about the RBA (or HRAP) she explains that the UNICEF staff gets some formal education on the concept of an RBA in what is called PPP (Program, Policy and Procedure) training. “It is a ten day training out of which one day was dedicated to HRAP” she says. She says that she thinks that one of HRAP’s problems is that people have to have so much education and knowledge to be able to affectively implement it. It becomes particularly complicated because people on the ground do not have this education or knowledge. This can cause a lot of misunderstanding and confusion as to what constitutes an RBA. She gives an example of a UNICEF sponsored workshop she attended, which aimed at creating a National Children’s Policy for Kenya. It was decided to go to the district level to get some ideas from people on the ground about what the Policy should entail. At one district meeting there was a long and serious debate about left handed children because people felt that they should have a big chapter in the Policy dealing with this disability. After sharing this example the UNICEF employee asks if we [people from the developed countries] can ignore such ideas from the ground. Therefore, this lack of education or knowledge about what an RBA means and how it should be applied can, at least in some cases, even cause problems with people’s participation on the ground, according to the UNICEF employee.

The chances of an RBA to development to be successfully promoted taught and implemented among the UNICEF staff and on the ground also depends to a great extent on the Regional Offices Director. The employee says that every time there is a change in director that means there is a change in policy emphasis: “If the director is interested in HRAP then it will be promoted if not then there is nothing that compels him to put it on the agenda”.

9.10. Ownership in the field

During the interview some time is spent talking about some of the key concepts of an RBA to development, such as sustainability, empowerment, participation, accountability and ownership. The employee says that personally she tries to emphasize participation and ownership and weave them together. One of the major problems of ownership is, however, that as long as the programs are funded and supported by UNICEF they somehow end up as UNICEF owned programs in people's minds. "It is really hard ... As much as you try to emphasize that UNICEF only dealt with the financial side of the program but the community was responsible for finding for instance contractors to build latrines and coming up with the idea etc. the one who pays for it [i.e. UNICEF] ultimately ends up being the one who owns it" she argues and mentions one recent example which happened in a fishing village where UNICEF had donated funds to set up water tanks. When she and other UNICEF staff got there to monitor the program they found that the tanks had not yet been installed. As they inquired for the reason they were told that those were UNICEF owned tanks and the UNICEF people never came to install them. She says that she is positive that if it had been clear in people's minds from the beginning that those tanks belonged to them they would have set those tanks up immediately.

Chapter 10: Discussion

Compared to the international history of both UNICEF and SC the Iceland country offices or National Committees are very young and small in number of staff. Therefore it is understandable that they have in certain ways not come as far as many of the larger, more experienced organizations in relation to the RBA to development. However, given their past and size they are doing a remarkably good job and attending to many principal concepts the approach entails. For example, in relation to the CRC all the employees interviewed obviously took their responsibility, to distribute and educate the public (children and adults alike) as well as the government about the Convention and the rights it implies, very seriously. As Uvin (2004) points out the flow of information is vital to the rights-

based approach and one of the most important things international aid and/or development actors can assist with. He believes that increasing the flow of information to ordinary people about ordinary things (even things that seem absolutely mundane in nature) is very much apart of the rights-base approach, for information is the first step of empowerment.

One particularly interesting thing was how aware the UNICEF staff was of the new political implication an RBA brings and one can almost say eager to engage in it. Issues such as advocacy and more democratic characteristics are important tenets of an RBA and ones that development practitioners have not wanted to associate themselves too closely with in the past. Why? According to Uvin (2004: 144), many development practitioners fear that they are either “ill-equipped for the risks and difficulties inherent in advocacy; that it may endanger their relations with the powers-that-be and undermine their traditional development work on the ground” or that it may put at risk the financial survival of their organizations because of the political implications associated with advocacy. Today, on the other hand, even organizations like UNICEF are creating and strengthening their advocacy departments. And they are not the only ones. As Uvin (2004: 143) points out: “For many development NGOs, what the rights-based approach to development boils down to in practice is increasing attention to advocacy.”. Uvin (2004), Slim (2004) and Frankovits (2002) all agree that it can be very difficult for multilateral organizations and IGOs like UNICEF to adopt “the full” rights-based approach as it has been described in this dissertation, due to things such as their size, structure, bureaucratic weight and global state membership. It is more likely that they can and will only adopt the less radical tenets of the RBA. On the other hand NGOs, like SC, possess more of a margin for maneuvering and therefore greater change in the direction of an RBA can be expected from them.

As far as fundraising goes, both UNICEF Iceland and SC Iceland have been doing a really good job. However, one can not help but wonder how much the concepts of the RBA have made their way into fundraising policy (not implying that those organizations do not have sound ethical standards and fundraising policy which they do). According to the rather brief interviews conducted with some of the board members of these organizations the subject of an RBA to development has not yet made it to their agenda, in fact, they had not

heard about it before, with the exception of one who still said it had not come up in the boards meetings. So it would seem safe to conclude that as of yet the full implications of applying a rights-based approach have not made it into fundraising policies. This should not be surprising to anyone since this is after all a fairly new approach and integrating it into every aspect of an organizations work takes time and knowledge. So what, if anything, does the RBA to development have to say about how fundraising and donor/recipient relationships ought to be construed? Uvin (2004) argues that those notions of participation and transparency, that are so central to the rights-based approach could also be applied to funding relationships. Although this is a very complicated issue, he believes the problem with donor funding as it is typically being done today (UNICEF and SC included) is its “short term, administratively heavy, externally driven nature, leading both to inefficiency and to a strong sense of distrust and reproach among recipients” (2004: 163). Other typical problems the donors usually worry about have to do with dependency issues and corruption. All those problems can be vastly reduced by applying the RBA with its prerequisites of accountability, transparency and participation. It offers a much greater clarity in the way donors make their decisions about partners and funding as well as offering more local control to sectors and modalities.¹⁹

Another highly interesting thing the RBA brings to the development scene, according to Uvin (2004), is how money stops being at the heart of the game, at least in the first run. What becomes more important is:

organizational capacity, mutual influence, internal and external accountability, exchange of innovation and ideas, mechanisms of control and of voice and redress, inclusive process of decision-making, increased availability of information, improvements in policymaking and legal environments and the quality of justice...(Uvin 2004: 165).

Although none of these issues come for free they do not depend primarily on massive injection of money or funds. This kind of issues has been discussed before within the development community, although with little progress being

¹⁹ For examples of possible systems see Uvin (2004: 164).

made on the matter. What is it in the donors own internal system (structures, attitudes, behavior and incentives) that makes this process so excruciatingly slow? Have the top levels of the development agency or organization looked inward at its own fundamental systems and procedures? Uvin (2004) makes a good point when he talks about the importance of development organizations and agencies taking a close look at their own back yard when adopting the RBA. Not just when it comes to fundraising but in every aspect of their work.

Another important aspect of the RBA is making sure that the organizations claiming to apply the approach actually practice it within their own walls. They should educate their own staff about human rights and about the rights-based approach to development; they should practice what they preach whenever possible regarding their employees (e.g. hire and fire procedures, minority and gender mainstreaming processes etc); they should make sure there is oversight and counter power in internal management, etc. These can be complicated issues, of course, and some are not even strictly human rights matters. As Uvin (2004) and Jonsson (2003) both point out it is important when it comes to convincing the staff and the public that the organization is serious when it talks about an RBA. It shows that the organization is not exempt when it comes to the principles of an RBA, it is willing to look critically at itself. Therefore, it is important that everyone, from management to program officer and everyone in-between working for those organizations has at least a broad understanding what the rights-based approach is about and how it may affect their work within the organization. Since it is still a relatively new approach it is understandable that all aspects of it have not yet been fully integrated. There does not seem to be any mechanism or program in place internationally neither within UNICEF or SC to either educate its staff on the full meaning and implication of this approach nor encourage a critical debate about human rights, internally and externally.

The SC employee explains the RBA approach, as SC sees it, from the perspective of education where education plays a pivotal role in their approach. It seems that her take on the RBA and the organizations' approach to it resembles, in nearly every aspect, what Marks (2003) describes as, the human rights education approach (HREA). As indicated by the name of his article, *The Human Rights Framework for Development: Seven Approaches*, Marks describes seven similar, yet different, rights-based approaches to development. Therefore, the

question arises whether SC is really applying the HREA or the more holistic “UN-style” approach? Judging from the writings of one of SC’s “torchbearers” (i.e. Theis 2003b) there is more than one rights-based approach to development, but SC seems to lean more towards the holistic one although at the moment their emphasis happens to be on education. Still, one can not help but wonder if there is perhaps a different understanding within the member organizations of which kind of rights-based approach is really being applied? If so, one explanation could be the lack of centralization and information dissemination.

Whatever the case may be, it brings to light what could be regarded as one of the RBA’s weakest links, namely its rather complicated nature and subsequent need for highly educated and up-to-date people on the subject – the experts. That opens the door for a very post-modern/neo-colonial critique, for example that here we have an approach that is orchestrated mostly by the developed world (the West), more precisely its academic community, to be applied in the developing world. The power of knowledge lies with the Western experts. Thus, it could be argued that small and young organizations like, UNICEF Iceland and SC Iceland, who do not have that much or substantial expertise knowledge on the rights-based approach to development, need to look for guidance and advice where it can be found, that is Geneva or Oslo. Or, as UNICEF plans on doing in the near future, establish a board of experts to help them stand clear on all sorts of issues relating to the human rights of children, development issues, politic, etc. The argument has been made within the Berkeley academic community that the RBA does not necessarily have to be as complicated as it is often portrayed. Among the aspects that make it complicated for some, is its legalistic foundation (i.e. international HR law). As Lungman (2004) argues, one of the three main pillars of an RBA to development is its legal basis and unless the core pillars that distinguish it from other service based approaches are followed to the letter it will be watered down and not accomplish what it set out to accomplish. Others, like Uvin (2004) feel that there is too much emphasis on the legalities of the rights-based approach. He says that although knowledge of human rights and legal text and documents is good and can certainly have some positive effect on development it is also possible that it can have a negative impact. By placing such a great emphasis on the legalistic work it runs the risk of de-legitimizing human rights discourse by rendering them as hypocritical or by reinforcing legalistic reading of human rights

texts at the expense of their political meaning. According to Uvin the reason the emphasis is being placed on these heavy legalistic structures is because it “constitutes a safe, legal, technical conduit to avoid the real issues of power and politics” (2004: 140). Uvin adds that “if the RBA amounts only to adding a thin layer of human rights law on top of the development cake...not much will have changed” (2004: 140).

Now, the RBA to development is not a problem free approach or representative of some kind of “Holy Grail” for developments, as some arguments have indicated. However, although these heavy legalistic structures are in many cases incomplete (i.e. ratification is often patchy as well as a lengthy process resulting in the protection afforded by law as therefore being limited), there is one important exception found in the case of the CRC. It could be argued, that due to the fact that the CRC is the most comprehensive and ratified international agreement in the world makes it easier to apply an RBA to issues of child rights, and perhaps more successfully so. That would explain why UNICEF was the first agency to program for human rights, according to Francovits (2006), and others like SC soon followed suit. Nonetheless, given the many legal loopholes the RBA faces accompanied by the argument that human rights are claims (as opposed to needs), one immediately hits the wall of justiciability (the capacity to adjudicate a claim before a court of law). As argued in this research that capacity rarely exists in developing countries. However, that problem does not necessarily have to stop the RBA in its tracks. As Uvin (2004), Frankovits (2002) and Slim (2004) argue, that simply means that the strategy of a rights-based approach must extend beyond a legal approach and also work on the many non-legal paths (e.g. social and political) that can ensure enforcement of rights claims.

Although they are not new to development practice and theory, ownership and participation are certainly among the core principles of an RBA to development. At SC Iceland the employee is proud that ownership plays such an important role in the organization, however, as the interview with the UNICEF employee in the field shows, “real” ownership can be a tricky thing on the ground. As for participation and democracy it is interesting that the employee at SC acknowledges the fact they need to step it up a bit on the participation front to meet the RBA requirements, which is the first step in its realization. The importance of making that happen from an RBA perspective can not be overstated

for most, if not all, of the sources cited for this dissertation. Most of the authors agree on the fact that participation is hugely important for an RBA to development. According to Theis (2003b) it is one of its pillars, along with equity and accountability. Uvin (2004) also sees participation as a key element of process, the blue thread of the approach. He says that “any process of change that is being promoted through development assistance ought to be participatory” (2004: 138). Now, as for democracy or youth-democracy, there is as one of the UNICEF employees said enough conflicting views on that subject to fill another dissertation. Whilst everyone agrees it is a hotly debated subject it is worthy to note Uvin’s views that democracy is not the same as rule of law, which he feels all organization that ascribe to an RBA to development should focus their attention to. It can be understood from his writings that there is tendency to join the two (democracy and the rule of law) together as one, which he feels is a mistake. He says that rule of law is crucial to a rights-based approach because it empowers ordinary people and does not necessarily have to go hand in hand with a “human rights-based” society, but simply that laws, even “bad” ones, are applied. What this means is that youth councils are not necessarily restricted to Western style democracy, they can be formed in developing countries where, as Uvin puts it, “elections are often hardly more than contest between competing systems of clientelism; high-quality and critical information is not widely available; and many other historical, social, and economic conditions on which democracies rest are not present” (2004: 155). However, it is hard to argue that an RBA does not promote most of liberal democracies’ basic values, such as freedom and equality and various other liberal rights. Nonetheless, let us leave that argument for another time. In any case, it is no secret that the approach carries a certain democratic element, which leaves us with the question whether democracy is good or bad? And that question will not be tackled at this time either.

That being said, a RBA is far from being a mission impossible, although there are certainly many obstacles on the road. During the interviews both at, UNICEF Iceland and SC Iceland, there was a sensed of a strong atmosphere of optimism, hope and vision. And they shared encouraging success stories. Most of the programs that both of those organizations are working on have a clear RBA mark on them, which is due in part to the influences and guidance they have from bigger regional offices, such as in Geneva, Oslo, London and New York. The

same can be said for the programs they talked about that are being implemented in other UNICEF and SC offices. Another encouraging sign is that despite the offices' relatively small size and the fact that they are a few steps behind on some aspects relating to the RBA, their staff is obviously very eager to learn more about it, and has plans to become larger, more involved, more knowledgeable and so forth. Therefore, the conclusion is that in UNICEF Iceland and SC Iceland this approach will not be mastered over night. It takes time to integrate all of its many, often complicated, concepts and components and it seems that on the whole those organizations are doing the best they can. However, more staff education on the subject of an RBA and monitoring it, as well as creating that internal debate discussed above would benefit all parties (staff, donors and partners).

As mentioned above in the introduction, the section on the field offers only a small glimpse into how an RBA to development works in the field. Therefore it really produces more questions than answers, such as; when there is talk about ownership it is not always clear whose ownership is being talked about. If neither the ideas nor funds come from the community there is not, according to the UNICEF employee, much community ownership. This is a difficult challenge which needs to be talked about on a case by case basis. Fortunately, an RBA to development allows for that kind of strategy, according to Uvin (2004), Theis (2003b) and Jonsson (2003). What is more troubling and requires further research and analysis is the employees claim that the rights-based approach is only being partially used in practice because it is too complicated and requires too much education and/or knowledge, be it from the ground or from the development workers. This statement was particularly interesting because that notion had occurred to the researcher before taking the interview. As fascinating and appealing as one might find the RBA it can be confusing and difficult to understand. The employee also felt that community participation was made difficult due to lack of knowledge and education at the community level. If that is the case, then it clearly is a major fault in the approach. The example about the left-handed children being considered disable also raises the question of what kind of knowledge and education is required for the approach? Who is "qualified" to decide what goes into a country's National Children's Policy? Who sets the standards and defines the norms? Does the intellectual leadership for the

developing countries come from the developed countries? Further research is required to answer those questions, so for now they will be left open for debate.

Another interesting statement given by the employee is that in general the UNICEF staff is in favor of an RBA and regards it as a beautiful concept or vision but not as a practical tool whilst doing development work. In many ways this argument runs parallel with the argument that human rights are mere visions not a possible reality. But whose job is it to make sure the staff is on board with the organizations main policy? One would think the Country or Regional Director, for starter. However, if the UNICEF employee is right in saying that it really depends on who is in charge – regionally – which development approach is being used at any given time really depends on who is in charge – regionally- then it is no wonder people are not really on board with it. Then its representation really is just a lot of rhetorical fluff! The application of this rather complicated approach is then, in Uvin's (2004) words, about as useful to on-the-ground development practice as knowing the lyrics to "We are the World" in ending world hunger. It should, however, be noted that despite the fact that the UNICEF Iceland management admittedly knows little about the approach it is nonetheless being used as a model in many aspects.

If anything has become apparent through the course this research, it is that everyone involved in using a RBA needs to be fairly knowledgeable on its meaning and committed to its process to rightfully claim the title of a rights-based approach organization.

Conclusion

The aim of this MA dissertation in Development Studies and International Relations is to examine the rights-based approach to development. Does this approach offer value-added or is more a case of new wine on old bottles? What does the approach mean for various categories of people within the development agenda?

As is so often the case more questions than answers have come up during the course of this research which can not be fully answered at this time. The research began by showing the long and complicated historical backdrop out of which the concept of human rights and later human rights law emerged. It showed that the moral values that constitute human rights can not be claimed by a single geographical area, time, culture or even form of government. Therefore, although the debate surrounding human rights has always been patched with areas of uncertainty or controversy the basic understanding of this research is still that every human person is entitled to fundamental human rights and freedoms, to lead the kind of life he or she has reason to value.

Many feel, the goal that every human person has the freedom to enjoy basic human rights is at least part of the reason why the RBA to development emerged, but what *is* a rights-based approach to development or as some would put it, what *are* human rights-approaches to development? This issue, whether the RBA is a single approach or a collection of many different approaches that all share the same denominator; human rights standards, does not seem to be quite clear. Despite this lack of consensus it appears that the various RBA definitions all share in common their foundations in fundamental human rights principles (i.e. universality, indivisibility, equality, non-discrimination, participation, inclusion, accountability and the rule of law). The blue thread, then, that ties these principles together into the RBA is the concept of *process*. The whole process of development work, at every stage, should be guided by these principles when applying the RBA.

Additionally, what the RBA really boils down to is the emphasis on addressing the relationship between rights-holders/claimers and duty-bearers (i.e. the discussion between state and its citizens). Subsequently, no matter what the vantage point might be it can not be overlooked that the RBA is a highly political approach, thus making it more controversial and susceptible to criticism than many other development approaches.

Perhaps then, the lack of a single uniform definition of an RBA does not have to entail confusion but instead that different stakeholders will use it in different ways, according to their needs, resources and capabilities.

It is the researcher's conclusion that there are mainly two links that are markedly weak in the RBA chain. One is its seemingly complicated nature that makes it difficult for various categories of people working within the development agenda to fully adopt it or apply it. Second, is the danger of the RBA to be reduced to a mere buzzword when the powers-that-be drape their projects in revolutionary garb by adopting the liberationist rights language with little to show for it. That seriously risks delegitimizing what the RBA really stands for.

The debate surrounding the rights-based approach has also included other concerns, such as whether according human rights a central place in development work allows for an ever further interventionism by outside actors, often lacking knowledge, legitimacy, modesty or accountability. Can outside support go together with internal autonomy? These questions are now being examined by the academic and international community and so far no answer seems to be at the horizon.

One thing that does enjoy a consensus among the many authors that have shared their thoughts on the subject is that a rights discourse which encompasses both CPRs and ESCRs is not new. In fact, both are found in the Universal Declaration of Human Rights, dating as far back as the 1940's, and in subsequent covenants and conventions. However, in recent years, the ESCRs have been climbing up on the human rights agenda, demanding equal respect (particularly in the West) as their counterpart CPRs. Running alongside an agenda derived from the international development targets ultimately lead to the formation of an RBA to development.

Despite critique and some concerns about the RBA, many authors seem quite convinced that the rights-based approach offers much hope for the future of

how we practice development. According to the many authors who have expressed themselves in favor of the RBA it does indeed offer value-added over other development approaches (e.g. poverty or human development approaches). For some, notwithstanding its many legal loopholes, that value lays particularly in its provisions of a legal basis for basic needs advocacy, and in identifying legal mechanism for public service accountability. For others, the way the RBA to development differs from its predecessors is mainly twofold. First, the fact that it is based on claims and not charity (changing the overall goal of development), and second, the implementation process of development actions (*process* being the operative word). As a result of the first aspect, development practitioners begin thinking more in terms of policy, social structures, inequality, discrimination and exclusion, instead of in terms of poverty, as some original state everyone departs from. Thus, the RBA to development acts as a heuristic device impelling actors to look for the root causes of the problems face (e.g. why is there not a water-well in this village? as oppose to, this village *needs* a water-well.). However, that does not take away the possibility of also meeting peoples' needs, only the process of getting there changes.

Whether the RBA to development proves to be the answer so many in the developing enterprise is looking for remains to be seen. It is however clear that several potholes need to be filled before it can truly deliver on its possible potentials.

More research is called for to explore the many questions not yet answered regarding the topic of an RBA to development, such as what is the effect of culture on the approach? What (if any) is the affect of the geographical or cultural areas the RBA is being implemented in? Does a cultural tradition of opposing to the authorities benefit the RBA (e.g. as is the case in many S-American societies)? These are knowingly much generalized questions only meant to raise awareness to the many fields of inquire surrounding the RBA still being studied. It will be interesting to see in the coming months and years how the RBA to development will evolve and if it can positively change the way we practice development.

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Annex I:

Abbreviations and Acronyms

| | |
|-----------|--|
| CIDA | Canadian International Development Agency |
| CRC | Convention on the Rights of the Child |
| CRP | Child Rights Programming |
| CPRID | Department for International Development |
| DF | Civil and Political Rights |
| ESCR | Economic Social and Cultural Rights |
| FAO | Food and Agriculture Organization (for the |
| UN) | |
| HR | Human Rights |
| HRCIA | Human Rights Council of Australia |
| IGO | Inter-Governmental Organization |
| MDG | Millennium Development Goals |
| NGO | Non-Governmental Organization |
| OHCHR | Office of the High Commissioner for Human |
| Rights | |
| OXFAM | Oxford Committee for Famine Relief |
| RBA | Rights-Based Approach |
| SC | Save the Children |
| SIDA | Swedish International Development Agency |
| R2P | Responsibility to Protect |
| UDHR | Universal Declaration of Human Rights |
| UN | United Nations |
| UNDP | United Nations Development Program |
| UNDAF | United Nations Development Assistance |
| Framework | |
| UNFPA | United Nations Population Fund |
| UNHCHR | United Nations High Commissioner for Human |
| Rights | |

UNICEF

United Nations Children's Fund

UNIFEM

United Nations Development Fund for Women

WB

World Bank

WHO

World Health Organization

WFP

World Food Program