

Gender, Society & Development

**Gender, rights and development**  
**A global sourcebook**



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# Gender, rights and development

## A global sourcebook

Maitrayee Mukhopadhyay and Shamim Meer  
Editors

CRITICAL REVIEWS AND ANNOTATED

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Henk van Dam and Minke Valk  
*Series Editors, Gender, Society & Development*

# Acronyms and abbreviations

AAI	ActionAid International
AIDS	Acquired immune deficiency syndrome
ALP	AIDS Law Project, South Africa
ANC	African National Congress
APF	Anti Privatisation Forum, South Africa
APWLD	Asia Pacific Forum on Women, Law and Development, Thailand
ARROW	Asian-Pacific Resource & Research Centre for Women
ARVs	Anti-retroviral drugs
AU	African Union
AUC	The American University in Cairo
AWID	Association for Women's Rights in Development, Canada
BGP MSKS	Bhopal Gas Peedit Mahila Stationery Karmchari Sangh (Bhopal Gas Affected Women's Stationery Workers Union), India
BGP MUS	Bhopal Gas Peedit Mahila Udyog Sangathan (Bhopal Gas Affected Women's Enterprise Organisation), India
BPFA	Beijing Platform for Action
CALS	Centre for Applied Legal Studies, South Africa
CBOs	Community-based organizations
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIIR	Catholic Institute for International Relations
CLADEM	Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer (Latin American and Caribbean Committee for the Defense of Women's Rights)
CoSos	Conflict ridden societies
CRC	United Nations Convention on the Rights of the Child
CREA	Creating Resources for Empowerment in Action
CRIN	Child Rights Information Network
CRP	Child rights programming
CSO	Civil society organization
DAC	Development Assistance Committee
DAW	UN Division for the Advancement of Women
DC	Development Cooperation
DFID	Department for International Development, UK
EGM	Expert Group Meeting
ELMPS	Eqypt Labor Market Panel Study
ESCR	Economic, social and cultural rights
EWIC	Encyclopedia of Women and Islamic Cultures
FAQ	Frequently Asked Questions
FGC/M	Female genital cutting/mutilation

FIDA	International Federation of Women Lawyers
FOMWAN	Federation of Muslim Women's Associations in Nigeria
GAD	Gender and Development
GOI	Government of India
GOVNET	OECD-DAC Network on Governance
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit, Germany
HIV	Human immune deficiency virus
HRBA	Human rights-based approach
HREA	Human Rights Education Association
HURIDOCS	Human Rights Information and Documentation Systems
IASC	Inter-Agency Standing Committee
ICA	Investment Climate Assessment
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development
ICRW	International Center for Research on Women, USA
IDS	Institute of Development Studies, UK
INGO	International non-governmental organization
INTRAC	International NGO Training and Research Centre, UK
ITDG	Intermediate Technology Development Group, UK
IWRAW	International Women's Rights Action Watch
IWTC	International Women's Tribune Center, USA
JASS	Just Associates
KIT	Royal Tropical Institute, Netherlands
LGBT	Lesbian, gay, bisexual and transgender people
LPM	Landless People's Movement, South Africa
MAM	Autonomous Women's Movement, Nicaragua
MD	Millennium Declaration
MDG(s)	Millennium Development Goal(s)
MENA	Middle East and North Africa region
MNCs	Multinational companies
MRS	Movimiento de Renovación Sandinista (Sandinista Renovation Movement), Nicaragua
MTCT	Mother-to-child transmission
NGOs	Non-governmental organizations
ODI	Overseas Development Institute, UK
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
PD	Paris Declaration
PDHRE	People's Movement for Human Rights Education
POA	Platform of Action
PRAMs	Participatory rights assessment methodologies
PRSP	Poverty Reduction Strategy Paper
ROL	Rule of law
RBA(s)	Rights-based approach(es)
RRA	Reproductive Rights Alliance, South Africa
SHUR	Human Rights in Conflict: The Role of Civil Society project
SIDA	Swedish International Development Cooperation Agency
TAC	Treatment Action Campaign, South Africa

UC	Union Carbide
UCC	Union Carbide Company
UDF	United Democratic Front, South Africa
UDHR	Universal Declaration of Human Rights
UMI	University of Michigan, USA
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNIFEM	United Fund for Women
UNRISD	United Nations Research Institute for Social Development
WARI	Women's Action & Resource Initiative
WEDO	Women's Environment and Development Organization, USA
WHO	World Health Organization
WICCE	Women's International Cross Cultural Exchange
WICEJ	Women's International Coalition for Economic Justice
WID	Women in Development
WWHR	Women for Women's Human Rights



## **Introduction: Gender, rights and development**

This publication explores whether the field of development is actually able to deliver on rights in a way that advances a gender equality agenda and treats and sees women as entities in themselves, worthy of rights, and not simply in relation to a man and as subordinate within gender relations.

In the past two decades global and local social and political movements of marginalized groups have arisen to advance greater inclusion and access to resources and rights in a context of increasing inequality within and between nations (O'Brien et al 2000; Edwards and Gaventa 2001; Molyneux and Razavi 2002). In international development the rise of rights is relatively recent, dating from the late 1990s. However, there is no one rights-based approach (RBA), and different institutional actors such as the UN, multilateral and bilateral agencies, and international non-governmental organizations (NGOs) have brought different conceptual understandings as well as varied practices of rights in development, and not all of these have addressed gender equality goals.

A number of critiques of RBAs have emerged in the past years. In the main these question the extent to which development will in fact be able to take on the emancipatory intention of the architects of rights-based approaches. The fear is that just as the feminist agenda of mainstreaming gender in development lost its political edge and transformatory power and was reduced to mere rhetoric within development institutions, this will be the way of RBAs (Tsikata 2007; Batliwala 2007).

While many of these critiques are by feminists, the central thrust of their arguments relate to whether the emancipatory potential of rights discourse and practice will be realized within development without sufficiently interrogating the implication of rights discourse and practice for advancing women's autonomy. This is an area that needs considerable research, and this publication attempts to explore the difficulties and potential to advance women's autonomy and freedom within the discourse of rights-based approaches to development

The publication also explores how rights thinking and practice is shaped by actual struggles. Batliwala (2007) reminds us that it is important to distinguish between the discourse of rights in development and rights-based movements for equality, development, and self determination – that were part of anti-colonial struggles as well as of current struggles by movements of marginalized groups.

In the first part of this introduction we contextualize why it is that rights were taken up within development by different actors, the common principles that constitute

RBA, the contests over meanings and a critique of current practice. In the second part we explore the opportunities and challenges for advancing women's autonomy, agency and freedom from oppressive gender relations, bringing in perspectives of the contributors from different regions of the world to explore the problematic in advancing gender equality goals and women's rights through development work.

## Contextualizing rights-based approaches in development

### Why rights? Why now?

Rights were taken up by mainstream development actors – the UN, bilateral agencies and international NGOs relatively recently – in the mid 1990s. This was a time of growing acknowledgement that conventional development approaches had failed to eliminate poverty and inequality, and of continued debates on the goal and purpose of development, with increasing evidence from advocates, practitioners and academics, particularly from the south, that neo-liberal policies which privileged markets and gave rise to structural adjustment programmes were in fact widening disparities within and between countries.

These critiques noted the failure of development initiatives to involve people in their own development and to promote respect for human rights. In some ways responding to these challenges, a strong lobby emerged within the UN advancing that the goal of development should be human development. Informed by the work of Amartya Sen, the first Human Development Report in 1990 defined the basic purpose of development as the expansion of choices so that people may live the lives they have reason to value. In this view, economic growth was a means to widen choice; and building human capabilities – the range of things people can do or be – was fundamental to expanding choice. The most basic capabilities of human development are to lead long and healthy lives, to be knowledgeable, to have access to resources that enable one to have a decent standard of living, and to be able to participate in social and political life. Without these capabilities, many other choices are simply not accessible (Mukhopadhyay 2004).

Sen characterizes rights as 'freedoms' and human rights as ensuring freedom of action. Civil and political rights ensure freedom from coercion, while economic and social rights promote the freedom to access resources. Each one is necessary for the full realization of the other. The Human Development Report of 2000 brought together the goals of human development and human rights in expanding freedom, well-being and human dignity for all with the expansion of freedom being the primary end and the principle means of development (UNDP 2000).

While human development and human rights share the common purpose of expanding freedoms, they represent different approaches that can add value through integration. Sen shows that the value of a rights-based approach to development lies in the notion of claims that the idea of rights puts forward. To have a right means to have a claim on other people or institutions that they should help or collaborate in ensuring access to some freedom. While the purpose of human development is to expand freedoms, this does not oblige individuals, collectivities and social institutions to bring about

human development. A rights-based approach on the other hand links human development to the idea that others have duties to facilitate and enhance human development.

In 1997, the UN Secretary General called on all entities of the UN system to mainstream human rights into their activities and programmes, and several UN agencies developed their own interpretations of RBAs and adopted these within their programmes.

NGOs and movements campaigned for a rights-based approach at the World Social Development Summit at Copenhagen in 1995. As Batliwala (2007) notes, the rationale of 'international activist NGOs' in advancing RBAs was to replace the notion of benevolent states voluntarily fulfilling basic human needs by the more potent framing of basic needs as basic rights. Framed in this way adequate incomes, health, education and so on are no longer handed out from above as acts of charity, but are basic rights that states are obliged to deliver and which citizens may rightfully claim.

Among bilaterals, SIDA and DFID are cited as early leaders in rights-based approaches and several others have since adapted RBAs to fit their international development policy. Among international NGOs, Oxfam, ActionAid International and Care as well as others have taken up rights-based approaches.

While there is widespread acceptance of RBAs to development, the manner and extent of their uptake is dependent on the history, institutional culture, politics and governance structure of the specific development actor. For some international donors, rights language was a way of bringing legitimacy to conditionalities in an era which emphasized partnerships and policy dialogue (Cornwall and Nyamu-Musembi 2005). To paraphrase Slim (2002, cited in Uvin 2002), rights talk in Washington may simply be used as new words in which to couch the same neo-liberal actions, while for a woman in a slum-dwellers organization, these words could constitute a demand for redressing resource and power imbalances.

Rights have been increasingly taken up by development activists, practitioners and feminists concerned with unequal distribution of power and resources (VeneKlasen et al 2004). For this group, rights seemed to hold the potential to re-politicize development, to examine unequal relations of power, to promote participation, inclusion, democratic process and citizen agency, and to increase accountability of governments to citizens (Cornwall and Nyamu-Musembi 2005).

#### Common principles

While there are several interpretations of rights-based approaches, and while it is true that 'rights talk can function differently from different mouths' (Slim 2002, cited in Uvin 2002), and despite differences in emphasis, there are certain common principles across international agencies' ways of thinking on RBA and putting RBA into action.

Generally RBA is seen as enabling people to recognize and claim rights enshrined in the Universal Declaration of Human Rights (UDHR). In operational terms, RBA is

seen as working with duty bearers (usually states) to enable them to respond, and be accountable; and as working with citizens so as to build their capacity and empower them to claim their rights. Development practitioners are thus called on to make the shift to act in support of the most marginalized.

The UN Common Agreement on Human Rights Based Approaches in 2003 seemed to provide a template that international multilateral and some bilateral agencies could base their rights-based work on. The work of OHCHR (Office of the United Nations High Commissioner for Human Rights (<http://www.unhchr.ch/development/approaches.html>)) has been influential in further clarifying the basic operational principles of RBAs and on pointing out that there was no one rights-based approach, but rather agreement on principles. These principles include a focus on rights, accountability, participation, empowerment and non-discrimination.

*Rights:* Rights-based approaches are comprehensive in their consideration of the full range of indivisible, interdependent and interrelated rights – civil, cultural, economic, political and social – which implies a development framework with sectors that mirror internationally guaranteed rights covering livelihoods, health, education, housing, justice administration, personal security and political participation.

*Accountability:* The conceptualization of rights as legitimate claims sets up duty bearers who are responsible to rights holders. While primary responsibility is seen to lie with the State as the main duty bearer in ensuring rights, there is agreement that non-state actors too have responsibility, including development agencies and the corporate sector.

*Participation:* Participation and ‘voice’ are the flip side of accountability. A rights perspective sees participation both as a right in itself and as a means of ensuring accountability of duty bearers. Thus the design of development projects and programmes should have explicit strategies to construct ‘voice’ of marginalized groups, spaces for participation, and mechanisms to ensure that amplified voice leads to accountability.

*Empowerment:* The interconnectedness of rights, accountability and substantive participation in RBAs envisions a different relationship between development strategies and people than in other approaches. Rights-based approaches explicitly acknowledge the reality of power relations and the need for development approaches that empower people and do not merely treat them as beneficiaries or clients. RBAs expect the relationship between development agencies to shift further, in that people are perceived as citizens with rights rather than someone receiving welfare or buying services. People become agents and subjects, rather than objects, of their own development. Empowerment like participation has taken on a rather sterile meaning in development policy and practice. A rights approach takes the meaning of empowerment a step further, in that it draws attention to the power relations involved in asserting claims and having these realized, influencing decision-making institutions and holding them accountable, and having a say in development decisions affecting one’s life.

*Non-discrimination:* Rights-based approaches stress inclusiveness, equity and equality. Attention to the rights of vulnerable groups such as women, minorities, and indigenous people among others is stressed. Development decisions, policies and initiatives have to guard against reinforcing existing power imbalances between, for example, women and men, landowners and peasants, and workers and employers.

#### Naming rights-based approaches: contested meanings

Despite the above-mentioned common operational principles, several debates have persisted over the language and meaning of RBAs. Some agencies refer to these approaches as human rights-based approaches and others as simply rights-based approaches. One might ask what's in a name, as long as the common principles are incorporated into development policy, planning and implementation. However, the contest over the meaning of terms has important consequences for how these concepts will be operationalized and power holders will be held to account. Piron and Watkins (2004: 114) point out for example that naming this approach a human rights-based approach grounds it in international law and UDHR. While for some this might signify that these are moral rights with no enforcement value, grounding rights-based approaches in human rights does have the value of setting standards, standards against which the valuation and treatment of human life and of persons can be measured. This is extremely important for women, as gender relations in different contexts, in customary and as well national laws, can and do fix what women are entitled to in relation to men and their status in society, often bypassing the principle of equality.

The term Rights-Based Approaches on the other hand can be used as shorthand to mean human rights-based approaches or to distance it from international and national legal standards and mechanisms towards a preference for a social, community-based or advocacy approach (Piron and Watkins 2004: 114). The resultant tension over meaning is evident in development work and in this publication too. Gender advocates in development and some feminists for example are caught in a dilemma over meaning, and this has consequences for the way they act or do not act. While many in this group rightly point out that the notion of rights arise and are sustained through struggle by those groups that are bereft and excluded, others provide a cautionary note. They suggest that relying entirely on social and community-based approaches can and does overlook women's right to equality. Even movements with seemingly progressive goals, such as liberation from colonialism or class exploitation, have not taken up women's liberation from oppressive gender relations. While male leaders of nationalist movements eagerly drew on women's presence in such struggles, they were as eager to send women back into the home once national liberation from colonial powers was secured, and resisted women's calls for liberation from oppressive gender relations on the grounds that this will be addressed once other more important issues are resolved (Sen 2005).

Rights-based approaches in development also run the risk of over-generalizing about rights and not taking into account the specificity of social relations and how equal rights outcomes can be reached for different social groups.

Finally, a rights-based approach refers to a systemic approach and is not the same as integrating a human rights approach into existing work undertaken by a development agency (Piron and Watkins 2004: 114; Cornwall and Nyamu-Musembi 2005). This implies that the organization purporting to adopt a rights-based approach has to work just as hard for institutional change and transformation as in helping groups to raise their voice against injustices. A rights-based approach cannot simply be added on to existing structures and ways of working.

#### Critique of current practice

It is almost a decade since RBAs gained currency in international development debates. During this time different development organizations tried to operationalize what they considered to be a rights-based approach to development. The practice of RBA has invited a number of critiques, not least from feminists and gender advocates in development.

On the positive side, the coming together of rights and development may be seen as the 'weaving of two interconnected approaches into a stronger whole' (VeneKlasen et al 2004). The human rights people bring on board their expertise in working with governments and the human rights system in addressing repression and legal reform. The development people bring expertise in working with communities in participative ways on economic and social programmes. This weaving together of rights and development can at best bring rights and participation together, with the development community being challenged to move beyond treating symptoms. Rights can be drawn on as a political tool as part of a social change process to transform power (VeneKlasen et al 2004).

Cornwall and Nyamu-Musembi (2005) suggest that the growing popularity of RBAs is partly attributable to its grounding in human rights legislation, making such an approach distinctive, and lending it the promise of re-politicizing areas of development work that have become domesticated. They suggest that ultimately, however, if it is operationalized, a rights-based approach would mean little if it had no potential to achieve a positive transformation of power relations among the various development actors. Thus, no matter how any agency articulates its vision for a rights-based approach, it must be interrogated as to the extent to which it enables those whose lives are affected the most by development interventions to articulate their priorities and claim genuine accountability from development agencies. It is equally important to interrogate the extent to which the agencies themselves become critically self-aware and address inherent power inequalities in their interaction with people.

One of the main difficulties in operationalizing rights-based approaches in development is how to hold power holders (both state and non state actors) to account for the protection and promotion of rights. For example, there are no mechanisms to hold development organizations, and especially powerful donor organizations, accountable for development outcomes (Piron 2005). Tsikata (2004) suggests that among the many problems raised by RBAs is the role of the nation states in their implementation. Much of the discussion about responsibility and accountability has been in terms of what governments of developing countries need to do differently. Tsikata (2004)

argues that, given the dismantling and disabling of the state under structural adjustment, the proactive role being given to the state under the RBAs is unrealistic.

Another worrying trend is that the rights turn in development is unaccompanied by commitment of resources and in fact is at times used in such a way as to limit resources for programmes to support livelihoods, health and education (VeneKlasen et al 2004; Cornwall and Nyamu-Musembi 2005; Tsikata 2004). 'Increasingly, many groups seem to be embracing rights and policy advocacy for advancing systemic change, characterizing "traditional" development and service delivery as simply treating symptoms of problems. In some cases this is leading to the isolation and even the delegitimization and defunding of some development programmes and counterparts.' (VeneKlasen et al 2004: 3)

A third set of problems is the conflation of rights-based approaches with legalistic approaches in development. The Human Rights community in the global North traditionally relied on the legal system and jurisprudence to forward the rights agenda. Emulated in development practice, this tradition has often led to over-reliance on legalistic approaches. While working with laws and legal systems is critical, it has become clear that narrow legal approaches usually fail to expand the scope of rights or appreciably strengthen accountability and capacity to deliver resources and justice (VeneKlasen et al 2004). Furthermore, the over reliance on narrow legalistic approaches in development work is unrealistic for a number of reasons. First, the rights that the development sector seeks to deliver are social and economic, which in most developing country contexts is not justiciable. They are not justiciable for good reasons. The resources necessary to provide universal health care and education for example (and therefore protect and promote rights to education and health) is beyond the capacity of cash-strapped developing country governments. The international economic framework has long disallowed governments from investing in social and economic rights. Second, even if these rights were made justiciable, poor people in most developing countries are unable to hold their governments accountable in a court of law given the overall poor access of marginalized groups to justice institutions. Women and particularly poor women are at a double disadvantage, because many social and economic rights are governed not just by state institutions, but also by familial, kinship and customary institutions which determine access to social and economic resources and opportunities.

The response among feminists and advocates of gender equality to the turn to rights in development has been mixed. While some in this community have embraced RBAs on the grounds that other strategies such as mainstreaming gender equality have not been effective (AWID 2002), others remain sceptical. RBA has been critiqued for constituting a top down, donor-driven agenda, its powerful roots lost through its conversion into the latest magic bullet for achieving development (Batliwala 2007) The approach has been critiqued by women's movements as depoliticizing (Bradshaw 2006). It is seen to represent another installment of contestation within the gender and development approaches, thus further fragmenting the gender and development field (Tsikata 2004).

Despite the above critique from feminists and gender advocates, the questions that remain unanswered and for which considerable research is necessary is whether the field of development is actually able to deliver on rights in a way that treats and sees women as entities in themselves and worthy of rights, and not simply in relation to a man and as subordinate within gender relations. Can rights-based approaches promote the individuation of the female subject of rights, and the autonomy of the person, where other approaches have more or less failed? This is especially significant for women, as it is very difficult to individuate women from their imbrication in social relations, to separate women as subjects of rights from their identities as mothers, wives, sisters and daughters. This is despite the fact that human rights inhere in each person by virtue of their being human and are understood as universal, indivisible and inalienable. Thus the UDHR assumes such a person who is a subject who is free and has some autonomy, because otherwise rights as indivisible and inalienable are simply not operative. What does this imply for advancing the gender equality agenda through rights-based approaches in development?

Feminist scholars have forwarded two different but related explanations as to how and why women are not necessarily 'human' in the sense that the concept of liberal rights expects. The result has been invisibility of the wrongs that women suffer as a subordinate gender and therefore the lack of development programmes to address this lack of rights.

First, feminists have for long critiqued the liberal conception of rights which is at the core of our understanding of universal rights per se and which assumes a 'subject' of rights who is an undifferentiated individual without gender, without class and other forms of difference, and which serves to invisibilize the norming of the subject of rights and consequent exclusion of different 'others', i.e. those who do not fit this norm. Second, they have shown how the public/private divide in conceptualizing rights of the individual *vis-a-vis* the state has excluded from scrutiny the wrongs that occur in the private arena of family and kinship, thereby ignoring the treatment of women within gender relations.

In support of the first argument, this body of knowledge demonstrates that while conceptions of universal rights put forward the idea that a person is entitled to the same rights and treatment irrespective of his or her race, class, caste and gender, it does so on the basis that rights are conferred on the individual – an individual conceived of as the human subject who does not have a gender, class, caste, race, ethnic or community status. This universal human subject is not differentiated in any way in terms of resources and power as real people are. Legal personhood is conferred on the basis of this human core, and the law is seen to be a neutral instrument which confers rights based on this essence (Mukhopadhyay 1998). The subject thus created, who is the bearer of rights and who can act politically to secure more entitlements, is considered to be neutral (i.e. sexless, classless, etc).

Feminists, race and disability scholars and activists have shown that rights standards – while seemingly neutral in that they are conferred on the human subject who does

not have a gender, class, caste, ethnicity or race – are, in reality, standards built with elite males in a given society as the norm. This is manifested in the substance of laws and policies and in their interpretation and implementation.

Despite these critiques feminists come closest to the liberal tradition when they speak for equality and equal rights. However, their reservations about this tradition (Molyneux and Razavi 2002) are important, because otherwise rights-based approaches will simply reproduce the exclusions based on gender difference and inequality that has characterized the main development approaches. First, feminism claims that the same standards of equality apply universally, to all women irrespective of where they come from. This might mean that context-specific negotiation and translation must take place in order for different groups of women in very different contexts to benefit, in reality. Second, while stressing that women's difference must be recognized in order for rights to be real, the goal remains equality. The recognition of difference does not imply accommodation with specific cultural articulations of female roles and entitlements that treat women as inferiors. Finally, and for the reasons discussed, feminism rejects appeals to culture and tradition that legitimize female subjugation. Most importantly, by stressing equality and the rights of the individual over group or cultural rights, it asserts that ascribed relations should not define women's entitlements.

In support of the second argument, feminist scholarship has shown that while the UDHR which serves as the document of consensus and the foundation for most discussions on rights, states that rights apply to all equally whatever one's race, colour, sex, language etc., women were long excluded from definitions of general human rights and have been relegated to the 'special interest' status within human rights considerations, perpetuating and condoning women's subordinate status (Bunch and Frost 2000). This is a reflection of gender inequality linked with the public/private split. The pervasive division of life into 'public' and 'private' spheres stems from liberal philosophies that with good reason tried to limit the jurisdiction of the state in the life of individual citizens. It was a way to prevent the arbitrary authority of the state impinging on the life and freedom of citizens, albeit citizens who owned property, were 'free' individuals and not slaves, and were men. This division became characteristic of state-society relations in modern states. From this arose the understanding that what individuals do in the 'public' sphere is subject to regulation, while activities taking place in the 'private' sphere are thought to be exempt from governmental scrutiny. The 'public' sphere is seen as the focus of interaction between state actors and citizens and therefore abuses of that relationship have been the focus of international human rights advocacy. Thus human rights violations of women that occurred in the private sphere of relations between individuals were for long not acknowledged and were not seen as within the arena of the state's concerns (Bunch and Frost 2000). Even the abuse of civil and political rights as evidenced in the sexual violence and rape of women in detention went unacknowledged as human rights abuses.

Whereas feminists theorizing about the liberal subject of rights has challenged the universality of human rights, Sen (2005) notes that there remains major gaps in our knowledge. She suggests that while feminists have focused on two sites where gender

relations are played out – the private site of households and the public site of communities, labour markets, and political and legal systems, they have addressed inadequately, or not at all the third site – the unfreedoms of women as members of oppressed economic classes or castes, on grounds of race, ethnicity, sexual orientation or nationality. Women's oppression/exploitation and subordination in all three sites are linked and constitute women's reality. Inadequate theorizing of this third site has meant inadequate strategies to address the full impact of unequal gender relations. A question that remains is how to address the subordination of women resulting from unequal gender relations while at the same time being members of oppressed nations, classes, races and so on (Sen 2005). There is no automatic link between these three sites, as evidenced by the fact that within social movements for justice strong anti women beliefs and practices may be present.

Fraser (2000) in reviewing social justice movements in today's world addresses the question as to why there has been inadequate theorizing of this third site and the resulting inadequacy of strategies to address the full impact of unequal gender relations in justice claims. She suggests that social justice movements seem increasingly to be divided into two types – those that make redistributive claims and ask for a fairer distribution of resources and goods, and those that claim recognition for 'excluded' groups such as sexual, ethnic and racial minorities, and women. She explains that the two kinds of justice claims are often dissociated from one another. For example, the activist tendencies in social movements such as feminism look to redistribution as the remedy for male domination and are increasingly dissociated from tendencies that look instead to recognition of gender difference (Fraser 2000: 48). The dissociation between rights movements stressing redistribution and those claiming the right to be recognized as different has become a polarization. This situation she finds is a false antithesis, because it does not help us understand and act on rights that represent both arenas of injustice. Claims for redistributive justice are defined as socioeconomic and the arena in which these claims have to be established is in the political and economic realm. The politics of recognition, in contrast, defines its claims in terms of the cultural and sees injustice as rooted in social patterns of representation, interpretation and communication. Increasingly the movements built on these claims are unable to converse with each other and thereby to work together on strategies that actualize rights for real people.

The falseness of this antithesis can only be exposed by taking the example of justice claims that fit both political orientations. 'Claims for gender justice,' Fraser suggests, 'fit both these political orientations.' Gender is a 'bivalent' collectivity in that it is neither a class nor simply a status group, but a hybrid category rooted simultaneously in political economy and in culture. 'Bivalently subordinated groups suffer both maldistribution and misrecognition in forms where neither of these injustices is an indirect effect of the other, but where both are primary and co-original. In their case, accordingly neither a politics of redistribution nor a politics of recognition alone will suffice. Bivalently subordinated groups need both' (Fraser 2000: 53). Redressing gender injustice, therefore, requires changing both the economic structure and the status order of society. In fact, none of the subordinated groups – racial, ethnic, sexual and other minorities and the working class and the poor – claiming justice are

univalent collectivities. They all require both redistribution and recognition in order for them to be the full subject of rights.

Fraser's thesis goes to the heart of the dilemma of gender and rights in development. The first philosophical and practical problem that we encounter in the discourse of rights in development is how to move away from the universalistic definitions of our common humanity, to gaining recognition for the female subject of social relations as individuated and as the subject of rights. The papers in this publication all point in some way to this problem. This problem is manifested most starkly in rights struggles in which the sexual and reproductive autonomy of women is at stake; two of the papers in this volume directly address this issue.

Albertyn and Meer (in this publication) explore the trajectory of a campaign and legal challenge by civil society organizations, and most notably the Treatment Action Campaign (TAC) in South Africa to secure the rights of HIV-positive pregnant women to treatment from the public health system so as to prevent the infection of their unborn babies. They note that in this case, women's right to make choices concerning reproduction was sidelined, and eventually disappeared in the legal challenge that was mounted and as a result of the nature of the political context, the degree of conflict and changing role players and their different interests. In contrast was the claim by the Reproductive Rights Alliance (RRA), an organization whose attempt to join the case as an amicus was turned down by the court, but who was invited nonetheless by TAC lawyers to help them make reproductive choice arguments. The RRA argued that if a woman chose to have a baby, she had the right to choose to have a healthy baby. Further a pregnant women's right to chose included her right to decline treatment, since the decision should at all times be that of the woman alone, based on informed consent. This claim constructed women as agents and decision makers. It also placed sexual and reproductive rights centre stage in dealing with the causes and effects of the HIV and AIDS epidemic. As shown in the paper, this claim could not be sustained. The choice argument was unfamiliar and untested in court. The male lawyers did not understand the argument, some saw it as unstrategic and inconvenient, and as detracting from the clear message of irrational governments or saving children.

Bradshaw et al (in this publication) discuss the recent repealing of the law permitting 'therapeutic' abortion in Nicaragua which highlighted the growing encroachment on rights by the state and the church and brought the language of rights and competing notions of rights to the fore. The church increasingly used the language of rights and in so doing determined which rights to advance. An alliance between church and political parties in Nicaragua invoked the rights of the unborn child to institute legal reform that did away with therapeutic abortion.

The authors show that even the women's movements taking up the overturning of therapeutic abortion bypassed the argument of women's rights to choose and relied instead on the argument that the death of the mother resulting from lack of safe abortion fragmented family unity. Furthermore, the campaigns focused on the right to therapeutic abortion and not on asserting rights to abortion as an unconditional right. Thus despite the competing claims by different actors, i.e. state, Church,

women's movements and others, there was coherence in the discourse on sexual and reproductive rights, especially abortion. This coherence was centred on limiting the freedom and autonomy of the female subject of rights in relation to a specific set of rights, i.e. sexual and reproductive. The discourse around abortion deployed by those parties in favour of therapeutic abortion portrayed women 'as a vulnerable group in need of saving' and not as 'rights holders and agents'.

A second group of problems that rights-based approaches face within development is the lack of appreciation of the 'bivalent' nature of women's subordination, and therefore the need to struggle on both fronts – for redistribution and recognition. This 'bivalent' nature of women's subordination is best illustrated in Dasgupta's account (in this publication) of the struggle of activists of the Bhopal Gas Disaster of 1984 in India, a struggle which over the years became led and sustained by women.

Dasgupta explores the perspectives of women survivors and activists of the world's worst industrial disaster, the Bhopal gas disaster of 1984, when an accident in the storage tanks of the Union Carbide factory caused a leakage of deadly gasses, killing and blinding people in adjacent neighbourhoods and leaving thousands with continued ill health. In all an estimated 150,000 people, mostly impoverished slum dwellers, were affected. While the disaster affected women and men, women have sustained the struggle for their rights over the past twenty four years more consistently than have men, perhaps due to its impact on women's reproductive health across present and future generations.

In the face of the disaster, the struggle was to hold the multinational corporation and the Government of India accountable to provide immediate relief, compensation, livelihood options, social security and medical care, and justice. The claimants demanded that the multinational acknowledge criminal negligence and face trial in India. Given the relative power of the claimants in the face of powerful government and multinational interests, advancing these claims was an uphill battle that continues 24 years later.

Reconstructing the history of rights claiming through the testimony of the survivors and activists, Dasgupta shows how this history is in reality the story of recovering dignity and agency, and of reconstructing identities from gas-affected victims to survivors, gaining recognition as citizens of India, claimants and rights holders, and not just as members of a subordinated group defined by class and gender inequalities. The process of rights claiming and demands for redistribution brought about a paradigm shift in self-recognition and recognition by others: from passive acceptance of rights violation as inevitable fate of subordinates, to the realization of the 'right to have rights'. This self-image as 'rights holders' has led to expansion of the sphere of rights claiming, both in public and private spheres. The realization of the 'right to have rights' has led to a paradigm shift in the rights claimants, within which the content of what is claimed continually increases: the rights claimants gain the capacity to progressively identify new entitlements and consistently struggle for their attainment.

The struggle for rights in the public sphere was not limited to this sphere, but led to radical transformation in the personal lives of the low-income, low-mobility women survivors from urban slums. The claims process helped to define women as agents, to individuate them as subjects of rights, liberating them from being eternally the female subject of social relations. A women leader of the movement said, 'I too have a goal, I too am someone important (*Apna bhi koi muqam hai, hum bhi kuch hain*). We women fought with our pennies, our pawned jewels, our contributions, our time, our mobilization and our commitment; if we stop fighting, we will never get justice.'

Third, in order to make women's rights palatable to constituencies that do not recognize women's difference nor tolerate individuation of the female subject outside of social relations, development agencies argue that empowering women is a good thing for society as a whole and contributes to general well-being. While this strategy has worked to win over hostile but powerful constituencies to the cause of gender equity, it has failed to address structural change in gender relations and promote the rights of women as individuated subjects.

Sholkamy (in this publication) distinguishes between a structural approach to empowerment and an increasingly effective functional approach, both of which have consequences for the way women's empowerment is pursued, practised, and measured. The proponents of the structural approach advocate empowerment for its own sake. A second trend has sought to prove through evidence that women are denied rights and resources and that this deprivation is at the root of a variety of social, health, economic and security ills and ailments. Development-oriented advocates who are the main proponents of this functional approach base their arguments for promoting women's empowerment as a development goal on the premise that social justice is a desired outcome of intrinsic worth and that it is a means to other ends. This framing of empowerment as a strategic demand has advanced the cause of women's empowerment in what would otherwise be quite conservative domains such as government and global institutions such as the World Bank. Promoting women's empowerment as a poverty alleviation strategy is less contentious than posing empowerment within a rights or a basic justice framework. Likewise gender empowerment as a strategy that enhances women's ability to decide effectively on their own well-being and that of their children is much more attractive and less fractious than calling for the right to sexual autonomy and decision making.

However, by not engaging with what Fraser (2000) would call the politics of recognition, that is for recognition of women as subjects of rights, this approach has failed to grapple with the political processes which determine how rights in general are defined and made operational in society. The timid approach to gender rights as avenues to well-being has failed to question why these rights have been denied and how this denial has been ideologically legitimized. While there is general acceptance in the Arab and Muslim worlds of gender equity and women's empowerment as strategies to gain international acceptance resulting in the narrowing of the gender gap in terms of many health and education indicators, there is outright rejection of the elements of this strategy that address structural inequities in the justice system and rights. This has severe consequences for the way women's rights are claimed and fought for in the Arab Muslim world, where an increasingly unitary and rigid

interpretation of religion, culture, and tradition seeks to outlaw any assertion of women's rights as human rights by labeling it as western and therefore against Islam and the society, culture and history of the peoples of the region.

Win (in this publication) in reflecting on the challenges she faces within an international NGO – ActionAid International (AAI) – as a feminist activist with 'a history of involvement in small feminist organizations' takes up the theme of instrumentalization of women's rights to reach other developmental goals in her paper. Appointed as International Gender Coordinator in 2002, she came into the AAI at a time when the organization was making a shift away from charity work to a more political understanding of development, and was considering the adoption of a rights-based approach in its work. The question of women in this new paradigm remained to be sorted out. In the dominant view, women's roles are essentialized and conflated with caring for children. For most development organizations and their staff, and AAI is no exception, women care for children, and if mothers are helped, the next generation is helped. Trying to separate women from this perspective and to talk of them as people in their own right with needs and wants as individuals, and with entitlements, is often problematic. Win suggests that in adopting rights-based approaches, organizations like AAI can promote a shift from seeing women as instrumental to wider development objectives such as reducing poverty, or educating children to the notion of women as individuals, people, and citizens in their own right. However, this shift is not automatic. In order to make the shift it is important to name the gender of the person whose rights the programme is trying to promote and defend. She gives the example of a recently launched programme – 'the Hunger Free Campaign'. This programme named the rights holders and the right as Women's Rights to Land and Natural Resources. This naming needs to be accompanied by a conscious effort to define the purpose of the campaign which is to campaign for women's rights to land, not because it is instrumental to women feeding other people, but that land is property that women as citizens must be able to access and control in their own right. By showing that land or property is a source of power – it fosters power within, and power to, (to go back to those feminist concepts of power) – staff are reminded that their role is to raise questions about decision making at community and household levels that deny women access and control over this fundamental resource.

The papers in this collection, based on empirical studies, help us to see the problematic of delivering on rights through development work in a way that treats and sees women as entities in themselves and worthy of rights, and not simply in relation to a man and as subordinate within gender relations. In order for rights-based approaches to promote the individuation of the female subject of rights and the autonomy of the person where other approaches have more or less failed, much more is needed than what at present constitutes rights-based practice. The authors remind us that in order to practice rights, we need on the one hand to side with, promote and learn from the awareness of those deprived of rights, because it is their agency that will fuel and drive the struggle for rights. On the other hand, rights-based practice requires a politically engaged research, activist and development community in order for rights-based approaches to promote gender equality.

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# 1 Citizens or mothers? The marginalization of women's reproductive rights in the struggle for access to health care for HIV-positive pregnant women in South Africa

This paper explores the genesis and trajectory of a rights campaign by civil society organizations in South Africa to secure the right of HIV-positive pregnant women to treatment within the state-run health system which services the poor, so as to prevent the infection of their unborn babies. These activities started in 1997, and gathered momentum in 1999 after the formation of the Treatment Action Campaign (TAC), which led the campaign in alliance with a range of civil society actors. The campaign included engagement with the state, popular mobilization in protest actions and eventually, the use of the courts to enforce constitutional rights.

The TAC has been lauded for its challenge of the state's dominance in the policy process,<sup>1</sup> and for the opportunity it provided to advance active citizenship for poor black people, whose circumstances and lack of access to resources stood in the way of their exercising political influence in the new democracy.<sup>2</sup> While recognizing the gains made in securing the right to health care, especially treatment, this paper focuses on the gender sub-text of the campaign and the implications of the way in which rights claims were made for either entrenching or challenging current constructions of gender power relations.

Our starting point is the recognition that rights claims and the policies won as a result of rights struggles, even when economically redistributive, can have the unintended consequence of entrenching the marginalized and stigmatized status of groupings in society, such as poor women. Hence although *redistributive* gains may be advanced, little may be done in advancing the *recognition* of these marginalized groups.<sup>3</sup>

In tracing the trajectory of this campaign, we focus on the (at times unconscious) struggles over the meanings of rights, citizenship, and the construction of women by the key actors at various points of the campaign. We consider the early rights claim, based on the rights of women as agents to reproductive choice, we analyse the shifts that occurred as the campaign moved into a more contested state-civil society terrain, and finally to litigation. We note that, as the arguments of choice took on particular meanings around motherhood, and became secondary to the broader goal of access to health care and anti-retroviral (ARV) treatment for mothers and their children, women's agency was compromised. We conclude that rights claims can have contradictory consequences. In this case the 'good' of treatment rights was won, but in a manner that reinforced the position of poor women as subordinate and marginalized.

We suggest that, in marginalizing women's right to choice, key actors failed to prioritize women's active agency in addressing the AIDS epidemic. As we argue in the

next section, to assert women's choice is to assert and unleash women's agency. This matters because unequal gender relations, which compromise women's agency, are a major factor driving the AIDS epidemic. Rights struggles thus need to ensure that women are recognized as agents and not simply reduced to beneficiaries.

We describe the various rights activities targeted at achieving programmes to prevent vertical transmission of HIV from mother to child.<sup>4</sup> We discuss early civil society advocacy in 1997, and the development of a campaign for preventive treatment for vertical transmission in early 1999, when the TAC was formed. This campaign was part of a broader strategy to get the state system to provide better treatment and anti-retroviral drugs (ARVs) to people living with HIV and AIDS. There were two main struggles within the campaign. The visible site of struggle was the TAC's battle for health and treatment rights against the government's increasingly hostile stance towards the use of anti-retroviral drugs. Here, the state's refusal to provide treatment and the president's AIDS denialism – that is his refusal to accept the link between HIV and AIDS – gave shape to the development of a civil society movement taking up poor people's rights to treatment, and ultimately led both parties to court.

We also analyse a second site of contestation, less visible to the public eye, namely, a struggle between the various civil society and state actors over meanings. These actors each tackled the question of the prevention of vertical transmission of HIV infection from the vantage point of different interests and rights claims, working with different notions of citizenship, and different ideas about women and women's agency. We show how the changing political context influenced a shift from the initial claim for ARV treatment for HIV-positive pregnant women, based on women's reproductive health and choice, to the subsequent claim focused on the irrationality of the state in limiting both access to treatment, and more broadly, the social right of access to health care. Choice formed a limited part of this latter claim, with the interests of women being merged with children's rights to health and health professionals' rights to treat their patients. These claims thus constructed women as bearers of children, and as patients, rather than as active agents in their own right. In contrast to this, the explicitly feminist claims of the Reproductive Rights Alliance (RRA), based on a more radical notion of women's right to reproductive choice and the idea of women as agents and decision makers, could not be sustained.

We conclude that many civil society actors did not place women's rights, women's liberation or gender equality high on their agendas. The reasons for this relate to the political context, the different interests of the rights claimants, and the nature of constitutional and legal processes. Sometimes it was a question of political priorities and strategic choices; at others it exposed the ungendered and/or liberal way in which some actors thought of rights, as well as an inability of key actors to understand or accept arguments put forward by feminist lawyers and the RRA. For their part, the feminist lawyers and the RRA, bereft of a women's movement taking up women's rights more broadly, were unable to make their arguments stick and became increasingly marginalized as the campaign unfolded.

## Why choice is important in the context of HIV and AIDS

Coinciding with the development of democracy in South Africa was a growing HIV and AIDS epidemic. Prevalence rose from less than 1% in the early 1990s to about 11% of the adult population in 2001.<sup>5</sup> As is the case in the rest of sub-Saharan Africa, it soon became apparent that women were more vulnerable to infection than men, accounting for 56% of HIV-positive people.<sup>6</sup> Statistics demonstrated that HIV-prevalence peaks in younger age cohorts for women,<sup>7</sup> and at a higher rate. Annual ante-natal surveys at public clinics in South Africa over the past few years found about a quarter of pregnant women to be HIV positive.<sup>8</sup>

Underlying these figures are the gendered dimensions of the epidemic. It is widely acknowledged that physiology alone affects women's greater risk of HIV transmission, with women up to four times more susceptible than men. However, it is also accepted that unequal gender relations are a major factor in the epidemic. It is women's relative lack of power over their bodies and their sexual lives, reinforced by their social and economic inequality, that makes them more vulnerable in contracting and living with HIV and AIDS. Women's relative vulnerability thus emerges from multiple and intersecting levels of gender inequality that place constraints on their ability to negotiate and engage in safe sex.

The nature of women's agency is thus central to understanding and to stemming the HIV and AIDS epidemic. It is not that women are powerless or lack agency. On the contrary, research suggests the opposite. For example, research on women's responses to HIV and AIDS in two African communities in South Africa suggests that women are not helpless victims, but 'active participants in the search to protect themselves sexually' within the 'cultural and historical perceptions of the bounds of the human body'.<sup>9</sup> However, women often face limited choices, most visibly in the face of high levels of gender-based violence,<sup>10</sup> or in the light of desperate poverty,<sup>11</sup> but also in the context of gendered norms and stereotypes that shape 'acceptable' sexual and social behaviour.

Research has also demonstrated how social and cultural responses to the epidemic have reinforced traditional gender roles, whether of sexuality (women must be passive and demure, women can't say no to sex, women should not enjoy sex),<sup>12</sup> of motherhood (women must bear children, women bear the burden of care) or of wifeliness (women must marry and not question their husbands). For men too, the epidemic is located in gendered norms of sexuality (men must be sexually active, have many partners, seek out young wives) and masculinity (men must bear children, men must provide for their family and rule the home). Such traditional roles often deny or limit women's agency, and mean that they must act in a way that maintains their appearance as 'good women'. Increasingly, the point is made of the futility of stemming the tide of the epidemic with strategies that reinforce these traditional concepts. What is needed is an approach that enhances the choices women and men are able to make, as well as draw attention to the conditions that shape those choices.

Enhancing women's choices in a manner that transcends the traditional norms and stereotypes is a vital strategy in addressing the epidemic. Women should enjoy sexual

and reproductive autonomy, they should be free to choose safe sex, to initiate and enjoy sex, free to refuse to be a mother and to decide what is best for them. This has many implications that go beyond the scope of this paper. Importantly, however, it has implications for the kind of rights arguments that we make, or the strategies we use in relation to HIV and AIDS.

#### Rights, democracy and choice

Rights are neither inherently progressive nor positively gendered. The acceptance of women's rights as human rights is a relatively recent development in international human rights policy. While the 1990s saw huge advances in the recognition of women's rights to equality and dignity, the acceptance of reproductive and sexual rights has been much more tentative. The recent Beijing +10 gathering reminded women just how fragile this was, as much energy was expended defending the small gains of the 1990s, rather than addressing the real barriers to effective implementation.

In South Africa, the inclusion of the right to freedom and security of the person, including to bodily and psychological integrity (the right to reproductive decision-making, and to security in and control over their bodies) in the 1996 Constitution<sup>13</sup> was widely hailed as a progressive move for women. The explicit statement of rights to moral agency, choice and bodily integrity was an important step in the development of women's reproductive and sexual rights. While these constitutional norms have shaped important laws for women,<sup>14</sup> less has been done to instil these norms into everyday discourse. Indeed, women's choice has often been promoted in a way that focuses on women's vulnerability, rather than women's agency.<sup>15</sup> This is part of a wider issue about women's struggles in South Africa:

*Generally, what is missing in the women's movement and the state is an active political engagement with the social and cultural norms that regulate people's daily lives and subordinate women. Although our Constitution affirms ... [women's equality and agency] ..., the cultural norms that shape women's lives often deny them this. Democracy for women has come to be counted by the achievement of rights and representation in the state (public citizenship), rather than by the capacity of individual women to exercise agency in the 'private' sphere (private capabilities). This creates an ongoing disjuncture between the public norms of democracy and the private world of women.<sup>16</sup>*

It is accepted amongst feminists that any strategy to advance women's rights must focus on power relations in the private sphere – not only because of women's position in the family, but also because the 'social relations that are produced in the private sphere are not contained there, but infuse most economic, social and political institutions'.<sup>17</sup> The campaign to prevent vertical transmission of HIV described in this paper demonstrates why the assertion of rights that promote women's agency has been so difficult in South Africa.

## The campaign for programmes to reduce vertical transmission of HIV: governments' growing intransigence and civil society responses

The emergence of the campaign to prevent mother-to-child transmission (MTCT) of HIV, and the role of TAC as the key player in this, has to be understood within the context of state-civil society relations. As Alvarez<sup>18</sup> notes, the political strategies and discourses of movements are responses to state policies. Movements such as TAC are thus shaped by the state at the same time as they impact the state.

When TAC was formed in December 1998, no-one anticipated that the ANC-led government would not provide the ARV treatment that was becoming available as a result of clinical trials. TAC was established to ensure broad access to treatment for people living with HIV and AIDS, and expected to work with government in pressuring the pharmaceutical companies to bring down the price of drugs. However, as government's unwillingness even to provide ARV treatment to pregnant women to reduce vertical transmission of HIV grew, TAC found itself in an increasingly conflictual and contradictory relationship with government. This section explores the trajectory of the campaign and the deteriorating state-civil society relations that resulted in litigation.

### The science: findings on treatment to prevent vertical transmission

The HIV and AIDS epidemic is raced, classed and gendered. One consequence of women's particular vulnerability is the risk of transmitting HIV to their children, mainly at birth or through breastfeeding. This vertical transmission is deemed to be about 30% in the absence of any intervention. In South Africa, it was estimated that by 1999 about 70,000 babies were infected with HIV in this manner, and there were indications that rising infant mortality was caused by vertical transmission.<sup>19</sup> By 2001, this had increased to 83,581 babies.

One of the most important scientific findings in the 1990s was that the provision of short courses of ARVs to certain vulnerable groups could prevent transmission of HIV, including health workers exposed to HIV through needle stick injuries, and survivors of sexual assault. It was also found that ARV therapy could significantly reduce transmission from a HIV-positive mother to her child during pregnancy and at birth. Clinical trials in 1994 showed that AZT (Zidovudine) reduced transmission by about two-thirds in the absence of breastfeeding.<sup>20</sup> However, this was not suitable for developing countries which lacked the infrastructure and the funds to provide treatment from early stages of pregnancy. In the developed world and in private clinics in South Africa (which approximate first world conditions), such treatment became routine.

Further trials addressed these cost and infrastructure obstacles. Firstly, it was shown that reduced dosages of AZT could reduce transmission.<sup>21</sup> Then in 1999, trials in Uganda demonstrated that administering Nevirapine to a woman in labour and her new born child was effective as a preventive measure.<sup>22</sup> A similar study in South Africa, the SAINT study, found in 2000 that a single dose of Nevirapine to mother and child reduced HIV transmission by 50%.<sup>23</sup> These findings meant that treatment could

be given at significantly reduced cost and without the infrastructural obstacles of AZT. Women only needed the drug when they presented at the hospital in labour. In theory, by the end of 1999, and certainly by mid-2000, an affordable option was available to the state health sector in South Africa.

#### Government's changing position and civil society responses

Given the ANC's support for the South African 1992 Charter on HIV/AIDS and Human Rights, and its positive relationship with the NGOs working on HIV and AIDS in the early 1990s, it seemed inconceivable that the ANC-led government would not respond positively to developments in scientific research. Indeed, government's initial responses to the research on preventing vertical transmission implied that, once simpler and cheaper regimens were available, treatment would be provided in the public sector as a matter of course. However, a more defensive approach soon emerged with clear resistance from sections of the state to the provision of this treatment. As preventive measures became simpler and cheaper, the government's ongoing refusal to roll out treatment in the state-run system became the centre of a battle for the rights of women, children, people living with HIV and AIDS and health workers. It was a battle fought on many fronts, by different interest groups and through different rights claims. This changing approach and the consequent changing relationship between the state and civil society is described below.

#### *A positive relationship between civil society and the state*

During the 1990s, government policies and plans on HIV and AIDS included commitments to the reduction and prevention of MTCT.<sup>24</sup> In 1997 and 1998, civil society organizations, mainly in the AIDS sector, lobbied the Department of Health to develop more detailed policy and programmes to prevent MTCT, and to implement the commitments in the 1994 National AIDS Plan.<sup>25</sup> These activities mainly took place under the rubric of women's reproductive health rights, the government's own policy framework for such programmes.

Health is a national and provincial competence in South Africa. While broad policies are set at national level, planning and implementation take place within provinces. Some provinces thus responded to the international developments on MTCT prevention. The Western Cape (significantly not then an ANC-governed province) began to provide a full package of treatment, including anti-retroviral drugs (AZT) to HIV-positive pregnant women in 1999. In 1998, the Gauteng Health Department (an ANC-governed province) announced the establishment of five pilot sites to introduce programmes to reduce MTCT.<sup>26</sup>

By early 1999, cost seemed to be the major barrier to universal provision. In this context, the recently formed TAC prioritized the claim for ARV therapy to prevent MTCT as its lead campaign within its overall goal of providing affordable treatment to all living with HIV and AIDS. To this end, TAC met with Health Minister Dr Nkosazana Zuma in April 1999 and issued a joint statement identifying the price of AZT as the major barrier to an MTCT programme and a promise that: 'government would name an affordable price for the implementation of AZT to pregnant mothers

and report within six weeks on the price and other issues pertaining to the prevention of mother-to-child transmission.<sup>27</sup>

As the (then) TAC secretary, Mark Heywood, notes: 'At this point it looked as if TAC's MTCT campaign would be one primarily targeting the manufacturers of anti-retroviral medicines to reduce their prices.'<sup>28</sup> Activities between 1999 and 2001 generally targeted pharmaceutical companies to reduce the prices of essential anti-retroviral medicines<sup>29</sup> and particularly GlaxoWellcome's drug, Zidovudine (AZT).<sup>30</sup>

The appointment of a new Minister of Health, Dr Manto Tshabalala-Msimang, after the 1999 elections also gave cause for optimism, as she welcomed the results of the Ugandan study on Nevirapine. At this stage the barriers to implementation still appeared to be procedural. The drug needed to be registered and the South African study would provide information on local efficacy and implementation. It was widely expected that this would generate a universal roll-out.

*Contestation emerges*<sup>31</sup>

However, an 'unanticipated and unfortunate diversion' appeared<sup>32</sup> in President Mbeki's October 1999 address to Parliament. In this, Mbeki 'unexpectedly questioned the safety of AZT and warned that the "toxicity of this drug is such that it is, in fact, a danger to health"'.<sup>33</sup> He went on to say that he had 'instructed the Minister of Health to launch a probe into the safety of AZT and until this was complete it would not be used in South Africa'.<sup>34</sup> This was the first sign that the President had adopted the views of 'AIDS dissidents' on ARVs:

*[This group] has argued that, rather than helping to restore the immune system, anti-retroviral drugs destroy it by destroying cell replication and causing a range of life-threatening side-effects. Although their arguments vary, the basic contention is that AIDS in Africa is caused by poverty and that a range of poverty-related illnesses (such as tuberculosis) are being misdescribed as HIV-related in order to create markets for first world drugs, particularly anti-retrovirals.*<sup>35</sup>

Even though initially expressed about AZT, these 'dissident' views would also affect the use of Nevirapine. Heywood suggests that, while not openly stated, the president's views were a major cause of the subsequent delays in the state's acceptance and implementation of ARV treatment to HIV-positive pregnant women.<sup>36</sup>

In the short term, the new opposition to AZT meant that civil society hopes focused on Nevirapine as an acceptable alternative, especially after the presentation of positive preliminary results in the South African trials at the 2000 International AIDS Conference in Durban. However, instead of the anticipated universal roll-out, a meeting of the Minister of Health and provincial Members of Executive Council's decided to test the use of Nevirapine (once registered) for a further two years at two 'pilot sites' in every province, followed by a phased implementation.<sup>37</sup> These pilots were to investigate operational issues, as well as the safety and efficacy of the drug.

In sum, although the South African trials had indicated the efficacy of Nevirapine in a South African setting, and international trials had done so in other developing

countries, and although international health guidelines (by the World Health Organization and the Joint United Nations Programme on AIDS) stated that any risks of resistance were far outweighed by the benefits of reducing MTCT,<sup>38</sup> the South African government insisted on limiting this life-saving measure to a few pilot programmes for two years, and then would only roll out in a phased fashion. As these pilot programmes only commenced in 2002, after inexplicable delays in the registration of Nevirapine for use in reducing MTCT,<sup>39</sup> it was probable that ARVs to prevent MTCT would only become available to all HIV-positive pregnant women in 2005 or later. Public sector obstetricians seeking to advise HIV-positive women could not offer them the choice of reducing HIV transmission, even though this was effective and affordable. Paediatricians at public hospitals treating HIV-positive children knew that their lives could have been saved by offering their mothers a choice of treatment at their birth. Most importantly, HIV-positive women were unable to choose to take a drug that could significantly reduce the risk of transmitting the virus to their children.

It was the apparent irrationality of the state responses, and that fact that this was leading to avoidable illness and death, that drove a concerted rights campaign to force the South African government to accelerate the provision of a full package of measures to prevent MTCT, including ARVs to all women attending public sector hospitals. This campaign eventually ended up in the Constitutional Court.

#### Rights-based advocacy in civil society

Coinciding with the changing state responses to the use of ARVs to reduce mother-to-child transmission were the changing rights strategies of civil society. Not only was there a shift in the nature of the strategy (from advocacy to litigation), but there was also a shift in the rights which formed the basis of the claims and in the interests of the groups making these claims.

It is important to locate these claims in the context of state-civil society relations after the advent of the ANC-led government in 1994. The next section assesses state-society relations to provide a context for the campaign and its various participants.

#### The context of state-civil society relations

State-civil society relations before 1994 were conflictual – framed by the hostility of the black majority and democrats of all races to white domination by an illegitimate apartheid state. Civil society organizations engaged in struggles, linking local issues with a national liberation struggle to dismantle the apartheid state. After the 1994 elections, expectations of the new democracy were great. The ANC, the liberation movement that had led the struggle against apartheid and now the ruling party, was expected to redress the wrongs of the past.

However, it all too soon became clear that the fault lines of the old South Africa were deeply entrenched and that citizenship and rights claims were affected by apartheid relations of racial, class and gender domination. Some blacks and some women entered the ranks of the elite, thus beginning to de-racialize class divisions to some extent, but the needs and interests of the urban and rural poor masses tended to

remain unaddressed.<sup>40</sup> Government policies did not place the poor or the eradication of inequalities at the centre of the state's agendas, or when they did, these did not seem to impact the inequalities of the past. Policies thus tended to favour the historically privileged, and did not introduce a wider social and economic citizenship. The adoption of a tight fiscal policy meant fewer state resources were available to meet the needs of the poor. Talk of the two nations that made up South Africa – one poor and black, the other rich and white – became common rhetoric in presidential addresses to the nation, with President Mbeki noting in 2003 that '[t]he things that we do with regard to the upper-story economy, because there is no connecting staircase, won't impact on the other [ground floor] economy.'<sup>41</sup> The gap in all areas of life was stark. In health care, the gap was between two health systems – a private health care system approximating first world conditions, and an under-resourced state health care system for the poor.

A key challenge for civil society organizations and movements, post 1994, was how to position themselves in relation to the now legitimate government. The original expectation was that civil society organizations would partner the new government in a development agenda. Many organizations, across sectors, thus engaged in partnerships with the new government, on policy making and on implementation of government programmes. However, as the experience of the TAC highlights, the limits of such partnerships, and indeed the limits of a liberal democracy, soon became clear. Government's policies and in particular its overarching economic framework were experienced as inimical to the interests of the poor, making clear the need for civil society's role in constituting a force to hold government accountable for the needs and interests of the poor, working-class majority.

#### The Treatment Action Campaign

It was in this context that organizations such as TAC, the Anti Privatisation Forum (APF) and the Landless People's Movement (LPM) were formed. Emerging in different ways in response to the needs of 'the poor', these organizations took different forms and had divergent attitudes towards rights and the Constitution.<sup>42</sup>

On the one hand, organizations such as the APF and LPM saw the state as betraying the revolution, and demonstrated their dissatisfaction in mass protests and demonstrations. The ANC retaliated through ideological and repressive means – laying claim to the ANC party's role in 'defending the gains of the revolution', and the ANC-led government censured these organizations, even hinting at a 'third force' and in some cases using the army to quell demonstrations.

On the other hand, TAC leaders saw themselves as loyal ANC members even as they called for the democratization of the ANC, organized civil disobedience campaigns, and attempted to charge the minister of health with culpable homicide resulting from failure to provide treatment in state-run health services. TAC thus engaged government through a strategic mixture of cooperation and confrontation.

TAC's starting point is that because government is legitimate, strategies against it must consider how to retain people's support. Its membership is largely made up of

black people who lack the resources and social position which make political influence possible in the normal scheme of a liberal democracy – 80% of the members are unemployed, 70% are women, 90% are African, and 70% are in the age range of 14 to 24 years. Members are organized in branches at local community level and engage in actions to pressure the state as well as in treatment-literacy campaigns, in offering advice to people on treatment, and in grass roots campaigns to de-stigmatize HIV and AIDS.<sup>43</sup>

TAC assumes that gains can be won from this system and that far-reaching change is possible through constitutional means. Real rights can be won for the poor and marginalized within the post-apartheid system.<sup>44</sup> Thus the law, and rights, are not inherently biased against the poor and can offer them some gains. Civil society can act as partners of the state, as well as watchdogs monitoring its performance. Civil society challenges to the dominance of the state in the policy arena can also challenge the way power is conceptualized and exercised.

Thus TAC engaged in a range of advocacy strategies to improve access to treatment for poor people living with HIV and AIDS. Central to this was the attempt to bring down the price of drugs and to lobby government to make these available in the public sector. However, in the context of growing state intransigence, the campaign to extend ARVs to HIV-positive pregnant women to reduce the risk of vertical transmission became a major focus of the overall campaign for treatment in 2000 and 2001.

#### The women's movement

The women's movement in South Africa emerged from national, community and worker struggles with links to the UDF,<sup>45</sup> ANC and trade unions – all male-dominated movements. During the years of the struggle, women engaged in political resistance and the male-led movements partly acknowledged the women's question, but within Marxist and national liberation discourse this was seen as a secondary contradiction. The approach to women's involvement may thus be described as instrumentalist – that is to ensure additional numbers in the liberation movement. There was little recognition of gender disparities as a fundamental contradiction that needed to be addressed in order to attain a more egalitarian society, and little concern that race and class are gendered. In this context, feminists struggled to create space to bring issues of 'the body' to the fore – whether about gender-based violence, reproductive rights, sexuality or choice. These issues remained on the fringes even of women's organizations at the time. This persisted into the 1990s, as organizations such as the Women's National Coalition (a coalition of women's organizations to bring women's concerns to the constitutional negotiation process) were not able to arrive at an agreed position on reproductive rights and abortion. Indeed, the focus of women's organizations within the ANC, UDF and trade unions on advancing the numbers of women in leadership continues to be the dominant concern today.<sup>46</sup>

Along with other civil society organizations, the women's movement experienced a 'decline' after 1994, as the glue that held women's organizations, such as the Women's National Coalition, together under the banner of 'equality' in the early 1990s disintegrated under new conditions. The movement became vertically and horizontally

fragmented, organizing in smaller sectors (gender-based violence, reproductive health etc.) and without binding policy and advocacy NGOs to community-based organizations. Furthermore, it would seem that the claims made by these sectors of the movement failed to prioritize women's agency and autonomy in post 1994 policy making, since gains won were based on women's vulnerability, family failures and children's needs rather than on empowering women. Free health care, for example, considers maternal health, the maintenance act entrenches the notion of private responsibility of children, violence against women and abortion discourses rest on notions of women's vulnerability and the state's role as protector.<sup>47</sup>

#### *Women's organizations, choice and HIV*

Several women's organizations had organized around reproductive rights in the early 1990s, under the 'umbrella' of the Reproductive Rights Alliance (RRA), to secure a pro-choice abortion law. This law (the Choice on Termination of Pregnancy Act) was achieved in partnership with the state in 1996. These organizations continued to focus on reproductive rights in the late 1990s, but with a specific focus on the implementation of the Choice on Termination of Pregnancy Act. In the context of a 'pro-choice' government, most of the member organizations of the RRA worked in a co-operative relationship with the Department of Health to enhance women's access to reproductive rights in South Africa. This included policy and programme research, training and monitoring and evaluation work in a variety of areas relating to women's reproductive health.

With the passage of a pro-choice law, the advocacy strength of the RRA had diminished as its role shifted from a vocal advocate for choice to a more low-key role concerned with implementation issues within a formally pro-choice state. In the late 1990s and early 2000's, there was no real public discourse on choice, and no visible public advocate. The RRA's public voice tended to be limited to particular, and often reactive, moments around litigation and abortion.

As access to termination of pregnancy continued to be the centrifugal point of RRA activities, a wider discourse on choice was also precluded. This was exacerbated by the tendency in civil society to work in discrete and insular sectors, thus activists supporting choice had few formal links with activists in the gender-based violence sector, or the AIDS sector. This meant that there was a limited response by women's organizations, including the RRA, to the issue of ARVs for pregnant HIV-positive women.

From about 1998, when government was resisting the use of AZT as too expensive, feminist lawyers and AIDS legal organizations began to introduce the possibilities of advocacy around prevention of MTCT programmes with the RRA. The RRA responded cautiously to a request to participate in a 'possible challenge to the Minister of Health' against her decision not to provide AZT to HIV-positive pregnant women.<sup>48</sup> Although it was agreed that the RRA's role might be to 'ensure that arguments on reproductive rights and choice are protected', and that the state's responsibility to provide comprehensive reproductive health care should include access to this treatment,<sup>49</sup> the RRA did not resolve to take a 'public stand' on the issue, but asked for a memorandum setting out the details of the challenge and the role that the RRA could play.

A year later, at the 1999 Annual General Meeting, the AIDS Law Project (ALP) addressed the RRA on the links between HIV&AIDS and reproductive rights, including issues of gender-based violence, the provision of post exposure prophylaxis after rape, and the limits placed on women's access to reproductive health by the fact that AZT, together with counselling etc., was not provided to HIV-positive pregnant women. A number of campaigns were suggested, again including consideration of legal action against the Department of Health on MTCT.<sup>50</sup> In considering its strategic options, the RRA resolved to '(c)ontinue focusing on choice by contextualising termination of pregnancy within a framework of HIV/AIDS and violence against women by making the links as to how these factors impact choice.'<sup>51</sup>

Their target audience in this would be pregnant women, rather than the state, engaging such women in education and information campaigns about the value of determining HIV status in pregnancy and educating them on transmission during pregnancy. Lobbying activities in relation to the state would focus on the package of reproductive health rights, including access to information, medical treatment and counselling for HIV-positive pregnant women.<sup>52</sup>

When the TAC was formed in late 1999, it took on the issue of preventing MTCT and the RRA did not engage in any active campaigning against government until the court case in 2001.

The RRA's cautious approach was due to several intersecting factors, including a pro-choice state, a diverse membership (which included state health workers and policy organizations that enjoyed a good relationship with the state), a segmented civil society with little tradition of taking on 'cross-cutting' issues, a limited focus on 'termination of pregnancy' and on educating women, rather than confronting the state. These factors also tended to reinforce the organizational and public divisions between AIDS and women's issues at this time.

### Rights struggles move to the court

The ALP and TAC had considered litigation as a possible strategy to secure ARV treatment for HIV-positive pregnant women for some years, but had continued to advocate for a national programme. However, as it became clear that advocacy and engagement with government were not securing HIV-positive pregnant women's rights to preventive treatment, litigation became a much more public option.

The government's failure to act decisively in the wake of positive drug trial results in July 2000 galvanized the Treatment Action Campaign into a public announcement that it would litigate to secure a national programme for preventing MTCT. Litigation did not commence immediately, as the fact that Nevirapine was not yet registered for MTCT was, at that stage, a fatal obstacle to a successful legal claim.<sup>53</sup> Even as TAC waited and planned for litigation, it also retained the hope that sustained national and international advocacy would still be successful.

Eventually the TAC and other parties launched a claim in the Pretoria High Court in August 2001. This is described below. Judgment was handed down in TAC's favour in

December 2001. The Court found that the policy of limiting the provision of Nevirapine to selected sites was unreasonable and a violation of HIV-positive women's and their children's rights of access to health care.<sup>54</sup> Government appealed to the Constitutional Court. In July 2002, this court handed down judgment which turned on the rights of access to health care for pregnant women and their new born children. The Court found the selective policy to be unreasonable and ordered the extension of the programme where there was capacity to do so.

In the next section, we explore how the rights claims were formulated and how women's rights, especially their rights to reproductive choice, were finally marginalized within the legal process.

The formulation of the case: the legal claims

In early discussions about litigation, attorneys in the ALP had focused on constitutional arguments relating to reproductive health and reproductive choice, drawing on international frameworks and the South African Constitution.<sup>55</sup> However, reproductive choice became a secondary claim as the case consolidated itself on paper and in court arguments.

In 2001, one of the country's top public interest lawyers was briefed on the case. In a lengthy discussion with ALP head and TAC secretary, Mark Heywood, the main rights claims for litigation were formulated and put into a letter of demand to the Minister of Health. Speaking of this discussion, Budlender noted that he was concerned to identify rights claims that would 'work' in court. He believed that the strongest claims related to the irrationality of the state in allowing ARVs to be freely used in the private sector (if one could pay for them) and to be limited in the public sector; and to the right of access to health care services, for children perhaps more than their mothers.<sup>56</sup> Budlender thus felt that the case was best pursued as an equality claim (based on irrational distinctions rather than gender discrimination) and a claim to health care services (based on children's rights to health rather than a claim to reproductive health care). Budlender admits that he did not understand the choice arguments that were put to him at the time, and felt that if he did not understand them, he would be unable to persuade a judge about them.<sup>57</sup>

This letter of demand was to set the terms of the arguments in the case, and was followed by the preparation of detailed court papers. Given the extent of the 'factual' dispute and the government's insistence that there was insufficient evidence of the safety and efficacy of the drug, as well as operational issues, TAC's legal team was anxious to document their case in detail. The documents on the factual issues were voluminous.

Ultimately, it was the nature of the organizations involved, the experience of the lawyers, the difficult political context and the nature of the legal process that determined the 'hierarchy of arguments' that was developed in the case. Although the court papers listed a series of rights, including the right to reproductive decision-making and to reproductive health, these rights were not given priority. TAC's lawyers felt that the strongest claim lay in the irrationality of a selective programme

of life-saving treatment for the prevention of MTCT, one that was confined to a few pilot sites.<sup>58</sup>

The court papers set out twelve violations of constitutional rights.<sup>59</sup> The first claim related to the state's failure to take reasonable measures within its available resources to achieve the progressive realization of the right of access to health care services (in violation of section 27(1)(a) of the Constitution). The core of this argument related to the unreasonable behaviour of the state in confining access to designated sites; and in thus 'arbitrarily and unreasonably denying medication even in circumstances where this is medically indicated.'<sup>60</sup> The case went on to argue that the confinement of MTCT programmes and the dispensation of Nevirapine to designated sites also entailed a violation of the rights to basic health care services for children; to dignity; equality; life and psychological integrity, including the right to make decisions regarding reproduction.<sup>61</sup>

The RRA enters the case as *amicus curiae* to protect choice

Within the main case, feminist lawyers increasingly felt there was no space to make choice arguments, and began to lobby potential *amici curiae* to do so.<sup>62</sup> Members of the RRA Legal Working Group took the issue to the RRA Members' meeting of September 2001, where it agreed to join the legal action by TAC on the basis that the government's failure to provide Nevirapine constituted a violation of women's reproductive rights. Thus the decision to enter the case was not as the lead player calling for universal provision of preventive treatment, but as a partner with specific goals of arguing the significance of women's choice within the broader struggle for ARVs led by TAC.

*Amicus* briefs have a special role in human rights cases. They have to raise new issues and cannot traverse legal arguments that are already being made by the parties in a case.<sup>63</sup> They are able to broaden the scope of the case, and as they are not limited by the need to make the best argument for the client, they may raise issues that involve wider questions of principle and precedent. For an organization such as the RRA, an *amicus* brief was an opportunity to demonstrate to the court why the provision of ARVs to HIV-positive women was a matter of reproductive choice, in addition to implicating other rights. It would also allow the RRA to promote ideas of women's agency and present reproductive choice arguments to a court, and to lawyers, who were generally not familiar with these arguments. A finding that reproductive choice was one of the bases for winning the case would set some precedent for use in later cases concerning reproductive choice, and might entrench positive images of women in the law.

In addition, gender equality legal activists were worried about the consequences of children's rights arguments for choice more broadly. Although the TAC case did not immediately raise a conflict between the rights of a mother and her foetus, there was concern that if the right to treatment was located in children's rights, pregnant women could be forced to take the anti-retroviral drug without their consent. The implications of such a holding could go much further, such as forcing pregnant women to submit to an HIV test before giving birth to determine whether treatment

was necessary, or to submit to other medical treatment. Ultimately, feminist lawyers were worried about a 'slippery slope' argument that would affect women's choice more generally and their rights to termination over time.<sup>64</sup>

There was thus a broader objective to the *amici* that went beyond the immediate case. This related to the idea of promoting transformative ideas of women, so that the rights would be interpreted in line with positive ideas of women and choice. The objective was to centre reproductive and sexual rights of women, and broaden the focus from women as mothers, to women as active moral agents, able to make important decisions about their bodies and the lives of their children.

#### *The RRA withdraws from the case*

Because the TAC had listed reproductive choice within its papers, although not argued it extensively, the RRA's preliminary application for *amicus* status was opposed by the state and turned down by the High Court. This meant that it would have to be set down for a verbal hearing. At this stage, the TAC lawyers asked the RRA not to proceed with its application as they were concerned court time allocated to the *amicus* might mean that arguments could not be completely canvassed and would consequently lead to a postponement of the case.<sup>65</sup> They argued that the political context was already problematic, and it had been difficult to obtain a court date. TAC's lawyers undertook to make the reproductive choice arguments, and invited the RRA legal team to assist in this. The RRA agreed and limited its involvement to some media advocacy around the case. No further collaboration took place on the legal arguments.

Some time after judgement had been delivered, RRA lawyers became aware of additional concerns about the RRA arguments. In particular, it became clear that the TAC legal team had not wanted arguments made in court that prioritized women's choice to the extent that it was suggested that women could refuse to take Nevirapine.<sup>66</sup> When interviewed for this report, two TAC lawyers admitted to a deep concern with women's choice arguments, especially if they raised the issue of women choosing not to take the drug.<sup>67</sup> One felt, at the time, that this would damage the force and simplicity of an argument that said 'children are dying unnecessarily'.<sup>68</sup> He also acknowledged that no-one in the legal team was able to demonstrate (at that time or earlier) why arguments for choice were important.<sup>69</sup> In retrospect, he felt that that arguments on time constraints were not justified, neither was the reasoning that worried about the consequences of choice arguments. However, he suggested that the politically charged nature of the case had led to a heightened level of anxiety amongst the TAC legal team. Their decisions needed to be understood in this context.

#### *Political messages of choice*

Although choice was not prioritized as a legal claim, it did retain some currency as a political claim in advocacy strategies accompanying the case. This was achieved through a partnership between the TAC and the RRA in some of their advocacy strategies around the case. Thus the RRA promoted a strong reproductive choice message:

*In its continuing efforts to uphold the reproductive rights of South African women and promote better access to reproductive choice, the RRA reiterates its support for the TAC .... The RRA believes it is a woman's right to make decisions about her pregnancy and future health of her child. This is protected by section 12 (2) (a) of the Constitution which states that women have the right to bodily and psychological integrity, including the right to make decisions concerning reproduction.<sup>70</sup>*

The media release located decisions about access to MTCT of HIV squarely within the idea of reproductive choice. Calls were made for immediate access to a full package of information and resources, including provision of Nevirapine. Together with TAC, the RRA also sponsored a series of posters promoting the issue of Nevirapine as one of choice.

TAC also used women's choice arguments to promote the case. In an appeal for global solidarity, TAC's slogan was 'Give women a choice! Give children a chance!' The media release stated 'The government has the resources and the opportunity to give women a choice to look after their own health and a chance to prevent their infants from becoming infected with HIV.'<sup>71</sup>

Thus women's choice was a more powerful claim in the global arena and in political messages around the case, rather than in the courtroom. This reinforces the argument that rights messages are often highly targeted and contextual.

#### What rights claims were made?

The various campaigns for a package of services to prevent vertical transmission of HIV, including ARVs, over a period of about five years, included a variety of rights claims by groups in civil society and by institutions within the state. Among these, only two were explicitly feminist – the RRA and the Parliamentary Committee on the Improvement of the Quality of Life and the Status of Women.

#### HIV-positive women wanting to access ARVs to protect their babies from infection

The primary group of rights claimants were HIV-positive women who risked transmitting the HI virus to their children while *in utero*, during labour and birth (the majority of cases) and through breastfeeding. Primarily this group was made up of women accessing the public health care system<sup>72</sup> outside of the Western Cape or the pilot sites established in 2001 (where ARVs were available). These women were thus likely to be black and poor, and disproportionately from rural areas. Already disadvantaged by gender, poverty, race and (often) geographic location, these rights claimants were further marginalized by the stigma associated with HIV status. Their voice was largely a represented one, through the health professionals, AIDS organizations (especially the TAC) and women's organizations who sought to advocate on their behalf.

In the court action, the TAC brought the application on behalf of itself and in the public interest, as well as 'on behalf of pregnant women with HIV/AIDS and women of reproductive age ...who cannot act in their own name because of poverty, stigma,

discrimination or a lack of knowledge of their HIV status or of the risk to their infants to be born' or who 'are or will be unable to obtain treatment with Nevirapine for themselves or, in due course, for their babies in the public health sector.'<sup>73</sup>

Insofar as TAC acted on their behalf in the litigation, the court papers (and surrounding media coverage) spoke of the motivations and experiences of some of these women. Thus Busisiwe Maqungo was an HIV-positive woman who had not known about AZT at the time of her pregnancy, and whose daughter also tested HIV positive. She had been told that her baby would die and that nothing could be done.<sup>74</sup> 'SH' knew her HIV status and knew about the use of Nevirapine for reducing the risk of transmission of HIV. She had been referred to Chris Hani Baragwanath Hospital where she was given a Nevirapine tablet and advised to take drops for the baby when it was born. However, she went into premature labour and was taken to Sebokeng Hospital by ambulance in July 2001, where she requested Nevirapine for herself and her baby. She was told that none was available and was thus unable to take it during labour. She tried to obtain some for her baby, but as he was premature, she was unable to take him to Chris Hani Baragwanath where he could have received the medicine.<sup>75</sup>

These were chosen as representative stories of women who were not informed about the possibilities of accessing preventive treatment, or who were unable to act on such knowledge because they were users of the public health system, which did not provide universal access. Underlying this is women's inability to choose, or to act in accordance with their choice. However, as discussed later, the context of these stories is less an affirmation of choice than an emphasis on women's vulnerability in the absence of state action/provision. These stories were not framed within an explicitly feminist paradigm. Instead women were presented as mothers seeking to protect their babies. The particular focus on children was a strategic choice in the context of the case, and it meant that there was little connection between motherhood and independent agency.

### The AIDS sector

As the epidemic developed in South Africa, the links between unequal gender relations and HIV&AIDS began to emerge. In the context of prevention, AIDS organizations, such as the ALP at CALS, identified two issues: the prevention of vertical transmission during pregnancy and the prevention of infection as a result of rape. When taken on in about 1997, the prevention of MTCT was already identified in the National Aids Plan – within the context of reproductive health. As the main 'gender' issue that was taken on by these organizations, the emphasis was on the choice of women to become mothers. Thus AIDS organizations located these claims in reproductive rights (choice and access to reproductive health care), but also within accepted government policy. The claims for programmes to prevent mother-to-child transmission were not explicitly feminist, nor were they tied to a more widely feminist discourse of reproductive and sexual rights.

As the issue became contested, the AIDS sector shifted its arguments for the provision of MTCT from reproductive rights and choice to the irrationality of the state and access to health care.

### The Treatment Action Campaign

With the formation of TAC, advocacy for affordable treatment for people living with HIV and AIDS became a major focus in the AIDS sector. Many of the key founders and leaders of TAC came from the gay rights movement and from among ANC activists. Their strategies drew on experience honed in struggles against apartheid and for gay rights. They cherished a strong belief in human rights and demonstrated particular skills in deploying rights as political and legal tools towards achieving their ends.

TAC soon took the lead in advocacy strategies of MTCT in a context where the question of anti-retroviral drugs came to dominate the political landscape on HIV and AIDS. TAC's treatment focus and its increasingly adversarial relationship with government on ARVs meant that the right of access to treatment as part of a wider health care right gained greater prominence as a rights claim during this time. Here the emphasis was on the denial of a right to treatment, as opposed to the denial of reproductive rights, including the right to have healthy babies. Civil society mobilization increasingly occurred around treatment rather than choice and reproductive rights issues. Thus access to ARVs became part of a wider struggle for treatment of people living with HIV and AIDS, rather than a political struggle for women's reproductive rights and health. In the end, TAC did not explicitly exclude choice and reproductive rights arguments. Rather, it shifted the emphasis.

A 'hierarchy' of rights thus became apparent in the way that the case was presented in court. The main emphasis was on irrational and unreasonable behaviour of the state in failing to extend treatment to all women, in order to save the lives of children.

The arguments on choice, although not prominent, focused on the manner in which the state prevented the exercise of choice.<sup>76</sup> Thus it was argued that the 'right to "make decisions concerning reproduction" must, at a minimum, include the capacity to take an informed decision about the risks flowing from mother-to-child transmission of the HIV.'<sup>77</sup> It was argued that HIV-positive pregnant women who give birth at a non-designated site were deliberately prevented from making such decisions because health professionals were precluded by state policy from prescribing and dispensing the crucial drug. It was also suggested that the non-availability of the drug meant that 'many poor women may effectively be coerced into deciding in favour of termination. This in itself constitutes a significant lack of control in relation to decisions concerning reproduction.'<sup>78</sup>

This is a negative conception of rights, seeking to prevent the state from interfering with women's exercise of decision-making. The emphasis is on the vulnerability of these women in the face of state policy. A more positive affirmation of women's agency would have had a different starting point. It would, firstly, have sought to develop the idea of women as agents and set out an expansive notion of reproductive choice. It would then have argued that the state limited that choice.

## The women's sector

### *Women's organizations*

Women's organizations have been slow to take up issues of HIV and AIDS in South Africa. Over time, women's reproductive health and rights organizations embraced the issue of prevention measures for mother-to-child transmission as part of a broader commitment to reproductive rights. However, there was no women's organization that engaged in sustained advocacy strategies on the issue of MTCT. To some extent, the issue was taken up within the reproductive rights sector within the broad context of reproductive choice by the RRA.

### *The Reproductive Rights Alliance*

In the late 1990s, the mandate of the RRA was to monitor the implementation of the Choice on Termination of Pregnancy Act and to engage in informative and educational campaigns about women's right to choice around termination. The RRA was explicitly feminist in promoting women's reproductive rights and in protecting their choices about pregnancy. The South African government's commitment to reproductive autonomy was highly valued by organizations advocating for reproductive rights. When lobbied by AIDS organizations to take a public stand against the Minister of Health's position on anti-retrovirals, the RRA decided to maintain its emphasis on 'choice' and to expose the manner in which HIV and AIDS, and violence against women impacted this choice.<sup>79</sup> It decided to do so by continuing to educate women and to lobby government, but not to confront it at that stage.

When the RRA later decided to join the case in 2001, it was on the explicitly feminist basis of promoting an idea of choice that was not only limited to termination of pregnancy, but was concerned with women's choice to give birth to healthy children within a wider promotion of women's agency. The founding affidavit of the RRA's application to join the case states that it did so to 'place sexual and reproductive rights at the political centre stage in dealing with the causes and effects of the HIV/AIDS epidemic.'<sup>80</sup>

The RRA argued that, although TAC listed at least twelve rights violations in their paper, the primary legal basis was that the failure to make Nevirapine available and to implement a comprehensive nation-wide programme for the prevention of MTCT of HIV was irrational and infringed health care rights of women and babies. Issues relating to the infringement of the rights to reproductive choice and decision-making were raised in bald terms and not extensively developed or relied upon. The RRA sought to argue that the 'foremost rights' infringements implicated in the application are a woman's right to freedom and security of the person, including the right to reproductive decision-making and access to reproductive health care.<sup>81</sup> In a statement that came to be viewed as controversial by TAC's lawyers, the RRA stated:

*Further, to the extent that the Applicants refer to the rights of children being born, this conception of the right to reproductive decision-making differs from that of the Applicant herein. To acknowledge a right of children being born is in conflict with a conception of reproductive choice which acknowledges that pregnant women have a right to chose whether to access treatment to prevent transmission of HIV/AIDS,*

*which includes the right to decline to do so. At all times the decision should be the decision of the woman alone, based on informed consent (para 15).*

It was this statement that set the RRA apart from the TAC. The RRA argued that choice lay with women alone, and this inevitably included the right to refuse treatment. TAC's view of choice was different. It promoted the right to obtain Nevirapine in the context of a recalcitrant state. Hence its view of the right was solely a negative one – the state should not infringe the right in this context. TAC's limited definition was shaped by a political context of hostility between it and the state; the RRA sought a more holistic and woman-centred view that was located in politics that sought to affirm women's agency.

#### Health workers/the medical profession

An important group that advocated for ARV therapy for HIV-positive pregnant women in the public sector consisted of doctors working in public hospitals with pregnant women and with HIV-positive children. Obstetricians were concerned about their ability to prescribe treatment that allowed pregnant women to reduce the risk of HIV transmission to their babies, while paediatric HIV doctors, who witnessed the preventable deaths of children, were predominantly concerned with the children's right to life.

The right of medical practitioners to act in accordance with their ethics and conscience was a key theme of this group. They argued it would be against their constitutional right to freedom of conscience and their ethical duty of clinical independence if they were 'to deny women the right to use anti-retroviral therapy to prevent mother-to-child-transmission of HIV.' The policy that restricted provision of ARV therapy to pregnant women to 'pilot' and 'research' sites denied women this right and undermined the doctor-patient relationship.<sup>82</sup>

While these arguments accepted the notion of choice, it was – again – in the context of women accessing these drugs based on the professional opinion of a doctor. Thus it was a limited assertion of women's rights.

#### The Minister and Department of Health

The state was committed to reproductive choice, and the programmatic issues relating to MTCT were located in reproductive health and AIDS programmes. Although formally a pro-choice state, the Minister and Department did not raise issues of choice at all. Rather, with its focus on ARVs, it raised questions about the safety and efficacy of Nevirapine and an operational capacity to roll out prevention of MTCT programmes.

Thus, the Department's emphasis on ARVs helped to create a context in which women's claims to choice and agency were marginalized.

## The Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women

The Joint Monitoring Committee on the Improvement of the Quality of Life and the Status of Women is a joint parliamentary committee established to monitor government progress on gender equality. In the second democratic parliament, this committee decided to investigate issues of poverty, violence and, HIV and AIDS as they related to women's rights.

In October and November 2001, while the case was in the High Court, the committee held hearings on the relationship between gender inequalities and HIV and AIDS.<sup>83</sup> One of the matters discussed was the question of MTCT, and the issues surrounding the government's delay in providing this in public sector hospitals. The committee unequivocally located this within the idea of choice:

*The Committee believes women must exercise their right to choice in relation to their own health after being informed fully of the benefits and side effects of ARV treatment, TOP, treatment for opportunistic infections, mode of delivery, breastfeeding vs. formula etc. The Committee recommends that this would give effect and help alleviate the plight of poor women.*

This report was an explicitly feminist voice. However, it was not taken up in civil society. The report was 'suppressed' in that it was not tabled in Parliament for debate, hence it did not become a public document and advocacy tended to focus on the fact of its 'suppression' rather than its contents.

### Analysis and conclusion

In an article written about the provision of ARVs to pregnant women to reduce the risk of HIV transmission, it was suggested that 'at the heart of the matter is a woman's right to make choices concerning reproduction'.<sup>84</sup> This paper has shown how an apparently simple and obvious rights claim can be dislodged in particular contexts. It also demonstrates how positive goals, in this case winning treatment for HIV-positive pregnant women and advancing the active citizenship of poor people, even of poor women, can be done in a way that leaves a critical objective unfulfilled – that of full citizenship for women who as a group continue to be subordinate and marginalized. Thus even when the results of a rights struggle are widely welcomed as a 'good thing', as was the case here, they carry significant gender implications. The paper suggests a number of reasons for this, including the nature of the political context, the degree of conflict, the changing role-players and the different interests each brought to the issue, the nature of the process and site of contestation, the state of civil society and its organizations, and the nature of the claim itself.

The changing political context and growing conflict was clearly a major factor in determining which claims and strategies were chosen to secure ARV treatment for HIV-positive pregnant women. As the political context changed, the claim shifted from women's reproductive health to focus on the irrationality of the state in limiting access, and the social right of access to health care. Indeed, as the issues became

more contested, and the behaviour of the state more irrational, the dominant concern seemed to go beyond a question of women's choice to a political worry about the irrational and unlawful behaviour of the state. Foremost in many people's minds was the question 'why?'. Why would the state refuse to provide globally accepted treatment? Political attention thus focused on the motives of the state, rather than the subjects of the right. In a climate of growing hostility, women's rights became secondary and then almost irrelevant.

Added to this was the fact that as government delayed, the number of people whose rights were visibly violated increased – that is more children were born with HIV who could not be 'saved'. This meant that the violation of children's rights became a stronger political and legal claim. Generally, the ongoing delay deepened and widened the nature and degree of rights violations and possible rights claims.

As a result, the lawyers focused on legal questions of irrationality and children's rights, rather than reproductive choice. Indeed, choice was seen as a 'dangerous' argument for the legal case, as it might imply the right of women to refuse the life-saving treatment for their children. The legal process thus further shaped public claims and relegated reproductive choice to the sidelines. In contrast, choice arguments retained some currency in the political arena, slightly removed from the central forum of the courtroom.

The emergence of a treatment-based rights movement within the AIDS sector was important in shaping the rights claims. It provided a driving force behind the case. However, this was not a feminist movement and its roots lay in other struggles (gay rights, anti-apartheid) that had not integrated feminist issues. At the same time, treatment and access to health care provided an 'umbrella' claim that potentially allowed different interest groups to insert their claims – women, people living with HIV and AIDS, health workers, child rights advocates. The focus on these generalized rights diluted the specifics of women's choice claims.

In contrast to this, the explicitly feminist claims of the RRA were based on a more radical notion of women's right to reproductive choice – that a woman choosing to have a baby had the right to choose to have a healthy baby. This claim constructed women as agents and decision makers. It also meant that the decision to take ARVs was solely that of the women on the basis of informed consent, and that women were also able to refuse such treatment. As shown in this paper, this claim could not be sustained. Instead, where choice formed part of this claim, it was a limited notion that only looked to women's choice for motherhood. The primary claims advanced by the legal team (and the parties to the case) merged the interests of women with those of safeguarding children's rights to health and of health professionals' rights to treat their patients. These claims constructed women as bearers of children, and as patients, rather than as active agents in their own right.

There were also reasons that lay within the women's movement and its level of strategy and organization. Firstly, this movement focused politically on equality rather than choice. Although it probably took choice for granted as the morally correct argument, there has been little work (after the passing on the Choice on Termination

of Pregnancy Act in 1996) on building a political discourse of choice. This was expressed by the RRA in minutes of its members' meeting of 2003, where it still identified the need 'to build a stronger profile around choice as a human rights issue.'<sup>85</sup> It went on to say that 'reproductive health and rights ... are integrally linked to the fight against HIV/AIDS and the RRA must position itself strategically within the broader movement to combat the disease at every level.'<sup>86</sup> However, this was not done by 2001, meaning that the claim by RRA was not widely supported by the women's movements in civil society. In addition, poor black women using the public health system were not organized on this issue. Had this been the case, a stronger assertion of choice might have been sustained. As it was, if these women were organized, it was around a broader treatment claim by TAC in which the provision of ARVs to reduce MTCT was only one aspect.

The choice argument was also unfamiliar and largely untested in court. (Male) lawyers did not understand the argument, and some actively discouraged the argument, citing it as unstrategic and inconvenient, detracting from the simple message of irrational governments or saving children. This was the case even though the RRA was merely making a supplementary argument at this time, not seeking to replace the main rights arguments with one based on women's choice. Choice arguments remained in the papers in a limited form. However, the marginalization of substantive choice arguments and of women's rights advocates from the case signifies the road that must still be travelled to instil women's rights claims into everyday life, and to see women as equal citizens, rather than trapped within their gender roles.

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## Notes

- <sup>1</sup> Ran Greenstein 'State, civil society and the reconfiguration of power in post apartheid South Africa', Wiser Seminar 28 August 2003, University of Witwatersrand, Johannesburg.
- <sup>2</sup> Steven Friedman and Shauna Mottiar, Rewarding engagement? The Treatment Action Campaign and the politics of HIV/AIDS, Centre for Policy Studies, 2004.
- <sup>3</sup> Pam Alldred 'Not making a virtue of necessity: Nancy Fraser on postcolonial politics'. In: *Storming the Millennium: the new politics of change* edited by Tin Jordan and Adam Lent, Lawrence and Whishart, London, 1999.
- <sup>4</sup> Many feminist commentators have argued that the term 'parent to child' rather than 'mother to child' should be used to describe vertical transmission of HIV. This avoids the stigmatization of mothers as vectors, and acknowledges that fathers may contribute to such transmission by infecting the mother. We use the latter term as it is the one that is most widely used, although we also use the term 'vertical transmission'.
- <sup>5</sup> It was estimated that 4.74 million South Africans between 15 and 49 years of age had become infected with the HI virus by 2001, the year in which the case first went to court. National HIV and syphilis sero-prevalence survey in South Africa Summary Report (2001) (Pretoria, Department of Health, Directorate: Health Systems Research, Research Co-ordination and Epidemiology 2002).
- <sup>6</sup> Ibid. 2.65 million women and 2.09 million men.
- <sup>7</sup> See National HIV and syphilis sero-prevalence survey, (Pretoria, Department of Health, 1998, 1999, 2000, 2001).

- <sup>8</sup> 24.5% of all pregnant women using public health facilities in 2000. National HIV and syphilis seroprevalence survey of women attending public antenatal clinics in South Africa 2000, (Pretoria, Department of Health, 2001).
- <sup>9</sup> Ida Susser & Zena Stein 'Culture, sexuality and women's agency in the prevention of HIV/AIDS in Southern Africa' *American Journal of Public Health* 90 (7:2000) 1048. This research was carried out in the South African province of Kwazulu-Natal where HIV prevalence rate is over 35%.
- <sup>10</sup> Kirsten Dunkle, Rachel Jewkes, Heather Brown, James McIntyre, Glenda Gray and Siohan Harlow Gender Based Violence and HIV Infection among Pregnant Women in Soweto. A technical report to the Australian Agency for International Development (2003) Gender and Health Group, Medical Research Council, 2.
- <sup>11</sup> Suzanne Leclerc-Madlala "'We do sex to have money": modernity and meaning in contemporary relationships', Paper presented at the South African AIDS Conference, Durban, 3-6 August 2003.
- <sup>12</sup> Barbara Klugman 'Sexual Rights in Southern Africa: A Beijing discourse or a strategic necessity' *Health and Human Rights* 4 (2000) 146; Suzanne Leclerc-Madlala 'Virginity testing: managing Sexuality in a maturing HIV/AIDS epidemic' *Medical Anthropology Quarterly* 15 (2001) 541.
- <sup>13</sup> Section 12 (2).
- <sup>14</sup> The Choice on Termination of Pregnancy Act, 92 of 1996; the Domestic Violence Act, 116 of 1998.
- <sup>15</sup> Catherine Albertyn 'Contesting democracy- HIV/AIDS and the achievement of gender equality in South Africa' (2003) 29 *Feminist Studies* 595.
- <sup>16</sup> Catherine Albertyn and Shireen Hassim (2003) 'The boundaries of democracy: gender HIV/AIDS and culture' in D Everatt and V Maphai *The real state of the nation* (2003) Interfund.
- <sup>17</sup> Annemarie Goetz Conceptual Paper on applied research for gender justice (2003) 3.
- <sup>18</sup> Sonia Alvarez (1989) *Engendering democracy in Brazil: women's movements in transition politics*: NJ: Princeton University Press.
- <sup>19</sup> Ministry of Health SA Demographic and Health Survey 1998 (Pretoria:1999).
- <sup>20</sup> EM O'Connor et al 'Reduction of maternal infant transmission of Human Immuno Deficiency Virus Type 1 with Zidovudine treatment' (1994) 331 *New England Journal of Medicine* 1173.
- <sup>21</sup> NA Wade et al 'Abbreviated regimens of Zidovudine prophylaxis and perinatal transmission of the Human Immuno Deficiency Virus' (1998) 339 *New England Journal of Medicine* 1409; N Shaffer et al 'Short course Zidovudine for peri-natal HIV-1 transmission in Bangkok, Thailand: a randomised controlled trial' (1999) 353 *The Lancet* 795.
- <sup>22</sup> The first results of a trial known as HIVNET 012 which tested the efficacy of a single dose of Nevirapine in reducing MTCT were released by the National Institutes for Health (NIH). L Guay et al 'Intra-partum and neonatal single dose Nevirapine compared with Zidovudine for prevention of mother-to-child transmission on HIV-1 in Kampala, Uganda: HIVNET 012 randomised trial' (1999) 354 *The Lancet* 795.
- <sup>23</sup> Glenda Gray et al 'Preliminary efficacy, safety, tolerability, and pharmacokinetics of short course regimens of nucleoside analogs for the prevention of mother-to-child transmission of HIV'. Paper presented to the XIII International AIDS Conference, Durban, July 2000.
- <sup>24</sup> South Africa's Strategic Plan on HIV/AIDS/STD 1995-2000 included the goal of reducing mother-to-child transmission under the priority area 'Prevention', (National AIDS Convention of South Africa A National AIDS Plan for South Africa (1994)); the 1998 Report on confidential enquiries into maternal deaths in South Africa recommended, inter alia, 'the selective use of antiviral therapy to prevent vertical transmission of the virus'. (Saving Mothers Report on Confidential Enquiries into Maternal Deaths in South Africa 1998 (Department of Health, 1999).
- <sup>25</sup> National AIDS Convention of South Africa A national AIDS plan for South Africa (1994) 66, 120-124. See also Founding Affidavit, 184, papers for Minister of Health v Treatment Action Campaign (2002) 5 SA 721 (CC).

- <sup>26</sup> M Heywood 'Preventing mother-to-child HIV transmission in South Africa: background, strategies and outcomes of the Treatment Action Campaign case against the Minister of Health' (2002) 18 SAJHR 278, 281
- <sup>27</sup> Joint Statement of the Minister of Health and TAC, 30 April 1999.
- <sup>28</sup> M Heywood 'Preventing mother-to-child HIV transmission in South Africa: background, strategies and outcomes of the Treatment Action Campaign case against the Minister of Health' (2002) 18 SAJHR 278, 281.
- <sup>29</sup> The details of this campaign were set out in a 'Memorandum Calling for Commitment, Action and Implementation of a Prevention and Treatment Plan' handed to the Minister of Health on 11 June 2001 (available at [www.tac.org.za](http://www.tac.org.za)).
- <sup>30</sup> Heywood, 281.
- <sup>31</sup> For an 'insider' view of the contestations around the provision of anti-retroviral drugs to HIV positive women in South Africa to reduce MTCT, see M Heywood (2002).
- <sup>32</sup> Heywood 282.
- <sup>33</sup> Heywood (2002) citing Thabo Mbeki 'Address to the National Council of the Provinces' 28 October 2001 (available at [www.anc.org.za/ancdocs/history/mbeki/1999](http://www.anc.org.za/ancdocs/history/mbeki/1999)).
- <sup>34</sup> Ibid. This report was issued by the Medicines Control Council in late 2000. Its internationally supported review of AZT concluded that benefits of its use outweighed risks. According to Heywood, this report was initially rejected and sent back to the MCC for further work, and then later ignored (283).
- <sup>35</sup> Heywood 281-282.
- <sup>36</sup> Ibid 282.
- <sup>37</sup> Ibid 286-287.
- <sup>38</sup> For example, Joint United Nations Programme on HIV/AIDS (UNAIDS) Technical Update 'Mother-to-child transmission of HIV' (September 2000); UNAIDS press release 'Preventing mother-to-child HIV transmission: technical Experts recommend use of Antiretroviral Regimens Beyond Pilot Projects' (25 October 2000).
- <sup>39</sup> Heywood, 289.
- <sup>40</sup> Shamim Meer, Which workers, which women, what interests? Race, class and gender in post apartheid South Africa, paper presented at conferences on Reinventing Social Emancipation Portugal 2001.
- <sup>41</sup> Thabo Mbeki, 9 October 2003, address to the Black Management Forum.
- <sup>42</sup> Steven Friedman & Shauna Mottiar, 'Rewarding engagement? The Treatment Action Campaign and the politics of HIV/AIDS. Centre for Policy Studies 2004.
- <sup>43</sup> Ibid.
- <sup>44</sup> Ibid.
- <sup>45</sup> The internal mass movement struggling against apartheid in the 1980s.
- <sup>46</sup> Friedman for example in his review of TAC is preoccupied with numbers of women in leadership and implies that this is TAC's concern as well. The failure of any of the commentaries on the PMTCT campaign either from within TAC or outside to problematize the gendered implications of the campaign seem to confirm this.
- <sup>47</sup> Shireen Hassim 'A virtuous circle? Gender equality and representation in South Africa'. In: John Daniel, Roger Southall and Jessica Lutchman (editors) State of the Nation: South Africa 2004-2005 (2005) 336. Also at [www.hsrapress.ac.za](http://www.hsrapress.ac.za).
- <sup>48</sup> Minutes of the Annual General Meeting of the Reproductive Rights Alliance, Johannesburg, 30 October 1998. On file with C Albertyn.
- <sup>49</sup> Minutes of the Annual General Meeting of the Reproductive Rights Alliance, Johannesburg, 30 October 1998. On file with C Albertyn.

- 50 Minutes of the Reproductive Rights Alliance, Johannesburg, 6 August 1999. On file with C Albertyn.
- 51 Ibid.
- 52 Ibid.
- 53 Heywood, 290.
- 54 Minister of Health v Treatment Action Campaign (2002) 5 SA 721 (CC).
- 55 Interviews Liesl Gertholtz and Anita Kleinsmidt (lawyers with the Aids Law Project during the case); CALS Annual Report, 1999, p 14
- 56 Thus Budlender thought s 28 was more important than s 27.
- 57 Interview, Geoff Budlender, 27 October 2004.
- 58 Budlender, Senior Counsel, Gilbert Marcus, 28 June 2005.
- 59 Paras 1.2-1.7.
- 60 Related claims included a violation of section 195 of the Constitution which requires that public administration must be governed by the democratic values and principles enshrined in the Constitution including, inter alia, “a high standard of professional ethics” and the requirement that “peoples’ needs must be responded to”. Also, a violation of Government Notice 657 which mandates the rendering of “all available health services” to pregnant women and children under the age of 6 years.
- 61 Sections 28(1)(c); 10; 9; 11 and 12(2)(a).
- 62 Interview L Gertholtz and A Kleinsmidt, previously of the ALP.
- 63 Rule 16, Rules of the High Court.
- 64 Hallie Ludsin, memo ‘A Pregnant Woman’s Right to Refuse Medical Treatment’ 23 October 2001.
- 65 Interview, Coriaan de Villiers, RRA attorney.
- 66 C Albertyn, personal knowledge.
- 67 Geoff Budlender’s views were confirmed by senior counsel, Gilbert Marcus, 29 June 2005.
- 68 Budlender, interview, 27 October 2004.
- 69 Ibid.
- 70 RRA, Media Release, 21 November 2001 “Reproductive Rights Alliance supports Treatment Action Campaign in Court action’.
- 71 Message sent out on reproductive health list serve: (19 November 2001).
- 72 About 25% of women presenting for ante-natal treatment and/or delivering babies in public hospitals were testing HIV positive by 2000.
- 73 Heads of argument, Treatment Action Campaign, para 2.2 (Minister of Health v Treatment Action Campaign (2002) 5 SA 721 (CC).
- 74 Heads of argument, para 4.17.
- 75 Ibid para 4.20.
- 76 Ibid para 4.4.1-4.45.
- 77 Ibid.
- 78 Ibid.
- 79 Ibid.
- 80 Founding affidavit, application of Reproductive Rights Alliance to enter case of Minister of Health v Treatment Action Campaign.
- 81 Ibid para 15.
- 82 Heads of argument, para 9.8; Founding Affidavit: Saloojee, Vol 3 pp 531-532 para 31.
- 83 L Denny ‘How best can South Africa address the impact of HIV/AIDS on women and girls?’, presentation to the Joint Monitoring Committee on the Improvement of the Quality of Life & Status of Women.
- 84 Jonathon Berger ‘Taking responsibilities seriously: the role of the state in preventing transmission of HIV from mothers to their unborn children’ (2001) 5 Law, Democracy and Development 163 at 165.

<sup>85</sup> Minutes, RRA General Meeting held on Friday 14 March 2003 at the Holiday Inn, Johannesburg International. In addition, as early as 1999, the RRA had noted capacity problems in terms of achieving a shift to encompass issues of gender based violence and HIV/AIDS and had identified the need for a strategic team to guide this work.

<sup>86</sup> Ibid.

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**Interviews:**

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## **2 Talking rights or what is right? Understandings and strategies around sexual, reproductive and abortion rights in Nicaragua**

The 1990s witnessed the 'rise of rights' (Eyben 2003) as many organizations and international development agencies adopted some form of 'rights-based approach' to development (Molyneux and Lazar 2003; Piron 2005). While the rights-based approach has not been without its critics (IDS 2005; Molyneux and Cornwall 2008; Tsikata 2004) the potential of rights for increasing recognition of women's demands as legitimate claims has made it particularly attractive to women's movements, and some of the most effective organizing over the past twenty-five years has been around rights-related claims (Antrobus 2004; Ruppert 2002). In line with this, new 'rights', such as the rights of the child or a woman's right to live without violence, have become enshrined in international agreements. However, these rights remain contested and recent events at global and local level are witness to an encroachment on the gains made. In particular the lack of gendered rights, rights related to gender inequality and women's autonomy, within the Millennium Development Goals has caused concern among feminists and gender activists (WICEJ 2004). In Nicaragua, the recent repealing of the law permitting 'therapeutic' abortion has highlighted the growing encroachment on rights by the state and the church and brought the language of rights and competing notions of rights once again to the fore.

This paper explores how women's rights are being produced and reproduced in the Nicaraguan context and in the light of the recent change to the abortion law. It highlights differences in understandings of rights, not just between the state and/or its associated actors on the one hand and the women's movements on the other, but also within the women's movements. At the same time the paper notes similarities in the discourses of apparently very diverse actors, in that they have limited engagement with ideas of women's autonomy and freedom to choose as a 'right'. The paper suggests that a common understanding of what constitutes gendered rights, even between women activists, cannot be assumed. The paper draws on a number of research projects conducted by the authors for the Nicaraguan feminist NGO, Puntos de Encuentro, around rights. In particular it draws on a series of interviews with women leaders and an internal reflection process undertaken in Puntos in 2005 (Bradshaw 2006; Bradshaw and Criquillion 2007) and on more recent semi-structured interviews with Nicaraguan women and focus group discussions with NGOs working for gender equality, undertaken during the summer of 2007 (Castillo and Wilson 2007; Wilson and Castillo 2007).

## Women's rights as contested rights

The concepts of reproductive health, reproductive rights and sexual rights were popularized during the 1980s and 1990s especially in United Nations conferences (Petchesky 2000). Reproductive health as promoted by the International Conference on Population and Development (ICPD) Platform of Action (POA) focuses on ensuring 'complete physical, mental and social well-being' in all matters related to the reproductive system, including a satisfying and safe sex life, the capacity to have children and freedom to decide if, when and how often to do so. Reproductive rights are generally discussed in relation to the ability and knowledge of couples and individuals to decide 'freely and responsibly' the number, spacing and timing of children. While there is a less universally agreed definition of 'sexual rights', this generally relates to freedom to express sexuality, enjoy sexual relations and enjoy sexual health. Those who see the purpose of sexual relations as procreation rather than pleasure may, of course, contest the idea that the ability to 'pursue a satisfying, safe and pleasurable sexual life' (WHO 2007) is a 'right'.

Perhaps the most contested of all women's rights are those rights associated with abortion. Discussion around when life begins has been a key element of the debate particularly in the West (Copelon et al 2005; Hessini 2005). Those who have adopted the label 'pro-life' focus their energy on presenting the foetus as a living being from the point of conception with all the individual rights that 'life' brings, thus constructing those who do not support them as 'anti-life', or even anti-baby or anti-child (Tan 2004). This is a strong discourse that finds resonance with many, and the rights of the 'unborn' are increasingly being recognized in both moral and legal terms. In legal terms, in 2004 President Bush signed the 'Unborn Victims of Violence Act', which allowed for a person who inflicts violence on a pregnant woman to be tried separately for injuries caused to the woman and the foetus, and in effect gave the foetus independent legal status. Similarly, Article 148 of the Nicaraguan Penal Code suggests a prison sentence of 2 to 5 years for those who cause injury to an unborn foetus. In moral terms the movement to recognize the 'Day of the Unborn Child' has grown in recent years to include a large number of Latin American countries, including Nicaragua. It began in El Salvador in 1993, when March 25th, the Catholic feast of the Annunciation when angels were said to have announced to the Virgin Mary that she was pregnant with Jesus, was pronounced the 'Day for the Right to be Born'.

The Universal Declaration of Human Rights (UDHR) begins in Article 1 by noting that 'all human beings are born free and equal in dignity and rights'. For some this is taken to mean that human rights begin from birth and that, therefore, the foetus has no 'human' rights. While an unborn foetus is not covered by human rights conventions, nor is a woman's right to abort an unwanted foetus enshrined in any international agreement, including the ICPD. For this reason 'pro-choice' campaigners often seek to construct abortion rights as part of a broader reproductive health agenda, resting on a woman's right to make choices over her own body or bodily integrity. However, as Kulczycki (2007) notes of Mexico, the realization of this right is hindered by the fact that the majority of the population or even many health care providers are not aware of the concept of reproductive health.

Abortion is also not always an indicator of women's ability to exercise sexual and reproductive rights. For example, a study from India, where abortion was legalized in 1971, found that women who sought abortions were more often those who were not allowed by their partners to use contraception and/or those coerced into sexual relations by their partners (Ravindran and Balasubramanian 2004). Abortion was then 'chosen' when an inability to exercise sexual rights, to choose not to have sex, or reproductive rights, to choose contraception, led to an unwanted pregnancy. The discourse of pro-choice groups is often an apologetic discourse, promoting contraception as always preferable to abortion. Abortion is presented as a last resort, a tragedy that women regret, rather than a positive choice a woman may make. As Løkeland (2004: 172) notes, even when the legal right to abortion is won, the moral right is often still not accepted and a woman has to 'say sorry' and have doubts about her decision to have an abortion to be regarded as a 'moral person'.

### Understandings of women's rights in Nicaragua

Interviews with representatives from women's groups and organizations in Nicaragua in 2005 highlighted the importance of rights and a rights discourse for their work. However, the interviews also highlighted a reluctance to be labelled as a rights-based organization and demonstrated a healthy cynicism for the transformative capacity of rights based approaches alone, stressing the need for a continued explicit focus on power, and challenging unequal relations of power (Bradshaw 2006). Sexual rights and reproductive rights were seldom mentioned spontaneously or articulated explicitly during the interviews. The right most often mentioned was a woman's right to live without violence. This may reflect the fact that the Network of Women Against Violence is one of the most well established and well respected networks in the country. It may also reflect the fact that this right is a readily understandable and concrete right backed by an international human rights framework and by national law.

Recent focus groups with a number of women's organizations looked specifically at reproductive and sexual rights (Wilson and Castillo 2007). The discussions suggest that reproductive rights are not always articulated in terms of reproductive health and the right to 'complete physical, mental and social well-being', but rather that a more narrow focus is adopted. The discourse around reproductive rights often focuses on the right to decide how many children to have and when to have them, and the right to limit sexual activity with a male partner and to use contraception. However, a woman's ability to limit sexual intercourse or to use contraception when her partner did not want to was recognized as something that was difficult to achieve, even for those women working on the issues. While a woman was seen to have the right to make these choices, if making such a choice resulted in conflict with her male partner, then exercising this reproductive right was actually seen to limit her wider well-being, if not rights.

The ability to fulfil reproductive rights and what fulfilment means was also questioned in relation to material well-being and poverty. While poverty was seen to be a factor that limited a woman's ability to fulfil reproductive rights, women's economic condition was not discussed within a rights discourse, but rather a discourse of need. Economic rights in particular were generally not recognized as 'rights' but rather discussed within a basic needs framework.

This competing discourse of needs and rights is evident in a number of areas. The right to live without violence is a hard won legal right in the country. A law against violence against women exists, Law 230, and the liaison work of local police and women's groups is seen as an important achievement in the country (Clulow 2002). However, questions over the extent to which achieving a legal right actually allows rights fulfilment were raised. The representative of one organization interviewed in 2005 noted the importance of women in situations of violence using the judicial system to claim protection and justice (Bradshaw 2006). However, at the same time limitations to making a claim on the legal system were noted, both in terms of the belief that the system could protect the woman and in terms of what this 'protection' means. In order to escape violence women need more than a law, they need to be able to live independently, and more importantly to believe they can live independently. This, she suggested, means the need for a complementary focus on psychosocial services and economic skills training. The suggestion was that it was better to provide the conditions that allow a woman to avoid the violation of the right, rather than to try to claim the 'right' once violated. The conditions that allow women to avoid rights violations were presented more as needs than rights, such as the need for employment that would allow economic self-sufficiency.

The lack of an explicit rights discourse is also apparent when young women are being discussed. The discourse of the women's organizations involved in the focus groups often centred on the risks related to and the responsibilities associated with young women's sexual activity, rather than their right to enjoy sexual relations. One organization noted how society in general did not see sex outside of procreation as socially acceptable, particularly for the young, meaning that motherhood provides the only legitimate context for youthful sexual relations (Castillo and Wilson 2007). There is a continued idealization of motherhood by the church and the state in Nicaragua (Bradshaw 2008) and the exercise of rights needs to be understood in this context and linked to local cultural ideas about being a woman, a wife and mother.

The women interviewed by Castillo and Wilson appeared to privilege the rights of the man to become a father over the right of a woman to decide not to be a mother. Women spoke of the need for a woman to give a man a child and saw decisions (of others) around seeing a pregnancy through to term or not being influenced by the presence or absence of the future father. The inherent desire to have the child in a context when women are only valued as mothers may mean that doubts over a late period is imagined as a pregnancy, and pregnancy is automatically understood in terms of motherhood. This results not only in a related construction of fatherhood and the granting of rights to the would-be father from an early stage, but also the very early personification of the foetus. This is a phenomenon noted in other strongly Catholic countries (Tan 2004) and one not limited to women, but promoted also by the medical profession and doctors whose first reaction is to suggest a new 'mother' listen to the heartbeat of the new 'life', for example. The issue of when life begins is key in the West for establishing the hierarchy of the rights of the woman and the foetus. However, women's organizations in Nicaragua appeared reluctant to enter into the debate, suggesting that in doing so they would have 'already lost the battle' (Castillo and Wilson 2007: 20). In this context, when it comes to understanding of when

life begins, moral and religious arguments are recognized as stronger than legal precedent and scientific fact.

### The threat to women's rights

The influence of religion, not only on national governments but also international policy making, has been an issue of concern for feminists in recent years (Kerr, Sprenger and Symington 2004). Htun (2003) notes, while conflict between governmental and hegemonic religious institutions may facilitate reform in the direction of gender equality, cooperation between the two works to limit such change. Nicaragua provides a good example of how cooperation between governmental and religious institutions may not only limit gender equality, but may also reverse advances made.

The church is increasingly assuming the language of rights. Backed by the moral authority that organized religion brings, the rights they promote are presented as based in 'tradition', and therefore as 'natural' and 'right', making it a difficult discourse to challenge. The discourse not only promotes some rights over others, but also seeks to negate the existence of other rights, such as sexual and reproductive rights. So for example in Nicaragua, a state-sponsored sex education manual was withdrawn from schools after the church objected to its use of the phrase 'sexual and reproductive rights' in the introduction, since these are not rights recognized by the church. Similarly, the Ministry for Education, when justifying prohibition of the promotion of condoms in secondary schools as a practice that would encourage promiscuity among young people, noted how sex finds its 'best expression' only within marriage and suggested that sex outside marriage produces only 'street children and AIDS' (cited in Pizarro 2004, author's translation). This effectively negated the 'right' to pursue a satisfying, safe and pleasurable sexual life.

Perhaps the best example of how religion is influencing government policy in Nicaragua is the recent change to the law on abortion, overturning the right to therapeutic abortion established since 1893 (Lopez-Vigil 2007). The law as it existed allowed abortion in the case of approval from a committee of three doctors and with the consent of the spouse or nearest relative of the woman in cases where the pregnancy endangered a woman's life. In all other cases abortion carried a sentence of 1-16 years in prison. Those against abortion asserted that the provision for therapeutic abortion enables pro-choice groups to broaden the interpretation of 'therapeutic' and to abuse the system. However, McNaughton et al (2002: 112) highlight how therapeutic abortion had practically ceased to exist in Nicaragua after 1990, with only 5 requests a month being received for authorization at the largest maternity hospital. A review of hospital records in 2000 showed that not one authorization had been given since 1997.

The attack on therapeutic abortion was not limited to arguments over numbers, it questioned the concept itself. In 2000 the Nicaraguan Medical Association distributed a statement to legislators in the National Assembly asserting that there were currently no medical conditions that required abortion as a life saving measure for a pregnant woman. In a subsequent newspaper article, the president of the Association is quoted as saying 'abortion does not cure any illness, what it does is kill a human

being', a thought echoed by the Nicaraguan Cardinal Miguel Obando y Bravo when stating that '...the elimination of a child, in order to protect a woman's health, is never justified' (cited in McNaughton et al 2002: 114). The then president of Nicaragua added to this discourse through drawing explicitly on rights when announcing his intention to recognize the Day of the Unborn Child, noting that 'the right to life is the first of the human rights' (cited in White 2006).

That a bill to change the law on abortion should be proposed is perhaps not surprising in this context. What is of greater interest is the timing of the bill. The bill was fast-tracked through the assembly during the run-up to the elections at the end of 2006. Before the vote in the assembly, the churches of the country united and were able to mobilize large numbers of people to publicly support the bill. The largest rally saw 200,000 participants gather in front of the Cathedral in the capital Managua. When the vote came in it was backed by four of the five main parties contesting the elections, including the party in power and the 'revolutionary' opposition party that gained power. The only party to vote against the bill, the reformist Sandanista party MRS, suffered an electoral backlash as religious and moral messages became mixed with political campaigning. That the church could force the bill through at this time shows their strength. That the key political actors would allow them to do so shows their reliance on the church and their willingness to use women's rights as a political bargaining tool for electoral success (Bradshaw and Criquillion 2007).

### Defending women's rights

The aim here is not to detail the actions of the women's movements and the issues their actions raise around their ability to promote women's rights, as this has been discussed elsewhere (Bradshaw 2006; Bradshaw and Criquillion 2007). Rather, the focus here is on the type of response adopted in the face of the change in the abortion law and the use of rights discourse within this response.

One of the leading and most vocal groups around the issue of abortion has been the relatively new grouping the Autonomous Women's Movement (MAM). One important tactic adopted by MAM since its constitution has been to question who promoted the change in the law, and more explicitly to question the role of the church in politics. In particular they, and others in the women's movements, have questioned whether Nicaragua can still be called a secular state. While this is a valid question, as Lopez-Vigil (2007) notes, the people of Nicaragua have not been educated by the church nor successive governments to understand what 'secular' means and as such to think about what should be the role of God in society. CSR Austria (2004) also questions the utility of focusing on ideas of 'non-establishment' (of a state religion) and separation (of the church and the state) when challenging state restrictions on women's reproductive rights. Her analysis of the Philippines, where some interesting parallels with Nicaragua can be drawn, suggests that framing the issues in these terms may sideline the real issue, mistaking the separation of the church and the state as an end in itself rather than a means to an end – the end being to further women's rights.

The women's movements have utilized the language of rights when stating their case in and to the public. The MAM, for example, utilized the national press to state that in

countermanding therapeutic abortion, the Nicaraguan government would become a 'violation of rights' (El Nuevo Diario 2004, authors' translation). In this piece, readers were asked to reflect on 'where are women's and children's rights in this country?' It concluded with a demand that government fulfil national and international agreements focused on the protection of the human rights of women, children and adolescents. A more recent campaign by those protesting the ban sought to link abortion to the right to wider health care or the right to treatment when life is threatened. A parallel campaign highlights the consequences of the lack of safe abortion for the wider family, and the consequences for the family and family unity when lack of access to legal therapeutic abortion results in the death of a mother. At the same time, more personalized campaigns have targeted the newly elected president Ortega, with the MAM web page suggesting that he is a violator of rights and 'an emblem of sexual abuse and masculine impunity' and as such an affront to 'national dignity' (authors' translation).

While the call to recognize internationally agreed human rights conventions might provide some legal support for the case, such rights are little known by the general population in the country and little heeded by successive governments. Moreover, the actions presented as rights violations by women's groups, such as violence in the home, are often not perceived as such and instead are justified as being a characteristic of male behaviour and as something women have to put up with. This suggests that the tactic used elsewhere, to promote reproductive rights through asserting a woman's right to non-interference or the right of citizens to privacy and bodily sovereignty (Teklehaimanot 2002), may find little resonance with the general public. However, the focus on the fragmentation of the family that may arise when therapeutic abortion is not available may have greater resonance, as it draws on the same discourse as the church around family values. Similarly, presenting abortion as a treatment rather than a choice allows the groups to draw on the wider discourse of the duty of the state to protect the lives of its citizens, including women who are vulnerable to the fatal consequences of no or unsafe abortions. However, while these two tactics may 'work', they may do so precisely because they by-pass discussions of women's rights to choose and issues of power and power relations within these choices.

The assertion of the need to protect women's lives also only works in a context where lives are seen to be under threat, and as noted above, the Nicaraguan Medical Association has questioned this. Despite this, the women's movement found perhaps their greatest allies among the medical profession. Focus groups with physicians highlighted that the majority believed there were situations where a woman's life could be in immediate danger from a pregnancy and saw this as medical grounds for an abortion, although many stated they would not perform an abortion themselves (McNaughton et al 2002). The Society for Obstetrics and Gynaecology suggested a change in terminology to defuse the arguments that there were no conditions where abortion should be prescribed as curative or therapeutic, and suggested the use of 'abortion for medical reasons' as a clearer term. They also suggested an amendment to the article regulating therapeutic abortion to begin with the words 'abortion for medical causes will be determined scientifically by three medical specialists...' (cited in McNaughton et al 2002). This puts the focus firmly on medical rationales for

abortion and scientific proof or professional judgement, and once again moves away from a discourse of women's rights.

Joffe et al (2004) analysing the alliance between medical professionals and feminist activists campaigning for legalization of abortion in the US, note the tensions that emerged between the feminist view of abortion as a women-centred service and a further medicalize or professionalize abortion services. The final ruling in the Roe v. Wade case that legalized abortion in the US made clear how the court saw the situation; '...the abortion decision in all its aspects is inherently, and primarily, a medical decision, and basic responsibility for it must rest with the physician' (cited in Joffe et al 2004: 781). As Joffe et al note, women do not have the actual right to get an abortion, only the right to choose to seek an abortion. Similarly, with therapeutic abortion the 'rights' granted to women to make choices over their own bodies are limited. A woman's rights are limited to seeking an abortion, while the right to decide over executing an abortion lies with the medical profession. As such, focusing on therapeutic abortion may be seen to be a step back for women's movements, a return to a focus on women's needs rather than their rights, as demands focus on women as victims with needs to be dealt with, rather than on claims to women's right to control over their own bodies.

#### Therapeutic abortion - the wrong right?

Since the change in the law, collective actions of women's groups and movements have been directed toward re-establishing access to therapeutic abortion. Kulczycki (2007) notes how in Mexico also women's groups and movements have taken a 'less direct path' when asserting rights around abortion and in this case, for example, rather than demand the liberalization of abortion per se, they concentrated on negotiating the decriminalization of abortion. However, this led to debate within the movement around the extent to which this is the best course of action. Similarly, one question that has been asked by some women's groups in Nicaragua is the extent to which energies are being misdirected or the extent to which the 'right' to therapeutic abortion is the wrong right to be promoting. The intention here is not to question the valiant actions of individual women and women's organizations, often in the face of personal and collective danger, but to raise some issues around rights and the extent to which the discourse is a rights discourse in this context.

The rationale for the focus on therapeutic abortion, other than the immediate need to address the issue if women's lives are not to be lost, is that there is greater agreement around the issue than around abortion per se. It is suggested that therapeutic abortion provides an entry point to discuss the topic with the general population, with medical professionals, NGOs, and also within the women's movements. For example, The Women's Health Agenda of 2004 included support for (then still legal) therapeutic abortion. Endorsed by a large number and a diverse range of women's groups, it demonstrated general agreement on therapeutic abortion and its potential as a rallying point for collective action. Ultimately however, large-scale collective action could not be achieved and there was further fragmentation of the women's movements with new groupings emerging. This could be due to the tactics adopted by MAM in particular to further women's claims, most notably their overt support for the MRS during the

recent electoral campaign (Bradshaw and Criquillion 2007). It could also, however, reflect differing views on abortion within the women's movements and how far each group and individual is prepared to support claims to therapeutic abortion as a 'right'.

Abortion remains a taboo topic in Nicaragua, as in many countries, and one that is rarely discussed openly. The study by Castillo and Wilson (2007) found that women did not feel the topic to be one for even intimate discussion. One interviewee noted she would not talk to her daughter about abortion; contraception yes, avoiding pregnancy also, but not abortion. She saw abortion as something to be raised only if someone becomes pregnant and does not want the child. Moreover, the study found that this silence around the topic applied also to women who work with women, and within women's organizations there was a lack of engagement with the topic in their day-to-day work, especially work with young women.

This is interesting, since all the women interviewed in the study could recall the first time they had heard mention of abortion and all were young at the time. The context in which abortion was mentioned was also always negative. The lack of subsequent discussion meant that a more balanced view was never obtained and abortion continues into later life to be constructed as something negative, even among those who work within or are part of women's organizations. The silence, as much as the discourse around abortion, shows the unease felt by many about 'supporting' women's right to abort.

To some extent the points raised in the focus group discussion echoed those of the conservative right, to the extent that some questioned the necessity for abortion. This questioning related to the increasing availability of other family planning alternatives that should, it was suggested, mean less need for abortion. Concerns were expressed that abortion may be seen as an alternative to other forms of family planning, and of abortion becoming 'normal', particularly among the young. This echoes apparent concerns in the ICPD POA, where the only explicit mention of abortion says that abortion should not be seen as a replacement for contraception, and raises questions around the extent to which there is acceptance of women's 'right' to have access to all information and services that allow them to make informed decisions on the timing and spacing of children. More generally, the need for reproductive decisions to be made 'responsibly', particularly among the young, appears to have been stressed more than the idea these should be made 'freely'.

Abortion as an unconditional right is not the dominant discourse even within some women's organizations and rather acceptance of the right to abort was dependent on other conditions being fulfilled. One organization highlighted that to talk about the right to abortion in isolation may be of little value, suggesting abortion can only be raised with women once an understanding of a woman's right to make choices over their own bodies has been achieved, and the conditions for this established. If these conditions do not exist any discussion of abortion may be meaningless. More generally, however, the 'conditions' necessary for discussion of abortion were not rights related but rather related to the specific conditions of the potential mother's situation. Abortion when a 'child' becomes pregnant and when a woman's life was at threat have greater acceptance than other cases, even rape, since having the child in

the latter case does not mean the woman would die but does mean she would 'kill' a child (Castillo and Wilson 2007: 11).

In the West the point at which life begins has been a key issue in the debate around abortion and in determining the relative strength of the 'rights' afforded to the mother over the foetus and vice versa. In contrast in Nicaragua discussion around abortion has tended to focus on the conditions that allow abortion to be tolerated. Such an approach fits much more comfortably with the scientific discourse of therapeutic abortion as a medical need, compared to the feminist discourse of abortion as a woman's right. However, as Løkeland (2004) notes, 'if the moral right is not won, it is easier for the anti-choice movement to undermine the legal right.' The discussion presented here suggests that even among some women activists, the 'moral' right to abortion may not have been won in Nicaragua and this may help to explain the limited capacity to resist encroachment of legal rights to abortion.

## Conclusion

The potential of rights for increasing recognition of women's demands as legitimate claims has made it particularly attractive to women's movements. However, while there have been some major advancements, such as the recognition of violence against women as a rights violation, gendered rights remain contested rights. The extent to which reproductive, sexual and abortion rights are recognized and how they are understood differs among actors, including those within women's movements. How these 'rights' are understood also appears to differ according to the group potentially claiming the rights. The discourse around young women appears to focus more on the reproductive than the sexual, and is a discourse of responsibility and risk rather than rights. In terms of abortion the specific condition of the woman involved is what determines the extent to which abortion is seen to be the 'right' thing to do.

The recent focus on therapeutic abortion means that the discourse of abortion is not so much a discourse of rights but rather what makes abortion alright, and the focus has shifted from rights to need. However, this is not entirely due to the medicalization of the debate and may rather reflect the fact that this needs focus sits more comfortably within women's groups and movements given that, even here, the right to abortion is not accepted by all to be the right of all women. The focus has been on establishing the legal right to therapeutic abortion under specific mitigating circumstances rather than attempting to establish a woman's moral claim to make choices over her own body. There is some coherence in the discourses of the apparently very different actors in the debate over therapeutic abortion, as individual women are not constructed as the autonomous subject of rights, but rather this discourse is centred on collective social responsibility and gendered social norms. The therapeutic abortion discourse includes women judging other women to establish what is seen to be the right circumstances for abortion, as well as doctors making judgements on individual women seeking abortion. This raises issues over power and unequal relations of power that need to be addressed if women's autonomy is to be promoted.

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### **3 Leaving our fears behind: women claiming rights after the Bhopal Gas Disaster. A case study<sup>1</sup>**

There is a popular assumption among development agencies that rights-based approaches imply the mechanical application of a static and normative set of already defined principles to development interventions (OHCHR 2006). What usually get missed out are an analysis of 'development needs' in terms of 'rights deprivations and rights violations', and the interrogation of the unequal power relations that lead to such deprivations and violations. The power dynamics between duty bearers and rights holders often make rights-claiming a process of contestation. The realization of rights is thus not a linear process, as often imagined by those who work with the normative and legal aspect of rights (VeneKlasen 2004). The ascending spiral of struggle may lead to the definition and realization of newer rights than those originally claimed, belying assumptions regarding static norms.

These conclusions are borne out by the process and outcomes of the struggles of women survivors of the world's worst industrial disaster, the Bhopal gas leak of 1984 (India). While the campaign for justice of the survivors and their allies has been considerably documented, the focus has usually been on the rights violation and not so much on the claims process. Nor has sufficient attention been paid to the gender dynamics of the disaster.

This paper explores actor-oriented perspectives on the claims process, through the narratives of the women survivors and activists of Bhopal who engaged in a struggle for entitlements over twenty years. Although both women and men were affected by the disaster, women were able to sustain the struggle for their rights for longer than the men, perhaps due to a deeper sense of outrage, since the gas leak affected women's reproductive health, generation after generation, through miscarriages and deformity in newborns.

This paper also describes some of the processes by which the women survivors strengthened their 'voice' and demanded accountability, both from their government and the world's largest multinational chemical corporation. It shows how the struggle for rights in the public sphere led to radical transformation in the personal lives of the low-income, low-mobility women survivors from urban slums. The claims process helped to define their rights, influence their interpretation and contributed to legitimizing the identity of the claimants as citizens, despite their inherent disadvantages of class and gender.

The paper argues that people's movements for rights stem largely from strongly felt experiences of rights violations. In this case, increased information about the causes

of the disaster and enhanced political awareness of the collusions involved, led to a deepened awareness of rights violation. Women's experiences of the claims process, and especially of the barriers caused by the way public institutions work, led to the claiming process itself becoming an object of struggle. The realization of the 'right to have rights' led to a paradigm shift for the rights claimants, so that the content of what was claimed continually increased: the rights claimants gained the capacity to progressively identify new entitlements and consistently struggled for their attainment.

### **The Bhopal gas leak disaster**

The Bhopal Gas Disaster of December, 1984 is perhaps the most horrific industrial disaster anywhere in the world, more so since it was caused by corporate criminal negligence. Just after midnight on 2nd December 1984, an accident in the storage tanks of the Union Carbide (UC) factory at Bhopal caused a massive leakage of a deadly cocktail of MIC (Methyl Iso Cyanate), hydrogen cyanide, phosgene and other toxic gases. The white cloud of gases crept out over a sleeping neighbourhood of the poorer quarters of the city near the railway station. In the absence of any warning system, many died in their sleep; others awoke – choking, breathless and blinded. People fled in a stampede, trying to escape or to reach hospitals, some dying on the way. Pregnant women aborted on the streets as the poison seeped into their bodies. Thousands died on that night; the local administration piled bodies into trucks and dumped them into mass graves or threw them into the river. Some recovered consciousness after hitting the cold water; it is unknown if some were buried alive. Since then, tens of thousands more have died: it is estimated that over a hundred and fifty thousand people, mostly an impoverished group of slum dwellers, were affected (Alvares 1986).

The disaster became global news, since the toxic leak had occurred in a disused factory belonging to a multinational corporation. The Chief Executive of Union Carbide, Warren Anderson, never faced trial in India. UC handed over the Bhopal factory to the Government of Madhya Pradesh with thousands of ton of toxic waste lying around in the open, in violation of its original contract. Research in the 1990s showed severe ground water contamination due to toxics from the factory. The municipality declared the water from more than 100 hand-pumps unfit for drinking. Yet the communities who used the contaminated water were not entitled to health care available for the gas-affected population (Eckermann 2005). In 2001, UC was merged with DOW Chemical and became the world's largest chemical company. However, DOW refused to accept any responsibility for Bhopal.

### **The movement for claiming rights**

For the poor slum-dwellers of Bhopal, the nightmare had only begun in 1984. Apart from the loss of family members, some of whom brought home the family income, the survivors had to deal with a lifetime of multiple chronic illnesses related to the gas-exposure. For many of the men who did physical labour, this meant loss of livelihood. The poisons affected people's eyes, lungs and bloodstream, nerves and muscles, digestive and reproductive systems. Women continue to have spontaneous abortions,

stillbirths and menstrual problems. The toxins were damaging to the body's immune system, yet there was no research information available on the long-term effects of the gases. UC never published information on what the leaking gases actually contained and what were the antidotes that had been researched. Medical treatment remained symptomatic and often expensive; families continued losing even more members to gas exposure related causes.

Gas-affected families needed immediate relief; later they needed compensation that would be equitably distributed, access to skill-building and alternative livelihood options, employment and social security for the especially vulnerable, and most of all, appropriate and effective medical care. Apart from this, they also demanded information regarding transparent utilization of public resources, and last but not least, justice: that Union Carbide (later DOW Chemical) should acknowledge their criminal negligence in allowing the gas leak to happen and face trial in India for the death of thousands of Indians. But within the maze of complex procedures compounded by state corruption and inefficiency, none of these entitlements could be taken for granted, and survivors were caught up in an endless struggle for a life of dignity. The collusion between the state and the globally powerful perpetrator pitted against an impoverished, ignorant, physically devastated, largely female or minority community of survivors of the most backward sections of a city made this a very unequal contest.

The widespread corruption and state apathy towards the survivors made every step a continuous uphill struggle: in offices, legislative assemblies, municipalities, hospitals, on the streets, and in the courts. The government challenged court orders in favour of the survivors on numerous occasions; the administration refused to implement court orders, or delayed implementation, hoping that the slum-dwellers would eventually give up.

That this prolonged struggle has continued to this day reflects extraordinary tenacity and courage in the face of poverty, crippling ill health, and the disadvantages of class, creed and gender. Initially, the survivors themselves formed mass-based organizations around struggles for livelihoods, compensation, social security and healthcare. Later, smaller grassroots women's organizations were formed, mostly led by survivors themselves, to continue the demands for their rights. According to one of the leaders, Rashida Bi, 'in the beginning men became leaders, because they were articulate and educated, with experience of being in other campaigns. But ... the men lost interest very soon. It was the women who persisted ... in (our organisation), it is the women who take political decisions.'

### The women transformed

The killer gases creeping into the lanes of old Bhopal on the night of 3 December 1984 were to have other unexpected effects – they changed the personal lives of many women beyond recognition. For example, Rashida Bi was a woman from the minority Muslim community without formal education who had been married at 13. She rolled hand-made cigarettes (*beedis*), working at home in *purdah* (veiled). Shabana (name changed) was a young Muslim widow living in Ward 36, in the worst affected area,

with her two very small children at the time of the gas leak. Until December 1984, none of them had gone out beyond the lane they lived in. Today, each of these women is a strong activist who is leading or has led the most powerful survivor organizations like the *Bhopal Gas Peedit Mahila Udyog* (BGP MUS, the Bhopal Gas Affected Women's Enterprise Organization) and the *Bhopal Gas Peedit Mahila Stationery Sangh* (BGP MSKS, the Bhopal Gas Affected Women's Stationery Workers Union), able to challenge the Government of India as well as the might of a transnational corporation.

Immediately after the disaster, women from the gas-affected communities were faced with the choice between economic hardship and venturing out to seek a livelihood. Once they stepped out of their homes, they became involved in multiple struggles to claim rights while trying to cling to their livelihood. At the professional level, these women demanded their rights as workers; at the public level they were part of widespread protests against lack of relief, rehabilitation, compensation and justice. At the same time, the women became strong campaigners for environmental issues, since they were worst affected by the gases: girls and women continued to suffer across generations with menstrual irregularities, miscarriages, malformed babies and poisoned breast-milk.

The women initially had very little idea what the factory was producing. After the horrific gas disaster they realized it was some kind of toxic substance that could have fatal consequences. Gradually they received information that their exposure to these chemicals would have wide-ranging effects, which would not only last their entire lives but also affect children yet unborn, and their children's children. The toxic wastes dumped outside the factory also turned out to have visible consequences for the surrounding communities: their children, their soil and their water. After the gas leak, the slogan was: 'Union Carbide has committed a crime against us', but later the women began to understand that 'all multinational companies have spread so much poison in our country: they are making us die a slow death, without using any weapons.'

With time they understood that the state was also responsible for inviting a company producing toxic gases and hazardous materials into their city, for allowing them to build a factory so close to human habitation against all norms; and that they would have to fight against the state. When the women understood the politics and economics of multinational corporations involved in the production of pesticides, they became determined to resist the entry of such corporations into the country. Women activists protested locally, nationally, in courtrooms and in corporate offices at the international level. Women survivors stormed the Mumbai DOW office brandishing brooms and chanting the slogan '*jhaadu maro DOW ko*' (brush off DOW with a broom). Women survivors travelled to DOW offices across the world, meeting DOW executives in Europe and US, handing over a broom to each of them, saying 'Clean up our soil and water, for our mothers' milk is contaminated and we will give birth to monsters eighteen years later.'<sup>2</sup>

The increasing sense of being 'wronged' appears to have released energies among the outraged population to identify and ally against other forms of social injustice

occurring elsewhere in India. At the same time, they were constantly combating notions of what was culturally appropriate for them as women in the personal sphere. They were dealing simultaneously with their own personal crises in life and relationships. This complex intertwining of the personal and the political in the process of claiming women's rights enabled them to move far beyond their ascribed gender roles, as the stories below indicate.

### The long march of the BGP MSKS - the Stationery Union women<sup>3</sup>

As part of economic rehabilitation programmes after the gas leak, the government started work-sheds in 1985 to train people in various income-generating skills. Two sheds trained women, including 50 Hindu women and 50 Muslim women from severely gas-exposed communities, in the production of office stationery. After the training was over the government asked them to leave, but the women felt that the state 'owed them some regular employment, since they had been exposed to the gas and so many had died through no fault of theirs.' They decided to form a workers' union called the BGP MSKS, and began an unending struggle to get recognition as workers, and to get regular employment. This evolved into asking for better wages, more work, regular leave, and protection under the Factories Act.

From April 1989 the women started a *dharna* (sit-in) demanding from the Government of Madhya Pradesh 'Equal wages for equal work.' After a three month-long demonstration in front of the Chief Minister's office, in June 1989 the women of the BGP MSKS decided to put their demands before the Prime Minister of the country. Having no money to pay for train fares, they started a march on foot towards New Delhi, carrying their children. This was a 750 km long trek through forests, bandit-infested valleys and tough terrain in the height of summer.

The women had no food and had to depend on the kindness of villagers, officials and local leaders for rations or milk. They slept on the ground or in shelters provided by people moved by the story of Bhopal. The women had no clue where Delhi was, but they walked doggedly for five weeks, until their slippers wore out and they had to wrap their blistered feet with leaves. Sometimes they walked all night with children sleeping in their arms: 'We thought since we have set out, we would certainly attain something.' When they did reach Delhi, the Prime Minister was too busy to give them an audience.<sup>4</sup>

But they were not daunted by this. Since then, the women have picketed before the legislative Assembly, demonstrated before all the Chief Ministers of the state and before all the Prime Ministers for 20 years, although they were never given a hearing. 'We moved from youth to old age (*jawan se budhey ban gaye*), but we didn't get anything,' they say. The women who are part of the BGP MSKS were mostly illiterate in the beginning, inexperienced in the ways of governments and unaware of their entitlements. Champa Devi Shukla, one of the leaders of the group, reminisces, 'We did not even know our rights at that stage; that we could actually be entitled to compensation, or that the company could be held accountable.'

The BGP MSKS women's rights-claiming process shows an evolution of their understanding of what constitutes rights. 'As we move ahead, we begin to understand issues more clearly,' say the women, 'the issues for struggle keep increasing.' The women have also actively been part of the broader movement of the gas-leak survivors for justice and compensation. They were struggling for better health care as gas-leak survivors and at the same time against rampant corruption in the health care system. They also became part of the movement to ensure safe water for those living near the toxic waste disposal sites. They took part in other struggles in the state against environmental damage caused by big dams.

But the women see the unending process as of their rights-claiming as a story of growth: 'You only get what you fight for; and we gain strength from our struggles. If women realized the extent of their strength, they could move the whole world. There's no need to be discouraged and depressed.' (*Ladne se hi milta hai, ladai mein taqat hai. Aurat agar apni taqat pehchan le to puri duniya ko hila sakti hai. Mayusi se kuch nahin hoga*). Rashida Bi, one of the leaders of the BGP MSKS, recalls: 'Women who were once tongue-tied can today declare a challenge before the whole world.'

Rashida Bi has been at the forefront of women survivors' struggles for justice, health care, compensation and livelihood for almost two decades. When Rashida Bi was asked, what gave them strength to carry on the struggle to claim their rights for twenty years, she said: 'We ourselves cannot understand where we get our energy from – but we do remember that fateful night...'.<sup>5</sup> The horrific image of violent death is indelibly seared into the collective memory of the survivors, much like the Holocaust or Hiroshima, and this drives their struggles for justice.

Today Rashida Bi is the co-recipient of two international awards as an environmental activist, is invited to be on state committees to facilitate distribution of compensation, and has represented the cause of Bhopal in many countries across the world. She and co-recipient Champa Devi Shukla head the CHINGARI Trust organization that works for medical support of the gas-affected population. Rashida Bi says, 'There is no power like people power (*insaani taaqat ke aagey koi taaqat nahi*) – we have to struggle, power comes from struggles (*ladai se taaqat milta hai*).'

**Shabana's story: 'the veil cannot feed us'**

The story of Shabana<sup>6</sup> and the Sewing Centre follows a similar trajectory of rights claiming, and has an important personal dimension. Shabana was a young widow living at the time of the gas leak in Ward 36, in the worst affected area, with her two very small children. Her family members were very ill and she was desperate to earn an income, but had never gone beyond the streets where she lived. She registered at a sewing centre that was started by a woman government official, and also managed to get others like her to join. Over 2000 women were employed there, and she earned Rs. 350 each month.

In 1986 the government suddenly shut down the Sewing Centre, so Shabana and her neighbours, wearing their *burqas* (veils) and carrying banners, joined a rally led by a political front. The Centre was re-opened and the women's organization survived and

grew. In 1987, the women joined a male activist in making compensation claims. Shabana and others walked around the city in a procession with banners, recruiting more women to join their organization so that 10,000 women could put in their claims together. Once again in 1989, the state shut down their Centre. The women continued to meet in a public park every week. Shabana recalls going hungry in extreme poverty: 'We nurtured our organization with our sweat and our blood' (*khoon pasiney se seencha hai*).

Their organization<sup>7</sup> petitioned the Supreme Court for a survival allowance, but the struggle to demand assured livelihood for each affected family was long and hard: 'You can't get anything from the government without a fight, whether it is employment, health care or compensation,' says Shabana. 'We had to fight with each successive government, hit them with our shoes. None of the governments did anything on their own for the gas-affected. No ministers ever kept their promises.' She is enraged by the failure of the Government of India to ensure justice, and suspects money was exchanged so that Warren Anderson does not face trial in Bhopal: 'He is guilty, he must be brought here and punished.'

In the meantime, a representation of survivors was due to make a tour of other countries to meet survivors of similar chemical industry accidents. Shabana was selected, but her family was alarmed at the thought of her travel and refused to let her go. Despite this, the support of her organization ensured that she was able to go, and she visited Thailand, England, and the US for two months and shared experiences of the Bhopal gas-affected with the media, students and other survivor groups, including those affected by UCC factories.

Shabana was surprised that survivors in other countries had much better treatment than the poor of Bhopal, their lives had not been devastated by ill-health. She recalled seeing women in Bhopal with tumours, menstrual problems and breathing problems that doctors refused to even examine, let alone certify as gas-induced. Her sense of injustice grew at this evidence of blatant discrimination: 'That struggle is always in my mind (*woh sangharsh mere man mein jaari hai*), it's like a habit now. I became alert about my own rights; I knew that I had to fight my own battles. I am not afraid of the police, if needed, I can go right up to the Chief Minister.'

Shabana feels the struggles made her realize her self-worth: 'I too have a goal, I too am someone important (*Apna bhi koi muqam hai, hum bhi kuch hain*). We women fought with our pennies, our pawned jewels, our contributions, our time, our mobilization and our commitment; if we stop fighting, we will never get justice.' She realizes that the struggles have also led to overcoming all inhibitions: 'We women learnt that we could do anything, once we came out on the streets. Even though we had cases registered against us, we knew the police would not touch us. We fought them, even grabbed the collar of the Police Chief - we behaved like real hoodlums! (*puri badtamizi ki*).'

The rights-claiming process has led Shabana through a journey of personal liberation as a woman. Shabana recalls that the early marches were full of veiled women, but now it is different: 'The days of being oppressed are over, we threw away our veils.'

When we fight for our food, the veil cannot feed us. (*Apne pet ki ladai mein burqa khaney ko nahin deti*) ... We have such a fire within us that if someone dares to even attempt something, we would grab his collar. Circumstances made me like this – always ready to fight (*Haalat ne mujhe itna jujharu banaya*). I am not afraid anymore, of anything.'

Shabana married one of her male colleagues, but the marriage finally ended in a divorce. Shattered by the experience, she left her organization. But she put in a case against him in the court claiming alimony, 'to show that I was not cowed by anything, just to teach him a lesson.' At a deeper, more personal level, Shabana's claim to alimony in a court case against her ex-husband shows a claim for equality within intimate relationships. She states emphatically, 'women don't need to stay home and bear everything, now that we know we can walk into a police station. ...I refuse to tolerate any injustice, whether it is by the state or at home.'

### Issues emerging

After the disastrous gas leak, there was a complete failure of the administrative machinery to respond adequately, and there was collusion, lack of transparency and inexplicable lapses. Survivors, impoverished women fighting with little or no resources or political back-up, were faced with multiple challenges:

- the reluctance and refusal of the Government of India to take action and accept responsibility;
- the silence of doctors and researchers and their collusion with the state and the multinational corporation;
- deliberate misinformation and refusal to accept criminal liability by UC;
- lack of information on the content of the leakage, or protocols for treatment and management.

Despite these challenges, the vigorous efforts of the Bhopal survivors to realize their rights brings out several dimensions of contextual state-society relations: contestations around identity, the content and process of claims, and the role of state with non-state actors. In addition, the gendered process of rights claiming also highlights the dimension of personal empowerment.

#### Contestation around identity

From the case study it emerges that rights contestation occurs at multiple levels and begins at the fundamental level of being identified as a rights holder. The political and legal process constructed the agency of rights holders as 'children' under the doctrine of *parens patriae* (the ruler as the parent) by immediately abrogating to the state the sole authority to litigate on behalf of the survivors or represent them in any process of claims (Bhopal Claims Act 1985). On the other hand, the Bhopal Claims Act made the survivors into a 'class' which had claims arising out of the disaster.

Yet in practice, the state de-legitimized the identity of individual claimants by putting the onus of identification on the survivors, and reserving the right to challenge the survivors' claims by disqualifying their applications. The entire administrative

process constructs the rights holder as an 'applicant' of dubious integrity, who aspires to become a certified 'beneficiary' in order to access resources meant for public welfare. The state further attempted to deny legitimacy to the rights claimants by constructing their identity as disempowered 'victims' without any agency, as suppliant beneficiaries, and also as a group of potential frauds.

Conditionalities govern boundaries of identification, such as the age-bar for widows, or de-recognition of those below 18 years as gas-affected claimants. The political institution, the Government of Madhya Pradesh, categorized gas-affected people into 15 categories of possible claimants. Further, the legal institution of the Supreme Court classified the gas-affected population into eight categories. Government doctors and other petty functionaries controlled the mechanisms for 'categorization' of the affected population. They had already been instrumental in the state collusion to cover up evidence of the rights violation. Through complex procedures, corrupt functionaries and an inefficient system, the state put innumerable obstacles in the way of those seeking recognition as gas-affected.

The story of rights-claiming is the story of resisting this appellation: of recovering dignity and agency, and of reconstituting their identity from gas-affected victims who would be beneficiaries of dole, to survivors, citizens, claimants and rights holders. A significant part of the rights-claiming movement was to bring in the 'voice' of the survivors as a legitimate claimant, able to make informed decisions regarding litigation and negotiate with the perpetrator. This was successfully achieved after two decades through collective petitions in the Supreme Court and the Class Action Suit at the US court.

#### Personal empowerment

What strongly emerges from the Bhopal case study is that struggles are not just about suffering, but also about gaining power. Working in adversity can actually empower and create claimants. Women survivors have now become campaigners for broader and more global issues. The discovery of their strength derived from struggle and the potential they had in shaking and moving the world. On a personal level, the rights-claiming process appears to have led to a shift in political consciousness. It has also powerfully transformed the self-image of the women, a consciousness of themselves as 'rights holders'.

The gas-affected women were initially inexperienced, naïve, housebound and mostly veiled. Women survivors actually suffered more through the toxic exposure, through reproductive malfunction, miscarriages and deformities in children born. It is said that families are reluctant to bring in gas-affected girls as brides. Women's unending quest for justice is fuelled by the ominous knowledge that the toxic compounds of the gas-leak are firmly lodged within their own bodies, that of their daughters, and of yet unborn generations. Yet despite their longdrawn-out struggles for livelihood, compounded with caring for ailing family members and their own multiple illnesses, they came heroically to the forefront of the movement for justice and rights.

Women's key role in the movement appears to have sparked off a challenge to existing gender power relationships at social and personal levels. This occurred, not only within the home, but also *vis-a-vis* religious diktat (*fatwa*). When they threw off their veils, there was a *fatwa* against them, but they were undaunted. As Shabana said, 'When we fight for our food, the veil cannot feed us.' The very act of coming out on the streets, of having unrestricted mobility, was a significant transformation, which additionally led to the lowering of inhibitions in demanding their rights: 'We women learnt that we could do anything, once we came out on the streets.' They are conscious of a new strength of purpose, to hold anyone in power to account. As Shanti Devi of BGP MUS says,<sup>8</sup> 'Once you have stepped out, leaving your fears behind, life cannot hold you back; it can only take you forward.'

Daring to claim at the interpersonal level is often the most difficult of all, especially for women; yet the injustice within an intimate relationship is challenged when Shabana refuses 'to tolerate any injustice, whether it is by the state or at home.' When women of the BGP MSKS were asked how they had the courage to step out of the house and fight for their rights, they replied, 'Yes, we were slapped, we were thrown against the wall; our clothes would be flung out of the house; but that did not scare us.' Conscious of herself as a rights holder, having left her fears behind, Shabana has moved to personal empowerment, the loss of inhibition, the freedom to be ill mannered.

This indicates that the claiming process itself can be an empowering experience for women. The stories of the women show that the process of making claims released determination, energy and a sharp political understanding that led to a shift in gender power relations. The narratives of the women activists also suggest that the organizations have played a key role in mediating the claims of individuals, providing space for a shared articulation of rights violation and alleviating women's sense of loss and isolation. Through mutual support and solidarity, women were not only able to gain greater 'voice' in the larger decisions that affected their lives, but also to overcome personal losses and trauma.

#### Rights among the wronged

It emerges from the narratives of the affected slum-dwellers that their struggles to claim their rights were sustained by a collective memory of the disaster and a cumulative sense of injustice. There was an evolving realization that state institutions had failed them, that they had been deprived of what was due to them, and that someone was accountable. The horror of the gas disaster was also the one thing that fuelled their endless struggles: it was something the women could never forget.

The increasing awareness of continued rights violations expanded women's understanding of the role of the state and non-state actors, and led to a realization that there was 'someone answerable'. In the years of being with the movement, the women seem to have internalized the multiple dimensions of the 'wrongs' to the extent that they have a much sharper analysis of the politics around these issues. Shabana's exposure to survivors of similar disasters in other parts of the world brought a strong sense of injustice in the difference she observed between the situation in Bhopal and

those of survivors in developed countries. It was as though dealing with each rights violation brought new insights and experiences that fed into struggles with the next round of rights violation, in an ascending spiral.

At the time of this case study, there appeared to be a 'critical stage' of consciousness of rights among the women, when they could strongly resist rights violation even within the private sphere. The tyranny of a *fatwa* or the injustice within an intimate relationship does not escape their analysis. This appears to be a kind of paradigm shift, within which the rights claimants become aware of the 'right to have rights', and gain the capacity to continually identify violations and carve out new entitlements.

While not all experiences of injustice lead to developing a sense of rights, the question that emerges for exploration is whether a strong claim for rights can be made without an escalating sense of being 'wronged.' It may also be worthwhile to explore the paradigm shift between the 'victim' who accepts rights violation as fate, and the 'rights holder', who analyses it to identify entitlements that have been betrayed by someone accountable.

#### 'Content' and 'process' of claims

Claims help define rights, influence interpretation and contribute to legitimizing the claimant, especially where the identity of the rights claimants is itself contested. The case study shows that the contestation is not only about claiming entitlements such as increased resources, services, or social security from the state; it is also about *enforcing* accountability and transforming the *process* of rights claiming itself.

Regarding the content of claims, the contest revolved around what could be claimed with legitimacy. Survivors put forward an ever-expanding cluster of claims as their awareness of rights violation increased through increased information about what had actually happened, and enhanced political awareness of the collusions involved. Consequently, the claiming process itself was an object of struggle: the movement began to demand the recognition of rights holders' agency; for access to information, opportunities for participation, and agency, as well as increased transparency and more effective functioning of the state institutions.

This 'democratization' implied a shift in power relations: the state retaliated by invoking the Official Secrets Act, violent repression and even actually arresting activists. Undaunted, the movement reminded the state of its obligation to ensure justice: through petitions in court and protests against the closure of criminal proceedings against UC or the delaying of the notice for Anderson's extradition. Criminal proceedings were finally re-instated, and despite an eleven-year delay, the Government of India finally had to serve the notice to the US government. In this, the movement successfully held the state to account and compelled duty bearers to justify their decisions. These various efforts expanded space for future claiming by making institutional mechanisms more responsive and accountable.

## Normative frameworks and claiming

In order to make a claim for entitlements with some degree of legitimacy, rights holders need normative frameworks that set standards and justify their claims. When the rights holders do not have access to information due to reasons of poverty and illiteracy, the existence of normative frameworks is insufficient. Thus the state has to ensure that those who face rights violation have prior (or post facto) information about the nature and extent of their entitlements and procedures for claiming them. However, in reality, access to information remains contested, and state agencies tend to withhold complete information from rights holders.

The initial struggles of the survivors' groups revolved around accessing adequate information to know their entitlements. Later, the survivors also attempted to influence the definition of their rights through petitions in court and addressing claims to the political level. Some of these attempts met with success, and there was an additional normative framework to justify their rights claiming. Yet despite court orders passed in favour of the survivors, the government has repeatedly refused to implement them and they had to go back to court.

Thus the state can continue to deny entitlements despite the formulation of norms: this may be due to active collusion with the perpetrator or due to class and gender biases against the rights holders. This challenges the assumption that rights apply equally to all 'human subjects' regardless of the power differentials of class, caste, creed, race and gender. In the Bhopal case study it becomes clear that accountability is not linear: the extreme measures needed to compel the state to take action reflect the extent of contestation involved in granting rights to the claimants.

## The role of state with non-state actors

The case study is also representative of an increasing record of incidents in India (and other developing countries) in which the direct perpetrator of rights violation is a non-state actor. The changing global scenario with the increasing presence of multinational companies (MNCs) requires a redefinition and expansion of duty bearers to be held accountable, since the actions of the MNCs may cause erosion of rights, yet they do not remain accountable to local courts.

A large number of multinational companies function in the country in collaboration with local partners and the government. The conditions of operation are mediated by those who are in positions of power and authority within the state, whose lives will remain unaffected by the companies. Local communities whose lives and livelihoods may be affected are not consulted; however, local land, water and other resources may be taken by the state and given for the use of the companies.

Despite several violations of existing legal provisions regarding factories, no action was taken by the state against the Union Carbide India Limited from 1969 to 1984: this complicity was never investigated even after the disaster. The state has an obligation to its citizens, and it has the power to regulate the entry and functioning of the non-state actor. The Bhopal movement emerges as a powerful assertion of citizen rights:

to claim constitutional guarantees from the state as well as to enforce the state's responsibility to protect its citizens through rule of law. However, the claim for the state to effectively perform this role remains an area of contestation.<sup>9</sup>

In the absence of state regulation of the non-state actor, innovations in citizen action against the company's criminal negligence and continuing callousness emerge as a significant 'anti-corporate' strategy. This includes not only symbolic action by the rights holders to focus attention on the issue, but also concrete action by civil society, like raising the question at shareholders' meetings, and students or parliamentarians enforcing corporate answerability to ethics. However, to do this with a multinational company requires support from wider civil society bodies, including powerful international alliances and the international media. Conversely, the media relies on voices of the affected to portray authenticity, so the survivors' movement retains its central significance.

## Conclusions

There was no precedence for state-citizen relations in the aftermath of such a disaster in India: it required a step-by-step working out of strategies, learning and discovering the possibilities for claims. The content of the claims expanded with the discovery of more information on the causes of the disaster, with increased political understanding of the issues involved, and with new dimensions of the emerging consequences. The experience of the claims process itself and the different obstacles encountered deepened women's knowledge about the functioning of different institutions, including how some were colluding to suppress information, which then also became an object of struggle. The process of opening up institutional space and recognition for survivors' organizations to claim rights became part of the claim, and changed the nature of institutions and state-society relations.

The paper explored actor-oriented perspectives on rights approaches, through the narratives of the women survivors and activists, in which the growing sense of being 'wronged' released energies among the outraged population to struggle for a growing cluster of rights. Women were able to sustain the struggles for their rights for longer, perhaps due to a deeper sense of outrage, since the gas leak continues to affect them generation after generation. This paper argues that women's movements for rights-claiming stems largely from strongly felt experiences of rights violations. With deepening awareness of their rights, women may develop the ability to demand new entitlements with increasing effectiveness.

The implementation of rights-based approaches also entails a legitimate space for the participation of rights holders in decision-making processes. This includes the legitimacy to monitor state institutions as well as the freedom to demand answerability regarding actions, and greater responsiveness to the concerns of the marginalized. It is also the role of the state to protect the rights of its citizens and to regulate the 'entry' and functioning of non-state actors. The experiences of the claims process, especially the barriers caused by the way public institutions work, made the claiming process itself an object of struggle.

The history of rights-claiming is the story of recovering dignity and agency, and of reconstructing identities from gas-affected victims to survivors, from beneficiaries to citizens, claimants and rights holders. The process of rights-claiming has brought about a paradigm shift: from passive acceptance of rights violation as inevitable misfortune or fate, to the realization of the 'right to have rights'. This self-image as 'rights holders' has led to the expansion of the sphere of rights-claiming, both in public and private spheres. The realization of the 'right to have rights' has led to a paradigm shift in the rights claimants, within which the content of what is claimed continually increases: the rights claimants gain the capacity to progressively identify new entitlements and consistently struggle for their attainment.

\* Jashodhara Dasgupta, with contributions from Maitrayee Mukhopadhyay, Satinath Sarangi and other colleagues. This paper is based on interviews with members of the organizations BGP MUS, GPNBSM, BGPMSKS, BGIA and MKSS in Bhopal and with Satinath Sarangi, Managing Trustee of the Sambhavna Trust and member of BGIA.

## Notes

- <sup>1</sup> Acknowledgement: This article draws on the report '*Leaving our fears behind*'- women's rights claiming after the Bhopal gas disaster. India case study developed as part of the 2004-05 KIT project: developing methodologies for rights based approaches from an actor oriented perspective.
- <sup>2</sup> Rashida Bi quoted in Mukherjee, 2002.
- <sup>3</sup> As described by the women themselves on 18 August 2004.
- <sup>4</sup> In February 2006, 55 survivors repeated that historic foot march to Delhi. This time the Prime Minister gave them a one-minute audience after a week-long hunger strike, and made many promises none of which have actually materialized so far.
- <sup>5</sup> Rashida Bi, in interview, 18 August 2004.
- <sup>6</sup> As told by herself, interview 19 August 2004.
- <sup>7</sup> BGP MUS (Bhopal Gas Affected Women's Enterprise Organisation).
- <sup>8</sup> Shanti Devi at interview.
- <sup>9</sup> To date the government is trying to grant DOW immunity so that they can continue investing in India.

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## 4 The empowerment of women: rights and entitlements in Arab Worlds

### Womens' just power

The notion of benign and just power evolved from calls to empower the powerless, give voice to those who have no say, and recognize the strength of the weak. Within this framework, women's empowerment is conditional on women's powerlessness. If taken out from this ethical foundation the concept of women's empowerment becomes problematic, since it is the condition of being powerless that justifies the justice of empowerment. Some scholars have chosen to project women's powerlessness as a cultural universal dictated by 'sexual reason' (Nussbaum 1999). The power of women's reproductive and sexual selves, they argue, has explicitly or implicitly oppressed women and empowered their oppressors. This essential oppression can take various cultural forms such as seclusion, victimization and violence, social, economic and political deprivation and dependency. It also denies access to rights and privileges freely and abundantly allowed to men. For this school of thought there is an essential gender disequilibrium rooted in sexual relationships which can be redressed through social justice.

A second trend has sought to prove, by providing empirical evidence, that women are denied rights and resources and that this deprivation is at the root of a variety of social, health, economic and security ills and ailments. This approach has sought to garner support and gain momentum through proving that women's powerlessness is a root cause of overpopulation, increasing health burdens, poverty, environmental degradation, and global insecurity. The empowerment of women thus becomes a strategic demand around which a variety of actors and stakeholders can coalesce (Kabeer 2001).

This seemingly crude distinction between a structural approach to empowerment and an increasingly effective functional approach has serious consequences for how women's empowerment is pursued, practiced, and measured. Three important observations can be derived from the duality of these frameworks.

First, both renditions of empowerment have informed one another. The gender justice writers advocating empowerment for its own sake have found the testimonies and experiences of poor and powerless women from the 'third world' immensely valuable. The plight of disenfranchised women suffering from multiple burdens placed upon them by virtue of their reproductive, productive and gender roles has helped the world visualize injustice as a poor (often dark skinned!) woman. On the other hand, the development-oriented advocates of women's empowerment as a strategic goal

have been aided by the theoretical and historical insights and conceptualization of feminist thinkers. The promotion of women's empowerment as a development goal is based on the dual argument that social justice is a desired outcome of intrinsic worth and that it is a means to other ends (Malhotra et al 2002).

Second, each provenance of empowerment has, however, a slightly different audience. Empowerment as a strategic demand has been advanced in what would otherwise be quite conservative domains such as government, and global institutions such as the World Bank. Promoting women's empowerment as a poverty alleviation strategy is less contentious than posing empowerment within a rights or a basic justice framework. Likewise, gender empowerment as a strategy that enhances women's ability to decide effectively on their own well-being and that of their children is much more attractive and less fractious than calling for the right to sexual autonomy and decision-making. The continuum from rights to needs plotted by these two strands of women's empowerment advocates has in fact some discontinuities. The schisms become evident when the degree and quality of empowerment are at issue. The fractures become dangerous when the right to empowerment is pitted against national and collective causes.

Third, observers have noted that behind the above-mentioned discontinuities lie contradictions. The landscape of women's empowerment is subject to current global discourses that are themselves subject to politics (Sen 2005). For example, abortion as a component of a reproductive health package is under a revision that is greatly influenced by US domestic politics. Reproductive and sexual rights are promoted in so far as they advance the cause of lower fertility in over-populated countries in the South. But these rights come under attack by pro-life politicians when they invoke women's right to choose. There is a contradiction of purposes that exposes the paradox of empowerment as proposed by the instrumentalist approach.

Similarly, many Muslim countries have accepted gender equity and women's empowerment as strategies to gain international acceptance. They have managed to close the gender gap in terms of many health and education indicators, but have rejected the elements of this strategy that address structural inequities in the justice system and rights (UNIFEM 2004).

The different paradigms of women's empowerment have clear implications for policies and programmes on the ground. The strategic approach has yielded great gains and has challenged some taboos by making women's empowerment a public good that can deliver welfare and development. This operational definition of empowerment has limited utility, however, in addressing questions of basic injustices and inequities. On the other hand, the more politicized and to some extent westernized and purist meaning of empowerment as a right for women has created distances, misunderstanding and animosities, and in many parts of the world has failed to convert the sceptics and create popular support.

## Development and rights-based approaches to empowerment

When considering Arab countries as the site for development initiatives, writers have often accepted the importance of patriarchy and of Islam as significant ideological forces that shape the discourses of entitlement and of development (for review specific to health and population, see Sholkamy in EWIC 2003). The rights of women to health, dignity, security, and property are enshrined in the Quran and the hadith, but so are the clear distinctions between men and women, most of which are predicated on gender roles. Different renditions of rights derive from interpretations that privilege either the lens of equity or the lens of differentiations. The choice of interpretive frameworks relies almost totally on the historical context. Muslims have chosen to investigate the progressive tenets of religion when polity and society were open to change and when the Umma (the nation) was less threatened. It follows that withdrawal into a conservative and unquestioning 'safe-mode' of thinking happens in times of uncertainty and crisis. This is not meant as a crude apology on behalf of a religion or a people. Rather it is meant to clarify that the relationship between religious ideology and gender rights are structured by historical events. The influence and impact of Muslim religious jurisprudence and moral tenets are variable, and contingent on the conditions that are shaping individual lives and locating/concentrating power in certain hands.

This paper argues that the instrumentalist approach to women's empowerment detailed above has created a broad near consensus around some rights, but has failed to engage with the political processes which determine how rights in general are defined and made operational in society. The timid approach to gender rights as an avenue to well-being has failed to question why these rights have been denied, and how this denial has been ideologically legitimized. Unitary and rigid interpretations of religion, culture, and tradition have been doled out as reasons why the structural meanings of empowerment are unsuited to and unpopular in Arab Muslim countries.

The contest between the basic needs approach to empowerment and the more radical rights-based approach defines current approaches to gender and empowerment. This paper will argue for analytical clarity as a path to a more politically engaged project of gender and rights. Using empirical evidence and observations mostly from Egypt, the paper presents an argument why basic needs approaches may have served the goal of gender equity by building popular consensus around goals of gender equity. However, the basic needs approach has also undermined the right to equity by making it seem like a radical one, that according to many a western project removes women from the contexts of their culture, tradition, religion and history.

### Definition

Both theoretical and operational definitions of women's empowerment are often prefaced by disclaimers or qualifiers which stress the contextual, tentative, and on the whole rather tenuous and timid essence of the definition. Women's empowerment rests on the assumption that women as a group are constrained by structural factors which include biased legislations, values, ideologies, markets and social institutions. To overcome these constraints and to exert agency to realize goals that enhance their

own chances of survival and well-being, women are in need of positive efforts to remove these constraints and enable them to act to achieve their goals. Mohanty (1991) has voiced criticism to this seemingly obvious definition by pointing out that women do not exist outside history, and that the meaning of empowerment depends on definitions of power and powerlessness which cannot be detached from the spatial and historical context that gives it meaning.

Kabeer (2001) has divided women's empowerment into three interlocking domains of resources, agency and achievements. She defines women's empowerment as the ability to make choices in situations and contexts that had previously denied women this right/ability to choose. Kabeer's definition has gained wide acceptance for its analytical clarity and differentiation between the resources that women access, their ability or agency to access or act upon them, and achievements which are the outcomes of these actions. This framework has enabled researchers to inject some methodological rigour into their research, measurement and evaluative frameworks (Malhotra et al 2002).

In terms of operational definitions of empowerment, different studies have measured or described different things. Women's autonomy, agency, status, land rights, domestic economic power, bargaining and decision-making power, and public participation are some of the operational definitions listed by Malhotra et al in their review article on the measurement of women's empowerment (2002). Some have conflated empowerment with participation, and suggest that participatory bottom-up approaches and the engagement of civil society are avenues to empowerment (Gaventa 2006; Chambers 1997; Malhotra et al 2002).

It would seem that there is agreement on what empowerment is, but not on what its outcomes and implications are. It is active agency (ability to act, choose, decide, work, move, spend, earn, vote and other acts of assertion) and the processes that enable women to act. One broad and less than satisfying generic outcome has been described as 'well-being'. The idea of well-being may make sense, but it has less than adequate analytical value.

However, there is broad agreement that women's empowerment necessitates systemic transformations in the structures of patriarchy. But even this assumption has been questioned by scholars who argue for diverse meanings to empowerment and ones which accommodate faith-based feminism such as that of Islamic feminists, who argue that patriarchy defines clear rights for women and places obligations on men (Barazangi 2002).

Development projects designed to empower women suffer from a fundamental problem. They are small-scale with limited impact and scope similar to those designed to alleviate poverty at village level. Both ignore the systemic factors that produce poverty and which undermine women. The question is, can some women be empowered at the micro level without addressing systemic constraints and oppression? But how does one approach such revolutionary projects? How can research and projects and programmes transform the structures of patriarchy which

are ingrained in policies, economies, markets, homes, psyches, sexual and social relationships?

## Measurement

The need to measure the empowerment of women becomes an imperative for projects and programmes which aim to realize empowerment. Citizens are empowered by their charters, constitutions, and other enabling and binding covenants, and the evidence of how these empower citizens is often undertaken by monitoring legal, human rights, and social citizenship frameworks. Women stand apart, in that their empowerment is achieved through pro-active measures which seek to realize a measurable difference in the lives of individuals. Empowerment is thus approximated through the measurement of other indicators that imply empowerment. These indicators are derived from prevalent theories that define women's empowerment in terms of human development and security indicators. For example, education is a proxy measure for empowerment as far as women are concerned, but is it a measure when applied to men? There is no theory to associate male education with male status. But gender theory assumes that status is enhanced by education and that higher status women are more empowered. Similarly, gender theory assumes that the younger a woman gets married, the less will be her ability to negotiate an equitable power relationship with her spouse. So delaying the age of marriage has come to be associated with 'modern' egalitarian relationships between spouses, which in turn assumes an empowered wife.

Kabeer's framework (2000) has helped distinguish the resources of empowerment from its outcomes and showed that equating the means to empowerment with its outcomes is problematic (Malhotra et al 2002). Thus employment and education are enabling factors that empower women, and not proof that women are empowered.

Besides accounting for the complexities of measuring empowerment, studies have also pointed to the importance of meaning and values assigned to empowerment indicators and the inter-relationship of different variables. Simply put, indicators may have universal significance, but they rely for their meaning on the context, culture and moment in which they are used. This is a dilemma that is typical of all social sciences. There are now attempts to arrive at a consistent conceptual framework for measuring empowerment and its effects while allowing for variations in the indicators that are used to describe the components of that framework across different settings (Malhotra et al 2002).

The conceptual clarity that has emerged from the deliberations of individuals and institutions has not yet created methodological rigour or understanding. The definition favoured by this author as well as others in the field, which stresses action to make real choices when previously this right had been denied, implies that studies of women's empowerment need to transcend the methodological confines dictated by development research and venture into fields such as history, philosophy, law, and politics. Methods from these disciplines could help researchers better understand context, the parameters that define the possible and the impossible, the dynamics of change and the meaning of empowerment as action and as potential. Such an

interdisciplinary approach can enable researchers to integrate and make operational the variety of emic perceptions and definitions of empowerment. It can also introduce a life-cycle approach that links experiences to empowerment over a life span, and offers ideas of how to ensure that the investments women make at one point in their lives are not lost at another.

The following section of this paper will look at some of the commonly recognized areas of empowerment that have received much attention in the literature. The examples of work, body, and voice will be used to illustrate the distinctions between needs and rights and the dilemma that gains for women can be realized without asserting rights.

## Work

The United Nations definition of women's economic empowerment is that women have '... access to and control over the means to make a living on a sustainable and long term basis, and [are] receiving the material benefits of this access and control' (quoted in Mosedale 2005: 247). Women need access to income and to the benefits that accrue to breadwinners and their dependents. This implies not only access to jobs and markets, but also to finance, social security coverage, savings and insurance. It also means changing structural conditions that disable women from accessing these resources at the household, community and market levels, including laws and policies which favour men in labour markets.

Women's work is still highly contested as an empowerment strategy. It is contingent on macro level conditions and on the ideological underpinnings of policies that seek to facilitate or promote women's economic participation. Women entering the labour market can be a sign of oppression or evidence of empowerment. The meaning of work is dependant on the markets that create it and the regulatory frameworks that supervise it. Minimum wages, worker rights and social, health, and contingency benefits help to enhance the empowering potential of work. But in situations where the state has withdrawn its role as an arbitrator of social justice, the notion of economic activity and of work may carry with it some rather sinister shades of exploitation and of what is sometimes called 'a race to the bottom', whereby workers are willing to compete for scarce opportunities and therefore willing to give up basic rights to decent wages and benefits. In this case, women's work and earnings may lead to heavier burdens as the main breadwinners, if men rely on women's work while maintaining their own gendered privileges. Micro-finance and other mechanisms that give women access to cash without adequate support networks can also lead to the feminization of debt (Bisnath 2001; Mayoux 2002).

Perhaps because women's duties and choices as caregivers and homemakers have been associated with their disempowerment, they have not been sufficiently framed in the discourse of empowerment. The ideological valorization of women's work at home as daughters, mothers and wives is the mainstay of patriarchal ideologies and policies (whether of individuals or of the state). It is this 'work', it is claimed, which enables women to claim rights, dignity, recognition and influence. But home making and care giving roles are least prized by the cultures that theoretically venerate stay-

at-home women. This is evident in legal codes which do not compensate women for these gender roles, and which provide social security coverage only through markets and families and not as an integral right of citizenship, even for stay-at-home mothers and wives (UNIFEM 2004). Decades of cultural scrutiny have shown that women have not claimed the benefits of the patriarchal bargain.

Women in Egypt, as several recent empirical studies have found, privilege reproductive over productive roles. The Egypt Labor Market Panel Study notes that women exit labour markets almost automatically upon marriage (and not, as is noted in other parts of the world, due to motherhood) (ELMPS 2006). Not only is this the practice, it is also the expectation. Another survey of labourers found that the vast majority of young women workers expect to leave work once married (ICA 2005). Despite the entry of millions into the labour market as a strategy to provide basic needs and enable young women to save up for marriage, paid work outside the home is not pursued or promoted for women. Work is not only a necessity for the present and a protection in the future, it is also a right and can be an empowering experience.

Many feminists have noted how going out to work has failed to realize earlier theories that claimed that paid work would be the route to women's liberation (Elson 1979; Engels as quoted in Elson). The issue now surely should be how to make work empowering, and not whether the right to work is a right worth having!

The area of work encompasses the right and conditions of paid work, the resources and opportunities to which the self-employed and other entrepreneurs have access, the right not to work, the ability to realize the full benefits of work including economic and social security, and the right to protection from risk, disability, and the lack of old age provision.

## Body

Body issues describe physical burdens shouldered by women, including morbidities, confinements and physical constraints, physical and mental abuse or fear of either or both, and work-related pressures and hazards as well as the risks, outcomes, and responsibilities pertaining to reproduction and motherhood. Notions of 'body' and bodily integrity are generated through regionally specific social experiences. Thus female genital cutting/mutilation (FGC/M) is the lens through which the Sudanese and Egyptian body is perceived; sexual violence and the burden of AIDS evokes images of the South African body; abortion becomes emblematic of the Catholic woman; domestic violence speaks to us of the West and the veil of the East; and the heavy burdens of work and malnutrition characterize the female body of the Indian sub-continent. The concept that sums up the field of body for women is 'inequity' and 'excess burden'. Reproduction is a biological fact, but its burden and detrimental impact on women's well-being can be excessive. Similarly, women's sexuality unfairly penalizes them and is controlled through criminal practices such as FGC/M, mores of modesty, segregation and confinement, and violence.

Scholars have engaged with these areas of excess and inequity more than they have shown an interest with the status of women's health and bodies. For example, women's

mental health, their occupational well-being, their non-reproductive morbidities and their risk due to the hazards of migration, urbanization, environmental degradation/pollution and poverty have not attracted as much attention as the more gender-specific aspects of the body and its experiences. In other words, there has been more interest in aspects of the body that are specifically female than those which are not, but which could be a deep source of disempowerment and distress for women.

Sexuality and fertility (or their control) are by far the areas of research and action with widest currency. Since the International Conference on Population and Development held in Cairo in 1994, reproductive health has become an avenue of empowerment and a paradigm that links women's reproduction, health, sexuality and empowerment. The focus on women's sexuality and its socially constructed oppression is an essential action programme that incorporates the experiences and troubles of women globally. But it also leads to ignoring the non-sexual oppressions that the body endures. Of particular concern is the occupational and mental health of women, and the gendered aspects of non-reproductive morbidities. Health inequities are socially constructed, and gender is an important social determinant of health. Yet we still do not understand how gender operates outside the realm of sexuality and reproduction and the relationships that determine both gendered and non-gendered inequities.

In the Arab Muslim world for example, marriage is regarded as a religious obligation and is invested with many ethical injunctions. This can be attributed primarily to the fact that any sexual contact outside marriage is considered fornication and is subject to severe punishment.

Furthermore, Islam condemns and discourages celibacy. In this manner, marriage acquires a religious dimension: it becomes the way of preserving morals and chastity through the satisfaction of sexual desires within the limits set by God. Muslim jurists have gone so far as to elevate marriage to the level of a religious duty. A common hadith that is still often quoted, particularly among men, states, 'The prayer of a married man is equal to seventy prayers of a single man.' Thus, all individuals are encouraged to marry, and societal pressures, such as the importance of family reputation, discourage being single.

There can be no denial of the importance of strong family relationships, particularly relationships generated through marriage, in providing women with emotional and moral security. Most women want marriage and motherhood, and feel rewarded when they attain either or both. Indeed the strong familial ties of Arab society have their rewards in terms of social cohesion and the creation of social support mechanisms that have, unfortunately, been tested repeatedly in our modern history. The following quotation from a speech by Princess Basma Bint-Talal illustrates the normative constructions of the Arab family, society and work that may satisfy basic needs, but not strategic ones which could empower women. The quote is illustrative of what often remains unsaid and unquestioned, but is very influential in shaping attitudes (Sholkamy 2004):

*Arab society is a collective society in which family and clan relationships play a prominent role. This collective social approach has saved Arab women and their*

*societies from much of the modern social strains that are common in other societies, including advanced industrialised countries. There is less hunger and starvation among the poorest Arab societies than in other regions. Drugs and prostitution is limited, rape almost non-existent, single parent families and births outside marriage are also very few. Community violence exists, however at a lower level than most other societies; and polygamy, although it still exists among the less advantaged groups, is becoming more unusual. This collective social approach, however, did not greatly assist in spurring women to work outside the home. The family, in most cases, provided them with shelter, basic necessities and a relatively secure future, which meant there was little incentive to look for a job or seek other remunerative sources of employment (quoted in Sholkamy 2004).*

**Marriage remains a major source of security for women. In Arab societies, societal recognition and support systems appear to revolve around the roles of women as wives and mothers. In this social context, the non-married woman and her psychological and economic well-being are totally ignored. Features of the well-being of non-married women as evidenced by their level of dependency and their support networks need to be investigated. The available data is limited and suggests a high level of dependency in terms of personal educational characteristics and the ability to earn a living.**

The significance of considering the well-being of non-married women is becoming more and more important because of the changing marriage patterns occurring in Arab countries, which implies that more women are spending longer spans of their lives in non-marital living arrangements, and that some women may live in permanent celibacy.

Celibacy is a word, a choice, a consequence and a condition. In each of these guises celibacy is troubling. Let us take the anecdotal but illustrative example of its linguistic translation. In Arabic celibacy means *ezoubiya* or being single. *Ezoubiya* can describe both men and women. But the word resonates with the freedom and independence that make bachelorhood attractive and enviable. It implies a choice that men make when they have the ability to live a few years free of the pressures and responsibility that come with marriage and the creation of a family. But celibacy is also translated (or mistranslated) into Arabic as *enoussa*, an altogether different concept that means spinsterhood. It implies lack of choice, almost desperation or missed opportunity, and applies almost exclusively to women.

While neither the words bachelor nor spinster say anything about sexuality, when translated into Arabic they speak volumes. An *azzib* (male single man) or even an *azzba* (a term used less often to mean single woman) may well have chosen not to marry so as to enjoy sexual license. An *annis* (usually female but can mean male) is assumed to be sexually inactive. The primary content of the word celibacy when translated into Arabic means one thing, but implies a lot. Despite the low numbers of celibate women in the Arab world, the phenomenon itself is an important one to study. It is also hard to justify why a demographically insignificant trend has become such a culturally urgent one with far-reaching social implications.

The ideal of marriage is highly held and has been described as a positive feature of Arab societies and one which provides a certain degree of stability and security to individual men and women (Rashad, Osman et al 2003). However marriage is not universal in all Arab countries and will be less so in the future. A cursory look at the Arab media will reveal a growing sensitivity to female celibacy with programmes on satellite channels and articles in periodicals talking about el-'enoussa in the Arab world, particularly among communities that guard mores of female modesty, such as in some Arab Gulf states. Meanwhile, social and civil life remains organized around the principles and premises of marriage. As populations change there is a need to draw attention to the possibility of a small, but significant single adult population of women who have never been married, have not attained the privileges that come with being a wife and mother, but nevertheless are full citizens with basic social, civil, and sexual rights.

Accommodating celibacy does not mean accepting sexual promiscuity, as some members of the media and of religious establishments may like to suggest. It does mean accepting single women as social individuals and revising the assumption of marriage as a universal institution that is the gate to social respectability and participation.

At age 39 years, over 10% of the female population in five Arab countries (Jordan, Kuwait, Libya, Morocco and Qatar) remain un-married (Rashad and Khadr 2002). This indicates a high prevalence of celibacy amongst women. The troubling issue here is that being celibate does not mean the same thing in these five countries. City life in Morocco affords women a fair amount of liberty and freedom that is independent of their marital status. In Kuwait and Qatar the situation is markedly different, with women's identities remaining within the confines of family.

The sexual rights of the non-married merit some consideration. There is a resounding silence on the subject of the gender inequities in sexual rights which tolerate the choices of men, but not those of women, since the sexual rights of the non-married are not sanctioned by religion. Pre-marital sexual activities are prohibited for both men and women. Yet non-married women in various Arab countries shoulder an unfair burden of stigma and social exclusion. By forfeiting marriage, these women not only lose sexual rights, they may also, if poor or uneducated, be unable to access reproductive health services which are designed to primarily serve married women.

### Voice

The agency of women and representation in public forums and in private decisions is a large and complex field of enquiry. Women's representation in national, regional and local politics is one part. Another is the representation of women in cultural domains and in the media. A third dimension is women's citizenship and legal equality. A fourth aspect is women's mobility, freedom and right to hold and state opinions in public, to protest and to make choices. The first area is one which has received most attention and has been the site of most action. This is probably because it is the most measurable rendition of voice. Global actors such as the UN and UNIFEM, the USA through its aid and foreign policy, and the European Union most significantly through its

Gender and Development programme, have identified benchmarks that measure progress on voice. Access and presence in public offices, quotas in legislative bodies, and universal suffrage are some of the benchmarks. This focus is problematic, because it ignores context and how the apparently progressive measures to enhance women's presence in public office can be subverted by power-holders. Recently, attention has been drawn to the use of women's quotas by tribal and family forces to maintain their own hold on power in Iraq and Afghanistan, where quotas were set by legislators appointed by the occupying powers. This and other experiences have raised questions about the virtue of making women part of less than virtuous political processes. What is the point of being appointed to a parliament that is not representative of society? Moreover, Cornwall and Goetz (2005) have argued that women's participation in politics and political parties and their inclusion and prioritization of women's issues and demands is a more significant indicator of gender justice and voice than are the numbers of women in elected or, even worse, appointed bodies.

Islamicist feminists have voiced their own critique of the feminist interpretation of voice and agency, arguing that these conceptions of voice and agency are premised on notions of Islam as a religion that oppresses women through the imposition of the veil, the segregation of women, the emphasis on women's reproductive and family roles and the constraints it places on women's ability to arbitrate and lead. Islamicist scholars have questioned the universality of feminist definitions of power and agency, taking the position that agency and voice are about the ability to realize goals and roles; not necessarily the roles chosen by western women. Therefore, they argue, the rights of Muslim women to acquire the kind of agency and voice which they want and which is religiously sanctioned should not be ignored or subverted. Muslim women prize their religiously sanctioned gender roles and will agitate to realize that which Islam provides and which they have been denied by secularist and despotic regimes (Barazangi 2002; Mahmoud 2005). Thus 'Islamic feminists' in Iran have sought to realize significant gains for women in terms of their personal status, including compensation for household work and child-care in case of divorce, the right of women to argue for judicial posts, and the right of women to freely express and publish, for example the journal 'Zanan', from within the structures of Islamic jurisprudence (Fiqh) (Mir-Hosseini 2002).

This culturally specific notion of voice and presence is indeed gaining momentum in the real and academic world, but it remains an un-tested proposition. It assumes acceptance of ascribed roles and relies heavily on the good will of the patriarchal order. The ability to realize collective goals and challenge injustices can be achieved in different ways, but in all cases the questions of citizenship and its rights remain. Citizenship is a secular principle that permits individuals equal rights regardless of gender, ethnicity and other forms of social difference. Women have every right to prize and adhere to ascribed gender roles, but some women may not share this vision and should also have the right to express this position. Moreover as Hirshman (2006) has written: "To paraphrase, as Mark Twain said, "A man who chooses not to read is just as ignorant as a man who cannot read."". In other words, women who decline to claim their individual rights to agency and voice are as silent as those who have been deprived of the right to do so.

At issue is the question of socioeconomic and political inequities in the determination of voice. Gender is a factor, but the forces of class, family and power even more so. Elite women may surface as parliamentarians or as judges, but it is poor women who still lack voice to express their collective predicaments.

Several new Arab constitutions have proposed quotas for women in parliament. Two in particular highlight the irksome problem of quotas and of handing rights from above or from across the seas, rather than claiming and forging them in the context where they will be practiced. The New Iraqi constitution drawn up by a military occupation force and its political arm has designated 25% of parliamentary seats for women. Needless to say this parliament has many problems, one of which is that the women who won seats did not really contest them. Kin and tribesmen selected these women. Many are politicians in their own rights, but the necessity of filling so many seats with so many women meant that many corners were cut. It did the cause of women's representation no good when this parliament disintegrated into factional disputes and has yielded the power of legislature over a disintegrating state.

The Sudan has also designated a 25% quota in the new constitution, drawn-up to signal the end of almost 30 years of civil war. Many would agree that despite a robust and dynamic feminist and women's movement that long preceded the current regime, women had little to do with enforcing this quota. It was part of a deal blessed by greater forces. The coming elections in Sudan will be contested with the participation of women. Political parties are scrambling to gain seats and fulfil their quota obligations. As one parliamentarian who will contest the elections on behalf of the Umma Party confided, 'All the parties find this to be a contradiction!!' In one recent newspaper article in a Sudanese daily, the writer suggested that only men contest the seats, and then choose the missing 25% for women. The article echoes the concerns of political parties who see few benefits (but many burdens) to giving voice and rights of representation to women.

Egypt has not adopted a quota, but has witnessed a rapid decline in the representation of women in legislative councils. The more democracy, it would seem, the fewer women in parliament (Abu el-Qumsan 2008). In this study by Abu el-Qumsan et al the party activists and senior members felt that women could not contest the elections and were therefore a liability. The voters polled by this same study had no such reservations and were more liberal in their views, stating that they would vote for a woman if she was a good candidate.

Women's voices are not always best served by protectionism. But if quotas are the tool of choice to realize the right of representation, they need a much more assertive and dynamic campaign that enables women to break into politics as equal and worthy contenders. The quotas so far have created new elites and 'professional' politicians who lack a constituency or a network that legitimates their worth as representatives and as legislators. This, of course, does not apply to hundreds of women who have been successful in proving their ability to serve as parliamentarians, trade unionists, and civil society activists without relying on quotas. Enabling women to participate in legislative bodies and other representative bodies is only one step. The next step is to

ensure that they can assume these roles effectively, fully, and as political actors accountable to a constituency.

The voices of women are more than sounds and symbols. Symbolic gestures, lip service and tokenisms still prevail, and indeed are dominant particularly in the popular media. Female presidents and prime ministers are counted on a daily basis so are top executives and senior officials, but when we reckon the tally, we need to also think about what change this presence adds up to. A sharp line has to be drawn between the re-creation of gendered elites and the creation of a presence that voices collective concerns and is empowered to make change happen.

## Globalization

Hands are reaching out across space, cyberspace and borders to create global programmes, coalitions, and movements that espouse women's empowerment. The feminist movement has always had a global dimension and reflects imbalances of power between the global and the local. The challenges remain of aligning the messages of a global feminism to women's struggles for empowerment situated in diverse cultural, political and religious settings. Some aspects of global movements travel well and others do not. Activists and scholars have met, participated and collaborated on many occasions in each others' spheres of activity and interest. But the causes and concerns of women themselves have not travelled across boundaries in equal volume or speed. Women in the West have marched on behalf of many an Eastern sister, exemplifying how the West is the arbitrator of cross-border movements. The links seem always to pass through the globalized centre which is located geographically, academically and/or financially in the West.

Globalization has meant that women simultaneously and all over the world are changed or challenged by similar forces. Free trade has created more jobs for women and perhaps improved working conditions for some, but it has also created pockets of unemployment, welfare benefit cuts and pay cuts for others. It is one global force interacting differently in a variety of settings. Donor agendas, human rights and reproductive health policies and paradigms, migration and refugee regimes, are all examples of global events and conditions with which women all over the world are contending. All happen in the centre, and all impact peripheries in different ways. Do these forces divide or unite women?

The pathways that women's empowerment has passed through are littered with opportunities, both missed and realized, that have shaped many other progressive and just movements. It is time to look at the areas of voice, body, work and the global forces that shape arenas of action and of research so as to chart a course to justice.

Development programmes targeting marginalized communities needs to be action oriented. Action research methodologies were developed to enable individuals and communities to solve their own problems and address their own needs by using simple research tools to quickly collect, analyse and act upon the results of data. This ideal has rarely been realized, if at all in Arab countries including Egypt. The divide between research and action persists, but so does the distance between policy and

local needs. Research is formal; and even when empirical it is rarely grounded in local knowledge. Meanwhile, local communities have few avenues by which they can independently express their realities, challenges or demands. The catalytic involvement of a new breed of researchers is the missing ingredient in Egypt's developmental initiatives.

## Conclusion

The Muslim Arab world is large and diverse. Like any other 'region', it has been typified and categorized in terms of a totalizing Western gaze. This region's histories, trajectories of development and of change are varied. Yet there are frames of reference and common experiences that permit a paper such as this one to speak of a region. Islam is a moral and ideological framework and value that impacts the lives of Muslims and non-Muslims in the Arab world. Patriarchy is also the typical form of social organization and system that informs the laws and codes of most Arab countries. Arab identity and values still resonate as the cultural and political frame that distinguishes us from others and may even breed a sense of wariness and suspicion from the so-called 'West'!

Women's rights to equity and empowerment have been pitted as a movement that is antithetical to these three frameworks that shape ideals, if not identities, in the Arab region. This may be why gender rights were propagated as means to achieve developmental goals, rather than absolute rights that have an intrinsic worth and value. This strategic choice has reached the limits of its utility. The paper has looked at the fields of work, body and voice to argue that the strategic and appeasing approach has not yielded real or sustainable gains. It is time to go beyond the limits of a strategy that is predicated on promoting women's empowerment as a means to achieving other developmental goals, and attempt to realize liberty, equity and justice for women and men.

The rights-based approach to development should resonate with the values of humanism and liberty. It has somehow evolved into a ghetto that alienates most people. The false distinction between rights and needs persists. It is as though claiming rights is a foreign thing, but having needs met is a truly authentic and commendable goal. Thus in many Arab locations, feminism flounders while development chugs along. It is perhaps appropriate at this moment to try to change both feminist approaches to power and the lack of interest and appreciation of power relations characteristic of development work. Such a critical endeavour would enable men and women to realize gender equity and create the necessary conditions for progressive and liberating development.

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## 5 In search of new images: when feminism meets development

As a feminist activist in development I have both challenged and have been challenged over the past five years. In challenging my colleagues to make women's rights an integral part of human rights, I have also had to challenge my own assumptions – to unpack what it is we are saying as feminists, and to translate this into development actions as well as into language that others can understand. In this paper I review some of the challenges entailed in making two key shifts in development – a shift from charity work to a more political understanding of development, in line with the rights-based approach. And a shift to women's rights as integral to development, also as part of the rights-based approach.

### A slow process of change

ActionAid International (AAI) was founded in 1973 and currently has a presence in some 48 countries including in the global North. Until very recently, an assumption within AAI was that because the organization works with the poor, most of whom are women, AAI did not need to address women's rights or gender equality more directly. In fact, there was little understanding as to why this would be important. It was only in 1998 that there was acceptance at a 'corporate' policy level that AAI needed to deliberately advance gender equality.

The process of change was slow – starting from the outside, influenced by women's global activism of the late 1980s and early 1990s, and linked to the UN processes of those decades. However, this was also a time when there was an increasing de-politicization of 'gender' within development. In the post-Beijing context, the language and approach had shifted to mainstreaming, and 'gender' was seen to be something that affected women and men equally. People seemed to have lost sight of the fact that the goal was gender equality, and that the problem we had to deal with was unequal relations of power. De-politicized understanding translated into making sure we talked to everybody when we went out to communities. And a constant question was 'If this is gender work, why are we focusing on women? Where are the men?'

However, a few country programmes did make some strides in addressing unequal gender power relations. Two examples include India, and Uganda where feminist staff in senior positions worked with women's groups in ways that went beyond the normal grantee relationships, and beyond the usual formulaic income generation, micro-enterprise projects for women. AAI Uganda worked with organizations such as FIDA (women lawyers organization), Akina Mama (developing Feminist Leadership), and Isis-WICCE, all led by feminists. AAI India developed programmes with feminist

groups to support women in local government. In both cases these strides were possible because there were feminists in the organization, as well as relatively strong women's movements in the country.

However, across AAI there was still very limited understanding of mainstreaming, other than it was about, as many of our publications often put it, 'women, men, boys and girls'. Most people in the organization would not easily work with feminists who they stereotyped as concerned with the macro issues and not being involved in real development.

### Reviewing understandings and practice: an opportunity for change

When I entered AAI (in 2002), the position was that gender had to be mainstreamed, with little clarity as to what this entailed. I was called International Gender Coordinator and my task was to follow up the Beijing Commitments. When I tried to get clarity and asked 'Which of the 13 critical areas of concern should I focus on?' I was told to develop a plan and figure it out. While this was all well meant, it was barely adequate to give a sense of the task at hand. It also indicated that within the organization there had not been a meaningful discussion as to what we were aiming for.

In addition to AAI not having a clear idea of my role, the location of my post was problematic. Coordinators of other themes such as HIV&AIDS, and Education reported to the Director for Policy or another International Director, while I reported to the head of Human Resources. In addition, I was an International Coordinator, with no staff and a very small budget. Gender Coordinators within country programmes were often laden with other responsibilities – such as HIV&AIDS, and child sponsorship.

Luckily, this was also the time when AAI was beginning to review its overarching strategy, in keeping with changes in the external context. Within international development there was the increasing realization that traditional approaches were not enough to end poverty. In southern countries there was questioning of the donor-defined position on good governance and a shift to a greater focus on good governance from the point of view of citizens. There were questions around the definition of governance beyond elections, and questions on what makes for free and fair elections from the point of view of poor women. Beijing +5 had happened and feminists were beginning to take note of what was working and what not working in relation to the Beijing Platform. Criticisms of gender mainstreaming were beginning to emerge, although these were muted.

In this climate, AAI was also taking stock. Our strategy between 1998 and 2004 was 'Fighting poverty together'. 'Gender empowerment' was one of the four goals in this strategy – a goal caught up in gender mainstreaming and not yet about rights. From a purely conceptual point of view, 'Gender empowerment' doesn't mean anything. It is similar to the concept of 'Gender rights'. In both cases one can see that this arose from the fear of clearly saying 'Women'.

The realization was creeping into AAI that we needed to go beyond old understandings to tackle issues of governance – for example, the policies that make people poor. This

entailed questioning our understanding and approach to poverty eradication. For example we began to ask ourselves – Is poverty only about material lack? Were we to meet material needs, would that eliminate injustice and inequality? Why are certain groups poorer than others? What are the processes that have contributed and continue to contribute to poverty? Where do issues of human rights fit into this? What are the forces that actively lead to impoverishment of people and keep them there? What is our role as an international NGO? And what is the role of the state? We realized we could not be a substitute for the state, and we began to explore a role in complementing it while at the same time holding it accountable. We saw both roles as equally important.

This overhaul of policy and strategic direction provided the space to also interrogate gender mainstreaming as an approach. It also meant that we had to look at our understanding of the forces and factors that make women poor, from the private sphere to the public.

These questions were brought into a review and reflection process carried out in 2004, and which culminated in AAI's new international strategy – 'Rights to end poverty'. I was nominated to the team that wrote 'Rights to end poverty', and was able to bring in conceptual perspectives on power and rights, and contribute to the setting of a new vision.

The current AAI strategy, which was adopted in 2004, shows how the organization has transformed itself. There have been fundamental shifts in policy, and to achieve this there have had to be shifts in mind-sets among leadership and some staff members. Coming from outside the mainstream development 'industry', from a history of involvement in small feminist organizations, I was slow to appreciate how fundamental these shifts needed to be, given prior understandings within the organization. I now realize the huge internal struggles involved, firstly in making the shift from thinking in terms of charitable work to a more political approach. And secondly, to make the shift to women's rights, when we are accustomed to thinking about poor women as a vulnerable group. The understandings and acceptance of new ways of thinking and acting in relation to both development and women's rights are still patchy and uneven, with some levels of resistance within AAI.

### Dealing with Mr Schmidt!

To make the shift from charitable to political understandings and action is an ongoing challenge. ActionAid, like many of its peers, relies on child sponsorship funds. This is where the organization has come from. Even today, over half of AAI's unrestricted funds come from child sponsorship. Getting this money, servicing the individual givers, and using this money at community level takes up quite a lot of staff time.

For example, in country programmes there are/were staff employed to visit villages, to get pictures of children who were being sponsored, collect stories and updates, etc. Individual donors wanted to see how 'their' children were doing as a result of their donation. Although this is now changing, for some it was important to show pictures of poor children with snotty noses to the current or future donor, who is not really interested in longer-term political issues such as violence against women.

The way to get people in the global North to sponsor a child is to tug at their heart strings. Political analysis has little place in moving this constituency of sponsors, who are like the Jack Nicholson character, Schmidt, in the movie 'About Schmidt' – an ordinary sort of man going about his day-to-day life, sitting in his armchair in his living room, watching TV. The idea is to move this man, through visuals of suffering children in Africa, so that he will sponsor a child. The language and images cannot present a thesis on what is wrong with the capitalist system and the need to rearrange world politics.

Once the organization receives his sponsorship, at some point it has to account to Schmidt. He wants to know that the child got a uniform and that the snot was wiped off his or her nose. Telling Schmidt we are running a workshop to empower women will make no sense to him. So the challenge is how to bridge the gap between reaching Schmidt, and using this money in a way that challenges the power inequalities that have led to that child's position and condition in the first place. Bringing this together conceptually and politically continues to be a hard task..

While there has been quite a shift among development and activist organizations in the North with greater awareness of the injustices of the global system – for example activism around G8 Meetings etc. – and while constituencies in the global North and South are connecting in addressing power imbalances globally and nationally, for organizations like us, where most money comes from Mr and Mrs Schmidt, it is still a huge challenge to bring these things together. Balancing the need to be clear yet not simplistic is not easy.

But even before dealing with the Schmidts, a critical part of the challenge is in redefining how staff within the organization themselves understand poverty, and making a break with old understandings of poverty as a material lack. Among the front line staff within the organization there tends to be insufficient discussion on perspectives – i.e. on viewing poverty in a more political way, or on how to translate such a redefinition of poverty into practice.

### Shifting to women's rights

Then there is the question of women in this equation. In the dominant view, women's roles are essentialized and conflated with caring for children. For most people the thinking is that women care for children, and if we help mothers we are helping the next generation. Trying to separate women from this perspective to talk of them as people in their own right, with needs and wants as individuals and with entitlements, is often problematic.

In development-speak, women are often portrayed as poor, powerless and pregnant. When we talk of rights-based development approaches now, what replaces this image? Women in high heels? A prospective donor once repeatedly asked me: 'I need to understand – when you say empowerment, what do these women become? Is this a chance to leave the village, to lead better lives, with electricity and running water?' My response was, to turn rural into urban dwellers, driving nice cars in high heels – that is not quite the vision. Although that too would be lovely. Hey, why not! But what

is the image that replaces the poor, powerless, pregnant woman of development? What will she look like? This is not yet clearly defined. The development industry depends on visual images and simple messages. The new message is more complex and needs to be more nuanced. The challenge, therefore, is how to achieve these nuances in a world that runs on sound bites. The question of 'what is legitimate development work and what is not?' also creeps in. Real development work is seen as practical, tangible, visible, with an image you can attach – a school, women around a new water tap, healthy children. How do we communicate outcomes of women's rights? What do women gaining rights look like? What does an empowered woman do? When we say we shall mobilize women, will they be standing in a straight line? This all sounds very facetious, but it really isn't.

Violence against women sounds old hat to feminists. But to a traditional development organization like AAI the response often is 'What are you asking us to do exactly' or 'What does violence against women have to do with poverty?' On women's land rights I have been asked, 'Women already use the land, they are farming anyway, so what is the problem?' For those of us who see the links between violence against women and other areas of women's lives, and who have been saying these things for what seems like forever, we sometimes wonder 'Have I landed on the right planet?'.

I have only recently begun to appreciate the political struggle one has to go through in this space to make the shift from thinking that is wrapped up in child sponsorship, in traditional definitions of poverty as material lack – and many of the assumptions underlying that thinking.

But in fairness to development practitioners, I must admit that we feminists have tended to speak in a language which does not easily translate into other contexts outside our own circles. When we say 'women's empowerment' we need to explain what we mean by this. When we say 'mobilize women' we need to say what we mean. At times we get so caught up in our own jargon that we lose sense of the meaning ourselves. 'Feminism meets development' is sometimes not an easy mix.

As an activist, I appreciate the space I have been in over the last five years – i.e. in development – where I have had to challenge my own assumptions – to unpack what it is we are saying – not to rely on jargon. It has made me appreciate the need to constantly challenge ourselves as feminist activists in translating our rhetoric into meaningful actions on the ground. While I do not see the micro as good and the macro as bad, I have to acknowledge that a macro focus tends to de-link us from real people, and we have tended to be impatient with those who ask us to step back and think through our assumptions and plans. We get impatient because we are beginning to believe our own rhetoric. We need to be challenged and to challenge each other.

### **AAI women's rights strategy**

With our current strategy we have adopted a rights-based approach (RBA). What does this mean and what does it mean for women's rights? In using RBA we have to name rights holders – whose rights and what rights we are talking about. We can no longer say it is 'gender rights'; this is what enabled the shift to women's rights. I am now

called International Women's Rights Head, not Head of Gender. Insignificant as this might appear as feminists, we know that naming is a political issue. Therefore RBA is a big plus, in that it has allowed us to put the word 'women' squarely back on the agenda. And in so doing we are putting women back on the map as rights holders, as beneficiaries of development as well as agents of change.

Once you frame what you are asking for as a RIGHT, the terms of engagement also have to shift – for example women will be demanding that governments allocate more resources to address rape, because it is their RIGHT to have these resources allocated in that way. In other words, how you frame the problem and what needs to be done shifts completely when we are using a rights-based approach. You are not asking for state largesse, for corporations to be kind, or for men to be nicer. You are saying you are entitled, because you are human. This is a very important shift. If you do not have a claim as a right, the state can withdraw largesse when other priorities take over and leave women by the wayside, for example. Violators of rights can also come up with seemingly reasonable explanations as to why they are doing what they are doing, and not see what they are doing as violation of those rights. RBA has enabled the shift from women as instrumental to wider development objectives such as reducing poverty, educating children, to the notion of women as individuals, people, citizens in their own right. Let us not forget that in many contexts in the world today, the very notion that women are HUMAN and to dare suggest that they have rights or entitlements is still a revolutionary idea!

While women's rights are critical, it is not only a means to an end but an end in itself. We can focus more directly on how to advance women's rights within all areas of AAI work. So for example in the Hunger Free Campaign, a campaign we recently launched, we have named rights holders and a right – that is Women's Rights to Land and Natural Resources. We have insisted that we are campaigning for women's rights to land, not because it is instrumental to women feeding other people, but that land is property that women as citizens must be able to access and control in their own right. We also say that land or property is a source of power – it fosters power within, and power to, (to go back to those feminist concepts of power). Through this campaign we are questioning decision-making at community and household levels that denies women access and control over this fundamental resource.

Because of RBA we have to ask who is the duty bearer, and who is accountable for upholding and promoting or protecting women's rights? Who is the violator? We name the state, donors, the international community, traditional leaders, individual men, etc. And we point to what it is that needs to change from law and policy to attitudes and behaviours. Holding states and donors accountable is critical, as blame can often be put on individual 'bad men' or 'backward' attitudes among the poor themselves.

The micro, the individual, the household level was often not dealt with in development. As women's rights, we brought greater focus on the micro into RBA. Starting with the self is critical. While this was a strength of participatory methodologies, we fell short on moving onto behaviour change. We named violators at every level – from intimate and household to global. And we create understanding

that what we are dealing with is systemic, that it is important to change systems and institutions that underpin and reinforce individual behaviour.

We also need to bring in the North-South dynamic. Understanding the larger order and how it replicates or reinforces injustice is critical. The bigger macroeconomic framework reminds us that what is happening to poor women in the global South is because of global systems that underpin our world of inequality and injustice. In this regard, our policy advocacy for example at the G8, the United Nations, and regional economic blocs, becomes as important as the practical work with women in poor communities. At the same time, we have to step up our education work among the poor so that they are aware of the macroeconomic and political systems which result in the micro problems they are facing.

Feminists have insisted on intersectional analyses and approaches to poverty eradication. In the past the approach was to think in terms of one silver bullet – be it income generation or education/literacy. Feminists point out that everything is interconnected, therefore the solution to poverty is not just about providing condoms, not just literacy, and not just economic empowerment. It is all of this and more: legal rights, access to justice, participation in decision-making, etc. Feminism meets RBA has brought intersectionality to the fore. But again, translating this into programmes and communicating it has not been easy. This is particularly the case in the development sector where we like to be very single issue focused, and where we tend to have a flavour of the year.

With the ‘Women Won’t Wait’ campaign, for example, we look at the intersection of violence and HIV&AIDS. We have deliberately targeted state and donor accountability in terms of allocation of resources and programming for HIV. Often donors speak with forked tongues – they speak of the importance of changing gender power relations, but they do not allocate money to make these changes happen. They shy away from addressing structural change in terms of gender relations. We are posing the question, ‘How are you supporting changes in how women and men relate to each other?’

‘Women Won’t Wait’ is a good example of something we would perhaps not have done seven years ago – because the question would have been asked, ‘How will this help poor women?’ In this sense we are trying to raise the bar in the discourse as well as in practice by demonstrating what RBA looks like.

### **A two-pronged approach**

We have adopted a two-pronged approach to our women’s rights programmes and campaigns; an approach we call Mainstreaming Plus. We could have gone the mainstreaming route as have many development organizations. However it was a deliberate political choice to say we are doing Mainstreaming Plus. This means that we have stand-alone women’s rights projects and programmes ‘owned’ and led by the Women’s Rights (WR) team(s) in addition to mainstreaming, which is the responsibility of all staff in all of their work, with the WR team providing support and advice.

AAI works on six key thematic areas: Education, HIV&AIDS, Governance, Human Security, Food Rights and Women's Rights. Having a stand-alone women's rights theme in and of itself as one of these six has been an important shift. At the same time, we see mainstreaming as a strategy that can work if it remains true to its feminist roots – that is questioning the very same mainstream and keeping the focus on changing structures, attitudes and behaviour, so as to achieve gender equality and women's empowerment. If the focus is clear, the rest of the organization can be held accountable, because in this sense, mainstreaming is not seen as the sole responsibility of the WR team.

Women's Rights is on the same level as the other thematic areas in AAI, and the position of the Head of Women's Rights is on a par with that of other thematic heads. More importantly, the WR theme has independent resources, while the mainstreaming agenda gets resourced from other themes or functions. In line with our understanding of intersectionality, our strategic priorities within the WR theme are linked with the other five AAI themes: Violence against girls (in Education), Violence against women (and its intersection with HIV&AIDS), Violence against women (in conflict and emergencies), Women in local government (linked with Governance), and Women and land rights (linked to the Food Rights theme). We deliberately chose these issues because it made strategic sense to work on themes that AAI cares about, has experience in, and has resources for (human and financial). It was also important to guard against Women's Rights being ghettoized, hanging by a thread on its own and de-linked from these other themes. Our review in 2009 will show if this was a wise choice!

In addition, the staff of each theme have to develop their own women's rights strategies and objectives as part of all their work. Therefore there is a lot more women's rights work besides that covered only by our theme or that we lead on. All other themes and functions are held accountable for delivering on WR.

This strategy has worked well so far, in that it has enabled us to bring in a rights perspective and approach, a focus on women as rights holders and agents of their own change. We have visible programmes, projects and campaigns for women's rights. This has made more tangible the task of communicating what we mean by women's rights and what it is we are doing or asking – again reminding ourselves that we sit in a development organization where tangibility matters. This has enabled us to get dedicated resources to do this work – at both the national and international levels. In addition, we have full time staff whose full time job is women's rights, in almost all country programmes and internationally. We have even been able to insist on the kinds of expertise that these women must have. I can safely say, happily, that we have a feminist international team.

Money and senior staff have given us power. As part of our responsibility to mainstream in other themes and functions, the women's rights staff have had to learn about other themes – and we bring our expertise to bear on these themes.

We are now working with partners that AAI would not have worked with in the past, e.g. the Association for Women's Rights in Development (AWID), the Center for

Women's Global Leadership, Women and Law in Southern Africa, the Coalition on Violence Against Women, etc. Similarly in country programmes we now partner the more well-known feminist and radical groups which engage in advocacy at macro levels. We have drawn on the Beijing Platform for Action, CEDAW, and African Union (AU)/other regional protocols. Five years ago in AAI these were words we hardly spoke and tools we rarely used.

Clearly, the rights focus has made a difference – the space is there to advance women's rights. This focus has also enabled us to make every part of the organization accountable. Mainstreaming can advance women's rights, but only if it arises from strong political vision, and if the organization and its staff are committed to engaging and transforming power. We have also learnt that leadership makes a difference. In our case the bold leadership and support of our Chief Executive Officer, some International Directors and some Country Directors have contributed hugely to where we are. Without this individual and collective leadership from those with visible power, the task would have fallen only on a handful of activists like theme staff – who in some cases don't have much power to fall back on. However, there is still the challenge in bringing all staff on board.

#### Challenges in shifting mind sets and practice

Getting other themes to deliver on WR has not been easy. Firstly, some have tended to see the addition of a simple line of text, such as 'especially women and girls', as sufficient, whether the programme is around floods in Mozambique, or any other issue. While this simple acknowledgement of the situation of women is a good start, much more needs to be done to go beyond this, otherwise we will get stuck in rhetoric.

The challenge is in getting critical analyses of problems. For example, with the floods in Mozambique the challenge is to understand what the relations between women and men were, even before the floods came. This understanding needs to be taken into account in designing interventions, so that these do not reinforce or worsen women's situation.

There is also the challenge of intersectional analyses which can serve as the basis for good, firmly rooted interventions. There have been good experiences in interventions relating to the Tsunami. From the start, attention was paid to understanding how this impacted differently on women and men. Interventions did not rebuild old structures, but paid attention to gender power relations. Whether this good practice was sustained is not clear, but the intention was there. We are beginning to see appreciation – although it is still patchy and uneven.

One of the real problems and challenges is that AAI does not like templates. The AAI approach has been to provide the basic frameworks, but to let people go out, learn, experiment and theorize. There is merit in that approach. It moves away from the tyranny of ticking boxes. But we need to guard against a *laissez faire* approach. We need a middle path – providing a basic guide and framework which doesn't say this is the only way to do things, but which also says this not what we mean...by RBA etc. It

has taken us too long to articulate in very clear terms what RBA means and what it does not mean.

The gap has become visible because front line staff – the doers in the organization – need to know what it is they are supposed to be doing differently on Monday morning, now that we have moved to a rights-based approach. Coupled with the fact that Women's Rights work is seen as very complex (almost like rocket science to some people), some staff fear to even try. And fear immobilizes people.

At the same, in some people's minds RBA is all about lobbying G8 governments, or lobbying the AU. Staff members question why these actions are necessary. And they feel we have lost direction – that we are supposed to deal directly with the poor, and provide for their practical needs. Thankfully, some of us can go back to our feminist organizing experiences which have taught us that meeting practical gender needs without addressing strategic needs will not take women very far. In an organization such as AAI, one always has to navigate the waters between the very practical oriented and the strategic. Equally in our own work of bringing women's rights into the mix we have to demonstrate in visible ways how our work does this. Staff at all levels need not only conceptual tools, but practical tools and methods to enable them to act differently.

### Concluding thoughts

As a mainstream development organization, AAI's bread and butter is facilitating development – using a rights-based approach. Understanding of what that development should look like and what rights-based means have had to change. As AAI we needed to understand that development is beyond building schools or providing water taps, beyond the hardware and the visible. It is much more. Development is about changing mindsets and belief systems both in the global North and the global South. It is about every bit of life as a human being – enabling women and men to live fulfilling lives. It is about expanding choices, and it is about what you think and what you do. The main lesson is that RBA has provided a strong platform and legitimacy to bring feminist approaches, perspectives and experience into development. Through RBA, AAI and other international NGOs will be able to push out the boundaries on understanding as well as practical interventions in poverty eradication, human rights and development. And for this to happen, staff and leaders of these organizations have to have strong political convictions as well as practical tools. In this regard, we have to find new images and new messages that communicate that vision of development from a feminist and women's rights perspective. The old images just don't do it. And the old messages don't do it. Women's lives are complex and complicated. And women's rights are not just in law or policy. How to communicate and act on this in clear, but not simplistic ways remains a big challenge.

### Note

- <sup>1</sup> This article was spoken and edited by Everjoice J. Win. It was put on paper by Shamim Meer in conversation with Everjoice. The views expressed here are the personal reflections of Everjoice J. Win and do not necessarily reflect an official policy position.

## References

ActionAid International, *Rights to end poverty: ActionAid international strategy 2005-2010*, ActionAid International, Johannesburg. [http://www.actionaid.org/assets/pdf/EndPoverty\\_LongVersion.pdf](http://www.actionaid.org/assets/pdf/EndPoverty_LongVersion.pdf) (accessed 03-03-08)

ActionAid International website, for their approach to women's rights and current work, [www.actionaid.org](http://www.actionaid.org) (accessed 03-03-08)

## A guide to the annotated bibliography: explanation of the records

The records in the annotated bibliography are listed alphabetically by author and organization, with an author and geographical index, which give the record number within the bibliography. Each record is complemented by an abstract.

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An example of a typical record is shown below:

<sup>1)</sup> **004**    <sup>2)</sup> **A rights-based approach to gender equality and women's rights**

<sup>3)</sup> POWELL, MARIE. <sup>4)</sup> *Canadian Journal of Development Studies* 26(2005)special issue, p. 605-617 <sup>5)</sup> ISSN 0225-5189

The concept of a rights-based approach is explored to determine if it provides a useful methodology for furthering progress by donor agencies on achieving gender equality and women's rights. It is argued that for gender equality advocates working in donor organizations, a rights-based approach adds value to current gender mainstreaming efforts. However, a number of issues and lessons learned from gender mainstreaming need to be addressed to ensure that gender equality and women's rights are not marginalized. (taken from journal)

**KIT Library shelf code** <sup>6)</sup> **H 1847-26(2005) spec.issue**

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# Annotated bibliography

## **001 The rights-based approach in development: policies and strategies**

ABRAMOVITCH, VICTOR. *CEPAL Review* (2006)88, p. 33-48 ISSN 0251-2920

This is a discussion of some of the issues surrounding current rights-based approaches, towards establishing relationships between national and international development policies and strategies and international human rights law. Some viewpoints concern the relevance of this approach in the political, social and institutional context of Latin America. The first step is to analyse what the recognition of rights signifies, and the relationship between this and the empowerment of excluded sectors. An examination of the relationship between human rights, the obligations that derive from them, and public policies refers in particular to economic, social and cultural rights. An attempt is made to relate three issues that are fundamental to any development strategy, namely inclusion, participation and accountability to current legal debates in the region concern human rights. Specifically, these refer to the scope of the right to equality and non-discrimination, social and political participation, and access to justice.

KIT Library shelf code K 1182-(2006)88

## **002 Action-oriented policy paper on human rights and development**

Organisation for Economic Co-operation and Development (OECD), Paris, 2007, 17 p.  
The current position of the Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD) on human rights and development reflects changes in the international context and donor experiences over the past decade. New challenges and opportunities for promoting human rights constitute a key part of the development process. The paper sets out principles and recommendations for future actions. Background information is provided on the emerging consensus on the relationship between human rights and development. Existing

DAC commitments on human rights and recent changes to the international context and donor practices have prompted this work. New focus areas include aid effectiveness and state fragility, and how these relate to human rights. Principles for effective engagement on human rights are recommended to guide donors in the design of human rights policies and programmes. Three priority action areas to be undertaken by OECD DAC Members where enhanced efforts and new initiatives can have a significant impact are: (1) making use of the principles; (2) promoting dialogue and collaboration between human rights practitioners and other development practitioners; and (3) acting as a resource to others in strengthening human rights assessments and indicators, including through horizontal work across the OECD.

<http://www.oecd.org/dataoecd/50/48/38688578.pdf>  
(accessed January 2008)

## **003 Analysis workshop report: does implementing a rights based approach increase impact on poverty reduction? Evaluation / learning process**

UK Inter-Agency Group on Rights Based Approaches, London, 2006, 47 p.

The Interagency Group, a loose network of UK based NGOs concerned with integrating human rights into development practice, initiated a one year evaluation/ learning process to examine the impact of rights based approach (RBA) and non-RBA projects on the multidimensional experience of poverty and the realization of the Millennium Development Goals. Evaluative case studies were undertaken in Bangladesh, Malawi and Peru. A 2-day analysis workshop was organized in January 2006 to discuss preliminary case study findings and help the various research teams to push their analysis further and identify gaps for further inquiry. The workshop report, together with the in-depth country reports from Bangladesh, Malawi and Peru are further analysed and synthesized in a final synthesis document available in June/July 2006. Preliminary findings show that RBAs open up the

possibility of engaging with hitherto disengaged citizens. RBA deals with both exclusion and power. They provide powerful tools because they help address both rights and entitlements, and responsibilities. RBAs regard partnership and networking as a central requirement, enabling duty bearers to share their responsibilities, e.g. with regard to social protection. Furthermore, with regard to new aid modalities, budgetary support, for example, can be centralized in Finance Departments. RBAs can provide a safeguard in ensuring that processes are more accountable and participatory. Many agencies have worked on rights issues for several years. However, RBAs have enabled agencies to begin to better institutionalize rights.

[http://www.crin.org/docs/iap\\_workshop.pdf#search=%22UK%20inter-agency%20group%20on%20rights-based%20approaches%20analysis%20workshop%20report%22](http://www.crin.org/docs/iap_workshop.pdf#search=%22UK%20inter-agency%20group%20on%20rights-based%20approaches%20analysis%20workshop%20report%22) (accessed January 2008)

#### **004 Rights into action: UNFPA implements human rights-based approach**

ANGARITA, ANA. United Nations Population Fund (UNFPA), New York, NY, 2005, 32 p. The United Nations Population Fund (UNFPA) carries out human rights work in key thematic areas, including population and development, reproductive health, gender equality and women's empowerment. The underlying principles of UNFPA's programming are to advance human rights and show the significant role that good practices and synergy among different actors can play in this regard. The first section sets out the commitment of UNFPA to a human rights framework and discusses the rights-based approach to programming. The second section describes UNFPA's role in monitoring human rights treaty committees in key programme areas. [http://www.unfpa.org/upload/lib\\_pub\\_file/529\\_filename\\_rights\\_into\\_action.pdf](http://www.unfpa.org/upload/lib_pub_file/529_filename_rights_into_action.pdf) (accessed January 2008)

#### **005 Annotated CEDAW bibliography**

International Women's Rights Project, Victoria, BC, 2004, 106 p. This compilation of sources dealing with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has been organized into various topics identified within the articles of the Convention. Sources pertain specifically to CEDAW as a whole, but also cover issues that relate to specific topics discussed within the Convention. Each corresponding article of the Convention has been replicated at the beginning of the respective sections. In addition, the preamble to the Convention is outlined at the beginning of the bibliography. It is important to note that three

new topics have been added which are not directly represented by the articles of the convention: Violence Against Women, Refugee Women, and Religion and Women. Regional analysis sources have been organized according to country or region. Many of the sources within each section have been cross-referenced in order to provide a more comprehensive resource for the reader.

<http://www.iwrrp.org/pdf/biblio.pdf> (accessed January 2008)

#### **006 A rights-based approach to development: what the policy documents of the UN, development cooperation and NGO agencies say**

APPLEYARD, SUSAN. Office of the United Nations High Commissioner for Human Rights (OHCHR) Asia-Pacific, 2002, 44 p. Various development cooperation agencies, United Nations agencies and NGOs active in Asia define the rights-based approach to development in different ways, adapting their policy and incorporating it into their programmes according to their perspectives. Where an organization has not adopted a rights-based approach, a summary is given of how the organization describes the relationship between human rights and development. The descriptions and language are drawn directly from policy documents issued by the organizations themselves. These descriptions have either been provided by or reviewed by the agency concerned.

[http://www.crin.org/docs/resources/publications/hrbap/RBA\\_policy\\_docs\\_UN\\_NGO.pdf](http://www.crin.org/docs/resources/publications/hrbap/RBA_policy_docs_UN_NGO.pdf) (accessed January 2008)

#### **007 'Application of human rights to reproductive and sexual health': recommendations**

United Nations Population Fund (UNFPA), and Office of the High Commissioner for Human Rights (OHCHR), New York, NY, Geneva, 200[1], 7 p.

In 2001 the United Nations Population Fund (UNFPA) and the Office of the High Commissioner for Human Rights (OHCHR) organized a meeting to assess progress, obstacles and opportunities in integrating reproductive rights into the work of the treaty bodies and to elaborate further measures and strategies to be used by treaty bodies in the monitoring and strengthening of reproductive and sexual health. The meeting defined actions and recommendations to ensure better implementation of treaty obligations at domestic level so as to promote and ensure enjoyment by women and men of reproductive and sexual health. This document presents the recommendations for action that are grouped into three main areas: advocacy,

information gathering and reporting process, and national level implementation, and have been proposed according to the stakeholders identified as having the main responsibility in implementing them.

<http://www.ohchr.org/Documents/Publications/Reproductiveen.pdf> (accessed January 2008)

#### **008 Applying a human rights-based approach and mainstreaming gender in local development programming and implementation**

Joint Community of Practice, Gender, Human Rights, and Local Governance and Decentralization. Yerevan, Armenia, 13-15 June 2006, 14 p.

UNDP Armenia and the Bratislava Regional Centre hosted the Joint Community of Practice (JCoP) meeting 'Applying a Human Rights-Based Approach and Mainstreaming Gender in Local Development Programming and Implementation' to bring together experts from the Communities of Practice in Local Governance and Decentralization, Human Rights and Justice and the cross-cutting issue of Gender Mainstreaming. Human rights and gender can be easily integrated in local development programming and implementation because of the inter-linkages of the three areas. The summarized proceedings of this meeting provide an overview of objectives and analytical conclusions. Compiled links are provided to relevant materials used. The major conclusion of the JCoP meeting identified a need to enhance the effectiveness of available expertise and knowledge by providing tools that are easily transferable and usable across different national and local settings.

[http://europeandcis.undp.org/files/uploads/final%20report\\_Yerevan\\_joint\\_CoP.pdf](http://europeandcis.undp.org/files/uploads/final%20report_Yerevan_joint_CoP.pdf) (accessed January 2008)

#### **009 Lessons learnt from rights-based approaches in the Asia-Pacific region: documentation of case studies**

BANERJEE, UPALA DEVI. United Nations Development Programme (UNDP)/Office of the United Nations High Commissioner for Human Rights (OHCHR), New York, NY/Geneva, 2005, 352 p.

Case studies from Bangladesh, Cambodia, Pacific island countries, India, Indonesia, Laos, Nepal, the Philippines and Vietnam demonstrate how various rights-based approaches, strategies and processes have been used by developmental agencies and civil society groups. NGOs, community-based organizations (CBOs) and citizens have successfully demanded and claimed rights for and in participation with poor, vulnerable and marginalized groups in Asia and the Pacific. The stakeholders range from landless

people, poor farmers, HIV positive women, and island communities. Their cases include claiming their rights to land, to livelihood, to food, to gender sensitive responses for women living with HIV/AIDS, to education, to information, and to water and sanitation. They illustrate the added value that the use of rights-based approaches have in capacitating those who have often been left out of the larger social system, or those who have not been able to access the benefits of development programmes and policies.

<http://www.equalinrights.org/file.html?id=1989> (accessed January 2008)

#### **010 Where to for women's movements and the MDGs?**

BARTON, CAROL. *Gender and Development* 13(2005)1, p. 25-35 ISSN 1355-2074

Different women's rights activists and organizations, in various regions of the world, have different responses to the Millennium Development Goal (MDG) agenda and processes. A brief overview of the current state of play focuses on campaigning and advocacy, and the activism of grassroots movements; women's critiques of the MDGs; and the different ways in which women are choosing to engage with the MDGs, to advance their own agenda. There are different regional responses. Women's groups in Africa see the MDGs as an entry point to try to reclaim the right to public services that dramatically affect their lives, and to point out contradictions with poverty reduction strategy papers. In Latin America the issue of reproductive rights, ignored in the MDGs, has been central to the feminist agenda. Consequently, some Latin American feminist groups have wanted little to do with the MDGs. In Asia, responses to the MDGs reflect a reality of poverty, racial, ethnic and caste divisions, and militarism. Women's responses have often been linked to those of broader social movements with which they work. Many women are reluctant players in the MDG context, but continue to feel the need to be at the table to push for a gender equality agenda that is integrated into all areas of development and peace. They do not concede any terrain on Beijing and Cairo commitments, but many use the MDGs as a vehicle to keep women's issues on the global agenda.

KIT Library shelf code D 3030-13(2005)1

#### **011 The human rights of women: international instruments and African experience**

BENEDEK, WOLFGANG; KISAAKYE, ESTHER M.; OBERLEITNER, GERD. Zed Books, London, 2002, 336 p. ISBN 1-84277-045-4

For the past generation, human rights has been perhaps the most exhaustively developed area of international law. In no other area has the impact of the women's movement worldwide resulted in a more profound transformation. Today, the primary issue is no longer a better elaboration of human rights law, but its enforcement. In this context, a series of post-graduate training courses for participants from the South has given rise to a book that aims to better equip human rights workers, teachers, lawyers, civil servants, community leaders, students and academics. It aims to prepare them to address specific cases of gender inequality in their own countries, promote respect for the human rights of women locally, and contribute to women's empowerment by making more effective use of existing international standards. An introduction to the international instruments that deal with the human rights of women specifically examines the African experience in trying to implement them. Beginning with an explanation of the place of gender in modern international human rights law, successive chapters examine each of the international human rights covenants and conventions, the United Nations context, and the humanitarian law. The European human rights system is one among several regional systems. The focus is on the African system for the protection of human rights, as it now stands, and certain specific topics, including Muslim women's rights, polygamy, female genital mutilation, women prisoners. The roles that NGOs and women's movements play today in the promotion of human rights in Africa are also described.

KIT Library shelf code P 02-775

**012 The International Covenant on Economic, Social and Cultural Rights as a tool for combating discrimination against women: general observations and a case study on Algeria**

BENNOUNE, KARIMA. *International Social Science Journal* 57(2005)2, p. 351-369  
ISSN 0020-8701

The International Covenant on Economic Social and Cultural Rights (ICESCR) provides a tool for combating discrimination against women. Is the Covenant suited for this task? How has the related jurisprudence been developed to this end? From a gender perspective, what are some of the flaws both in the text and in its application, and how might these be overcome? How can the Covenant best be deployed to complement key women's human rights documents like the Women's Convention and the Beijing Declaration and Platform for Action? These questions are explored in general and specifically through the prism of a case study on Algeria. An effective

strategy for achieving women's human rights, in Algeria and beyond, depends on utilizing the range of international standards in fully gender-sensitive ways. Given both the centrality of economic, social and cultural rights to women, and their experience of violation of these rights, the ICESCR must be given more attention.

KIT Library shelf code K 1204-57(2005)2

**013 Operationalising the rights agenda: participatory rights assessment in Peru and Malawi**

BLACKBURN, JAMES; BROCKLESBY, MARY ANN; CRAWFORD, SHEENA; HOLLAND, JEREMY. *IDS Bulletin* 36(2005)1, p. 91-99  
ISSN 0265-5012

The Department for International Development (DFID) carried out a Participatory Rights Assessment Methodologies (PRAMs) project in Malawi and Peru examining the challenges facing donor agencies as they seek to operationalize a stated commitment to rights-based development. The experiences of assessing rights in practice draw attention to how rights are defined in particular contexts and how the effectiveness of rights in a particular context is mediated by existing power structures, which may be slow to change. A focus on participatory rights-based assessment ties in with the growing trend towards participation in development processes, with its emphasis on institutional engagement and change and on local ownership. Through a more specific rights and entitlements analytical framework, however, a participatory rights assessment approach politicizes analysis, highlighting power relations and processes of exclusion and discrimination. Participatory rights assessments have the potential to identify both the institutional structures and the political processes that define the channels through which citizens can contest their claims. The lessons learned from DFID's PRAMs initiative highlight both the potential of rights to address the structural causes of marginalization, and also the complexity of implementing rights-based approaches.

KIT Library shelf code E 1978-36(2005)1

**014 Voices of African women: women's rights in Ghana, Uganda, and Tanzania**

BOND, JOHANNA. Carolina Academic Press, Durham, NC, 2005, 421 p. ISBN 0-89089-124-9  
There are few works such as these from Ghana, Uganda and Tanzania about women's human rights within Africa, actually written by African women lawyers and human rights activists. Some strategies are transferable across borders and will interest like-minded activists in other

countries. Many of the essays include broader theoretical questions, such as the role of judicial activism in the quest for social justice. Despite the range of topics and strategies, however, the authors share a steadfast commitment to gender equality. This book offers a glimpse into the lives of women in the three countries mentioned. They describe the challenges they face in implementing international human rights norms at the local and national levels. In sharing their expertise they contribute to the global effort to promote and protect women's human rights.

KIT Library shelf code P 05-676

#### **015 Is the rights focus the right focus?**

##### **Nicaraguan responses to the rights agenda**

BRADSHAW, SARAH. *Third World Quarterly* 27(2006)7, p. 1329-1341 ISSN 0143-6597

What are the different meanings, perceived usefulness and limitations of a rights based approach to promote women's demands and unify women's actions in pursuit of these demands? Women's organizations have used rights to mobilize and promote change in Nicaragua. Research into them uses semi-structured interviews conducted with representatives of women's groups and key actors in the national women's movements in 2005. Many groups using the rights discourse find it useful for furthering collective aims. However, the notion of 'rights based development' is not widely understood within women's movements and, when recognized, is seen to be part of the donor agenda. This has implications for women's actions for change, bringing up questions as to the repackaging of gender as rights and raising concerns about the ability of a rights focus alone to challenge unequal power relations.

KIT Library shelf code E 2401-27(2006)7

#### **016 Common ground or mutual exclusion: women's movements and international relations**

BRAIG, M.; WÖLTE, S. (eds). Zed Books, London, 2002, 156 p. ISBN 1-84277-159-0

Contributors from North and South, including feminist academics and activists as well as mainstream scholars of international relations explore the concrete impact women have made in areas like development theory and practice, conflict management, and the conceptualization and politics of human rights. They also reflect on how far the traditionally male-defined discipline of international relations has taken on board feminist thinking and now includes a recognition of women as actors in international politics. The issue of an intellectual relationship between feminism and mainstream scholarship is opened up, and the degree to which today's feminist

scholarship takes place in isolation from women's movements and politics. Differences in perspective and political position between women in the North and the South are elaborated. KIT Library shelf code P 02-2296

#### **017 Rights-based development: a guide to implementation**

BROCKLESBY, MARY ANN; CRAWFORD, SHEENA. 2005, 81 p.

Filling a need in current operational development practices, practical advice indicates how to embed rights issues within policy processes and working practices, and how to reflect systematically on the processes involved. The guide provides support for development practitioners working towards the Millennium Development Goals, and illustrations from examples of recent practice show steps towards realization of the goals. Suggestions are drawn from experience at all stages of the policy and programme cycles, from across a wide range of sectors, and include cross-cutting themes like age, gender, health status and sexuality. Lessons learnt from work to date in building policy and implementing programmes that support poor people in achieving their rights are shared. The focus is on providing a tool to increase understanding and capacities for rights-based development. The approaches and suggested methods can support staff and encourage a wider range of stakeholders to work for rights-based development.

<http://www.equalinrights.org/file.html?id=1577>  
(accessed January 2008)

#### **018 The BIAS FREE framework: a practical tool for identifying and eliminating social biases in health research**

BURKE, MARY ANNE; EICHLER, MARGRIT. *Global Forum Health*, 2006, 64 p. ISBN 2-940286-43-4

This volume provides students, researchers and policy makers with a new user-friendly rights-based tool for identifying and eliminating biases deriving from social hierarchies in their work. Cutting a swathe through the layers of tools researchers and policy-makers have had to apply in the past to avoid sexism, racism, ableism, classism, casteism, ageism and endless other 'isms' in their work, the BIAS FREE Framework is offered as an integrative approach to explore and remove the compounding layers of bias that derive from any social hierarchy. BIAS FREE stands for Building an Integrative Analytical System for Recognizing and Eliminating inequities. The acronym is the statement of a goal. The theoretical underpinnings of the BIAS FREE

Framework and the roots of discrimination – the logic of domination – common to all ‘isms of domination’ are laid out. Understanding this basic conceptual interconnection among all systems of oppression is the key to unlocking them. The focus of the volume is the application of the BIAS FREE framework for understanding how biases that derive from social hierarchies manifest in health research. The BIAS FREE framework is applicable not just to research, but also to legislation, policies, programmes and practices. It is also transferable to any policy sector, not just health, and speaks to the needs of high- and low-income countries alike. It is an essential tool for getting at the roots of social inequalities and effecting real social change.

[http://www.globalforumhealth.org/filesupld/Bias%20free/The%20BIAS%20FREE\\_FullText.pdf](http://www.globalforumhealth.org/filesupld/Bias%20free/The%20BIAS%20FREE_FullText.pdf) (accessed January 2008)

**019 Claiming rights, claiming justice: a guidebook on women human rights defenders**  
Asia Pacific Forum on Women, Law and Development (APWLD), Chiang Mai, 2007, 168 p. ISBN 978-974-7348-92-7

Women human rights defenders face specific risks, violations and constraints in their work. Naming these issues enables a practical discussion of the useful mechanisms developed by the state and civil society to provide redress and remedy, and to protect women human rights defenders. It is intended to be used by human rights and other organizations to further a gender perspective in the monitoring and documentation of human rights. The guidebook was produced in close collaboration with individuals and organizations who have participated in the international campaign on women human rights defenders since 2005.

<http://www.apwld.org/pdf/book3NeoWithCover.pdf> (accessed January 2008)

**020 Living rights: reflections from women's movements about gender and rights in practice**  
CLARK, CINDY; REILLY, MOLLY; WHEELER, JOANNA. *IDS Bulletin* 36(2005)1, p. 76-81  
ISSN 0265-5012

The experiences of the women's human rights movement over the last three decades indicate some of the main contributions that a gendered approach can make to understanding how rights can be used in practice to address exclusion and marginalization. The examples show that a gender analysis of rights can show how rights are experienced, have meaning, and are mediated by power relations. They also demonstrate the potential of rights to be part of a wider process of pro-poor change. In some circumstances, a

gender analysis of rights can add power to a claim to frame it in terms of a right, which may be accepted in principle but ignored in fact. Through taking action to solve problems, people gain confidence and consciousness of themselves as the subjects of rights. Recognizing when and how to use rights in a social change strategy is an important part of a rights-based approach. However, perhaps the most significant accomplishment of the global movement is the new consciousness about rights that is reaching women everywhere.

KIT Library shelf code E 1978-36(2005)1

**021 Where is the money for women's rights? Assessing resources and the role of donors in the promotion of women's rights and the support of women's organizations**

CLARK, CINDY; SPRENGER, ELLEN; VENEKLASEN, LISA; DURAN, LYDIA ALPIZAR; KERR, JOANNA. Association for Women's Rights in Development (AWID), Toronto, 2006, 153 p.

Ongoing action research launched by the Association for Women's Rights in Development (AWID) provides insight into possible strategies for changing existing funding landscapes, so that more resources are made available to women's rights organizations. The aim of the research was to understand better the limitations and levers for strengthening financial support for women's rights organizations and movements in and of themselves. The findings are based on over eighty face-to-face interviews with donor organizations and women's groups, three international consultations, an extensive online survey with women's groups worldwide and a comprehensive review of secondary literature. There are clear indications that while public awareness of women's rights violations internationally may have increased, funding for women's organizations to guarantee those rights has not. Many groups are in a state of survival and resistance and trying to adjust to the new funding landscape, particularly as a result of shifts in development assistance and cutbacks by the large independent foundations. The survival of many women's organizations doing critical work to guarantee and protect the rights of women on the ground is at stake.

[http://www.awid.org/publications/where\\_is\\_money/web\\_book.pdf](http://www.awid.org/publications/where_is_money/web_book.pdf) (accessed January 2008)

**022 Taking stock II: Rights based approach 2004**

COHEN, DAVID. ActionAid International, Johannesburg, 2004, 33 p.

ActionAid has evolved over time from a relief and service-based organization into a

development organization with a rights based approach as a normative policy. Implementation of the rights based approach within the organization is reviewed. Steps are suggested that ActionAid International should take in the next five years to further advance in major ways the rights based approach, in the framework of fighting poverty.

<http://www.actionaid.org/assets/pdf%5CAAI%20Rights%20Based%20Approach.pdf> (accessed January 2008)

### **023 Human rights of women: national and international perspectives**

COOK, REBECCA J. (ed.). University of Pennsylvania Press, Philadelphia, PA, 1994, 634 p. ISBN 0-8122-1538-9

How could the Convention on the Elimination of All Forms of Discrimination Against Women and the supporting provisions and institutions of international human rights law become an effective instrument in the quest for women's equality, protection, and individual dignity? Analysis indicates how international human rights law applies specifically to women in various cultures worldwide, and suggests strategies to promote equitable application of human rights law at international, regional, and domestic levels. Reports and case studies from various regions in the world (Africa, Latin America, South Asia, India, Sudan, Ghana, Canada, and Colombia) are combined with scholarly assessments of various aspects of international law as these rights specifically apply to women. International human rights law, feminist studies, family law, political science, third world studies, jurisprudence, and philosophy present multiple and overlapping agendas.

KIT Library shelf code P 04-2451

### **024 Conflict society and human rights: a gender analysis**

COPPER, DIANA. *SHUR Working Paper Series* 04/07. 2007, 12 p.

Civil society organizations (CSOs) in conflict-ridden societies (CoSOs) are analysed in depth from a gender perspective. Gender is mapped out according to the classification of civil society organizations and the roles these organizations fulfill within conflict situations that are relevant to this study's scope of analysis. A complex relationship exists between gender and CSO types. The relationship between gender, CoSOs and human rights is explored, juxtaposing gender to structure, identity, the framework of action and political and opportunity structure of CoSOs to understand how CoSOs may fuel, prevent and contribute to the redressing of gender rights and

bring progressive change within a specific context. The impact of local and trans-national CoSOs on gender in conflict and gender rights violations is described. Hypotheses indicate which type, in which particular time and place and with which particular actions a CoSO can favour progressive gender change, turning conflict into a catalyst for equality and social justice.

<http://www.luiss.it/shur/wp-content/uploads/2007/05/shurwp04-07.pdf> (accessed January 2008)

### **025 The politics of rights: dilemmas for feminist praxis**

CORNWALL, ANDREA; MOLYNEUX, MAXINE (eds). Routledge, London, 2007, 192 p. ISBN 0-41545-906-8

Since the late 1990s, development institutions have increasingly used the language of rights in their policy and practice. This special issue on feminist perspectives on politics of rights explores the strategies, tensions and challenges associated with 'rights work' in a variety of settings. Articles on the Middle East, Africa, Latin America, East and South Asia explore the dilemmas that arise for feminist praxis in these diverse locations, and address the question of what rights can contribute to struggles for gender justice. Exploring the intersection of formal rights – whether international human rights conventions, constitutional rights or national legislation – with the everyday realities of women in settings characterized by entrenched gender inequalities and poverty, plural legal systems and cultural norms that can constitute formidable obstacles to realizing rights. The contributors suggest that these sites of struggle can create new possibilities and meanings – and a politics of rights animated by demands for social and gender justice.

See: <http://www.ntd.co.uk/idsbookshop/details.asp?id=1001>

### **025a The politics of rights: dilemmas for feminist praxis. An introduction**

CORNWALL, ANDREA; MOLYNEUX, MAXINE. *Third World Quarterly* 27(2006)7, p. 1175-1191 ISSN 0143-6597

The globalization of rights and the appearance of rights-based development as a policy instrument have proceeded in tandem over recent years, offering women's advocates the potential to seek improvements in women's status and entitlements. The increasing visibility of women in public life and the pluralization of opportunities for women's political participation, however, is no guarantee of support for women's rights. It is precisely in relation to gender-specific issues

such as sexual and reproductive rights that feminism has met unprecedented challenges, including from women themselves. Old dilemmas and divides among women have been exacerbated by these fractures, requiring feminists to navigate new political terrains and confront new hazards. The dilemmas that the politics of rights pose for feminist practice in a diversity of sites and settings frame differences that are compounded by harsh political realities surrounding efforts to advance women's rights.

KIT Library shelf code E 2401-27(2006)7

**026 Why rights, why now? Reflections on the rise of rights in international development discourse.**

CORNWALL, A.; NYAMU-MUSEMBI, C. *IDS Bulletin* 36(2005)1, p. 9-18 ISSN 0265-5012

Why have rights now come into favour with international agencies, and what are some of the implications of the shift to thinking and talking about rights for the politics and practice of development? Normative, pragmatic and ethical justifications for 'rights-based approaches' to development are outlined. Certain implications flow from treating rights as a normative framework for development. Proponents of other approaches point out some of the dilemmas, such as sustainable livelihoods. The current usage of rights language in development is compared to talk of rights in other times, such as at the time of anti-colonial struggles in the 1950s and 1960s and the movement for a new International Economic Order. Reflections on the challenges and prospects of rights for the politics and practice of development are articulated, including that however it is operationalized, a 'rights-based approach' would mean little if it has no potential to achieve a positive transformation of power relations among the various development actors. Thus, however any agency articulates its vision for a 'rights-based approach', it must be interrogated for the extent to which it enables those whose lives are affected the most to articulate their priorities and claim genuine accountability from development agencies, and also, the extent to which the agencies become crucially self-aware and address inherent power inequalities in their interaction with those people.

KIT Library shelf code E 1978-36(2005)1

**027 Putting the 'rights-based approach' to development into perspective**

CORNWALL, A.; NYAMU-MUSEMBI, C. *Third World Quarterly* 25(2004)8, p. 1415-1437 ISSN 0143-6597

There are different rationales and justifications for rights-based approaches to development. Treating rights as a normative framework for

development has certain implications, and proponents of other approaches point out some of the dilemmas, such as sustainable livelihoods.

A provisional history of rights-based approaches to development gives rise to reflections on how and why rights have become an issue at this particular time. The historical discussion juxtaposes current usage of rights language in development with talk of rights in other times, such as in anti-colonial struggles in the 1950s and 1960s, and the Movement for a New International Economic Order in the late 1960s, 1970s and early 1980s. Definitions and distinctions used in the discourses of a range of international development agencies enable an exploration of what a rights-based approach means to them and what it might consist of in practice. A summary indicates the key elements and differences in approaches to linking human rights and development and a brief discussion of the shortcomings that emerge across the board in contemporary international development agencies' talk and practice around rights-based approaches to development.

KIT Library shelf code E 2401-25(2004)8

**028 Gender and the politics of rights and democracy in Latin America**

CRASKE, NIKKI; MOLYNEUX, MAXINE.

Palgrave, Basingstoke, 2002, 226 p.

ISBN 0-333-94948

This volume addresses the question of why issues of rights and democracy have become so central to women's movements in post-transition Latin America. Women's movements moved from being an oppositional force to one forging new strategies to promote gender justice. Nine contributions cover a range of countries and political contexts, analysing specific bodies of rights and campaigns for legal reform. These include rights of political representation in Venezuela, legal literacy in Brazil, reproductive rights in Chile, socioeconomic rights, rights and ethnicity in the Andes, labour rights and rights to protection against domestic violence in Uruguay.

KIT Library shelf code P 01-2713

**029 Definitions of rights based approach to development: by perspective**

August 2003, 11 p.

A compendium of rights-based approaches representing the perspectives of various European development organizations and governments, United Nations organizations, and NGOs.

[http://www.crin.org/docs/resources/publications/hrbap/Interaction\\_analysis\\_RBA\\_definitions.pdf](http://www.crin.org/docs/resources/publications/hrbap/Interaction_analysis_RBA_definitions.pdf) (accessed January 2008)

**030 Development effectiveness in practice: applying the Paris Declaration to advancing gender equality, environmental sustainability and human rights. Concept note for the Dublin Workshop, 26-27 April 2007**

DCD/DAC/EFF (2007)1. Organisation for Economic Co-operation and Development (OECD), Paris, 2007, 6 p.

This concept note outlines the background, rationale and focus of the Dublin Workshop (26-27 April). It was prepared by a Workshop Steering Group composed of Members from the DAC Networks on Gender Equality, Environment, Governance, the Working Party on Aid Effectiveness and the Secretariat.

<http://www.oecd.org/dataoecd/42/16/38408110.pdf> (accessed January 2008)

**031 Gender and human rights in the Commonwealth: some critical issues for action in the decade 2005-2015**

DODHIA, DINESHI; JOHNSON, TINA. The Commonwealth Secretariat, London, 2004, 312 p. ISBN 0-85092-808-7

The purpose of this book is to contribute to current policy making, programme planning and the implementation of gender and human rights. It is intended for a wide audience of policy makers, magistrates, judges and lawyers, academics and civil society organizations grappling with these issues. It is also intended as a conceptual and policy-oriented resource for those committed to implementing and supporting the human rights goals of the new Commonwealth Plan of Action for Gender Equality 2005-2015. The papers address a wide range of gender and human rights issues, including the convention on the Elimination of All Forms of Discrimination against Women (CEDAW), gender-based violence, culture and the law, indigenous peoples, trafficking and migration, land and property rights, diversity, and a life-cycle approach to gender and human rights. The book brings together the papers commissioned for a Pan-Commonwealth Expert Group Meeting on Gender and Human Rights which took place at the Commonwealth Secretariat, London in February 2004. Together with other key background papers, they represent much of the analysis and experience of Commonwealth member countries that informed the development of the Human Rights section of the new Commonwealth Plan of Action for Gender Equality 2005-2015.

See: <http://publications.thecommonwealth.org/gender-and-human-rights-in-the-commonwealth-355-p.aspx> (accessed January 2008)

**032 'We are also human': identity and power in gender relations. Paper submitted to the conference 'The winners and losers from rights based approaches to development', University of Manchester, 21-22 February, 2005**

DRINKWATER, MICHAEL. 2005, 13 p.

A rights-based approach (RBA) to development can address the more pervasive factors that perpetuate gender inequality. Until men accept women as equally human, attempts to promote the empowerment of women will necessarily always be limited in their scope and longevity. CARE International has adopted a kind of RBA, namely a relational approach to rights that sees all people as moral beings who possess equal rights and responsibilities, to improve the situation of women and their families. Illustrations of this approach by CARE International draw on analytic and programmatic work undertaken on gender equity issues in a range of African and Asian cultural contexts. The focus is on attitudes and ways of thinking of men and women, the use of male power in gender relations, how men perceive themselves, and how their identities are influenced by and influence social structures. The final section summarizes some lessons learned from CARE's experience so far about the kinds of approaches that are needed to address the deep-rooted cultural causes of gender inequality.

<http://www.sed.manchester.ac.uk/research/events/conferences/documents/Winners%20and%20Losers%20Papers/Drinkwater.pdf> (accessed January 2008)

**033 Globalization and human rights as gendered ideologies: a case study from Northeast Thailand**

EARTH, BARBARA. *Gender, Technology and Development* 9(2005)1, p. 103-123 ISSN 0971-8524 Isan, Northeastern Thailand, serves as a case study on how Western liberal philosophy constructs both globalization and human rights as gendered development discourses. The case focuses on a pulp mill and its effects on the surrounding community. It highlights the competing human rights claims of Isan women. Isan women and men are similarly affected by globalization and its impacts on land rights, livelihoods, the environment, public health and Isan culture. In Isan's traditional bilateral culture, women inherit land while men hold legal authority. In the context of industrialization, new household employment scenarios emerge that erode women's traditional equality in the public sphere and worsen their position in the private sphere. At the same time, the environmental rights movement has been led by men, resulting in their increased visibility and an under-articulation of women's issues. The gendering of

liberalism requires that women claim their unique location with respect to environmental rights as well as expand their legal claims and protections to the private sphere. It is for women's groups themselves to articulate how their particular location differs from that of the men and to claim their rights in both public and private spheres.

KIT Library shelf code H 2516-9(2005)1

### **034 Donors, rights-based approaches and implications for global citizenship: a case study from Peru**

EYBEN, R. In: *Inclusive citizenship: meanings and expressions* ed. by Naila Kabeer. Zed Books, London, 2004, p. 251-268 ISBN 1-84277-549-9

How far can foreign governments go in supporting the realization of the rights of citizens of other countries? The country programmes of most bilateral aid agencies hesitate to move from declaration to implementation of rights-based approaches. Nevertheless, innovation and enterprise flourish on the margins of the mainstream. It is here we must look for efforts to put declarations into practice. Various challenges and risks face a foreign aid agency when it seeks to do so, as shown in interviews with the staff concerned, and four examples from a broader range of efforts. The Peru office of the UK Department for International Development is a small country office on the periphery of a large bilateral international aid programme. The case study shows that the Peru team consistently takes a rights-based approach and the team's effort reveals difficult issues concerning the legitimacy of action: the practice of power and lines of accountability. Illustrating these dilemmas and challenges may help development agencies contribute to an inclusive world order based on transnational notions of rights and social justice.

KIT Library shelf code P 05-680

### **035 The rise of rights: rights-based approaches to international development**

EYBEN, R. *IDS Policy Briefing 17*. Institute of Development Studies (IDS), Brighton, 2003, 4 p.

International development agencies increasingly use rights-based language. But how can their policy and practice support people's own efforts to turn their rights into reality? Four major issues are that: (1) Some people believe these new rights-based approaches offer the potential for a fundamental and positive change for international development agency relations with governments and civil society in aid recipient countries, while others remain puzzled as to their relevance for achieving the Millennium Development Goals; (2) Some observers suspect

that agencies have appropriated the 'rights' language without changing their underlying beliefs; (3) Rights-based approaches are challenging. They reveal difficult issues concerning the legitimacy of action, the practice of power and lines of accountability; (4) The full implications of putting a rights-based approach into practice remain to be tested. Priorities for development agencies in their relations with government and civil society in aid recipient countries have been identified.

<http://www.ids.ac.uk/ids/bookshop/briefs/Pb17.pdf>  
(accessed January 2008)

### **036 Can donors be more accountable to poor people?**

EYBEN, R.; FERGUSON, C. In: *Inclusive aid: changing power and relationships in international development* ed. by Leslie Groves and Rachel Hinton. Earthscan, London, 2004, p. 163-180. ISBN 1844070328

Rights-based accountability involves transparency and responsiveness. It includes the active involvement of stakeholders in defining an institution's responsibilities and monitoring the fulfillment of those responsibilities. There are five categories of institution or persons to which bilateral aid agencies in particular should be accountable: taxpayers in the donor country; government in the donor country; government in the recipient country; poor people in the recipient country; and the international human rights framework. In this context, the characteristics of donor accountability are identified. The promotion of 'good governance' and responsibility towards recipient governments through partnerships has become a fundamental part of donor assistance. Donor agency staff need to map out lines of accountability and facilitate alliances between stakeholders. Donor governments must hold a vision of accountability as central to all of their work, procedures, and relationships. Donor governments must persuade their own citizens to hold them accountable for aid programmes. Donors can avoid imposing conditionality by supporting the strengthening of formal democratic machinery, rather than funding civil society to increase state accountability.

KIT Library shelf code N 04-1007

### **037 The human rights-based approach to development: the right to water**

FILMER-WILSON, EMILIE. *Netherlands Quarterly of Human Rights* 23(2005)2, p. 213-241  
ISSN 0169-3441

The human rights-based approach to development (RBA) puts human rights at the

heart of human development. It sets the achievement of human rights obligations as an objective of development aid and integrates human rights principles into the development process. Based on the experience of development agencies and using the right to water as an example, this article identifies the practical implications and added value of the RBA. The RBA establishes the obligations of States to ensure that basic water needs are met and that communities are empowered to claim their right: it identifies and addresses the root causes for lack of access to water, and places people at the centre of the development process. Translating this complex approach into practice is challenging. Yet taking the extra steps to adopt the RBA will improve overall impact and sustainability of development aid.

[http://www.undg.org/archive\\_docs/6136-The\\_Human\\_Rights\\_Based\\_Approach\\_to\\_Development\\_the\\_Right\\_to\\_Water.pdf](http://www.undg.org/archive_docs/6136-The_Human_Rights_Based_Approach_to_Development_the_Right_to_Water.pdf) (accessed January 2008)

### **038 Finland and the human rights-based approach to development: final report**

Ministry for Foreign Affairs of Finland, Helsinki, 2006, 47 p.

The purpose of the study is to support implementation of the new development policy and to review and analyse what implications the rights-based approach has for Finnish development cooperation. The study involves two case studies in Nicaragua and Ethiopia. The overall conceptual finding is that the human rights-based approach to development does not just entail taking the 'realization of the rights of the individual as defined by international human rights instruments' as a 'starting point', but also making crucial conceptual shifts in development. In both Nicaragua and Ethiopia, processes were neither iterative nor based on assessments, analyses and actions linked to specific human rights. Development should deliberately comply and advance human rights principles. This requires that strategies, methodologies, and styles of development work are based on and advance human rights principles. There is enough in the country's development and human rights policies to make its development cooperation demonstrably human rights-based. Another key finding is that the human rights-based approach insists on the performance of duties at all levels of society, and therefore effective decentralization is central to the realization of well-being through this approach.

[http://www.ramboll-finconsult.fi/images/hrb\\_study\\_report.pdf](http://www.ramboll-finconsult.fi/images/hrb_study_report.pdf) (accessed January 2008)

### **039 Aid effectiveness and human rights: strengthening the implementation of the Paris Declaration**

FORESTI, MARTA; BOOTH, DAVID; O'NEIL, TAMMIE. Overseas Development Institute (ODI), London, 2006, 76 p.

This publication is based on a project commissioned by the OECD-DAC Network on Governance (GOVNET) exploring the possible synergies between human rights and the aid effectiveness agenda set out in the Paris Declaration on Aid Effectiveness (PD). The overall purpose of the project was to contribute to developing a human rights perspective on aid effectiveness, with the objective of progressively contributing to: (1) effective implementation of the PD; (2) continuing evolution of aid effectiveness thinking; and (3) OECD-DAC future strategies and policies in these two fields. More generally, the project aimed to instigate a process of structured reflection and innovative dialogue on the potential for positive interaction between different important lines of development thinking – by the respective expert communities – which have so far evolved separately. A framework paper and five think pieces analyse the specific practical contribution that human rights thinking and practice can bring to each of the partnership commitments of the PD: ownership, harmonization, alignment, managing for results, and mutual accountability.

<http://www.oecd.org/dataoecd/35/24/38284443.pdf> (accessed January 2008)

### **040 Challenges in the implementation of women's human rights: field perspectives on domestic violence and HIV/AIDS. Paper presented at The winners and losers from rights-based approaches to development**

FORTI, SARAH. 2005, 26 p.

Research in Uganda studies the linkages between Women's Human Rights, Domestic Violence and HIV/AIDS from a socio-legal and anthropological perspective. The study scope is to critically assess the 'formal' and 'informal' judicial institutions and bodies that are accessed by women living in poor urban neighbourhoods to resolve conflicts related to domestic violence. This paper shows the complexities related to the implementation of women's human rights with regard to substantive legal issues and to structural challenges. The first chapter focuses on key and fundamental violations of Women's Human Rights in two intrinsically related categories, namely violations related to women's right to dignity and violations related to women's socio-economic rights. The next chapter provides an analysis of development in National

Legislation in relation to the key women's human rights issues discussed in chapter 1. Chapter 3 assesses the structural challenges related to the poor access to one 'formal' institution by the poorest section of the population in relation to women's human rights abuses. It also highlights the 'informal' institutions that are currently accessed. The paper concludes with questions for further reflection and debate.

<http://www.sed.manchester.ac.uk/research/events/conferences/documents/Winners%20and%20Losers%20Papers/Forti.pdf> (accessed January 2008)

#### **041 Frequently asked questions on a human rights-based approach to development cooperation**

UN, Office of the High Commissioner of Human Rights, New York, NY, Geneva, 2006, 50 p. United Nations (UN) agencies have gone a considerable way towards overcoming the congruence between human rights and development theory, partly by defining a common understanding of a human rights-based approach to development cooperation. Yet there remains a chasm between theory and practice, preventing objectives, policies and processes of development being channelled more directly and effectively towards human rights goals. There are, of course, many reasons why this is so, including continuing gaps in knowledge and skills, and difficulties in translating human rights norms into concrete programming guidance applicable in diverse policy contexts and national circumstances. This is the principal gap that this publication aims to fill, with UN development practitioners as the primary audience. The publication aims to advance a shared understanding about how the goals of human rights and development can be achieved through more effective development cooperation, within wider strategies and coalitions for change. The valuable contributions to this publication by UN development partners are testimony to the kind of collaboration that should be further encouraged.

[http://www.hurilink.org/tools/FAQon\\_HRBA\\_to\\_Development—OHCHR.pdf](http://www.hurilink.org/tools/FAQon_HRBA_to_Development—OHCHR.pdf) (accessed January 2008)

<http://www.equalinrights.org/file.html?id=840> (accessed January 2008)

#### **042 Gender rights in Latin America: following, transforming, leading and lagging the transnational. Paper presented at the annual meeting of the International Studies Association, Montreal, Quebec, Canada, 2006**

FRIEDMAN, ELISABETH. 2006

This paper queries the extent to which transnational norms and institutions are influencing rights claims and rights legislation at the national

level in Latin America. One particularly dynamic – and fraught – arena of rights at the transnational level is that of gender rights, including women's rights and sexual and reproductive rights. The paper examines four types of gender rights in the region: political quotas for women, ending domestic violence, reproductive rights, particularly abortion, and lesbian, gay, bisexual, transgender (LGBT) or queer rights. It concludes with speculation as to why the effects of the transnational have differed across the rights types.

See: [http://www.allacademic.com/meta/p74343\\_index.html](http://www.allacademic.com/meta/p74343_index.html) (accessed January 2008)

#### **043 Gendering the agenda: the impact of the transnational women's rights movement at the UN conferences of the 1990s**

FRIEDMAN, ELISABETH. *Women's Studies International Forum* 26(2003)4, p. 313-331  
ISSN 0277-5395

In 1995, over 30,000 women's rights advocates attended the United Nations (UN) Fourth World Conference on Women, making a substantial difference to conference outcomes. However, advocates' achievements at their 'own' conference was not the central gain of the 1990s. It was their success in gendering the agenda of other global conferences of the 1990s: mainstreaming gender analysis into areas considered 'gender-neutral' and prioritizing women's rights as integral to conference goals. A theoretical framework for the emergence and development of transnational social movements is offered, the women's rights advocates' particular interest in transnational organization is explained and their objective described. The historical emergence of transnational women's rights organization is examined, in particular its recent history during the UN Decade for Women. An analysis is made of how the movement developed over the course of the 1990s through the UN conference processes, with particular attention to how it 'gendered the agenda' of conferences that were not focused on women's rights. The organized backlash encountered by the movement is also analysed, as is the challenge that women's rights advocacy presents to a globalizing world.

KIT Library shelf code H 2452-26(2003)4

#### **044 The Africa Women's Protocol: a new dimension for women's rights in Africa**

GAWAYA, ROSE; MUKASA, ROSEMARY SEMAFUMU. *Gender and Development* 13(2005)3, p. 42-50  
ISSN 1355-2074

The development and agreement of the African Women's Protocol was adopted by the African Head of State in 2003. This article considers the

experience of Oxfam GB in supporting the development and ratification of the Protocol. The authors make particular reference to the southern African countries of Mozambique, South Africa, and Zambia. Advocacy activities linked to the African Women's Protocol suggest that it is a potential force for positive change, despite its imperfections. The Protocol legitimizes the struggles for gender equality and the promotion and protection of women's rights as an African struggle. If properly harnessed, it can serve as an effective tool to be used by African women, to support their empowerment. This is an issue of fundamental human rights. In addition, empowering African women, who make up more than half of the continent's population, will have a positive multiplier effect, which will eventually produce happier, healthier, wealthier, and more harmonious families and societies.

KIT Library shelf code D 3030-13(2005)3

**045 Accessing economic and social rights under neoliberalism: gender and rights in Chile**

GIDEON, JASMINE. *Third World Quarterly* 27(2006)7, p. 1269-1283 ISSN 0143-6597

The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides an important framework within which it is possible to consider rights-based approaches to development, particularly from a gender perspective. The first part of the paper provides an overview of the ICESCR and outlines the processes of operationalizing rights as set out in the covenant. It also briefly examines feminist critiques of the ICESCR. The second part of the paper highlights some of the ways in which groups of women workers are being denied access to many rights within the ICESCR, particularly the right to health. Chile is an ideal case study, since it is often considered as the 'neoliberal success story' and provides a model for welfare provision across Latin America. Finally, drawing on the experiences of Chilean NGOs working in the health sector, the analysis considers how citizens could use the ICESCR to claim their rights, given the limitations of participatory mechanisms in Chile.

KIT Library shelf code E 2401-27(2006)7

**046 A rights-based approach to realising gender equality**

GOONESEKERE, SAVITRI. UN Division for the Advancement of Women (DAW), 1998

In the past decade there has been a shift in how women's advancement is regarded. Women's status - politically, socially, economically - and their health are all now considered important ends in themselves. This shift coincides with

increased emphasis on the importance of a rights-based approach to planning. This paper provides a guide to the international human rights framework, and discusses the challenges that integration poses when trying to achieve gender equality. It surveys international human rights law at all levels and considers gender-specific norms and standards, concentrating on the Convention on the Elimination of All Forms of Discrimination against Women. The scope and application of human rights are discussed, including the identification of rights-holders and duty-holders and States' obligations as a result of human rights provisions. Also considered are: the role of civil society; challenges to a rights-based approach to gender equality, including the impact of the public/private divide and competing rights; and the role of multilateral and bilateral bodies in realizing human rights at national level. Key elements inherent in a rights-based approach are set out.

<http://www.un.org/womenwatch/daw/news/rights.htm>

(accessed January 2008)

**047 Reinventing development? Translating rights-based approaches from theory into practice**

GREADY, PAUL; ENSOR, JONATHAN. Zed Books, London, 2005, 314 p. ISBN 1-84277-649-5

This volume aims to contribute to a small but growing body of work that attempts to identify what difference a rights-based approach makes in practice. What is the 'value-added by a rights-based approach? How does a rights-based approach alter development work and programming? What possibly new difficulties and tensions are arising? Secondly, the collection aims to make a contribution to a greater common understanding of a rights-based approach. Top-down attempts to formulate policy coherence in relation to rights-based approaches have made some progress towards identifying common themes, but have largely failed to convince sceptics that they go beyond repackaging existing best development practice. While acknowledging the diversity of rights-based approaches and practice and seeking to explore its implications, this collection aims to build a greater common understanding of its core components, from the bottom up, based on insights provided by practitioners. It does this by detailing the experiences of practitioners in case studies of rights-based approaches in practice in Africa (Rwanda, Uganda), Latin America (Brazil), Asia (India, Nepal), and Europe (Ireland). In addition, three contemporary challenges facing the implementation of rights-based approaches are addressed: the implications of rights for

development in an era of neoliberalism and 'good governance'; (2) the relationship between rights and culture; and (3) aid politicization and the 'war against terror', drawing on the case of Afghanistan. The conclusion provides some provisional answers and issues for an ongoing dialogue.

KIT Library shelf code P 05-2114

**048 Diverting the flow: a resource guide to gender, rights and water privatization**

GROSSMAN, ANNA; JOHNSON, NADIA; SIDHU, GRETCHEN (eds). Women's Environment and Development Organization (WEDO), New York, NY, 2003, 12 p. ISBN 0-9746651-0-X

Water is a vital natural resource and human right. However, access to potable water is becoming increasingly difficult. When water is scarce, polluted, or unaffordable, women suffer most acutely. As economic providers, caregivers, and household managers, women are responsible for ensuring that their families have water for daily living. While much has been written on water privatization, there is a need to link this discourse to the actual impact on women. This publication is a resource guide for policy makers and human rights, environmental, and economic and gender justice advocates working on global policy, to examine the impact that privatization of goods and services like water has on the livelihoods of women, particularly poor women. Section one presents extracts from a variety of sources that highlight the critical issues related to water privatization and women, including: water as a human right, public versus private goods, gender roles and inequities, global policy trends, and governance issues. Section two presents different arenas for civic engagement. This includes actions at the local level and entry points for advocacy on privatization issues in strategic global forums. Finally, a list of resources is provided for additional information.

<http://www.wedo.org/files/divertingtheflow.pdf> (accessed January 2008)

**049 Rights-based approaches to health**

GRUSKIN, SOFIA (ed.). *Health and Human Rights* 9(2006)1, 201 p. and 9(2006)2, 300 p. ISSN 1079-0969

A large number of research-based papers presented at the landmark 2005 conference on 'Lessons learned from rights-based approaches to health' is included in these 2 issues of *Health and Human Rights* (2006). Contributions mirror the current state of the field of health and human rights. They underscore the need for further clarification of what is meant by rights-based

approaches to health. This has led to careful reflection on the numerous ways the term is currently being used. As the articles demonstrate, rights-based approaches to health are implemented all over the world, whether encompassing legal, advocacy or programmatic efforts. These different ways of conceptualizing and pursuing rights-based approaches to health indicate areas in which further work is needed to move the field of health and human rights in the direction of greater clarity.

KIT Library shelf code H 3188-9(2006)1; H 3188-9(2006)2

**050 Rights and realities: limits to women's rights and citizenship after 10 years of democracy in South Africa**

HAMES, MARY. *Third World Quarterly* 27(2006)7, p. 1313-1327 ISSN 0143-6597

South Africa's seemingly progressive legislation has been tried and tested over the past 10 years. Subsequent case law has been created and these precedents have given women citizens the courage and opportunities to challenge legislation in the upper and lower courts, and to use other legal mechanisms to improve their access to justice. The contradictions between the liberal rights discourse and the lived experience of many South African women form the central focus of the article. An account is given of the policies and laws that were introduced in an attempt to redress past inequalities. It is examined how black women living in a peri-urban area of Cape Town understand, express and experience these rights and realities, drawing on insights from a series of workshops that highlight the significance of issues of race, class and language. It is shown how difficult it still is for many women to exercise or even understand their newly acquired liberal 'rights' as entrenched in the constitution and elsewhere. The majority of black women are more interested in 'bread and butter' issues. The gap between the rights that exist and the everyday realities of women point to an urgent need for systematically restructuring the architecture of existing 'women-sensitive' laws so that these interventions result in substantive equity, bringing meaningful change to ordinary women's lives.

KIT Library shelf code E 2401-27(2006)7

**051 The global women's rights movement: power politics around the United Nations and the World Social Forum**

HARCOURT, WENDY. United Nations Research Institute for Social Development (UNRISD), Geneva, 2006, 27 p.

This paper examines the discourse, inputs and reorganization of strategies emanating from the lobbying of women's rights movements vis-à-vis global agencies like the United Nations, as well as the World Social Forum. The author sets out some key strategic questions for consideration: How much have women's movements achieved by working in collaboration with the UN? Is there a recognizable global women's rights movement as it is perceived on the UN stage? Is there such an entity as a global women's movement, or is it just a skilfully displayed mirage? The essay is a contribution to these debates: about the role of global agencies; their effects on the autonomy, legitimacy and representativeness of social movements; and their local impacts and actual benefits for women around the globe. The author seeks to answer the above-mentioned questions based on her experience as a feminist researcher and activist involved in women's rights issues, as well as through reference to the literature and ongoing debates.

KIT Library shelf code K 3087-(2006)25  
See: <http://www.unrisd.org>

#### **052 The implications of adopting rights-based approaches for Northern NGOs: a preliminary exploration**

HARRIS-CURTIS, EMMA. International NGO Training and Research Centre (INTRAC), Oxford, 2003, 104 p.

Research was undertaken into the policy implications for adopting rights approaches for Northern NGOs. Collaboration and constructive criticism by peers were the vital components that formed the basis of the research. Fifteen NGOs that comprise the INTRAC NGO research programme were the main stakeholders. It is found that by engaging in rights-based approaches, NGOs are flirting with a cacophony of implications which no-one really understands. In addition, by adopting rights approaches, advocates are embracing a mixture of old and new. The conclusion is that there is no one, single rights approach. Each NGO interviewed had a different interpretation. However, there also exists a basic principle behind rights approaches that is common to all NGOs. NGOs need to collaborate more. They need to look to academia and other NGOs, not as rivals, but as useful colleagues. By adopting rights approaches they are making a huge decision about their engagement with the eradication of poverty.

[http://www.crin.org/docs/resources/publications/hrbap/INTRAC\\_RBA\\_NGOs.doc](http://www.crin.org/docs/resources/publications/hrbap/INTRAC_RBA_NGOs.doc) (accessed January 2008)

**053 Developing a human rights-based approach to addressing maternal mortality: desk review**  
HAWKINS, KIRSTAN; NEWMAN, KAREN; THOMAS, DEBORAH; CARLSON, CINDY. Department for International Development (DFID), London, 2005, 58 p.

The purpose of this desk review is to provide an evidence-based assessment of the potential of rights-based approaches for accelerating a reduction in maternal mortality. In particular, it aims to identify how a rights perspective can increase the focus on equity and thus improve health outcomes for poor women. The desk review is a supporting document for the DFID guidance note entitled: 'How to reduce maternal deaths: rights and responsibilities'. The How-to Note provides practical guidance for DFID advisers and programme managers working on maternal health. It is by necessity concise and a starting point only. This desk review complements the Note by providing more detailed analysis, and additional case studies and references. Together, these documents are one of the priority outputs identified by DFID's maternal health strategy document 'Reducing maternal deaths: evidence and action'. The argument developed in this review is that carefully contextualized rights-based approaches can add a critical impetus to existing means of reducing maternal mortality. This can be achieved by enabling key policy actors in both government and civil society to recognize and find ways of directly addressing the economic, social, cultural and political forces that constrain poor women and their families in asserting their right to maternal health. Rights-based approaches require a multi-sectoral analysis and response. This is to ensure that support can be mobilized across health, education and other sectors for the changes required to prioritize maternal health. This brings with it challenges related to prioritizing activities, and resource allocation and reallocation.

[http://www.hurilink.org/tools/Developing\\_aHRBA\\_to\\_Maternal\\_Mortality—DFID.pdf](http://www.hurilink.org/tools/Developing_aHRBA_to_Maternal_Mortality—DFID.pdf) (accessed January 2007)

#### **054 Out of the margins: the MDGs through a CEDAW lens**

HAYES, CERI. *Gender and Development* 13(2005)1, p. 67-78 ISSN 1355-2074

This article examines the Millennium Development Goals (MDGs) from a women's human rights perspective. It outlines some of the practical ways in which human rights principles, and the provisions set out in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in particular, can be used to ensure that the MDGs are met in a way that respects and promotes gender equality and

women's human rights. The article begins with a brief consideration of the challenges, opportunities, and paradoxes presented by the MDGs from a women's human rights perspective. It then examines how the MDGs are positioned within the broader human rights agenda. The final section focuses on CEDAW and the practical way in which the Convention can inform and guide strategies for the implementation of the Goals to ensure that women and men benefit equally from development gains. The article highlights just a few of the practical ways in which human rights principles, and CEDAW in particular, can guide national-level monitoring and the processes required to meet the MDGs in a way that tackles the root causes of inequality and discrimination against women. According to the author, this is something that existing approaches fail to do. CEDAW does not have all the answers, but implementing these basic provisions would go a long way towards ensuring that the MDGs are met.

KIT Library shelf code D 3030-13(2005)1

**055 Rights and power: the challenge for international development agencies**

HUGHES, ALEXANDRA; WHEELER, JOANNA; EYBEN, ROSALIND. *IDS Bulletin* 36(2005)1, p. 63-72 ISSN 0265-5012

Rights-based approaches are increasingly part of the policy and practice of international development agencies, but the relationship between rights and shifting power relations is still rarely addressed. In this article, the authors consider that rights-based approaches should inherently politicize development by challenging power structures, from policy and programme levels to organizations and individuals and the values, cultures and principles that underpin them. This was the theme of a recent workshop for donor representatives at the Institute of Development Studies on 23 November 2003. Participants explored meanings and expressions of power and reflected on their significance for their own individual and organizational behaviour as powerful development actors. The report discusses key issues emerging from the workshop and the challenges faced by staff seeking to promote rights-based approaches in their organizations.

KIT Library shelf code E 1978-36(2005)1

**056 Rights and power workshop: report**

HUGHES, ALEXANDRA; WHEELER, JOANNA; EYBEN, ROSALIND; SCOTT-VILLIERS, PATTA. Institute of Development Studies (IDS), Brighton, 2004, 22 p.

This is a report of a workshop held at the Institute of Development Studies between 17-20 November 2003. Rather than seeking to capture everything presented by resource persons and discussed by participants, it highlights some of the key issues that emerged from the workshop. It especially focuses on the concerns raised by participants with respect to the application of theory to practice by international development agencies. These relate to the various interpretations of rights and citizenship and the implications of the meaning given to these concepts for in practice. Implementing rights-based approaches through the lens of power is still a relatively new idea and requires some serious analytical work. It also requires appreciating power as experience as well as theory, including the emotions felt in situations of powerlessness. Development organizations are themselves powerful political actors who without sufficient reflection may undermine the very rights that they are working to help poor people realize. Because each organization varies in its mandate and comparative advantage there is no standard cook book for responding to these challenges. Participants shared their experiences so as to identify the different short term and longer term strategies that may be appropriate, depending on the context of their work.

[http://www.drc-citizenship.org/docs/publications/drc\\_general/Report/r&pworkshopreportfinal.pdf](http://www.drc-citizenship.org/docs/publications/drc_general/Report/r&pworkshopreportfinal.pdf) (accessed January 2008)

**057 Human rights and poverty reduction: a conceptual framework**

Office of the United Nations High Commissioner for Human Rights (OHCHR), Geneva, 2004, 46 p. A human rights approach to poverty reduction links poverty reduction to questions of obligation, rather than welfare or charity. It compels us to look behind national averages and identify the most vulnerable people, and design strategies to help them. A human rights approach is grounded in the United Nations Charter, Universal Declaration of Human Rights, and binding provisions of human rights treaties. It sharpens the moral basis of the work carried out by economists and other policy makers, directing their attention to the most deprived and excluded, especially those excluded by discrimination. It describes how a political voice for all people and access to information are integral to development. Informed and meaningful participation in development is a matter of right rather than privilege. The conceptual framework presents a clear vision of a human rights approach to poverty reduction, a vision that explicitly encompasses accountability and empowering

people as actors for their own development. Chapter 1 explores the definition of poverty and suggests that Amartya Sen's 'capability approach' to poverty provides a conceptual bridge between the discourses on poverty and human rights. Having established this conceptual common ground, chapter 2 outlines the main features of a human rights approach to poverty reduction. This includes empowerment and participation; recognition of the national and international human rights framework; accountability; non-discrimination and equality; and progressive realization.

[http://www2.ohchr.org/english/about/publications/docs/Broch\\_Ang.pdf](http://www2.ohchr.org/english/about/publications/docs/Broch_Ang.pdf) (accessed January 2008)

**058 The human rights based approach to development cooperation: towards a common understanding among the UN agencies**  
3 p.

United Nations (UN) interagency collaboration at global and regional levels, and especially at the country level in relation to the Common Country Assessment (CCA) and the United Nations Development Assistance Framework (UNDAF) processes, requires a common understanding of the human rights-based approach to development cooperation. An attempt is made to arrive at such an understanding on the basis of those aspects of the human rights-based approach that are common to the policy and practice of the UN bodies that participated in the Interagency Workshop on a Human Rights-Based Approach in the context of UN reform 3-5 May, 2003. This Statement of Common Understanding specifically refers to a human rights-based approach to the development cooperation and development programming by UN agencies.

[http://www.unescobkk.org/fileadmin/user\\_upload/appeal/human\\_rights/UN\\_Common\\_understanding\\_RBA.pdf](http://www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf) (accessed January 2008)

**059 A human rights based approach to development programming in UNDP: adding the missing link**

United Nations Development Programme (UNDP), New York, NY, 2001, 25 p.  
Making a human rights-based approach to development programming operational in the United Nations Development Programme (UNDP) is an evolving process. The continuing cycle of assessment, analysis, planning and implementation requires constant adaptation and enhancement. UNDP's programming process offers ample opportunities for the application of a human rights-based approach to development programming. The problems identified through assessment have interconnecting causes that

have a negative impact on vulnerable groups in different ways. Analysis should help to understand these causes and the linkages between the various problems. A situation analysis makes it possible to give relative weight to various problems, to understand how their interaction affects communities and individuals and to arrive at a consensus on the causes and possible solutions. It may also help to understand the synergy, or its lack, between the legislative process, the development of public policy and development choices that affect people directly or indirectly.

<http://www.equalinrights.org/file.html?id=601> (accessed January 2008)

**060 A human rights based approach to programming for maternal mortality reduction in a South Asian context: a review of the literature**  
UNICEF Regional Office for Asia, Leknath Marg, 2003, 154 p.

This literature review by the UNICEF Regional Office for South Asia (ROSA) synthesizes relevant information for applying a human rights-based approach to programming to the urgent task of reducing maternal mortality and morbidity. Information was gathered on maternal mortality, especially in South Asia, and on the human rights-based approach to programming, particularly as applied within UNICEF. The literature chosen is by no means exhaustive, but aims to be sufficiently representative to make the review useful for the task and to be a reference source for policy makers, programmers and advocates within South Asia. For those in other regions, where the reduction of maternal mortality and morbidity remains a priority, it provides an important resource to supplement global policy documents and programme guidance. The resulting material is organized in three sections of text according to the main themes, plus a fourth section of annexes. Section 1 deals with the concept of 'Human rights and development' and attempts to reveal the range of possibilities to be tapped by applying the human rights treaties. It examines the relationship of the human rights-based approach to other development approaches and the value to be gained from this approach. Section 2 deals with the 'Challenge of maternal mortality in South Asia'. The present situation is alarming, yet there is considerable understanding of the causes of this appalling state. Even though the means to save women's lives are known, there are numerous challenges to applying this knowledge. Each of these challenges is discussed in detail. In Section 3, the knowledge gained on the human rights-based approach is applied to the particular

issue of the reduction of maternal mortality. It follows the process of assessment and analysis, strategies and priority setting, through to monitoring and evaluation. A summary of the findings is given in the conclusion. The bibliography is the first of the annexes, followed by important material to supplement the text in the main chapters.

<http://www.unicef.org/rosa/HumanRights.pdf> (accessed January 2008)

**061 Human rights in developing countries: how can development cooperation contribute to furthering their advancement. International policy dialogue, September 2003**

This international policy dialogue was organized by the Development Policy Forum/ InWent to provide a platform for the exchange of experience between leading ministerial officials, donor and consulting organizations, human rights activists and media representatives from both industrial and developing countries. The goal was to contribute to the international debate on how development cooperation can further human rights. The preface, summaries of discussions, speeches, issue notes, and programme are presented. A list of participants is included.

[http://www.inwent.org/ef-texte/human\\_rights/index.htm](http://www.inwent.org/ef-texte/human_rights/index.htm) (accessed January 2008)

**062 Integrating rights-based approaches into community-based health projects: experiences from the prevention of female genital cutting project in East Africa**

IGRAS, SUSAN; MUTESHI, JACINTA; WOLDEMARIAM, ASMELASH; ALI, SAIDA. Care, 2002, 24 p.

The purpose of this case study is to demonstrate and discuss how reproductive health project staff in Ethiopia and Kenya are working to develop a rights-based approach that is community-based. The study explains the participatory process that staff took with communities to learn how rights and responsibilities were defined by communities themselves. It provides examples of how staff planned and then actually used this new knowledge in designing strategies and educational messages to help communities to address issues related to rights and specifically to female genital cutting. Finally, it discusses lessons learned and questions raised by project staff when taking an inductive approach to rights in community-based health projects.

[http://www.crin.org/docs/resources/publications/hrbap/integrating\\_rba\\_CARE\\_Ethiopia.pdf](http://www.crin.org/docs/resources/publications/hrbap/integrating_rba_CARE_Ethiopia.pdf) (accessed January 2008)

**063 Indicators for human based approaches to development in UNDP programming: a users' guide**

United Nations Development Programme (UNDP), New York, NY, 2006, 32 p.

This is a practically oriented guide on indicators for human rights-based approaches to development programmes for Country Offices (Cos) of the United Nations Development Programme (UNDP). The guide contains separate sections on different aspects relating to the development and use of indicators across the key elements of human rights programming. It summarizes the normative evolution in human rights and explains how human rights have been mainstreamed into the activities of all United Nations agencies. It also reviews the main existing indicators for human rights and discusses their limitations for human rights-based programming. Two hypothetical programme examples on access to clean water and the prevention of torture are used to show how indicators can be used for human rights programming. Finally the guide offers advice on how COs can use indicators for all phases of programme design, implementation, monitoring, and evaluation.

[http://www.undp.org/governance/docs/HR\\_guides\\_HRBA\\_Indicators.pdf](http://www.undp.org/governance/docs/HR_guides_HRBA_Indicators.pdf) (accessed January 2008)

**064 The International Covenant on Economic, Social and Cultural Rights**

*Facts and Issues. Women's Rights and Economic Change 3.* Association for Women's Rights in Development (AWID), Toronto, 2002, 8 p.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the primary international document enumerating economic, social and cultural rights. In subsequent years, additional human rights treaties were drafted recognizing different categories of rights and various vulnerable populations. An ideological split emerged in the context of Cold War politics, classifying civil and political rights separately from economic, social and cultural rights. The ICESCR is an instrument of particular importance for gender advocates. The latter confront the most pressing problems of the day, transform needs into rights, provide legal accountability, help to build coalitions across borders and challenge global inequality. Women's rights are inseparable from other human rights. Economic, social and cultural rights can make a difference in development and the pursuit of justice.

<http://www.awid.org/publications/primers/factsissues3.pdf> (accessed October 2007)

**065 Integrating human rights into development: donor approaches, experiences and challenges**

*Development Dimension Series 9.* Organisation for Economic Co-operation and Development (OECD), Paris, 2006 169 p. ISBN 9264022090  
Growing recognition that there are crucial links between rights violations, poverty, exclusion, environmental degradation, vulnerability and conflict has led many member countries of the Organisation for Economic Co-operation and Development (OECD) and multilateral donors to look at human rights more thoroughly as a means for improving the quality of development cooperation. Some have adopted human rights-based approaches to development, while others have preferred to integrate human rights explicitly or implicitly into various dimensions of their development work, especially into their governance agendas. This book seeks to enhance understanding and consensus on why and how there is a need to work more strategically and coherently on the integration of human rights and development. It reviews the approaches of different donor agencies and their rationales for working on human rights, and identifies the current practice in this field. It illustrates how aid agencies work on human rights issues at the programming level, and it draws together lessons that form the core of current evidence of the added value of human rights for development. Lastly, it addresses both new opportunities and conceptual and practical challenges to human rights within the evolving development partnerships between donors and partner countries, as well as in relation to the Paris Declaration on Aid Effectiveness as a new reference point of the international aid system. By giving numerous examples of practical approaches, this publication shows that there are various ways for donor agencies to take human rights into account more systematically, in accordance with their respective mandates, modes of engagement and comparative advantage.

KIT Library shelf code U 07-143

See: <http://www.oecdbookshop.org/oecd/display.asp?CID=&LANG=EN&SF1=DI&ST1=5LGHZ2ZQG1BN> (accessed January 2008)

**066 Rights-based approaches to development: an overview of the field**

JOCHNICK, CHRIS; GARZON, PAULINE. CARE and Oxfam America, New York, NY, 2002, 22 p. The field of rights and development is paradoxical: on the one hand, the relatively young field of rights-based approaches (RBAs) is characterized by a glut of discussion and theoretical papers and a dearth of operational experience – all talk and little action. At the same

time, among a wide-range of sectors there is a vast amount of experience in the use of rights and rights like strategies (advocacy, empowerment) to promote development objectives, with little reflection on the use of rights (e.g. value-added and methodologies) – lots of action and little talk/reflection. This offers RBA advocates a wealth of potential resources (not necessarily presented as RBAs), but it requires much digging to find them. This paper is primarily concerned with identifying these resources and those groups that have made the most progress specifically in terms of RBAs. It divides the organizations working with rights and development into two broad categories: the relatively small number of advocacy groups working specifically with economic, social and cultural rights (ESCR); and the much larger set of organizations working on development generally, working with a specific social sector or working on a particular development issue.

[http://www.crin.org/docs/resources/publications/hrbap/RBA\\_Oxfam\\_CARE.pdf](http://www.crin.org/docs/resources/publications/hrbap/RBA_Oxfam_CARE.pdf) (accessed January 2008)

**067 Human rights-based approach to development programming**

JONSSON, URBAN. UNICEF Eastern and Southern Africa Regional Office, April 2003, 124 p.

This book describes a method for programming from a human rights perspective. It addresses basic human rights concepts and principles and explores the crucial role of communication in achieving human rights. Differences between traditional (basic needs) approaches to development and the human rights-based approach are presented, pointing to some important programming implications inherent in the human rights approach. Some theoretical tools that can be used to make a human rights-based approach to programming (HRAP) operational are introduced. A methodology for community-centred capacity development (CCD) is described, followed by a step by step approach to applying an HRAP for developing community capacity. The steps outlined seek to define capacity gaps, that is, areas in which claim-holders need support to claim their rights and duty-bearers require support to fulfil their responsibilities in regard to human rights. Case studies from Tanzania, Mozambique and Zimbabwe illustrate the application of HRAP and CCD in UNICEF's work. Suggestions are given on how a human-rights based programme could be monitored and evaluated.

[http://www.unicef.org/rightsresults/files/HRBDP\\_Urban\\_Jonsson\\_April\\_2003.pdf](http://www.unicef.org/rightsresults/files/HRBDP_Urban_Jonsson_April_2003.pdf) (accessed January 2008)

**068 Making rights work for the poor: Nigeria Kori and the construction of collective capabilities in Bangladesh**

KABEER, N. *IDS Working Paper 200*. Institute of Development Studies (IDS), Brighton, 2003, 69 p. ISSN 1353-6141

This paper was prepared for the Development Research Centre of Citizenship, Participation and Accountability (Citizenship DRC), an international research partnership dedicated to exploring the new forms of citizenship which are needed to make rights real for poor people. Nijera Kori is an NGO in Bangladesh, which defines itself as working to make rights real for the poor through building their capacity for collective action. Nijera Kori represents an organization that defined its agenda from its inception in terms of building the collective capabilities of poor women and men to claim their rights as citizens rather than as clients, customers, beneficiaries, users, welfare dependants or any of the other 'identities' ascribed to the poor by conventional development projects. The aim of this paper is to try and distil lessons from the experience of Nijera Kori regarding the challenge of making rights real. The paper draws on a variety of published and unpublished sources and is not intended as any kind of rigorous evaluation of the organization. The data permit reflection on the experiences of an organization which was founded to promote the rights of the poor a decade or so before a rights-based approach achieved its current prominence in the international development discourse.

KIT Library shelf code D 3443-(2003)200  
<http://www.ids.ac.uk/ids/bookshop/wp/wp200.pdf>  
(accessed January 2008)

**069 Inclusive citizenship: meanings and expressions**

KABEER, N.; GAVENTA, J. Zed Books, London, 2005, 274 p. ISBN 1-84277-549-9

This book is about how poor people understand and claim citizenship, and the rights they associate with it. It contributes new insights, rooted in local realities, to global debates about concepts of rights and citizenship. The promise and challenge of translating rights into reality is illustrated in a range of case studies from the North and South, including Bangladesh, Brazil, India, Mexico, Nigeria, Peru, South Africa, the UK and the United States. Case studies provide an understanding of citizenship as a multi-dimensional concept, which includes the agency, identities and actions of the people themselves. In recent years the rights-based approach has emerged in the development context as a new

approach, which has the potential to strengthen the status of citizens from that of beneficiaries of development to its rightful and legitimate claimants. As the contributions articulate, the rights approach goes beyond a 'human rights approach', which often focuses on debates about global legal covenants, to focus on rights in practice. The studies presented here examine the meanings and expressions of rights and citizenship 'from below', and how these meanings are acted upon through political and social mobilization. Particular contributions throw light on the variety of ways in which people are excluded from full citizenship; the identities that matter to people and their compatibility with dominant notions of citizenship; the tensions between individual and collective rights in definitions of citizenship; struggles to realize and expand citizens' rights; and the challenges these questions present for development policy.

KIT Library shelf code P 05-680

**070 A rights-based approach to realizing the economic and social rights of poor and marginalized women: a synthesis of lessons learned**

KAPUR, AANCHAL; DUVVURY, NATA. ICRW Report. International Center for Research on Women (ICRW), Washington, DC., 2006, 24 p.

The report presents a conceptual and operational framework on the rights-based approach to development, with a particular emphasis on realizing the economic and social rights of poor and marginalized women and girls. It provides guidelines and ideas that can be adapted and changed depending on the specific context of development projects and the capacities of people involved. The first of the four sections of the report presents the conceptual framework of a rights-based approach to development, with a focus on definitions. The next section outlines a framework, including the principles and strategies involved in implementation of a rights-based approach. The third section highlights the advantages of this approach and how to sustain its impact. The last section considers the challenges encountered during the course of project implementation. The report brings together lessons learned from six projects that applied a rights-based approach to development. Using different strategies to fulfill different rights to food, livelihood, education, work, housing, freedom from sexual harassment, and overall development, eight organizations from different states in India worked to protect and promote the rights of women and girls who face significant violations of their rights. A range of economic, social, cultural and political rights

must be recognized and respected for social justice and social change to be realized. Clearly, the pursuit of one or more of the objectives of a rights-based approach has helped pave the way for enhancing the strategies and outcomes of the approach as a whole. The report is intended to pave the way to an enriched debate on the increased use of a rights-based approach to development, particularly with regard to its benefits for poor and marginalized people around the world.

[http://www.icrw.org/docs/2006\\_Rights-basedEconandSocial.pdf](http://www.icrw.org/docs/2006_Rights-basedEconandSocial.pdf) (accessed January 2008)

### **071 The future of women's rights: global visions and strategies**

KERR, JOANNA; SPRENGER, ELLEN; SYMINGTON, ALISON (eds). Zed Books, London, 2004, 224 p. ISBN 1-84277-459-X

This book is the result of a joint project of the Association for Women's Rights in Development (AWID) and Mama Cash, referred to as 'Facing the Future'. The project focuses on identifying and analysing issues, processes and events in their early stages and anticipating their potential impacts on women's rights and gender equality in the coming years. The central questions of the project are: What emerging trends and future developments will have an impact on the rights of women? How do these trends and developments relate to the strategies used by women's movements? What are the best strategies to respond to these trends and developments? The project also involved three interactive workshops in 2002 and 2003. Trends that may threaten the ongoing work of women's movements include the impacts of globalization and neoliberal economics, development in biotechnology, the neo-conservative backlash against women's rights, monopolistic ownership patterns over information technologies that exclude women, fundamentalisms of various kinds and the rise of identity politics that subordinate or marginalize women's issues, and the increase of violent conflict and war. The contributors stress the need for women's movements to evaluate the methods they have used until now, with a view to making their political work more effective in the future.

KIT Library shelf code P 04-2566

### **072 Social movement and democracy in Africa: the impact of women's struggle for equal rights in Botswana**

LESLIE, AGNES GEORGE NGOMA. UMI, Ann Arbor, MI, 2003, 276 p.

The impact of social movements on the public policy process is examined. In particular, the struggle of disenfranchised women to claim their rights and justice in a liberal democratic society is studied. Empirically, the study analyses the women's movement in Botswana called Emang Basadi (literally translated: Stand Up women) and its campaign to challenge legislature and the government to change laws which discriminate against women, to introduce policies favourable to women, and to mobilize and empower them. Also examined is how the movement has impacted public policy and the country's legal and political system and democracy. Drawing on human rights, social movement, and policy process and agenda-setting literature, the study finds that a social movement can deepen democracy in a society by engaging in broad-based education and advocacy campaigns targeting various constituencies. It argues that the strength of the state affects the impact that a social movement is likely to make. In Botswana, the 'strong' state was able to resist the movement. However, the women's movement was able to make an impact by taking advantage of the state's weakness in providing political education to the general population. The study attempts to explain the conditions under which a social movement can develop and its role in a plural African society like Botswana. This research makes a contribution in the area of the impact and outcomes of social movements. It also contributes to the scarce literature of social movements in Africa.

KIT Library shelf code P 04-2519

### **073 The Maputo Protocol of the African Union: an instrument for the rights of women in Africa**

LISY, KERSTIN; FINKE, EMANUELA; HOENSBROECH, ANJA-ROSA. Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), Eschborn, 2006, 12 p.

With the Maputo Protocol, the African Union has created an instrument that censures the precarious situation of the rights of women in Africa and commits the ratifying countries to concrete action for equality of women and men before the law. As the practical examples indicate, German Development Cooperation (DC) has been working actively on several issues within the Maputo Protocol before it even came into being. Now that the Protocol has come into effect, it provides German DC with new opportunities for building on the obligations that African partner governments have taken upon

themselves and for supporting them in realizing the human rights of women.

<http://www2.gtz.de/dokumente/bib/06-0896.pdf>  
(accessed January 2008)

**074 The human rights framework for development: seven approaches**

MARKS, STEPHEN P. *Working Paper 18*.

Francois-Xavier Bagnoud Center for Health and Human Rights, Harvard University, 2003, 29 p.

This paper explores the relevance of the human rights framework to human development by highlighting seven approaches through which human rights thinking is applied to development. By approach, the author means a conceptual framework or way of dealing with a complex issue or set of issues. Scholars, policy makers and practitioners have been using a common vocabulary in recent years with respect to each of the approaches in question. Some overlap, some emerge from human rights thinking, some are more common to development thinking. By grouping them, it is shown how each one offers a way of understanding how human rights and development are related. The seven approaches are: the holistic approach, the rights (or human rights) based approach, the social justice approach, the capabilities approach, the right to development approach, the responsibilities approach, and the human rights education approach.

[http://www.hsph.harvard.edu/fxbcenter/FXBC\\_WP18-Marks.pdf](http://www.hsph.harvard.edu/fxbcenter/FXBC_WP18-Marks.pdf) (accessed January 2008)

**075 Reframing rights for social change**

MEEER, SHAMIM. In: *Revisiting gender training: the making and remaking of gender knowledge. A global sourcebook*. Amsterdam, Royal Tropical Institute (KIT) in association with Oxfam, 2007, p. 73-83

This paper explores the power of rights-based development approaches for advancing ideas and action for social change, including change in unequal gender power relations. Starting with experience in South Africa, the author teases out the particular understandings of rights and agency, and reflects on a methodology for linking reflection and action through starting from the personal. She draws on her work and experience both as a political and feminist activist and as a development practitioner engaged in gender training.

KIT Library shelf code D 3382-10(2007)

<http://www.kit.nl/smartsite.shtml?ch=FAB&id=17029>  
(accessed January 2008)

**076 CEDAW: the treaty for the rights of women: rights that benefit the entire community**  
MILANI, LEILA RASSEKH; ALBERT, SARAH C.; PURUSHOTMA, KARINA. *The Working Group on Ratification of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 2004, 129 p.

The Working Group for the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) produced this advocacy booklet, with the full text of the Treaty for the Rights of Women, ratifying countries, and the impact of the treaty on women's lives around the world.

<http://www.womenstreaty.org/CEDAW%20Book-%20WHOLE%20BOOK.pdf> (accessed January 2008)

**077 Rights-based approaches: recovering past innovations**

MILLER, VALERIE; VENEKLASEN, LISA; CLARK, CINDY. *IDS Bulletin* 36(2005)1, p. 52-62  
ISSN 0265-5012

The rich history of rights and participatory approaches is relatively unknown to many development and rights practitioners. Consequently, historical insights applicable to today's challenges of inequality and exclusion often remain untapped. Drawing on the authors' 30-year practical experience and related research on these efforts, this article examines three main areas of past innovation and thinking that link rights and participation and explore how they address power and encourage critical consciousness and citizenship. Having looked at diverse historical and conceptual streams shaping participatory approaches, specific legal rights strategies and women's rights experiences from the last several decades are examined. One conclusion is that to create change for excluded populations, participation and rights strategies need to be grounded in broad visions and processes of empowerment that are both an individual personal (private) process and a collective (organizational) political (public) process. This evolution of vision and practice can provide rich lessons for the quest for practical ways to link rights, participation and development and build more effective change strategies.

KIT Library shelf code E 1978-36(2005)1

**078 Rights-based development: linking rights and participation – challenges in thinking and action**

MILLER, VALERIE; VENEKLASEN, LISA; CLARK, CINDY. *IDS Bulletin* 36(2005)1, p. 31-40  
ISSN 0265-5012

The growing interest in pursuing 'rights-based approaches to development' is raising questions

about how these broad traditions – human rights and development – can best work together in practice. In particular, participatory development approaches seem to have much to contribute to efforts to better define and achieve economic, social and cultural rights. At the same time, human rights perspectives and methods could deepen the impact of many participatory development efforts. This article shares insights and questions generated by interviews with staff and activists involved in US-based international human rights and development organizations, and practical experience over several years with both development and rights groups in several countries. Tentative conclusions drawn from the study underscore promising directions and synergies in efforts on rights, participation, governance and citizenship as well as raising important concerns and challenges.

KIT Library shelf code E 1978-36(2005)1

**079 Re-interpreting the rights-based approach: a grassroots perspective on rights and development**

MITLIN, DIANA; PATEL, SHEELA. Global Poverty Research Group, Economic and Social Research Council, 2005, 28 p.

The rights-based approach is particularly associated with pro-poor development and the agency of the poor. At the centre of the approach is an understanding that successful development requires political analysis and action. Rather than development being reliant on charitable goodwill to meet the basic needs of very poor people, the rights-based approach emphasizes that development should be based on a recognition of the equal rights of all citizens to the resources required for material well-being and social inclusion. Within such a conceptualization of development, the contribution of the state is given prominence. Their role is that of provider, through equal access to essential services, and regulator, through a legal system that ensures equal rights for all. It is anticipated that under such conditions, the poor will experience a more supportive and less discriminatory context, and will be able to take advantage of new opportunities.

<http://www.gprg.org/pubs/workingpapers/pdfs/gprg-wps-022.pdf> (accessed January 2008)

**080 Doing the rights thing: rights-based development and Latin American NGOs**

MOLYNEUX, MAXINE; LAZAR, SIAN. Intermediate Technology Development Group (ITDG), London, 2003, 164 p. ISBN 1-85339-568-4 Development practice in Latin America is examined to determine the ways in which rights-

based strategies have been understood in Bolivia, Peru, Nicaragua and Mexico. The political and personal nature of development is stressed, especially the importance of enabling people to make their own demands of the state and other institutions. Focusing on NGOs working with women and indigenous people, good practice and general issues relevant to various development arenas are highlighted. The importance of context in the implementation of development approaches is stressed. Rights-based development work involves combining ideas of citizenship, democracy, participation and empowerment in novel ways. Two case studies of two NGOs, one in Nicaragua, the other in Mexico, illustrate the work carried out in accordance with the principles of rights-based approaches. The book reveals the potential that the rights-based approach to development offers in ongoing efforts to secure more equitable as well as more effective and inclusive development outcomes.

KIT Library shelf code P 03-1662

**081 Gender justice, development, and rights**

MOLYNEUX, MAXINE; RAZAVI, SHAHRA. Oxford University Press, for the United Nations Research Institute for Social Development (UNRISD), Oxford, 492 p. ISBN 0-19-925645-4

The 1990s were a landmark period in the international human rights movement, which saw many positive changes in women's rights as well as in human rights more broadly. This collection of theoretical and empirical studies reflects on these gains, and on the significance accorded in international policy to issues of rights and democracy in the post-cold war era. It engages with some of the pressing and contested contemporary issues – neo-liberal policies, democracy, and multiculturalism – and in doing so invites debate on the nature of liberalism itself in an epoch that has seen its global ascendancy. These issues are addressed here through two perspectives which cast contemporary liberalism in a distinctive light. First, by applying a 'gender lens' to the analysis of political and policy processes and by deploying the insights gained from feminist theory, this volume provides a gendered account of the ways in which liberal rights, and ideas of democracy and justice, have been absorbed into the political agendas of women's movements and states. Second, case studies from Latin America, sub-Saharan Africa, the Middle East, East-Central Europe, South and South-East Asia contribute a cross-cultural dimension to the analysis of modern forms of rule by examining the ways in which liberalism – the dominant value system in the modern world –

both exists and is resisted in diverse cultural settings.

KIT Library shelf code U 03-21

**082 To claim our rights: livelihood security, human rights and sustainable development**

MOSER, CAROLINE; NORTON, ANDY; with Tim Conway, Clare Ferguson, Polly Vizard. Overseas Development Institute (ODI), London, 2001, 79 p. ISBN 0-85003-554-6

The objective of this paper is to explore the potential contribution of a human rights perspective to the development of policies and programmes that strengthen the sustainability of poor people's assets and livelihood security. It outlines a conceptual framework for addressing issues of empowerment and poverty reduction, by examining the links between human rights and assets and livelihood security as they relate to the issue of sustainable development. The particular relevance of such a framework relates to the opportunity provided by the World Bank's decision to focus its 2002/3 World Development Report on the theme of sustainable development, as well as the Social Development Department's upcoming Social Development Strategy Paper. In policy terms, therefore, the main focus of the paper is on the specific context of the World Bank. Key elements in human rights, livelihoods and sustainable development debates are reviewed. The concepts of livelihoods and sustainable development both require a stronger analysis of power relations, institutions and politics if they are to provide a useful basis for an holistic understanding of development processes. In assessing the potential of a human rights perspective to address this missing dimension, there are a number of unresolved issues relating to the practical integration of a human rights perspective into development interventions. Nevertheless, a human rights framework provides a useful entry point for the analysis of asymmetries in power and the institutions that reinforce those relations. A conceptual framework for the analysis of the human rights dimensions of livelihoods is developed, supported by case study material. The framework operates at three levels: normative, analytical and operational. The final section pulls together some of the most relevant issues highlighted by the conceptual framework, arguing that a rights and livelihoods perspective provides the basis for developing a more concrete understanding of social sustainability and, concomitantly, sustainable development. Two propositions for analysing social sustainability from a rights and livelihoods

perspective are outlined, and gaps in the paper that require further elaboration are identified.

<http://www.odi.org.uk/rights/Publications/tcor.pdf>  
(accessed January 2008)

**083 Legally dispossessed: gender, identity and process of law**

MUKHOPADHYAY, MAITRAYEE. Stree, Calcutta, 1998, 246 p. ISBN 81-85604-39-8

This study of women's experiences of litigation under personal laws (those that cover marriage and inheritance) raises vital questions of identity and citizenship in Indian democracy and throws new light on the uniform civil code debate. The focus is on the hidden structuring of the neutral citizen-subject, the process of 'norming', the resulting exclusions, which serve to secure asymmetrical power. Investigating the law's stated neutrality in relation to gender, caste and community, women's litigation over maintenance and property claims is looked at. It is shown how the private domain of social relations is connected to the public domain of the state, which social relations are 'normed' and 'invisibilized' through this connection and how patriarchy is created through the use of adjudication. Of particular interest are the thirty case studies of seventeen Hindu women and thirteen Muslim women. Four life histories provide insight of how Hindu women are 'ambiguous heirs' who have to establish their right to property first before they can fight to claim it, whereas Muslim women become rightful heirs at birth but have to fight for control. The relationship of women to the state is addressed by exploring the woman-state relationship through the experiences of the women's movement in the seventies and the eighties and by looking at the reasons given by respondents on why they have appealed to the state. The conclusion contains a discussion of the highly charged uniform civil code debate, where feminists have found themselves sharing a platform with the Hindu right, analysing what the implications for gender equality are.

KIT Library shelf code P 00-240

**084 Rights based approaches in development: issue paper**

MUKHOPADHYAY, MAITRAYEE. Royal Tropical Institute (KIT), Amsterdam, 2004, 26 p.

This discussion of rights-based approaches in development focuses on the evolving agenda of international development agencies - United Nations organizations, bilateral organizations, international financial institutions such as the World Bank, and mainly Anglophone, international NGOs. The emerging policy of

international agencies is considered rather than their practice, since there is insufficient material on which to base an assessment of how these policies are translated into programming. The context of international development policy and practice that has given rise to rights-based approaches is highlighted. A conceptual framework proposes how a rights approach in development could be applied. The common agenda in rights-based approaches and limitations of the present rights-based approaches are highlighted. The paper ends with a proposal for a KIT programme of action-oriented research in partnership with organizations in the South to gain a deeper understanding of actor-oriented perspectives on rights, its practices and methodologies.

<http://www.equalinrights.org/file.html?id=349> (accessed January 2008)

**085 Breathing life into the African Union Protocol on Women's Rights in Africa**

MUSA, ROSELYNN; MOHAMMED, FAIZA JAMA; MANJI, FIROZE. *Solidarity for African Women's Rights & African Union Women, Gender and Development Directorate, Commission, Directorate of Women, Nairobi, 2006, 113 p.* ISBN 1-904855-66-0

*Solidarity for African Women's Rights*, a coalition of more than 20 organizations, set out to achieve the target of 50 country ratifications of the African Union Protocol of the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. The Protocol commits the states which sign it to eliminating all forms of discrimination against women and to ensuring their equal rights in, for example, marriage, education and employment. This book documents the experiences and strategies that could be used to ensure universal ratification and implementation of the Protocol. In it, women leaders have looked at a number of strategies for working with the mass media, legal courts and gender machines to ensure that the rights contained in the Protocol are exercised by all men, women, girls and boys. The papers are drawn from the jointly convened African Union Commission and Solidarity for African Women's Rights conference on the Protocol that was held in Addis Ababa, Ethiopia, 27-30 September 2005. The book is an important guide to the action that must be taken to ensure the universal ratification and implementation of the Protocol within all 53 countries in Africa.

KIT Library shelf code P 06-856

**086 How nations misbehave: compliance with human rights treaties in Commonwealth Africa**  
MWANZA, IRIS CHISECHE. UMI, Ann Arbor, MI, 2002, 174 p.

Research seeks to explain the problem of compliance with human rights treaties in Commonwealth Africa through the examination of compliance with the United Nations Convention on the Elimination of Discrimination against Women (CEDAW) and the United Nations Convention on the Rights of the Child (CRC) by Ghana, Uganda and Zambia. In this dissertation, compliance is conceived of as processes of international and domestic legal and normative changes. At the international level, the research focuses upon the United Nations (UN) process promulgating women and children's rights through treaties, and the impact that these treaties have had on the case studies. It is found that because the UN monitoring system did not impinge upon state sovereignty, the UN process induced only superficial changes and did little to advance effective treaty implementation in the three countries studied. The inability of the international UN system to compel changes in these states means that treaty compliance is essentially a domestic process delineated by a state's political factors. In each country examined, political power is concentrated in the President. As a consequence all important laws and policies, including treaty implementation, are determined by the President and the level of compliance tied to the President's personal interest in the treaty's subject matter. President Museveni's interest in the promotion of women and children's rights was the impetus behind Uganda's substantial progress in implementing the CRC and the CEDAW. This manifested in a comprehensive legal framework, institutional support, effective government-NGO collaboration, and resources allocations for treaty implementation. Obstacles to compliance still exist; however, they are related to the country's poverty and not the lack of political will. In contrast, in the cases of Ghana and Zambia where the Presidents were not interested in either CEDAW or the CRC, the international treaty system engendered only superficial changes reflected in laws and policies that were not implemented. Recommendations to enhance state compliance with UN human rights treaties by forging more effective links between the international and domestic processes are made.

KIT Library shelf code P 04-491

**087 Focus on human rights and gender justice: linking the Millennium Development Goals with the Convention on the Elimination of all Forms of Discrimination against Women and the Beijing Platform for Action**

NEUHOLD, B. United Nations Non-Governmental Liaison Service, 2005, 28 p. This paper aims at showing the interlinkages between the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Platform for Action (BPFA), and the Millennium Development Goals (MDGs), and to emphasize that the MDGs must be developed further from the perspective of human rights, poverty eradication and the empowerment of women. A critical examination of CEDAW, the BPFA, and the MDGs is presented. The author finds that the MDGs are based on an overly-rigid, neoliberally defined idea of poverty, and attempts to solve social problems with economic solutions. Furthermore, gender concerns are largely marginalized within the goals, being dealt with primarily in Goal 3. The paper also provides a brief feminist analysis of each Millennium Development Goal. It concludes with a list of strategies to be adopted to further develop the MDGs.

[http://www.concordeurope.org/Files/media/internetdocuments/FRE/3\\_Sujets\\_traites/3\\_2\\_sujets\\_traites/3\\_2\\_12\\_gendre\\_et\\_developpement/3\\_2\\_12\\_3\\_autres\\_documents/3\\_2\\_12\\_3\\_2\\_2004/WIDEMDGpaperFeb2005.pdf](http://www.concordeurope.org/Files/media/internetdocuments/FRE/3_Sujets_traites/3_2_sujets_traites/3_2_12_gendre_et_developpement/3_2_12_3_autres_documents/3_2_12_3_2_2004/WIDEMDGpaperFeb2005.pdf) (accessed January 2008)

**088 Engendering human rights: cultural and socioeconomic realities in Africa**

NNAEMEKA, OBIOMA; EZEILO, JOY NGOZI (eds). Palgrave Macmillan, New York, NY, 2005, p. 314 ISBN 1-4039-6707-5

The essays included in this book represent a varied group of distinguished scholars, activists, and practitioners, and incorporate gender perspectives on the formulation, monitoring, reporting, and implementation of human rights in Africa and the African Diaspora. The contributors tackle issues ranging from reproductive rights, immigration, religion, and spousal abuse to cultural imperatives, legal reform and the arts. The book tries to carve a space for a new definition and analysis of human rights. It centralizes the experiences, histories and socio-economic realities of everyday lives of African women. Within the context of engendering human rights, the book highlights the right to health, rights of female children and adolescents, violence against women, and the effects of religious fundamentalism on women's lives. It questions whether international law provides an enabling space for racialized gender equality. Is

'universal human rights' an adequate context for the struggle for women's rights? Does 'rights' based rhetoric need to give way to other kinds of demands on national and international governance bodies, and can human rights agendas be transformed so that they respond to the concerns of all women in a multicultural and racialized world?

KIT Library shelf code P 05-1459

**089 An actor-oriented approach to rights in development**

NYAMU-MUSEMBI, C. *IDS Bulletin* 36(2005)1, p. 41-51 ISSN 0265-5012

Actor-oriented perspectives on rights are drawn out through a discussion of three key debates that have preoccupied human rights scholars and practitioners, challenging many of the assumptions that underlie them. The three key debates are: universality versus cultural relativism; individual or group rights; and invisibility of rights, the hierarchy between civil-political and economic-social rights. A focus on concrete struggles is shown to lead to a questioning of the underlying assumptions and changes the terms of these debates. Some of the key emerging implications for taking an actor-orientated approach to rights in practice are highlighted, particularly in the context of development research and practice.

KIT Library shelf code E 1978-36(2005)1

**090 Ruling out gender equality? The post-cold war rule of law agenda in Sub-Saharan Africa**

NYAMU-MUSEMBI, C. *Third World Quarterly* 27(2006)7, p. 1193-1207 ISSN 0143-6597

The central question addressed in this paper is whether the post-cold war rule of law (ROL) agenda in sub-Saharan Africa has enhanced or impeded gender equality. The first section gives an overview of ROL reform programmes in sub-Saharan Africa. The next section discusses the priorities that have been articulated by gender justice advocates in the region and then evaluates the reform initiatives taken by governments and donors in order to highlight the specific gender gaps in the ROL agenda. The final section observes that the overall climate in which the reforms are being promoted threatens to de-legitimize the pursuit of any goals seen as incompatible with the core agenda of creating efficiently functioning legal institutions for the market. Although this core agenda may arguably produce benefits that trickle down to all citizens in the long run, in the absence of explicit commitment to social justice and redistribution, there have been few gains for gender equality.

KIT Library shelf code E 2401-27(2006)7

**091 Toward an actor-oriented perspective on human rights**

NYAMU-MUSEMBI, C. *IDS Working Paper* 169. Brighton, IDS, 2002, 31 p. ISBN 1-85864-471-2  
Rights are shaped through actual struggles informed by people's own understandings of what they are justly entitled to. This paper shows that looking for the meaning of rights from the perspective of those claiming them transforms defined normative parameters of human rights debates, questions established conceptual categories and expands the range of claims that are validated as rights. The exercise of drawing out these 'actor-oriented perspectives' on rights is organized around four key debates: (1) the extent to which human rights norms are socio-culturally contingent or universally valid; (2) the extent to which the liberal individualist conception of rights permits recognition of group rights; (3) the hierarchy between social/economic and civil/political rights; and (4) the extent to which international human rights should place human rights obligations on non-state actors. These key debates are mapped out, highlighting ways in which bottom-up, actor-oriented perspectives shaped by specific human rights struggles have questioned their premises. Accounts of these struggles and critical responses to the debates point to the possibility of an actor-oriented perspective on rights. Finally, specific lessons are proposed for consideration in researching the linkages between rights, citizenship, participation and accountability.

KIT Library shelf code D 3443-(2002)169  
<http://www.ids.ac.uk/ids/bookshop/wp/wp169.pdf>  
(accessed January 2008)

**092 What is the rights-based approach all about**  
NYAMU-MUSEMBI, C.; CORNWALL, A. *IDS Working Paper* 234. Brighton, IDS, 2004, 65 p. ISBN 1-85864-847-5

Despite growing talk amongst development actors and agencies about 'a rights-based approach' to development, it remains unclear what exactly this consists of. This paper seeks to unravel some of the tangled threads of contemporary rights talk. Where is today's rights-based discourse coming from? Why rights and why now? What are the differences between versions and emphases articulated by different international development actors? What are their shortcomings, and what do these imply for the practice and politics of development? Reflecting on these questions, some of the implications of the range of different ways of relating human rights to development are explored. It is argued that ultimately, however it is operationalized, a rights-based approach means little if it has no potential

to achieve a positive transformation of power relations among the various development actors. Thus, however any agency articulates its vision for a rights-based approach, it must enable those whose lives are affected the most to articulate their priorities and claim genuine accountability from development agencies. The extent to which the agencies become critically self-aware and address inherent power inequalities in their interaction with those people is also relevant.  
KIT Library shelf code D 3443-(2004)234  
<http://www.ids.ac.uk/ids/bookshop/wp/wp234.pdf>  
(accessed January 2008)

**093 Kenyan civil society perspectives on rights, rights-based approaches to development, and participation**

NYAMU-MUSEMBI, C.; MUSYOKI, S. *IDS Working Paper* 236. Institute of Development Studies (IDS), Brighton, 2004, 40 p. ISBN 1-85864-853-X

This paper goes beyond conceptual debates to explore country level practices around emergent rights-based approaches to development, and their relationship with more established practices of participatory development. Drawing on the perspectives of a cross-section of Kenyan civil society groups, the paper examines the extent to which these approaches overlap, and evaluates prospects for an integrated and sustained approach to civil society's questioning of institutional arrangements that foster unequal relations. Current trends suggest a gradual closing of the chasm between the practice of participatory community development and the practice of rights advocacy. Community development NGOs are taking the notion of people's rights and entitlements more seriously as the starting point for their work, and the need for greater engagement with macro-level political institutions to build accountability. Rights advocacy NGOs are responding to demands for the active and meaningful participation of marginalized groups in shaping a rights advocacy agenda that is genuinely rooted in communities. Another trend is that community-based networks are looking inward to ensure internal legitimacy, inclusiveness and non-discrimination. These trends hold promise for an integrated and sustained approach that is potentially more effective in Kenya's new political climate, characterized by stronger demands for accountability at different levels. The paper concludes with suggestions on how these emerging trends could be strengthened.  
KIT Library shelf code D 3443-(2004)236  
<http://www.ids.ac.uk/ids/bookshop/wp/wp236.pdf>  
(accessed January 2008)

**094 Challenges and opportunities of implementing a rights-based approach to development: an Oxfam America perspective. Paper presented at a conference on 'Northern relief and development NGOs: new directions in poverty alleviation and global leadership transitions', 2-3 July, Balliol College, Oxford, UK 2001**

OFFENHEISER, R.C.; HOLCOMBE, S. *Non-profit and Voluntary Sector Quarterly* 32(2003)2 p. 268-301

This article explores some of the rationales that have led Oxfam America – as a member of Oxfam International – to embrace a rights perspective, as well as the conceptual constructs that support the new paradigm and the challenges to implementation that it poses. The first section probes the historical circumstances that have marginalized economic and social rights and focused international dialogue on political and civil rights. The second section analyses the philosophical and conceptual foundation that supports implementation of a rights-based approach in development practice and humanitarian response. The final sections explore the organizational and management challenges that flow from the use of the rights-based model as an organizing principle for development practice.

KIT SwetsWise database

**095 Gender, the Millennium Development Goals, and human rights in the context of the 2005 review processes**

PAINTER, GENEVIEVE RENARD. Choike, 2004, 76 p.

This paper takes advantage of the 2005 reviews of the Beijing Platform for Action and the Millennium Declaration and Millennium Development Goals (MDGs), to consider the opportunities offered by these coinciding reviews. It also outlines an advocacy agenda for participation in the reviews at an international level. It is argued that the linkage of the Millennium Review and the Beijing +10 Review provides a strategic window that can be used to reframe the MDGs as international human rights obligations. This linkage would connect the review processes to the analytical tools and practical strategies offered by human rights. The task is to ensure that the reviews are directed towards achievement of human rights, not towards the further entrenchment of a neo-liberal, economic-growth driven model of development. The author further stresses that the departure point for the Gender and Development (GAD) Network's advocacy should be that achievement of the MDGs is both an

indication of and a necessity for the realization of human rights. The MDGs largely correspond with states' core obligations under international human rights law, thus generating immediate and binding obligations. The centrality of a women's human rights approach to development must be emphasized. The MDGs and gender mainstreaming must be reclaimed as strategies to achieving human rights. In summary, the author states that the GAD Network and its members must fully own and shape this strategy.

[http://www.choike.org/documentos/mdg\\_women2004.pdf](http://www.choike.org/documentos/mdg_women2004.pdf) (accessed January 2008)

**096 Rights-based strategies in the prevention of domestic violence**

PANDA, P. *ICRW Working Paper* 344.

International Center for Research on Women (ICRW), Washington, DC, 2002, 91 p.

An attempt is made to broaden the discussion about the prevention of domestic violence against women informed by a rights-based strategy. Specifically, the study discusses the critical elements of a human rights framework to reduce domestic violence, presents research findings on the prevalence and correlates of domestic violence in intimate relationships in Kerala, India, and explores strategies for the prevention of domestic violence on the basis of research and analysis. Domestic violence needs to be resituated in the broader social transformation of society and domestic violence should be conceptualized as violation of a woman's most basic right. The strength of a rights-based strategy is that it meshes formal treaty doctrines with grassroots activism and critiques of power. While the right to make the claim is global, specific and useful strategies to prevent domestic violence must be developed locally. Research and analysis in this study in the context of Kerala clearly suggest that domestic violence against women (physical and psychological) is widely prevalent, takes multiple forms and has a high frequency of occurrence. Forced sex and physical violence during pregnancy are also not uncommon. The study suggests that 'right to housing' and 'right to property and inheritance' are critical and most fundamental for any strategy in the prevention of domestic violence.

[http://www.cds.edu/download\\_files/344.pdf](http://www.cds.edu/download_files/344.pdf) (accessed January 2008)

**097 Developing rights? Relating discourse to context and practice**

PETTIT, JETHRO; WHEELER, JOANNA (eds).

*IDS Bulletin* 36(2005)1, p. 1-8 ISSN 0265-5012

Drawing on the range of contributions to this special issue entitled 'Developing rights', some of

the key lessons about using rights effectively are highlighted. First, important historical and geopolitical forces are behind the timing and framing of the rights-based discourse, which bear careful examination. Second, the contexts of actual struggles are crucial to understanding how rights become substantive. Third, the process of making rights real is a political one, rather than a technical or procedural one, because it entails confronting the structural inequalities that underlie the negation of rights. Understanding how rights can shift power relations is essential to realizing the potential of rights to contribute to change. Finally, a rights perspective, when understood within particular contexts and linked to strategies to shift power relations, has the potential to confront some of the most prominent assumptions of development orthodoxy and emerging agendas of security.

KIT Library shelf code E 1978-36(2005)1

**098 Learning from the UK Department for International Development's rights-based approach to development assistance**

PIRON, LAURE-HELENE. German Development Institute, and Overseas Development Institute (ODI), Bonn and London, 2003, 33 p.

The UK Department for International Development (DFID) has developed an innovative approach to human rights policy, as presented in its 2000 Target Strategy Paper 'Realising Rights for Poor People'. Since then, DFID has been attempting to implement this new policy framework, but, to date, its impact has not been assessed. The German Development Institute commissioned a study to identify what lessons could be learned from DFID's experience. The study was updated with the aim of being circulated to a wider audience. This updated study presents lessons learned, comments on challenges currently facing DFID and some recommendations for the German government and other donors. It is suggested that DFID should undertake further conceptual and operationally relevant work. This requires DFID to have a strong human rights focal point, with adequate resources to contribute to policy development, the capacity to learn from DFID programmes and to exchange information and views with other development agencies, research institutes and human rights organizations, both in developed and developing countries. Lessons for donors include that drafting a policy document can be a useful process of further refining a new policy, identifying ways in which it is innovative, and building consensus between different professional groups within an organization and

across government, e.g. between a development agency and a Ministry of Foreign Affairs.

<http://www.odi.org.uk/rights/Publications/DFID%20RBA%20Final%20Doc%20July%202003.pdf> (accessed January 2008)

**099 The right to development: a review of the current state of the debate for the Department for International Development**

PIRON, LAURE-HELENE. Overseas Development Institute (ODI), London, 2003, 44 p.

The objective of this report is to assess the relevance of the Right to Development for development policy and practice, and to make practical recommendations to the UK Department for International Development (DFID). Though the Right to Development is an academically and politically contested concept, the debates surrounding its interpretation can shed new light on international development policy and practice. This report argues that the new 'partnership approach' to development (one based on shared responsibilities and mutual commitments between developed and developing countries and international organizations) is fairly consistent with a contemporary interpretation of the Right to Development. However, such a partnership approach does not place human rights at the centre of the development process, and does not consider development as a human right. This report makes a case for DFID, and other development agencies, to take the Right to Development debate seriously. One of the conclusions reached is that the governments of developing countries need to be involved in discussions concerning rights-based approaches to development assistance. The Right to Development inter-governmental debate is too politicized to create such an opportunity. It would be important to hear from developing countries officials how they see their national development strategies as contributing to the realization of human rights, and how this relates to the Right to Development.

[http://www.odi.org.uk/rights/Publications/right\\_to\\_dev.pdf](http://www.odi.org.uk/rights/Publications/right_to_dev.pdf) (accessed January 2008)

**100 The right to development: study on existing bilateral and multilateral programmes and policies for development partnership. Report commissioned by the Office of the High Commissioner for Human Rights**

PIRON, LAURE-HELENE. *E/CN.4/Sub.2/2004/15*. 3 August 2004, 38 p.

A survey of existing bilateral and multilateral policies and programmes was conducted to suggest principles and criteria for identifying good practices in the creation and implementation

of development partnerships. A review is presented of the concept of partnership for the realization of the right to development. The study then reviews recent trends in development policy and practice, in particular the development of a new consensus around a 'global compact' for poverty reduction, the importance of national ownership, and challenges of governance, aid conditionality and selectivity. It also reviews data on aid flows and the quality of aid. Good governance and good donorship are identified as key issues to be examined. Thirdly, the study reviews the place of human rights in this evolving aid consensus, starting with the contributions made by the Declaration of the Right to Development. Human rights are not yet fully part of the mainstream of development assistance; human rights-based approaches are in the process of being developed and adopted. However, partnerships to realize the right to development would need to be grounded in the international human rights framework. Human rights principles can be useful here, but they need to be applied in a way consistent with international norms and standards.

<http://www.odi.org.uk/rights/Publications/RTD&DevPart.pdf> (accessed January 2008)

### **101 Rights-based approaches and bilateral aid agencies: more than a metaphor?**

PIRON, LAURE-HELENE. *IDS Bulletin* 36(2005)1, p. 19-30 ISSN 0265-5012

The argument put forward in this article is that a common core of rights-based approaches in bilateral development aid agencies can be identified and some transformations are underway. However, much remains to be done to influence, not just the behaviour of individual agencies, but also the international consensus on aid and the place of human rights within it. This review begins by identifying some of the ways in which agencies can incorporate human rights into their policies and activities. It then examines the extent to which rights-based approaches can be said to have been adopted and the factors that facilitate or constrain the transformation. Finally, some of the current challenges are considered that face agencies attempting to close the gap between their rights-based approaches and mainstream development policy and practice.

KIT Library shelf code E 1978-36(2005)1

### **102 The role of human rights in promoting donor accountability**

PIRON, LAURE-HELENE. Overseas Development Institute (ODI), London, 2005, 12 p. This background paper examines the extent to which human rights can be used to hold aid

agencies to account in a meaningful way. The focus is on bilateral and multilateral organizations providing development aid. Human rights accountability can be understood in a narrow or broader sense. It can be taken to mean accountability through the use of established human rights mechanisms, at the international, regional or domestic level, focusing on agreed human rights standards. However, given the ongoing legal debates as to the extent to which aid agencies can be said to be legally obligated under the human rights framework (e.g. issues of extra-territoriality or restrictions on the mandate of the international financial institutions), this paper principally examines non-legal channels of accountability. Human rights-based approaches can make a contribution to mainstream accountability frameworks, for example by complementing financial or macro-level results-based orientations with a concern for impacts on individuals, or by the effectiveness of redress mechanisms.

[http://www.odi.org.uk/rights/Publications/LHP\\_DonorAccountability.pdf](http://www.odi.org.uk/rights/Publications/LHP_DonorAccountability.pdf) (accessed January 2008)

### **103 Integrating human rights into development: a synthesis of donor approaches and experiences**

PIRON, LAURE-HELENE; O'NEILL, TAMMIE. Overseas Development Institute (ODI), London, 2005, 63 p.

This study was commissioned by the Human Rights and Development Task Team of the OECD DAC Governance Network (GOVNET) with a view to assisting in the preparation of an action-oriented policy in 2006. It analyses and synthesizes the approaches and experiences of bilateral and multilateral agencies working on human rights and development, and offers a number of practical recommendations. There are a number of key messages which emerge from this study and should inform future GOVNET and DAC action. The study has in particular confirmed that there is a clear gap in the DAC's policy processes and documentation, with no substantive work on human rights since the late 1990s. This does not reflect the reality of agencies' current work. This initiative is therefore highly relevant for the DAC as a whole given the cross-cutting nature of human rights. It also has meaning beyond the DAC, given the value of bringing together representatives across such a large number of bilateral and multilateral agencies with a common purpose. The study had identified a significant number of new policies, as well as accompanying tools, guidance documents and programming experiences. This demonstrates that work on human rights has not

been limited to policy pronouncements, but has also started to impact practice.

[http://www.odi.org.uk/rights/Publications/humanrights\\_into\\_development.pdf](http://www.odi.org.uk/rights/Publications/humanrights_into_development.pdf) (accessed January 2008)

**104 DFID human rights review: a review of how DFID has integrated human rights into its work** PIRON, LAURE-HELENE; WATKINS, FRANCIS. Overseas Development Institute (ODI), London, 2004, 120 p.

This review was commissioned by the UK Department for International Development's Reaching the Very Poorest Team in Policy Division. Its purpose is to gain a greater understanding of DFID's human rights work, drawing on a portfolio of activities supported by DFID. The focus is on lessons to be learned from experiences on the ground, covering a range of sectors and initiatives, in particular at country level. The review attempts to show how human rights can make a contribution to poverty reduction at the normative, analytical and operational levels. It concludes with forward-looking recommendations.

<http://www.odi.org.uk/rights/Publications/DFIDRightsReview07.04.pdf> (accessed January 2008)

**105 A rights-based approach to gender equality and women's rights**

POWELL, MARIE. *Canadian Journal of Development Studies* 26(2005) special issue, p. 605-617 ISSN 0225-5189

The concept of a rights-based approach is explored to determine if it provides a useful methodology for furthering progress by donor agencies on achieving gender equality and women's rights. It is argued that for gender equality advocates working in donor organizations, a rights-based approach adds value to current gender mainstreaming efforts. However, a number of issues and lessons learned from gender mainstreaming need to be addressed to ensure that gender equality and women's rights are not marginalized.

KIT Library shelf code H 1847-26(2005)spec.issue

**106 Principles into practice: learning from innovative rights-based programmes**

CARE International UK, London, 2005, 48 p. CARE International has been testing methods of incorporating rights-based approaches into its development programmes. This report is an account of some of those innovations and the lessons learned from them. In this report the term rights-based approach means a deliberate and explicit focus on enabling people to achieve the minimum conditions for achieving their human rights. The review of 16 RBA projects

from Bangladesh, Bolivia, Burundi, Cambodia, Guatemala, Honduras, India, Peru, Rwanda, Sierra Leone, Somalia, and Thailand gives concrete evidence of what RBA 'looks like' in context and in practice. Lessons are discussed in terms of promoting empowerment; working in partnership; ensuring accountability; promoting responsibility; and opposing discrimination.

<http://www.careinternational.org.uk/download.php?id=140> (accessed January 2008)

**107 Programming for justice: access for all. A practitioner's guide to a human-rights based approach to access to justice**

United Nations Development Programme (UNDP), New York, NY, 2005, 256 p. ISBN 974-93210-5-7

This guide has been broken down in seven chapters that successively: (1) describe the goals and scope of the justice sector in line with human development and human rights-based approaches; (2) provide a ten-step plan for practitioners to develop access to justice programmes; (3) discuss capacity development strategies with regard to the normative frameworks that need to be in place to ensure that disadvantaged groups are protected and their access to justice is ensured; (4) examine the role and ability of institutions that are tasked with providing access to justice; (5) explore legal empowerment, legal awareness and legal aid; (6) focus more specifically on the justice needs of disadvantaged groups, including women; and (7) look at unique challenges faced by countries recovering from conflict.

[http://www.undp.org/governance/docs/Justice\\_Guides\\_ProgrammingForJustice-AccessForAll.pdf](http://www.undp.org/governance/docs/Justice_Guides_ProgrammingForJustice-AccessForAll.pdf) (accessed January 2008)

**108 The Protocol on the Rights of Women in Africa: an instrument for advancing reproductive and sexual rights**

*Briefing Paper*. The Center for Reproductive Rights, New York, NY, 2006, 25 p.

This briefing paper offers concrete suggestions for women's health and rights advocates within and beyond Africa. It provides detailed information that can help African women use the protocol to exercise their reproductive rights, and suggests ways that governments can implement the protocol's landmark provisions. The paper can also be useful to advocates outside Africa who are seeking to establish similar guarantees.

[http://www.reproductiverights.org/pdf/pub\\_bp\\_africa.pdf](http://www.reproductiverights.org/pdf/pub_bp_africa.pdf) (accessed January 2008)

**109 CARE's experience with adoption of a rights-based approach: five case studies**

RAND, JUDE. CARE USA, Atlanta, GA, 2002, 56 p.

CARE has embarked on a learning process designed to build understanding of and a commitment to a human rights-based approach (RBA) to its relief and development work. Among the most important inputs to the learning process have been case studies, i.e., written descriptions of and reflections on rights-based approaches in action. In an effort to broaden its understanding of the implications of RBA integration in CARE and to foster learning across different parts of the CARE world, CARE's Rights/RBA Initiative commissioned the present set of five case studies in Uganda, India, Burundi, Vietnam and South Africa. The selection of RBA initiatives for inclusion in this series was not based on progress or successful adoption; rather, it was based on the potential for learning about the implications of adopting RBA for each stage of CARE's programme cycle. The five cases represent a diverse range of contexts and approaches and shed light on the creative array of options available for RBA application. Taken together, they reveal the very real differences an explicit focus on rights makes for CARE and its partners at all stages of the programme process, providing important insights into the theoretical and practical implications of a rights approach. However, they also raise a number of key issues and questions for further consideration. The insights and lessons learned from each case are summarized, followed by a synthesis of the most salient implications of adopting RBA for each stage of CARE's programme cycle. Key outstanding questions are summarized at the end of the paper to guide CARE and its partners in their further pursuit of a rights-based approach. [http://www.crin.org/docs/resources/publications/hrbap/CARE\\_experiences\\_case\\_studies.doc](http://www.crin.org/docs/resources/publications/hrbap/CARE_experiences_case_studies.doc) (accessed January 2008)

**110 'We, the women': the United Nations, feminism and economic justice**

RANDRIAMARO, ZO. *Spotlight 4*. Association for Women's Rights in Development (AWID), Toronto, 2002, 12 p.

The evidence is mounting: internationally agreed development and human rights goals are not being met. Moreover, civil society organizations and social movements are suffering from 'conference fatigue' after years of systematic involvement in the United Nations (UN) conference arena. Women's organizations and international networks are particularly affected. What does this imply for economic justice and

women's engagement with the UN? Should the UN be reformed, should feminist movements reinvest in UN processes, or is the UN no longer a strategic site through which to pursue economic and gender justice? This paper aims to contribute to this debate, while not pretending to cover all UN mechanisms or processes. Beginning with an overview of the current context and global governance framework, the paper then focuses on four key economic-related UN mechanisms, namely the Millennium Development Goals, the Financing for Development process, and human right treaties including the International Covenant on Economic, Social and Cultural Rights, and World Conferences. Each of these international norm-setting spaces is assessed for its efficacy as a platform for promoting gender and economic justice, considering the status of the mechanism and the outcomes of women's participation to date. The paper also discusses the major challenges facing women's movements in their quest for gender and economic justice through international venues, including the implications of some of the reform proposals put forward in the recently released Cardoso Report on civil society engagement with the UN. It concludes with a call to engage critically with UN mechanisms, reclaiming these global policy spaces.

[http://www.awid.org/publications/OccasionalPapers/spotlight2\\_en.pdf](http://www.awid.org/publications/OccasionalPapers/spotlight2_en.pdf) (accessed January 2008)

**111 Human rights, institutions and social change. Paper prepared for the Helsinki Conference 2005**

RAO, ARUNA; KELLEHER, DAVID. 2005, 11 p. This paper presents a conceptual framework on rights, institutions and social change which can be used to assess how gendered aspects of institutions, both 'formal' and 'informal', explain patterns of rights achievement, and more importantly, to identify institutional change strategies that challenge and transform power relationships to enable the realization of women's rights. To deepen strategic thinking on transforming power relations, the authors argue for understanding the confluence of the opportunity structure provided by the state, the empowerment of women and their organizations, and formal and informal institutions which mediate both access and benefits.

<http://www.gendernetwork.org/resources.php?id=31> (accessed January 2008)

### **112 Islamic politics, human rights and women's claims for equality in Iran**

RAZAVI, SHAHRA. *Third World Quarterly* 27(2006)7, p. 1223-1237 ISSN 0143-6597

The diverse currents of thinking that feed into the reformist orientation in Iran are analysed. The need for change is being voiced not only by secular forces, but also by those within the heart of the Islamic establishment. These advocates of reform have included male lay intellectuals, some clerical authorities and a number of feminists with an Islamic orientation. It is argued that these disparate streams of reformist thinking constitute a genuinely local effort to move Islamic politics out of the cul-de-sac of traditional Islam by endorsing modernist and universal values of human rights and democracy. Gender equality figures centrally only in some strands of this thinking, for example within feminist Islamism, but it is also found in the 'dynamic jurisprudence' that is being propagated by some religious scholars. For intellectuals and public figures whose roots go back to the heart of the Islamic establishment, the turn to human rights, democracy and women's rights constitutes a metamorphosis. The social and political dynamics underlying these tensions are considered in the second part of the article. It is shown that while the reformist movement was always constrained as a political force, it is today almost gone from the centres of power and decision making, as traditionalists have tightened their grip over political power. While this represents a major setback for the realization of human rights, democracy and gender equality, it nevertheless challenges the reformist intellectuals and leaders to cultivate a broad social base, bringing into their fold the largely impoverished middle class, women and youth who constituted the 'vote bank' for president Khatami's reformist platform, but whose voices have remained muted in subsequent Iranian politics.

KIT Library shelf code E 2401-27(2006)7

### **113 Reclaiming voices: a study on participatory human rights education methodologies in the Asia-Pacific**

Asia Pacific Regional Resource Centre for Human Rights Education (ARRC), 2004, 3 parts (Preliminary; Main 1; Main 2)

The study documents the different methodologies employed in non-formal human rights education programmes and assesses these methodologies in terms of type of users, issues covered, materials employed, results obtained, weaknesses and limitations, advantages and areas for improvement. In addition to the

features of this study is the listing of good practices and recommendations on how human rights education methodologies can be more effectively used for vulnerable, disadvantaged and marginalized groups in the Asia-Pacific Region. It provides a useful resource in the work of wide ranging agencies and actors working towards furthering and implementing human rights education.

Preliminary: [http://www.rrc-hre.com/publications/reclaiming\\_voices/reclaiming-preliminary.pdf](http://www.rrc-hre.com/publications/reclaiming_voices/reclaiming-preliminary.pdf) (accessed January 2008)

Main 1: [http://www.rrc-hre.com/publications/reclaiming\\_voices/Reclaiming\\_main-01.pdf](http://www.rrc-hre.com/publications/reclaiming_voices/Reclaiming_main-01.pdf) (accessed January 2008)

Main 2: [http://www.rrc-hre.com/publications/reclaiming\\_voices/Reclaiming\\_main-02.pdf](http://www.rrc-hre.com/publications/reclaiming_voices/Reclaiming_main-02.pdf) (accessed January 2008)

### **114 Building resilience: a rights-based approach to children and HIV/AIDS in Africa**

RICHTER, LINDA M.; RAMA, SHARMIA. Save the Children Sweden, Stockholm, 2006, 59 p. ISBN 91-7321-220-2

As the vulnerability of children living in communities affected by HIV/AIDS becomes a clear challenge, governments, international agencies, civil society, neighbourhoods, and families have mobilized to tackle the issues these children face. This report provides a brief overview of the responses of the international community and governments in rising to these challenges, the roles of the private and civil society sectors, and the responses of families and communities dealing directly with the children. A rights-based approach seems to be a useful approach to rectify many of the distortions that have arisen from a crisis-driven response to children affected by HIV/AIDS, poverty, and conflict, and can provide a beacon for moving forward. The underlying principles of universality, indivisibility, responsibility, and participation provide a firm foundation for framing priorities and responses to vulnerable children and families. One of the recommendations made is that it is imperative that stakeholders coordinate their responses, and that they are guided by a strong rights-based approach.

[http://www.crin.org/docs/save\\_children\\_hiv.pdf](http://www.crin.org/docs/save_children_hiv.pdf) (accessed January 2008)

### **115 A rights-based approach to development**

*Facts and Issues. Women's Rights and Economic Change* 1. Association for Women's Rights in Development (AWID), Toronto, 2002, 9 p.

A rights-based approach to development builds on the experiences and expertise of two significant branches of the women's movement:

development and human rights. This primer describes the approach, presents its benefits to the development community, and suggests some ways that it can be used.

<http://www.awid.org/publications/primers/facts/issues1.pdf> (accessed January 2008)

### **116 Rights based approaches**

Office of the United Nations High Commissioner for Human Rights, Geneva

This website discusses terms used in, and Frequently Asked Questions about, rights-based approaches to development.

<http://www.unhchr.ch/development/approaches.html> (accessed January 2008)

### **117 Rights-based approaches**

*Keysheet 18.* Department for International Development (DFID) and Netherlands Ministry of Foreign Affairs, London and The Hague, 2003, 2 p.

Rights-based approaches are discussed in terms of an overview of the debate, key issues in decision making, and key literature.

[http://www.keysheets.org/red\\_18\\_rights\\_based\\_approaches.html](http://www.keysheets.org/red_18_rights_based_approaches.html) (page 1) (accessed January 2007)

[http://www.keysheets.org/red\\_18\\_rights\\_based\\_approaches\\_2.html](http://www.keysheets.org/red_18_rights_based_approaches_2.html) (page 2) (accessed January 2007)

### **118 Rights-based approaches: learning project**

Oxfam America/Care USA, November 2007, 134 p. ISBN 978-0-85598-607-0

This report presents the findings of a collaborative Learning Project between CARE USA and Oxfam America, who compared rights-based approach (RBA) projects with non-RBA projects and identified best practices and lessons that could be used to improve the application of rights-based approaches in programming. In doing this they confirmed that rights-based approaches strengthen development work.

See: <http://styluspub.com/books/BookDetail.aspx?productID=165141> (accessed January 2008)

### **119 Applying a human rights based approach to programming: experience of UNICEF. Paper prepared for the Workshop on Human Rights, Assets and Livelihood Security**

ROZGA, DOROTHY. London, 2001, 11 p.

In April 1998, UNICEF adopted a human rights-based approach to programming for children and women. Within the framework of the UNICEF rights-based approach, human rights and child rights principles are applied in all phases of the programme process. These processes include situation assessment and analysis, programme design, implementation and management and monitoring and evaluation. Over the past three

years UNICEF has gained a wide range of experience in the human rights-based approach to programming. A process has been initiated for the systematic documentation, assessment and monitoring of these experiences. This paper describes how some key principles influence programming, and provides examples of their application. Experiences in the application of the rights approach have brought to the forefront a number of issues that are currently being studied, i.e. how to address those rights that are politically sensitive and hence controversial; the need for better rights-based indicators that monitor both outcome and process; balancing a rights approach with donor demand for a results approach; and the challenge of reaching a common understanding with our partners about what is a human rights-based approach to development programming.

[http://www.crin.org/docs/resources/publications/hrbap/Applying\\_Human\\_Rights\\_Approach\\_to\\_Programming.pdf](http://www.crin.org/docs/resources/publications/hrbap/Applying_Human_Rights_Approach_to_Programming.pdf) (accessed January 2008)

### **120 A human rights-based approach to programming for children and women in Viet Nam: key entry points and challenges**

SALAZAR-VOLKMANN, CHRISTIAN. UNICEF, New York and Hanoi, 2004, 60 p.

UNICEF has adopted the Human rights-based approach to programming (HRBAP) as an approach to development programming and its application has been analysed in numerous case studies around the world. This case study presents a situation analysis on child rights in Vietnam. It identifies key strategies and entry points, as well as challenges and future topics for progress in rights-based programming in the country. The case study demonstrates that a human rights-based approach to programming is possible within the process of modernization and urbanization of Asian societies. It also shows that the Convention on the Rights of the Child can be successfully implemented in a political system governed by only one party. But human rights-based programming under such cultural and political conditions demands a clear and accurate understanding of the historical and political environment, in order to identify the right entry points for rights-based projects and activities. The main difficulties for child rights programming in Vietnam identified here include cultural traditions that do not recognize children as subject of rights and new economic market mechanisms that contribute to growing social gaps among the population. The rule of law was only introduced in Vietnam since the beginning of the 1990s. Therefore, the legal framework for children is still relatively weak and mechanisms

to monitor and handle complaints of child rights violations are still insufficient. Key challenges for further progress in the implementation of child rights in Vietnam are: strengthening the rule of law, widening spaces for child and adolescent participation, addressing the negative impact of privatization on poor families and improving living conditions of ethnic minority children.

<http://www.crin.org/docs/resources/publications/hrbap/Vietprintaug04.pdf> (accessed January 2008)

### **121 Human rights-based approaches to development cooperation, HIV/AIDS, and food security**

SARELIN, ALESSANDRA LUNDSTROM. *Human Rights Quarterly* 29(2007)2, p. 460-488  
ISSN 1085-794X

An attempt is made to identify human rights-based practices and methods for development efforts in countries where the HIV/AIDS pandemic aggravates the realization of two highly interrelated human rights, namely the right to food and the right to health. The analysis of field research carried out by CARE International in Malawi identifies elements characteristic of a human rights-based approach to development cooperation. The focus is on human rights-based analysis and assessment, as well as on efforts designed to develop the capacity of rights-holders and duty-bearers. The article raises questions and issues that are relevant to designing such a strategy. This article focuses on HIV/AIDS-affected households in rural areas. For rural populations, the impact of HIV/AIDS on farming, farming systems, rural livelihoods and nutrition is potentially serious, but this aspect of the pandemic has been largely overlooked. In sub-Saharan Africa, where roughly 80% of the entire population depends on small-scale subsistence agriculture for livelihood and food, agriculture is critical for rural food security and is, therefore, of key importance when generating strategies to strengthen HIV-affected people's rights to food and health. Realizing human rights requires long-term change, government responsibility, implementing structures that guarantee access to food or the means to produce it, on a non-discriminatory basis as a right. This is why HRBAs applied in HIV/AIDS impact mitigation primarily means that people living with HIV/AIDS and those affected are empowered to claim their rights and demand structural change in favor of realizing human rights and establishing mechanisms of accountability.

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### **122 Governance hybrids: pro-poor, rights-based approaches in rural Peru**

SCHNEIDER, A.; ZUNIGA-HAMLIN, REBECCA. *IDS Working Paper* 240. Institute of Development Studies (IDS), Brighton, 2005, 70 p.  
ISBN 1-85864-856-4

Poverty is multidimensional, and attempts to respond to poverty must offer internally consistent responses to each of the dimensions. Rights-based approaches (RBA) offer a coherent set of economic, social and political responses to poverty that promise substantive change in the social order. In rural Peru in 2002, a host of local and national movements were eager to experiment with new RBA alternatives to address intense poverty. The introduction of RBA did not occur in a vacuum, however, and existing clientelist practices mixed with RBA to produce governance hybrids. At first glance, this combination seems unusual. Clientelism and RBA are usually seen as mutually exclusive, polar opposites; clientelism reproduces poverty while RBA transforms it. The current study demonstrates a variety of hybrid RBA and clientelist practices that imply different degrees of benefit for poor citizens. At a conceptual level, this study suggests the need to re-evaluate discrete categories of rights and clientelism and allow for a continuum that would include a number of intermediate, hybrid steps. Policy makers may want to take these hybrids into account when designing their interventions to move in the direction of greater rights, rather than watered-down RBA or reversion to clientelism.

KIT Library shelf code D 3443-(2005)240

<http://www.ids.ac.uk/ids/bookshop/wp/wp240.pdf>  
(accessed January 2008)

### **123 Can a rights-based approach help in achieving the Millennium Development Goals?**

SHETTY, SALIL. *IDS Bulletin* 36(2005)1, p. 73-75  
ISSN 0265-5012

What is the relationship between a rights-based approach and the framing and implementation of the Millennium Development Goals (MDGs)? And, more broadly, does a rights-based approach help in achieving development or human development? This article argues that although more discussion on this question is needed, a rights-based approach does indeed contribute positively to human development and the fulfilment of the MDGs. The first section focuses on how a rights-based approach underlies and frames the MDGs. The next section examines how a rights-based approach to implementing the MDGs strengthens their effects.

KIT Library shelf code E 1978-36(2005)1

**124 Achieving women's economic and social rights: strategies and lessons from experience**

SYMINGTON, A.; GOKAL, S.; PRINCIPE, T.  
Association for Women's Rights in Development (AWID), Toronto, 2006, 48 p.

The Association for Women's Rights in Development (AWID) is an international feminist, membership organization committed to strengthening the voice, impact and influence of women's rights advocates, organizations and movements around the world. The focus of the project described in this paper is on the innovative ways in which a single set of strategies is being used in different ways for similar aims. The methodology for this project was to look at examples and experiences from many different contexts, striving to understand the opportunities and obstacles to economic and social rights implementation, and the different activities that have been used to advance economic and social rights in different settings. The research presented in this paper is based on interviews with activists, researchers, lawyers, government officials and development practitioners with diverse experience using a range of strategies to implement economic and social rights, as well on reports and articles on economic, social and cultural rights (ESCR) that have been published in different sources. The report is not intended to be a comprehensive account of the entire field of women's economic and social rights. It aims to provide examples and experiences from key ESCR advocacy efforts around the world in order to illuminate, inspire and provoke. The authors of the report hope that the experiences presented will contribute to the body of knowledge on the critically important question of how to move from the realization of 'rights on paper' to ensuring their concrete implementation in women's lives around the world.

<http://www.awid.org/publications/ESCR%20Report.pdf>  
(accessed January 2008)

**125 Promoting rights-based approaches: experiences and ideas from Asia and the Pacific**

THEIS, J. Save the Children Sweden,  
Bangkok/Stockholm, 2004, 162 p.

This book draws on Save the Children's experiences with rights-based approaches in East and South-East Asia and to some extent on work in South Asia and the Pacific. Save the Children has promoted rights-based approaches through training workshops, programme reviews, discussions, documents and practical programme experimentation. All of this work is based on a firm commitment to human rights and the fundamental principles of universality,

indivisibility, accountability and participation. Developing rights-based approaches has been a journey of discovery: exploring new ideas, challenging established beliefs and ways of working and searching for solutions beyond the boundaries of conventional development and human rights work. While there is broad consensus on the foundations of a rights-based approach, there are no blueprints for how an organization should become rights-based. Every organization has to do its own analysis of what a rights-based approach implies for its programme areas and for the social, political and cultural context in which the agency works. Child Rights Programming (CRP) is Save the Children's own label for a rights-based approach (RBA) with a specific emphasis on children and their rights. For the purpose of this collection of articles, the term rights-based approach (rather than CRP) has been used. There are several reasons for this choice. To a large extent, CRP and RBA share common principles. The theory and practice of CRP has benefited greatly from the conceptual advances and practical experiences in the broader field of rights-based approaches. At the same time, there is much that child rights organizations can contribute to the broader discourse on rights-based approaches. Using RBA rather than CRP ensures that this book reaches audiences beyond the small circle of child rights agencies and advocates.

<http://www.crin.org/docs/resources/publications/hrbap/promoting.pdf> (accessed January 2008)

**126 Announcing a new dawn prematurely? Human rights feminists and the rights-based approaches to development**

TSIKATA, DZODZI. In: *Feminism in development: contradictions, contestations and challenges* ed. by A. Cornwall, E. Harrison and A. Whitehead. Zed Books, London, 2007, p. 214-226 ISBN 1-84277-819-6

An account is presented of the debates about policy and programmatic implications of rights-based approaches (RBAs), arguing that differences in interpretation signal the need for caution. Then it is discussed how gender has been treated within certain RBAs and this is related to the claims being made for RBAs by women's rights organizations. The conclusion reached is that many of the hopes for the RBAs are not likely to be realized given their processes and contexts.

KIT Library shelf code P 06-1646

**127 The rights-based approach to development: potential for change or more of the same?**

TSIKATA, DZODZI. *IDS Bulletin* 35(2004)4, p. 130-133 ISSN 0265-5012

The adoption of the rights-based approach to development by the UN and its agencies, bilateral development agencies, and international development NGOs has certain implications. While it has allowed human rights language into the world of development programming, a development which has been met with much approval, sceptical voices argue that the development industry has taken the high-minded concerns of human rights instruments and moulded them to its own purposes, and that not much is likely to change in policies and programmes. Given the critique of the rights-based approach on grounds of its refusal to interrogate economic liberalization, its implied reliance on the legal apparatus and its exaggerated claims, it is open to question whether it will deliver development based on human rights. The concerns raised about the rights-based approach signal the need for caution on the part of feminists, especially in the light of how the development industry has digested previous analyses and approaches.

KIT Library shelf code E 1978-35(2004)4

<http://www.cdra.org.za/articles/The%20Rights-Based%20Approach%20to%20Development%20-%20Potential%20for%20Change%20or%20More%20of%20the%20Same%20by%20Dzodzi%20Tsikata.doc> (accessed January 2008)

**128 Operational guide on gender and HIV/AIDS: a rights-based approach**

UNAIDS Inter-Agency Task Team on Gender and HIV/AIDS, and Royal Tropical Institute (KIT), 2005, 48 p. ISBN 90-6832

The objective of the operational guide is to make the relationship between gender, human rights and HIV/AIDS obvious to those working in the development sector. It aims to be helpful to people working in the development sector, whether they find themselves in government, international development organizations, NGOs or community organizations. It specifically targets those working in the field of HIV/AIDS, but also hopes to be of use to development programmers and practitioners in a more general sense. The guide gives support by providing a coherent conceptual framework and a set of guidelines/ checklists and tools. Checklists are intended to provide HIV/AIDS programmers and other development practitioners with a tool to assess the extent to which their work contributes to gender equality. The tools are meant to help development programmers deepen their

understanding of the linkages between gender, human rights and HIV/AIDS and respond strategically to these challenges. Tools and techniques are hardly ever universally applicable. When applied in practice, the techniques and approaches presented in this operational guide must be adapted to local circumstances. It is hoped by the authors that the guide will serve as a starting point for employing more participatory techniques and tools to deepen and entrench such an approach throughout all operational areas of development programming.

<http://unesdoc.unesco.org/images/0015/001510/151002e.pdf> (accessed January 2008)

**129 From the right to development to the rights-based approach: how 'human rights' entered development**

UVIN, PETER. *Development in Practice* 17(2007)4/5, p. 597-606 ISSN 0961-4524

This article offers an intellectual genealogy of rights in development – from the formulation of a 'right to development' to the rhetorical incorporation of rights within prevailing development discourse, to the articulation of a 'rights-based approach' to development. In the conclusion it is suggested that if donors, be they governments, NGOs or international organizations, profess attachment to human rights in their development aims, they must be willing to apply the rights agenda to all of their own actions (the inward focus), and to the global political economy of inequality within which they occupy such privileged places (the outward focus). In the absence of such moves, the human rights focus is little more than a projection of power.

KIT Library shelf code D 2672-17(2007)4/5

**130 Rights-based approaches and beyond: challenges of linking rights and participation**

VENEKLASSEN, LISA; MILLER, VALERIE; CLARK, CINDY; REILLY, MOLLY  
*IDS Working Paper* 235. Brighton, Institute of Development Studies (IDS), 2004, 62 p. ISBN 1-85864-854-8

As more and more development and human rights organizations critically assess their impact and strategies, there is growing convergence in the questions they raise about how to be most effective in addressing structural, systemic causes of poverty and exclusion and thus, make a positive difference in the lives of poor and marginalized people. This paper explores the growing trend of 'rights-based approaches' (RBAs) to development, drawing on interviews with a range of primarily US-based international

human rights and development organizations as well as insights through the authors' years of experience working with development and rights groups in the global south. While the theory of RBA has been broadly embraced as key to getting at the root causes of poverty, many organizations are struggling to make sense of the significance of RBA in practice. A brief discussion on critical considerations for groups as they advance rights-based work begins to unravel some key concerns. Next, the focus is on clarifying meanings, offering definitions of what seem to be critical components of RBA, namely participation, rights, and power. A summary follows of some of the current thinking and practice among international human rights and development organizations that are deepening their work in RBA. This includes some of the key tensions, challenges and opportunities they are encountering. Finally, in building on forgotten experiences and innovations, a handful of practical experiences from the past offers valuable insights and lessons as groups seek to maximize the full practical potential of RBA.

KIT Library shelf code D 3443-(2004)235  
<http://www.ids.ac.uk/ids/bookshop/wp/wp235.pdf>  
 (accessed January 2008)

**131 CEDAW and the human rights based approach to programming: a UNIFEM guide**  
 WALDORF, LEE. United Nations Development Fund for Women (UNIFEM), New York, NY, 2007, 2 parts, 22 p.; 27 p.

Adoption of the human rights-based approach (HRBA) to programming by United Nations (UN) agencies, funds and programmes is considered to have great potential for further enhancing the impact of the human rights standards on the ground. Especially over the past decade, the UN system's commitment to the HRBA has intensified, and the principle that development cooperation should further the realization of human rights has now gained wide acceptance. At the same time, the UN is tackling the challenge of fully translating this commitment into concrete, operational programming terms. This publication is a practical guide to the HRBA to programming for UNIFEM staff and partners, with a particular focus on the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Starting with an overview of why it is important to understand gender equality as a human rights issue, the guide explains the 'UN common understanding of the human-rights-based approach' and how this is reflected in UNIFEM's multi-year funding framework. It discusses the concrete implications for programming of applying the

HRBA, and highlights requirements of human rights-based programming in the context of results-based management, a central concept in the work of UN development agencies. More detailed background information on CEDAW and other human rights treaties, including links to key documents, is also provided.

Part 1: [http://www.unifem.org/attachments/products/CEDAW\\_HRBA\\_guide\\_pt1\\_eng.pdf](http://www.unifem.org/attachments/products/CEDAW_HRBA_guide_pt1_eng.pdf) (accessed January 2008)

Part 2: [http://www.unifem.org/attachments/products/CEDAW\\_HRBA\\_guide\\_pt2\\_eng.pdf](http://www.unifem.org/attachments/products/CEDAW_HRBA_guide_pt2_eng.pdf) (accessed January 2008)

**132 Constitutional engineering: what opportunities for the enhancement of gender rights?**

WAYLEN, GEORGINA. *Third World Quarterly* 27(2006)7, p. 1209-1221 ISSN 0143-6597

The gender implications of the constitutional changes that have taken place as part of recent 'third wave' transitions to democracy are assessed to further an understanding of its potential as a tool to enhance gender rights. Some feminist political scientists have already tried to answer the question of how transitions to democracy can result in positive gender outcomes – since transitions are often seen as failing women. South Africa is one of the case studies often considered to have resulted in more positive gender outcomes than many, if not all, other well-known transitions. To assess the extent to which the process of constitutional design in transitions to democracy can offer opportunities to enhance gender rights, some cases are examined that demonstrate a range of outcomes. Evidence from four 'third wave' transitions – Argentina, Brazil, South Africa and Poland – form the bulk of the empirical material. The focus is primarily on the processes of constitutional change rather than on their outcomes and subsequent attempts to operationalize any new rights. Two more recent experiences, the processes of constitution drafting in Iraq and in the EU, are briefly discussed. It appears that, in order for constitutional change to be an effective strategy to enhance gender rights, it is necessary not only to have a favourable political opportunity structure, but also to have women activists who are able to play a key role both inside and outside institutional arenas. Even then, constitutional change can only be one part of a multi-pronged strategy to enhance gender rights.

KIT Library shelf code E 2401-27(2006)7

**133 Interpreting Islam and women's rights: implementing CEDAW in Pakistan**

WEISS, ANITA M. *International Sociology* 18(2003)3, p. 581-601 ISSN 0268-5809

The gendering of Muslim civil society is raising profound questions regarding women's social roles and rights, resulting in conflicting images concerning what constitutes women's rights, who is to define these rights, where responsibility lies for ensuring them, and the role states are playing in articulating and clarifying what is acceptable and unacceptable within a Muslim context. The efforts of Pakistan to implement the United Nations' Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are discussed to show how that state and local civil society groups are grappling with identifying what should be women's rights, and the dilemmas the state faces in securing these rights. The focus is on the debate around what constitutes discrimination against women, how the state might act to eliminate discrimination against women in the legal sense and in the social sense, the roles being played by the various groups within the women's movement to facilitate the process of adherence to CEDAW, and other challenges being faced as Pakistan attempts to eliminate discrimination against women. This underscores the challenge of transforming prevailing Islamic interpretations of women's legal rights into ones acceptable to local mores and values adhering to the requirements of CEDAW.

KIT Library shelf code E 3024-18(2003)3

**134 Whose rights? Examining the discourse, context and practice of rights-based approaches to development. Paper presented at The Winners and Losers from Rights-Based Approaches to Development Conference, 21-22 February 2005**  
WHEELER, JOANNE; PETTIT, JETHRO. 2005, 14 p.

Two questions underlie this paper. First, why the rights-based approach, and why now? There are important historical and geo-political forces behind the timing and framing of the rights-based discourse, which bear careful examination. Secondly, whose rights count? Between formal legal formulations of rights and the actual experiences of making rights substantive, questions about whose rights are being defined and claimed, by whom, and how, all become crucial. Empirical research into actual situations in which rights are contested and claimed reveals the central importance of history and context in understanding how rights, and efforts to realize them, are experienced in practice. The process of making rights real is a political one, rather than a

technical or procedural one, because it entails confronting the structural inequalities that underlie the negation of rights. Understanding how rights can shift power relations is essential to realizing the potential of rights to contribute to change. A rights perspective, when understood within particular contexts and linked to strategies to shift power relations, has the potential to confront some of the most dominant assumptions of development orthodoxy—and emerging agendas of security.

<http://www.sed.manchester.ac.uk/research/events/conferences/documents/Winners%20and%20Losers%20Papers/Wheeler.pdf> (accessed January 2008)

**135 The winners and losers from rights-based approaches to development (21-22 February 2005)**

The abstracts and papers presented at 'The winners and losers from rights-based approaches' conference held at IDPM, University of Manchester, UK, on 21-22 February 2005 are presented. A central question explored focused on who stands to win and who stands to lose from a rights-based approach to development. Some argue that rights-based approaches to policies such as social protection offer the poorest people the best guarantee of livelihood support. However, others argue that rights-based approaches are an inappropriate strategy for working with the poorest and most vulnerable, who may feel more secure in entering (often informal) negotiations rather than in making demands. In terms of institutional relationships, rights-based strategies may be difficult to reconcile with an interest in greater partnership and collaboration between groups that have traditionally had antagonistic relationships. In other words, there is both a politics and a political economy to adopting a rights-based approach to development that needs to be urgently explored. Papers are presented on these and other related questions from academics, policy makers within bilateral and multilateral development agencies, NGO practitioners and social movement activists.

<http://www.sed.manchester.ac.uk/research/events/conferences/winnersandloserspapers.htm> (accessed January 2008)

**136 Women, girls, boys, and men: different needs – equal opportunities**

Inter-Agency Standing Committee (IASC), 2006, 126 p.

This handbook sets forth standards for the integration of gender issues from the outset of a new complex emergency or disaster, so that the humanitarian services provided neither

exacerbate nor inadvertently put people at risk; so that they reach their target audience and have maximum positive impact. The first part includes four chapters covering the core principles, mandates, definitions and frameworks for gender equality, including the rights-based approach. The second part provides sector- and cluster-specific guidance. Together the chapters represent a practical tool for ensuring that gender equality programming is undertaken and monitored in each sector at field level.

<http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docid=1007002> (accessed October 2007)

### **137 Working from a rights-based approach to health service delivery to sex workers**

*Exchange on HIV/AIDS, Sexuality and Gender* (2007)1, 4 p. ISSN 1871-7551

The issue focuses on the relationship between HIV and sex workers' rights. Most of the articles have been produced in the framework of the Oxfam Novib KIC project 'Knowledge Infrastructure with and between Counterparts' (KIC). The first article outlines the elements of a rights-based approach to sex work, while the second article gives an example of an organization in Hong Kong working from such an approach. The third article focuses on self-organizing of sex workers in Cambodia and the fourth on decriminalization of sex work, as promoted by SWEAT, a sex workers' support organization in South Africa. The last article is about working with brothel owners and managers to promote HIV prevention.

[http://www.kit.nl/net/KIT\\_Publicaties\\_output/ShowFile2.aspx?e=1277](http://www.kit.nl/net/KIT_Publicaties_output/ShowFile2.aspx?e=1277)

### **138 Workshop on development effectiveness in practice: applying the Paris Declaration to advancing gender equality, environmental sustainability and human rights, Dublin, Ireland, 26-27 April 2007. Key messages and summary record**

Organisation for Economic Co-operation and Development (OECD), Paris, 2007, 16 p.

The purpose of the Workshop was to increase mutual knowledge and understanding of how practitioners are applying the Paris Declaration's overarching principles to advance gender equality, environmental sustainability and human rights. The long term goal is to demonstrate how attention to these issues enhances development effectiveness. This document is addressed to Workshop participants, policy makers and aid practitioners in partner and donor countries. It conveys: (1) emerging main messages; (2) lessons learned in implementing the Paris Declaration; (3) Opportunities to enhance collaboration with a view to further advancing the aid effectiveness agenda in the run-up to the 2008 Accra review of the Paris Declaration and beyond; and (4) IV. the workshop proceedings.

<http://www.oecd.org/dataoecd/30/20/38933324.pdf> (accessed January 2008)

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Uganda, 014, 040, 047, 086, 109

United Kingdom, 069

United States, 069

Uruguay, 028

Venezuela, 028

Vietnam, 009, 109, 120

Zambia, 086

Zimbabwe, 067

## Web resources

### **Asia-Pacific Forum on Women, Law and Development (APWLD)**

<http://www.apwld.org> (accessed March 2008)

### **Asia-Pacific Resource & Research Centre for Women (ARROW)**

<http://www.arrow.org.my> (accessed March 2008)

### **Association for Women's Rights in Development (AWID)**

<http://www.awid.org/> (accessed March 2008)

### **BAOBAB for Women's Human Rights**

<http://www.baobabwomen.org> (accessed March 2008)

### **Care International, Rights Based Approaches**

<http://www.careinternational.org.uk/?lid=6215> (accessed March 2008)

### **Centre for Applied Legal Studies (CALS), Wits University, South Africa**

<http://www.law.wits.ac.za/cals/> (accessed March 2008)

### **Challenging fundamentalisms: a web resource for women's human rights**

A joint project of AWID, Droits et Démocratie, and Women Living under Muslim Laws  
<http://www.whrnet.org/fundamentalisms/> (accessed March 2008)

### **Child Rights Information Network (CRIN), Human Rights-Based Approaches, Gender**

<http://www.crin.org/hrbap/index.asp?action=theme.subtheme&subtheme=13> (accessed March 2008)

### **Citizenship DRC**

<http://www.drc-citizenship.org> (accessed March 2008)

### **Committee on the Elimination of Discrimination against Women (CEDAW)**

<http://www2.ohchr.org/english/bodies/cedaw/index.htm> (accessed March 2008)

### **CREA (Creating Resources for Empowerment in Action)**

<http://web.creaworld.org/home.asp> (accessed March 2008)

### **Equal in Rights, Human Rights-Based Approach**

[http://www.equalinrights.org/content/hrba\\_approach.html](http://www.equalinrights.org/content/hrba_approach.html) (accessed March 2008)

### **ESCR-Net: International Network for Economic, Social & Cultural Rights (ESCR)**

<http://www.escr-net.org/> (accessed March 2008)

### **Fiji Women's Rights Movement**

<http://fwrn.org.fj> (accessed March 2008)

### **Eldis search on Gender and Human Rights**

<http://www.eldis.org/go/topics/resource-guides/gender/human-rights> (accessed March 2008)

### **Global Justice Center**

<http://www.globaljusticecenter.net/> (accessed March 2008)

### **Human Rights Education Association (HREA)**

<http://www.hrea.org> (accessed March 2008)

### **Human Rights Information and Documentation Systems, International (HURIDOCs)**

<http://www.huridocs.org/> (accessed March 2008)

### **Human Rights Watch, Women's rights**

<http://hrw.org/women/> (accessed March 2008)

### **InterAction, Rights-Based Approach to Development (RBA)**

<http://www.interaction.org/rba/index.html> (accessed March 2008)

### **International Human Rights Network, Human rights-based approaches**

[http://www.ihrnetwork.org/hr-based-approaches\\_180.htm](http://www.ihrnetwork.org/hr-based-approaches_180.htm) (accessed March 2008)

**International Women's Rights Action Watch (IWRAP) Asia Pacific**  
<http://www.iwraw-ap.org/> (accessed March 2008)

**Just Associates (JASS)**  
<http://www.justassociates.org/> (accessed March 2008)

**Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM)**  
<http://www.cladem.org/english/> (accessed March 2008)

**MADRE**  
<http://madre.org/> (accessed March 2008)

**Office of the High Commissioner for Human Rights (OHCHR)**  
<http://www.ohchr.org/english/> (accessed March 2008)

**Organisation for Economic Co-operation and Development (OECD), Human rights and development, Governance and Capacity Development, Development Co-operation Directorate**  
[http://www.oecd.org/document/21/0,3343,en\\_2649\\_34565\\_35901653\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/21/0,3343,en_2649_34565_35901653_1_1_1_1,00.html) (accessed March 2008)

**People's Movement for Human Rights Education (PDHRE)**  
<http://www.pdhre.org/index.html> (accessed March 2008)

**Sahayog, India**  
<http://www.sahayogindia.org/> (accessed March 2008)

**UNESCO Bangkok, UN Interagency Asia-Pacific Lessons Learned Project on the Human Rights Based Approach (HRBA) to Development**  
<http://unescobkk.org/index.php?id=5587> (accessed March 2008)

**UNICEF, Rights and Results**  
<http://www.unicef.org/rightsresults/index.html> (accessed March 2008)

**UNIFEM (United Nations Fund for Women), Gender Issues, Human Rights**  
[http://www.unifem.org/gender\\_issues/human\\_rights/](http://www.unifem.org/gender_issues/human_rights/) (accessed March 2008)

**United Nations Division for the Advancement of Women (DAW)**  
<http://www.un.org/womenwatch/daw/> (accessed March 2008)

**University of Toronto, Bora Laskin Law Library, Women's Human Rights Resource Programme**  
<http://www.law-lib.utoronto.ca/Diana/> (accessed March 2008)

**Women's Action & Resource Initiative (WARI), Bangkok, Thailand**  
<http://geocities.com/wari9/index.htm> (accessed March 2008)

**Women for Women International**  
<http://www.womenforwomen.org> (accessed March 2008)

**Women for Women's Human Rights (WWHR) - New Ways**  
<http://www.wwhr.org/> (accessed March 2008)

**Women's Human Rights net (a project of the Association for Women's Rights in Development (AWID))**  
<http://www.whrnet.org/> (accessed March 2008)

**Women's Learning Partnership for Rights, Development and Peace**  
<http://www.learningpartnership.org/> (accessed March 2008)

## About the authors

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**Sarah Bradshaw** is a principal lecturer in Development Studies at Middlesex University, UK. She spent a number of years living and working in Nicaragua where she returns every year to work with the Nicaraguan feminist organization, *Puntos de Encuentro*. Her work is supported by the British NGO *Progressio* (formerly known as *CIIR/International Cooperation for Development*). Her recent publications have focused on women's movements and their responses to international policy initiatives, such as the World Bank-sponsored Poverty Reduction Strategy process, and their responses to international development discourses, including ideas around rights and rights-based development.

**Vilma Castillo Aramburu** holds a Masters in Clinical Psychology from Mexico and in 2002 also undertook a Masters in Epidemiology in the Faculty of Medicine in Nicaragua linked to Umea University, Sweden. She is a co-founder of *Puntos de Encuentro*, a Nicaraguan feminist NGO, and currently a member of the Board of Directors. Since 2002 she has worked as a consultant, specializing in gender, development and organizations. She was co-author of the first study undertaken in Nicaragua about violence against women in the home (1986), and has done research on family dynamics that influence adolescent pregnancy (2005). More recently, her work has focused on sexual and reproductive rights (2006).

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**Jashodhara Dasgupta** is an activist and researcher working in northern India since 1986. She is the coordinator of an NGO working on women's health and gender equality called SAHAYOG, and is part of the movement around women's human rights, sexual and reproductive health and rights in India. She was awarded the MacArthur Fellowship for Population Innovations in 1995 for three years, and was a Visiting Fellow with the Institute of Development Studies, Sussex, United Kingdom, in 2006. She was awarded a Gold Medal in University, but opted to become a rural health worker and educator, and continues to work on supporting rural women's organizations as well as bringing rural women's voices into policy arenas.

**Shamim Meer** is a feminist activist who has worked as a researcher, writer and organizational development practitioner in South Africa and internationally since mid-1994. Her work has been with NGOs in rural development, urban development and human rights, with women's organizations and trade unions. Prior to 1994 she worked as a political and feminist activist within organizations challenging apartheid, and was a co-founder of the feminist publications 'SPEAK' and 'Agenda'.

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**Goya Wilson** is currently programme officer at Oxfam-Canada, Central America. She holds a BA in Sociology from the Central American University in Nicaragua and an MA in Development Studies from the Institute of Social Studies in The Hague, the Netherlands. Her Masters thesis was a critique on the PRSP in Nicaragua and how the construction of the poverty discourse helped determine the role of civil society actors in the process. Active in the women's movements in Nicaragua since an early age, she has worked for 15 years as an independent researcher for both local NGOs and international organizations in Nicaragua. Her work focuses on topics related to gender, politics and development and she has contributed to many published reports and papers, including the 1999 study 'Exploring our changes' that examined the impact of gender training on women's groups in Nicaragua.

**Everjoice J. Win** is a feminist from Zimbabwe. She was educated at the University of Zimbabwe, and graduated with Honours in Economic History. Most of her working life has been with the women's movement in Zimbabwe and the African continent. She is currently the Head of Women's Rights with ActionAid International. Action Aid works in over 45 countries globally, and she is responsible for leading the organization's work on Women's Rights. Everjoice has been an active leader in social justice movements in Zimbabwe and internationally. She is also a regular columnist and contributor to newspapers, magazines, and journals.

**Henk van Dam**, and **Minke Valk** are information specialists within the Information & Library Services (ILS) of the Royal Tropical Institute (KIT) in Amsterdam, the Netherlands. They are editors of the Gender, Society & Development series of reference publications. Henk, Ilse and Minke are also involved in the production of thematic internet resources called dossiers and information portals.

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