



**CHALLENGES AND OPPORTUNITIES
OF IMPLEMENTING A RIGHTS-BASED APPROACH TO DEVELOPMENT:
An Oxfam America Perspective**

Presented at:

Northern Relief and Development NGOs:
New Directions in Poverty Alleviation and Global Leadership Transitions
July 2-4, 2001
Balliol College, Oxford, UK

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Am I my brother's keeper?

— *Genesis 4:9*

Why do Economic and Social Rights Matter?

- They confront the most pressing problems of the day.
- They provide legal accountability.
- They build coalitions across borders.
- They challenge global inequality.
- They are inseparable from other human rights.
- They transform needs into rights.

— *excerpted from the Center for Economic and Social Rights website (<http://www.cesr.org>)*

“Education is a basic civil right”.

— *George W. Bush*
During the 2000 Presidential Debates

I. Introduction

In the late 1990s, the members of the Oxfam International community undertook a process of serious reflection on the fundamental nature of their development programming. The purpose of this exercise was to explore common philosophical threads that united us in our development practice. Our goal was to reach deeper into the core of our organizations and ask ourselves what we believed was most important in the way development programs were being implemented. Our hope was to find those essential elements out of which we would create a shared platform to bind us together in a common project and build trust and understanding among our organizations, staff and partners.

It was this process of reflection and planning that led us to conclude that the Oxfam approach to development and humanitarian response was fundamentally anchored in a rights-based perspective, with a particular focus on social, economic and cultural rights. Paradoxically, most Oxfam staff would immediately claim that they have always supported human rights and, indeed, a cursory review of Oxfam programming would show a strong presence of Oxfam grants to partners representing the interests of marginal groups or arguing for greater civil and political rights. A concern for rights has woven its way through partner relations, probably throughout the history of most Oxfam affiliates.

Nonetheless, in terms of development practice, rights had never been made the centerpiece of our development approach. As a consequence, a look at the funding portfolio of Oxfam field offices would reveal a wide range of programs running the gamut from social service delivery to hard-edged human rights work.

The conscious choice to center all programming on a rights-based approach and to focus more particularly on economic, social and cultural rights has represented a major organizational shift for all Oxfam affiliates. It has forced each organization to reexamine its funding portfolio and to ask some tough questions about the relevance of particular partner relations to a rights-based agenda in that country. It has compelled a deeper reflection on the role of the state as the guarantor of rights. It has re-framed the discussion about impact, evaluation and development practice. It has suggested the need to perhaps examine the core of the Oxfam business model and see if it is really suited to supporting a rights-based approach. It has raised serious questions about staff competencies and the ability to think and support programs that are rooted in a rights perspective.

This paper explore some of the rationales that have led Oxfam America to embrace a rights perspective, the conceptual constructs that support that perspective and the implementation challenges that this new approach is presenting to the organization. The first section will address the historical circumstances and contemporary mindsets that have delayed the realization of the importance and strength of the rights-based approach. Second, there will be an analysis of the underlying philosophies and conceptual ideas that support and help visualize the use of a rights-based approach in development practice and humanitarian response. The final section addresses a variety of organizational and

management issues and challenges that flow from the use of the rights-based model as an organizing principle for our development practice work.

II. Rationale for a Rights-based Approach

So why has Oxfam America chosen to embrace a rights-based approach? What does it offer that is essentially new and different? Why has it taken Oxfam America so long to arrive at the conclusion that this approach makes sense and can be incorporated into development practice? Why does it appear to be so relevant now? The following provides the outlines of the rationale that has motivated the board and staff of Oxfam to embrace a rights-based approach.

Disillusionment with the Welfare Model

Most development programming is rooted in the Western European and American notions of the welfare state that emerged in the early years of the twentieth century. It is predicated on a vision of the world that defines poverty as the absence of some particular set of public goods or technical knowledge. It is then assumed that if the means can be provided to deliver these public goods or services more affordably or to introduce the missing technical know-how more efficiently, untold social energy will be released and other social benefits, otherwise known as development, will soon flow into a community.

Over the decades, the debates within the development community have seldom questioned the core precepts of the welfare model. Instead, they have tended to focus on three things: the delivery vehicle, the missing stimulus and, more recently, the recipient crucible. In the early years, the delivery vehicle was northern governments with their hired personnel as knowledge transmitters, later the vehicle was the state, and now, the private sector. Each in turn has made some progress, yet each has failed to address the deeper problem of social injustice.

The missing stimulus has ranged from seed varieties to nutrition and family planning strategies to technical training to basic education. Again, each is important but seemingly none have been adequate. Finally, the recipient crucible has varied from the state to universities to families to civil society and now the market. After 40 years of assuming that governments would look after their citizens, it was realized that government institutions are run by human beings. Institutions will only perform if they and the people who run them are held accountable for their actions. Real development can only occur when institutions of all sorts are held accountable to deliver on their missions.

In many cases, there is a deliberate character to the kind of sustained impoverishment that one observes in many societies. Efforts by governments to address these problems are often half-hearted and under-funded or worse yet, result in promised funds being diverted into the pockets of urban-based bureaucrats who make careers as gatekeepers gleaning margins off foreign aid programs.

What appears to be lacking in many contexts is the political will to make development succeed for people in a meaningful way. Democratic practice is weak in many areas of the world and governments are often not accountable to their people for any of their actions. There is little transparency to the development process and the poor are treated as victims or supplicants who must be satisfied with whatever outcomes may occur.

A fatalism surrounds the implementation of this welfare-based approach. It is imbedded with the assumption that “the poor will always be with us” and that we must learn to live with this reality. It is assumed that little can be done to change the status quo. Foreign aid implemented in this milieu only serves to entrench failure and fatalism. At best, it promotes some opportunity for the few reached by its scarce resources. But it is not in any way transformative of the system that perpetuates the processes reproducing poverty, generation after generation.

The tragedy of development is that for 50 years we have tinkered with this welfare-based model and, while we can show some real achievements, the gap between rich and poor is in fact widening and the numbers of the poor are increasing in many parts of the world. As the World Bank Report 2000/2001 notes,

The world has deep poverty amid plenty. Of the world's 6 billion people, 2.8 billion—almost half—live on less than \$2 a day, and 1.2 billion—a fifth—live on less than \$1 a day...in rich countries fewer than five percent of children under five are malnourished, in poor countries as many as 50 percent are.

By contrast to this deficit-filling approach to poverty alleviation, the rights-based approach defines poverty as social exclusion. Instead of focusing on creating an inventory of public goods or services that must be provided and then seeking to fill the deficit via foreign aid, the rights-based approach focuses on trying to identify the critical exclusionary mechanisms. What are those systemic obstacles that are standing in the way of people's ability to access opportunity and improve their own lives? From the very outset, the rights-based approach centers on structural barriers that impede communities from having rights, capabilities and the capacity to choose.

Viewed in this fashion, development is about assisting poor communities overcome obstacles, rather than about the endless pursuit of grant aid for social goods. It assumes that people have dignity, aspirations and ambition and that their initiative is being blocked and frustrated by persistent systemic challenges such as apartheid, biased lending policies and non-functioning state social service delivery systems. It assumes that they are the most likely to know what institutional obstacles are thwarting their aspirations and are capable of being actors in defining the best approaches for overcoming such obstacles. It is anchored in the reality of local context and the analysis of the structural barriers to opportunity which are particular to that place and time.

Unification of the Human Rights Charter

A significant legacy of the twentieth century has been the creation of a “global culture of human rights.” Articulation of this culture began with the Universal Declaration of Human Rights¹ —what Elie Weisel called the sacred text of a “world-wide secular religion.” It extends through many subsequent conventions, for example on children's rights, women's rights, the rights of refugees, or against torture, agreed to—but not necessarily ratified—by nearly all governments. The power of this “culture of rights” lies in the identification and codification of international standards of rights and in the growth of a global human rights movement that documents and publicizes violations of international standards.

History and the politics of the Cold War have had the side effect of focusing the global human rights movement on political and civil rights, and isolating economic and social rights to the care of the market mechanism. Generations of Americans have grown up believing that human rights refers exclusively to civil and political rights alone.

This twentieth century phenomenon of separating political from economic rights may have been driven by the experience of fascism and totalitarian governments. Refugee intellectuals who went to the United States, for example, ably articulated the consequences of losing political and civil rights in a fascist society. The long ideological Cold War legitimized this conceptual divide between civil and political rights and economic and social rights.

The Cold War was a competition between economic systems, between capitalism and markets on the one hand and socialism and state planning on the other. But the terms of the competition, from the perspective of the ultimate winners, were between freedom and the tyranny of the “evil empire”, between individual liberty and the power of the state.

Attempts, chiefly from the South, to raise issues of economic rights (the New International Economic Order) were isolated by the dichotomized thinking of the Cold War. The end of the Cold War certified the failure, or at least the non-viability, of the socialist economic model and bequeathed a now globalizing world with one economic model—the market economy. The paradox of this current historical moment is that absent any clearly defined foreign policy agenda, we are left with globalization as the default development paradigm. Globalization, to the world's financial leaders, is about the integration of markets. It is about creating the conditions that will optimize economic growth and profits. Their assumption is, as it has been for decades, that development is economic growth and nothing more. If the GNP is high, all is well with the world. This leaves political and civil rights dominant in the human rights dialogue and in the discourse of international affairs.

Meanwhile, for civil society actors, the problems of failed education systems, collapsing health systems, inadequate water supplies, privatized commons, or racism, define the world of the poor. Serious responses by the international community to these problems

¹ Adopted by the United Nations in 1948.

are few. Foreign aid is dwindling. Sectarian conflicts proliferate, driving poverty. G-7 nations must be dragged and guilt-tripped to the altar by the Pope himself to sign on to debt relief. Understandably, civil society leaders are seeking a new language and new approaches to deal with these harsh realities.

During the 1990s, the UN sponsored a major series of summits on a wide-ranging set of issues that drew their legitimacy from the earlier work in the UN on the Human Rights Charter. These meetings and the exposure to the language of the Charter and the realization of its endorsement of economic, social and cultural rights enabled civil society organizations (CSOs) to see new ways to build their case for social justice for the world's poor. Many social movements, like the women's and environmental movements, have used social and economic rights discourse for many decades and have relied heavily on the platforms of subsequent UN meetings to argue their case.

With the emergence of the public debate about the merits of globalization, particularly at the World Bank protests in Seattle, the importance of reemphasizing the need to reconnect civil and political with social, economic and cultural rights was made evident to all the world. For many of the disparate actors at Seattle, the discourse on social and economic rights was the glue that bound them together. Many groups that had traditionally maintained adversarial relations, like US labor organizations and developing world non-governmental organizations (NGOs), realized that, in reality, they shared many core values and that there was much that they could work together on within the framework of economic and social rights. These new socio-political realities have now made it possible to return to the kinds of rights perspective that Eleanor Roosevelt brought to the founding discussions of the Charter without fear of being labeled a socialist or communist.

A Bias toward Civil and Political Rights

In the lead up to the 1998 celebration of the UN Charter, a number of people approached the major human rights organizations, such as Amnesty and Human Rights Watch, to explore with them their willingness to give prominence in the anniversary celebrations to the issue of social, economic and cultural rights. What was very clear from these conversations was a fear that identifying too strongly with these issues around the celebration of the Charter might be misconstrued by their supporters and donors as diluting their core mission and vision. Moreover, they felt that there was much work to be done in addressing critical challenges to civil and political liberties in Asia and the former Soviet Union—areas on which they had built their reputation and enjoyed a clearly identified institutional niche. The irony in this understandable strategic choice was that it perpetuated the Cold War dichotomy between civil and political and social and economic rights in the public consciousness.

The Oxfam leadership was surprised to find that the human rights organizations were going to leave the area of social, economic and cultural rights unattended. Recognizing the need for a prominent global organization to champion social and economic rights, Oxfam decided not only to focus on implementing a rights-based approach in the field,

but to strive as well to become more active in their home countries in putting these issues on the public policy agenda. With this in mind, Oxfam leadership has moved actively to reposition its brand as centered in the public mind on social and economic justice and implemented through a rights-based approach.

III. Connecting a Rights-based Approach to Our Development Practice

The transition to mainstreaming a rights-based approach into our organizations is a complex enterprise. It cannot simply be decreed and implemented. It represents a new way of seeing, thinking and doing. It presumes the need to deepen understanding of the philosophical underpinnings of the human rights movement and link it more directly to the contexts in which development organizations routinely work. It implies taking on new sets of relationships and rethinking the importance of others. And it requires assisting staff to make a significant conceptual and cultural shift. The following is an outline of a perspective on the rights-based approach as it is being thought about in Oxfam America.

Broadening Our Vision of Human Rights

The UN Charter on Human Rights has been the cornerstone document for human rights activism over the last 50 years. It has been the Magna Carta of the human rights movement globally. And, without question, the human rights movement championing the Charter has made significant contributions in promoting civil and political liberties around the world. Unfortunately, the human rights movement has had little to offer in addressing issues of poverty and social injustice.

In his paper, the *Human Rights Challenge to Global Poverty*, Chris Jochnick presents a major challenge to traditional approaches to human rights that have been bound by narrow conceptions. He argues that the times are changing and that human rights activists and development thinkers need to get out of the box and come up with some new and more compelling ways of utilizing what is available in the Human Rights Charter.

One reason for this narrow scope of the human rights vision, Jochnick argues, particularly in the US and to a lesser degree in Western Europe, is its continued reliance on a state-centered view of human rights. Sustaining such a view in an era of globalization ignores entirely the potential for violations of social and economic rights by non-state actors who lie beyond state borders.

Moving human rights beyond its state-centric paradigm serves two purposes. First, it challenges the reigning neo-liberal extremism that trivializes much of public discourse about development and poverty, providing a rhetoric and a vision to emphasize that entrenched poverty is neither inevitable or acceptable. Second, it provides a legal framework with which to begin holding the most influential non-state actors—corporations, financial institutions and third-party states—more accountable for their role in creating and sustaining poverty.

He goes on to remind us that “the distinction between individuals as the holders of rights and states as the holder of duties was premised on the notion of the state as the ultimate guardian of the public’s welfare.” In essence, the state has been granted this authority and responsibility as part of the social contract bestowed upon every state by its citizens. Nevertheless, we are living in different times, as described by the Commission on Global Governance. When the UN system was created the nation-state was dominant and had few rivals, there was strong faith in the protective ability of governments and the world economy was not as integrated as it is today. “The vast array of global firms and corporate alliances that has emerged was just beginning to develop. The huge global capital market, which today dwarfs even the largest national capital markets, was not foreseen.”

Jochnick argues that the “narrow focus of human rights law on state responsibility is not only out of step with current power relations but tends to obscure them.” This focus neglects the decreasing power of the nation state and perpetuates the belief that states are only accountable to their populations and vice versa. One has to ask whether this kind of conceptual construct is really appropriate for the world we live in today or whether, in fact, it leaves the poor and the human rights movement fighting for justice with both hands tied behind their back.

In encouraging the human rights movement to see their work in a different way, Jochnick says that “the real potential of human rights lies in its ability to change the way people perceive themselves vis-à-vis the government and other actors.” By using the rhetoric of rights, “problems” can be renamed “violations.” These violations are therefore not inevitable or need to be tolerated. “By demanding explanations and accountability, human rights expose the hidden priorities and structures behind violations.” This broader view, providing both an economic and social content and applying accountability to non-state actors, is a vital step toward addressing the issues of poverty and development.

The pivotal piece in Jochnick’s presentation is his contention that the broader view of human rights is closely connected to their original foundation in human dignity. He points out that under international law, states either consent to treaties or acquiesce to customary norms. “However, human rights law has in large measure defied these narrow categories by suggesting an additional foundation—human dignity. Human dignity makes certain claims on all actors, state and non-state, regardless of custom or consent.” In an effort to drive home his point about the centrality of human dignity to foundations of human rights law, Jochnick offers that the Universal Declaration of Human Rights and the twin covenants of 1966² not only recognize customary or agreed-to rights, but also those derived “from the inherent dignity of the human person.” This emphasis extends human rights beyond the narrowness of consent or custom, allowing for recognition of a variety of non-state actors as violators of human rights.

² The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. See also the Declaration on the Right to Development (1986), on which the US cast the single dissenting vote.

There are a range of important lessons for development organizations like Oxfam to take from Chris Jochnick's presentation. First, he challenges the traditional cleavage that has existed between development and rights work. He asks that we reexamine its validity in light of the philosophical underpinnings of international law and the stresses being put on historic conceptions of the state and its use in international law by the process of globalization. Second, he reintroduces us to the concept of human dignity as the foundation for all we do and shows us how this is indeed embedded in the very core of human rights thinking. He provides development professionals with new ways of thinking about how to link their concerns for human dignity more directly with human rights discourse and practice.

Third, he shows us how a human rights framework can provide a more morally and ethically forceful tool to development professionals to use in naming the inequalities in power relations along with the precise structures which support them in sustaining social inequity and injustice. Fourthly, he offers an approach that can begin with a concern for people and their needs, one that acknowledges the role of the state but also recognizes that violations of human dignity may have their origins with both state as well as non-state actors. And finally, he demonstrates how a rights-based approach can challenge the sense of fatalism and inevitability that is embedded in the very logic of the welfarist approach to poverty alleviation.

The Social Contract and the Right to Development

Accepting Jochnick's broader, integrated definition of human rights, whose realization starts with a concern for human dignity, we need to explore its historic and philosophical roots in relation to development thinking. If we are to approach human rights as independent and indivisible and center our development work on the pursuit of social, economic and cultural rights, as Jochnick would suggest, we are in effect positioning ourselves to argue in favor of development itself as a human right.

Arjun Sengupta's excellent paper, entitled the *Right to Development as a Human Right*, provides some additional insight on the implications of this argument. Sengupta first reminds us of the intimate connection between human rights and social contract theory. Social contract theory was in effect a secular rendering of the ancient biblical concept of a contract between God and Abraham, with the people choosing their governors rather than God.

This theory was supported by the natural rights theorists, Hobbes, Locke and Rousseau. In this scenario, before the creation of civil society, people existed in a state of nature. Locke claimed that certain rights, such as life, liberty and property belonged to individuals and not to society as a whole because these rights existed prior to entering civil society. Entering civil society meant agreeing to a social contract, but this contract only surrendered the right to enforce these natural rights, not the rights themselves. The French Revolution of 1789 was supported by the natural rights theorists under the premise that the sovereign had broken the terms of the social contract by not securing these rights for his people. The French Declaration of the Right of Man and Citizen stated

that the rights of life, liberty, property, security and resistance to oppression were “natural, inalienable and sacred.”

Sengupta goes on to point out that “there are serious disagreements about the basis and nature of human rights and there are very few proponents of natural rights now.” However, the basic ideas behind the social contract still exist and are codified within national constitutions around the world. These legal documents provide the procedures and rules, which national governments are expected to uphold, for protecting and promoting individual and collective rights. Finally, he links the very existence of a regime of rights to the willingness of citizens to cede power and authority to the state in exchange for certain protections of their human dignity under the terms of a social contract.

For such social contracts, what is important is the acceptance by all parties of a set of human rights which the state parties are obliged to fulfill. In the ultimate analysis, human rights are those rights which are given by people to themselves. They are not granted by any authority, nor are they derived from some overriding natural or divine principles. They are human rights because they are recognized as such by a community of peoples, flowing from their own conception of human dignity, in which these rights are supposed to be inherent. Once they are accepted through a process of consensus building, they become binding at least on those who are party to that process of acceptance.

Taking this argument a step further, Sengupta reminds us that the international community undertook just such a process of consensus building at the Vienna Conference of 1993 at which it established a consensus about the right to development as a human right. The Declaration of the Vienna Conference, as established in the Declaration on the Right to Development, reaffirmed the right to development as a universal and inalienable right and an integral part of fundamental human rights.³ This declaration, which was supported by the United States, stated that, “Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of government.” The declaration also committed the international community to the obligation of cooperation in order to realize these rights. In the final analysis, the right to development emerged as a human right which integrated economic, social and cultural rights with civil and political rights in the manner that was envisaged at the beginning of the post-World War II human rights movement. The world was getting back to the mainstream of the human rights movement from which it had been deflected for so many years by Cold War international politics.

While it may be true that the international community has given its endorsement to the right to development through the Declaration of the Vienna Human Rights summit, it should also be noted that debate and controversy still surround the approval of this bold initiative. One might also note that since the approval of this declaration, the foreign aid budgets for most of the G-7 nations have been on a precipitous decline. It would appear

³ The Vienna Declaration and Programme of Action, adopted by the UN World Conference on Human Rights, 1993.

that the political leadership of these countries have invested little in selling this concept to their electorates and instead have concentrated on managing their nations' participation in global markets.

Sengupta outlines three major challenges to the notion of development as a human right. Most nations will accept the notions of civil and political rights, but many are less favorably disposed toward economic and social rights. The first objection is that human rights are individual rights and as such are only personal rights based on negative freedoms, such as the freedom to life, liberty and free speech, that the state must merely guarantee. In contrast, economic and social rights are seen as rights associated with positive freedoms which the state must secure, protect and finance through positive action. As such, they are not seen as natural rights, therefore not human rights. A second objection is that economic and social rights must be coherent, which is to say each right holder must have some corresponding duty-holder who would be responsible to deliver that right. Finally, it is argued that all rights must be potentially enforceable through law and adjudication, the implication being that there is no basis in law for making economic and social rights adjudicable in the formal sense, therefore they cannot be human rights. While development organizations must be mindful of these objections, it is important to recognize that Sengupta and others are mounting significant counter-arguments to redress these objections.

Linking With Field-based Realities

It is critically important to have the kind of principled philosophical and legal arguments offered by Jochnick and Sengupta to provide the conceptual base that development professionals will need in order to make a major shift towards a rights-based approach. Nonetheless, it is equally important to find ways to translate these concepts into a vision that is readily accessible and easily comprehensible by staff. In an effort to provide a start to this process, Oxfam America has developed a series of simple models that represent an effort to capture the most strategically critical dimensions of the rights-based approach. For the purposes of illustration, these diagrams grossly oversimplify many social and political complexities, but they have proven useful in assisting staff to comprehend some of the core dynamics of this new approach.

Figure 1 attempts to illustrate the rights-based model at the national level. At the core of the model is civil society. The model presumes that in every society, civil society is the primordial soup that shapes social affairs, the state and the economy. The exact nature of civil society, its density and diversity, its inclusiveness, its racial profile, its political cleavages and its internal culture and dynamics, one must presume, will vary widely across national boundaries.

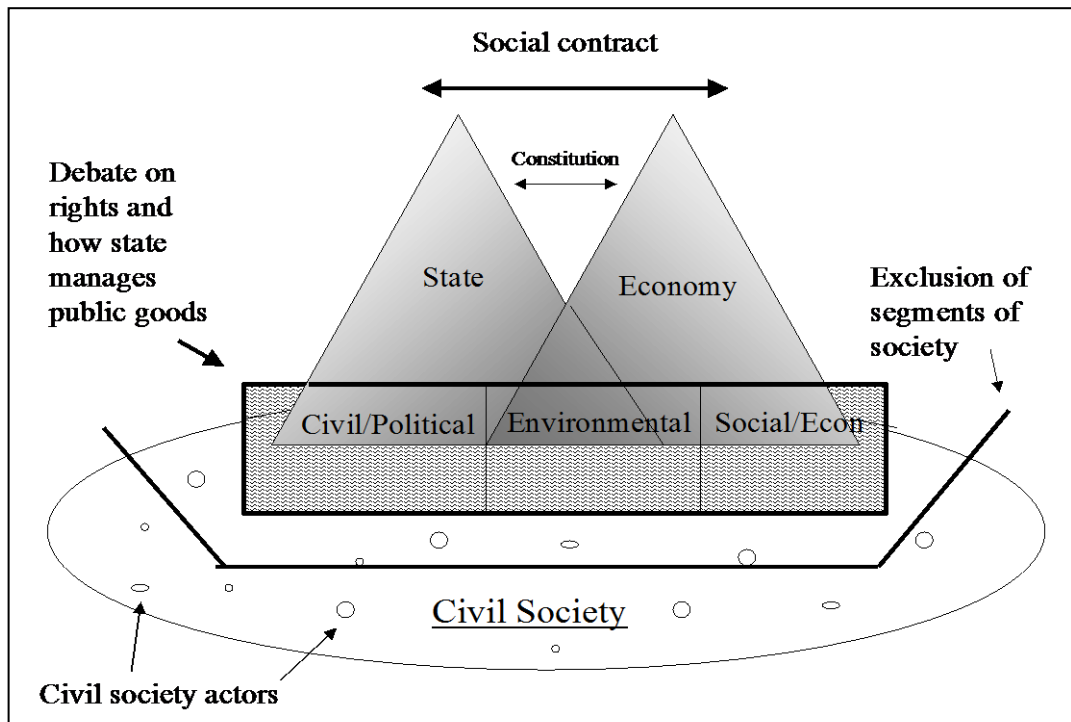


Figure 1: Rights-based Development model (national level)

The next prominent feature of the model is the relationship between the state and the economy or market. The diagram presumes that in each country the shape, scale and inter-relationship between the state and the economy is determined on the basis of a social contract established between the citizens and civil society leaders of the country and its political leadership. As noted above, the concept has its origins in the writings of Hobbes, Locke and Rousseau. The social contract is not a written document, but rather the conferring of public trust to those leaders who demonstrate their willingness to govern under the rule of law. The social contract assumes rights and obligations on the part of both the ruler and the governed. The social contract was intended by the nineteenth-century social philosophers to embody the spirit of trust, the unwritten understanding that exists between ruler and governed. It is the glue that holds society and nations together.

Our diagram presumes that it is the social contract that defines the relationship between the state and the economy. In our model, we show a somewhat limited intersection between the state and the economy. With this particular configuration, it is presumed the state retains some important regulatory control over the functions of the market and its various actors. One can also imagine, for example, a socialist state in which the overlap or intersection between state and economy would be almost complete. On the other extreme, the free market model might push the economy further apart from any state control and seek to minimize state regulation. It might also shrink the power of the state so one could imagine a diagram in which the economy dwarfs the state both in terms of resources, power and extraterritorial relationships. (see Figure 1A)

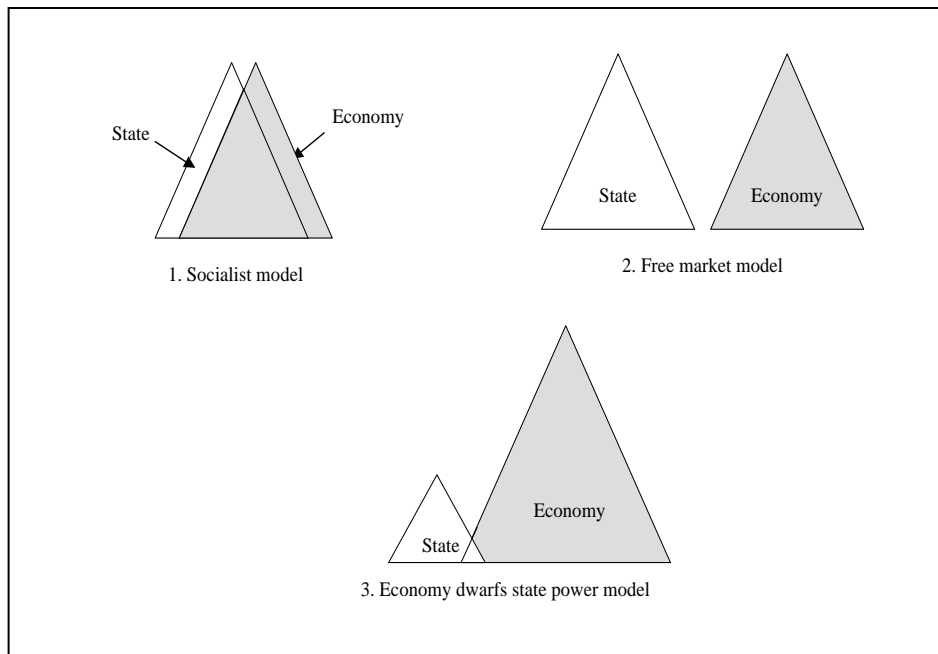


Figure 1A

Each nation is theoretically capable of setting the terms of this state/economy relationship based upon the nature of its political process and the substance of its social contract. In the face of the pressures of globalization, states may, however, feel tremendous pressure to give up some traditional functions in order to reduce their budgetary outlays. They may feel pressure to privatize public services like health and now even education. They may feel constrained by the wishes of third-party states or non-state actors who wish to redefine their roles or challenge their authority and sovereignty. They may feel their ability to deliver on their social contract obligations to their citizens compromised by either an internal lack of capacity, or corruption or external pressure to reduce public sector expenditure on vital social services. While some reorganization of state investments is probably not a bad thing, the elimination of social sector spending for education and health has had dire consequences for millions of children in Africa and Asia. Several generations of young people have grown up lacking a basic education. And sadly, their governments have been powerless to do anything about it.

Ideally, the specific aspirations of citizens and civil society actors are most explicitly expressed in the constitution of a nation. It is the constitution that often captures the aspirational discourse of the social contract in any given society and sets the terms for the relations between the state and its citizens. Most importantly, it is the constitution that establishes the rights of citizens. It is in this interface where citizens and their civil society representative institutions negotiate with the state on the exact nature and quality of rights. For the purposes of this diagram, we have chosen to distinguish among distinct bodies of rights. While in the UN Charter of Human Rights these civil, political, social, economic and cultural rights are thought to be indivisible, in practice it is most often the case that civil and political rights are enshrined in constitutions and a bill of rights—as is the case with the US constitution. Meanwhile, social, economic and cultural rights must

be fought for and either added to a bill of rights or legitimated through other non-constitutional means.

It is precisely at the interface between the state and economy where civil society plays its most crucial role. It is in this intersection that the legislative process takes place, where laws are budgeted and executed, where the debate about resource distribution and the state's management of public goods takes place. It is in this crucible that civil society organizations hold the state accountable for delivering on the promised social contract. Viewed in this fashion, development might be seen as a process of deal-making between a state and its citizens over how state resources, revenues and public goods are shared among its citizens and how the national economy will or will not be required to serve the public good of the nations citizens.

The final element of this rights-based model is the barrier or barriers that exclude certain segments of the citizenry or civil society organizations from full participation in the negotiating process over allocation of state resources and the criteria for economic performance. These barriers may exclude on the basis of race, ethnicity, religion, caste or class. They may be obvious and harsh like apartheid or subtle like voter registration or creditworthiness. They might be implemented in terms of the simple exercise of one's civil and political rights or it might be an artifact of the way certain public sector budgets are assembled. An ostensibly democratic nation should show high degrees of inclusion. Yet if it restricts voting to certain groups, inclusion will naturally be limited. The US has made significant progress in advancing civil rights for all citizens at the national level. But at the local and regional levels, institutional and social racism still maintains a strong hold. The key to advancing a rights-based agenda is linked to identifying the precise nature of these barriers at the local, as well as the national level.

In thinking about its positioning within this universe, Oxfam America sees itself focusing its scarce resources on programs that support partners in negotiating this interface with the state on social and economic rights. It is conceding that the mainstream human rights organizations should really lead in the pursuit of civil and political rights and environmental groups should continue to provide leadership in the pursuit of environmental rights. For its part, Oxfam America sees itself aspiring to play this kind of leadership role for economic and social rights both in the US and in its overseas relations with partners.

The simplicity of this model allows staff to begin to adjust it to their national context and manipulate its internal elements to suit their particular social and political reality. One can however adjust the model to suit analysis of the realities at the regional, as well as global, level.

In Figure 2, we offer a diagram that attempts to portray the emerging system of global governance. In this configuration, we see three institutional actors with interlocking mandates, the UN, the international financial institutions (IFIs) and the World Trade Organization (WTO). Beyond this system is a fourth, the global economy that exists relatively loosely linked to these three, but critical to the future of global security.

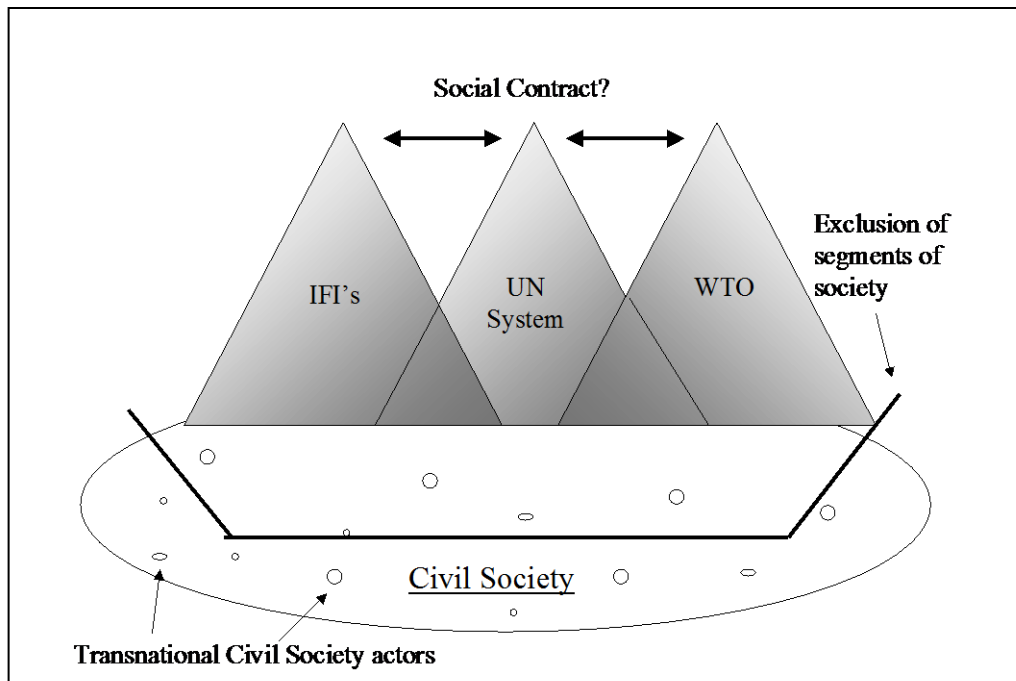


Figure 2: Emerging System of Global Governance

Meanwhile, the model portrays the presence of a small, but growing number of transnational civil society actors who seek to shape and influence these global institutions. Not surprisingly, barriers exist to limit the access of transnational civil society actors to the process of agenda setting or decision-making of these global institutions. Representatives of private capital generally enjoy unfettered access to the decision-making table, for example in the WTO and emerging decisions on global trade. There are few mechanisms that allow the voices of civil society to be heard.

It is this diagram that seeks to capture the essence of the problem of global governance that played itself out in the Seattle protests where the legitimacy and accountability of these institutions and their patrons were called into question. In the case of these global institutions, there is no clear social contract that supports them or gives them the same legitimacy as national governments. While national governments are participants in the governance of these institutions, the process of globalization enhanced the mandate of these institutions and made their decisions much more relevant to citizens from around the world. There are contradictions in vision and ideology among leaders within these institutions but, by and large, they support the globalization model of development and will play a large role in the way development goals will be implemented and achieved in the coming decades. More importantly, the decisions taken at these global institutions are increasingly seen as undermining, if not abrogating, the “social contracts” among citizens and the state at the national level. There is a perceived shift in power from the national to the global. Yet paradoxically, it is at the global level that citizens have little direct voice and reliable representation. Meanwhile, private capital, which has been the big winner in the globalization game, is well represented through a variety of corporate-sponsored events, consultancies, policy analysis and lobbying.⁴

⁴ In another paradox, a certain still small segment of US public opinion rejects and has an unnatural fear of

Hence, one might expect the kind of challenges to the legitimacy and accountability of private capital as suggested in Figure 3. In the absence of a global social contract to guide the process of global governance, we see diverse sectors competing for voice and influence in shaping this global agenda. We see states that are the founders and principal representatives of citizens to these institutions expressing their interests. We see diverse non-state actors, the media and the private sector all present and aggressively promoting their interests. Finally, we see global networks of national and international NGOs struggling to even get a seat at the table.

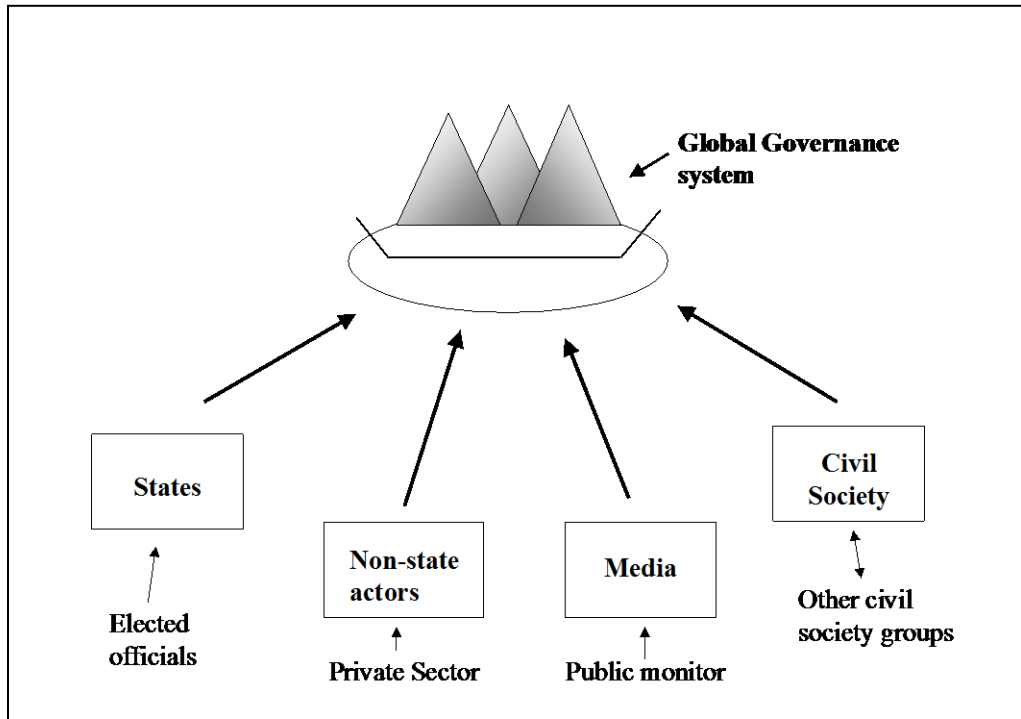


Figure 3: Legitimacy and Accountability Challenge

In order to create a simple planning tool for staff that would translate many of the underlying assumptions of this model into material usable by staff, the Oxfams agreed to adopt a set of five basic program aims. These aims are easy to state. They include: 1) the right to a sustainable livelihood; 2) the right to basic social services; 3) the right to life and security; 4) the right to be heard (social and political citizenship); and 5) the right to an identity (gender and diversity). Each Oxfam has taken these core aims, which reflect the core elements of the UN Human Rights Charter, and attempted to incorporate them into their institutional strategic planning. In essence, they amount to turning the right to development into a set of succinct planning goals.

international institutions and governance at the same time as global economic forces increasingly influence jobs and commerce in the US.

Staff are asked to work with their colleagues from their sister Oxfams and to develop regional and country plans that benefit one or two, or perhaps three, of these aims. Within each of these aims, staff are expected to develop more context-specific strategic change objectives and outcome indicators that will serve as guides to programming. Effectiveness is measured in terms of the impact of programs upon specific policy and practice changes that will address critical barriers to opportunity.

Meanwhile, on a global level, staff working on policy and public education are expected to use these same aims to plan their work on issues of global advocacy and to seek ways to align their strategic choices with critical priorities of partners at the regional level. Concerns about the impact of the growing HIV/AIDS epidemic on health budgets in many African nations has resulted, for example, in Oxfam undertaking a global campaign on the pricing of pharmaceuticals for the treatment of HIV/AIDS. Broader concerns for the impact of trade rules on the livelihoods of rural agriculturalists will lead Oxfam toward the launch of a major global trade campaign initiative in the coming year which will seek to align program efforts of staff across 12 affiliates working in over 100 countries.

As a further example, over the last four years, the Oxfams have carried out a campaign focusing on basic education. A major strategic feature of this campaign has been Oxfam's success at linking local realities to global debates. When this can be done effectively, it is very powerful and can move decision-makers and institutions on a range of issues. The foundation platform for this education campaign has been the assertion that education is a basic human right. For its moral and political force, it has relied on its intrinsic links to the UN Charter and the provisions on social and economic rights and on a variety of subsequent UN summit documents.

What we have learned from this exercise is how useful the social and economic rights construct can be in enabling us to link the local to the global in support of our campaigning objectives. It has proven to be a powerful tool in aligning our work across multiple levels and across regions. It has also proven equally powerful in providing an ethical basis for challenging the overly simplistic logic of the champions of the globalization paradigm. It enables Oxfam to provide powerfully incisive normative critiques that can cut through the intentionally turgid and technocratic rationales of the major global power brokers and their minions. And surprisingly, it has proven appealing to the global media who are often reporting on the downsides of globalization from the field, but find little in the way of persuasive counter-arguments highlighting the contradictions that present themselves so forcefully.

In the past, development work was most often seen as involving disconnected interventions in very specific local and national contexts. The human rights focus to our work today is unifying these diverse perspectives and enabling us to see much more clearly the kinds of power relations and systemic forces that drive and perpetuate poverty. More importantly, the rights perspective enables us to think more strategically, in a coordinated way, about how to marshal a compelling ethical or normative challenge to these forces that is rooted in good human rights practice.

IV. Meeting the Challenges of Implementation

In addition to Oxfam, many Northern NGOs today—Save the Children, World Vision and CARE, for example—are moving toward a rights-based framework for building a global movement for development and change. A rights-based framework reunites economic and social rights to political and civil rights and, in doing so, supports a unified vision of a new, just and viable social contract. Few Northern development NGOs have deep experience with a rights-based, as opposed to a welfare, approach to development.

As Jochnick's analysis suggests, a narrow, state-centric view of human rights limits responses to violations of economic and social rights to the responsibility of the state. State responses, as we have seen, have been inadequate to redressing the inequalities. A focus on state responsibility for poverty omits the responsibility of other, non-state actors—corporations, financial institutions and global institutions—whose actions may have much to do with creating or sustaining poverty. They impinge on rights but have no responsibility for assuring rights.

A broader view of human rights goes beyond state responsibilities and a legalistic approach, and grounds rights in a concept of human dignity. Human dignity implies that individuals are actors with capabilities and the capacity to organize. Citizens and their civil society actors, operating at the interface between the state and the economy, therefore, become critical to making the a rights-based model work.

The UN Charter on Human Rights saw political and civil rights as indivisible from economic and social rights. A rights-based approach to development bridges this gap in practical ways. Over the past half century, specialized civil society organizations like Amnesty and Human Rights Watch have been effective at identifying violations of political and civil rights. They have used the “stick” of adverse publicity to halt violations, case by case. Civil society has not yet focused on the “carrots” to build social, cultural and institutional capacity and environment to assure that rights are honored in practice. To take a developmental approach to building social capacity for political and civil rights, organizations need also to focus on economic and social rights that link to and, in some cases, provide the capability to demand political and social rights.

NGOs taking a rights-based approach to development will have to create their own road maps and face particular challenges. International conventions establish rights as universal, but give little guidance on translating the universal into local realities. The meaning of responsibility for assuring rights is unclear when the capabilities of states are so diverse, and when there are increasing numbers of non-state actors, like multinationals, who infringe on rights without formal responsibilities. Unanswered are questions about the legitimacy and accountability of Northern NGOs when they become actors or CSOs in a rights-based framework. There are tensions with Southern partners in managing relationships characterized by economic and other inequalities at the same time as we seek equity. And there are challenges of achieving conceptual clarity and

managing public perception while working toward a new social contract that can only be defined by the process.

Defining a Niche

The first challenge lies in getting conceptual and operational clarity about rights and under what circumstances they are freely exercised. The more than 20 international human rights agreements of the twentieth century are short on enforcement and even reporting measures. The agreement and convention approach, while essential to establishing principles and standards, is essentially a top-down approach, based on unstated assumptions that rights can be “given” to individuals and groups. Its *unidirectional* approach is fundamentally flawed. True, there is a top-down function for states and for conventions in articulating rights. There is a need to define the responsibilities of non-state actors. At the same time, individuals and groups need to be able—to have the capability—to exercise those rights, and to hold states and non-state actors accountable for respecting rights. The niche for rights-based Northern CSOs is in that bottom-up role of supporting the capability of marginalized groups to exercise rights and of fostering global movements that exercise a trans-state role in promoting accountability.

Operationalizing that niche requires some fundamental changes in the way international NGOs operate. The proposition that marginalized groups should have the *capability* to exercise rights assumes that they have independence and agency. They are no longer the recipient of the welfarist support of Northern NGOs; they are actors and sometimes partners. Most Northern NGOs (and even government and multilateral aid agencies) now routinely talk of partnership with Southern organizations and people. Northern CSOs need to be honest and recognize that this partnership is often a patron-client relationship, governed by the inequities in the funding relationships. Partnership in a rights-based approach is quite different. It assumes that actors in the South bring assets to the effort to secure economic and social justice. The funding, information and links that Northern agencies bring remain important, but their valuation should not skew the equation. In the nitty-gritty of implementation, this poses challenges for Northern agencies in the agenda setting, funding, and accountability processes. In the old model, the donor set the agenda, and sometimes changed it frequently. The donor funded projects and programs and needed accountability for identifiable outcomes in the short run. The new model requires negotiating a shared agenda. It may mean providing funding for the longer term and asking the Southern partner to be accountable for results, not for the inputs. It may also mean supporting Southern partners through learning from failure or coping with reverses. The new model may also alter the framing of Northern CSO relationships with their own donors.

Rights-based CSOs in both the North and South need to rethink their version of programs and implementation. In the old model, program was defined as what agencies did with the poor. In the new model, there will be more activities like research, advocacy, evaluation, public education and organization development. CSOs, both North and South, will have to redirect some proportion of their funding out of direct services to the

poor and into advocacy, communications and public education for policy and practice changes. This shift complicates accountability and relationships with key stakeholders. It also raises questions about the legitimacy of Northern CSOs working on issues across borders and affecting the political space of others.

Maintaining Legitimacy

As Northern rights-based agencies seek new genuine partnerships and develop new models of implementing change, their legitimacy comes into question. When agencies play a service delivery role there is clarity about what they are doing. Their legitimacy is derived from the competence of their work. But from where comes the legitimacy for negotiating economic and social change agendas or for pressing for policy change? Does it come from donors or from boards? Does it come from partner organizations in the South or from excluded groups?

Rights-based CSOs in the North will have to find their legitimacy from multiple sources, and will have to be clear about their accountabilities. Legitimacy is dynamic and is created when the Northern CSO is able to build the connection between North and South and among the range of stakeholders, seeking to expand the opportunity and ability to exercise economic and social rights. Legitimacy is in the value chain that connects donors, boards, publics, Southern CSOs and excluded people in a common agenda.

In helping to build this chain, Northern CSOs need to be clear about where they add value. The area of comparative advantage may rest in advocacy for policy and practice changes in Northern-based institutions. It may, for example, be more valuable and more legitimate for Northern organizations to pressure the World Bank or IMF for changes in the structural adjustment policies that exacerbate poverty and starve domestic education budgets than to fund several new village schools. As it does more advocacy and policy work, the reality and perception of what the Northern CSO is and does will change. To maintain legitimacy in this value chain, Northern CSOs will need to find new ways of explaining to donors and publics why advocacy work may have a bigger impact than traditional contributions to “pigs and shovels.”

Northern CSOs will also need to respect the boundaries of political space and not engage in advocacy in the primary political space of others. This is both practical and an issue of principle. Just as Northern CSOs have a comparative advantage in advocacy with their own governments, so Southern CSOs are better placed to exploit the opportunities and avoid the dangers of advocacy in their own arenas. As an issue of principle, Southern partners and marginalized communities need to speak in their own voice and exercise their own rights.

The legitimacy challenge will always remain and requires skilled political analysis, sensitivity and judgement. For example, Oxfam America funded women's organizations in Zimbabwe to conduct a national education campaign on how proposed constitutional changes would give primacy to a traditional law that awards a dead husband's property to his brother, not his wife. It also supported women's organizations in educating women

voters, particularly in rural areas, on the issues at stake in a parliamentary election. In doing so, Oxfam needed careful analysis and good judgement to avoid moving into Zimbabwean political space and creating dangers for its partners and its staff. This kind of judgement requires investment in sensitive Oxfam leadership on the ground.

Investing in Accountability

Accountability and transparency have been rallying cries of civil society organizations. The efforts of CSOs to hold public officials and non-state institutions accountable to citizens have produced successes, but the successes have led governments and other institutions to turn the accountability sword in the other direction and to scrutinize the operations of CSOs. Once, some governments and publics assumed that CSOs worked close to the problems and were efficient. Now the honeymoon is over.

Increasingly, CSOs are being challenged to be more transparent about their own operations, to be accountable against performance standards, and to be open to questions about their effectiveness. Some of the challenges are coming from donor governments demanding better evidence of the value of their diminishing foreign aid funds, others are coming from recipient governments eager to undermine the support to Northern CSOs from donors, and still others are coming from an increasingly demanding private donor public wanting to know more about how their funds will directly benefit poor people.

The challenge is for all NGOs, but it is greatest for those playing a civil society, rights-based role. Unlike welfare or service delivery organizations, rights-based organizations are working for changes in structures and systems—a redistribution of power—that allow greater equity in accessing the economic and social rights to a decent livelihood, basic social services, security, and so on. The outputs of service delivery agencies are concrete, tangible; it is easier to set performance measures for the efficiency of their work⁵. Indeed much of the international language for measuring performance, DAC indicators⁶ or the measures of the International Standards Organization (ISO), is designed for tangible outputs such as increases in numbers of schools or increases in numbers of children vaccinated within specific time periods. Some of the critical work of economic and social rights-based organizations is hard to capture with short-term indicators that can be applied and used comparatively across change efforts. Is an advocacy effort a failure because it did not achieve the immediate policy change? How do you measure the results of capacity-building efforts? More fundamentally, when and how do advocacy and capacity-building investments make a difference in the lives of poor people?

For economic and social rights organizations, the problem of measuring performance is complicated by the question of who is making the change. This complication is linked to the legitimacy question for a Northern CSO. Oxfam America's legitimacy for advocacy exists in its own political space in the United States and before international agencies.

⁵ See Brinkerhoff, 2001 for discussion of accountability issues, including democratic, financial and performance accountability.

⁶ Indicators designed by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD) to rationalize measurement of outcomes of development projects.

Because the political space in other countries belongs to the CSOs based there, Oxfam does not implement economic and social rights programs. Instead, it funds, supports and links partner organizations to make changes in their own political space. When responsibility is dispersed, accountability is more difficult to manage.

There are dangers for CSOs in meeting the challenge of an accountability that is narrowly defined. Donor pressures for tight systems of evaluation may force CSOs back into a role of state sub-contractor for service delivery, and lead them to abandon their advocacy and economic and social change work. Narrowly defined accountability systems devalue the less easily measured contribution of CSOs in policy formulation and program development. This does not mean that there is no accountability for Northern agencies in a rights-based role. It just means that it is hard to conceptualize and track that accountability for results.

To meet these challenges of accountability, CSOs need to invest resources in defining the change role of CSOs, in developing indicators or milestones of progress toward the changes, and in communicating these to stakeholders. The challenge to defining the change role is several-fold. First the mission is political, transformative and difficult to communicate. By asserting rights for livelihoods, basic services, security, and participation, such organizations commit not just to delivering services, but to changing “the rules of the game” and thus creating a new balance of power or social contract. Second, it is transformative in a Burkeian sense, rather than revolutionary and radical. Rather than overturning the system, it seeks to transform the system. This is an ambitious agenda for what are, after all, extremely small and relatively powerless organizations.

Third, rights-based CSOs have multiple stakeholders with overlapping, but not always convergent, interests. Unlike the private sector with accountabilities to boards and stockholders for return on investment, or welfare/service delivery organizations with accountability to donors and recipients for efficiency of services delivered, economic and social rights CSOs are accountable to donors, to partner organizations and allies for results that may be differently perceived and not easily described in the short run, much less quantified. Donors, understandably, want to see concrete results in the lives of poor people. Changing the rules of the game may appear radical to Northern private donors (and to governments). The division that the Cold War years put between civil and political rights versus economic and social rights associated the latter with the New International Economic Order or with the now defunct socialist model. Yet including donors in the dialogue about a new social contract is essential to the transformative—not radical—mission and vision of the economic and social rights organization. Dealing with the tension among the diverse stakeholders is difficult. Resolving that difficulty centers on identifying and communicating the area where interests converge.

There is an essential synergy between the ability to communicate and the ability of strategic leadership to build cross-functional focus on specific outcomes that fit into a rights-based vision. The communications challenge is to demonstrate how specific changes in rules, structures and systems gradually adjust the social contract and result in

demonstrable and sustainable improvements in people's lives. The challenge is also to show that such changes are in an overall sense generative, not a zero sum game, for all segments of global society. As an example, might tariff protections for fledgling industries, real land reform or worker protections and living wages in Mexico and Central America be a better long-term investment for Americans than fortifying the Mexico-US border crossing? For development professionals, the experience of Kerala State in India has long been an example of how respect for economic and gender rights have produced an oasis of equity in India. Unfortunately, its lessons have generally failed to progress beyond the segments of the development community, perhaps because Kerala was ruled by communist governments during the Cold War period.⁷

Communicating complexities requires more than the nano-seconds of attention available in today's world. Expanding the ready-to-listen audience starts with an investment in staff who combine communication skills with a sophisticated understanding of the issues and players. It includes developing simple articulations of the long-term structural changes or adjustments to the social contract and the resulting win-win benefits. It requires identifying benchmarks and stories at the local, national and global level of how changes have had impacts, or failed to have impacts, on the lives of individuals and communities. Building this capacity in CSOs requires investment in the professional staff capacities. Shifting budget allocations to support this capacity is not easy in a world where donors want their dollars to go directly to the "poor."

Building Credibility

Rights-based Northern CSOs are small compared to the task they have set and are powerless relative to the government and private sector legs of the social contract stool. The power they do have stems from credibility on several levels. The recent, effective campaign for World Bank debt forgiveness demonstrated how this credibility works to enable a powerful voice.

First, the credibility of Northern CSOs is grounded in their real connections to the problems being faced by marginalized peoples and communities. When Northern CSOs can document the impact of debt repayment burdens on the ability of the governments of Mozambique or Uganda to fund basic education, they can attract the attention of the US Congress or of other parliaments in funding governments. When they bring representatives of Southern CSOs to talk to World Bank governors, they provide a face and a story for the consequences of heavy indebtedness that is otherwise missing. The credibility of the Northern CSO linking roles derives fundamentally from its Southern partners. In part this flows from the balanced partnership relations that respect the political space and agenda setting prerogatives of Southern CSOs. It also stems from continuing support to and involvement with the economic development efforts of

⁷ Sri Lanka provides another example of high human development indicators despite low per capita income. Its success is being lost after more than a decade of ethnic warfare and the decline of its economy. Lessons taken from Sri Lanka by James Grant to his Child Survival Revolution at UNICEF focused on performance targets for immunizations and other child health interventions. Absent real changes in the social contract in developing countries, the performance gains in childhood immunizations are now being lost, and countries are being left worse off than before (New York Times, October 15, 2000).

Southern partners. Partner organization leaders in many parts of the world will tell Oxfam staff that they recognize the importance of debt forgiveness and of rules changes that further economic and social rights. But they also say that their work needs to start with straightforward economic work. The struggle for economic survival remains primary for their members and clients. It is through small enterprise, credit or training programs that their clientele come into contact with the structural issues that sustain poverty.

Second, credibility with the World Bank and with those who make the rules derives from the capacity of Northern CSOs to do sound research and to propose practical policy alternatives. It is necessary to identify the way out of the problem and to suggest the ways to keep problems such as heavy indebtedness from recurring. It is not enough to simply describe the consequences. This implies investment up front in research, analysis and policy capacity, again with implications for the budget of the agency.

Managing Tensions

Northern CSOs using a rights-based approach encounter tensions in the sometimes multiple roles they play. Through funding, linking and learning roles, they may facilitate the work of Southern CSOs. At the same time, as advocates, they are actors in their own political space. The competencies required for facilitator and actor roles are different, and the time-frames for thinking about their work may be different. Internally, a Northern CSO will need to build bridges between the two sets of competencies and time perspectives. Advocacy staff will normally choose to limit their work to policy and practice change objectives that are achievable in the medium term. Staff working with Southern partners may demand advocacy work that is long term, off the Northern CSO agenda or not achievable. They do this because of long-term commitment to capacity building or out of solidarity with Southern partners. Balancing the differences is important to keeping an agency on track. Where the tension may be greatest may be externally, in the political arenas that are shared, for example, in advocacy with the international institutions. There will be challenges of dominance because of unequal financial and information resources between Northern and Southern partners.

There are also tensions between the funding and the fundraiser roles. This tension between fundraisers and grant-makers is common to all non-profits and reflects different perspectives and professional background. Tension becomes more acute for Northern CSOs taking a rights-based approach. As resources move into capacity building and advocacy, the results may become less predictable. The grant-making staff, particularly those based in the South, are closest to the realities of partner organizations and constituencies in the South. Confronting daily the complexity of achieving economic and social change results, they are reluctant to commit to measurable short-term change goals. It is hard to be held accountable for specific results when they know that factors beyond their control may prevent success in the short term. If a country's legislation is inimicable to savings and credit services for small entrepreneurs, it may be wise to support longer-term advocacy efforts to promote legislative change. If the country is susceptible to periodic natural disasters, it is difficult to plan for improvements in livelihoods.

In contrast, fundraisers are closest to the donors, or the lifeblood of any non-profit. They have an obligation to demonstrate to donors that their donations achieve results. Professionally, they are accustomed to measuring performance. Fundraising results are readily quantified within specific time frames. Moreover, fundraisers need to be able to respond to donor priorities for “getting the money to the people” at the same time as the rights-based CSO is diverting resources to policy and advocacy work. This internal tension between grant-makers and fundraisers is similar to tensions between Northern and Southern stakeholders mentioned under the discussion of accountability. Managing this tension thus becomes part of the mission, creating the value chain that is necessary to achieving impact.

Grappling With Conceptual Complexity

Since the creation of the Human Rights Charter in 1948, the language of human rights has been dominated by a highly formalistic legal discourse. This is understandable as the creators of the Charter aimed to see it enshrined as a tablet of international law and its principles incorporated into the constitutions of nations around the world. While the work of human rights has attracted many activists with limited legal experience who serve as the moral shock troops, making the case for ending abuses and writing many of the briefs, it is the lawyers who have remained the high priests of human rights practice.

For development organizations which may want to incorporate human rights thinking into their field-based work, it has proven difficult to find an accessible substantive foundation. The literature of human rights has tended to focus on civil and political rights issues and the constitutional frameworks or other instruments that guarantee those rights. Really innovative thinking on the application of social and economic rights is relatively new. The challenge for CSOs that take on a rights-based approach is finding terminology that dispenses with the formal legalistic language yet respects its core precepts and principles.

In this process, there are some significant conceptual challenges as well. For example, a central idea has been the universality of human rights. One of the reasons mainstream human rights organizations, with their very strict legalistic outlook, have steered away from social and economic rights is related to their uncertainty about how you can apply universal standards to social and economic rights. Must we establish universally implemented standards for housing, education and healthcare and apply them with the same precision in every national context? And if you do, how do you do verification? What constitutes evidence? How would you formulate a serious critique for public distribution? For classic human rights activists who have been strict constructionists about the legal application of human rights principles, there is no easy answer to these questions.

In undertaking a rights-based approach, it is important that CSOs not get bogged down in these deeply philosophical questions. They can not be ignored, but a more pragmatic and practical approach to pursuing social and economic rights work on the ground must be

taken. On the question of universality, for example, one can argue that CSOs should assume a relativist approach to this question. The niche for Northern rights-based CSOs is to help assure that the voices of the previously excluded are heard in the setting of appropriate and evolving standards for economic and social rights. A key issue is a suitable means for assuring human dignity and access to opportunity in any society. Appropriate social yardsticks can be developed on a national level with targets for growth and improvement. Those governments which are clearly ignoring their responsibilities to their citizens and abrogating social contracts can be held accountable by their citizens and by the international community in the same way that they have been for the abuse of civil and political rights.

In managing the move, CSOs will need help from others in the academic and human rights community to identify these key conceptual challenges and to develop imaginative ways of dealing with them that sacrifice neither the quality of their work or the seriousness of the human rights charter. It will take time to transition into this new approach and adequately indoctrinate and train staff in this new way of thinking and working.

As Hugo Slim discovered in a study of UK development organizations with an ostensible interest in human rights and development, staff literacy and knowledge of even the most basic human rights principles is woefully lacking. Paradoxically, this low level of comprehension was among individuals who would publicly and passionately declare their commitment to human rights principles. If the reality is that even this group lacks in-depth understanding of the fundamentals, CSOs will need to work hard to assure that their staffs are properly recruited and trained to implement a rights-based approach.

Challenging Public Perceptions

For most Northern development NGOs, the shift in brand toward a more rights- or justice-based identity involves a major repositioning of the agency's identity with its various publics and stakeholders. In the case of Oxfam America, for example, its brand has been identified in the US very narrowly with seeds, tools and hunger relief. The challenge Oxfam America faces at the moment is how to broaden its brand identity beyond this welfare model and, at the same time, link it more directly to concerns about equity and justice.

One dimension of the task is identifying a simple compelling message that embodies the new brand identity and carries with it the values central to a shift towards a more rights-based approach. This new message must elevate its traditional stakeholders to a new understanding of the nature and causes of poverty and of the work of the organization in addressing those issues. It must gradually shift the perception of stakeholders away from seeds and tools approaches to a more substantial focus on structural inequity.

Another dimension of the public relations challenge is managing the balance between rights campaigning and development practice. In an era of globalization, it is not sufficient to work exclusively at the community level. The drivers of poverty and

inequity are as much global as local. To leverage effective change, it is important to see the structural linkages between the local and global and to work with local and national partners to highlight the systemic inequities that are at the heart of persistent poverty. This requires convincing stakeholders that increased investment of Oxfam staff and financial resources is essential for issue-based campaigning and advocacy that has impact on poverty and people. Many donors imagine that their funding is best expended on the purchase of picks and shovels. Persuading them that policy advocacy work may leverage more long-term benefit for the poor is a slow and gradual process. During this transition process, it will be crucial that Oxfam America retain an open and honest dialogue with its stakeholders about these changes and the benefits that will accrue to the poor from the addition of these new approaches and perspectives.

V. Managing the Organizational Change Process

Described above are the key challenges and tensions facing rights-based organizations as they implement their vision. Together they imply specific leadership and management roles not found in a welfare or service delivery development agency. Some of the differences are matters of degree or intensity. Other differences represent new competencies not required in a service delivery agency.

Articulating the Vision

Establishing direction is a fundamental role of leadership in any organization. What is different for leaders of rights-based CSOs is that the rights and structural changes are new, transformative and not easily communicated. Leaders of rights-based organizations need to invest a significant portion of time and intellectual capital in articulating the rights vision and building understanding and alignment among staff, board and other stakeholders around the rights vision.

The competency of communication has been key to transformational leaders, like, for example, Franklin Roosevelt or Martin Luther King, who led restructuring of the American social contract around economic distribution and around race. Communication competency, in all its facets, is equally important to leaders of rights-based development CSOs. The transformation they seek to make is a substantial change in how a critical minimum of key stakeholders understand poverty and exclusion. Americans have traditionally been generous in responding to human privation and suffering. From drought in Ethiopia in the 1980s to recent hurricanes and earthquakes in Central America or floods in Mozambique, American financial support to relief and rehabilitation has been spontaneous. Private donors small and large contribute to development, seeking to end the suffering and poverty in the lives of individual people.

Helen Epstein, in a recent review article on health in the *New York Review of Books*, captures the problem for leadership. She cites the evidence on growing inequities in health capabilities and the real decline in health status in specific populations increasingly marginalized in the global economy. She notes the increased mortality among adolescents, much of it self-inflicted (suicide and self-destructive life styles), and

suggests that "...these young people are internalizing the verdict of global economic forces that do not need or care about them." She sees in this what she calls a breakdown of the "collective conscience" that should regulate human affairs. "The powerful institutions that increasingly govern all our lives have thrown the lives of the poor into flux, and nothing has emerged that might soften the blows of the economic, social and personal crises which these institutions themselves increasingly cause." One could blame, as she notes, the Western neo-liberal politicians, corporation heads, IMF and World Bank economists or corrupt government leaders. But she seems to be saying that blaming people in power is not the answer. We need to look at the values in our current social contract that give greater priority to protecting Western creditors than to assuring the rights of people to a sustainable livelihood, security, voice, and basic health and educational capabilities.

Articulating this vision is a tall order for leaders of rights-based CSOs. Leadership is necessary to contribute to a global movement for a new social contract. Implementing that leadership begins with the staff and the boards of the agency.

Building Alignment and Focus

Leadership needs an intentional strategy and a management plan to build staff and board alignment around the rights framework and around a tight focus on specific policy and practice changes.

Recruitment, orientation and staff development are common strategies to support staff alignment around the rights-based vision. For senior managers acting as leaders, a major task is to build an aligned, "boundaryless" organization. There are many perspectives on how to structure an organization in order to promote alignment, and there is perhaps no right answer to the structure question. Whatever the structure, there will be some functional or other divisions. Boundaries, however, may be more a function of the mind than of departmental structure. Transforming mental models about boundaries is a leadership function and may require recruiting for or investing in the development of cross-functional competencies on the part of staff, and using induction, training and reward systems to create a culture of aligned work.

Maintaining focus is challenging, but it is also a leadership function. The challenge is to bridge the high level vision and the day-to-day implementation, creating medium-term goals around which work can align. Tensions among the different functions, chiefly high level policy advocacy changes and longer-term capacity building on the ground, will create pressures to move off-vision. For example, a medium-term plan may focus on specific policy change around trade and the WTO. But partner work at the grassroots level may generate demand for new local and global advocacy that affects their livelihoods. The challenge for leadership is to know when to say "no" to new work, to be able to protect staff to focus on key change efforts, and to know when to add to or expand the focus. It is a strategic balancing act. The consequences of failure to balance are both the dilution of efforts toward specific changes and staff burnout as they attempt to manage increasing agendas.

Realigning Budgets

Budgets are the concrete expression of agency priorities. In a rights-based development organization, budget allocations for direct investment in grants at the grassroots level will remain important. It is the connection to grassroots realities and the ability to build networks that give the Northern rights-based CSO its credibility. Because of its focus on policy and practice change, the rights-based development organization will see an increase in budgets for advocacy and for research. The management challenge is to make sure that the increases in funding for advocacy are integrated with an overall program commitment to policy change that makes a difference at the local level.

A second budget category that needs attention is fundraising. Non-profits keep themselves under pressure to hold their fundraising costs, along with purely “administrative” costs, low, usually under 25%. Peter Frumkin and Mark Kim at the Kennedy School concluded from a study of US non-profits that "non-profit organizations that spend more marketing themselves to the donating public do better at raising contributed income than organizations focused on leaner, more efficient operations." The point here is that rights-based development agencies need to give priority to marketing a new vision. This affects budget decisions. It also affects staff recruitment and development.

Boards as Leaders

Boards of economic and social rights organizations with change agendas face specific challenges. As a bottom line, boards have a fiduciary responsibility that goes beyond assuring the financial integrity of the organization. They have a responsibility for performance, to assure that funds raised are spent for the purposes intended. Where board members take on fundraising responsibilities, which is increasingly the case, they need to be able to articulate what the organization is doing and what results are being achieved. A valid question remains as to what difference is being made in the lives of poor and excluded people. But boards of economic and social rights organizations need to go a step further. They need to explore the impact the organization is making on the structural and political (small p) changes that are being made. The board will be helped by better staff articulation of the rights and change agenda and by setting and monitoring organization-wide performance indicators.

To play its leadership and accountability roles, the board may need to be more deeply involved in the substance of agency work, without getting involved in management decisions. Formal board meetings with set agendas, limited time frames and a power differential between staff and board are a poor venue for a board to have real influence on agency capacity in advancing economic and social rights and adjusting the social contract. Boards are voluntary and have limits on their contribution. Some ways to allow boards to contribute effectively to results and performance measures include board meetings in the field; board member field visits and facilitated, small group discussions among board and staff members on key results and performance indicator issues. Some

of these measures cost money, but they have importance and not only because of the fiduciary function of boards. They are important because boards may well be, with their diverse membership, a microcosm of the multiple stakeholders of the agency. Some board members may represent organizations of poor and excluded in the Global South, others may come from the private sector, albeit a portion concerned about the consequences of economic and social inequities. They provide critical leadership to building a chain of value among the stakeholders of the CSO.

Staffing a Rights-based CSO

Staff are the essential resource. Across functional units they need to share the vision of the organization, and they need competencies specific to a rights-based approach that includes significant policy, advocacy and education work. The new challenges of the rights-based approach lie in networking, in the complexity and multiple layers of problems and solutions, the variety of stakeholders and allies, the speed of change and, very fundamentally, in the ambitious and transformative nature of the work. As previously stated, a rights-based approach challenges existing structures and existing power distribution. In this sense, a rights-based approach is political—though political with a small “p.” In a zero-sum game world it would be about changing the balance of winners and losers. For a rights-based organization with practical aspirations to change, the task is to develop a realizable vision of the world where power is shifted to eliminate inequities, but where, in the long run, all are winners. In practical terms this means, for example, working for rules of trade that allow poor markets and excluded producers to expand their markets and increase their income, while richer economies benefit from the opportunities inherent in the expanded purchasing power in previously poor countries.

Organizational competencies required for effective rights-based work include:

- Ability to access, process and use the right information rapidly.
- Agility in recognizing the potential of information technologies and in putting them to work.
- Capacity for rapid analysis, decision-making and action.
- Substantive, technical expertise in areas related to focus of core work.
- Ability to stay on focus for the medium- and long-term strategies, to decline to take on work outside the focus, and to know when to make strategic exceptions.
- Seamless synergy among functional units in the organization, making the connections between global and local, and among the different types of work.
- An internal environment or culture that rewards innovation, within the focus.
- Broad-based ability to communicate the rationale for the rights-based approach, the core work and the performance to a wide range of audiences.
- Ability to apply communication skills to marketing the rights-based mission, seamless synergies between program work and fundraising and communication, creating the core of the value chain between stakeholders and excluded communities.
- Diverse sources of income and a reliable income stream to enable the organization to take positions that may be controversial to some stakeholders.

VI. Summary

This paper has attempted to provide a portrait of a rationale and the challenges for development organizations inherent in moving toward a rights-based perspective. In the post-Cold War era, we are left with a foreign policy that lacks a core focus and direction. The absence of a more compelling idea has left development to the whims of markets and to those who own and supervise the movement of capital, goods and investment. Meanwhile, the international community has lost touch with a compelling vision that can inspire either its leaders or its citizens to see support for international development as a meaningful contribution to their own national interest or security.

We find ourselves living in a paradoxical world in which wealth is increasing at increasing velocity. Markets are linking the world in unprecedented ways. While the global community is growing ever smaller and more intimate, the inequalities and inequities in wealth are growing ever more significant. Despite the obvious instability that can be created by this explosive mix of intimacy and inequity, the world's leaders appear to be doing little to redress the long-term security questions that will inevitably flow from this paradox. The naive assumption appears to be, as it has always been, that in time the market will right all wrongs, correct all dis-equilibria and resolve all disruptions to its smooth and efficient functioning.

The unfortunate big lie in the romance with globalization is that markets are perfect and will in fact function without distortion in the best interest of mankind. The truth is that markets are grossly imperfect in much of the world where their benefits have been siphoned, diverted and privatized for the advantage of a small minority. The further truth is that markets are morally neutral and are designed purposefully to optimize profit and value, not to equitably distribute public goods, protect workers or the environment or safeguard the commonweal.

In a world in which development is really about markets and little else, it is increasingly imperative that development organizations formulate strong normative positions on a wide range of issues. The only antidote to the downside risks of globalization is the moral and ethical intervention of civil society organizations whose members and partners are living these negative effects on a daily basis.

A rights-based approach to development offers a unique new approach to addressing the kinds of poverty issues that we are likely to confront in today's world. It takes us beyond the charity and welfare economics models that have dominated our discourse for the last 70 years and puts a sharper point on the questions we ask. It transforms needs into rights and responsibilities. It forces the question of what is the state's responsibility to its citizens and what in fact is the national social contract and how much does it represent reality.

We have attempted to provide a realistic portrait of the strategic and organizational challenges that must be faced by development organizations that may want to make a transition towards a rights-based approach to development. These challenges are many

and varied. They are conceptual, organizational and tactical. They are not without risk, but they may leverage tremendous benefits for the poor far beyond what has traditionally been achieved by social welfare approaches to development.

Perhaps the most significant advantage of the move toward a rights-based approach to development is that it anchors the debate about equity and justice in international principles that have been endorsed by the international community and have some legitimacy in international law. In an era when nations are subjected to a multiplicity of external forces that have a direct bearing on their capacity to address the needs of their citizens, it is critical for us to begin to think boldly about the way we discuss justice on a global scale. We can see the emergence of global civil society actors questioning the legitimacy of institutions who would pretend to appropriate for themselves substantial power over the distribution of the world's economic assets, shaping the destiny of millions of people.

While the precise nature and fora for the debates about power relations in the future global community remain unclear, the debate has been engaged. We live in an exciting time when it may actually become possible to speak in terms of global social contracts that safeguard the environment, livelihoods and security. To achieve such bold goals, however, we must discard nineteenth-century theories that mask our current realities and must risk seeing the world and our work in development in new ways. The promise of the UN Human Rights Charter, when viewed in the holistic manner in which its authors intended it to be read, offers us just such a possibility.

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