

# Introduction to the Rights Based Approach

The field of social development has seen three major approaches to dealing with problems:

- the Charity Model
- the Needs-Based Approach
- the Rights-Based Approach

## The Charity Model

The Charity Model is the most instinctive and emotional. When we see a poor or a needy person, we react by wanting donate some money or wanting to do something to help. This is sometimes called the Generosity Model. For thousands of years, this was the prevailing model for dealing with social problems. It is based on the assumption that the philanthropists (donors) knew the needs of the poor and would satisfy those needs through generosity.

Typically the Charity Model involved the donation of money, food, clothing, shelter and medical care to alleviate the immediate suffering. After their immediate needs were catered for, the poor and needy continued to be poor and needy and they became increasingly dependent on donations. In many cases, because the poor did not participate in identifying their real needs, they were not fully committed to changing their lives in the way that the donors expected or demanded. The Charity Model does little or nothing to make systemic changes to fix the causes of the problems.

## The Needs Based Approach

Around the middle of the 20th century, the development sector started to shift into a new model; the Needs-Based Approach. This approach was to base interventions on the needs as expressed by the poor themselves. This approach came with a very important change. The donors did not arbitrarily decide what the poor needed. Rather, the poor participated in the process of identifying their real needs and deciding on the means to alleviate those needs.

For decades, the Needs-Based Approach to development prevailed. It was a huge improvement over the Charity Model as it helped establish a respectful dialogue between the donors and the needy. Although the Needs-Based Approach included the poor in the process, it stopped short of addressing policies and regulations that could make systemic change.

The prevailing view was (and in many cases still is) that NGOs should not engage in local or national politics. Donor agencies did not want to be accused of interfering in governance matters so many of the problems continued to re-surface decade after decade.

The shortcomings of Needs-Based Approach include:

- It kept the image of poor people as (begging) beneficiaries and donors as benevolent.
- It implied no obligations on political circles and other influential stakeholders.
- Benevolent people met the needs of the poor only when resources were available.
- Interventions were mostly at micro levels with minimal effort at the macro, national or international level.
- It caused frustration as it encouraged people to participate at community development level, but discouraged them from participating in higher, policy-making circles.

## Rights-Based Approach

For half a century, developing nations were arguing at the United Nations sessions for the need to recognize the right to development as a human right. With a growing globalization process and several political changes around the world, and with increasing pressure from developing nations, the United Nations General Assembly adopted the Declaration on the Right to Development.

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

This declaration gave a strong boost to the Rights-Based Approach to development and marked a new era in social development.

## Principles of the Rights-Based Approach

Some of the principles that come with the new *Human Rights* framework for development are:

### Universality

*‘Human rights are **inalienable**, in that they cannot be taken away from someone or voluntarily given up.’*

The universality principle is what distinguishes human rights from other acquired rights such as citizenship rights and contractual rights.

### Non-Discrimination and Equality

*‘Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’*

Human rights apply to everyone everywhere and under any circumstance.

### Indivisibility

*‘Rights are indivisible and should be taken in a holistic way.’*

No one right is more important than another. For instance, we cannot negotiate with one group to get some rights and let go of other rights. Using RBA for development, we might set priorities to fulfil rights, but it does not mean that we let go of other rights.

### **Interdependence and Interrelatedness**

*'All human rights are closely interrelated and interdependent and affect one another.'*

The right to education affects the right to work and the right to good health, and vice versa. This principle helps us to link the root causes of problems to the symptoms of the problem.

### **Participation**

*'Participation is an essential right.'*

This is stated in the first article of the UN Declaration on the Right to Development. It means that everyone is entitled to freely fully contribute to, participate in and enjoy political, economic, social and cultural development of their communities. The right to participate needs to be protected and guaranteed by the state and other entities.

### **The Rule of Law**

Rights must be protected by both strong legislations as well as an independent judicial system to ensure that the law is fair and is applied to all people.

### **Accountability**

This principle is another key one for human rights. The whole idea about rights is that they must be delivered. In other words, there is an *obligation* to give these rights to their right holders. All people have rights and are called *right holders*. The people or entities who are obliged to deliver and ensure these rights are called *duty bearers*.

We can think of anyone as a right holder as well as a duty bearer. However most of the time *duty bearers* are the governments and other bodies of state (hereafter referred to as the State). The Rights Based Approach also recognizes that other non-state parties could be *duty bearers*.

Accountability is achieved by having the State as the principal duty bearer do the following:

- Accept responsibility for the impact it has on people's lives
- Co-operate by providing information, undertaking transparent processes and hearing people's views
- Respond adequately to those views

This last principle, *accountability*, is a central piece in the rights-based approach as a framework for social justice advocacy. The accountability principle has contributed the biggest part in helping development workers to establish their involvement in politics as a legitimate activity, engaging with citizen groups in the political process.

## Principal Duty Bearer: The State

By ratifying the different United Nations human rights treaties, States automatically assume the principal roles of guaranteeing these rights, or, according to the RBA language, they become the 'principal duty bearers'. States must take all necessary steps to guarantee their citizens' rights.

### Obligations of States to International Human Rights Law

*The obligation to respect* requires the State to abstain from carrying out, sponsoring or tolerating any practice, policy or legal measure violating the integrity of individuals or impinging on their freedom to access resources to satisfy their needs. It also requires that legislative and administrative codes take account of guaranteed rights.

*The obligation to protect* obliges the State to prevent the violation of rights by other individuals or non-state actors. Where violations do occur the State must guarantee access to legal remedies.

*The obligation to fulfil* involves issues of advocacy, public expenditure, governmental regulation of the economy, the provision of basic services and related infrastructure and redistributive measures. The duty of fulfilment includes those measures necessary for guaranteeing opportunities to access entitlements.

## Other Duty Bearers: Non-Government Duty Bearers

Although States play the role of the principal duty bearer, there are other non-state entities that have obligations to respect, protect and fulfil the rights of people.

*Primary duty-bearers* – e.g. parents for children, teachers for students, police for crime suspects, doctors/nurses for patients, employers for employees etc.

*Secondary duty-bearers* – e.g. institutions and organisations with immediate jurisdiction over the primary duty-bearers e.g. school governors, community organisations, hospital administrations etc.

*Tertiary duty-bearers* – e.g. institutions and organisations at a higher level / more remote jurisdiction such as NGOs, aid agencies, private sector organisations etc.

*External duty-bearers* – e.g. countries, institutions and organisations with no direct involvement e.g. WTO, UN, INGOs, Security Council, African Union etc.

## Advocacy

Advocacy works on two levels:

- With the *right holders* to help them claim their right in legitimate ways while working on protecting the rights of others. Working with the disadvantaged and marginalized right holders is crucially

important as part of helping them regain confidence in their ability to equally and fully participate in the decision making process.

- With the *duty bearers* (State, or non-State) to do the following:
  - Be mindful of, and driven by, the rights of people in their efforts to respect, protect and fulfil these rights.
  - Do their best to not only fulfil these rights, but also, make themselves accountable and responsive to the people in this regard.

*“A Rights-Based Approach to development puts the protection and realization of human rights at the centre. It uses established and accepted human rights standards as a common framework for assessing and guiding sustainable development initiatives. From this perspective, the ultimate goal of development is to guarantee all human rights to everyone.*

*Progressively respecting, promoting and fulfilling human rights obligations are seen as the way to achieve development. A rights-based approach to development is both a vision and a set of tools. Human rights can be the means, the ends, the mechanism of evaluation and the central focus of sustainable human development.”*

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## Implications of RBA on Development and Advocacy Work

RBA might be the *fashion* these days for development work. It has already been receiving criticism on how applicable it is to real life development problems. Nevertheless, RBA has already left a big impact on the field of development and advocacy.

### Poverty and Development in a Rights-Based Approach

A Rights-Based Approach holds that a person for whom a number of human rights remain unfulfilled, such as the right to food, health, education, information, participation; is a poor person. Poverty is thus *more* than lack of resources – it is the manifestation of exclusion and powerlessness. In this context the realisation of human rights and the process of development are not separate. On the contrary, development becomes a sub-set of the process of fulfilling human rights.

- An increasing number of communities and development groups started to establish the link between what they need to achieve in their development programs and what takes place in political arena. The taboo of *“we have nothing to do with politics”* has already been broken.
- Disadvantaged and marginalized communities started to look at their problems as *unfulfilled rights*. The language of *needs* has changed to be *rights*.

## Needs-Based Approach versus Rights-Based Approach

NEEDS BASED APPROACH	RIGHTS BASED APPROACH
Based on assessed needs	Based on established human rights
Needs are the point of reference, which implies interventions at a local or micro level	Violations of rights are taken as the starting point, which leads into analysis and actions at the structural and macro levels
Needs are pertinent to the group or individual that has such a need	Rights are universal and apply to all people everywhere
Considers finding more resources	Considers the redistribution of existing resources
Keeps away from politics and policy making processes	Politics is at the very heart of the development process
Needs are handled individually	Rights are non-negotiable and indivisible
Asks state officials and power holders for help	Holds state officials and power holders accountable
Putting needy people in an inferior position by asking others to meet their needs	Helping people to restore their dignity by claiming their rights as human beings and citizens
No obligation to meet the needs. Needs are met when resources are available	States, power holders and international entities have obligations to fulfil the rights
Has a tendency to care for those who are in need, but not those who are most needy. (Low cost, high impact preference).	Has a tendency to work more with people whose rights are most violated or denied
Aims at relieving suffering	Aims at addressing structural injustices
Usually, it is not legally binding to the stakeholders	Carries a legal force to development work
Encourages participation from within the community, with possible collaboration with other groups.	Forces collective action and alliances from different groups

## Challenges faced in applying the Rights Based Approach

Right Based Approach is not the magic solution to everything. It actually comes with some serious challenges that advocacy workers need to consider before adopting this approach. Following are some of the major challenges:

- One of the RBA principles, *indivisibility*, actually presents one of the biggest challenges to applying RBA. Indivisibility means that rights should be taken as a whole. We cannot defend some rights and put aside some others. In real life, attaining all rights at the same time is virtually impossible. With so many rights violated, advocacy and social justice workers need to prioritize their efforts in terms of which rights to start with in a given country.
- Some groups, especially those who have been marginalized and disempowered for a long time might feel that calling for their rights are too confrontational to start with. Indeed, using the rights framework might sound more confrontational than the needs-based approach. Groups applying this approach for the first time need to pay more attention to the language that they use to reduce the sense of confrontation as much as possible.
- RBA falls short of expressing some important soft needs. Rights are usually expressed in rigid legal terminology and the need to be loved and genuinely respected is difficult to capture.