The role of Human Rights-based Approaches in development

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Executive summary

Development cooperation has a long history, but in the last decade a considerable change has become visible: many organisations are shifting from traditional service delivery to the poor to a new approach that includes more people in life changing processes and makes them a part of that change themselves. One method that is being used to achieve this is the human rights-based approach to development. This report explores the role of this approach in development today and compares the current state of affairs to the situation as it was nearly a decade ago. The central question of this paper is:

How do human rights-based approaches play a role in policy and practice of international development organisations?

The methodology used to create this report is desk research. The first theoretical part of this paper is mainly based on books on the topic of human rights, while the second part that consists of case studies on international organisations has as its main source scientific journals and policy documents.

There is no consensus in the development sector on a definition of a human rights-based approach; every organisation has its own interpretations. The general concept comes down to a conceptual framework for human development based on human rights standards, which empowers people to claim their rights and fulfil their responsibilities (CARE, 2001). The case studies in particular explore what position rights-based approaches currently hold within certain organisations, such as UN agencies, NGOs and the EU. It turns out that at this time there is no organisation that has the concept fully developed. At the organisational level the main aspects needed for a successful implementation of a rights-based approach are a workable definition, concrete tools and documents as guidelines and proper education and promotion on the topic among staff. Yet there is no organisation that has all this established. In practice one of the major problems is that the target groups often have little knowledge about their rights, which makes it difficult to implement a rights-based approach in reality.

In conclusion it can be said that human rights-based approach play a considerable role in development policies and projects, and their role is still growing. The main recommendation for the future lies in education: within organisations staff members need to be educated more about the theory and practice of the approach, and target groups need to be educated about the rights they can claim to improve their lives.

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List of abbreviations

AIV	Adviesraad Internationale Vraagstukken (Advisory Council on International Affairs)
CHR	Committee of Human Rights
EU	European Union
HRBA	Human Rights-based Approach
HRC	Human Rights Commission
MDG	Millennium Development Goal
NGO	Nongovernmental Organisation
OHCHR	Office of the High Commissioner for Human Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UNHCHR	United Nations High Commissioner for Human Rights
UNICEF	United Nations International Children's Emergency Fund

Introduction

Human rights are a concept that has existed throughout history, but especially in the last sixty years the world has seen major changes regarding this issue. Countless declarations, treaties, conventions and so forth have passed in review throughout these decades. Yet most of this is paper; it does not necessarily provide any information about human rights in practice. The purpose of this report is to explore human rights in relationship to development cooperation and policy. The focus is in particular on what is called a human rights-based approach in development programming.

The central question of this paper is:
How do human rights-based approaches play a role in policy and practice of international development organisations?

The following sub-questions will be used to reach an answer:
- *What is the background of human rights?*
- *What are the known challenges regarding the implementation of human rights?*
- *What is the contemporary human rights practice and what position do human rights currently have?*
- *How do international organisations integrate human rights in their policies and activities?*

Structure

In order to understand what is meant by a human rights-based approach it helps to know more about the concept of human rights and their background. To give an idea where human rights came from, a short overview is given of their recent history. This is followed by an exploration of the theoretical challenges that exist, and how they create problems for human rights practice. In addition there are chapters on the role of countries as well as international and nongovernmental organisations in contemporary human rights practice, as they are all vital players in the field. The next chapter introduces the human rights-based approach and some of the theory related to it. In order to include the day-to-day reality an attempt is made to present a few case studies, to explore how theory and practice collide in every-day life. The focus of these case studies lies on UNICEF, the United Nations Development Programme (UNDP), the Dutch NGO Oxfam Novib and the European Union (EU). In addition, a

paragraph about the EU is included, because the EU is a major player in the world of development activities. Even though the case study in this paper suggests that a real human rights-based approach is not being used as of yet in EU development policy, there is still the fact that good governance plays a major role in EU policy. A certain amount of overlap between the two can be noticed, considering how both are based on the rule of law, participation, inclusion and accountability.

To complete this paper there is a conclusion that takes a retrospective look at the 2003 report written by the Dutch Advisory Council on International Affairs, on a human rights-based approach to development cooperation; it is interesting to see how much has changed since then. Based on that change a recommendation will be given on opportunities for the future, in order to improve any human rights-based approaches that may exist now as well as then.

Methodology

The method of research that is used to write this paper is desk research. A study has been made of numerous pieces of professional literature and journals about human rights practices in the broadest sense. An attempt has been made to use literature, journals and other sources as current and recent as possible, in order to provide a more current point of view compared to the 2003 AIV report.

For the first theoretical part of this paper that focuses mainly on human rights themselves the main source of information has been books on the subject. The case studies are based partially on books, partially on articles from several scientific journals; one journal that was especially useful for the research was Human Rights Quarterly. Another document that turned out to be vital for the case studies was Ms. Sophie Conin's thesis on human rights-based approaches within Oxfam Novib.

An attempt has been made to use information as neutral, recent and up to date as possible. However, since not a great amount has been written about this specific topic as of yet, in certain cases this kind of information turned out to either not exist or be unavailable in any of the libraries that the author has access to.

Chapter 1: An introduction to human rights

'Human rights' is a very broad term. There are many different kinds of human rights, moreover many of them are applied in very different ways. To discuss them in general is hard, but there are several characteristics that keep reoccurring. First of all there is the notion that human rights result from the simple fact of being a human being, without any distinction based on characteristics such as sex, race, skin colour, religion or possession. This implicates immediately the idea that a state does not have a role in the attribution of human rights, but that these rights already exist even before a state becomes part of the equation. In practice however, this is not exactly the case, as will become clear hereafter. The second general characteristic of human rights is that at the outset, they are supposed to be respected and complied with by the state and its authorities. In that way human rights essentially determine the boundaries of legitimate actions by the state (Henrard, 2008, p. 25).

It can be said that human rights go together with some sense of inviolability, as their main aim is to create human dignity (Henrard, 2008, p. 26). That leads to the objectives of human rights: as the rights themselves, they are very diverse.

1.1 Three generations of human rights

There are infinite ideas on human rights, since the definition of the term is by no means a very precise one. One notion however that definitely does aid a proper understanding of human rights in modern times, is the idea of three generations of human rights. The first scholar to use this terminology was Karel Vasak, a French jurist (Weston). Vasak was inspired by the three key words of the French Revolution: *liberté*, *égalité* and *fraternité*, or in human rights terminology: political rights being linked to *liberté*, economic, social and cultural rights being linked to *égalité* and solidarity rights being linked to *fraternité*. It should be noted that this model by Vasak is a fairly simplified description of a complicated historical development, but as stated before it is helpful in reaching a greater understanding of human rights. Another aspect that needs mentioning is the fact that the three different generations of rights are overlapping, cumulative and interdependent (Weston). This is to say that the rights of the previous generation do not cease to exist when rights of a next generation become applicable.

First generation

The first generation of human rights consists of the so-called civil and political rights. This generation goes back to reformist theories from the 17th and 18th centuries, as stated above linked to the French Revolution as well as the English and American Revolutions. The rights that are specified here are described more in negative terms than in positive ones: 'freedoms from' rather than 'rights to'. Rights that are part of this first generation are, amongst others, freedom from discrimination based on gender, race or sex, the right to life, liberty and security of the person, freedom of thought, conscience and religion, freedom from slavery, freedom of opinion and expression, freedom from arbitrary arrest, detention or exile; roughly said, the rights that are covered by articles 2-21 from the Universal Declaration of Human Rights are first generation rights (Office of the High Comissioner for Human Rights, 1998) (Weston).

Second generation

The second generation of rights covers economic, social and cultural rights. These came into existence mostly in the 19th-century socialist range of thought, since for a substantial part they form a reaction to the various kinds of abuse that came with capitalist development and the attached idea of individual freedom, which basically tolerated, legitimised even, exploitation of the working class and peoples from the colonies. Rights that are generally categorised as second generation are, amongst others, those found in articles 22 to 27 of the Declaration (Weston). Examples are the right to social security, the right to equal pay for equal work, the right to form and join trade unions, the right to a healthy standard of living, the right to education and so on (Office of the High Comissioner for Human Rights, 1998).

Third generation

Where the rights of the first and the second generations are generally seen as individual rights, those that make up the third generation are of a more collective nature. At this point there are six rights that are seen as part of the third generation, all more or less summarised in the Declaration's article 28: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized" (Office of the High Comissioner for Human Rights, 1998). The first three rights are the right to self-determination, political as well as economic, social and cultural, the right to social and economic development and the

right to benefit from and participate in what is called 'the common heritage of mankind' – shared Earth resources, space resources, scientific and technical progress and information, cultural sites, traditions and monuments and the like (Weston).

1.2 Historical background of human rights

A basic notion of human rights has existed as long as civil society; for centuries there were theories that human rights were more or less the result of the evolution of rights or laws of nature. Yet there were also many opponents to the idea of universal human rights for everyone, for various reasons, such as the fear for social unrest if human rights were publicly affirmed, or the concern that human rights would become a substitute for potent legislation (Weston). Yet through all this the idea persisted. Major historical changes such as the abolition of slavery and the appearance of universal suffrage were solid proof that the idea of human rights would not let itself be smothered. Yet it was not until after the collapse of the Nazi regime that people came to an understanding that many of the atrocious acts committed by the Nazis had been a result of official Nazi legislation; people became persuaded of the necessity of human rights, that certain acts are just wrong, no matter the circumstances.

Today a large majority worldwide, and especially in the liberal and modern West, is in agreement about the fact that every human being has certain fundamental rights, at least in theory. During the second half of the 20th century human rights started to be recognised and acknowledged both internationally and universally; the real recognition on paper starting with the UN Charter of 1945 and the Universal Declaration of Human Rights (UDHR) of 1948 (Weston).

Policy: From declaration to convention

The above-mentioned Universal Declaration of Human Rights that gives a definition of those basic human rights that all human beings are entitled to, was drawn up in 1948. It would turn out to be the first human rights instrument of something that would later become known as the International Bill of Rights, a collection of documents, consisting of the following documents:
- UDHR (1948)
- International Covenant on Economic, Social and Cultural Rights (1966)

- International Covenant on Civil and Political Rights (1966)
- Optional Protocol to the International Covenant on Civil and Political Rights
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Office of the United Nations High Commissioner for Human Rights)

However, at this point every one of these documents was just a declaration, without any legal force. In order for the documents to become legally binding they needed to be converted into treaties, also known as conventions or covenants, that set international standards and norms. The moment a government ratifies such a document it creates a legal obligation to comply with the standards as drawn up in the treaty (Flowers, 1999). Even so, most of the time, a convention does not enter into force until a certain number of states have signed the document. Examples of this can be found in the two covenants mentioned above, which were adopted by the United Nations General Assembly in 1966, but did not go into effect until 1976 when 35 member states had signed and ratified the covenants (Flowers, 1999). After ratification each member state would need to integrate the norms and standards created by the treaty into its own legislation and policies. However, all of this is merely written on paper; on a considerable number of occasions the reality is quite different, as will be discussed in a following chapter.

International organisations

Since the subject of human rights came into view again after World War II, international organisations and nongovernmental organisations in particular have played a substantial and essential role in its development throughout the decades. NGOs ended up being the institutions that accepted the challenge of trying to transform the written UDHR from a list of norms on paper into a reality for as many people as possible. The transformation into "standard customary law" that brought with it a certain obligation for state actors was greatly urged by the NGOs (Korey, 2001, p. 4). Another merit of the NGOs is the fact that the UDHR itself would never have been created as a human rights instrument if it had not come after the United Nations Charter. The human rights elements in the charter were the result of great determination on the side of the NGOs, as well as incessant lobbying by the group that was lead by the American Jewish Committee (Korey, 2001, p. 7). At a later stage the role of the NGOs evolved somewhat, along with the position of human rights worldwide. Mainly in the sixties and seventies they managed to bring the issue of

human rights to the attention of both journalists and academics. They have created a revolution of some sort in the language used in international relations and they made the content of the UDHR a vital element of discussions about foreign policy in both governmental and intergovernmental circles as well as outside (Korey, 2001, p. 3). After the initial phase of standard setting a new important role of the NGOs became fact-finding; the efforts made in this field led to the creation of the Covenant Against Torture and the Covenant for the Rights of the Child. NGOs contributed to this both in the drafting process as well as the lobbying process. (Korey, 2001, p. 3)

1.3 Challenges encountered when implementing human rights in theory

As helpful as all declarations, treaties, working bodies and other documents may seem at first sight, the theory also brings along certain challenges before it can even be put into practice. The following are some of the most commonly encountered in literature.

Universalism vs. cultural relativism

There are two mainstream theories in human rights that contradict each other. To start off, there is universalism. The core of this way of thinking can be summarised in three main points (Clavier): first, all human beings can claim certain basic rights, solely based on the fact that they are human; second, those rights are unconditional, so it should not be possible to exclude persons based on characteristics such as race, gender or national background; third, human rights are seen as the highest moral compass possible, so none of these rights can be denied by another person, such as a spouse, or institution, such as a state (Donnelly, 1984, p. 404).

The contradicting theory is cultural relativism. This theory is based on the notion that there is no objective norm or standard that can be used to judge others. The thought is that a person's surrounding environment, their culture, is always a decisive factor in the development of a person's view as to what is right and what is wrong. Culture in this context should be seen as a very broad term, pointing at anything ranging from indigenous customs and traditions to religious and political ideologies (Ezeilo). The idea is also that in order to properly understand a particular culture, a person needs to be from that culture him- or herself, as otherwise the view of that culture will always be clouded by the framework of thinking that belongs to another culture (Clavier).

Human rights vs. realpolitik

Aspiring to improve the international human rights system is quite magnanimous. The reality is, however, that actors in the system have to make choices. In certain situations compliance with human rights standards is simply considered less important than, for instance, economic or diplomatic interests. That is where a collision of human rights and realpolitik can be perceived. This can best be illustrated with some practical examples:

- India is a country that is generally known as a positive example of a well functioning non-Western democracy that considers human rights of great importance. However in recent years the Indian government has ceased to truly criticise the junta in Myanmar for its human rights situation, due to growing Chinese economic influence in Myanmar, which poses a threat to Indian influence (Chirila, 2010).

- The USA is often quick to criticise other countries on their human rights, unless it is in the country's interest not to, as is the case in some Central Asian countries that have become vital for the American war on terror in Afghanistan (Stern, 2009).

The indivisibility of human rights

Indivisibility of human rights is the notion that rights can only exist successfully in combination with other rights, that a particular human right is not an entity on its own; within the system many rights support and reinforce other rights. In practical terms this means that countries are not able to pick and choose a selection of rights and ignore the remaining ones. Indivisibility is a main UN doctrine concerning human rights, and Kofi Annan, Secretary-General at the time, reinforced the importance of the principle in his speech in Geneva to the Commission on Human Rights (UN News Centre, 2003). Yet there are also scholars that, although fully supportive of human rights and fully aware of their importance, state that this indivisibility is not as inescapable as often thought. In addition they hold the opinion that the indivisibility of human rights is not nearly as relevant to developing countries as generally thought and claimed by the UN. The situation as it currently is, and has been for a long time, is that many developing countries are simply not in a position to fully implement all human rights for all of their inhabitants. They simply do not have the means to do so. In a way, their situation forces them to do the one thing that should not be possible, according to the principle of indivisibility: pick and choose. Yet, system building takes time, and at least in the early stages, choices have to be made (Nickel, 2008).

Chapter 2: Contemporary human rights practice

There has been a considerable change in recent years in human rights practice in the international field. The overall tendency today is to focus not only on standard setting, as was the case before, but in addition to pay substantial attention to implementation as well. In the past, many development organisations would abandon the idea of human rights, all the while justifying themselves by stating that development was the thing that mattered most of all. Furthermore, even though according to the International Bill of Rights all rights have an equal status, in practice Western governments and international organisations have had a tradition of mostly taking notice of first generation political and civil rights, rather than the newer second and third generation rights (Mertus, 2009, pp. 2-3).

There are two main parties to be distinguished: on one hand there are state actors, and on the other hand there are non-state actors. This chapter will explore the role of both in greater detail.

2.1 The role of international organisations

Again, one can make a basic division of this group: intergovernmental organisations and nongovernmental organisations. In the first category the most important player is the United Nations. This organisation is especially important to the topic of this paper, as it was among the first to start working with a rights-based approach to development, as will become clear in the next chapter.

2.1.1 UN

OHCHR
Since its creation in 1993 the focal point of all human rights activities within the UN has been the Office of the High Commissioner for Human Rights (OHCHR). With the establishment of this new office, a new era had arrived for the implementation and enforcement of human rights. Its key activity is offering technical assistance to any party involved in the field of human rights, including but not limited to states, UN bodies and NGOs at all levels: international, regional and local. OHCHR specialists provide practical help to facilitate the implementation of human rights standards by means of training courses, advice, seminars, the development of training and education materials, supporting efforts for human rights education at the national

level and so forth. In addition the OHCHR staff cooperates effectively with the Department of Political Affairs (DPA), the Department of Peacekeeping Operations (DPKO) and other parties that are involved in peacekeeping operations (Mertus, 2009, pp. 19-20). UN Secretary-General Kofi Annan's report, submitted to the General Assembly in 2002, formulated two gigantic tasks for the OHCHR: the development and implementation of a strategy to give human rights-related actions by the UN a stronger base at the country level, and the mainstreaming of human rights into all UN groups and activities. All this is carried out through the main offices in Geneva and New York, and in 11 country offices and 7 regional offices around the world (Mertus, 2009, pp. 8-9).

Other UN bodies

In addition to the OHCHR there are several charter-based bodies of the UN that form elements of human rights practice. There is the General Assembly, which on certain occasions has the possibility to shame states that are in gross violation of human rights into positive action through resolutions. Also, in the General Assembly the different treaty bodies have a place they can turn to with their human rights reports; furthermore, the Assembly shows support of the subject of human rights by sponsoring world conferences that are relevant to this topic (Mertus, 2009, p. 40). Then there is the Human Rights Council that came in the place of the former Committee on Human Rights (CHR). As important as this institution may sound by the name of it, it has turned out to be rather weak and ineffective in reality. It replaced the CHR in 2006 in order to improve the negative image the committee had developed. Activities carried out by the new Council are, amongst others, responding to human rights complaints, conducting studies, providing advice, promoting human rights and visiting (member) states to investigate the human rights situation at the national level. A new feature is the universal periodic review for each member state, which sounds good in theory but has turned out fairly ineffective due to the fact that members are selective in the way they judge fellow member states (Mertus, 2009, pp. 42-43).

Another UN body that at present plays a role in the UN human rights system is the Security Council. Originally, the Council did not occupy itself with human rights issues, but with the passage of time this stance has shifted somewhat, because members have come to the realisation that human rights are essential to the preservation of peace and security, which *is* a main occupation of the Council. As it turns out, participation in the UN human rights system is a good tool for conflict prevention and conflict transformation. Yet, although the Council has the power to

impose sanctions and interventions, it generally maintains a position of reservation when it comes to human rights issues (Mertus, 2009, pp. 99-103).

2.1.2 NGOs

As stated above, NGOs have always played a vital role in the development of a human rights system. At this time NGO activities can be divided into a few major roles in the current system. Initially the NGOs were mainly heavily involved in standard setting through their consultative status with the Security Council, but in recent years implementation and enforcement have joined the list. At the political level these new tasks are largely done by lobbying and by providing data and information so the UN body is able to take well-informed decisions. At the practical level, NGOs cooperate with UN organisations in the field; together they make a serious effort to provide assistance, to offer protection, to document human rights abuses and to help with the building of civil society worldwide.

2.2 The role of countries

Western Europe
Western Europe is commonly known as the cradle of human rights: this is where it all began, at least on paper. As a result, countries such as Germany, France, the United Kingdom and the Netherlands are generally seen as progressive when it comes to human rights. In theory everything is satisfactory, as these UN member states have all ratified and implemented the major human rights documents. However, according to Amnesty International there is definitely still room for improvement, certain situations even seem to be on the fall, rights-wise. Most of the violations of rights concern first generation rights. Points of criticism are mostly the War on Terror and the cooperation with the United States in that department, the position of refugees and asylum seekers – that come to Europe in order to escape the gross violations of their rights in their country of origin to begin with, the treatment of migrants, and occasional ill-treatment by officials enforcing the law, although this last issue does not seem to be happening more than incidentally (Amnesty International).

USA
Although the United States of America played a major role in the creation of, for instance, the Universal Declaration of Human Rights, there is a great number of human rights documents that remain unsigned by the American government today

(University of Minnesota, 2008). International criticism on American human rights violations is on the rise, for which two main reasons are standing out. First, there is the treatment of innocent people by police, prison guards and other persons in positions of authority, especially problematic being the use of electro-shock weapons. Second, there is the chapter on counter-terror, also known as the War on Terror, which plays both within the United States as well as on other locations, Iraq, Afghanistan and Guantanamo Bay on Cuba being the ones that spring to mind most of all. In Guantanamo Bay people are being kept in indefinite military detention and only recently a start has been made to give them a fair trial, however there is a great amount of international controversy regarding this subject. In both Afghanistan and Iraq, even though officially the war is over in Iraq, American forces commit serious violations of human rights, such as random arrests, unlawful killing of civilians and indiscriminate air strikes that end up having more civilian casualties than insurgent ones (Amnesty International, 2009).
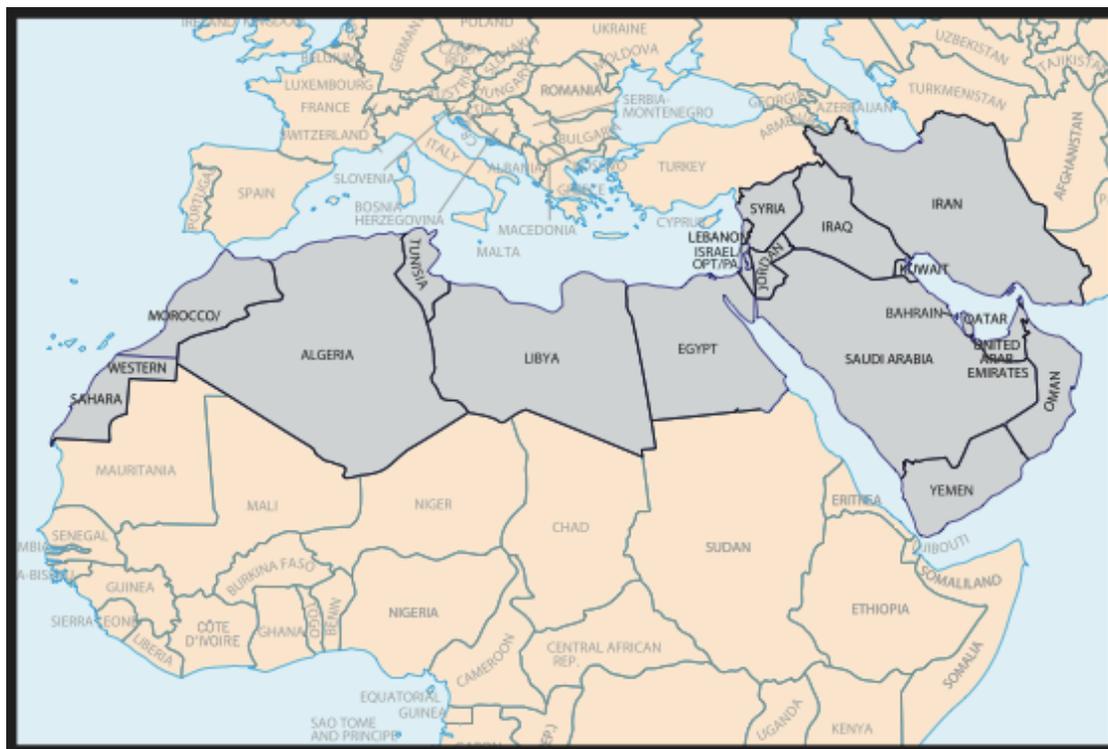
China

China is well known for its widespread human rights violations. There is no freedom of expression or freedom of religion, and the government acts decisively when it comes to dissidents who voice their thoughts in one way or another. Random arrest, detention and torture occur on a regular basis and the justice system is highly susceptible to political influence. Groups that are at particularly high risk of mistreatment by government actors are, amongst others, human rights activists, Tibetans, Uighurs and Christians. Within the international community China is a regular target of criticism, based on the human rights situation in the country, but due to the fact that in recent years China has become such an enormous economic force with an ever-growing economy, many states are hesitant in expressing their condemnation (Amnesty International, 2009).

The Middle East and North Africa

In this region of the world real, functioning democracies are hard to find, hardcore dictatorships are a regular occurrence rather than an incidental phenomenon and as a result of all this, human rights violations are rampant. In order to draw up a list of rights that are commonly violated here one might as well list all the human rights as defined, as there is no rights violation that does not take place on this part of the globe. Women's rights are an issue that is often linked to these countries, as well as labourers' rights and migrants' rights. Freedom of speech is rare, just like freedom of religion and other freedoms (Human Rights Watch, 2010). What makes matters even

worse is the fact that anyone who takes on the task of promoting human rights in any way immediately runs the risk of repression through acts like arrest, detention, prosecution, attack, harassment, intimidation and blocking international cooperation (Amnesty International, 2008).

As of early 2011 however, the situation has been changing drastically: authoritarian leaders have been ousted by the people in what has been called the 'Arab Spring' in Tunisia and Egypt, and in addition numerous other countries in the region have seen protests and demonstrations of varying intensity for more democracy. It will be interesting to see how all this evolves and what consequences it will have for the human rights situations in these countries.

Source: Amnesty International, 2008

Chapter 3: A rights-based approach to development

The past ten to fifteen years have brought a shift in the ways of thinking in development: human rights have become a major aspect of planning, organising and implementing strategies and activities. This approach is generally known in the sector as a human rights-based approach. There is however no fixed definition of this term: different organisations and agencies have different methods of action and interpretations of a rights-based approach. It is for that reason that the concept is explored by several case studies that provide a perception of how rights-based approaches are being dealt with on paper and in practice.

The following are some definitions that are in use to describe a human rights-based approach:

United Nations: *"A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. Essentially, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development"* (UN Office of the Resident Coordinator, 2002)*.*

UN Common Understanding: *"In a human rights-based approach to programming and development cooperation, the aim of all activities is to contribute directly to the realization of one or several human rights... In a HRBA human rights determine the relationship between individuals and groups with valid claims (rights-holders) and State and non-state actors with correlative obligations (duty- bearers). It identifies rights-holders (and their entitlements) and corresponding duty-bearers (and their obligations) and works towards strengthening the capacities of rights-holders to make their claims, and of duty-bearers to meet their obligations"* (United Nations)*.*

CARE: *"A rights-based approach deliberately and explicitly focuses on people's achieving the minimum conditions for living with dignity (i.e achieving human rights). It does so by exposing the roots of vulnerability and marginalization and expanding the range of responses. It empowers people to claim and exercise their rights and fulfill their responsibilities. A rights-based approach recognizes poor, displaced, and war-affected people as having inherent rights essential to livelihood security – rights that are validated by international law"* (CARE, 2001)*.*

Even though there may not be one concise, widely accepted definition of a rights-based approach, a workable definition surely makes it easier to understand what exactly such an approach entails. It is a specific *modus operandi* to development that strives to transform 'passive beneficiaries' of the traditional development service delivery into 'active citizens' that are capable of claiming their rights with their authorities; authorities that are accountable for commitments they have agreed to. The goal of a rights-based approach is not just simple poverty reduction, although it may contribute to it in practice. The main way of achieving this at large is to apply human rights principles to the implementation of programmes, the most important ones being equality, accountability and participation (Luttrell, Piron, & Thompson, 2005).

The one main shared objective of all interpretations of a rights-based approach is to realise people's human rights. In order to achieve this goal a number of key words are central to the idea of this approach that can be seen in all the different interpretations:
- 'Needs' become 'rights' – previously there was a main focus in many aid organisations on fulfilling people's needs, without paying a great deal of attention to any structural underlying causes. Now, organisations consider people no longer just 'needy', but they see them as part of a larger system of rights and rights holders, duties and duty bearers, where individuals and groups have certain rights they can claim, but possibly also certain duties they have to fulfil for the sake of other rights holders.
- Advocacy – in order to create a better chance for anyone, it is necessary that awareness is created among those in positions of power.
- Accountability – governments and other authorities are supposed to be responsible and accountable for their actions; people should be able to address the authorities when these do not fulfil their duties towards the people.
- Empowerment – the end result is not the only aspect that matters. At least as important is how this final result has been reached: rights-based approaches aim to strengthen the weak in order enable them to claim what is rightfully theirs.
- Participation – rather than just being provided with free handouts, people are expected to participate in improving their situation.
- Inclusion – there is a special focus on target groups that are traditionally especially vulnerable, to ensure that exactly those people who are the most deprived get a fair chance at improving their lives (Participation and the Practice of Rights Project, 2009).

These key terms are supposed to be an integral part of all development policies and programmes of organisations that make use of a human rights-based approach: it is not something visible on paper only, the idea is that when programmes are implemented it can be seen that people can actively participate and claim their rights with the authorities, and that everyone is included in the process, especially those in a position of particular vulnerability such as women, children and indigenous populations.

To a certain extent a human rights-based approach may be seen as a specific method to achieve good governance. Even though good governance is part of a broader spectrum than just development – unlike a rights-based approach to development – there are some aspects that overlap: both ways of thinking are based on ideas such as the rule of law, participation, inclusion and accountability (UNESCAP).

Critics
As is the case with any theory, in addition to supporters there are opponents to the human rights-based approach. In order to get a more complete view of the approach a brief overview of their main arguments is given here; for a more in-depth perspective one should turn to further research on the topic.

- The timing is not yet right for the implementation of a rights-based approach, as one of the requirements for success is the wide acknowledgement that human rights are universal, which at this time is not the case.
- The groups that speak of human rights and those that suffer are traditionally very different groups, and the suffering groups are better off with the more traditional service delivery here and now, without having to wait for a whole new system to have developed (Plipat, 2005, p. 32).
- A rights-based approach cannot possibly be right to get implemented if there is not even consensus on what such an approach exactly means – not even within the development community itself.
- The contrast between the principles of participation, inclusion and accountability, forming the basis of a rights-based approach, versus the results oriented NGO work is so extensive that it will never work.
- The human rights-based approach has become so much of a 'development buzzword' at this point, that its actual meaning has diminished and expectations have become unrealistically high (Conin, 2009, p. 10).

Chapter 4: Case studies
4.1 Case study: UNICEF

UNICEF is the United Nations International Children's Emergency Fund. This organisation's aim is to create and maintain equality for those who are the subject of discrimination, with a special focus on women and girls. UNICEF is present in 190 countries worldwide and works through both country programmes and National Committees. Central to UNICEF's policy and activities are the Millennium Development Goals as well as what is established in the United Nations Charter (UNICEF, 2008).

UNICEF was among the first organisations to make a serious effort to transform a human rights-based approach as written on paper into practice. One of the early agreements among most participating UN agencies is the Common Understanding of a human rights-based approach to programming (HRBAP), created in 2003. This agreement sets up three basic principles. First, there is the statement that all development cooperation programmes and policies should advance the realisation of human rights as they have been defined in the Universal Declaration of Human Rights and other instruments. Secondly it states that all development cooperation and programming should be guided by the human rights standards and principles as defined by and derived from the Universal Declaration, in all phases of the process. The third principle is that development cooperation should contribute to developing the capability of duty bearers to stick to their obligations and of right holders to lay claim to their rights (Jonsson, 2005, p. 50). These principles had been a part of the UNICEF Mission Statement since 1998, when an Executive Directive was issued to all field offices to get them familiar with HRBAP and to provide guidelines on the matter (Rozga, 2001, p. 2).

Bearing the three main principles in mind, there are four main characteristics that are essential for the implementation of a human rights-based approach of programming:
- A thorough analysis should be carried out in order to define the claims of the rights holders on one hand and the obligations of the duty bearers on the other. In addition there should be an identification of the immediate, structural and underlying causes of the lack of rights realisation.
- There should be an assessment as to the capacity that rights holders have to claim their rights, and the capacity that duty bearers have to fulfil those obligations. Based

on the outcome of that assessment a strategy should be developed to increase both of these capacities.

- Processes and outcomes should be monitored and evaluated along the lines of human rights principles and standards.

- The creation of these programmes should be advised by international human rights bodies and their recommendations (Jonsson, 2005, p. 51).

These characteristics have lead to the development of a four-step method for applying HRBAP.

Step 1: A causality analysis to figure out the immediate, structural and underlying problems that form the basis of the problem. In this analysis the problems that are identified are generally understood to be human rights violations such as disease, lack of education, discrimination and so forth. It is important here to create consensus, because if there is no agreement on what exactly is causing the problems, it is unlikely that there will be agreement on the solution for the situation. The result of the causality analysis will be a list of human rights that are already being violated or are on the verge of being violated.

Step 2: A pattern analysis to identify the key actors in each specific rights violation: rights holders and duty bearers. It is helpful to keep in mind that an individual that is a right holder in one rights violation can easily be a duty bearer in another human rights situation.

Step 3: The next step is a capacity analysis, to explore the reason why a certain human right is not being realised. The assumption here is that the reason for rights not being realised is generally related to a lack of capacity to either claim a right or fulfil a duty. Capacity is seen in a fairly broad sense here, including components such as responsibility, authority, access, capability of communication and capability of decision-making.

Step 4: The following step is to make a list of potential actions that can be undertaken to solve the problem: actions that are likely to contribute to the amelioration of a human rights situation in a concrete way, by adding up to the capacities mentioned above.

Step 5: The fifth and final step of the UNICEF plan is to integrate the actions selected in step 4 into the existing programmes and projects (Jonsson, 2005, pp. 53-57).

Because of the fact that this HRBAP way of thinking was already a part of UNICEF before the 2003 Common Understanding, it was possible in certain country programmes to give an evaluation of this approach at an earlier stage than in most

other UN agencies. One of these programmes is the one in Mozambique (2002-2004), where in 2004 an external evaluation was carried out. Some results of this evaluation were the following:

- The four main characteristics defined by the Common Understanding had been met in the preparatory stage of the programme.
- There was a clear focus on building capacities, especially in communities.
- Both rights holders and duty bearers considered their capacities to have increased by the end of the programme.
- The main problem encountered was the fact that many actors were not well informed of their rights and duties, which made it difficult to create improvement. The main conclusion was that the programme in Mozambique had adopted HRBAP successfully, but that much more training was necessary, along with better monitoring (Jonsson, 2005, pp. 57-58).

Another country programme evaluated was the one in Uganda, and the outcome there was a clear similarity to the one in Mozambique: many duty bearers were not aware of the rights they could claim themselves and as such did not have the necessary capacity to do so. Furthermore it was concluded that the rights-based approach was difficult to expand into a greater area due to a lack of resources (Jonsson, 2005, pp. 58-59).

4.2 Case study: UNDP

The United Nations Development Programme is the UN global network for development. It is an organisation that advocates for change and connects countries to resources, knowledge and experience to assist people in improving their own lives. The organisation, active in 166 countries around the world, cooperates with the countries so they can create local capacity and as such develop their own answers and solutions to any national and global issues (United Nations Development Programme). The main focus for the organisation is to realise the Millennium Development Goals (MDGs). The activities focus on four pillars:

- Campaigning and mobilising: advocacy to create awareness
- Analysis: researching best strategies on how to achieve the MDGs
- Monitoring: assisting countries in tracking progress
- Operational activities: supporting governments to adapt MDGs to local issues and conditions (United Nations Development Programme)

Like UNICEF, UNDP was one of the early UN agencies to start the integration of a rights-based approach in its policies – these two organisations were among the first in their sector. The UN Common Understanding that defines the work accomplished by UNICEF is also of great importance to UNDP policy and activities. However that is where the comparison ends. Where UNICEF considers a rights-based approach to be a collection of instruments that can be used in programming as well as a component that needs to be properly integrated in all programming, UNDP appears to consider it more like "the underlying justification for interventions aimed at strengthening institution" (Cornwall & Nyamu-Musembi, 2004, p. 1431). Because of the fact that it is a whole different kind of organisation that does not necessarily have its own development projects to improve people's lives, there is a difference in the way a rights-based approach is made part of the organisation's way of work. The focus is mainly on training, assistance, monitoring and the like, a considerable amount of which is directed at governments and other authorities. One of the aims is to create awareness among them as well as support them in their capacity building. Therefore it makes sense for UNDP to provide materials for training and education purposes regarding human rights-based approaches. The first policy paper concerning the implementation of such an approach was created in 2003, which makes it an early paper. Even though it focuses mainly on how to carry out a proper rights-based programme review, the first step-by-step-plan for a genuine rights-based approach is there. It distinguishes the following steps:

1) Selecting programme priorities: based on a country analysis it should be known where in a certain country rights are persistently violated and where the most significant change can be created in people's lives, in other words, which groups of people are the most vulnerable?

2) Establishing standards: formulate the specific rights that UNDP will help realise through its country programmes, in order to make human rights a main aim.

3) Identifying duty-bearers: identify which actors, both state and non-state, are responsible for the promotion of rights during a certain programme, as well as their capacity to meet these duties and the limitations they face in performing them. In addition it should be made clear what UNDP could do to improve both.

4) Identifying claim holders: in order to create accountability on behalf of the duty bearers it makes sense to designate beneficiaries as rights holders. An essential characteristic of rights holders is that they participate themselves by reviewing and helping to design programmes. The fundamental part here is

that they are capable of formulating and advocating their rights and participating in the process of designing a programme – and how UNDP can support them in this matter.

5) Establishing mechanisms for redress: make sure that effective and accessible means of improvement are available (UNDP, 2003).

In 2006 another paper on how to apply a human rights-based approach to development programming was created within the organisation, which was more geared toward educating and guiding UNDP staff. This guide is mostly based on the United Nations Common Understanding and has the goal to increase UNDP staff's capacity to adopt the Common Understanding and implement its idea in their day-to-day work. In addition to supplying general background information on the UN frame of thought and human rights-based approaches, it provides guidance on how to design programmes with a special focus on Poverty Reduction Strategies, programme implementation and management and monitoring and evaluation. In order to leave room for adaptation to a particular country's needs, the guide is just that: a guide, and not an instruction (UNDP, 2006, pp. 6,43).

Furthermore, along with this guide there is the users' guide to Indicators for Human Rights-based Approaches to Development in UNDP Programming. This guide gives information on the main existing indicators for 'measuring' human rights, and it explains how these indicators have their limitations when used for rights-based programming. It does show how the indicators can be used in such a context however, and it also offers recommendations on how country offices can make use of indicators for every stage of planning, implementation, monitoring and evaluation of programmes (UNDP, 2006).

Another good source of information for programmers would be the UNDP Pilot Project "Operationalising Human Rights Approaches to Poverty Reduction", which was set up to submit the theory to practice and thereby have a practical lesson on how to apply a human rights-based approach in reality. Both the interim report (April 2007) and the final report (December 2007) give valuable advice on the subject (UNDP, 2007). Prior to the pilot project research showed that human rights were barely a part of anyone's way of thinking, let alone it was a matter of a human rights-based approach. A selected sample of country reports from 2004 showed that only very few relied heavily on a human rights framework – Bosnia-Herzegovina being one of those select few – and that the large majority barely made any references to the subject at all – Thailand, the Philippines, Ghana, the list is substantial (Alston, 2005, pp. 793-794).

A good example can be found in one of the projects that were part of the Pilot Project, in particular the one in Macedonia: "Supporting the elaboration of an MDG-based national Development Programme 2005-2015 for Macedonia". This programme was supposed to address social exclusion and poverty that were caused by decentralisation and Macedonia's shift from socialism towards a free market economy. The 2004 MDG Report for Macedonia had already investigated how decentralisation could benefit human development in the country. Based on that the pilot project team chose three municipalities where participation was weak, according to the MDG report, and where gender inequalities had been perceived (HuRiLink). In this project UNDP cooperated with the Ministry of Local Self Government, the Ministry of Finance, the Association of Municipalities, the Ludwig Boltzmann Institute (BIM) and numerous local civil society organisations. The aim was "to contribute towards the elaboration of the National Programme for socio-economic development, incorporating specific needs of marginalized and vulnerable groups. To involve vulnerable groups in planning processes on local and national level and create safe and friendly atmosphere for respect and fulfilment of human rights" (UNDP, 2007, p. 8).

The project was evaluated and the outcome was as follows:
- In 5 municipalities awareness had been raised among citizens and other stakeholders about the MDGs and the capacity of a rights-based approach in addressing social exclusion;
- Local capacities were strengthened for rights-based strategic planning and in 3 municipalities partnerships between local stakeholders were stimulated by providing training;
- In 3 municipalities local development strategies were created and adopted, prioritising marginalised groups in varying areas of economic development – the strategies developed include human rights indicators;
- The National Development Plan for 2007-2009 was partially based on data from the participating municipalities, making the plans better targeted;
- Similar projects were started up in other municipalities (UNDP, 2007).

4.3 Case study: Oxfam International / Oxfam Novib

Oxfam International is an international umbrella network of 14 development organisations that consists of sister organisations throughout the world. The federation works around five rights-based aims that are central to all the sister organisations' work:

1) Right to a sustainable livelihood
2) Right to basic social services
3) Right to life and security
4) Right to be heard
5) Right to an identity (Conin, 2009, p. 24)

The general idea is that "to believe that respect for human rights will help lift people out of poverty and injustice, allow them to assert their dignity and guarantee sustainable development" (Conin, 2009, p. 24). An essential aspect of Oxfam International's rights-based approach is incorporating all rights: civil, political, economic, social, cultural, environmental and so on.

Yet, there are considerable differences among the 14 organisations, both in method of action as well as in how they view rights-based approaches. The Dutch organisation Oxfam Novib was one of the first associates to make human rights a pillar of its work, which is why the focus of this case study is mainly on this organisation.

Official viewpoints from inside Oxfam Novib

The official definition Oxfam Novib has for a rights-based approach is "a means to identify ways of transforming the self-perpetuating vicious cycle of poverty, disempowerment and conflict into a virtuous cycle in which all people, as rights holder, can demand accountability from duty-bearers and where duty-bearers have both the willingness and capacity to fulfil, protect and promote people's human rights" (Conin, 2009, p. 24). It is recognised that it is necessary that the capacities of all involved parties are increased, both those of rights-holders so they can claim their rights, as well as duty-bearers so they are capable of realising those rights. However, while a rights-based approach is supposed to be central to any activity that is carried out, no such thing as a policy paper on the issue has been developed recently. Acknowledging the fact that this fact may send an ambiguous message regarding the importance of a rights-based approach, the Research and Development department is currently in the middle of the creation of a position paper, a policy and a plan for

implementation. Even so, among officials within Oxfam Novib there is no consensus so far on what role these documents are supposed to play. There has been a small start in training staff on the subject in the past few years, yet without the official policy documents it is difficult to create substantial results (Conin, 2009, p. 25).

Practical views from different staff members within Oxfam Novib
Due to the lack of official guidelines as to how to interpret a human rights-based approach, people within the organisation perceive such an approach in different ways, resulting in different 'versions' of approaches.

Table 1 on the next page gives a summarised typology, but a more detailed explanation is necessary for a better understanding.

First of all there are the visionaries. Characteristic of their interpretation of a rights-based approach is that most of the time they have a long-term, broad vision that applies to the organisation as a whole. Their definition is somewhat vague and remains concept-based. This view can be found at management level and stays close to the official definition as created by Oxfam International. It generally does not concern itself with any practical aspects of a rights-based approach, and how such an approach might be implemented properly. Many of these visionaries are not directly involved in the implementation and assessment of particular projects, and as such they stick to the main outlines. Those who do happen to be directly involved in the every-day practice of implementation feel that a rights-based approach is not part of the working toolkit that is central to Oxfam Novib's activities and should be applied in each phase of the project (Conin, 2009, p. 34).

The second group that can be distinguished is what Conin calls the 'Oxfam-Aims Segmenters' (Conin, 2009, p. 35). As described above, all of Oxfam's work is based on the main five aims. As it turns out, there is a whole group of people within Oxfam Novib that put 'following a rights-based approach' on a par with 'working according to the main five aims', in the sense that if the purpose of a certain project can be categorised as one or more of those main rights-based aims, then it is automatically a matter of a rights-based approach. In addition to this, a significant number of staff within Oxfam Novib seems to confuse a rights-based approach with the fourth main aim, the right to be heard. One reason for this can be that to staff members it may appear that aim 4 is not a fully established aim like the other four are, but more a broad theme that relates to all the aims. In addition the aforementioned lack of official

Table 1 (Conin, 2009, p. 34)

RBA Approaches	Characteristics (What)	Found Where (Who)	Identified Reasons (Why)	Revealed by (How)
The Visionaries	Long term Aligned with OI Aligned with government Philosophical Visionary	Management Staff bureau	Inspirational Knowledge Function (leadership)	Policies Official communiqués Broad lines, no operational details
The Oxfam-Aims Segmenters	Aim-4 = RBA RBA not necessarily in other Aims	All levels, particularly Projects and Staff bureaus	Knowledge Resources Function Organisational culture	Organisation structure Discourse (official and non-official documents)
The Pragmatists	Short term Practical Results-oriented Assessment dependent Concrete tools and indicators (present or needed) Adapt to current situation Prioritising needs versus rights	Projects Campaigns Fundraising	Resources Function Accountability Knowledge Incentives Performance	Daily practice Organisation structure Discourse Priorities/choices Decision making Measurement tools Concrete explicit language
The Experiences versus Inexperienced	Not new, have worked like this for years Versus This is a shift from needs based	Particularly Latin America projects, and particularly people working in Aim-4, but also throughout the organisation people working longer Versus Other countries than Latin America, other aims than 4, new people	Knowledge (lack thereof) Experience (lack thereof) Function	Discourse (official and non-official documents) Particular situation of institutional memory Choices of partners
The Intuitive Implementers	Based on gut-feeling	Anywhere in the organisation	Knowledge (personal background and experience) Resources (Lack of tools/guidance)	Discourse (mainly unofficial) Decision making

policy documents results in a lack of clear knowledge as to what a rights-based approach really stands for (Conin, 2009, p. 37).

The next vision of a rights-based approach is the pragmatist one. This group of staff members considers it a positive thing that the current guidelines – as far as those even exist – leave a lot of room for one's own interpretation, thus enabling them to do their job how they prefer to do it best. This view focuses very much on solutions and results and is mostly short-term. Reason for this is the fact that for many people within the organisation accountability and limited (financial) resources are of the order of the day, which obviously has its implications for their every-day work. There is a risk then that the performance of staying within set limits becomes more of a final goal to people than any more encompassing principles and aspirations. In fact, some even consider a rights-based approach counter-productive, especially financially, because it is difficult to prove the effective results of processes that are based on a rights-based approach (Conin, 2009, p. 38). Also, not all departments consider such an approach at all useful for their work. An example can be found in the fundraising department, where staff is not convinced that a human rights-based approach will help them do a better job of raising finances and creating awareness of Oxfam Novib's work. An experiment has been carried out that showed there might be some truth to that belief (Conin, 2009, p. 39).

The final view on rights-based approaches within Oxfam Novib can be found with those that go by intuition. Rather than basing themselves on factual knowledge on what a rights-based approach should entail, they tend to rely heavily on what their gut tells them. Their interpretation is sometimes called an 'intuitive rights-based approach', because this is an interpretation based on feelings and instinct more than actual reasoning. Even though to some extent this cannot be kept from happening – after all it is a large organisation and everyone has different knowledge, experiences and feelings, so it is obvious that some variation will always exist – it does make for some organisational discomfort, as it creates the risk that people will assume more freedom than intended by the organisation (Conin, 2009, p. 42).

An example from an Oxfam Novib rights-based approach in practice: capacity building in a nation without a functioning government
In 1995 Oxfam Novib started supporting several initiatives set up by individuals in Somalia. Somalia has been torn apart by war and as a result was without a permanent government from 1991 until 2004, when a transitional federal government

was created (Wikipedia, 2011). Nonetheless, the situation in Somalia has still been unruly ever since, and the problematic security status combined with the lack of adequate facilities such as a decent banking system or official national development strategies and plans have resulted in a very low number of development organisations that are active in the country (Oxfam Novib, 2007, p. 96). This meant that more than ever, there was a need for capable local organisations, but due to the precarious situation these barely existed. In 2002, the European Commission invited Oxfam Novib to take the lead in a project 'Strengthening Somali Civil Society'. This project started out with Somali researchers mapping civil society organisations throughout the country, thus identifying NGOs, community based organisations, elders, religious leaders, the media and so forth. In addition a study was carried out on donors' policy documents in order to get an understanding as to why they were not supporting and investing in the country. A response to this first phase was the 2003 Hargeisa Civil Society Symposium. Here hundreds of civil society representatives gathered to discuss and review the results. Not only did the participants stress the need for donors to support their country and invest in education, they also started to think about the possibility of partnerships amongst each other. This resulted in partnerships between Oxfam Novib and several local organisations. These counterparts were subsequently trained in monitoring, documentation, investigation and advocacy so they would be capable to systematically document abuse of human rights and address violations that are invisible to the international community (Brouwer, Grady, Traore, & Wordofa, 2005, p. 73). Evaluation of this project has shown that the newly created networks have gained a considerable amount of impact in the national Somali landscape; a large part of this can be contributed to the efforts of Oxfam Novib. The organisation was the main donor, enabling the partner organisations to develop, while at the same time the partner organisations' autonomy was respected, so they could develop according to their own views and experiences. Even though the situation in Somalia is still far from stable – the recent economic crisis has had enormous impact on the country in many ways, not the least of which is the fact that resources have become even more scarce than they were already – at least hope has been raised that in the future people will be able to be in control of their own lives (Oxfam Novib, 2007, p. 92).

4.4 Case study: the European Union

Keeping in mind the fact that the European Union as a whole is the world's number one development donor in terms of funding, it is only right to pay some attention to that organisation as well in the light of a human rights-based approach. For a better understanding of the situation it deserves mentioning that development cooperation falls into the category of shared competences between the EU and the Member States. This means that there is common policy from the EU that is legally binding, but that the Member States have the power to create policy of their own as well (Europa Portal).

Human rights are supposed to be high on the European agenda, so one would think it logical for human rights to play a considerable role in European development policy as well. However, research has shown that this is not exactly the case. As it turns out, a rights-based approach is not yet an integral part of it. Four NGOs – the International Human Rights Network, Amnesty International EU Office, Action Aid International and Terre des Hommes International Federation – considered it important to examine how accommodating current European policy documents could be to such an approach. They took joint initiative and provided the funds for a paper to be written on this very topic. A number of key policy documents, essential to European policy on external development assistance, were reviewed and compared to the main elements of a human rights-based approach. It was examined to what extent the EU policies reflect the legal commitments that come with a rights-based approach. The following five principles, key to a rights-based approach to programming, were used for the review:
- proper use of the international human rights framework, explicitly and accurately;
- empowerment as a human right;
- participation as a human right;
- emphasis on those groups that are most vulnerable to human rights violations;
- accountability.

At first it was reviewed whether the existing policy documents create any kind of legal obligation to streamline development policies along the lines of a rights-based approach. As it turns out, the European Union is bound by several documents to respect human rights and all they entail: the different human rights treaties, the EU

founding treaty and partnership agreements between the EU and Africa, the Caribbean and the Pacific (ACP). In addition it is supposed to base its external development assistance on human rights principles (Amnesty International, Terre des Hommes, Action Aid, International Human Rights Network, 2008, pp. 16-17).

The next stage was to explore whether the umbrella framework of policies on development aid meets the legal requirements posed by a human rights-based approach. This overarching policy framework is the 2005 Consensus on Development that was adopted by the European Parliament, the European Commission, Member States and the Council. When creating and implementing development policies, the EU Member States should work within this framework and as such it would make sense for it to reflect the need to base the work on human rights. However, the Consensus fails to give a clear and precise meaning of development based on human rights. Another issue is that concepts like coherence and effectiveness are not explicitly put in a human rights context, even though these should be actual human rights obligations according to a rights-based approach. Furthermore there should be more attention paid to both rights-holders and duty-bearers to improve development effectiveness, which is also along the lines of such an approach. Unfortunately none of this has been integrated in the Consensus on Development as of yet. For that reason the organisations behind this study issued some pieces of advice in order to create a legal framework that will be more friendly to the integration of a rights-based approach:
- Policies, regardless of whether they are directly or indirectly linked to development, should be screened better and more systematically for legal accuracy before being adopted;
- Development actors that are linked to the EU should make use of the periodic reviews of the effectiveness of EU development aid to influence said policy;
- EU policy formation should be more guided by the work of others concerning rights-based approaches; at this point UN agencies and multiple NGOs have gained good working knowledge on the subject;
- A rights-based approach should be integrated in any educational and awareness raising activities in order to improve people's empowerment;
- The European Union should ensure that any EU policy does not undermine international human rights instruments (Amnesty International, Terre des Hommes, Action Aid, International Human Rights Network, 2008, pp. 33-34).

However, as mentioned before the concept of good governance is central to any EU

action. So even though the European Union may not have an explicit rights-based approach to development in practice, that does not mean that no aspects of such an approach can be recognised. The overlap can be found for example in the central position of the rule of law: in both good governance and a human rights-based approach it is essential that no one is above the law and that no person can be punished by a state actor unless said person has breached the law. Furthermore, both strategies are hugely characterised by participation, inclusion and accountability; the idea is that people become a participant in the process of creating better living circumstances, everyone is included in that process and there is particular attention for those in a position of increased vulnerability. In addition all actors in the process, especially government related ones, are fully responsible for their actions and can be held accountable for them.

Another important similarity is the role that capacity building plays in the EU's policy and actions. Like organisations that work with a human rights-based approach, the European Union deigns it important to build capacity locally, in order to enable people to participate and come into action themselves (European Commission, 2011).

Chapter 5: Conclusions and comparison to the 2003 AIV report

5.1 Notes on the 2003 report

In 2003 the Dutch government turned to the Advisory Council on International Affairs (AIV) for advice on a fairly new concept in development cooperation: a human rights-based approach. AIV then published a report on the state of affairs at that time. The conclusion of that report is relevant to this paper as well, which is why a brief summary is included here.

Amongst other things, the AIV report reviewed several NGOs on their rights-based approach. UNICEF and UNDP were two of them. It turns out that back then, such an approach had not yet developed beyond a vague 'strategy', without any actual tools or method defined as to how to achieve it. Mostly discussion followed that human rights should be at the core of every policy related to development, trade, and agriculture, yet there was no sign that this had already developed into anything more than just talk and thought; there were no concrete results to show for it. The report did however acknowledge that the sort of change aspired by a rights-based approach is a structural change to people's lives and living conditions, which makes it difficult to measure the effect.

The report stated that economic redistribution did not hold a prominent position in the rights-based approach and that all actors – donors and organisations – were struggling with the formulation of a proper, workable definition of such an approach, as well as with its integration into overall policy. It concluded that human rights can provide a framework that can give direction to development policy, but it also concluded that the approach does not always provide workable ways of identifying the duty-bearers in a human rights violation. (Adviesraad Internationale Vraagstukken, 2003, p. 34)

5.2 New conclusions

The central question of this paper is:

How do human rights-based approaches play a role in policy and practice of international development organisations?

In order to find out the role of human rights-based approaches in development, human rights and their implementation were taken into review. Their background and the problems that arise on paper were analysed. The focus was placed on what is known as a human rights-based approach. Even though there is no fixed definition

for that term, there are a number of key words that are central to the idea: rights holders, duty bearers, participation, inclusion and accountability being among the most important ones.

The desk research performed for this report has shown that at this time there are numerous organisations that apply a human rights-based approach to their work. It started out initially with the United Nations and has been spreading ever since, although it appears as though the UN are still practically in a lead position, both in implementation as well as on the level of information. Among the organisations reviewed here, UNICEF seems to have the most workable definition and practice to this day. First of all it has a clear definition of what a human rights-based approach is supposed to entail. Furthermore, it provides its staff with concrete tools to be used to further the implementation of such an approach. The same cannot be said about all of its fellow development agencies: Oxfam Novib, for example, does not have any genuine working papers at all, thus making it very difficult for staff to explore the possibilities a rights-based approach can offer. This is somewhat surprising considering the fact that the organisation was among the first NGOs to start the integration of a rights-based approach.

This does not mean for that matter that at UNICEF the practice and implementation have been perfected: the examples reviewed showed that not enough attention had been paid to promotion of and education about human rights, which led to a great number of people who were unaware that they even had certain rights, not to mention how to claim them. Education, or rather a lack thereof, seems to be a recurring theme, as among many staff this also appears to be an issue. Often a lack of knowledge about rights-based approaches among staff leads to a lack of implementation, so it remains crucial that staff of any organisation that has any aspirations regarding a human rights-based approach gets educated properly about the topic.

Along with UNICEF, UNDP also has had some positive results working with a rights-based approach. It is somewhat difficult to review UNDP projects though, as the organisation has a very different method of action compared to the other development organisations in this paper.

The exception in the group of organisations mentioned above would be the European Union: at the time of writing it does not have a genuine human rights-based approach established, nor does it seem likely that this will change any time soon. That said, the

EU does have human rights and good governance as a central pillar in its development policy, which means there is a fair amount of ideological overlap.

In conclusion it can be said that at this point in time, human rights-based approaches play a considerable role in development policies and projects, and their role is still growing. The growth is a positive quality, as there is still ample room for improvement. The recent economic crisis however may turn out to be a deal breaker; the result of the crisis being that there are even less resources available to development organisations than before.

5.3 Comparison of old and new conclusions

5.3.1 What has changed?

Obviously the kind of structural change that comes with integrating human rights-based approaches needs time. It turns out that the eight years that have passed since the publication of the AIV report have only been enough to make a small start in applying rights-based approaches. Nevertheless there has been a major shift in the understanding of a rights-based approach for a development organisation. Up until the early 2000s it could not yet be seen as a fully developed approach; there was a collection of thoughts and ideas as to how human rights could be made a more integral part of how development actors carry out their work. However not a great amount of those ideas had found their way to paper yet, and workable tools had not yet been created.

A decade later this situation has slowly changed: now there are several organisations that either have concrete, applicable tools for their staff to use in the implementation of a rights-based approach, or are in the process of creating them. The first generation of projects has been carried out and reviewed, and the first lessons have been learned.

5.3.2 What are opportunities for the future?

At this point in time the most fruitful opportunity to implement and improve human rights-based approaches is to be found in education in the broadest sense: organisations should provide more schooling to their staff members about human rights-based approaches, to ensure they gain a better understanding and as such will be more capable of successfully carrying out the approach in practice. In addition more attention should be paid to the level of knowledge on the side of the target groups of development projects that are founded on a rights-based approach. In order to change people's lives, it is essential that they themselves understand how

that is supposed to happen, particularly because these people are supposed to become active participants of the whole process themselves.

However, providing extra schooling and the other means necessary for proper implementation requires extra financial resources. The recent economic crisis has caused severe cutbacks in donor spending, in both government related and private parties. As a result of this development organisations have even fewer resources at their disposal than before. This will cause more difficulty implementing any projects, especially those that are founded on a rights-based approach, as these generally require more resources in the starting phase. They merely start paying it back in positive results at a much later stage when people on all sides have had the chance to become accustomed to the new approach. Thus, it will be interesting to see how the human rights-based approach is going to develop itself in the coming years.

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