Development in Practice

Publication details, including instructions for authors and
subscription information:
http://www.tandfonline.com/loi/cdip20

National human rights action plans: a roadmap to development

Azadeh Chalabi
Published online: 07 Nov 2014.

PLEASE SCROLL DOWN FOR ARTICLE

Routledge
Taylor & Francis Group

National human rights action plans: a roadmap to development

Azadeh Chalabi*

Applying the "human rights-based approach to development" (HRBAD) in practice is the biggest challenge facing advocates of human rights and development. This article seeks to bridge between. HRBAD at a theoretical level and the National Human Rights Action Plans (NHRAP) at a practical level in order to not merely provide a tool for putting HRBAD into practice but also to prepare a theoretical foundation for NHRAPs. To integrate HRBAD into NHRAPs, the whole conceptual space of development is mapped into a matrix called a "Substantive-Procedural Matrix of Development" (SPMD). This matrix helps states develop their plans within the road to development. The utility of this matrix as a heuristic will be demonstrated in the case of the right to health.

La mise en pratique de l'« approche du développement fondée sur les droits de l'homme » (ADFDH) représente le plus important défi auquel se confrontent les défenseurs des droits de l'homme et du développement. Cet article cherche à traiter de l'ADFDH à un niveau théorique et les Plans d'action nationaux en matière de droits de l'homme (PANDH) à un niveau pratique afin de non seulement fournir un outil pour mettre l'ADFDH en pratique, mais aussi pour préparer une fondation théorique pour les PANDH. Pour intégrer l'ADFDH dans les PANDH, l'espace conceptuel du développement tout entier est cartographié sous forme de matrice appelée « Matrice de développement substantive-procédurale » (*Substantive-Procedural Matrix of Development* – SPMD). Cette matrice aide les États à élaborer leurs plans dans les limites de la voie vers le développement. L'utilité de cette matrice comme outil heuristique sera démontrée dans le cas du droit à la santé.

El reto más grande a ser enfrentado por los partidarios de los derechos humanos y del desarrollo, tiene que ver con el impulso del enfoque basado en los derechos humanos del desarrollo (HRBAD). El presente artículo aborda el HRBAD a nivel teórico y los Planes Nacionales de Acción de Derechos Humanos (NHRAP) a nivel práctico, no solo con el fin de proveer herramientas que posibiliten la implementación del HRBAD, sino también de preparar el fundamento teórico de los NHRAP. A fin de integrar el HRBAD en los NHRAP, se mapeó el espacio conceptual en torno al desarrollo en la llamada "matriz de desarrollo sustantiva-procesal" (SPMD), un auxiliar que los Estados podrán aprovechar a la hora de elaborar sus planes en el marco de la ruta hacia el desarrollo. En este artículo, se examina la utilidad de dicha matriz como heurística para el caso del derecho a la salud.

Keywords: Aid – Development policies; Rights; Social sector – Health

Introduction

This study addresses development from a human rights perspective. In the late twentieth century, the mutually reinforcing links between human rights and development were

*Email: azadeh.chalabi.10@ucl.ac.uk

acknowledged, for the first time, in the idea of the right to development (Marks 2005; Uvin 2007). Since then, a growing number of development organisations and international financial institutions such as the World Bank and the UN have begun to reconcile human rights and development in the form of a "human rights-based approach to development" (HRBAD). The HRBAD is based on international human rights framework and integrates international human rights principles into development work. Nevertheless, operationalising this approach is the most important challenge confronting development and human rights actors. Critics accuse the HRBAD of becoming rhetoric (Hansen and Sano 2006). To address the problem, this article proposes the National Human Rights Action Plans (NHRAP), recommended in the 1993 World Conference on Human Rights, as a practical tool for bringing the HRBAD into practice. Strengthening human rights protections and turning human rights principles into reality requires continuing commitment and action, and a NHRAP is intended to turn human rights principles and standards into specific actions in order to improve the implementation of human rights which is the ultimate goal of human rights-based development. Despite the complementary nature of the NHRAPs and HRBAD, a distance can be found between those who work on the NHRAPs and those who work on the HRBAD. To give effect to the HRBAD, this article seeks to bridge between the HRBAD on a theoretical level and the NHRAPs on a practical level. To this end, for the first time, the whole conceptual space of human rights-based development will be depicted in a matrix called a "Substantive-Procedural Matrix of Development" (SPMD). This matrix as a heuristic device aids policymakers at different levels from the community level to country level to develop, implement, monitor, and evaluate their action plans in a way towards development.

Development as a human right

Development is a contentious concept. Despite the complementary nature of human rights and development, historically, a distance can be found between those who work on development and those who work on human rights; a separation between human rights discourse and development discourse (Uvin 2007). To some, development is fundamentally economic and this is basically the discipline of economics that has to be integrally involved in the study of development (Peet and Hartwich 2009, 23). From the colonial era to the period after World War II in which development began to be articulated as a project concerned with international cooperation, development was the territory of economists and social scientists for the most part, and human rights was the territory of lawyers, political activists, and philosophers (Cornwall and Nyamu-Musembi 2005). Over time, however, economists became convinced that the exclusive focus on economic dimensions of development which had dominated development thinking had led to forgetting other important aspects of development.

In the last decades of the twentieth century, development as a concept first entered the human rights edifice through the debate on the right to development (Uvin 2007). In the first place, the idea of the right to development was launched by the Senegalese jurist, Keba M'Baye, in 1972. Afterwards, the right to development was recognised legally in Article 22 of the 1981 African Charter on Human and Peoples' Rights, and was later incorporated into the global human rights framework through the adoption in 1986 of the Declaration on the Right to Development, by the United Nations General Assembly. The 1993 Vienna Declaration and Programme of Action, the 2000 Millennium Declaration, and the Durban Declaration and Programme of Action reconfirmed development as a universal and inalienable human right. The right to development as defined in Article 1 of the *Declaration on 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 realized."

In short, the idea of the right to development has sought to establish two things. First, it introduces development as a human right in order to provide a legal and moral authority to developing countries' requests for the international redistribution of resources to upgrade their level of development and transfer development from the realm of charity to the realm of rights. Second, the idea of the right to development assumes development as the realisation of human rights both civil and political, as well as economic, social, and cultural. It confirms that all people have the right to development and that development is achieved through the realisation of all kinds of human rights. The first point naturally has not been supported by some of the economically dominant countries, in particular the United States, who cast doubt on different facets of this. They claim that aid should not be subject to binding rules and this idea should not create any entitlement to a transfer of resources (Marks 2003). The right to development is also criticised for duplicating other already codified rights and for being simply a sum of civil, political, economic, social, and cultural rights. Accordingly, due to these objections and critiques, the idea of development as a human right has failed to take root. It is recognised as a soft law, which is not legally binding.

Nevertheless, the concept of development as the realisation of human rights has been elaborated in the form of a human rights-based approach to development. The HRBAD takes the view that development is on a par with realising human rights without remarking whether development is or is not a human right.

The HRBAD

Discussions of human rights mainstreaming have now been replaced by references to HRBAD. This shift in the debate points to the need for different programmes for the implementation of human rights as the ends and means of development. The UNDP adopted a new policy on integrating human rights with development, though it never put the right to development totally aside. In the UN's subsequent human development reports, the UNDP went one step further, affirming that "*human development is essential for realising human rights and human rights are essential for full human development*" (UNDP 2000, 2). It highlights the mutual enrichment of ideas of human rights and human development.

The universality of rights is a significant assumption of this approach which has been criticised by cultural relativists; some argue that the HRBAD emanates from Western cultural values and is therefore not universally valid. Cultural relativism, as a chronic issue in human rights discourse, is somewhat contentious. I will evidently not try to treat this complex subject in its full form here, but instead concentrate my attention briefly on just two significant points: first, the idea of human rights is not Western or Eastern, but rather it is an evolutionary account. Second, human rights are ontologically grounded in universal objective values which are rooted in basic human needs. The first point, which is epistemological, bears on the ways in which rational agents form beliefs and discover knowledge about rights; the second one, which is ontological, bears on the nature of rights.

As for the first point and in response to those who say that the human rights come from West, scholars have provided various instances showing that the development of human rights is not limited to one cultural tradition. For example, William Talbott (2005, 2010) in his two-volume book on the universality of basic human rights, adopts the "Historical-Social Process of Moral Discovery" (as bottom-up reasoning) to show overwhelming evidence of the fact that human

rights do not belong to certain cultural traditions. As he argues, it is, for instance, a mistake to think that Western Europe has a tradition of religious tolerance. On the contrary, the first known advocates of religious tolerance were from the East; Ashoka (the third century BC) from India and Cyrus the Great (the sixth century BC), king of Persia (Iran) (Talbott 2005). Whereas in the US slavery remained a legal institution till the late nineteenth century, as early as the sixth century BC Cyrus had not only strongly opposed slavery but also freed thousands of slaves. A 1530 judicial report to Charles V on the colonists' treatment of slaves in the Americas stated that they treated the natives worse than their dogs. Las Casas reports some of the incidents he himself witnessed:

> "[The Spaniards] made bets as to who would slit a man in two, or cut off his head at one blow; or they opened up his bowels. They tore the babies from their mother's breast by their feet, and dashed their heads against the rocks … They spitted the bodies of other babes, together with their mothers and all who were before them, on their swords … [They hanged Indians], and by thirteens, in honor and reverence for our Redeemer and the twelve Apostles, they put wood underneath and, with fire, they burned the Indians alive." (Sale, cited in Talbott 2005, 53)

Martha Nussbaum (2008) likewise mentions the case of sex equality. She states that:

> "we need to remind ourselves that sex equality is an Indian constitutional idea and it is not an American constitutional idea. How condescending to suggest that in striving for it Nehru and Ambedkar were dupes of Western colonial thinking." (Nussbaum 2008, 214)

In the East, on the other hand, very basic human rights are being violated every day. Infibulation still is approved by some cultures in Sudan, Egypt, Malaysia, and Pakistan. The practice of foot binding in China is another example. Whereas there is a core convention on the rights of people with disabilities, today, an idea common in India is that disability represents a personal flaw and a consequence of karmic retribution for misdeeds (Daruwalla et al. 2013).

In response to cultural relativism, Donnelly (1984) makes a different argument. He argues that a cultural relativist account of human rights can be faced with a kind of logical contradiction; if the rights are called *human* rights, and based on the simple fact that one is a human being which is a universal fact, how can human *rights* be based on a specific culture? As Elisabeth Reichert (2006) says, the reality is that those who are in power readily appeal to cultural relativism when a right clashes with their political or ideological interests. Turner and Rojek (2001, 109) argue that cultural relativism only provides a means for authoritarians to justify their violence:

> "[C]ultural relativism can be and has been manipulated and abused by authoritarian governments to justify various forms of state violence under the banner of cultural authenticity. It is all easy to justify abuses against children and women or devastation of the natural environment by an appeal to ethnic privilege or moral superiority. In the postwar years figures like Pol Pot, General Pinochet, Saddam Hussein and Milosevic have all used appeals to moral superiority or ethnic privilege for the purposes of genocide."

Westerners also sometimes use cultural relativism as a mitigating factor (Reichert 2006, 30). As Reichert (2006) points out, for instance, an 18-year-old woman was burnt to death by her father for refusing to marry the man he had chosen in August 1997. A German court gave the father a reduced sentence, saying he was practising his culture and religion. Moreover, human rights as a whole have not still been accepted in all Western countries. The USA was the biggest opposition to the idea of the right to development. The acceptance of social rights has been problematic in the USA. Despite the fact that the USA is the world's richest economy, it lags behind many other nations in recognising social rights such as the right to an adequate standard of living and the

right to healthcare, and has not yet ratified the ICESCR. In the USA, more than 20% of American children live in poverty, despite the fact that the USA has the world's highest GDP (OECD 2009a). The number of infants who die in the USA before the age of one is the highest among OECD countries (World Bank 2010), and more than twice as many African-American infants die compared to white infants (CDC 2008). Likewise, 15%, or 47 million people, did not have health insurance in 2007, leaving them vulnerable and often unable to pay for any necessary treatment (OECD 2009b).

Having provided some evidence of the fact that the idea of human rights has no boundaries in time or place, we shall now turn to the ontological objectivity of human rights. In this respect, human rights are grounded in universal objective values which are rooted in basic human needs. As Bunge (2006, 266) aptly argues, "*the conventional wisdom about values is that all of them are subjective: that value lies only in the mind of the evaluator*". By contrast, whereas some values are indeed subjective, others are objective because they are rooted in biological or social human needs. For example, whereas beauty may well be only in the eye of the beholder, security and peace, knowledge, and health are objective needs and values (Bunge 2006). As Floyd (2011) states, basic human needs are both universal and objectively valuable. In *In Defense of Universal Value*, Nussbaum (2008, 223) also argues that we can produce an objective account of the necessary elements of truly human functioning that commands a broad cross-cultural consensus from which basic human rights are derived. Miller (2007) goes on to say that something qualifies to be recognised as a human right only if it can be affirmed that having that right can fulfil basic human needs.

In a nutshell, the universality of human rights, is in my view, rooted in the fact that basic human rights are grounded in universal objective needs which give foundation to universal objective values. Ontologically speaking, human beings have the same transcendental basic needs which exist in the external world, as a kind of reality independently of the knowing subject, of any enquirers, rule-makers, and any social and cultural rules and before any human rights declaration or treaty. Epistemologically, our knowledge of human needs and their corresponding rights has evolved and improved over time. There is a broad range of ways, however, to fulfil such needs. This is where individual differences and cultural differences come in. In other words, the way by which basic needs are met is dependent on socio-historical context and varies from culture to culture and person to person. But this makes no difference to the universality of basic rights. Considering both epistemic and ontological objectivity of human rights, the idea of human rights contains no named references to particular times and places. *No name references to particular times and places* is exactly what is defined as *universality* (see Kramer, 2007).

In addition to the universality of rights, the HRBAD is explicitly based on some substantive and procedural principles for development efforts. Importantly, it is based on the Universal Declaration of Human Rights and the core human rights treaties, and implies four main obligations for the states to "respect", "protect", "promote", and "fulfil" human rights. As the Mas-stricht Guidelines put it, the obligation to *respect* requires states to refrain from interfering with the enjoyment of rights. Thus, the right to housing is violated if the state engages in arbitrary forced evictions. *Protecting* human rights requires the state to prevent violations of human rights by third parties and even provides redress for their interference (Shue 1980). To promote human rights requires campaigns to alter attitudes and behaviour of people in lifestyle, nutrition, harmful traditional practices, etc., for example by human rights education, healthcare training, research, and dissemination of information. The obligation to *fulfil* requires states to take different appropriate positive measures in ensuring the full realisation of human rights (Marks 2005; Shue 1980).

The HRBAD emphasises that the process of development is as important as the result achieved. Procedurally, this approach offers four main principles including accountability, participation, non-discrimination, and empowerment. The principle of accountability is intrinsic to the HRBAD. This approach supports accountability to all stakeholders. It is critical to understand who is responsible and what actions might be taken when a right is violated. Participation is another procedural principle which lies at the heart of the HRBAD. It is both a means and a goal. In all stages of development participation should be active, free, and meaningful. It requires that all stakeholders including the general public, government, civil society, private sector actors, and donors, both bilateral and multilateral, become involved in the decision-making process. As for the principle of non-discrimination, the HRBAD focuses on and prioritises poor, disadvantaged, marginalised, and excluded groups. Enhancing empowerment of both rights-holders to claim their rights and duty-bearers to meet their obligations is an important implication of the HRBAD. This approach empowers the beneficiaries of development to be actively engaged in the process of development.

National human rights action plans: putting the HRBAD into practice

At the empirical level, the question of how to put the HRBAD into practice is the biggest challenge confronting advocates of human rights and development (Hamm 2001; Robinson 2004). As Ife (2009) puts it, theory and practice in the human rights discourse are usually seen as binary oppositions, such that is not possible to have both at once. You are either a theoretician or a practitioner. It is unfortunate that:

> "the human rights field has been neatly and simplistically divided into two groups: the theorists, who write learned articles in journals about the finer points of philosophy or jurisprudence, and the activists, who seek to prevent human rights abuse." (Ife 2009, 206)

Hesse and Post (1999, 23) believe that:

> "We will have to efface these old distinctions and to strive for a fundamental rapprochement between academic disciplines and the human rights community. We will have to yoke the disinterested scholarship of the former to the moral and practical urgency of the latter. This will not be easy, but there is no alternative if we are to devise innovative and effective strategies to intervene in the new world order we now confront."

This split has also affected the HRBAD. Most critics who dispute the feasibility of the HRBAD argue that this approach is currently at the risk of becoming rhetorical (Hansen and Sano 2006). As Robinson (2004, 866) states, *"problems of precision in how human rights standards can be applied in different policy making situations remain"*. Hamm (2001, 1022) aptly suggests that, *"the conceptual framework of a human rights-based approach to development needs to be supplemented by a practical framework that proposes adequate steps to be taken"*. To put different principles and standards of this approach into practice, countries need to be armed with a roadmap which offers clear direction for taking practical steps in a comprehensive and coherent way in coordination with the country's circumstances. NHRAPs can and increasingly do provide such a roadmap. To give effect to the HRBAD requires addressing and elaborating the idea of developing a NHRAP, as recommended in the Vienna Conference. The 1993 World Conference on Human Rights recommends each state to draw up a NHRAP identifying steps whereby each state would improve the promotion and protection of human rights (Part II, Para 71).

Prior to this, in 1989, the ICESCR General Comment 1 stressed the *"obligation 'to work out and adopt a detailed plan of action for the progressive implementation' of each of the rights*

contained in the Covenant". Hence, each state that has ratified the ICESCR has the obligation to develop a NHRAP for all the rights set forth in the Covenant (Chalabi, 2014b). Likewise, in general comments 4, 12, 13, 14, 15, 18, and 19, each state is obliged by the committee to adopt a NHRAP with respect to certain rights, i.e., for housing, food, education, health, water, work, and social security, respectively.

A NHRAP is a public document that places human rights in the context of public policy and seeks to improve the state of human rights of a country within a certain timeframe. It should outline achievable human rights-based developmental goals through practical measures, based on each country's historical, social, political, cultural, economic, and legal circumstances.

Up to now, 30 countries such as Sweden, Australia, China, Malawi, Kazakhstan, Latvia, Brazil, and Indonesia have formulated their own action plans in accordance with the Vienna Conference. However, the major challenge surrounding NHRAPs is that neither the Vienna Declaration nor the ICESCR has precisely prepared a clear theoretical foundation for the NHRAPs. As a result, the current status of the NHRAPs is somehow theoretically debased. Most of the states that already have developed a NHRAPs, applied their own political ideology as "planning theory" in their plans. For example, the introduction of the *National Human Rights Action Plan of China (2012–2015)* as one in a socialist country explicitly holds that the plan was formulated in accordance with two guidelines, namely Deng Xiaoping Theory and the Three Represents. As another example, the preamble to the *National Plans of Action for the Promotion and Protection of Human Rights of Indonesia* states that "*Indonesia's commitment to the promotion and protection of human rights in the entire Indonesian territory is derived from Pancasila (Five Pillars) …* ". Sweden, a social-democratic country, is another example. It defines human rights in its second action plan (2006–2009, 8) as "*the rights that states guarantee the individual through international agreements with a view to protecting her from encroachments of basic liberties, from different types of violations and to meet her basic needs*".

Accordingly, different existing NHRAPs have included different lists of human rights and the idea of human rights in the existing NHRAPs is more selective and ideological rather than universal and inclusive (See Chalabi, 2014a). Although most human rights problems are subject to diverse causal explanations associated with each country's specific circumstances, and as the Committee on Economic, Social, and Cultural Rights in General Comments No.4 (Para 12), No. 12 (Para 21), No., 14 (Para 53), and No.16 (Para 32) holds, each state has a margin of discretion in finding "*the most appropriate feasible measures to implement human rights*" consistent with each country's circumstances, this is out of discretion of the states to select and mean 'human rights'. Instead of including all kinds of *human rights* as set forth in international human rights instruments, most of the current NHRAPs are reflections of different political ideologies. These plans are no more than a window-dressing devoid of the idea of universal human rights. This problem is, at least partly, rooted in the fact that the current concept of NHRAPs in the international human rights discourse is somehow based on the traditional concept of planning which was the predominant model of planning during the 1960s, 1970s, and even 1980s.

Traditionally, planning is conceived as a theory-neutral activity. This model of planning has been criticised for being state-sponsored (Alexander 1995; Allmendinger 2009). As Tomuschat (2008, 97) argues:

> "although the State is on one hand reckoned with as the indispensable guarantor of human rights, historical experience has also made clear that the State may use the sovereign powers at its disposal to commit violations of human rights, even crimes that would be under normal circumstances be recognized as punishable offences."

In doing so, they usually resort to their political ideologies and that is why there is a huge difference sometimes between what is set forth as human rights by the states in their NHRAPs and what is embodied as human rights in international human rights instruments. Hence NHRAPs would sometimes be nothing more than worthless scraps of paper or convenient screens for the delinquent states to hide behind.

To protect NHRAPs from the ideological orientation of the states and insulate them from political interests, it is necessary to move on with a modern concept of planning. According to a modern concept of planning, every act of planning should be grounded in a planning theory to guide both the content and the process of planning (Friedmann 2011). As Campbell and Fainstein (2001, 3) argue, selecting a planning theory is the critical part of every planning: "*if done poorly, it discourages and stifles; but if done well, it defines the field and drives it forward.*"

However, remarkably little has been written on the NHRAPs at the academic level. There is almost no academic literature on NHRAPs discussing different facets of them, including their theoretical base. Here, an effort is made to bridge between the HRBAD on a theoretical level and NHRAPs on a practical level in order to not only provide a practical tool for operationalising HRBAD but also prepare a conceptual framework as guidance for developing, implementing, monitoring, and evaluating NHRAPs. While the HRBAD can lay a conceptual base for the NHRAPs and inform what the content and process should be, the NHRAPs can identify practical steps for putting the HRBAD into practice in a way consistent with each country's needs, resources, and circumstances. The SPMD is offered in the next section, intended to help translate different principles of the HRBAD into NHRAPs.

A substantive-procedural matrix of development

To translate the HRBAD into NHRAPs, the whole conceptual space of the human rights-based development is depicted in a matrix format – the Substantive-Procedural Matrix of Development (SPMD). Using NHRAPs as a roadmap to development, this matrix must be reflected into such plans. It contains 160 cells. It is arranged in four columns which indicate the procedural principles of rights-based development, and 10 rows that portray the substantive principles of development. To implement human rights at the national level, each state requires finding the most appropriate means consistent with country's needs and resources. Appropriate means including legislative, judicial, educational, social, and administrative measures should be used in order to satisfy the four types of obligations to respect, protect, promote, and fulfil human rights.

NHRAPs should be comprehensive. As remarked already, the HRBAD is based on the Universal Declaration of Human Rights (UDHR) and the core international human rights treaties including:

- International Covenant on Economic, Social, and Cultural Rights 1966 (ICESCR)
- International Covenant on Civil and Political Rights 1966 (ICCPR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED)
- Convention on the Rights of Persons with Disabilities (CRPD)

These are the nine core international human rights treaties that, at a minimum, must be addressed through NHRAPs. Nevertheless, this list can be extended to other human rights treaties and declarations, such as the Declaration on the Rights of Indigenous Peoples and the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Each state that has ratified the human rights conventions therefore has the obligation to implement all the rights set forth in these conventions. As the Committee on Economic, Social, and Cultural Rights notes, in General Comments No. 13 and 14, "all human rights" embodied in human rights conventions impose different types or levels of obligations on the states, namely the obligations to respect, protect, promote, and fulfil. This includes both civil and political rights as well as economic, social, and cultural rights (Shue 1996). All these obligations require taking measures/steps which should be expressly stated in the NHRAPs. These measures must be consistent with the economic, social, cultural, and political situations of the country concerned. As the matrix indicates, according to this approach, the *process* is as important as the *result*. Procedurally, human rights-based development rests on four key principles of participation, accountability, empowerment, and non-discrimination. It should be noted that the obligations to respect, protect, promote, and fulfil must be satisfied in line with the application of these four procedural principles (Figure 1).

Each human rights convention includes various rights and each right covers 16 different cells of the matrix: respect, protect, promote, and fulfil in line with participation, accountability, empowerment, and non-discrimination. Nonetheless, each country has a different starting point and thus a NHRAP must be tailored to the circumstances of the country concerned. But wherever that starting point may be, for every one of the rights embodied in the conventions, each state must formulate 16 different sets of concrete measures consistent with country's circumstances.

An example of using the SPMD

Having presented this approach and matrix, let me take the right to health, set forth in the ICESCR, as an example to demonstrate the utility of this matrix for developing a NHRAP. To this end, according to the matrix, I need to provide some illustrative measures/steps for four substantive obligations in line with four procedural principles. Needless to say, the following measures are just for the sake of illustration (and not suggestion). Let me start with the obligation to respect.

A: Respect

As far as the obligation to respect is concerned, the state of our hypothetical country should take all the necessary steps/measures to ensure that the state sectors refrain from any interference, either legislative or non-legislative, which would:

(1) prevent those who are affected (such as disadvantaged people, health workers, patients, communities) from participation in health-related policy-making or, on the other hand, from any interference which may lead to state monopoly in the production and distribution of drugs which is a sort of administrative corruption. This is the obligation to respect in the line with the principle of participation (respect/participation).

(2) limit or deny the accountability of those who are in charge of medicine quality control (respect/accountability)

(3) cause the state's red tape to prevent patients or disabled people from being helped by the public and the community (respect/empowerment)

Substance		Process			
		Participation	Accountability	Empowerment	Non-discrimination
UDHR	Respect				
	Protect				
	Promote				
	Fulfil				
ICCPR	Respect				
	Protect				
	Promote				
	Fulfil				
ICESCR	Respect				
	Protect				
	Promote				
	Fulfil				
CEDAW	Respect				
	Protect				
	Promote				
	Fulfil				
CAT	Respect				
	Protect				
	Promote				
	Fulfil				
CRC	Respect				
	Protect				
	Promote				
	Fulfil				
ICRWM	Respect				
	Protect				
	Promote				
	Fulfil				
CPED	Respect				
	Protect				
	Promote				
	Fulfil				
ICERD	Respect				
	Protect				
	Promote				
	Fulfil				
CPRD	Respect				
	Protect				
	Promote				
	Fulfil				

Notes: UDHR = Universal Declaration of Human Rights; ICCPR = International Covenant on Civil and Political Rights; ICESCR = International Covenant on Economic, Social and Cultural Rights; CEDAW = Convention on the Elimination of All Forms of Discrimination against Women; CAT = Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; CRC = Convention on the Rights of the Child; ICRWM = International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; CPED = International Convention for the Protection of All Persons from Enforced Disappearance; ICERD = International Convention on the Elimination of All Forms of Racial Discrimination; CRPD = Convention on the Rights of Persons with Disabilities

Figure 1.   A substantive-procedural matrix of development (SPMD).

(4) curtail non-discriminative treatments to rights-holders, such as non-discriminatory practices relating to women's health status and needs, and repair all the discriminative laws in the field of healthcare (respect/non-discriminative).

B: Protect

The obligation to protect, as another part of the matrix, requires the states to prevent third parties from interfering with the right to health. For example, in the case of health care, states should adopt legislation or other measures to ensure that:

(1) privatisation does not constitute monopoly and a threat to the availability, accessibility, acceptability, and quality of healthcare facilities, and ensure that third parties do not limit people's access to health-related information and services, including environmental health (protect/participation)

(2) health professionals and physicians are held accountable to patients for any acts that may be harmful to the enjoyment of the right to health, for example, breach of the principle of confidentiality in the patient visit (protect/accountability)

(3) any opportunities for mistreatments by third parties in health related affairs (e.g., mistreatment of doctors and nurses with patients in psychiatric hospitals or guardians with elderly and disabled peoples) are removed (protect/empowerment)

(4) any discriminative orientation in health services by private sectors is removed, that is to say, not race, creed, or social standing can come between health care providers such as doctors and their duties to their patients (protect/non-discriminative).

C: Promote

The next obligation is the obligation to promote. As for this obligation, the state should identify appropriate/step measures to:

(1) encourage people to make use of social media such as online forums, including advice from peers in order to involve them in the dissemination of medical and hygienic knowledge (promote/participation)

(2) make sure that those who are in charge of health-related issues such as doctors are accountable to observe the informed consent principle, that is to say, to instruct patients on the risks and benefits of evaluations or tests, treatments, or medications prescribed, and procedures or surgeries performed (promote/accountability)

(3) provide information and counselling on health-related issues, such as HIV/AIDS, domestic violence or the abuse of alcohol, drugs, and other harmful substances. Access to information and training are in principle empowering. Lack of access to basic healthcare information is a major contributor to avoidable death and suffering (promote/empowerment)

(4) ensure that all health awareness training are provided to all, in particular to disadvantaged people (promote/non-discrimination).

D: Fulfil

The obligation to fulfil, in the case of healthcare, requires the states to adopt appropriate legislative, administrative, budgetary, judicial, promotional, and other measures to fully realise the right to health. For example, states should:

(1) adopt appropriate measures to widen participation of all stakeholders including medical experts, health workers, patients, and communities in the process of health-related policy-making in order to achieve excellence in care for all patients (fulfil/participation)

(2) establish or improve feedback and grievance redress mechanisms in healthcare, to foster accountability (fulfil/accountability)

(3) provide health facilities for disabled people to empower them to take control of their lives, for example, transportation services for people with disabilities (fulfil/empowerment)

(4) upgrade equal access for all in particular disadvantaged people to the underlying determinants of health, such as safe and nutritious food, sanitation, clean water, and affirmative action programmes (fulfil/non-discrimination).

The SPMD can be employed in different phases of NHRAPs including situation analysis, developing, implementing, monitoring, and evaluating. All social planning, including NHRAPs, begins with a *situation analysis* (baseline study). To diagnose the human rights problems in a country, this matrix can be applied as an image of the desired state (a basis for analysis) compared to which, countries can identify their human rights problems. An image of the desired state can facilitate deeper understanding of current human rights problems. To *develop* and *implement* NHRAPs, this matrix can act as a point of reference indicating which rights should be included in a NHRAP (content) and how these rights should be realised (process). It also provides both substantive and procedural criteria for monitoring and evaluating NHRAPs. These criteria can be used for designing both quantitative indicators and qualitative benchmarks. Quantitatively, this matrix can be used for constructing a composite index of human rights-based development. Furthermore, this matrix can be utilised as a heuristic device, especially in case-oriented studies and comparative inquiries for policy-making and policy analysis at different levels, from the community level to the country level. Likewise, it can be used in the form of a yes-or-no checklist to compare and assess different existing NHRAPs indicating how many cells have been covered by the plans and monitor the progress of each country over time.

Conclusion

The HRBAD is grounded in the normative framework of human rights and hence advocates the application of human rights logic in development thinking, both within cultures, at the local level, and across cultures, at the national level, and also across nations, at the global level. The policy implication of this approach is to enhance rights-holders' capacity to claim their rights and upgrade duty-holders ability to meet their obligations to respect, protect, promote, and fulfil human rights, as set forth in international human rights instruments, which are all inalienable, universal, and interrelated. To launch this policy requires a comprehensive practical roadmap to development aiming at offering concrete steps for realising human rights in a coherent manner consistent with each country's needs, resources, and circumstances.

To this end, I have attempted to bridge between the HRBAD at the theoretical level and the NHRAP at the practical level in order to not only provide a practical tool for operationalising the HRBAD but also prepare a conceptual framework as guidance for developing, implementing, monitoring, and evaluating NHRAPs. The HRBAD can provide a flexible theoretical framework for the NHRAPs and inform what the content and process should be, and the NHRAPs can identify practical steps for translating the human rights principles into practice. While the biggest objection to the HRBAD is that it is at the risk of becoming rhetoric, the main objective of a NHRAP is to move human rights activity from the realm of idealism and rhetoric into the realm of practice. There is, therefore, a definite need to make a connection between NHRAPs, at the practical level, and the HRBAD, at the theoretical level. To do so, this article for the first time has depicted the whole conceptual space of the HRBAD into a matrix called the SPMD. To embark on a road towards human rights-based development, each NHRAP should address all cells of the matrix showing precisely how it is to respect, protect, promote, and fulfil all the rights set forth in the universal declaration of human rights and the international human rights treaties through participatory, accountable, empowering, and non-discriminative processes.

The SPMD as a heuristic device provides a theoretical framework for countries to develop, implement, monitor, and evaluate their action plans on the way towards human rights-based development. To operationalise the HRBAD, each NHRAP must cover all cells of the matrix. Those who are involved in developing NHRAPs need to move ahead cell by cell across each row and indicate exactly how their plan of action is to respect, protect, promote, and fulfil all

the rights set forth in the UDHR, the ICESCR, ICERD, ICCPR, CEDAW, CAT, CRPD, CPED, ICRMW, and CRC in line with the procedural principles of participation, accountability, empowerment, and non-discrimination.

Notes on contributor

Azadeh Chalabi is a Ph.D. Candidate in law at University College London (UCL). Her main research interests are human rights, jurisprudence, sociology of law and the application of systems thinking and fuzzy-set methods in socio-legal studies. She is currently focusing on national human rights action plans and on the ontological status of human rights from critical realist perspective.

References

Alexander, E. R. 1995. *Approaches to Planning: Introducing current Planning Theories, Concepts and Issues*. Luxembourg: Gordon and Breach Publishers.

Allmendinger, P. 2009. *Planning Theory*. New York, NY: Palgrave Macmillan.

Bunge, M. 2006. *Chasing Reality: Strife over Realism*. Toronto: University of Toronto Press.

Campbell, S., and S. S. Fainstein. 2001. "Introduction: the Structure and Debates of Planning Theory." In *Readings in Planning Theory*, edited by S. Campbell, and S. S. Fainstein, 1–15. Oxford: Blackwell Publishing.

CDC (November 2008). "Behind International Rankings of Infant Mortality: How the United States Compares with Europe." Accessed April 22, 2012. http://www.cdc.gov/nchs/data/databriefs/db23.htm

Chalabi, A. 2014a. "Law as a System of Rights: A Critical Perspective." *Human Rights Review* 15 (2): 117–138.

Chalabi, A. 2014b. "The Nature and Scope of States' Obligation to Adopt a National Human Rights Action plan." *The International Journal of Human Rights* (4–5): 391–413.

Cornwall, A., and C. Nyamu-Musembi. 2005. "Why Rights, Why Now? Reflections on the Rise of Rights in International Development Discourse. " *Institute of Development Studies* 36 (1): 9–18.

Daruwalla, N., et al. 2013. "Violence Against Women With Disability in Mumbai, India: A Qualitative Study." *SAGE open, July-September* 2013: 1–9.

Donnelly, J. 1984. "Cultural Relativism and Universal Human Rights." *Human Rights Quarterly* 6 (4): 400–419.

Floyd, R. 2011. "Why we need needs-based justifications of Human Rights." *Journal of International Political Theory* 7 (1): 103–115.

Friedmann, J. 2011. *Insurgencies: Essays in Planning Theory*. London, UK: Routledge.

Hamm, B. I. 2001. "A Human Rights Approach to Development." *Human Rights Quarterly* 23 (4): 1022–1034.

Hansen, J. K., and H.-O. Sano. 2006. "The Implications and Value Added of a Rights- Based Approach." In *Development as a Human Right: Legal, Political, and Economic Dimensions*, edited by B. A. Andreassen, and S. Marks. Massatusets, USA: Harvard University Presso, Chap.3

Hesse, C., and R. Post. 1999. *Human Rights in Political Transitions: Gettysburg to Bosnia*. New York: Zone Books.

Ife, J. 2009. *Human Rights From Below: Achieving Rights through Community Development*. Cambridge: Cambridge University Press.

Kramer, M. 2007. *Objectivity and the Rule of Law*. Cambridge: Cambridge University Press.

Marks, S. P. 2003. "Obstacles to the Right to Development." *Harvard Human Rights Journals* 5 (2–3): 2–23.

Marks, S. P. 2005. "The Human Rights Framework for Development: Seven Approaches." In *Reflections on the Right to Development*, edited by B. Mushumi, A. Negi, and A. K. Sengupta, 257–290. London: Sage Publication.

Miller, D. 2007. *National Responsibility and Global Justice*. Oxford: Oxford University Press.

National Human Rights Action Plan of Indonesia (1998–2003). Accessed September 10, 2013. Available at: http://www.ohchr.org/EN/Issues/PlansActions/Pages/PlansofActionIndex.aspx

National Human Rights Action Plan of China (2012–2015). Accessed November 5, 2012. http://news.xinhuanet.com/english/china/2012-06/ 11/c_131645029.htm

Nussbaum, M. 2008. "In Defense of Universal Values." In *Social Development, Social Inequalities, and Social Justice*, edited by C. Wainryb, J. Smetana, and E. Turiel. London: Lawrence Erlbaum Associates (LEA).

OECD (Organization for Economic Cooperation and Development). 2009a. Health data. Accessed March 23, 2011. www.oecd.org

OECD (Organization for Economic Cooperation and Development). 2009b. OECD Factbook 2009. Accessed March 23, 2011. www.oecd.org

Peet, R., and E. Hartwich. 2009. *Theories of Development: Concepts, Arguments, Alternatives*. London: The Guilford Press.

Reichert, E. 2006. "Human Rights: An Examination of Universalism and Cultural Relativism." *Journal of Comparative Social Welfare* 22 (1): 23–36.

Robinson, M. 2004. "Advancing Economic, Social, and Cultural Rights: The Way Forward." *Human Rights Quarterly* 26: 866–872.

Shue, H. 1980. *Basic Rights: Substance, Affluence, and U.S. Foreign Policy.* Princeton: Princeton University Press.

Shue, H. 1996. *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy.* New Jersey: Princeton University Press.

Talbott, W. 2005. *Which Rights Should Be Universal?*. Oxford: Oxford University Press.

Talbott. W. 2010. *Human Rights and Human Well-being*. New York: Oxford University Press.

Tomuschat, C. 2008. *Human Rights between Idealism and Realism*. Oxford: Oxford University Press.

Turner, B. S., and C. Rojek. 2001. *Society and Culture: Scarcity and Solidarity.* London: Sage.

Uvin, P. 2007. "From the Right to Development to the Rights-Based Approach: How 'Human Rights' Entered' Development." *Development in Practice* 17 (4–5): 597–606.

World Bank. 2010. Accessed March 15, 2011. http://data.worldbank.org/country/united-states