

to Claim our Rights:
livelihood security, human rights and sustainable development

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Contents

Acknowledgements	iv
Glossary of Acronyms	v
Executive summary	vi
Background and objectives	vi
Debates about human rights, livelihoods and sustainable development	vi
A conceptual framework for applying a rights approach to sustainable livelihoods	vii
Closing the circle: linkages between human rights, livelihoods and sustainable development	ix
Conclusion: rights make a difference	x
Final comment: unanswered questions?	xi
1 Introduction	1
1.1 Objectives	1
1.2 Background to the concept paper: challenges and constraints for the World Bank	1
1.3 Guiding questions for the concept paper	3
1.4 Structure of the concept paper	4
2 Contextual background: new approaches to poverty reduction	5
2.1 Assets and livelihoods	5
2.2 Sustainable development	8
2.3 Human rights and development	10
2.4 Requirements of an operational framework	15
3 A conceptual framework for applying a rights approach to sustainable livelihoods	16
3.1 Introducing the framework	16
3.2 Normative level: identification of human rights principles and provisions for sustainable development and livelihood security	18
3.3 Analytical level: rights regimes, institutional structures and channels for the contestation of power	21
3.4 Operational level: identifying entry points for a rights approach to promoting sustainable livelihoods	32
4 Closing the circle – linkages between human rights, livelihoods and sustainable development	36
5 Conclusion: rights make a difference	40
6 Final comment: unanswered questions?	43
Annex 1 Conceptualisations of rights	45
Annex 2 Status of ratifications of the principal international human rights treaties	47
Annex 3 Human rights and livelihoods – the content of the normative framework	48
Annex 4 Empirical issues of rights and livelihoods: illustrative case studies	49
Case study 1 Social mobilisation under Nijera Kori (‘We do it ourselves’) in Bangladesh	49
Case Study 2 Goats, poor women’s livelihood rights and conservation policy in Andhra Pradesh	54
Case Study 3 Women’s reproductive rights in rural Zimbabwe	56
Case Study 4 A rights approach to social protection – the Maharashtra Employment Guarantee Scheme	59
Case Study 5 Feeding local experience into global agreements – civil society advocacy for homeworkers	61
Bibliography	63

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Glossary of Acronyms

AP	Andhra Pradesh (India)
CAT	Convention against Torture & Other Cruel, Inhuman & Degrading Treatment of Prisoners
CBO	Community-Based Organisation
CCF	Common Country Framework
CEDAW	Convention on the Elimination of All forms of Discrimination against Women
CPR	Common Property Resources
CRC	Convention on the Rights of the Child
CSO	Community Service Organisation
DEVAW	Declaration on the Elimination of Violence against Women
DFID	Department for International Development (UK)
EAS	Employment Assurance Scheme (India)
GOI	Government of India
HIPC	Highly Indebted Poor Countries
HR	Human rights
HUGO	Human rights and Governance (DFID Bangladesh project)
IBRD	International Bank for Reconstruction and Development
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
IDA	International Development Association
IDS	Institute of Development Studies (Sussex)
IDTs	International Development Targets
IFAD	International Fund for Agriculture and Development
IHRIP	International Human Rights Internship Programme
ILO	International Labour Organisation
IMF	International Monetary Fund
IUCN	International Union for the Conservation of Nature
MEGS	Maharashtra Employment Guarantee Scheme
NABARD	National Bank for Agriculture and Rural Development (Bangladesh)
NEAP	National Environment Action Plan
NGO	Non-Governmental Organisation
NK	Nijera Kori (Bangladesh)
NRMPA	Natural Resources Management Programme (India)
ODI	Overseas Development Institute (London)
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner of Human Rights
PRSP	Poverty Reduction Strategy Paper
SD	Sustainable development
SEWA	Self-Employed Women's Association (India)
SL	Sustainable livelihoods
SWAp	Sector-Wide Approach
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNRISD	United Nations Research Institute on Social Development
WCED	World Commission on Environment and Development (the Brundtland Commission)
WDR	World Development Report (World Bank)
WIEGO	Women in Informal Employment Globalising and Organising
WTO	World Trade Organisation
ZNFPC	Zimbabwe National Family Planning Council

Executive summary

Background and objectives

The objective of this paper is to explore the potential contribution of a human rights perspective to the development of policies and programmes that strengthen the sustainability of poor people's assets and livelihood security. To achieve this it outlines a conceptual framework for addressing issues of empowerment and poverty reduction, by examining the links between human rights and asset and livelihood security as they relate to the issue of sustainable development.

The particular relevance of developing such a framework relates to the opportunity provided by the World Bank's decision to focus its 2002/3 World Development Report on the theme of sustainable development, as well as the Social Development Department's upcoming Social Development Strategy Paper. In policy terms, therefore, the main focus of the paper is on the specific context of the World Bank.

The first section outlines the objectives of the paper, and highlights the considerable challenges that this task presents.

Section two reviews key elements in human rights, livelihoods and sustainable development debates. This shows that the concepts of livelihoods and sustainable development both require a stronger analysis of power relations, institutions and politics if they are to provide a useful basis for an holistic understanding of development processes. In assessing the potential of a human rights perspective to address this missing dimension, there are a number of unresolved issues relating to the practical integration of a human rights perspective into development interventions. Nevertheless a human rights framework provides a useful entry point for the analysis of asymmetries in power and the institutions that reinforce those relations.

The third section then develops a conceptual framework for the analysis of the human rights dimensions of livelihoods, supported by case study material. This operates at three levels; normative, analytical and operational.

The final section pulls together some of the most relevant issues highlighted by the conceptual framework. It argues that a rights and livelihoods perspective provides the basis for developing a more concrete understanding of social sustainability and, concomitantly, sustainable development. It outlines two propositions for analysing social sustainability from a rights and livelihoods perspective, and identifies missing gaps in the paper that require further elaboration.

The rest of this summary highlights the key points from each section.

Debates about human rights, livelihoods and sustainable development

Assets and livelihoods

The key features of the debates around *assets and livelihoods* are identified as:

- A dynamic view of well-being that takes account of the vulnerability dimension of deprivation;
- An emphasis on the ways in which poor people respond both to risks and to opportunities by deploying a variety of forms of capital assets (commonly categorised as natural, physical, social, human and financial capital).

Organisations such as DFID, OXFAM, and CARE have pursued more elaborate formulations of livelihoods frameworks and sought to develop these as over-arching frameworks for the design of anti-poverty interventions. Such approaches strongly emphasise principles of participation, sustainability and responsiveness, and maintain that this provides a dynamic framework for understanding poor people's context and choices.

Sustainable development

The key features of the debates around *sustainable development* are identified as:

- A broadening definition from a concern purely with environmental/natural capital dimensions to one that incorporates the social, economic and environmental dimensions of sustainability;
- An increasing emphasis on formulations of sustainability that address equity between present and future generations (defined by Sen as ‘development that promotes the capabilities of people in the present without compromising the capabilities of future generations’).

As a concept, sustainable development has rapidly received widespread support from most governments, private businesses and NGOs. At a very fundamental level, the concept has proved invaluable in forcing stakeholders to consider the ‘long term’ – of particular significance for example, when the 3-year PRSP planning horizon is identified as ‘medium-term’. At the same time, the all-embracing nature of the concept of sustainable development means that, beyond its narrow environmental definition, it tends to lack rigour. The fact that it means all things to all people makes it easy to claim that activities contribute to sustainability. As commonly used, social or political sustainability remain easier to define by their absence (breakdown of law and order, riots, civil war) than by their presence. In giving more substance to these concepts, a major challenge, therefore, is to develop a positive agenda for social sustainability. This needs to go beyond the absence of discord and conflict to encompass the development of social capabilities at various levels.

Human rights and development

Key features of the debates around *human rights and development* are identified as:

- The need for conceptual clarity in understanding what human rights are, and how they relate to other rights regimes operating at the international, national and sub-national level
- The importance of understanding the nature of state obligation, especially in relation to economic and social rights. Since the fulfilment of many rights is potentially demanding on public resources, it may not be achievable in the short run. However, the state may discharge this obligation not only through direct provision, but also by adopting an enabling role. In this respect human rights are commonly characterised as giving rise to three types of obligations on the part of states – namely to respect, to protect and to fulfil. The obligation to fulfil in turn gives rise to obligations to facilitate, provide and promote.

One potential limitation of a human rights perspective for promoting policy change concerns its over-riding emphasis on state-citizen relationships as the basis for accountability and ‘obligation’. For instance, recent debates argue that globalisation processes undermine the nation-state’s position as the fulcrum of political accountability. Particularly in the case of so-called ‘collapsing states’, inter-governmental human rights frameworks would appear to have little potential to strengthen poor people’s livelihoods.

However, the globalisation debate is double-edged in relation to rights. When states weaken there are compelling arguments for strengthening international social policy norms and principles to guard against new forms of vulnerability, as well as to enhance people’s capacity to take up new opportunities. In this context, the ‘global architecture’ of UN conventions, declarations and world conference documents provides an internationally legitimised set of agreements on social, economic and political issues. Linked to this is also a significant debate concerning the extent to which non-state actors (corporations, NGOs, international bodies) also should be subject to human rights laws.

A conceptual framework for applying a rights approach to sustainable livelihoods

The conceptual framework proposed addresses the potential contribution of a human rights approach for operational and policy frameworks aimed at strengthening the sustainability of

poor people's livelihoods. The proposed approach operates at three levels: *normative, analytical and operational*.

The normative level

All development organisations operate within normative frameworks, either implicitly or explicitly. At the normative level, the value added of using a human rights approach for operational practice derives from the global legitimacy that human rights have acquired. This has been achieved through extensive processes of international discussion, negotiation and agreement. Originally such processes were predominantly at the inter-governmental level. However, in the 1990s they were strengthened considerably by heavy civil society involvement in the UN conferences (many of which have an obvious link to concerns of sustainable development and livelihoods). The key normative principles that can be derived from human rights, with reference to policy for promoting sustainable livelihoods, are as follows: *human freedom; universalism and equality; the multi-dimensional character of well-being; participation, transparency and empowerment; responsibility and accountability; and sustainability*.

The second crucial component at this level is the human rights texts that provide the substantive rights-based justification for people to secure an acceptable standard of livelihood – that is, one sufficient for dignified living. A human rights and livelihoods matrix identifies from the extensive range of human rights texts those rights that are of particular importance for sustainable livelihoods. The matrix categorises them according to an expanded typology of capital assets drawn from the sustainable livelihood approach (adding the political domain to the five forms of capital assets listed above).

The analytical level

The analytical level elaborates the ways in which poor people's claims are processed into outcomes through multiple structures of authority and control. This requires rigorous analysis of social and political processes that determine the likelihood of poor people's claims being reflected in the definition, interpretation or implementation of rights. It also calls for the identification of social characteristics (gender, citizenship, social status, ethnicity etc.) that empower, or disempower, people in different arenas of negotiation.

This section of the framework proposes methodologies and tools that enable a better understanding of the way that power impacts on the production and reproduction of poverty and insecurity. A rights regime analysis categorises seven different levels of rights which may apply in any given empirical situation – international human rights law, regional structures, national statutory and constitutional law, religious and customary law, and localised 'living law'. This illustrates that while rights regimes operate at different levels, the contents of rights may pass from one level to another, with different levels of authority conferring power on other levels. The analytical agenda also requires an understanding of the differing means by which rights are realised through the operation of the legal system and the allocation of resources and administration of services.

Finally, the political process of contesting claims needs to be recognised. This clarifies where, and how, people contest the definition, interpretation and implementation of rights. A 'channels of contestation' matrix identifies institutional channels, such as the political, legal, policy, administrative, social and private sector, through which claims can be made. It also identifies the types of claim relating to each institutional domain, and the methods of citizen action used to make claims. A range of empirical case studies address key questions. These include how a claim is made; who is making a claim; what is being claimed; and on whom the claim is being made, and the associated nature of the obligation.

The operational level

Providing guidance for development actors who wish to operationalise a rights agenda for sustainable development is a considerable challenge. Given different political and administrative circumstances and constraints, the entry points, or space for action, vary greatly depending not

only on actors but also on the contexts. At the same time, all agencies seeking to strengthen poor people's livelihoods need to analyse different contexts with sufficient rigour if they are to identify the best opportunities, partners and strategies. A provisional checklist of entry points for the introduction of, or support to, a livelihood rights approach is classified according to levels of intervention, ranging from global intergovernmental through to national and sub-national. Each level identifies a number of potential entry points with associated instruments. These include PRSPs for national policy dialogue, and SWAPs for sector policy dialogue. Finally, associated with each entry point are numerous arenas for action. Case study examples illustrate how development agencies have used a rights perspective to develop strategies to strengthen poor people's key livelihood claims.

In practice, the tools proposed need to be adopted in combination with other approaches. Development actors need to make choices as to where to put their efforts, whose claims to support and how to support them. In making decisions as to which claims are most significant for strengthening the long-term capacity of people to attain a satisfactory and secure livelihood a rights analysis can help. But this requires collaboration with a range of other poverty analysis techniques (both quantitative and qualitative), participatory studies and livelihoods analysis.

Closing the circle: linkages between human rights, livelihoods and sustainable development

On the basis of the evidence reviewed, the nexus linking rights, livelihoods and sustainable development can be characterised in terms of two different scenarios, or propositions – based on different perceptions of social sustainability, and providing different channels for a rights/livelihoods framework to enhance the sustainability of development processes.

The first 'minimum' scenario focuses on the absence of negative events, with development processes identified as socially sustainable if they do not provoke or generate destabilising levels of conflict, human insecurity or crime. Economic and social concerns are considered only when they are identified as potential 'threats' to sustainable growth – whether it be violent conflict, climate change, or natural disasters and can be summarised as follows:

- *A human rights approach to public action for livelihood security will enhance sustainable development by reducing social and political risk.*

The underling logic is that a rights/livelihoods perspective enhances social justice, through the application of non-discrimination and emphasis on 'equitable accountability' of the state to all citizens. This increases social sustainability through the *reduction of social risk* which then strengthens the long-term security of livelihoods and the sustainable realisation of economic and social rights. Despite some evidence to support this proposition, it also raises problems including the fact that a rights approach does not necessarily always lessen conflict. In focusing on the negative effects of conflict it ignores the fact that conflict can also have positive outcomes – transformations of social structures are rarely achieved without some form or level of conflict.

The maximum scenario takes a broader view of social sustainability, and is concerned with people's present and future social, political and human capabilities and freedoms. This requires the strengthening of state accountability, transparency and other democratic principles. Human rights play a critical role. Implicit in a growing 'culture of rights' is a historical shift from state and subject relationships based on clientelism and patronage, to state and *citizen* relationships based on political, civil, economic, social and cultural rights – with associated sets of rules governing mutual obligations. It can be summarised as follows:

- *Strengthening the human rights content of public policy creates stronger and more equitable public, civil and community institutions, which in turn increases the capacity to prepare for, and cope with, shocks.*

This proposition emphasises the critical importance that a human rights perspective brings to governance and the formulation of public policy, particularly in terms of openness and transparency, as well as equity and accountability. Emphasis on citizenship fosters capacity for collective action across traditional divisions of class, ethnicity and caste. This ‘maximum scenario’ provides the basis for a positive change agenda – rather than simply viewing social sustainability in terms of its capacity to prevent negative effects.

As with other components of the conceptual framework presented in this paper, this social sustainability ‘scenario building’ is no more than a preliminary first stage that highlights the importance of clarifying the concept of social sustainability.

Conclusion: rights make a difference

Despite the limitations highlighted above, a number of important conclusions are drawn from the conceptual framework, and the case studies used to illustrate different aspects of the links between human rights, asset and livelihood security and sustainable development.

Rights matter – and a framework that focuses on rights helps policymakers to understand the power dimensions of development processes

The conceptual framework is not intended to provide an all-inclusive guide to human rights-sustainable development relationships. It provides the basis for a substantive operational agenda to give meaning to the objective of empowerment, which is a major theme of recent donor policy on poverty reduction. It highlights the fact that:

- The capacity to make claims effectively is a significant livelihood capability for most people.
- Changing rules at a higher level can create opportunities at the micro level.

For poor people to effectively make claims requires a number of complementary strategies and elements including

- Access to information
- Group solidarity
- Development of skills and capabilities: these help in making claims, especially organisational and communication skills
- The help of allies capable of providing advocacy at other levels and in distant institutional domains
- Access to a ‘fair regulator’ capable of assessing competing claims according to rights provisions without being captured by elite groups

Civil society is critical to the success of a livelihood rights approach to sustainable development

Without external assistance the poorest and most marginalised will generally lack the capacity to negotiate effectively for their rights. Effective pro-poor advocacy institutions tend to share key characteristics that include the following:

- A commitment to the empowerment of particular social groups and a capacity to listen to their views and adapt to their priorities and realities.
- An ability to work simultaneously on the same issue at multiple legal and institutional levels (local, national, regional, global), utilising solidarity networks.

The state can act as an enabler of livelihood-related human rights

The role of the state is critical in a human rights framework:

- It is the primary duty-bearer. This does not mean that states always have to provide free services, but are required to promote policies that promote access to these rights through the market, civil society and the state.
- The state can also play a critical role as an enabler of rights acting in dialogue with social movements, and civil and political society. However, these are unlikely to work to the maximum benefit of the poorest, unless they are accompanied by the state's commitment to transform norms and values of public institutions to counteract prevailing forms of oppression and discrimination.
- Good democratic governance is not a necessary condition for the productive application of rights perspectives. Where the state is discriminatory and non-transparent international human rights texts often provide the only framework for citizen's claims for accountability.

Donor agencies can make a difference

In the past decade several major international development organisations have shifted in their approach to use their position to introduce a rights perspectives through government bureaucracies and civil society partnership. Measures include the following:

- Using the leverage that their position provides with partner agencies to promote initiatives that facilitate poor people making claims.
- Using leverage in policy arenas to strengthen the poverty and gender aspects of legal and regulatory frameworks e.g. resource tenure.
- Promoting programmes that enhance the accessibility of the justice system and rights of recourse in the event of discriminatory practice for poor people.

Final comment: unanswered questions?

In writing the concept paper and the subsequent discussion and consultation meetings, critical issues and gaps were raised. Further development of the framework requires additional work on a number of issues which, while listed individually, are highly interrelated. These include:

Market-based freedoms and rights

The exploration of market based rights and entitlements, and the significance of the claims for policy relating to livelihoods and poverty reduction, requires further elaboration.

The potential of the state as an enabler of poor people's rights to livelihood

Cases where the state itself takes a proactive role in processes which affirm and strengthen the rights of the disempowered and marginalised would be valuable in illustrating the conditions under which the state is likely to play an enabling role.

The significance of the conceptual framework for macro policy

Linkages between micro-economic realities and macro-economic policy require more consideration in order to identify their varying implications for the fulfilment of rights to decent and adequate livelihood for different social groups.

Social sustainability

The empirical testing of the relationship between the fulfilment of livelihood-related rights and the sustainability of positive processes of economic, social and political development is another area for potential further work.

A new vision for sustainable livelihoods

In order to pursue further conceptual work on the linkages between the livelihoods approach and human rights, work is needed to better incorporate political dimensions into the sustainable livelihoods framework.

Operational implications for the World Bank

While the World Bank commissioned the concept paper, independent consultants wrote it. Consequently details concerning specific implications of the framework for the Bank's mandate or structure are beyond its remit. Nevertheless it may be helpful to note the following issues:

- Regardless of the Bank's formal governance position with regard to the international normative framework of human rights, it is increasingly drawn into partnerships with international, national and civil society organisations that operate within these norms and values. In order to form the partnerships it needs to achieve its economic objectives, the Bank will need to operate within this framework, and consequently be informed about its content and meaning.
- Some of the issues relating to a rights perspective are global, and refer to the institution as a whole, and therefore need to be determined through its structure of governance. At the same time there are other levels where there is considerable potential mileage for technical and operational staff to adopt a conceptual framework such as the one proposed in this paper.

1 Introduction

1.1 Objectives

The objective of this paper is to explore the potential contribution of a human rights perspective to the development of policies and programmes that strengthen the sustainability of poor people's assets and livelihood security. To achieve this it outlines a conceptual framework for addressing issues of empowerment and poverty reduction, by examining the links between human rights and asset and livelihood security as they relate to sustainable development.

The particular relevance of developing such a framework relates to the opportunity provided by a number of current initiatives. These include the World Bank's decision to focus its 2002/3 World Development Report (WDR) on the theme of sustainable development, as well as the Social Development Department's upcoming Social Development Strategy Paper. In addition it includes the pressing demand for operational tools and techniques to ensure that empowerment – one of three critical pillars of poverty reduction in the WDR 2000/1 (World Bank 2000) – is effectively integrated into development practice.

To develop a logically coherent, comprehensive framework that integrates three separate development domains of human rights, asset and livelihood security and sustainable development, presents tremendous challenges. Taking account of the specific institutional context of the World Bank raises further considerations. This concept paper can only be the first stage in such an endeavour. It is intended to provide the basis for debate, and the development of a further agenda to ensure a strong social development perspective informs both the 2000/1 WDR follow-up work, as well as the conceptualisation of sustainable development, and its associated operational instruments, in the WDR 2002/3.

1.2 Background to the concept paper: challenges and constraints for the World Bank

For the World Bank the introduction of a rights approach to development presents particular challenges relating historically to the Articles of Agreement by which it was established. These state that the World Bank must work 'with due attention to considerations of economy and efficiency and without regard to political or non-economic influences or considerations' (IBRD Articles of Agreement Article III Section 5(b)).

The Articles of both the IBRD and IDA also state that 'The Bank and its officers shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member or the members concerned. Only economic considerations shall be considered' (IBRD Article IV Section 10 & IDA Article V Section 6).

However, the Articles do not define what constitutes 'economic' as opposed to 'political' fields of concern. In his interpretation of the Articles, the Bank's now retired General Counsel, Ibrahim Shihata, defined a factor as 'economic' (and therefore considered to fall within the Bank's remit) if it had a 'direct and obvious' economic effect relevant to the Bank's work (Shihata 1992a, 1992b).¹ This interpretation offered by Shihata asserted that the Articles of Agreement prevent the World Bank from adopting a rights approach to development.²

It is important to emphasise that Shihata's writing is not critical of human rights as such – but is

¹ To have this 'direct and obvious' economic effect the factor would have to be i) clear and unequivocal; ii) preponderant; and – when the issue is associated with political actions or flows from political events - iii) 'of such impact and relevance as to make [it] a Bank concern'.

² Legal scholars working outside the Bank consider that, even using the Shihata test of 'direct and obvious' economic effects, the Bank's leadership has considerable discretion 'to decide what issues to treat as "political" and thus outside their jurisdiction' (Bradlow 1996: 55).

largely concerned with defining the limits of the Bank's mandate. In particular, he argued that although 'there are limits on the possible extent to which the World Bank can become involved with human rights of civil and political nature, the Bank certainly can play, and has played, within the limits of its mandate, a very significant role in promoting various economic and social rights.'(1991, 109)

The World Bank in its contribution to the 50th anniversary of the UDHR reaffirmed this broad interpretation. It argued that an explicit position on human rights was unnecessary, as the Bank promotes human rights on a number of fronts and in a number of ways, without needing to be explicit in its overarching commitment to the totality of human rights principles (World Bank 1998).

- It promotes human rights indirectly, as economic and social rights are fulfilled through economic growth. It emphasises that while development is not possible without human rights, the converse also holds true: human rights are not possible without development. Human rights, then, are to be the ends but not the means.
- It promotes human rights *directly* but in discrete sectors (e.g. in its support for participation, judicial reform, accountability, gender equality, etc).

At the same time the definition as to what counts as 'directly and obviously' economic has expanded, as the Bank has moved from a narrow focus on growth, through basic needs, poverty reduction and social services, to recent concerns with environmental protection, gender issues, and civil society participation. This has the obvious potential for Bank decisions on human rights issues 'to appear to be *ad hoc* and somewhat arbitrary' (Bradlow 1996, 79).

Of particular relevance to this concept paper is the recent identification of 'facilitating *empowerment*' as one of three ways of attacking poverty in the 2000/1 WDR, and its associated recognition of the importance of *political processes* in development (Box 1).

Box 1: Facilitating empowerment and the importance of political processes (WDR 2000/1)

'The choice and implementation of public actions that are responsive to the needs of poor people depend on the interaction on political, social and other institutional processes'

'Achieving access, responsibility and accountability is intrinsically political and requires active collaboration among poor people, the middle class and other groups in society'

Other development institutions that do not face the same statutory constraints as the World Bank have also begun to adopt a rights perspective in their development policies. DFID, for instance, argue that the International Development Targets (IDTs) can only be achieved through the engagement of poor people in the development processes that affect their lives, rather than being the passive objectives of choices. DFID maintains that the human rights approach to development provides the rationale for empowering people to take their own decisions. The objective of its Human Rights Strategy is to enable people to be active citizens with rights, expectations and responsibilities – based on three cross-cutting principles of participation, inclusion and fulfilling obligation (DFID, 2000a, 7). The UNDP Human Development Report provides another example, with its identification of human freedom as the common purpose and motivation of both human rights and human development. While both discourses have distinct traditions and strategies the Report highlights the way the two can reinforce each other to expand people's capabilities and protect their rights and fundamental freedoms (UNDP, 2000, 2).

1.3 Guiding questions for the concept paper

In the light of this complex challenge, the following fundamental questions constitute important guiding principles that have influenced the structure of this concept paper and the framework it proposes:

- *Why is a rights approach to development needed?*

Since development policy and practice has achieved much success without adopting a specific rights-based approach, what is the value added of such an approach? Does it add anything new or different, and if so what is the evidence to support this view?

- *Is much of current development policy and practice already implicitly, if not explicitly, based on human rights?*

Without specifically highlighting 'human rights', much of current development policy and practice implicitly, if not explicitly, adopts a rights approach in terms of its focus, emphases and objectives. Among an extensive range of examples the following are widely known. The internationally agreed IDTs, designed to provide milestones against which progress towards the goal of poverty elimination can be measured, were derived from UN inter-governmental processes related to human rights. The endorsement by Southern governments of poverty reduction measures, particularly those operating within the framework of HIPC2 debt-reduction Poverty Reduction Strategy Papers, also reflects a commitment to the principles of fulfilling economic and social rights. The range of policy and programmes initiatives in the World Bank's operational portfolio also shows considerable resonance with human rights concerns (see Box 2).

Box 2: World Bank direct or indirect 'human rights' agendas

Compliance

- Land title issues
- Indigenous people
- Gender disparity

Policy agendas

- Governance
- Corruption
- Judicial reform

Lending programs

- Adjustment lending operations: e.g. Kenya
- Peru Social Reform Loan

Publications

- WDR 2000 /1: Focus on voice, empowerment, participation, transparency, accountability

Source: World Bank various documents

- *Does a rights approach allow the political dimensions of development process to be placed centre stage?*

While economic approaches to development primarily emphasise 'technical' interventions, recent focus on such concerns as accountability, transparency and corruption underscore the fact that politically-related governance processes frequently determine the success of development initiatives. Rights can be understood as claims (of one person or group on another

person, group or institution) that have been legitimised by social structures and norms. An analytical perspective that focuses on the processes whereby claims are made and legitimised – and the conditions under which different social actors can achieve empowerment through building claims and asserting rights – offers a perspective for analysing the power dynamics of development processes. Political decisions based on interest group power are often more critical than bureaucratic decisions based on technical information in the implementation of development initiatives.

1.4 Structure of the concept paper

The concept paper is divided into four parts. First, by way of background it provides a brief summary of some of the most important contextual issues relevant to each of the three development domains – asset and livelihood security, sustainable development, and rights and development. This highlights common themes, and identifies the rationale for the development of a conceptual framework linking the three together. Second, the paper outlines a conceptual framework that distinguishes between normative, analytical and operational levels. Third, as an outcome of the framework, it ‘closes the circle’ by illustrating the linkages between human rights, livelihoods and sustainable development. Finally, the conclusion briefly summarises the extent to which rights makes a difference, and identifies areas for potential further work.

2 Contextual background: new approaches to poverty reduction

This section provides a ‘thumbnail sketch’ of the three predominant domains of development theory and practice. It highlights the remarkable overlap that exists between their conceptualisations of capital assets, analytical focuses in terms of vulnerability, entitlements and claims, and overall objectives for poverty reduction associated with sustainable development. In each case, it seeks to assess the extent to which ‘political’ as against ‘technical’ processes are emphasised.

2.1 Assets and livelihoods

Background: poverty, vulnerability, risks and assets

In the past decade the World Bank has shifted its approach to attacking poverty from the so-called ‘two and a half legs’ of labour intensive growth and human capital, with safety nets as the poor relation, to the three legs of opportunity, empowerment and security – with all three deemed equally important. Drawing heavily on the extensive poverty debates of the past decade, it acknowledges the widely held distinction between poverty as a static concept, and vulnerability as a dynamic one.³ The issue of risk is at the core of this poverty focus, with insecurity defined as the exposure to risk, while vulnerability is the resulting possibility, or outcome, in terms of a decline in well-being (World Bank 2001, 135).

Analysis of vulnerability involves identifying not only the risks (or threats) but also the resilience in resisting or recovering from the negative effects of a changing environment. The means of resistance are the *assets* and *entitlements* that individuals, households and communities can mobilise and manage in the face of hardship. Vulnerability is therefore closely linked to asset ownership. The more assets people have the less vulnerable they are, and the greater the erosion of people’s assets, the greater their insecurity (Moser 1998, 3). From the extensive debate on capabilities, assets, entitlements and endowments, as the following sections will demonstrate, a growing consensus is emerging with regard to the identification of the important capital assets of the poor, identified in terms of five types – physical, financial, human, social and natural (see Box 3).

Definition

The Sustainable Livelihoods (SL) approach is a framework that incorporates concepts of assets, capabilities and entitlements in recent analytical work around this issue.⁴ Here livelihoods are commonly defined as comprising the capabilities, assets (including both material and social resources) and activities required for a means of living. A livelihood is identified as sustainable when it can cope with and recover from stresses and shocks and maintain or enhance capabilities and assets both now and in the future, while not undermining the natural resource base (Chambers and Conway 1992, Carney 1998). Because of its robustness as an operational tool that can assist project staff working on poverty reduction, the SL framework has gained popularity among bilaterals such as DFID and international NGOs such as CARE and OXFAM.⁵ As such the framework’s importance relates as much to the operational processes that it proposes as to its analytical conceptualisation, as briefly summarised below:

³ See, for instance, Baulch (1996), Chambers (1992), Davies (1993), Devereux (1993), Maxwell and Smith (1992) and Moser (1998).

⁴ Along with those cited above see in particular Scoones (1998) and Carney (1998).

⁵ For a comparison of the differences in use of livelihood approaches between DFID, CARE, Oxfam and UNDP, see Carney *et al* (1999).

Box 3: Definition of capital assets

Physical capital (also known as *produced* or *man-made capital*) comprises the stock of plant, equipment, infrastructure and other productive resources owned by individuals, the business sector or the country itself.

Financial capital: The financial resources available to people (savings, supplies of credit)

Human capital includes investments in education, health, and the nutrition of individuals. Labour is a critical asset linked to investments in human capital; health status determines people's capacity to work, and skill and education determine the returns from their labour.

Social capital is defined as the rules, norms, obligations, reciprocity, and trust embedded in social relations, social structures, and societies' institutional arrangements, which enable its members to achieve their individual and community objectives. Social capital is embedded in social institutions at the micro-institutional level – communities and households – as well as referring to the rules and regulations governing formalised institutions in the market-place, the political system, and civil society.

Natural capital includes the stocks of environmentally provided assets such as soil, atmosphere, forests, minerals, water and wetlands. In rural communities the critical productive asset for the poor is land; in urban areas it is land for shelter.

Sources: Carney, 1998; Moser 1998; Narayan 1997; Serageldin 1996.

Key Issues

The Sustainable Livelihood programme, as developed by DFID, contains a number of core principles that underpin the sustainable livelihood approach. These include a people-centred approach; a responsive and participatory way of working; sustainability; working at multiple levels and in partnerships; and dynamism – responding flexibly to changes in people's situation (Ashley and Carney 1999, 7).

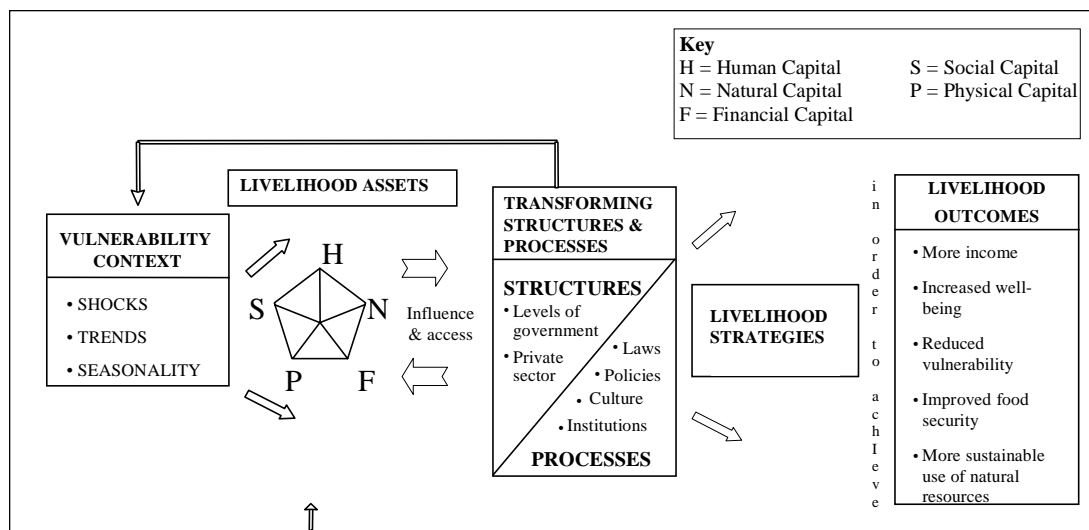
The livelihood approach seeks to gain an accurate and realistic understanding of people's strengths (assets or capital endowments) and how they endeavour to convert these into positive livelihood outcomes. The approach is founded on a belief that people require a range of assets to achieve positive livelihood outcomes, with no single category of assets on its own sufficient to yield all the many and varied livelihood outcomes that people seek (DFID 2000b, 5). This is particularly true for poor people who have limited access to any single category of assets and therefore have to manage a complex asset portfolio (Moser 1998).

The livelihood framework identifies five core asset categories or types of capital upon which livelihoods are built (see Figure 1). In the SL framework these are presented in the shape of a pentagon – a five-axis graph on which access by different groups or households to each different types of asset can be plotted (Carney 1998).⁶ The pentagon is identified as a useful starting point for debate about suitable entry points, how these serve the needs of different social groups, and the likely trade-offs between different assets. It forces users to think holistically rather than sectorally about the basis of livelihoods, and to start with an analysis of strengths rather than weaknesses.

While the framework is built around capital assets it also requires analysis and understanding in many other areas (see Figure 1). These include the *vulnerability context* in which assets exist (the trends, shocks, and local cultural practices which affect livelihoods), as well as the *structures* (organisations from government through to the private sector) and *processes* (police, laws, rules of the game and incentives) that define people's livelihood options. Structures and processes determine who gains access to which types of assets; markets and legal restrictions for instance have a profound influence on the extent to which one asset can be converted into another type of asset (Carney 1998, 9).

⁶ The shape of the pentagon can be used to show schematically the variation in people's access to assets. The idea is that the centre point where the lines meet represents zero access to assets, while the outer perimeter represents maximum access to assets.

Figure 1: Sustainable livelihood framework



Source: Ashley and Carney 1999, 5.

As defined above, the notion of sustainability is key to the livelihoods approach. In their *Guidance Sheets*, DFID define livelihoods to be sustainable when they are resilient in the face of external shocks and stresses; are not dependent upon external support (or if supported this should be economically and institutionally sustainable); and maintain a long-term productivity of natural resources that do not undermine the livelihood.

Strengths and limitations⁷

The strengths of the approach are that it aims to reflect the complex range of assets and activities on which people depend for their livelihoods. As such it provides a framework for addressing the whole range of policy issues relevant to the poor, not just access to health and education, but also issues of access to finance, markets, and personal security. It emphasises sustainability, and the need for a people-centred and participatory approach, responsive to changing circumstances, and capable of working at multiple levels from the national to the local, in partnership with public and private sectors.

Its limitations include the fact that it tends to be stronger on micro detail than on micro-macro policy linkages. Of particular significance for this concept paper is the criticism that it does not address issues of politics, power and authority. Despite its identification of 'structures' and 'processes', the SL framework tends to focus more on the technical nature of development. This calls for rigorous social, economic and political analysis with particular emphasis on the ways in which power relations produce and reproduce deprivation. The fact that this critical dimension is not strongly addressed in the framework significantly weakens its claim to be (on its own) a holistic analytical approach.

Since the livelihood approach is based on the premise of sustainability it is important to describe briefly the extent to which it is synonymous with the concept of sustainable development.

⁷ See Norton and Foster (2001) for further elaboration. The discussion builds heavily on the review of the experience of DFID in operationalising a livelihood framework provided by Ashley and Carney (2000).

2.2 Sustainable development⁸

Definition

In a sense, the goal of sustainability is implicit in all development discourse, in so far as development strategies aim to deliver benefits which can be enjoyed not just for a brief period but in perpetuity. At a generic level, the concept of sustainable development implies no more than that improvements should be achieved by increasing dividends, rather than by running down capital stocks (whether that capital is natural, human, produced or social). However, sustainability has often been assumed rather than addressed explicitly.

The idea of the sustainability of natural resource use dates back to the nineteenth century, when foresters attempted to set sustainable yields of timber. Yet it was only in the 1960s and 1970s that governments and citizens began to reassess assumptions regarding the continued availability of natural resources and the capacity of the natural environment to absorb the harmful by-products of industrial, mass-consumption society. It was found that conventional economics was rather poor at pricing finite goods or environmental externalities (e.g. the costs of pollution). Recognition of the finite nature of natural resources led to the emergence of national environmental movements and, a little later, to a more international environmentalism and a more formal conceptualisation of sustainable development. The definition of the problem of environmental sustainability has changed over time, with emphasis shifting from population growth to patterns of economic activity and levels of resource consumption. These shifts have reflected both a greater concern with the integration of environmental sustainability and social justice and, to a lesser extent, changing understandings of how natural systems work.⁹

This legacy can be seen in the range of recent definitions of sustainable development (see Box 4), which can be divided broadly into those that emphasise sustaining the environment, and those that look to sustain human systems as well. In an early reference, the 1980 World Conservation Strategy prepared for UNEP by the IUCN first defined conservation in terms of preserving resources for future generations (Mather & Chapman 1995). However the 1987 World Commission on Environment and Development (Brundtland) Report most famously expressed this broader definition of sustainable development. This shifted the emphasis in the definition of sustainability to include economic and social as well as environmental aspects, through the notion that the satisfaction of needs in the present should not encroach upon the ability of future generations to satisfy their needs (WCED 1987). Pearce *et al* (1989) subsequently couched their definition almost entirely in economic and social terms, with no explicit mention of the conservation of natural resources or ecosystems. Finally, Sen has recently re-defined the concept of social development in terms of capabilities.¹⁰

In addition to these explicit definitions, sustainable development has been invoked in policies and programmes from the global, through national, to the local level. Here, too, the implicit meaning of sustainability has broadened. While the term sustainable development still primarily

⁸ This section draws on a background briefing by Wiggins and Farrington (2001).

⁹ Early writings on global environmentalism often prescribed draconian limitations on the rights of those in the developing world to pursue a standard of living equal to that enjoyed in the developed world - a position not unreasonably likened to one of the rich pulling the ladder up behind them. Recently, scientists have come to question the value of the concept of an equilibrium steady state with regard to many aspects of the natural environment (see Wiggins and Farrington 2001).

¹⁰ All these definitions could be criticised for positing an idealised image of reality, in their implication that *no* future generation should suffer a standard of needs-satisfaction lower than that of the present. In practice, development for any given country, or group, proceeds through periods of improvement, alternating with periods of slowdown or reversal (Markandya 2001). A more dynamic understanding of sustainability is provided by Chambers and Conway's definition of sustainable livelihoods (cited above), which recognises that progress may not be 'monotonic'. Recognising that stresses and shocks cause setbacks along an overall upward trajectory, this sustainable livelihood approach defines sustainability in terms of not only avoiding but also recovering from such shocks. In reality, the authors of the definitions reproduced in Box 4 (with the possible exception of Pearce *et al*) were almost certainly aware of the reality of non-linear progress: the simplified comparison between 'present' and 'future' should be seen more as a heuristic device.

encompasses a focus on the environmental dimension of sustainability (especially at the project level), other dimensions are becoming increasingly important. In the wake of the financial crises and reversal of growth-mediated gains in poverty reduction seen in Asia from 1997, concern with political, economic and social sustainability aspects of national development has grown. This has been captured in development theory by concepts such as social exclusion, social capital and marginalisation, and increased attention to the links between inequality, violence and conflict (Moser and Mcilwaine 2000).

Box 4: Definitions of Sustainable Development

UNEP (1980) World Conservation Strategy: 'the management of human use of the biosphere so that it may yield the greatest sustainable benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations' (cited in Mather and Chapman 1995)

1987 World Commission on Environment and Development (Brundtland) Report: Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. (WCED 1987)

Pearce, Markandya & Barbier: 'We take development to be a vector of desirable social objectives, and elements might include: increases in real income per capita; improvements in health and nutritional status; educational achievement; access to resources; a 'fairer' distribution of income; increases in basic freedoms ... Sustainable development is then a situation in which the development vector increases monotonically over time.' (1989)

Sen: Development that promotes the capabilities of people in the present without compromising the capabilities of future generations (Sen 2001)

Key Issues

A key debate relating to sustainable development concerns what is to be sustained, and why. There is agreement over the general ends of sustainability as the need to conserve and enhance a set of living standards for future generations. As Anand and Sen note, 'There is, in principle, no basic difficulty in broadening the concept of human development to accommodate the claims of the future generations and the urgency of environmental protection' (2000, 2030).

However, differences arise over the specific means by which to achieve this, and the degree to which different types of resource (or capital) are seen as fungible. While economists, such as Solow, maintain the importance of bequeathing a capacity to create well-being (Anand and Sen 2000), others object to the lack of specificity, arguing that there may be particular goods that need to be preserved as such (such as enough stratospheric ozone to protect life against ultra-violet radiation). While these particular aspects are usually seen in terms of environmental goods that allow ecosystems and the biosphere as a whole to function, they could be extended to embrace other items that constitute the minimum conditions for future well-being, such as certain cultural values.

The attempt to resolve this question has led to discussion of the capital stock to be bequeathed to future generations. With the same focus on capital assets as SL, sustainable development debates acknowledge the importance of natural, physical, financial, human and social capital (Munasinghe 1993, Serageldin 1996, Moser 2001). If these were perfectly substitutable, then it would only be necessary to ensure that the sum total of capital stock was not diminished. This would allow current generations the possibility to run down stocks of some capital – most notably non-renewable natural resources – in exchange for the countervailing creation of physical and human capital. This has been termed the 'weak sustainability' position.

In contrast, the 'strong sustainability' position argues that some elements of capital may reach irreducible critical levels, and that specified parts of the any given type of capital stock must be preserved if ecological systems are not to be irreversibly damaged (Pearce *et al.* 1991). Natural capital in particular is likely to be over-exploited and as a consequence irretrievably depleted. By contrast, physical and financial capital tend to be subsidised, while human capital suffers from systematic under-investment (World Bank 2000). Initiatives to measure and value stocks of natural capital and to produce national balance sheets that show how total stocks of capital,

both natural and human, have changed through time, are designed to correct such imbalances (Markandya 2001).

Strengths and weaknesses

As a concept, sustainable development has rapidly received widespread support from most governments, private businesses and NGOs. In its broader definition sustainable development integrates within a holistic framework economic, social, and environmental concerns. Such an integration is also central to the concept of sustainable livelihoods, as described in the previous section. At a very fundamental level, the concept of sustainable development is invaluable in forcing stakeholders to consider the long term. This is of particular importance when, for example, the 3-year PRSP planning horizon, is identified as 'medium-term'.

At the same time, the all-embracing nature of the concept means that, beyond the narrow environmental definition, the concept tends to lack rigour. The fact that it means all things to all people makes it easy to claim that activities contribute to sustainability (McGoldrick 1996). The linkage between sustainable development indicators and those from human development seeks to address this concern, as can be seen in the set of core economic, social and environmental indicators adopted by the international community (IMF *et al.* 2000). As commonly used, social or political sustainability remain easier to define by their absence (breakdown of law and order, riots, civil war) than by their presence. A major challenge in giving more substance to these concepts is to develop a positive agenda for the social dimension of sustainability – so that it means more than the absence of discord and conflict and encompasses the development of social capabilities at various levels.

There is a significant degree of common ground between the conceptualisation of sustainable livelihoods and the social components of sustainable development. Ultimately, however, the two terms require further disaggregation. Sustainable development is more than the sum of many sustainable livelihoods. Sen's conceptualisation of sustainable development as pertaining to inter-generational equity of capabilities provides a powerful linkage with the human rights agenda. A moral argument that recognises equity between the rights of present and future generations is a powerful step towards developing an approach to development, which is sustainable in such terms.

2.3 Human rights and development¹¹

Definition

While the concept of rights has long provoked complex theoretical debates in such disciplines as ethics, law, politics, economics and anthropology, in the past decade it has also come to be included in development debates. Rights are widely characterised as legitimate claims that give rise to correlative obligations or duties.¹² This suggests that to have a right is to have a legitimate claim against some person, group or organisation (e.g. a social or economic institution, a state or an international community). The latter in turn is under an obligation or a duty to ensure or to assist the rights-holder in securing the right. This can be represented according to the following formula: 'A has a right against B in relation to C', where (A) is the rights-bearer, (B) is the duty-bearer and (C) is the object or end of the right.¹³ Critical to this formulation is the implicit requirement of some structure of power or authority that is able to confer legitimacy on the claim being made. The definition, interpretation and implementation of rights are therefore dynamic processes that are inherently political in their nature.

¹¹ This section draws heavily on the background paper prepared by Vizard (2001).

¹² Definitions of rights are given in Scruton (1983) and Waldron (1991). For a useful overview and analysis of rights based theories, see Jones (1994).

¹³ Gewirth (1978) has proposed that all rights fall within the logic of the following formula: 'A has a right to X against B in virtue of Y'.

To identify how rights have been incorporated into development debates, it is necessary to start by distinguishing between rights as a legitimate claim; a system of rights (or a 'rights-regime'); individual rights; and universal human rights (Box 5).¹⁴ (See Annex 1 for more detailed elaboration).

Box 5: Conceptualisations of Rights

Right as legitimate claims: Rights are widely characterised as legitimate claims that give rise to correlative obligations or duties.

Rights regime: A rights regime is a system of rights which derive from a particular regulatory order or source of authority. In a given society several may co-exist – all with distinct normative frameworks and means of formulation and enforcement, for example customary law, religious law and statutory law.

Individual rights: These are subset of right-obligation relationships where the rights-bearer is an individual person; group rights would not fall within this subset of rights.

Universal human rights: This can be characterised as an individual right with a universal domain – that is, an individual right that applies to all human beings equally, irrespective of their membership of particular families, groups, religions, communities, or societies.

Background

In the context of development, the United Nations system for the protection and promotion of human rights is probably the most important rights-regime. The normative basis of the UN system for the promotion and protection of human rights can be characterised in terms of:

- **International legal obligations:** These are a subset of international obligations within formal international law, namely international treaties, international custom and the 'general principles' of international law.¹⁵
- **International ethical/political obligations:** These are a broader set of morally binding international obligations derived from ethical and political statements, declarations, and commitments made at the UN level.

In both cases state and non-state actors have specific obligations to respect, protect and fulfil human rights as well as associated machinery for implementation and enforcement.

The background to the UN's legal competence in human rights is the UN Charter, which, as an international treaty, is legally binding on all state parties who are required to comply with its provisions in good faith.¹⁶ Among the principles and purposes of the Charter is the reaffirmation of faith in fundamental human rights, and the promotion and encouragement of respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

However, it was the Universal Declaration on Human Rights, adopted as a resolution of the UN General Assembly in 1948, that clarified the scope and contents of human rights in the UN Charter. Its 26 Articles lay out details of its basic charter principles of equality and non-discrimination (Articles 1–2), civil and political (CP) rights (Articles 3–21), and economic, social

¹⁴ The theoretical development of the idea of a 'rights-regime', and a typology of different systems of rights (formal / legal / customary / informal etc.) using legal and anthropological criteria, were developed in a background paper by Norton. The characterisations in this paragraph are summary in nature.

¹⁵ International legal obligation in the field of human rights is derived from the three principal sources of international law, which are established in Article 38(1) of the Statute of the International Court of Justice (ICJ) as comprising: (1) International conventions or treaties; (2) International custom; (3) The general principles of law as recognised by civilised nations.

¹⁶ Article 38(1) of the Statute of the ICJ establishes that international treaties express the written consent of two or more states to be legally bound by certain rules, and constitute one of the three primary sources of international law. Under Article 26 of the Vienna Convention on the Law of Treaties, every treaty in force is binding upon the parties to it, and treaty obligations must be performed in good faith, (see Brownlie 1995).

and cultural (ESC) rights (Articles 22–26) (see Box 6). While the Universal Declaration possessed significant moral and political value, it did *not* establish legally binding international legal obligations upon states.

Box 6: A summary of Human Rights

Human rights necessary for survival and dignified living include:

- The rights to life and liberty
- The right to a standard of living adequate for health and well-being of the individual and his/her family
- The right to social protection in times of need
- The right to the highest attainable standard of physical and mental health
- The right to work and to just and favourable conditions of work
- The right to food and housing
- The right to privacy and family life

Human rights also cover those rights and freedoms for human dignity, creativity and intellectual and spiritual development, for example:

- The right to education and access to information
- Freedom of religion, opinion, speech and expression
- Freedom of association
- The right to participate in the political process
- The right to participate in cultural life

They also include those rights necessary for liberty and physical security, for example:

- Freedom from slavery and servitude
- The right to security of person (physical integrity)
- The right to be free from arbitrary arrest or imprisonment
- Freedom from torture and from cruel, inhuman or degrading treatment or punishment

Sources: ODI 1999; Hausermann 1998, 56.

The negotiation process for codifying these human rights into legally binding international treaties began in 1948. A protracted debate ensued before the International Bill on Human Rights (comprising the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966), were both finally achieved in 1976.¹⁷ Other key international treaties in the field of human rights then followed (see Annex 2 for ratification status of the principal international human rights treaties).

Along with these international legal obligations are the provisions adopted by large numbers of governments at international conferences. These represent important international ethical / political commitments and have contributed to human rights standard-setting in recent years. These include the principle that ‘all human rights are universal, indivisible and interdependent and interrelated’ adopted at the 1993 Vienna World Conference on Human Rights.¹⁸

The outputs of these international conferences have been extremely important in converting the aspirations of some of the human rights conventions into a form of strategic agendas that can

¹⁷ This was largely an ideological debate turning on the issue of whether there should be one convention covering all human rights, or two conventions, one for political and civil rights, and one for economic, social and cultural rights. For a general discussion, see Steiner and Alston (1996, 256-275) and Craven (1995, 16-22).

¹⁸ Other relevant international conferences include the International Conference on Population and Development (Cairo 1994); World Summit for Social Development (Copenhagen 1994 and Copenhagen +5 2000); 4th World Conference on Women (1995) and Beijing +5 (2000); World Food Summit (1996); Habitat II (1996); World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001).

be pursued by development agencies and governments. The International Development Targets are one such example of an influential initiative built on the conference agreements to develop a set of global outcome indicators against which 'progress' of international development can be measured.

Key Issues

Translating the normative structure of human rights into concrete and feasible programmes for action raises a number of key issues. Amongst the most important questions are the following:¹⁹

- *Is there a hierarchy of rights?*

While Cold War era debates counter-posed civil and political (CP) against economic, social and cultural (ESC) rights, this dichotomy is less problematic today. The inseparability of the two sets of rights was agreed in Vienna in 1993, with complementarities stressed by practitioners. Thus key debates today concern entry points and sequencing relating to which rights are to be secured first, and to what degree.

- *How to balance individual and collective rights (and responsibilities)?*

Rights are largely assigned to individuals, yet in exercising these rights individuals may impose costs on others. Rights have to be complemented by individual responsibility and the exercise of rights cannot be unbounded when they impose costs on others.

- *Is progressive realisation of rights meaningful?*

Rights may be universal but they are also perceived as expensive. If states as the ultimate duty-bearers are poor, then universal fulfilment is problematic. 'Progressive realisation' means taking deliberate, concrete, targeted and appropriate steps – but with the ensuing risk that ESC rights become largely aspirational. Increasingly, the emphasis in thinking about the fulfilment of rights is on the different forms of state obligation. It is now common to characterise all human rights as giving rise to three types or levels of obligations on states: the obligations to respect, protect and to fulfil – where the obligation to fulfil in turn gives rise to obligations to facilitate, provide and promote. In simple terms, this implies that economic and social rights do not necessarily have to be interpreted as translating into direct claims on the public budget for specific items or entitlements. If policy can more effectively, equitably and sustainably fulfil the right to housing, for example, through appropriate regulatory frameworks (facilitation) than by bankrupting the public budget through a construction programme, then this policy choice is not necessarily incompatible with a rights framework.²⁰

- *What is the role of international and non-state 'duty-bearers'?*

Most rights are expressed at national level, with the state as a prime duty-bearer. But are there also obligations internationally by foreign states to the citizens of another state? The position of NGOs, multi-national companies, and international bodies are complex and contested.

- *Are performance standards necessary for accountability?*

Setting standards is difficult. When they are badly done, they can over-simplify and distort efforts towards meeting a target, without attacking the substance of the issue. A response is to formulate these locally, with participation, so that they represent local aspirations.

¹⁹ For further elaboration of these questions, see ODI (1999).

²⁰ This typology builds on that elaborated by the UN Committee on Economic, Social and Cultural Rights in General Comment 14, 'The Right to the Highest Attainable Standard of Health', UN Doc. E/C.12/2000/4, at paragraph 33 and that developed by the UN Special Rapporteur on the Human Right to Food, whose First Report set out these three levels of obligation upon states relating to all human rights (1987).

■ *Does accountability imply legal recourse?*

Purists argue for legal frameworks, while others argue that over-reliance on law can be counterproductive. Alternatives include various forms of social action, which promote accountability of public bodies against stated obligations and policies through other means. These include scorecards, naming and shaming, as well as advocacy for policies and budget allocations, which favour the implementation of rights.

Strengths and limitations

Much of Section Three of this paper addresses the potential that a human rights approach – and a rights-based *analysis* – can offer to strengthen operational and policy frameworks that address the sustainability and security of poor people’s livelihoods. Essentially this has two dimensions. First is the proposition that rights form a valuable strategic entry point to address the ways in which power imbalances deny the excluded access to the assets necessary for a secure and sustainable livelihood. The second dimension derives from the argument that the international normative framework of human rights provides a valuable framework for strengthening the accountability of institutions (especially state institutions) to deal inclusively and effectively with policy and administrative issues relevant to the livelihoods of citizens.

One potential limitation of a rights approach concerns the *prioritisation* of actions designed to promote sustainable development. The principle of indivisibility is central to human rights – reflecting the fact that civil and political rights mean little without the attainment of economic, social and cultural rights, and *vice-versa*. However, from the perspective of those seeking to identify priorities for action and change, such a position – that there is no ‘hierarchy’ of rights – can appear unhelpful. Section Three argues that understanding the operation of rights regimes as they relate to the capacity of poor people to access opportunities and assets helps to identify and prioritise strategic entry points for action. On its own, however, this is unlikely to be enough. Complementary perspectives for analysing the capabilities needed to attain livelihood security, as in the Sustainable Livelihoods Approach, are also necessary.

Another potential limitation of a human rights perspective for promoting policy change concerns the over-riding emphasis on state-citizen relationships as the basis for accountability and ‘obligation’. For instance, recent debates argue that globalisation processes undermine the nation-state’s position as the fulcrum of political accountability.²¹ In particular, in the case of so-called ‘collapsing’ states, the inter-governmental framework that backs up accountability for human rights would appear to have little potential to strengthen the livelihoods of poor people. However, the globalisation debate is double-edged in relation to rights. When states weaken there are compelling arguments for strengthening international social policy norms and principles to guard against new forms of vulnerability as well as to enhance the capacity for people to take up new opportunities.²² In this context the ‘global architecture’ of UN conventions, declarations and world conference documents provides an internationally legitimised set of agreements on social, economic and political issues (Ferguson 1999).

New perspectives on poverty, human rights and development

The most influential recent focus on human rights and development is closely associated with work on poverty and human rights. Foremost in this field is Amartya Sen, whose work provides a human rights framework for addressing poverty, as well as highlighting the relevance of freedom and human rights to development. Sen’s incorporation of the concepts of entitlements, capabilities, opportunities, freedoms and individual rights into social choice theory has contributed to a paradigm shift towards ‘post-welfarist’ economics. This challenges the view that poverty is irrelevant to the characterisation of fundamental freedoms and human rights. Since well-being includes living with substantial freedoms, human development is also integrally

²¹ Held (1995), Grunberg (1998), Norton *et al* (2000).

²² Brown (1998), World Bank (1999).

connected with enhancing certain capabilities – defined as the range of things people can do and be in leading a life (Sen 2000).

Sen spells out the added value of a rights-based approach to development in terms of claims. Examining the commonalities and differences between human development and human rights, he argues that if human development focuses on the enhancements of the capabilities and freedoms that the members of a community enjoy, human rights represent the claims that individuals have on the conduct of individual and collective agents, and on the design of social arrangements to facilitate or secure these capabilities and freedoms. To quote in some detail:

‘To have a particular right is to have a claim on other people or institutions that they should help or collaborate in ensuring access to some freedom. This insistence on a claim on others takes us beyond the idea of human development. The normative connection between laudable goals and reasons for actions does not yield specific duties on the part of other individuals, collectivities or social institutions to bring about human development. This is where the human rights approach may offer an additional and very useful perspective for the analysis of human development. It links human development to the idea that others have duties to facilitate and enhance human development.’ (UNDP 2000, 21)

2.4 Requirements of an operational framework

Debates about sustainability, livelihoods and human rights overlap in significant ways. They all have potential critical links to approaches for pursuing poverty reduction through development action – the over-riding concern of development assistance at the present time. The challenge for the operational framework developed through this paper is to find synergies and combinations that offer potential for improving the effectiveness of development processes through integrating the strengths of these three approaches.

3 A conceptual framework for applying a rights approach to sustainable livelihoods

3.1 Introducing the framework

As indicated in the previous section, the conceptual framework proposed here builds on the sustainable livelihood approach as a basis for addressing the nature and content of poor people's livelihoods. This does not necessarily assume the superiority of any particular formulation of the livelihoods approach – but refers at a general level to analytical approaches that stress certain basic features. These include the significance of vulnerability in the analysis of poverty and well-being, and the related importance of analysing the assets which are deployed by households and communities in the face of various forms of risk and deprivation.²³

An SL approach is critical to the framework outlined in this section, since it defines a domain of analysis that relates to livelihoods. It also potentially provides powerful support to the analysis of policy aimed at reducing poverty and strengthening poor people's livelihoods.²⁴ However, as previously argued, the sustainable livelihoods approach is not well adapted to the detailed analysis of the operation of power relations – and the ways in which these contribute to the production, and reproduction, of poverty.²⁵

In contrast, a rights perspective provides a robust framework for examining some key aspects of the vertical power relations and institutions that shape people's livelihood capabilities. From a social theory perspective, the concept of power is in essence concerned with any form of asymmetry in human relations. In its traditional forms, political sociology emphasised structural power and the coercive capacity of the state.²⁶ More recent perspectives have emphasised the ways in which power relations can be disguised and coded in most aspects of everyday life (language, bureaucratic cultures and procedures, etc.).²⁷ According to this perspective it is important not to grant too much emphasis to rights, which are only one of many aspects of the exercise of power. As Wilson puts it:

'Rights seek to constrain the flow of power like bottlenecks, by framing power as fixed, confinable and normative, but power leaks out, and flows around rights. Applying this to our subject, we can say that human rights therefore depend on power relations in a given context for their implantation, and accordingly alter forms of governance and the exercise of power.' (1997, 17)

Although a rights-based analysis does not constitute a comprehensive theoretical basis for analysing the dynamics of power, it provides a valuable entry point at two levels. First, negotiations over livelihood-related rights can be seen as arenas of contestation, in which the operation of structures of power and authority are manifested. Thus an analysis of the process by which claims are made and gain legitimacy assists in empirically identifying the operation of structures of power and authority. Second, such an analysis can also guide the identification of strategic operational entry points for supporting the development of secure and sustainable livelihoods for poor people. Both of these justifications for a rights-based analysis are illustrated

²³ The analysis of issues of security in WDR 2000/01, for example, shares these basic features with other key texts (Scoones 1999, DFID 2000b, Ashley and Carney 2000).

²⁴ See Norton and Foster (2001) for a discussion of the possibilities of applying a livelihood approach for policy analysis in the context of Poverty Reduction Strategies.

²⁵ In terms of the DFID formulation, presented in Figure 1, these issues are contained in the 'transforming structures and processes' box. In this context, this paper can be seen as contributing to thinking that 'unpacks' the content of this box.

²⁶ A tradition associated with the work of Max Weber (1978) and in anthropology with the work of traditional 'political anthropology' as represented by Radcliffe Brown (1952). A detailed review of the literature on the concept of power, particularly from a political science perspective, while of critical importance, goes well beyond the remit of this paper.

²⁷ A perspective derived most strongly from the work of Foucault (1980).

below. In applying a rights perspective to the practice of development, this paper proposes an approach that operates at a number of levels, with the capacity to address the following concerns:

- To analyse the operation of rights at all levels – from local and customary rights, validated by micro-level structures of authority, to international human rights, legitimised through inter-governmental agreements – and to assess their significance for attaining developmental outcomes;
- To understand the links between the operation of macro-, meso- and micro-level politico-legal structures – and how these work for and against better livelihood outcomes for poor people;
- To integrate an understanding of the ways in which power acts as a variable in processes of development – and particularly how the negotiating capabilities of poor people can be strengthened in the face of prevailing structures of power and authority.

These concerns are addressed within the fundamental *normative* framework of human rights. This implies a concern with values of freedom, equity and social justice. To this basic normative framework, however, a dynamic *analytical* framework must be added. This allows for the identification of the processes of political and social contestation which determine the evolution of systems of rights. It also assists in identifying the processes of *implementation* through which different legal and rights regimes (international, national, and local) translate into livelihood outcomes for poor people. Thus the proposed approach operates at three levels:

A normative level

This emphasises values of equity, transparency, inclusion and participation. All development organisations operate within normative frameworks, whether implicitly or explicitly. For instance, the normative principles underlying many recent World Bank texts (such as the WDR 2000/01 *Attacking Poverty*) do not differ greatly from the key principles of human rights texts, as described in Section Two. The value added of building explicitly on human rights, as a basis for operational practice, at the normative level derives from the global legitimacy that human rights have acquired through extensive processes of international discussion, negotiation and agreement. While such processes were originally predominantly governmental, they have been strengthened considerably by heavy civil society involvement in the big UN conferences of the '90s (including many with an obvious link to concerns of sustainable development and livelihoods).²⁸

An analytical level

This elaborates the ways in which poor people's claims are processed into outcomes by multiple structures of authority and control that operate at different levels. This requires rigorous analysis of the associated social and political processes that determine the likelihood of poor people's claims being reflected in the definition, interpretation or implementation of rights. It also calls for the identification of the social characteristics (gender, citizenship, social status, ethnicity etc.) that empower, or disempower, people in different arenas of negotiation. Methodologies and tools that incorporate a better understanding of the way that power impacts on the production and reproduction of poverty and insecurity are necessary.

An operational level

This explores the ways in which the 'rights dimension' of development can be used to identify new and significant entry points for the actions of development agencies, governments and civil society actors who seek to strengthen the capacity of poor people to attain secure and sustainable livelihoods. Through the combination of the normative and analytical components, a

²⁸ One example of the value of the strategic consensus-building that can occur through such processes is the definition of the International Development Targets, widely valued as setting a framework for judging global progress on the elimination of poverty. These were built on inter-governmental agreements generated through UN processes.

rights approach offers the potential for concretising development agencies' aspirations to incorporate empowerment goals into the mainstream of their work.

Building on this three-level distinction, the following section outlines a conceptual framework that links human rights and sustainable livelihoods. Each level, the normative, analytical and operational, includes a description of the objectives and associated tools, as summarised in Table 1. In addition, each level includes practical examples drawn from case studies, to illustrate how elements from both the normative and analytical levels have been used operationally to achieve successful sustainable livelihood outcomes (see Annex Four for detailed case study descriptions).

Table 1: Human rights and sustainable livelihoods conceptual framework

<i>Level</i>	<i>Objective</i>	<i>Tool</i>
<i>Normative</i>	<i>Identification of human rights principles and provisions relevant to sustainable livelihoods</i> Categorising key capital assets in terms of human rights, as reflected in current international HR agreements.	■ <i>Human rights & livelihoods matrix</i>
<i>Analytical</i>	<i>The legal structure</i> Identification of rights regimes and the associated levels at which rights can be addressed. <i>The political process:</i> Channels for contesting claims according to types of claim and social actors.	■ <i>Rights regime analysis</i> ■ <i>Channels of contestation matrix</i>
<i>Operational</i>	<i>Entry points for governments, donors and civil society:</i> To support groups to make claims on key services and resources needed to achieve sustainable livelihoods.	■ <i>Entry point checklist</i>

3.2 Normative level: identification of human rights principles and provisions for sustainable development and livelihood security

The normative level comprises two critically important components. First are the basic principles that underlie a human rights approach to development. These draw on the rights discussion outlined in Section Two, with six defining principles of a rights approach proposed as suitable for any organisation promoting sustainable livelihoods for poor people. As described in Box 7, these comprise human freedom; universalism and equality; the multi-dimensional character of well-being; transparency, participation and empowerment; responsibility and accountability; and sustainability. The second crucial component at the normative level is the human rights texts that provide the substantive rights-based justification for people to a secure acceptable standard of livelihood – sufficient for dignified living. A human rights and livelihoods matrix identifies from the extensive range of human rights texts those that are of particular importance for sustainable livelihoods.²⁹ All countries of the world have signed at least one of the six core human rights conventions.³⁰

²⁹ References to livelihood rights are taken from the core UN agreements, which constitute the international human rights framework. These are the Universal Declaration of Human Rights (UDHR); the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT); the Convention on the Rights of the Child (CRC); the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and the associated Declaration on the Elimination of Violence Against Women (DEVAW). Reference has also been made to key standards defined under the auspices of the International Labour Organisation (ILO).

Box 7: Human rights, sustainable development and livelihoods: key normative principles

Human freedom: Expanding human freedom entails expanding human liberties, opportunities and capabilities. Deprivations in human freedom relate to the inability to avoid hunger, poverty, treatable illnesses and premature mortality as well as the denial of civil and political liberties. A human rights perspective highlights the importance of processes and policies that expand human freedoms and capabilities by respecting, protecting and fulfilling individual choices and enabling people to achieve what they value.

Universalism and equality: Human rights are inclusive in character and apply to all people everywhere on an equal basis. The principle encapsulates recognition of the equal dignity and worth of all human beings. All people should be treated fairly in a consistent and/or equitable manner on the basis of non-discrimination.

The multi-dimensional character of well-being: Human rights for the life, survival, integrity and development of the human person include human rights to liberty, security and well-being. These human rights reflect the principles of interdependence and indivisibility in the sense that achievement of all human rights should be given equal priority and urgent consideration.

Transparency, participation and empowerment: In order to expand peoples' freedoms and capabilities, development processes and policies that respect people's human rights and entitlements are required. The principles of transparency, participation and empowerment can help to ensure that development institutions are responsible and accountable, and that people are fully informed and can influence and have a stake in the decision-making processes that affect their lives.

Responsibility and accountability: Individuals, organisations and governments have responsibilities to respect, promote and fulfil all human rights for all. Governments have particular responsibilities and are accountable for respecting, promoting and fulfilling internationally recognised obligations in the field of human rights.

Sustainability: Development processes should respect the rights of future generations as well as the present. As Sen argues sustainability means 'development that promotes the capabilities of people in the present without compromising the capabilities of future generations' (2001).

As outlined in Section Two, the three domains of sustainable livelihoods, sustainable development and human rights all share a common concern with the assets and entitlements of the poor and vulnerable, categorised in terms of five types of capital assets – human, physical, financial, social and natural. The framework developed in this concept paper seeks to integrate the synergies between these different domains. Consequently, in developing the Human Rights and Livelihoods Matrix, it categorises relevant rights in terms of the different capital assets mentioned above. In addition, it includes a further capital asset, that of political capital. These are identified in Table 2 along with details of the source agreements.

From a human rights perspective, it is important to acknowledge two constraints in the use of the sustainable livelihood asset typology. First, as mentioned above, is the inclusion of political capital. As identified in the Human Rights and Livelihoods Matrix, many of the rights to political capital, such as rights to political participation, justice and freedom of association, are pre-conditions for contesting claims relating to other assets. Second, given the highly contested nature of the concept of capital (particularly as it relates to social capital), building on Amartya Sen's important work in this area, there may be considerable advantages in categorising human, social and political capabilities rather than capital (Sen 1997a).³¹ Both of these issues are highly complex. It is recognised that they are underdeveloped in the current concept paper, and therefore are critically important areas for further analytical work.

³⁰ Annex 2 provides information on state ratifications of each convention. Annex 3 provides an overview of state obligations, set out in the key UN conventions, to respect, protect and promote human rights.

³¹ For a comprehensive recent critique of the concept of social capital see Fine (2001).

Table 2: Human Rights and Livelihoods Matrix

<i>Capital Assets</i>	<i>Relevant Rights</i>	<i>Principal references in Human Rights Conventions</i>
<i>Natural capital</i>	Right to a healthy environment Right to safe and healthy working conditions Children's right to a healthy environment Right to own land and other property Land rights of Indigenous and tribal peoples Right of all peoples to a general satisfactory environment favourable to their development	ICESCR 12b ICESCR 7b CRC 24 UDHR 17; CEDAW 16.1h; ICERD 5d,v ILO convention no 169 African Charter 24 (See also the 1972 Stockholm Declaration & Rio Declaration (1992))
<i>Physical capital</i>	Right to food Right to own property Right to adequate housing Women's right to own property Women's right to equal treatment in agricultural reform and land resettlement Right to water and sanitation	ICESCR 11; CRC 24.2c UDHR 17 UDHR 25; ICESCR 11 CEDAW 15 CEDAW 14 CRC 24; CEDAW 14
<i>Human capital</i>	Right to education Right to health Rights to reproductive health services Right to social security Right to freely chosen employment Labour standards Freedom of association Freedom from forced labour Rights to non-discrimination in employment Minimum age of employment Protection from worst forms of child labour Rights of home workers	UDHR 26; ICESCR 13,14; CEDAW 10; ICERD 5 CRC 28 ICESCR 12; CEDAW 12; CRC 24 ICESCR 12.2a; CEDAW 12.2; CRC 24.1d,f UDHR 22; ICESCR 9; CEDAW 11; ICERD 5; CRC 26 UDHR 23.1; ICESCR 6; CEDAW 11a; ICERD 5e.iv ILO 87,98 ILO 29, 105 ILO 100, 111 ILO 138 ILO 182 ILO 177
<i>Financial capital</i>	Women's right to bank loans, mortgages and other forms of financial credit Women's right to agricultural credit and loans and marketing facilities	CEDAW 13b CEDAW 14.2g
<i>Social capital</i>	Right to non-discrimination Right to security of person Right to marry and equality within marriage Freedom of association Freedom of thought, conscience and religion Right to cultural life	UDHR 2; ICCPR 2.1; ICESCR 2.2; CRC 2; CEDAW 1,2,3; ICERD 1,2,3 UDHR 3; ICCPR 2.1; ICESCR 2.2; CRC 2, DEVAW 3a,c UDHR 16; ICCPR 23; ICESCR 10.1; CEDAW 16.1a,b,c; ICERD 5d,iv UDHR 20; ICCPR 21, 22; ICERD 5d, ix; CRC 15 UDHR 18; ICCPR 18; ICERD 5d, vii; CRC 14 UDHR 27; ICCPR 27; ICESCR 15; CEDAW 13c; ICERD 5e,vi; CRC 30, 31
<i>Political capital</i>	Right to political participation Right to information and freedom of expression Freedom of association Right to be recognised as a person before the law Right to equal treatment before the law	UDHR 21; ICCPR 25; CEDAW 7; ICERD 5c UDHR 19; ICCPR 19; ICERD 5d,viii; CRC 12,13,17 UDHR 20; ICCPR 21, 22; ICERD 5d, ix; CRC 15 UDHR 6; ICCPR; 16; CEDAW 15.2,3 UDHR 7; ICCPR 14.1; CEDAW 2c; ICERD 5a

3.3 Analytical level: rights regimes, institutional structures and channels for the contestation of power

This section demonstrates how a thorough analysis of the operation of systems of rights can strengthen our understanding of the conditions under which poor people can effectively access the means to achieve a secure and sustainable livelihood. This entails analysis of the vertical power relations and institutions that shape people's livelihood capabilities. The analysis is complementary to other approaches which seek to analyse and identify the key dimensions for promoting sustainable livelihoods for poor people, such as the SL framework outlined in section 2.1. The proposed approach is designed to emphasise one element of the overall picture, namely the operation of structures of power and authority and the influence these have on poor people's livelihood capabilities.

3.3.1 The legal structure: multiple levels of socio-legal authority

A focus on rights and claims means analysing the interactions between people's 'voice' and the institutional structures that enable their priorities, views and perceptions to be translated into real outcomes. First and foremost this requires clarification of conceptual definitions of 'the law'. In this paper the understanding of the 'legal' is derived from social theory – while recognising that other interpretations may be of greater relevance to other disciplines. Social theory focuses on law as 'social process' rather than solely as text or formal legal structures.³² As illustrated in Box 8, law is intrinsically about the operation of power and authority. In this context law is understood to encompass informal as well as formalised codes, to cover informal as well as formal mechanisms of dispute resolution, and to refer to the operation of a plurality of different structures of authority. Anthropologists have described this situation as 'legal pluralism'.³³

Box 8: Differing conceptions of the law

'Law in its broadest sense is more than dispute resolution; whether embedded in state or non-state institutions, it permeates everyday lives insofar as it is about the power to enforce or regulate social relationships. One of the classic anthropological definitions views law as those rules of "role relationships and obligations", which are capable of being sanctioned or enforced by "publicly acknowledged authority".' (Radcliffe Brown 1952; Popisil 1971)

'Law implies power and authority, and hence unequal relationships. And whether one attributes the quality of 'law' to non-state regulatory orders or not, it is clear that in empirical terms the modern state is a primary source of the most dominant regulatory order, since the vast majority of contemporary societies exist within a state-bounded polity.' (Crook 2001, 3)

This can best be illustrated by a regional example. In many parts of Africa there are informal local-level means of dispute settlement, including kinship mechanisms, that set primarily social norms, practices and processes. The formal legal system does not recognise these as legal. There may also be local level mechanisms, which build on subsidiary powers delegated by the state to so-called 'traditional authorities' – often referred to as 'customary law'. These structures are recognised by the central state, and delegated limited spheres of authority for specified populations, building on the 'symbolic capital' of tradition. In addition there is the formalised national legal code, encompassing both statutory and common law elements.³⁴ To this national and sub-national legal pluralism, legal regimes operating at the global and regional levels can be

³² See Harris (1996, 4).

³³ See Crook (2001) and other papers in that collection for a range of positions in the debate on the nature of law and legal authority.

³⁴ See Ferguson (2001), Whitehead (2001).

added. The European Court of Human Rights, for example, increasingly imposes legal standards derived from the globally generated agreements of the major Human Rights Conventions on countries within its jurisdiction.³⁵

a. Rights, norms and claims

Local level studies suggest that legal pluralism is a ‘messy’ reality, in which there are no rigid boundaries between the various legal fora, and where different principles of legitimacy, and ideas of the basis for claims, are implemented. This is compounded by the fact that different layers of legal norms and authority interact, and evolve, in a mutual process of reform and adaptation. Each layer has associated structures of social and political authority, which may not have an explicitly legal appearance or rationale (kinship elders, local elites, political leaders, etc.). In any one instance, the different operating layers of the socio-legal regime are also associated with different rights, systems for determining and interpreting those rights, and systems for making claims and resolving disputes.

According to this approach, the legal realm covers not only ‘rights’ but also norms – defined as explicit or implicit societal rules governing behaviour. Rights defined at one level may be denied because of rules and norms operating at another level. For instance, international human rights law and national statutory codes theoretically may give women protection against domestic violence – while the operation of institutional and societal norms and values effectively in practice denies them this right.

The channels for determining rights, making claims and ensuring the fulfilment of rights are not restricted to formal legal systems. Economic and social rights as specified by the relevant conventions illustrate this. Fulfilment of the right to education, for example, occurs primarily through the administrative functions of the state – the process of allocating resources and delivering services. Equally, part of the state’s obligations includes the policy instruments that create an enabling environment for people to attain such economic and social rights as housing and livelihoods for themselves. While the recourse to effective formal legal mechanisms may be important to ensure the fulfilment of rights, the capacity of the poor and relatively disempowered to make their claims stick at higher levels may always be weak. For them the fulfilment of economic and social rights will probably occur largely through the evolution of the state’s policy instruments to take account of a changing sense of obligation to its citizens.

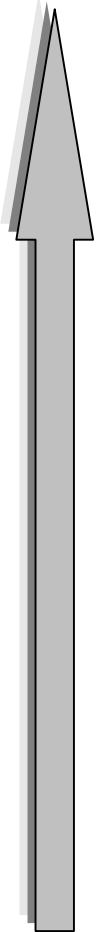
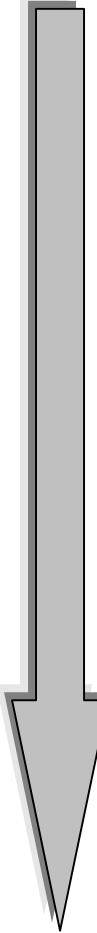
b. Categorisation of rights regimes

This complex layering of different rights associated with different norms and claims can be categorised in terms of rights regimes. This is depicted in Table 3, which identifies rights regimes at different levels, with associated domains and operational or authority structures.

Table 3 illustrates diagrammatically a number of key points relevant to rights regimes. For instance, while rights regimes operate at different levels, these levels interact in two significant ways. First, the content of rights may pass from one level to another; second, different levels of authority may confer power on other levels – with the nation state being by far the most powerful point of articulation, conferring authority both upwards (through regional and global inter-governmental agreements) and downwards (for example on customary law systems). Each rights regime may influence outcomes at the micro level directly (e.g. the right to education – established at the international level – may lead directly to changes in the implementation of local services).

³⁵ For a discussion of the operation of the Inter-American Court of Human Rights and African Human Rights mechanisms see *Interights* Bulletin 13 (2000).

Table 3: Rights regimes analysis

Social and Political Contestation	Rights regime	Forms of rights and domain	Level of operation/ institutional framework and authority structures	Legal and Administrative Implementation
 <p data-bbox="199 1377 438 1534"><i>Livelihood and social groups seeking to make claims on the means for sustainable livelihoods.</i></p> <p data-bbox="199 1556 438 1780"><i>Capacity to make claims and influence rights regimes depends on social identity and the authority and power that this confers – e.g. gender, caste, class.</i></p>	International human rights law	Human Rights (economic, social, cultural, political, legal, civil, labour standards). Universal application.	International, Global level. Implemented and monitored through UN inter-governmental processes.	 <p data-bbox="1173 414 1412 660"><i>Rights regimes implemented through the operation of the legal system and the allocation of resources and administration of services</i></p>
	Regional law	Human Rights (as above). Applies to regional populations.	International, Regional level. Increasingly with statutory powers of enforcement – e.g. European Court of Human Rights.	
	Constitutional law	National Constitutional rights (mostly civil and political – starting to include economic and social through influence of human rights – e.g. South Africa)	National level. Enforced through constitutional courts, national legal mechanisms.	
	Statutory law	Statutory rights (conferred by the national framework of criminal, commercial and other law)	National or local level (through devolved local government enacting by-laws). Enforced through formal legal system	
	Religious law	Religious rights and norms (mostly operating in the domestic sphere – under some conditions considerably extended)	Religious systems of law can operate at multiple levels – global, regional, national and local. Forms of authority and enforcement depend on relation with the state.	
	Customary Law	Customary Right (mostly referring to kinship and resource rights) Specific to localities and social/ethnic groups	Local level (generally in colonial or post-colonial states only). Enforced through structures of customary authority (e.g. chiefs).	
	Living Law	Informal right (mostly kinship and resource rights) and norms of behaviour. Applies to localities through varying cultures (including institutional cultures)	Micro level. No formal incorporation into national legal systems. Nonetheless, local elites may be able to co-opt elements of the state to help enforce elements of living law. Living law can also be taken as describing the norms of behaviour operating within bureaucracies (governments, donor agencies)	

Since the international human rights framework is built on principles of equality and inclusion, it provides a normative reference point for comparison with different national and local level legal systems. For example, some development agencies see customary law as a vehicle for increasing access to justice – because of apparent local level familiarity with, and acceptance of, customary legal institutions. The content of customary law, however, varies according to context, and cannot be assumed to embody values that complement inclusive development. In many Sub-Saharan African countries, the codification of customary law was one of the instruments of indirect rule by which colonial governments attempted to maintain control over rural African populations, in which case it may have institutionalised rigid inequities based on differential status and identity.³⁶ Where they are able to, those people who are disadvantaged by customary law – often rural women – draw on the values, norms and institutions of different levels of the law to strengthen and maximise their claims within local systems.³⁷

Rather than being governed by, and identifying with, one set of values and institutions, people will utilise whichever mechanisms are most accessible and offer least ideological resistance to their interests. Strategies to engage with different levels of law are pursued by organisations, as well as individuals, seeking to establish new claims and contest existing entitlements. The advocacy of the Self-Employed Women's Association (SEWA) of India for homeworkers demonstrates how local experience can feed into global rights agreements, which in turn serve to reinforce rights at the local level.

Box 9: SEWA's historical political struggle for homeworkers

SEWA grew out of the Women's Wing of the Textile Labour Association, India's oldest, Gandhian-inspired trade union. Starting in Gujarat, SEWA focused on the particular needs of informal sector women workers, particularly on those making garments, *bidi* (hand-made cigarettes) and *agarbatti* (incense sticks). All were characterised by homework employment on piece rate terms, without employment rights.

In the case of *bidi* workers, existing legislation provided workers in the industry with rights to a minimum wage, to scholarships for the education of their children, and to a pension. However, employers argued that homeworkers were not employees and refused to issue them with identity cards, resulting in workers unable to claim their basic rights. The first struggle was thus to have *bidi* homeworkers recognised as workers and issued with ID cards.

In other industries it was first necessary to have the *industry* recognised as a significant employer, in order to establish the regulatory framework. Under Indian law, statutory minimum wage regulations do not apply automatically to all workers: each state has to create a schedule of workers to be covered, and then issue a notification of the specified minimum wage. SEWA demonstrated and lobbied for the Minimum Wage Act to be extended to and subsequently implemented for textile workers, and worked with the Labour Department to develop practical solutions to the problems of inspection in the homeworking sector. Resistance from employers (culminating in the dismissal of SEWA activists) was countered by a SEWA High Court victory, which resulted in the resumption of negotiations and an agreement on a wage increase.

Given India's federal structure, these struggles were conducted at a variety of levels: thus the case for pension rights was lost in the Gujarat courts, but won on appeal to the national courts. SEWA's history not only shows the value of campaigning simultaneously at sub-state, state and international levels, but also the importance of a multi-pronged strategy, encompassing legal, policy and collective self-help approaches.

SEWA had been involved in the struggle for homeworkers rights for over two decades (see Box 9). Consequently, it was a leading actor in a loose global coalition of NGOs, community groups and sympathetic trades unions and governments that successfully lobbied the ILO to pass the Convention on Home Work in 1996. This corrected a severe form of exclusion through which homeworkers worldwide had lacked legal recognition as workers, and were denied most of the rights of minimum pay, working conditions, and social protection. While only two countries have ratified the Convention so far, others have adopted the Convention's recommendation

³⁶ See Mamdani (1996), Chanock (1985).

³⁷ See Stewart (1996).

regarding the formulation of a national policy on homeworking. Even where the new global normative framework has not been codified in national law, it is helping to shape discourse and policy regarding the livelihoods of a previously marginalised group. This has fundamentally assisted them in terms of poverty reduction and security – thus demonstrating how international networks and coalitions can be built to exert pressure on global rule-making bodies.

In everyday life, claims and disputes are often made and resolved through informal mechanisms within the household, kinship groups and community. As with strategies in relation to formal mechanisms, in informal negotiations people may draw on multiple sets of values, norms and local interpretations of different levels of the law. The term ‘living law’ has been used to describe these informal processes operating at a local level.³⁸ This term can also provide a useful description of the ways in which norms and values operate in institutions at all levels of society, such as those which provide the structures of authority and enforcement for national law and policy (see Box 10).

Box 10: Reproductive rights and living law in Zimbabwe

The action of the international women’s health movement during the 1990s ensured that the UN conferences at Beijing and Cairo shifted the population agenda away from fertility control towards reproductive rights and health. This new agenda was reflected in Zimbabwe’s system of reproductive health services through the introduction of a charter of rights, which set out people’s entitlements to certain standards of care.

Anthropological fieldwork in a village in rural Zimbabwe showed that feminist inspired ideas of women’s reproductive rights conflicted with Shona ‘living law’ relating to patrilineal rights to women’s fertility, sexuality and labour, vested in a groom’s family at marriage through the payment of bridewealth. Rather than directly challenging Shona norms, women were able to use the rights conferred through the reproductive health system to increase their control over their fertility. This in turn, strengthened their claims to social and economic support within the household. Only certain groups of women, however, were able to access their rights to reproductive health services. One of reasons for this was that Community Based Distributors did not provide contraceptives to women who had not already given birth and were, therefore, unmarried according to Shona norms. The impact of the health service focus on reproductive rights was thus shaped by the actions of providers whose interpretation of the charter of client rights drew on local understandings of Shona patrilineal rights and norms. ‘Living law’ interpretations of women’s rights influenced institutional practises as well as household negotiations.

Source: Ferguson (1999)

3.3.2 The institutional structure: determining the definition and implementation of rights

Table 3 provides an overview of rights regimes in a schematic manner that cannot capture in full the complexity of the processes depicted. The two arrowed columns require further clarification and elaboration. The first clarification required is the identification of the institutional structures and bureaucratic actors that participate in constructing systems of rights and entitlements and which determine both the definition and implementation of rights.

People may pursue claims through different organisations or domains – the household, political and legal systems, bureaucracies and civil society organisations. The ability to negotiate in one domain is not necessarily dependent on power and status in other domains. For instance, women may have greater capability to negotiate in local political arenas in relation to bureaucrats, than within the household in relation to their husbands. However, institutions defining women’s rights and responsibilities (e.g. the national law) can sometimes shape women’s capabilities to negotiate in other domains within a given society.

While legal systems define and enforce some rights, administrative structures and service deliverers are often the primary institutions through which entitlements are delivered or withheld. As the Zimbabwe case study illustrates (Box 10), the interactions between citizens and

³⁸ For a discussion of ‘living law’ as applied in the context of southern African households see Armstrong (1997).

'street-level bureaucrats' are central to the conversion of abstract rights into concrete reality.³⁹ Different mechanisms have been used to clarify the levels and standards of services to which people are entitled, to increase accountability, and to empower citizens in relation to public organisations. These include the use of benchmarks, codes of conduct or citizens' charters and report cards for identifying service standards and monitoring their implementation.⁴⁰ Such approaches may be more effective when mechanisms for monitoring and redress are embedded in 'higher' level institutions.⁴¹

Access to information, and transparency, are both critical factors in ensuring that services are delivered and standards are met.⁴² In individual interactions between service providers and citizens, people have to know what their entitlements are in order to be able to claim them. Equally, where service providers are aware that information about entitlements is widely available, they are more likely to feel socially and morally bound to abide by agreed provision standards. Public accountability further requires that information from monitoring systems is made widely available so that people can gauge service performance. For example, rights to information have been central to citizens' budget initiatives, which aim to influence and monitor the expenditure of public funds on services (see Box 11).⁴³

Box 11: Benchmarks and ESC rights – experience from South Africa

Section 27 of the South African constitution enshrines the right of access to sufficient water, demonstrating the role of the state as an enabler of rights. The Water Department introduced legislation that recognised this right, providing a more detailed definition in terms of people's entitlements. It quantified the minimum water supply at 25 litres per person per day, available within 200 meters of the dwelling, the flow rate from the outlet not less than 10 litres per minute, and the water supply providing water security for the community. A guide, developed in conjunction with the Health Department, contains minimum health-related standards for water quality assessment.

The water legislation also provides a framework for equitable and sustainable use, management and conservation of water resources. The Department has set itself a medium-term target of supplying 50–60 litres of water per capita per day. By establishing concrete benchmarks, the government of South Africa hopes to facilitate the implementation of the right to water by the South African Human Rights Commission and civil society organisations.

Source: IHRIP

Bureaucratic actors, representing the state's role as an enabler of rights, participate in constructing systems of rights and entitlements. However they can also impede the implementation of rights. One of the most effective mechanisms by which to ensure citizens do not claim the rights is through the restriction, or lack, of information on entitlements.

An example of the limitations and constraints in contesting claims – because of lack of adequate information and voice for the poor – is provided by a case study of very poor women in Andhra Pradesh in India. In this case the women have been denied access to a potentially powerful strategy for realising their right to a secure livelihood, namely keeping goats.⁴⁴ According to the Constitution the state as an enabler of rights gives every Indian a right to a livelihood, which would

³⁹ Lipsky (1980).

⁴⁰ A forthcoming IDS review suggests that the effectiveness of these mechanisms is dependent upon a number of conditions including the capacity of civil society to organise and engage as well as commitment and capacity within public institutions (see IDS forthcoming). UNRISD's recent review of accountability mechanisms in Africa emphasises the importance of combining approaches to increase the efficiency as well as the accountability of public service provision (see Therkildsen 2001).

⁴¹ Plant (1998) makes this case in relation to the UK's citizen charter initiative.

⁴² See DFID (2000) for a discussion of issues around the right to information.

⁴³ For examples of recent reviews of the issue of civil society engagement in budget process – public accountability, monitoring systems etc. – see UNDP (2000).

⁴⁴ Based on a case study by Priya Deshingkar (see annex 4).

include the right to keep a goat – indeed, Mahatma Gandhi promoted the goat as the poor (wo)man’s cow, one that yields health-giving milk for small farming households.

However, in a context of a shrinking resource base in which the rights of goat-keepers were in conflict with the rights of other grazer communities, both traditional and new, recent governments have labelled the goat an enemy of nature, and accused it of destroying the country’s forests and grazing lands. As a result, this group of poor women experienced *de facto* discrimination, in terms of low levels of state extension support and lack of access to grazing lands, through an ‘anti-goat’ policy which effectively negatively targets them (Box 12). Although the environmental rationale for this policy was not well founded⁴⁵ the women lacked effective voice (either on their own or through advocates in civil society) to make the case for a more supportive state policy towards goats – even though these were the only form of livestock well adapted to the daily realities and constraints of their lives.

Box 12: Actions constraining poor women’s claims on the resources necessary to keep goats in Andhra Pradesh, India

- High-level political statements made three years ago in which goats were singled out as destructive animals
- In one district, the Forestry Department organised a special high-level meeting with the National Bank for Agriculture and Rural Development (NABARD) to discourage them from providing loans to people for the purchase and rearing of goats.

At least three districts in AP have completely stopped the supply of goats through government funded channels and more are likely to follow.

As this case demonstrates, rights, which are clearly stated at the national level (as in the Indian constitution’s provisions on livelihoods), mean very little unless they are backed up by intermediary structures. These enable poor people to engage meaningfully in debates about the interpretation of their obligations with intermediary institutions (such as, in this case, the Forestry Department). Without external assistance the poorest and most marginalised generally lack the capacity to negotiate effectively for their rights. Information, in combination with local organisational resources, can help them to more effectively voice claims – but their position will be further strengthened by the engagement of organisations with the technical capacity to challenge the orthodoxy where arguments ranged against them include technical dimensions.

3.3.3 The political process: channels for contesting claims

The means by which people contest rights, also identified as a single arrow in Table 3, requires further elaboration. These can vary widely. On the one hand most legal forms (particularly the nation-state) allow for formal mechanisms of voice and leverage, such as voting for legislators and joining political parties. For social groups, however, these are blunt instruments, with a range of intermediary structures therefore performing advocacy functions. At the national and sub-national level these groupings tend on the whole to work better for the powerful than for the poor or socially disadvantaged. It is particularly noticeable that many movements which have sought to ‘change the balance’ on the part of the less powerful have found that the global forum of international human rights law is a powerful arena in which to make claims and win arguments.

Table 5 presents a typology for examining the politics of this process. It identifies the institutional channels through which claims can be made (political, legal, policy, administrative, social and private sector), the types of claim which relate to each institutional domain, and the methods of citizen action which can be used to make those claims.

⁴⁵ See Acharya and Singh (1992) for a summary of the arguments on this matter. They conclude that, provided numbers are not excessive, goats are not environmentally damaging – and bring some benefits (goat browsing stimulates tillering and regeneration).

The mobilisation of international networks of the women's movement around a number of the major conferences of the '90s (Beijing, Cairo etc.) provides a powerful example of the opportunities that the egalitarian and inclusive values of international human rights law can offer. Often, progress towards gender equality at the country level in legal frameworks was driven forward by international human rights law. The women's movement found that the inter-governmental level was a powerful lever of change – particularly with culturally conservative governments and regimes.

To identify the different political processes by which rights can be contested from the 'bottom up' the issue can be usefully examined in terms of the following questions.

How is a claim made?

A claim may be contested by influencing fulfilment of rights at three levels: the definition, interpretation and implementation of rights. The best entry point for action depends on context. Research on women's land rights in Uganda, for example, indicate that in some cases it may be more effective to strengthen women's voices in the processes of implementation and administration of existing legislation than to start by trying to reform the definition of women's land rights through legislative reform.⁴⁶

The Maharashtra Employment Guarantee Scheme (MEGS) in India provides an interesting example of the successful use of socio-legal channels to establish livelihood rights, in this case the right to work through a public works scheme. MEGS, which originated in a rights-based relief programme during the drought of the early 1970s (Drèze 1995), was signed into law in 1978, guaranteeing unskilled rural employment to any individual over 18 years who wants it. The impact on livelihoods has been ameliorative rather than transformational, but nonetheless critical for many (Herring and Edwards 1983; UNDP 1993; Ravallion et al 1993; Dev 1996).

What is distinctive about MEGS is its statutory position underpinned by formal legal rights to employment. Public works schemes to protect livelihoods during famines have been part of the repertoire of statehood in India for centuries. The state's ability to support livelihoods through the provision of work has often become important in defining its legitimacy. Article 41 of the 1947 Constitution also includes a Directive Principle that Indian citizens should be guaranteed the right to work (although in reality unemployment and underemployment have been persistent features of the rural economy since Independence). Analysts argue that the striking longevity of the programme (running since the mid-70s) has been related to its foundation in a rights-based legislative framework, and while not an unqualified success, MEGS is considered by most to be far more successful than most programmes of comparable scale. At the same time MEGS illustrates well the political processes embedded in contestation (see Box 13), and particularly the potential for the state to take the lead role in promoting the development of a culture of rights.

Box 13: Political processes in contestation for rights in the Maharashtra Employment Guarantee Scheme

The fact that progressive (and expensive) rights-based legislation was passed and enforced can be explained primarily by the pattern of interests and democratic political competition in Maharashtra. State boundaries re-drawn in the mid-1960s had shifted power within the state's ruling Congress Party from the Mumbai-based industrialist and commercial classes to the Marathi-speaking rural bourgeoisie, while agitations by a rural-urban coalition of Marxist organisations and movements increased pressure on political elites. The passage of the legislation that established MEGS can thus be explained in part as a fortunate coincidence of interest between the rural poor and the politically ascendant rural rich. While the EGS provides incomes for the poor, it has also provided, through taxes on the urban sector, public goods that primarily benefit the rural rich.

⁴⁶ Whitehead, A., personal communication 2001.

Table 5: Channels of contestation matrix: definition, interpretation & implementation of rights

<i>Institutional Channel</i>	<i>Types of claim</i>	<i>Method of citizen action</i>
<i>Political system</i>	<p>Processes of identifying new rights and securing changes to formally recognised freedoms and entitlements e.g. women's movement demand for recognition of reproductive rights</p> <p>Negotiations over how rights and entitlements should be interpreted and recognised</p> <p>Negotiations over how entitlements should be implemented – e.g. through private or public sector provision</p>	<ul style="list-style-type: none"> ■ Voting in formal elections and referenda (national and local) ■ Lobbying for change through representational system ■ Open struggle ■ Media reporting and information provision ■ Public hearings – e.g. South Africa, Poverty Hearings ■ Open advocacy – intermediate groups acting on behalf of people seeking to assert claims – use of media and campaigning ■ Informal and invisible advocacy through contacts e.g. interactions with sympathetic officials
<i>Legal system</i>	<p>Process of interpretation and implementation of legally recognised rights – often relating to physical, natural and financial assets – e.g. land, but also social assets e.g. discrimination and marital relations and human assets – e.g. education and health related claims</p>	<ul style="list-style-type: none"> ■ Legal action and challenge at local, national and international levels e.g. claims to land rights, disputes over forced evictions, cases around domestic disputes and violence, and bankruptcy. ■ Engagement with law enforcement agencies – disputes may be settled through local police rather than the courts ■ Appeal to arbitration and monitoring services – e.g. human rights commissions, ombudspersons, industrial tribunals and arbitration services, which monitor and regulate public services and private sector standards. ■ Engagement in formal human rights treaty monitoring processes – i.e. state reports to Treaty Monitoring Bodies
<i>Policy channels</i>	<p>Negotiation over interpretation of public provision of entitlements – often most directly relating to human assets e.g. provision of public services</p>	<ul style="list-style-type: none"> ■ Engagement in international policy processes – e.g. Rio, Beijing conferences ■ Engagement in policy and planning processes at national and local levels such as PRSPs, SWAps and local governance planning often about public service priorities – e.g. levels and quality of health and education provision ■ Engagement in definition and monitoring of budget processes – resource allocation for policy priorities e.g. participatory budgeting
<i>Administrative channels</i>	<p>Negotiation over interpretation and implementation of entitlements – often relating to human and social assets</p>	<ul style="list-style-type: none"> ■ Individual claims on resources and services – e.g. everyday interactions with health workers ■ Collective monitoring of public services and provision – e.g. report cards, citizen service groups, benchmarking, monitoring codes of conduct, social audits
<i>Social channels</i>	<p>Negotiation over access to natural resources (e.g. land) and social resources (e.g. labour).</p>	<ul style="list-style-type: none"> ■ Informal negotiation over entitlements to resources ■ Informal debates about gender roles and responsibilities, including the evolution of the conditions of the marital contract
<i>Private sector channels</i>	<p>Negotiation over interpretation and implementation of private sector related entitlements – often relating to human assets e.g. labour rights and access to financial assets</p>	<ul style="list-style-type: none"> ■ Union and civil society action over labour standards and collective bargaining for wages with employees ■ Engagement with banks and other organisations to ensure credit provision ■ Engagement in defining and monitoring voluntary codes of conduct ■ Consumer action – e.g. boycotting products or monitoring quality of services ■ Share holder action

Who is making the claim?

What strengths can the poor draw on in terms of their position, and the negotiating strength offered by their social position? Here the classic dimensions of social identity are highly relevant (gender, age, citizenship, ethnicity, social status, caste, class etc.) – although they may offer differing levels of purchase on negotiations at different levels.

What is being claimed?

Claims can be made relating to the extensive diversity of rights associated with livelihood well-being, as identified in Table 2. These include natural resources of various kinds (land, common property, forest resources, water, fisheries etc.), access to credit, better working conditions, and women's control of their own fertility. In some cases a higher order right is invoked – with varying degrees of success – to strengthen a more immediate and concrete claim.

On whom is the claim being made, and what is the nature of the obligation?

Key elements of livelihoods that require claims might include, for example, access to a market stall, the right to use and manage common property resources, or permission to use a slum dwelling as the site for a small enterprise. The means by which poor people can assert claims will depend on the type of institution on which the claim is being made. It will also depend on its potential role in facilitating access to the desired resources or services. When facing an intransigent power structure there may be few options. In many situations where claims have been successfully asserted NGOs have been critical in bridging the levels of power and helping poor people to negotiate.

The work of Nijera Kori ('We do it ourselves'), a grassroots membership organisation in rural Bangladesh, illustrates these points. Box 14, adapted from the case study, illustrates, and classifies according to capital assets, the extensive range of activities in which this organisation has engaged in order to strengthen the security and quality of its members' livelihoods.⁴⁷ It also highlights the manner in which the channels of contestation employed vary, not only according to the capital assets being claimed, but also in terms of the institution to which the claim is addressed.

These two sections have summarised some of the most salient issues relevant to a conceptual framework for a rights approach to livelihood at the normative and analytical levels. The normative level identifies internationally agreed human rights norms and standards relevant to the promotion of sustainable livelihoods for poor people. The analytical level, in turn, identifies key questions concerning how poor people can best pursue claims on resources, rights and entitlements within a framework for analysing structures of authority and the normative regimes they generate. To complete the framework the final section focuses on the operational level and provides guidance for the implementation of a livelihood rights approach.

⁴⁷ Material for this table is drawn from Montgomery (2001) and Kabeer (2001 forthcoming) although the presentation in terms of a capital asset typology is by the authors.

Box 14: Summary of Nijera Kori's work classified in terms of capital asset claimed and channel of contestation

<i>Capital asset claimed</i>	<i>Channel of Contestation</i>	<i>Outcome</i>
A) Human capital		
Wages on public works	Pressure on officials to pay full wage & food entitlements on public works through acquiring work schedules and allocations, and lobbying politicians and Union Parishads.	Direct individual benefits due to enhanced wages. Externalities created for other poor people when incentives for officials' rent-seeking in a NK areas are reduced.
Wages in local economy	Collective bargaining by NK groups over daily wage rates offered by individual employers.	Evidence of limited success – i.e. only in conditions of tight labour markets (areas & seasons).
Improved performance and uptake of government services & water	Mobilisation around specific services (e.g. health provision; public works operations; siting of services such as schools, clinics etc.)	Teachers more likely to attend schools; NK members more likely to send their children to school and use health facilities than non-NK members in similar social groups. Local committees more likely to hear and take into account interests of the poor.
B) Physical capital		
Access to public (khas) land	Collective bargaining over khas land distribution & water leases; campaigns and lobbying of local officials and politicians; legal action to protect rights.	NK members more achieve <i>de jure</i> status, and more able to retain khas land than non-members in the face of attempts by local elites to capture khas land and water leases.
C) Social capital		
Reforming operation of village dispute resolution mechanisms (shalishes)	Own shalishes organised by NK groups, or representation for NK members achieved in village wide shalishes. Particular benefits for women, who rarely fair treatment.	Externalities for non-members created, when more representation of poor in shalishes leads to less arbitrary and more equitable judgements – reducing ability of elites to use shalishes as form of social control.
D) Political capital		
Reduction in domestic violence and women's insecurity	Mediation by NK staff / leaders, use of social ostracism and shaming in favour of women facing violence, or verbal divorces.	Convincing data from comparison of NK and non-NK poor households showing lower levels of domestic violence, lower prevalence of polygamy, and less divorce in NK member households.
Reduction in local forms of official corruption	Mobilisation around specific services (e.g. health provision; public works operations; siting of services such as schools, clinics etc.); achieving access to budget information.	Reduction in levels of bribes paid for service access (treatment, medicines in health centres) Reductions in levels of illicit deductions by officials from food rations and payments on public work schemes.
E) Fiscal capital		
Capacity for group savings enhanced	Facilitating access to formal financial services	Finance for livelihood activities leading to enhanced incomes of NK members
F) Natural Capital		
Reduced negative impacts on poor people from inappropriate development schemes and policies	National and local advocacy campaigns leading to changes in resource management and allocations	Halting of Flood Action Plan in Tangail. Sundarbans bio-diversity destruction reduced. Potential for major impacts from improved national environmental planning (NEMAP). Reductions in destructive social and environmental aspects of export shrimp production

3.4 Operational level: identifying entry points for a rights approach to promoting sustainable livelihoods

Providing guidance for development actors who wish to operationalise a livelihood rights agenda faces considerable challenges. Given different political and administrative circumstances and constraints, the entry points, or space for action, vary greatly depending not only on actors but also on the contexts. Consequently a 'one-size fits all' approach is unlikely to be applicable across the board for governments, bilaterals, UN agencies, IFIs, and civil society organisations alike.

At the same time, all agencies seeking to support effective action to strengthen poor people's livelihoods need to analyse different contexts with sufficient rigour if they are to ensure that the best opportunities, partners and strategies have been identified. Table 6 elaborates a checklist of entry points for the introduction of, or support to, a livelihood rights approach. These entry points are classified according to levels of intervention, ranging from global intergovernmental through to national and sub-national. At each level there are a number of potential entry points with associated instruments. Finally, associated with each entry point are numerous arenas for action.

Obviously governments, development agencies and civil society organisations have comparative advantages in pursuing different strategies. For example, a bilateral aid agency might seek influence in trade negotiations through contacts with other ministries. National governments are responsible for PRSP processes along with consultation from civil society – processes that provide important opportunities for rights-friendly approaches in the sense that governments are the signatories of rights treaties.

The World Bank has considerable potential to exert influence at all the levels indicated above. Obviously as an international institution, some strategies are closed to the World Bank. For example it is difficult for it to directly provide funding to international civil society networks. At the same time the Bank's considerable global influence means that the outcomes of processes at all levels are likely to be influenced by its position. Where the Bank has little formal power, as at some levels of the matrix, but can influence policy – such as inter-governmental debates on trade, resource distribution and migration – it could, potentially, play a particularly important role in calling for greater global equity.

Table 6: Entry point checklist: operational entry points for livelihood rights

<i>Level</i>	<i>Operational Entry Points and Instruments</i>	<i>Arenas for Action</i>
<i>Global Inter-governmental</i>	UN processes; Global trade agreements (WTO etc.); global environmental agreements; international financial architecture	<ul style="list-style-type: none"> ■ Endorsement of poor people's livelihood rights in agreements relating to global environmental, economic, and social governance ■ Monitoring systems for livelihood rights
<i>Regional Inter-governmental</i>	Regional human rights processes (Inter-American Court etc.); regional trade and economic agreements; regional conflict handling and prevention mechanisms.	<ul style="list-style-type: none"> ■ Regional HR monitoring and legal processes ■ Inclusion of rights/livelihoods concerns in regional political, social, environmental and economic governance processes
<i>Global and regional civil society</i>	Direct support to international networks for livelihood rights of poor people, social groups	<ul style="list-style-type: none"> ■ Enhancement of the capacity for cross-country organisation on specific issues (e.g. home-workers rights)
<i>National policy dialogue</i>	Macro-policy dialogue in economic, social, political and environmental spheres. <ul style="list-style-type: none"> ■ PRSPs ■ UNDAF/CCF ■ NEAPs 	<ul style="list-style-type: none"> ■ National policy priorities & intra-sectoral budget allocations ■ Regulatory frameworks for key areas for livelihoods (land, informal sector, financial sector, labour standards etc.) ■ National governance: public sector reform, decentralisation etc., regulation of civil society organisation and social mobilisation; policies on disclosure, openness and transparency of budget and policy processes
	Sector policy dialogue <ul style="list-style-type: none"> ■ SWAPs 	<ul style="list-style-type: none"> ■ Sector policy priorities and intra-sectoral budget allocations ■ Service delivery standards and entitlements, and the monitoring of the fulfilment of these ■ Regulatory process at sector level (e.g. forest departments regulation of access to reserves) ■ Sector governance: openness and transparency of policy process; engagement of primary stakeholders in policy process
<i>National and sub-national project or programme support</i>	Public sector	<ul style="list-style-type: none"> ■ Capacity building and direct project support to key activities and sectors ■ Policy development and piloting of change (e.g. land regulation) ■ Monitoring of fulfilment of livelihood rights ■ Accessible justice ■ Dissemination of information relating to rights and entitlements
	Civil society	Support to agencies supporting livelihood rights for poor people through: <ul style="list-style-type: none"> ■ Advocacy ■ Capacity-building ■ Social mobilisation ■ Direct support (e.g. micro-credit)

In many respects the checklist provided in Table 6 is similar to a 'poverty reduction' checklist. Nonetheless there is difference – both in the global perspective and in the way that a rights perspective illuminates the linkages between different levels of intervention. For example, a PRSP can provide the entry point to examine issues relating to access to justice for the poor in the context of budgetary allocations, as well as in terms of policy priorities, and the role of the legal system in facilitating access and secure tenure of key assets. The originality of a rights perspective is that it highlights the linkages between different arenas. In addressing the rich and diverse range of options for action presented above, development actors will need to make choices – where to put their efforts, whose claims to support and how to support them. In making these decisions a rights analysis will help, however, the entry point checklist in Table 6 will not provide a complete answer on its own. To address the question of which social groups are most vulnerable and lacking conditions for livelihood security, a range of poverty analysis

techniques (quantitative and qualitative) will be important. To address the issue of which claims are most significant for strengthening the long-term capacity of people to attain a satisfactory and secure livelihood, various forms of investigation will be needed. A holistic analysis of the livelihood context (of the kind offered by the sustainable livelihoods approach) will be important. Participatory studies which build on the priorities for public action which people identify themselves are a valuable component of such an exercise.⁴⁸ These in turn reflect people's own analyses of the causal processes that underlie their vulnerability and poverty.

Box 15: Using a sustainable livelihoods approach to choose entry-points

The Sustainable Fisheries Livelihoods Programme (SFLP) works in 25 countries in the West African region, and is implemented through FAO, with DFID support. It was conceived as an attempt to assist national governments to develop and implement policies and plans to operationalise the international Code of Conduct for Responsible Fisheries, which was unanimously adopted at the 1995 FAO conference. The Code articulates a number of rights of access to the fisheries resource, looking at national and local levels, considering the rights of consumers, and, with its emphasis on environmental sustainability, the rights of future generations. A key paragraph provides support to the claims of poor people dependent on fishery for their livelihood:

CCRF Article 6.18: Recognising the important contributions of artisanal and small-scale fisheries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their jurisdiction.

SFLP, which began in late 1999, working at macro-policy and micro-levels, seeks to reduce poverty in coastal and inland communities by improving livelihoods of people dependent on fisheries and aquatic resources. Government staff are supported to carry out participatory livelihoods analysis with artisanal fishers (mostly men) and fish-traders and processors (often women) to establish an entry-point where they can work together.

In three countries so far (Ghana, Guinea and Senegal), the key issue which has emerged as a livelihood constraint for both groups is that industrial fishers are reducing access of artisanal fishers and fishworkers to the resource to which they are entitled, by illegally entering zones designated as for inshore fishing. In these countries, following successful experience in Thailand, it is intended to pilot community-based Monitoring, Control and Surveillance (MCS), using fishers to identify boats breaking the law. Community-based monitoring can substitute for expensive equipment, which is often rendered ineffective by lack of human resources anyway. However there remain challenges in ensuring a quick enough response from those in government empowered to arrest, usually the Navy.

Box 15 illustrates the contribution of a sustainable livelihood analysis. In this case it assists in identifying the needs of West African fishing communities in terms of strengthening their capacity to assert claims on fish stocks in the face of aggressive international competition. Associated with potential entry points for intervention are the necessary mechanisms to create awareness. As with any fundamental shift in development approach, ultimately people need convincing of its importance – whether on the grounds of ideology or economic efficiency. Here civil society organisations have probably come much further in recognising the importance of working simultaneously with different techniques associated with different entry points for intervention. The example of 'Nijera Kori' illustrates that this is complex and time-consuming, involving multi-dimensional strategies (see Box 16).

⁴⁸ There is an extensive literature on participatory analysis for developing poverty reduction policies and priorities – see for example Narayan *et al* 2000, Norton *et al* 2001, Booth *et al* 1998.

Box 16: Creating rights-awareness: the work of Nijera Kori ('We do it ourselves'), Bangladesh

This is a grassroots membership-based organisation, with tiered democratic structures of both members and staff. It has approximately 190,000 members (50% women) active in 10% of the country's rural *thanas*, with a proven track record of social mobilisation. It provides no services beyond training / awareness-raising, though it does encourage group savings. Its approach, in summary, is to:

- Build groups and federated structures at village, Union and *thana* level;
- Raise member awareness of human rights, legal entitlements and government programmes;
- Support collective action at local and regional levels on a range of issues of importance to poor men and women;
- Contest space to influence administrative and political decisions at various levels; and
- Undertake coalition building and advocacy on key national policy issues.

Source: Case study One; Annex 4; Montgomery 2001; Kabeer 2001 (forthcoming)

International development organisations have also developed a number of approaches to facilitate the strengthening of the livelihood rights of poor people. Some of the measures identified in the case studies include:

- Furthering poor people's capacity to make claims through policy dialogue (e.g. promoting transparency and the dissemination of information on entitlements and budgets; supporting rights provisions in sector or macro policy – e.g. universal primary education)
- Direct intervention to advocate for livelihood rights for poor people at international, national or local level
- Facilitating the voice and influence of poor people – e.g. creating networks and arguing for 'space at the table' (e.g. in PRSP processes)
- Direct capacity-building in terms of developing the organisational skills and capacity for social mobilisation of the poor themselves
- Support to intermediary actors (capacity building, finance, advocacy etc.) effectively intervening to support poor people's livelihood rights.

Closing the circle – linkages between human rights, livelihoods and sustainable development

This paper ambitiously set out to address the linkages between three large areas, or domains, of development theory, namely:

- Vulnerability, assets and livelihood security (including the various approaches known under the ‘sustainable livelihoods’ terminology)
- Sustainable development
- Human rights and development.

So far, however, principally it has identified how a human rights perspective strengthens actions to support sustainable livelihoods of disempowered or marginalised groups. The conceptual framework developed around this theme outlines three operational levels, each with associated tools designed to assist in operationalising such an approach.

The World Bank’s decision to focus its 2002/3 World Development Report on sustainable development presents an important opportunity to ‘close the circle’ by identifying the causal linkages between this conceptual framework (linking two of the domains, namely rights and sustainable livelihoods) to the third domain, that of sustainable development.

Inter-generational equity and sustainable development

As mentioned above, Sen defines sustainable development as ‘development that promotes the capabilities of people in the present without compromising the capabilities of future generations’. As Sen’s definition implies, inter-generational social equity can be seen as the basis for sustainable development – which provides a useful link to the human rights agenda. It can be argued that to achieve sustainable development, it is critical to strengthen current rights approaches and institutions, so that they can better address the rights and livelihoods of future generations. If sustainable development is fundamentally about the rights of future generations, then there is clearly an opportunity to work to strengthen the linkages with the human rights agenda:⁴⁹

- In many cases greater equality in the fulfilment of rights in the present actually increases the likely fulfilment of the rights of future generations. For instance, the realisation of the right to health leads to transmission of better health to the next generation.
- Potential conflicts between the interests of present and future generations relate largely to the depletion of natural capital. This includes over-use of energy and water resources and damage done through climate change and pollution. To deal with inter-generational conflicts of this kind entails addressing present inequalities. Unless inequalities between rich and poor are dealt with today, attempts to address inter-generational inequalities are likely to exaggerate those differences – since it is the rich and powerful who have the strongest voice.
- The poor and powerless will be unlikely to accept restrictions on their own actions (in terms of the depletion of natural capital), unless intra-generational inequalities are addressed. A rights perspective helps to create the conditions for a constructive debate about inter-generational conflicts and the rights of future generations.

One practical implication of a concern with inter-generational sustainability and the rights of future generations is that the development community needs to ‘stretch the time frame’ for its planning frameworks. As long as attention is focused primarily on year-on-year economic growth objectives, with aggregate per capita GDP as the prime indicator or benchmark by

⁴⁹ Some work has been done in this area, e.g. 1994 Geneva Draft Declaration on Human Rights and the Environment.

which policy success is judged, it is unlikely that a long-term perspective, necessary to ensure social, economic and environmental sustainability, will be achieved.

Scenario building: the nexus linking the human rights/livelihoods framework and sustainable development

On the basis of the evidence reviewed, the nexus linking rights, livelihoods and sustainable development can be characterised in terms of two different scenarios, or propositions.⁵⁰ These are based on different perceptions of social sustainability (and associated dimensions of vulnerability and risk), and associated with this, provide different channels by which the application of a rights/livelihoods framework might enhance the sustainability of development processes.

The first 'minimum' scenario focuses primarily on the absence of negative events, with development processes identified as socially sustainable if they do not provoke or generate destabilising levels of conflict, human insecurity or crime. In this scenario economic and social concerns tend to be considered only when they are identified as potential 'threats' to sustainable growth – whether it be violent conflict, climate change, or natural disasters. This scenario understands social sustainability as a means to an end – such as economic growth.

In the second 'maximum' scenario social sustainability is concerned with the long-term growth of people's social, political and human capabilities and freedoms, and is closely connected with improvements in the governance of *polities* and *societies*. This requires the strengthening of accountability, transparency and other democratic principles that are functional to the state. Here human rights play a critical role. Implicit in a growing 'culture of rights' is a historical shift from state and subject relationships based on clientelism and patronage, to state and *citizen* relationships based on political, civil, economic, social and cultural rights – with associated sets of rules governing mutual obligations.

Both scenarios are concerned with the management of risk. This makes it useful to also identify how far each is positioned in terms of Holzmann and Jorgensen's (2000) recently developed risk management strategy, with its important threefold typology of risk prevention, mitigation and coping strategies.⁵¹

The 'minimum' scenario:

The 'minimum' scenario represented by figure 1, can be summarised as follows:

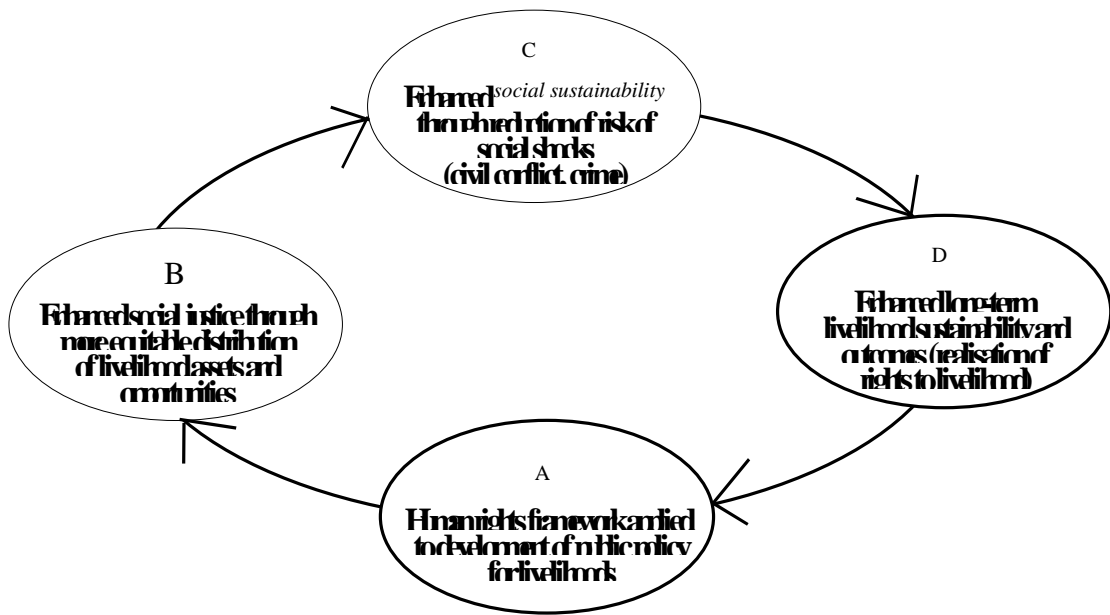
- A human rights approach to public action for livelihood security will enhance sustainable development by reducing social and political risk.

The logic of this scenario is that a rights/livelihoods perspective in policy implementation leads to enhanced social justice, through the application of the principle of non-discrimination and the emphasis on 'equitable accountability' of the state to all citizens. This in turn increases social sustainability through the *reduction of social risk* (lesser incidence of political and social risks and shocks, especially conflict). In turn this strengthens the long-term security of livelihoods (especially of poor people who are less able to avoid and cope with the impact of civil conflict), and the sustainable realisation of economic and social rights.

⁵⁰ At this stage, obviously, both are hypothetical, requiring empirical enquiry to test their robustness, and consequently their implications for the development of policies and programmes to enhance sustainable development.

⁵¹ Prevention strategies aim to reduce the probability of a down-side risk (e.g. flood control, conflict prevention, careful management of investment capital flows); Mitigation strategies are *ex ante* actions to decrease the potential impact of a future down-side risk (such as portfolio insurance, income diversification etc.); Coping strategies aim to relieve the impact of the risk once it has occurred (for households this might include migration or stinting, for public policy, emergency assistance) (Holzmann and Jorgensen 2000).

Figure 2: Human rights, sustainable livelihoods and the reduction of social risk



While there is some evidence to support this proposition,⁵² it also raises significant problems including the following:

- The implication that a rights approach will lessen conflict is not necessarily true in all cases, especially in the short term.
- The proposition contains an implicit focus on the negative effects of conflict, whereas conflict can also be seen in terms of its potential positive outcome. Historically, transformations of social structures that empower poor people are rarely achieved without some form or level of conflict. At the same time it is important to avoid repeating the type of hysteria of ‘slums as hotbeds of revolution’ that predominated urban development policy in the late 1960s and early 1970s.⁵³

This formulation of social sustainability casts the concept in terms of policies that lessen the likelihood of negative events. In focusing on this it emphasises the ‘risk prevention’ element of the threefold typology of risk proposed by Holzmann and Jorgensen (2000).

ii) The ‘maximum’ scenario

The ‘maximum’ scenario, represented in figure 2, takes a broader view of social sustainability. It refers to the enhancement of human and social capabilities of present and future generations, and deals with different risk dimensions (natural, economic, social and political shocks), as well as the various strategies to manage risk (mitigation and coping rather than only prevention). This proposition maintains that:

- Strengthening the human rights content of public policy creates stronger and more equitable public, civil and community institutions, which in turn increases the capacity to prepare for, and cope with, shocks.

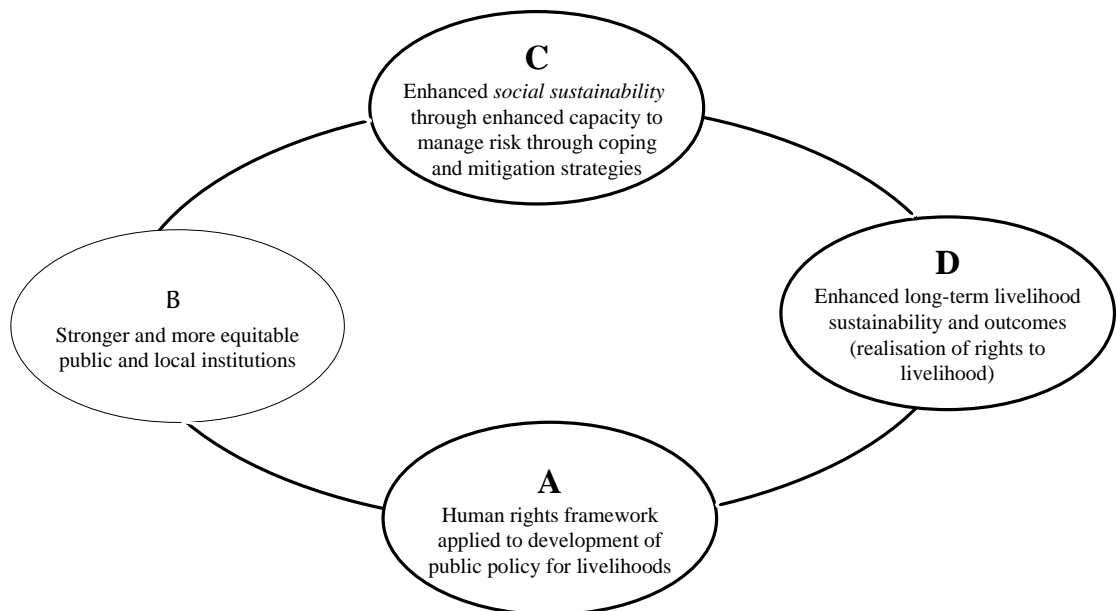
⁵² Stewart (1999) argues on the basis of cross-country comparison that certain kinds of inequality (especially between regions or social groups) are strongly associated with a higher incidence of social conflict.

⁵³ This can be best illustrated by the hotly contested marginality-marginalization debate in Latin America that predominated during the 1970s (see Roberts 1978, for a succinct review).

This proposition emphasises the critical importance that the integration of a human rights perspective brings to governance and the formulation of public policy. This is of particular importance in terms of the following:

- *Openness and transparency:* Amartya Sen famously observed that famines do not occur in countries with strong democratic systems of governance where there is a strong observance of civil and political rights.⁵⁴ This is a function of the enhanced accountability achieved through open information flows and public debate.
- *Equity and accountability:* A growing culture of rights strengthens the degree to which individuals relate to state structures as citizens with rights and responsibilities. In turn this weakens the extent to which people expect to extract benefits from the state through relations of clientelism and patronage. The citizenship model fosters the capacity for collective action across traditional divisions of class, ethnicity and caste, thereby increasing the capacity of social mobilisation to favour (or at least include) the marginalised. Bringing legal mechanisms of accountability into play can also strengthen the equity dimensions of public policy.

Figure 3: The ‘culture of rights’, institutional development for equitable development, and the capacity to manage diverse risks.



This ‘maximum’ scenario provides the basis for a positive change agenda – rather than simply viewing social sustainability in terms of its capacity to prevent negative effects. It also avoids assumptions relating to the negative character of conflict.

As with other components of the conceptual framework presented in this paper, this social sustainability ‘scenario building’ is no more than a preliminary first stage. If nothing else it highlights the importance of clarification in the definition of social sustainability. A great deal more work is still required, both to strengthen the analytical and operational elements that are proposed, as well as to incorporate more comprehensively the extensive case material demonstrating how a rights perspective has added value to the broader goals of sustainable development and poverty reduction.

⁵⁴ Sen (1989).

5 Conclusion: rights make a difference

Despite the limitations highlighted above, a number of important conclusions can be drawn relating to the contribution of a human rights perspective to the development of policies and programmes that strengthen the sustainability of poor people's assets and livelihood security. These conclusions are drawn from the conceptual framework, and the case studies used to illustrate different aspects of the links between human rights, asset and livelihood security and sustainable development. While the data derives mainly from qualitative studies, nevertheless, it provides an important body of evidence demonstrating the value-added of rights-based interventions to poverty reduction, sustainable livelihoods and the empowerment of the poor.

Rights matter – and a framework that focuses on rights helps to understand the power dimensions of development processes

The conceptual framework is not intended to provide an all-inclusive guide to human rights-sustainable development relationships. It provides the basis for a substantive operational agenda to give meaning to the objective of empowerment, which is a major theme of recent donor policy on poverty reduction. As such it is intended to provide a set of appropriate tools, or instruments, for those seeking to operationally integrate empowerment into initiatives designed to promote poor people's sustainable livelihoods. As a consequence, it offers the potential to 'firm up' and concretise approaches that operate at the stronger end of the spectrum of participatory development – emphasising poor people's 'leverage' and agency rather than 'voice' and consultation.

The capacity to make claims effectively is a significant livelihood capability for most people. These may be on natural resources (as in the case of grazing rights in relation to women's livestock in Andhra Pradesh) or services (as in the case of reproductive rights in Zimbabwe) or employment (as in the case of public works in Maharashtra). Analysing rights is also a useful means to highlight the operation of power relations and their significance for poor people's livelihoods. It does not describe all aspects of the operation of power processes – but provides a lens that highlights strategic entry points for addressing a very broad range of issues of power and authority.

Changing rules at a higher level can create opportunities at the micro level. The marginalised may face daunting barriers at the local level relating to centuries-old norms, laws and elite privileges that discriminate against them. Interventions at a higher level rights regime can instigate long-run processes of social change – as in changes in household gender relations associated with enhanced reproductive rights in Zimbabwe. Similarly, the Maharashtra EGS is purported to have promoted the development of a social mobilisation capability among the poor. The opportunities offered by a rights approach to social protection provided an incentive for local level organisation.

For poor people to effectively make claims requires a number of complementary strategies and elements

These include the following:

- Access to information – as illustrated negatively in the case of women goat herders in Andhra Pradesh, who lack information that would enable them to pursue claims effectively.
- Group solidarity – as illustrated in the work of Nijera Kori in Bangladesh where cooperation in one struggle forms a platform for mobilisation in other spheres.
- Development of skills and capabilities: these help in making claims, especially organisational and communication skills.

- The help of allies capable of providing advocacy at other levels and in distant institutional domains can be critical for success – as in the case of the multiple levels of action pursued by SEWA in seeking to promote the rights of home-workers.
- Access to a ‘fair regulator’ capable of assessing competing claims according to rights provisions without being captured by elite groups can facilitate the process – SEWA lost the case for homeworker pension rights in the Gujarat courts, but won on appeal to the national courts. By contrast the women goat keepers in conflict with the Andhra Pradesh Forestry department had no effective means of recourse.

Civil society is critical to the success of a livelihood rights approach to sustainable development

The evidence suggests that without external assistance the poorest and most marginalised will generally lack the capacity to negotiate effectively for their rights. To date the implementation of a rights based approach to sustainable livelihoods has been promoted far more by civil society organisations, than by policy technocrats in donor or government agencies for whom rights, by their nature, are not a comfortable tool. Effective pro-poor advocacy institutions tend to share key characteristics that include the following:

- A commitment to the empowerment of particular social groups and a capacity to listen to their views and adapt to their priorities and realities.
- An ability to work simultaneously on the same issue at multiple legal and institutional levels (local, national, regional, global), utilising solidarity networks (e.g. supporting the claims of home-workers in the SEWA case, or the work done to further women’s reproductive rights through the Cairo process).
- Communicate widely, learn and adapt, gather information and form networks.

The state can act as an enabler of livelihood-related human rights

The role of the state is critical in a human rights framework, as it is the primary duty-bearer. The obligations of the state, defined under human rights agreements, do not mean that states always have to provide free services. Governments are required to promote the social arrangements and policies that promote access to these rights through the market, civil society and the state.

At the same time the state can play a critical role as an enabler of rights. The most favourable contexts for the fulfilment of rights relating to livelihoods often occur when state acts as an enabler of poor people’s rights – acting in dialogue with social movements, and civil and political society, as illustrated in the case study of the Maharashtra Employment Guarantee Scheme in Annex 4. Basic elements of sound democratic governance are obviously highly important. These include transparency, a commitment to disseminating information to citizens, an openness to dialogue, and even-handedness in the application of law and regulatory systems.

However, these are unlikely to work to the maximum benefit of the poorest, unless they are accompanied by the state’s commitment to transform norms and values of public institutions so that they can recognise and counteract prevailing forms of oppression and discrimination. These are context specific and may be based on class, ethnicity, gender or other fault lines of social difference. At the same time, the empirical case study review indicates that good democratic governance is not a necessary condition for the productive application of rights perspectives. Where the state is obscure, discriminatory and non-transparent international human rights texts and institutions often provide the only effective framework for citizens to make claims for greater accountability.

Donor agencies can make a difference

In the past decade several major international development organisations have shifted in their approach and begun to use their position to facilitate the introduction of rights perspectives

though partnerships with both government bureaucracies and civil society. Some of the measures include the following:

- Using the leverage that their position provides with partner agencies to promote initiatives that facilitate poor people making claims. The World Bank loan in the coal sector in Russia (see Box 17) illustrates how the Bank ensured that information about entitlements reached redundant workers.
- Using leverage in policy arenas to strengthen the poverty and gender aspects of legal and regulatory frameworks e.g. resource tenure.
- Promoting programmes that enhance the accessibility of the justice system and rights of recourse in the event of discriminatory practice for poor people.
- Developing new forms of accountability that enable NGOs to pursue their own objectives and work towards increasing the accountability of governments to civil society, rather than ensuring the accountability of NGOs and CSOs to donors. Such forms of accountability focus on minimum forms of financial accountability and NGO-identified indicators of process and outcomes rather than delivery of donor specified outputs.
- Supporting flexibly the agenda of key institutions that have emerged from political struggles in the countries where they work (e.g. DFID's support for Nijera Kori in Bangladesh). To do this their work needs to be based on a normative framework which guides them to supporting the claims of the poor and marginal and an analytical capability which enables them to identify the strongest entry points for their support.

Box 17: The World Bank's assistance to the Russian coal sector

The coal sector in Russia was badly affected by the transitions that racked the country from 1991. The system for payments collapsed, with wages paid some 8–16 months late, and then often only in kind rather than cash. The provision of benefits to retrenched or disabled workers was not delivered effectively (only 35% of miners received social protection in 1996). Mine closures proceeded without legal due process, and miners and their communities were left uninformed about their entitlements. The government determined to reform the sector in preparation for privatisation. This involved, amongst other goals, closing un-viable mines in an orderly manner and ensuring that benefits were paid. The World Bank assisted in this reform process, beginning with process mapping (tracing the flows and bottlenecks with regard to money, information and policy) and organisational stakeholder mapping.

As a goal, the realisation of workers' social protection rights was clearly central to the reform of the coal sector. There were concerted efforts to involve workers as individuals, communities and unions. Two of the sector's unions were each given \$400,000 and contracted to promote worker awareness of their rights and to engage in monitoring programmes. Social impact monitoring by means of worker surveys was used to obtain direct information on key areas of concern, particularly with regard to the delivery of benefits. Pre-redundancy consultations that informed workers of their rights and entitlements enhanced accountability, while local oversight committees, containing a cross-section of stakeholders, were given the right to make decisions over the allocation of funds for local development.

In writing this concept paper and the subsequent discussion and consultation meetings, a number of critical issues and gaps were raised. Time and space constraints have meant that many have not been addressed in this final draft. Further development of the framework requires additional work on a number of important issues. While these are listed individually the interrelationship between them is of equal importance:

Market-based freedoms and rights

Sen has argued persuasively that a key dimension of agency and rights concerns the claims people have on access to markets as a forum within which freedom and agency can be expressed.

‘In recent discussions, the focus in assessing the market mechanism has tended to be on the *results* it generates, such as the incomes or utilities yielded by the market...But the more immediate case for the freedom of market transaction lies in the basic importance of that freedom itself. We have good reasons to buy and sell, to exchange and seek lives that can flourish on the basis of transactions. To deny that freedom in general would in itself be a major failing of a society. This fundamental recognition is prior to any theorem we may or may not be able to prove...in showing what the culmination outcomes of markets are in terms of incomes, utilities and so on.’ (1999, p 112)

Freedom of access to markets is fundamental to many dimensions of economic rights, such as freedom from slavery and bonded labour, and the application of the principle of non-discrimination is important in relation to all markets. The exploration of market-based rights and entitlements, and the significance of the claims for policy relating to livelihoods and poverty reduction, requires further elaboration.

The potential of the state as an enabler of poor people’s rights to livelihood

Most of the case studies reviewed in this paper show complex interactions between social movements, intermediary civil society organisations, political society, the state, inter-governmental bodies and donors. They tend to emphasise the role that civil society and social movements play as catalysts in initiating processes which strengthen rights for poor people. However there are equally cases where the state itself takes a proactive role in processes which affirm and strengthen the rights of the disempowered and marginalised. Additional documentation of such cases would be valuable in illustrating the conditions under which the state is likely to play an enabling role.

The significance of the conceptual framework for macro policy

The paper has highlighted macro-micro political linkages, as has been well illustrated in the case studies. For instance, SEWA’s advocacy for homeworkers extended from village-level action to the development of a new inter-governmental convention (with comparable action at the State and Federal level in India). However, macro-micro linkages in relation to economic policy require more consideration than was possible to give within the confines of the paper. Different macro-economic policy options will have varying implications for the fulfilment of rights to decent and adequate livelihood for different social groups. As already clarified in this conceptual framework, this will have implications not only for the formulation but also the implementation of macro-economic policy.

Social sustainability

The paper concludes by proposing two alternative scenarios, based on different perceptions of social sustainability, that characterise the nexus linking rights, livelihoods and sustainable development. As mentioned in some detail earlier, the empirical testing of the relationship

between the fulfilment of livelihood-related rights and the sustainability of positive processes of economic, social and political development is another area for further work.

A new vision for sustainable livelihoods

In combining rights-based perspectives and sustainable livelihoods approaches the Sustainable Livelihoods framework has been adopted in this paper as laid out in the DFID Guidance Sheets. Yet this framework itself has severe limitations, particularly in relation to the treatment of issues of power and authority. Further work is needed to better incorporate these political dimensions. Research on the dynamics of institutions in natural resource management (Leach *et al* 1999), as well as ongoing World Bank work that is integrating a livelihood approach into participatory living standard assessments (World Bank 2001d),⁵⁵ may provide important contributions. It will also be important to strengthen the tools for looking at macro-micro linkages and to develop further the important analytical distinctions between assets, capital and capabilities, which are compressed under the discussion of the five 'capitals' in the DFID formulation.

Operational implications for the World Bank

While the World Bank commissioned the concept paper, independent consultants wrote it. Consequently details concerning specific implications of the framework for the Bank's mandate or structure are beyond its remit. Nevertheless it may be helpful to note the following issues:

- Regardless of the Bank's formal governance position with regard to the international normative framework of human rights, it is increasingly drawn into partnerships with international, national and civil society organisations that operate within these norms and values. In order to form the partnerships it needs to achieve its economic objectives, the Bank will need to operate within this framework, and consequently be informed about its content and meaning.
- Some of the issues relating to a rights perspective are global, and refer to the institution as a whole, and therefore need to be determined through its structure of governance. At the same time there are other levels where there is considerable potential mileage for technical and operational staff to adopt a conceptual framework such as the one proposed in this paper. For example, analysis of the political processes by which poor people process their claims into outcomes can help to give a concrete framework for addressing the issues of empowerment raised in WDR 2000/01.
- A conceptual framework based on a rights perspective can also open up a range of new approaches and channels for addressing the promotion of equitable sustainable development. To end with just one example, the framework proposed here suggests an increased focus on legal systems as an arena for effective action to strengthen poor people's livelihoods.

⁵⁵ In Mongolia, managed by Robin Mearns.

Annex 1

Conceptualisations of rights

Characterisation of rights as 'legitimate claims' giving rise to correlative duties:

Rights are widely characterised as legitimate claims that give rise to correlative obligations or duties. This characterisation suggests that to have a right is to have a legitimate claim against some person, group or organisation (e.g. a social or economic institution, a state or an international community), where the latter is in turn under an obligation or a duty to ensure or to assist the rights-holder in securing the right. Put simply, 'A has a right against B in relation to C', where (A) is the rights-bearer (B) is the duty-bearer and (C) is the object or end of the right.

A system of rights (or a rights-regime):

A rights-regime can be characterised as a normative system derived from a particular regulatory order or source of authority that functions to legitimise the claims of a person or group, in terms of the obligations or duties of some other person or group. In a given society several rights regimes may co-exist – for example, customary law, religious law and statutory law – all with distinct normative frameworks and means of formulation and enforcement. The concept of a rights-regime incorporates the diversity of interpretation and function of rights and obligations that are historically, culturally and socially specific. A rights-regime may characterise interpersonal relationships between individuals, family members, ethnic, religious or other population groups, or members of religious or other communities. At the same time the rules and norms that function to legitimise these claims may be formal or informal, and moral, cultural, social, legal or political in nature.

Rights-regimes often function to legitimise and perpetuate unequal, hierarchical and exploitative relationships.⁵⁶ Any particular rights-regime can be analysed from the perspectives of (a) the psychological, sociological, ethical, legal, political and economic processes whereby a particular claim acquires the status of legitimacy; (b) the interests (class, gender, ethnic group etc.) and power base of such claims; (c) processes of challenge, contestation and change; (d) the relationship of such claims with institutions, development and growth; (e) the relationship between informal and formal rules of rights and the realisation of those rights in practice; and (f) the possibility of fuzzy, overlapping, competing and conflicting systems of rights (e.g. rights deriving from customary, national and international practices and law).

Individual rights

Individual rights are a subset of the right, consisting of obligation relationships in which the rights-bearer is an individual person. Groups rights would not, for example, fall within this subset of rights. The idea that the individual human person can make legitimate ethical and legal claims *qua* individual is widely associated with ideas of individual rationality, identity and autonomy that are characteristic of post-Enlightenment liberal political theory. It is often suggested that the idea of individual rights – with its emphasis on the atomistic individual as a basic unit of society – is absent from traditional societies (Wilson 1997; Pollis 1996; Cobbah 1987).

⁵⁶ Norms and rules characterising the relationships between free men and slaves in Ancient Greece, between men and women in 18th century Britain, and between black and white people during the Apartheid period in South Africa are all examples of rights-regimes premised upon inequalities of rights.

Universal human rights

Universal human rights build on the idea of individual rights. A human right is an individual right with a universal domain, that is, an individual right that applies to all human beings equally, irrespective of their membership of particular families, groups, religions, communities, or societies. Universal human rights have been criticised as a Western construct that conceals underlying ideologies and power relations. Yet culture-based theories of relativism often overlook the contested and conflictual nature of culture, while failing to recognise the influential role of the idea of human rights in the contemporary world.⁵⁷ In reality no culture or society can claim monopoly ownership of the idea of human rights since its antecedents also have deep roots in non-western societies.⁵⁸ Traditions from which human rights have emerged are present in many non-western societies. These include traditions of universalism, tolerance and respect for human dignity and worth, of freedom, of concern for the poor, needy and exploited, and of interpersonal and governmental responsibility. This suggests that post-Enlightenment natural law and natural rights traditions in liberal political theory do not provide exclusive foundations for the idea of human rights.

⁵⁷ Sen (1997) has commented that it is important to avoid double standards in cross-cultural foundations of the idea of human rights. Elements that are consistent with modern ideas about human rights have co-existed in Western philosophies, cultures and societies with elements that are neither supportive nor consistent with this idea. Ideas and practices such as slavery, sexism, racism and fascism have deep historical roots in Western societies, while those of freedom, democracy and equality are located in Ancient Greece - where slavery was commonplace. Sen concludes that the presence of elements in different cultures from around the world that are not compatible with modern human rights standards - and the fact that these elements are sometimes selectively championed by leaders - ought not to be allowed to obscure the presence of other elements that *are* compatible with, and supportive of, modern ideas about human rights (1997).

⁵⁸ See Vizard (2000a).

Annex 2

Status of ratifications of the principal international human rights treaties

<i>Treaty</i>	<i>Year</i>	<i>Total States Parties</i>	<i>Total Signatories among Non-States Parties</i>
International Convention on the Elimination of All Forms of Racial Discrimination	1965	157	9
International Covenant on Civil and Political Rights	1966	148	6
International Covenant on Economic, Social and Cultural Rights	1966	143	8
Convention on the Elimination of all Forms of Discrimination against Women	1979	167	3
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	1984	123	11
Convention on the Rights of the Child	1989	191	1

Source: Office of the United Nations High Commissioner for Human rights, as of 28th March 2001.

Annex 3

Human rights and livelihoods – the content of the normative framework

The framework of norms and standards embedded in the range of livelihood rights outlined in this paper provides immense scope for establishing the accountability of governments which are signatories to the conventions and agreements outlined in Annex 2 above. The framework is best understood as a tool for identifying *negotiating and advocacy possibilities*. These apply particularly strongly where the object of advocacy is a government and that government is a signatory to the treaty or convention in question.

In order to have a clear understanding of the ways in which governments have made commitments to the elements of the framework above it is important to understand the nature of the obligations which human rights agreements confer on states. The jurisprudence of the UN Committee on Economic, Social and Cultural Rights emphasises that all human rights – civil, political, economic, social and cultural – give rise to three general types or levels of obligations on states: the obligations to *respect*, *protect* and to *fulfil*, where the obligation to fulfil in turn gives rise to obligations to *facilitate*, *provide* and *promote*.⁵⁹

- The obligation to *respect* requires states to refrain from taking actions that result in the denial of human rights. This implies an immunity from interference with the freedom of the individual. For example, states should refrain from undertaking cruel, inhuman and degrading practices such as torture.
- The obligation to *protect* requires states to prevent third parties from taking actions that result in the denial of human rights. This can require states to undertake positive measures needed to ensure adequate protection from violations by third parties. For example, states should take positive measures to prevent third parties from violating human rights by undertaking practices such as forced disappearances and extra-judicial killings.
- Finally, states have an obligation to *fulfil* human rights. This obligation can give rise to positive duties on states to take actions to *facilitate*, *provide* and *promote* the full realisation of human rights. For example, states should take measures including the adoption of appropriate legislative, administrative, budgetary, judicial, promotional and other measures resulting in promotion and full realisation of the human right to life in practice.

In applying this framework, the Committee on Economic, Social and Cultural Rights has reasoned that the human right to adequate food imposes three types or levels of obligations on States parties: the obligations to *respect*, to *protect* and to *fulfil*. In turn, the obligation to *fulfil* incorporates both an obligation to *facilitate* and an obligation to *provide*. The obligation to *respect* existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to *protect* requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to *fulfil (facilitate)* means the State must pro-actively engage in activities intended to strengthen people's access to and utilisation of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfil (provide)* that right directly.

⁵⁹ This typology builds on that elaborated by the UN Committee on Economic, Social and Cultural Rights in General Comment 14, 'The Right to the Highest Attainable Standard of Health', UN Doc. E/C.12/2000/4, paragraph 33, and developed by the UN Special Rapporteur on the Human Right to Food. This First Report set out *de lege ferenda* these three levels of obligation incumbent upon States relating to all human rights (UN 1989). The Special Rapporteur's scheme has subsequently been updated in Eide, 'The Right to Food in Theory and Practice', <http://www.fao.org/docrep/>; 'Report Updating the Study on the Right to Food prepared by Mr. A.Eide', UN Doc. E/CN.4/Sub.2/1998/9; and 'The Right to Adequate Food and to be Free From Hunger, Updated Report by Special Rapporteur Mr Eide', UN Doc. E/CN.4/Sub.2/1999/12, paragraphs 51-52. For the issues raised by these typologies in political theory, see Shue (1977) and Waldron (1993). The positive obligations of states in relation to the human right to life are established in the jurisprudence of the UN Human Rights Committee (see General Comment 6, The Right to Life (Article 6), Sixteenth Session, 30/7/82).

Annex 4

Empirical issues of rights and livelihoods: illustrative case studies

Introduction

The following case studies have been selected from a range of empirical material reviewed during the course of this project. They illustrate ways in which a rights framework can be used to understand and analyse the operation of power processes that affect the capacity of poor people to strengthen the security of their livelihoods. Each case study will be described briefly, then the key learning points in terms of the application of a rights framework will be drawn out.

Case study 1

Social mobilisation under Nijera Kori ('We do it ourselves') in Bangladesh⁶⁰

This case study illustrates action to support poor people's capacity to claim their rights at various levels. Nijera Kori, a membership-based NGO, engages in activities across a range of fields with men and women in poor rural communities. Work on developing individual self-confidence and group solidarity and cohesion is combined with strategies to inform people of their rights and support their capacity to claim resources (e.g. land) or services (e.g. employment) which are critical to their livelihoods. Rights are pursued both in regard to the formal rights regime of state law – pursuing and defending the interests of the poor in relation to courts and police which normally serve the rich, and resisting the incorporation into state law of fundamentalist religious interpretations which serve to oppress women – and in informal rights regimes, in reforming or bypassing the elite-dominated village shalishes which adjudicate on many local conflicts. The result is a partial but significant transformation of the intermediate structures of constraint – that is, the institutional norms and behaviour which structure relationships between the sexes within the household, between rich and poor within the community, and between poor citizens and the state institutions responsible for the delivery of services and legal justice.

In Bangladesh, there is an extensive range of formal rights reflecting a progressive liberal constitution that establishes state commitment to universal human rights. In practice, however, the ability to enjoy citizen rights depends upon who you are, what you have and who you know (Kabeer 2001a, 9): poor people in this system face extensive barriers when attempting to obtain access to services, resources and livelihood opportunities. Monopolistic state service providers, an underdeveloped private sector characterised by extensive market failure and segmentation, and pervasive patron-client relationships structure poverty and inequality along class and gender lines (see Box 17). The poor have little access to government-controlled resources, services and administrative decisions. Political parties are generally dependent more on local and national elites who mobilise their dependent clients, rather than the independent 'voting power' of poor men and women; as a result, politicians are unlikely to hold officials to account or press for pro-poor reform, and often have a vested interest in the accumulation of resources and power by elites. Government accountability is thus limited, and there are few incentives to address the needs and rights of poor people, let alone women. In this context, growth alone will have important but limited impact on poverty reduction.⁶¹ It is essential to also address the nature and structures of inequality in power and resources.

⁶⁰ The material for this case study is drawn from 'Hearing Voices' – a paper by Richard Montgomery presented to DFID's Regional Livelihoods Workshop held in Bangladesh in May 2001 - and from analysis of Nijera Kori's work by Naila Kabeer of IDS.

⁶¹ The main linkage between growth and empowerment is through opportunities for diversification: as more economic activities become available to the rural poor they become less dependent upon traditional patrons. Credit

The deeply hierarchical social structures and processes, which underpin poverty also, militate against effective collective action in the interests of the poor. In spite of this, effective mobilisation of the poor occurs at all levels in civil society. Bangladesh is well known for having a strong community of non-governmental organisations promoting a range of benefits for poor people. Many of these NGOs have used a rights discourse, often with a challenging and original slant. However, over time many of the radical organisations which sought in the first instance to empower the poor and transform society have become more technocratic, focusing upon service delivery or alternative finance. Nijera Kori ('We do it ourselves') remains a notable exception, eschewing service delivery and concentrating upon mobilising the poor to claim their entitlements and demand their rights. It consciously defines itself as 'an agent of social change with a mandate to work with the poor to operationalise their rights in the political, economic and social spheres' (Kabeer 2001a, 3; 2001b, 74).

Nijera Kori (NK) is a grassroots, membership-based organisation, with tiered structures of both members and staff office holders elected at different levels of the organisation, and with a continuous flow of information between staff, vertically and horizontally, relating to analysis, planning, and assessment. This member governance ensures that NK retains features of a social movement with popular legitimacy, and the capacity to reinforce local campaigns with a national voice, and vice versa. It has approximately 190,000 members (50% women) active in 10% of Bangladesh's rural *thanas*, and has a proven track record of social mobilisation. It provides no services beyond training and awareness raising (though it does encourage group savings).

The model of empowerment used by Nijera Kori addresses the distribution of various components of power (resources, agency and achievements) through different institutions (family and kinship, community and civil society; markets and state). Power in Bangladeshi society can be seen to reside at a number of different levels: in individual capacities (assets, sense of self, confidence, etc.); in deep-rooted structural processes of constraint produced and reproduced by class and gender oppression; and, between these, in a variety of intermediate structures comprised of institutional rules, norms and practices (Kabeer 2001b, 33). NK's work starts with the individual, assisting them with the information and analysis required to understand their situation, the rights to which they are entitled, and the practical means by which collective action under NK guidance can help them to claim these rights.

In practical terms, its organisational approach involves the following steps:

- building groups and federated structures at village, Union and Thana level;
- raising member awareness of human rights, legal entitlements and government programmes;
- supporting collective action at local and regional levels on a range of issues of importance to poor men and women;
- reforming the delivery of justice by local, informal institutions, using collective strength to make these bodies more responsive to the poor;
- contesting space to influence administrative and political decisions at various levels; and
- undertake coalition building an advocacy on key national policy issues.

A distinctive feature of Nijera Kori's mode of operation is the links that are utilised between group-based solidarity created through one means (e.g. resistance to land appropriations), and the work that the organisation carries out to strengthen people's capacity to effectively make claims in other fields. An example of the strength of both group solidarity and the power of linking this to advocacy capacities provided by the organisation itself is provided in Box 18.

Box 18: Solidarity in action: struggles over land

I came across an example of group solidarity in action when I attended the meeting of a male group

NGOs play a complementary role, breaking the monopoly hold that local patrons had upon the supply of money (Kabeer 2001b, 71). On its own, however, this aggregate empowerment of many individuals is not enough: the collective empowerment promoted by NK plays an essential function in ensuring a shift in distribution of resources and opportunities.

Char Jabbar in Noakhali. Its members came from various neighbouring districts. They had come to the area around 8 year ago when they had lost their land and livelihoods through river erosion. They had started cultivating the newly formed char area and had put into process their application for land title about two years ago when they had joined NK. However, in the past year or so, a number of industrialists from Majdee town had, with connivance of the local land registration officials, obtained a lease for the land despite the provision of the land distribution policy that it should go to the landless and despite the fact the process of registration had been begun. In anticipation of attacks from the industrialists, the divisional organiser of NK moved into the area to offer some protection. He was then arrested on a false case lodged by one of the industrialists as a prelude to sending in their lathials to destroy the harvest and seize the land.

NK groups, who knew which areas the industrialists were likely to go to hire lathials, pre-empted this move by contacting the lathial groups themselves and persuading them not to allow themselves to be hired to fight against their fellow landless. NK organisers also contacted one of the more influential industrialists in Majdee town to persuade the others to avoid violence. In response to NK action, the high court issued an injunction to prevent any industrialists from entering the char in question and the district office is no longer issuing leases for shrimp farming. However it continues illegally.

Source: Kabeer 2001b, 42.

Much of Nijera Kori's work involves engagement with the formal legal and administrative systems. This includes contesting land claims in the courts; defending the poor against malicious lawsuits lodged by the rich who seek to appropriate their land; ensuring that safety net entitlements are paid as stipulated rather than pocketed by officials; and supporting women in using the law against verbal divorces, gendered violence (domestic violence and rape) and local *fatwas*. Much of the work, however, also involves efforts to transform informal rights regimes. Using ostracism and other social sanctions against husbands who beat their wives or invoke verbal divorces, or against families who insist on dowries for their sons, Nijera Kori leads change in what is perceived as acceptable norms of behaviour (Kabeer 2001b, 48). Similarly, while there is no legal minimum wage, there are norms and beliefs about what is just payment for work: Nijera Kori supports landless labourers in defending and raising the level of this 'just' wage. The insertion of NK representation into traditionally elite-dominated *shalishes*, or the creation by the poor of their own *shalishes*, is another example of change operating at the level of 'legal' institutions outside the state.

Analysis by Nijera Kori of its work to date⁶² has confirmed a range of impacts, summarised in box 2 below. The left-hand column ('domains') provides key examples of the sorts of issues on which NK works to improve the voice of poor men and women. The second hand column ('methods') provides examples of tactics and strategies used.

Nijera Kori is also of interest in regard to the identification of entry points for donor agencies. As an organisation, which worked outside of the usual technocratic service-delivery models of NGOs role in development, NK had not considered the possibility of trying to obtain donor support. When DFID Bangladesh created the HUGO (Human Rights and Governance) project as a follow up to DFID's policy papers on Human Rights and Governance, Nijera Kori realised that they could be eligible for support.⁶³

⁶² From Montgomery (2001) assisted by N. Kabeer

⁶³ Kabeer, N., personal communication; Montgomery, R., personal communication.

Table 7: NK's impacts in economic, social and public policy domains

Domains	Methods	Benefits
<i>Economic</i>		
Wages on public works	Pressure on officials to pay full wage & food entitlements on public works, by acquiring work schedules and allocations, and lobbying politicians and Union Parishads.	Direct individual benefits (enhanced wages). Externalities for other poor people when incentives for officials' rent-seeking in a NK areas are reduced.
Wages in local economy	Collective bargaining over daily wage rates offered by employers.	Limited success (only in areas & seasons with tight labour markets).
Access to public (<i>khas</i>) land & water	Collective bargaining over <i>khas</i> land distribution & water leases; campaigns and lobbying of local officials and politicians; legal action to protect rights.	Members better able to achieve <i>de jure</i> status and to retain <i>khas</i> land than non-members in the face of attempts by local elites to capture <i>khas</i> land and water leases.
<i>Social action</i>		
Reforming operation of village dispute resolution mechanisms (<i>shalishes</i>)	Own <i>shalishes</i> organised by NK groups, or representation for NK members achieved in village wide <i>shalishes</i> . Particular benefits for women, who rarely fair treatment.	Externalities for non-members as greater representation of poor in <i>shalishes</i> leads to less arbitrary and more equitable judgements, reducing ability of elites to use <i>shalishes</i> as form of social control.
Reduction in domestic violence and women's insecurity	Mediation by NK staff / leaders; use of social ostracism and shaming in favour of women facing violence, or verbal divorces.	Comparison of NK and non-NK poor households shows lower levels of domestic violence, less polygamy, and less divorce in NK member households.
Reduction in local forms of official corruption	Mobilisation around specific services (e.g. Health provision; public works operations; siting of services such as schools and clinics); achieving access to budget information.	Reduction in levels of bribes paid for service access (treatment, medicines in health centres); Reductions in level of illicit official deductions from food rations and public works payments.
Improved performance and uptake of government services	As above. In addition, elections of NK members to local bodies (Unions) and other forums (school, health and bazaar committees).	Teachers more likely to attend schools; NK members more likely than non-NK members in similar social groups to send their children to school and use health facilities. Local committees more likely to hear and take into account interests of the poor.
<i>Public policy impacts</i>		
Reduced negative impacts on poor people from inappropriate development schemes and policies	National and local advocacy campaigns leading to changes in resource management and allocations	Halting of Flood Action Plan in Tangail. Damage to sundarbans bio-diversity reduced. Potential for major impacts from improved national environmental planning (NEMAP). Reductions in destructive social and environmental aspects of export shrimp production

Key learning points

This study shows how a rights approach applied at different levels and by different actors creates multiple opportunities for action. Specifically it demonstrates:

- the importance of consciousness-raising – providing individuals with information about their rights; about alternative, more egalitarian value systems and ways of looking at the world; and about the potential for collective action to realise rights and improve livelihoods

– to empower the poor and enable them to mobilise in pursuit of rights which are critical to their livelihoods.

- how group solidarity and cohesion created through a practical response to local concerns can be utilised to strengthen people’s capacity to effectively make claims and assert rights in other fields;
- how a flexible organisation working within a rights framework can adapt its strategies to contextual needs (by supporting claims on natural resources where the potential exists – but shifting to support worker rights where claims on land cannot be practically asserted);
- how the evolution of policy and practice within a donor agency created new opportunities for addressing key issues of empowerment and poverty.

Case Study 2

Goats, poor women's livelihood rights and conservation policy in Andhra Pradesh⁶⁴

This study illustrates how poor women in Andhra Pradesh experience discrimination in terms of low levels of state extension support and lack of access to grazing lands as a result of an 'anti-goat' policy that effectively negatively targets them. Although the environmental rationale for this policy is not well founded the women lack effective voice (either on their own or through advocates in civil society) to make the case for a more supportive state policy towards goats – which are the only form of livestock well adapted to the daily realities and constraints of their lives.

The reputation of the goat as an ideal animal for rural subsistence livestock systems in India has suffered over time. While the Nizam of Hyderabad urged the poor to keep goats as an insurance against poverty, and Mahatma Gandhi promoted the goat as the poor (wo)man's cow that yields health giving milk for small farming households, recent governments have labelled the goat as an enemy of nature and accused it of destroying the country's forests and grazing lands. Despite this, numbers increased rapidly in the 1980s and 1990s as more and more people were forced to switch to goats from larger animals with deteriorating common property resources (CPRs). But for reasons explained in the following paragraphs, goat numbers are falling sharply in Andhra Pradesh (AP). This is a serious threat to the livelihoods of the poor, particularly poor women.

Goats offer high returns for very little investment – a kid purchased for Rs 5 can be sold for Rs 1500 or more at maturity. They are versatile eaters: goats can be stall-fed or taken out to graze. They can be fed on rice, *ganji* (the starch water that is poured out of rice) and many other left-overs. Goats are not prone to as many diseases as sheep and they are suited to semi-arid conditions. They can be milked for small quantities of milk at any time of the day, unlike cattle. It is these qualities that make goats an ideal additional source of income, meat and milk for poor women because they can be managed easily even by those who go out to work all day. Whereas the keeping of larger animals and sheep rearing is usually the business of men, goats and chickens are looked after by women in many parts of India. It should also be noted that goats are often share-reared by women, an important but under-recognised form of livestock management by the poor. The most prevalent form of this arrangement is for an employer/patron to hand over a female animal to a poor labourer. The labourer feeds the animal (sometimes on the patron's land) and gives it back with the first-born kid but has the right to keep the second born. The milk and dung of the animal are important benefits from this arrangement.

The poor arguably have a right to this traditional livelihood source but the government thinks otherwise. Nowhere is the campaign against goats more aggressive than in AP. After high-level political statements made three years ago in which goats were singled out as destructive animals, the war against the goat has gathered tremendous momentum amongst government line departments and funding bodies. In one district, the Forest Department, the key line department behind the anti-goat campaign, organised a special high level meeting with the National Bank for Agriculture and Rural Development (NABARD) to discourage them from providing loans to people for the purchase and rearing of goats. Although every Indian has a right to a livelihood according to the Constitution, the interpretation of this is very much the prerogative of government. At least three districts in AP have completely stopped the supply of goats through government funded channels and more are likely to follow.

The rationale underlying the government position is that goats are destructive browsers who eat tender leaves and shoots and do not allow saplings to survive. These arguments have acquired legitimacy due to the power wielded by officials who propagate them. But they are not always supported with scientific evidence. The mere presence of goats in degraded areas may be a consequence of the degradation process rather than a cause because they can eat many more

⁶⁴ This is an edited text from a case study prepared by Priya Deshingkar.

species than cattle and sheep. A government task force to evaluate the impact of sheep and goat rearing in ecologically fragile zones concluded that there was no definite evidence to prove that goats pose a threat to the environment as is generally believed. [GOI 1987]. Research conducted by ANTHRA (an organisation of women veterinary scientists working on livestock development in Andhra Pradesh and Maharashtra) since 1996 has established that plants which are preferred by goats such as *Fluggea virosa*, *Zizyphus jujuba* and *Zizyphus oenoplia* are still abundantly available [DTE 2000]. Other studies have shown that goats act as regenerators of vegetation through dispersal of seeds in their droppings and vegetative propagation through browsing [Acharya and Singh n.d.]. Research conducted by the Central Arid Zone Research Institute have shown that goats defoliate the smallest branches of trees without damaging twigs.

The goat as a species is obviously not the problem but vast numbers of goats, like any other animal which feeds on vegetation, could pose a problem. But this hypothesis clearly does not apply to landless agricultural labourers who take one or two goats to the fields and feed them on crop residues and weeds.

A number of key issues are illustrated in the literature on this case study:⁶⁵

- Goat keepers have little voice or capacity to make claims on either government support services or rights of access to grazing land. Unlike other key constituencies (such as local elites engaged in leading various community-level programmes such as Watershed Development) they have little support from NGOs. The rights of goat-keepers are therefore overruled in the interests of forest and CPR protection by the government and common interest groups, which are controlled by the local elite.
- Given the shrinking resource base the rights of goat-keepers can be in conflict with the rights of other grazier communities, both traditional and new. Goat-keepers tend to be poor and lower caste, therefore very vulnerable to social and economic exclusion. Without some external assistance they are unlikely to prevail in competitive situations. Goat-keepers themselves are generally unaware of any legally recognised rights that they may have.
- District level government has the authority to allocate resources among competing users and impose controls on goat-keepers. In practice this means that they are not bound to uphold Government Orders that grant goat-keepers any rights to forests.
- The anti-goat argument deflects the blame for forest and CPR destruction away from faulty forest policies, poor management by the Forest Development Corporations, illegal encroachment of CPRs and the negative impact of populist land redistribution policies.

To what extent civil society structures can pressure government into allocating grazing rights in a more pro-poor manner remains to be seen. A good start would be to understand existing and emerging patterns of small ruminant rearing through research and create awareness of the specific issues involved among those who are in control of the distribution of resources.

Key Learning Points

- Without external assistance the poorest and most marginalised will generally lack the capacity to negotiate effectively for their rights. Information and the development of local organisational resources may help them to more effectively voice claims – but their position will be further strengthened by the engagement of organisations with the technical capacity to challenge the orthodoxy where arguments ranged against them include technical dimensions.
- Arguments premised on an objective of enhancing environmental sustainability can be used to promote the rights and privileges of elites.

Rights which are clearly stated at the national level (as in the Indian constitution's provisions on livelihoods) may mean very little unless they are backed up by intermediary structures which enable poor people to engage meaningfully in debates about the interpretation of their obligations with intermediary institutions (such as in this case the Forestry Department).

⁶⁵ Acharya and Singh (1992), DTE (2000), NABARD (2001), Raut and Nadkarni (1974), Sharma (1987), SPWD (2001), Yugandhar (1996) NRMPA (2001).

Case Study 3

Women's reproductive rights in rural Zimbabwe

The introduction of a charter of rights in Zimbabwe's system of reproductive health services was inspired by the ways in which feminist advocacy groups managed to shift the agenda in major international conferences on gender and reproductive rights during the 1990s. Anthropological fieldwork in a village in rural Zimbabwe showed that the results of this chain of interactions reached into the power relations inside the local households. The fact that many women were more able to regulate their fertility enabled them to strengthen their claims on the socio-economic resources of their in-laws. This study illustrates that when international human rights processes reflect the realities of the powerless, they can in turn create powerful levers for supporting the claims of the disadvantaged. The role of global networks in this process is essential.

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The international women's health movement emerged in the late 70s in response to top down family planning provision and reported coercion of women to use contraceptives. This movement comprised diverse participants ranging from radical feminists to community groups involved in consciousness raising projects and health-care provision issue.⁶⁶ Women's groups chose to focus on action at the international level to challenge the prevailing consensus that limiting family size was a societal responsibility that took precedence over individual well-being and rights. Consensus around the goal of fertility reduction was seen as being legitimised in the Final Act of the 1968 Teheran conference which defined reproductive services in terms of coverage rather than the type and quality of care to which people were entitled. Interpreted in the context of its time, the Teheran document was understood as a 'statement of the international community designed to pressure less developed states that had resisted the spread of contraception within their borders'.⁶⁷ The international women's health movement wanted to replace this definition with an understanding of reproductive rights based on ideas of women's self determination, autonomy and bodily integrity.

The efforts of women's health movement ensured that the agreements produced by the Cairo and Beijing conferences of 1994 and 1995 contained feminist inspired definitions of reproductive rights.⁶⁸ The Cairo Programme for Action sets out the criteria for the realisation of reproductive rights in family planning service provision. It is recommended that all family planning programmes should: ensure free and informed choice of methods; ensure safe, affordable and convenient service for the user; ensure privacy and confidentiality; ensure a continuous supply of high-quality contraceptives and ensure adequate follow up care. The Beijing Platform for Action reaffirms the Cairo definition of reproductive rights but further recognises that the realisation of those rights is dependent upon equality in private sphere relations as well as on women's rights to service provision.

Since the Beijing and Cairo conferences, women's organisations have focused on ensuring that international agreements are translated into national policy and local delivery. The case of

⁶⁶ Hardon and Hayes 1997.

⁶⁷ Freedman and Isaacs 1993.

⁶⁸ Cook and Fathalla 1996.

Zimbabwe's National Family Planning Council illustrates how international agreements may provide a useful framework for national level policy change, even in a difficult environment. In post Independence Zimbabwe, gender equality and women's rights have been an easy sacrifice in the context of dissatisfaction among the rural male population with the government's policies and performance. However Zimbabwe's policy on reproductive health provision has remained progressive despite the opposition of chiefs and elders to the idea of women's control over their own fertility through access to contraception.

The ZNFPC's policies and programmes are based on the principle that couples have the basic human rights to decide on the number and spacing of their children and are entitled to adequate information to enable them to discharge this responsibility effectively in the interest of the well being and families in which they live. This principle is elaborated through the identification of a number of client rights which echo the standards of service provision set out in Cairo: Services shall be completely voluntary; no coercion whatsoever shall be used to enforce acceptance of family planning; the choice of family planning method shall be according to the client's preferences, within medically safe parameters; the client shall be treated with dignity and respect; the client shall be afforded privacy; the client's medical records and the data systems shall be kept confidentially; the client shall receive care, regardless of financial or social status; the client shall receive high quality services. These 'client rights' are displayed on posters in ZNFPC and Ministry of Health clinics where services are provided.

Anthropological field work in the Eastern Highlands area of Zimbabwe in 1996 highlighted the importance to rural Shona women of control over their fertility. In rural Zimbabwe, local understandings of the terms of the 'conjugal contract' mean that bridewealth payments vest the groom's family with rights over a bride's fertility, sexuality and labour. As women were unable to access land in their own right and had few opportunities to earn income through employment, rural women believed that they had to get married in order to survive. Strong pro-natal Shona norms meant that, once they had found a husband, women had to produce children in order to maintain the marriage. Moreover, children provided a justification for women's claims for socio-economic support from their in-laws.

In this context, women's control over the number and timing of children were central to their socio-economic well-being. Interviews with women in the village of Mabika indicated that quality of family planning services was a critical element in whether or not women were able to pursue a successful reproductive strategy. Thus, the ZNFPC's charter of 'client rights' marked a shift in the balance of power from service provider to client that strengthened women's autonomy and negotiating position within the household. Where the provision of services met the ZNFPC's service standards, women felt comfortable to ask for information about appropriate contraceptives, how to use them properly and their side effects. This, in turn, meant that they were more likely to be able to use contraceptives consistently and without problems. These women were more able to regulate their fertility in a way that enabled them to strengthen their claims on the socio-economic resources of their in-laws.

The 'client rights' set out in the ZNFPC's charter, however, were not consistently applied at local level. Community Based Distributors, who were able to provide some forms of contraception to women for a nominal fee, were generally perceived to respect the ZNFPC's standards. But the provision of services at the local clinic, where contraceptives were free, did not always match these standards. Supply of contraceptives was rarely carried out in private and the health workers were perceived to be unhelpful, rude and, in some cases, forceful, particularly with younger women and the less well-off. Those women who did not receive good quality services were less likely to use contraceptives correctly or consistently and were more likely to stop using contraceptives altogether if they experienced side effects, rather than returning for advice from the health workers. These women were less able to pursue reproductive strategies, which ensured continuing socio-economic support for themselves or their children. There were, for example, a number of young, single mothers in the village who had conceived before a marriage agreement had been finalised. These women then found themselves struggling to support their offspring without access to land for subsistence crops or means of earning an income.

Women's own views of their 'client rights' in Mabika were that they met their main concerns in terms of the type and quality of services that they thought that they should receive. They had

their own interpretation, however, of what these standards should mean in practice. So, for example, a number of women observed that the crucial aspect of privacy when accessing services, was that women should be able to discuss their reproductive health needs in the absence of any male presence. Where these standards were delivered, they marked a positive shift in the provision of family planning and a concrete improvement in the lives and status of rural Zimbabwean women. But, the lack of local accountability mechanisms meant that there was no way women could claim their rights if they were not voluntarily delivered by service providers. The absence of structures for monitoring the implementation of standards, and ensuring action when they were breached, underpinned the lack of consistency in the delivery of women's entitlements to quality family planning services.

Lessons learned

- At international level, on-going input from NGOs and CBOs is required to ensure that the definition and interpretation of human rights continues to reflect the views of disadvantaged people in developing countries. Conversely, in domains where there are strong international networks of committed NGOs, the international level may provide a critical entry point for changing prevalent norms and standards at the micro level.
- As the shifts in Zimbabwe's family planning policy illustrate, international agreements and programmes may provide a useful framework for engaging with national policy processes even in difficult policy environments.
- The consistent implementation of standards requires mechanisms and structures for monitoring and accountability.
- Local participation and consultation is necessary to ensure that standards are implemented in a way that is appropriate to local contexts and concerns.
- Empowering women in relation to service providers may provide a better entry point into gender relations within the household than direct action to redress power imbalances in the private sphere.
- Analysis from a rights perspective may highlight unexpected issues of power, such as control over fertility, which are relevant to an understanding of livelihood strategies.

Case Study 4

A rights approach to social protection – the Maharashtra Employment Guarantee Scheme

The MEGS has become widely known for taking a rights based approach to the provision of employment through a public works scheme. Analysts have argued that the striking longevity of the programme (running since the mid-70s) has been related to its foundation in a rights-based legislative framework. There is evidence that the process of mobilising to make claims on the benefits afforded by the scheme has also produced broader benefits in terms of stimulating the organisational capabilities of the poor.

The best-known attempt to provide operational content to the right to work as specified in various human rights texts is the Maharashtra Employment Guarantee Scheme (EGS) in India. Since the mid-1970s the EGS has guaranteed unskilled rural employment to any individual over 18 years that wants it. The impact on livelihoods has been ameliorative rather than transformational, but nonetheless critical for many (Herring and Edwards 1983; UNDP 1993; Ravallion et al 1993; Dev 1996). While not an unqualified success, the Maharashtra EGS is considered by most to be far more successful than most programmes of comparable scale. While the longevity of MEGS, and its statutory position underpinned by a formal, legal right to employment, make it unique, it is important to recognise that the EGS did not emerge from a vacuum. Public works schemes to protect livelihoods during famines have been part of the repertoire of statehood in India for centuries. The state's ability to support livelihoods through the provision of work has often become important in defining its legitimacy. Article 41 of the 1947 Constitution also includes a Directive Principle that Indian citizens should be guaranteed the right to work (although in reality unemployment and underemployment have been persistent features of the rural economy since Independence).

The Maharashtra Scheme, which originated in a rights-based relief programme during the drought of the early 1970s (Drèze 1995), was signed into law in 1978. Equally important was the State Tax of 1975 which taxes the urban sector to provide a revenue stream exclusively for the EGS (Herring and Edwards 1983). That such progressive (and expensive) rights-based legislation was passed and enforced can be explained primarily by the pattern of interests and democratic political competition in Maharashtra. State boundaries re-drawn in the mid-1960s had shifted power within the state's ruling Congress Party from the Mumbai-based industrialist and commercial classes to the Marathi-speaking rural bourgeoisie, while agitation by a rural-urban coalition of Marxist organisations and movements increased pressure on political elites. While the EGS provides incomes for the poor, it has also provided, through taxes on the urban sector, public goods, which primarily benefit the rural rich. This, indeed, has been one of the criticisms of the EGS. However, it also undeniably helps to explain its creation and subsequent sustainability.

Having been created, the EGS has now become institutionalised as part of the political landscape of Maharashtra. Some of the institutional arrangements which create space for abuse are also, ironically, central to explaining the overall effectiveness of the EGS, as they ensure a degree of mutual distrust which promotes keen scrutiny and accountability. The mobilisation of the Maharashtran poor to realise their right to work is also not straightforward (Joshi and Moore 2000), but does occur: marches, sit-ins and blockades of government offices are frequent, and unions and social activists have on several occasions taken the Government of Maharashtra to court over EGS issues. Joshi and Moore make the critical connection between the creation of a legal right and the remarkable sustainability of the Scheme (now over 25 years old).

'Were the EGS a normal programme, it would probably have disappeared long ago. The most evident reason that it has not been victim of bureaucratic foot-dragging lies in its statutory nature. Politicians and activist organisations demand EGS because it is a *right*; they have a morally compelling case, and recourse to law.' (Joshi and Moore 2000, 45)

The importance of the rights basis is brought out when the relative success of the EGS is compared to the relative failure of the all-India Employment Assurance Scheme (EAS), initiated in 1994 and modelled on the EGS *apart from* the guarantee of work. In the latter,

‘There is no client mobilisation around EAS because the lever of *rights* is missing. It is the entitlement to employment that limits bureaucratic discretion and ensures that, to a substantial degree, EGS opportunities really are self-targeted on the poor.’ (ibid., 45)

Learning points

- While the Scheme may be very hard to replicate in any straightforward manner in other contexts, it does demonstrate the potential value, in terms of greater political sustainability, of predicating support to livelihoods on the basis of an instrumental legal right.
- The definition of a *right* may produce positive unforeseen benefits in terms of providing an incentive and framework, which encourages local level mobilisation and empowerment.

Case Study 5

Feeding local experience into global agreements – civil society advocacy for homeworkers

In June 1996 the ILO passed a Convention on Home Work. This rectified a situation in which homeworkers worldwide had lacked legal recognition as workers and were excluded from most if not all of the rights – minimum pay, working conditions, and social protection – which are extended to waged workers employed on their employers' premises. The achievement of the Convention was a major victory for a loose global coalition of NGOs, community groups and sympathetic trades unions and governments. One of the leading actors in this international movement, the Self-Employed Women's Association (SEWA) of India, had been involved in this struggle for homeworkers rights for over two decades

Homeworking – wage labour in which the employee works in her or his home, rather than at a site owned by the employer – was long considered to be characteristic of the early stages of capitalism, and assumed to die out over time. However, research in the 1990s has demonstrated that homeworking not only persists but, in many countries, is increasing in importance. Despite this, homeworkers suffer from official invisibility, un- or under-reported in social and economic statistics. The fact that homeworkers enjoyed fewer rights than other workers – and that what rights they do hold under law are harder to enforce – is both cause and consequence of their statistical invisibility.

SEWA grew out of the Women's Wing of the Textile Labour Association, India's oldest, Gandhian-inspired trade union. SEWA sought to address the particular needs of women workers in the informal sector, starting in Gujarat. Among its members, three groups in particular – those involved in making garments, *bidi* (hand-made cigarettes) and *agarbatti* (incense sticks) – were characterised by homework employment on piece rate terms. In the case of *bidi* workers, existing legislation provided workers in the industry with rights to a minimum wage, to scholarships for the education of their children, and to a pension. However, employers argued that homeworkers were not employees and refused to issue them with identity cards, with the result that the workers were unable to claim their basic rights. The first struggle was thus to have *bidi* homeworkers recognised as workers and issued with ID cards.

In other industries it was first necessary to have the *industry* recognised as a significant employer, in order to establish the regulatory framework for that sector of the economy. Under Indian law, statutory minimum wage regulations do not apply automatically to all workers: each state has to create a schedule of workers to be covered, and then issue a notification of the specified minimum wage. SEWA demonstrated and lobbied for the Minimum Wage Act to be extended to and subsequently implemented for textile workers, and worked with the Labour Department to develop practical solutions to the problems of inspection in the homeworking sector. Resistance from employers (culminating in the dismissal of SEWA activists) was countered by a SEWA High Court victory, which resulted in the resumption of negotiations and an agreement on a wage increase. At the same time, SEWA also encouraged and assisted members in establishing workers' cooperatives and savings and credit unions in order to reduce dependence on low wage piece work and usurious loans.

Given India's federal structure, these struggles had to be conducted at a variety of levels: thus the case for pension rights was lost in the Gujarat courts, but won on appeal to the national courts. Over time, SEWA also developed an international strategy for the recognition and realisation of homeworkers' rights. The ILO was identified as the key rule-making body at this level. In building an international constituency, SEWA and its partners:

- Concentrated upon first convincing and then collaborating with unions worldwide. Trade union attitudes to homeworking have traditionally been ambiguous. The International Union of Food and Allied Workers' Associations supported SEWA's case within the International Confederation of Free Trade Unions during the 1980s.

- Worked to reduce the invisibility of homeworkers. SEWA and its partners supplemented statistical evidence with photographic exhibitions and personal accounts.
- Created networks (e.g. Homenet) of organisations dedicated to the rights of home-based workers.
- Drew on support from similar organisations in the North, which drew attention to the growing prevalence of homework, and the problems associated with it, in the developed as well as the developing world. This solidarity helped to undercut the argument, put forward by employers' federations, that homeworker legislation was feasible for the developed world but not for the developing world.

With support from the international labour movement, and a number of research and pilot projects conducted by the ILO, the issue of homeworker rights finally moved onto the agenda of the annual meeting of the ILO in 1993, resulting in the Convention three years later. SEWA and Homenet are now spearheading both a national and an international campaign for the ratification and implementation of the ILO Convention. This has involved further coalition-building. In 1997 SEWA, along with the Harvard Institute of International Development and UNIFEM, founded a new organisation, Women in Informal Employment Globalising and Organising (WIEGO), to provide a focus for this effort. While the Convention has only been ratified by two countries so far, others have adopted the Convention's recommendation regarding the formulation of a national policy on homeworking. Even where the new global normative framework has not been codified in national law, it is helping to shape discourse and policy in regard to the livelihoods of a previously marginalised group.

Learning Points

The story of the process leading to the Convention, and SEWAs role in it, illustrates:

- How groups which tend to be dispersed and do not have a natural focus for organising, can mobilise for their rights.
- The value of campaigning simultaneously at sub-state, state and international levels.
- The importance of a multi-pronged strategy, encompassing legal, policy and collective self-help approaches.

The ways in which international networks and coalitions can be built to exert pressure on global rule-making bodies.

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