This brief explores the implications of the rights-based approach, or approaches, (RBA) in development cooperation and humanitarian assistance. It reviews the history of the rights-based approach, and addresses the question of whether it has the potential to empower the recipients of aid, ensure accountability and improve their protection, or whether the risks inherent in the approach surpass the potential benefits. The brief thus compares and contrasts the possible added value of a human rights based approach to development cooperation and to humanitarian assistance with the risks and challenges stemming from it. It also includes the examination of three cases – drought affected Ethiopia, Darfur, and the response to hurricane Katrina in the United States – as examples of the dangers and advantages involved with such an approach. This brief suggests that it is be necessary for an organization to ‘embrace the full RBA package’: on the contrary, a ‘cherry-picking’ attitude, adopting those aspects of RBA that make more sense in a specific context and for a specific purpose, may prove beneficial by ensuring modularity and context sensitivity. This brief is based on a review of the literature on rights based approaches, produced by scholars as well as aid organizations. The paper also draws on interviews conducted by the author with humanitarian, development and human rights practitioners and on the writer’s personal experience.
INTRODUCTION AND DEFINITION

When examining the ‘Human Rights-Based Approach(es)’ – often shortened to ‘rights-based approach(es)’, or ‘RBA’ – to development, it quickly becomes apparent that there is no common definition of what constitutes RBA. Some scholars suggest that, despite the talk of a RBA, “there rather are plural rights-based approaches, with different starting points and rather different implications for development practice.”¹ Despite the lack of definitive agreement on the meaning of term, some common denominators exist,² as listed in the next paragraph.³

According to RBA scholars, these approaches are the product of the nexus of the fields of development and human rights, which were perceived to be clearly distinguished,⁴ and were disconnected, “with little awareness that the other is there, and with little if any sustained engagement with one another”⁵. Human rights-based approaches generally anchored the plans, policies and processes of development (and humanitarian) aid in a system of rights and corresponding obligations established by a series of international treaties (listed in Box 1). A number of United Nations agencies have agreed to a set of essential attributes to characterize rights-based approaches, namely (a) the fulfillment of human rights as an essential goal of development policies and programs; (b) the identification of rights-holders and their entitlements and corresponding duty-bearers and their obligations; (c) the promotion of efforts to strengthen the capacities of rights-holders to make their claims and of duty-bearers to meet

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¹ “[There is no] “rights-based approach”. Rather, there are plural rights-based approaches, with different starting points and rather different implications for development practice”

(Andrea Cornwall)
their obligations; and (d) the centrality of principles and standards derived from international human rights treaties in development (and humanitarian) program design, implementation, monitoring and evaluation.⁶

While these attributes appear unproblematic, a challenge arises when one attempts to translate them in practice. Examine, for example, the second attribute: the very idea of rights implies two different actors, a duty-bearer and a right-holder, with the former being accountable towards the latter, and the latter having the capacity to claim the rights (*depicted in Figure 1*). Therefore, when considering RBA, a primary question is: who should be considered the duty-bearer. Here, there are two possible interpretations. In what we could call a *legalist/formal view*, the only duty-bearers are states, and states only, in accordance with international human rights treaties’ standards. In a broader, *realist/pragmatic view*, however, what really matters is power: everyone in a position of power is therefore a potential duty-bearer, and should acknowledge that role and its responsibilities.⁷ If an organization adopts the first view, then its self-perceived role in RBA is to raise awareness among rights holders of what they should expect, and how to achieve it, vis-à-vis the state. In contrast, if aid organizations and agencies perceive themselves as duty-bearers, then implications of adopting RBA include that accountability mechanisms be established and that the delivery of high quality assistance emphasize the participation of the intended beneficiaries/rights holders. Aid organizations generally embrace the second perspective, including themselves, together with the state, among the duty-bearers. While apparently solid on paper, this idea of ‘self-monitoring’ and ‘self-imposed downward accountability’ poses some practical problems: “If claims exist, methods for holding those who violate claims accountable must exist as well. If not, the claims lose meaning.”⁸
• The rights-based approach can be said to be in opposition to a charity-based, welfare type of approach. However, some warn that it is incorrect to view RBA in opposition to a need-based understanding of aid; while different in kind the two are in no sense incompatible: needs tend to define the ‘what’ of programming, and to be value-neutral (i.e.: not a moral statement), while rights “involve a moral (and perhaps a legal) claim about entitlements, and [are] as significant for its identification of related responsibilities as for the rights claim itself.” Finally, some claim that the RBA has many dimensions, representing simultaneously:

An analytical lens to focus on inequalities, discrimination and power relationships;

• A legal foundation to policy and practice, based on a framework of international law voluntarily accepted by the vast majority of states;
• A process of implementation and service delivery that ensures accountability and respect for human dignity; and, finally, a
• A desired outcome.

Rights-based approaches emerged during the 1990’s and, in the course of their adoption and adaptation, have influenced the way in which development cooperation and humanitarian aid are conducted. The following section briefly explores this evolution.

BOX 1: International Human Rights Law
There are six international human rights instruments with treaty status:
• International Covenant of Civil and Political Rights (ICCPR),
• International Covenant of Economic, Social, and Cultural Rights (ICESCR);
• Convention on the Elimination of All Forms of Racial Discrimination (CERD);
• Convention on the Elimination of All Forms Of Discrimination Against Women (CEDAW);
• Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT);
• Convention on the Rights of the Child.
HISTORY AND EVOLUTION OF RBA

THE EVOLUTION OF RBA IN DEVELOPMENT COOPERATION

The human rights-based approach to development has its official origins in the 1990’s, although some configurations of the relationship between human rights and development were explored in the preceding decades. Mainstream western-based NGOs began working on RBA in the mid-1990’s, in response to a series of major social changes that opened up space for this type of discourse. Partially as a result of these trends, the dialogue on rights began to shift during the 1990’s. During this period the UN sponsored a major series of summits on economic and social rights. These factors led civil society organizations to increasingly see rights as a lever for change. In 1994, the term “rights-based approach to development” was coined. The momentum for the use of human rights as a framework for development kept growing and, in 1997, then Secretary-General of the United Nations Kofi Annan called to mainstream human rights into all work of the United Nations. Subsequently, in 2003, various international organizations and agencies met to develop a “Common Understanding” of a human rights-based approach.

According to some, RBA seem to have peaked in development discourse, although a large number of organizations continue to use the approach in designing and implementing programming, and RBA principles have trickled down into different aspects of development aid, even when not embraced as a full package. Some assert that the focus on participation, transparency and downward accountability is one area where development has incorporated concepts from the RBA. Some other attribute practices such as the focus on learning though evaluation and sharing – spearheaded by organizations such as the Gates Foundation and embraced by a vast number of aid actors – to the influence of RBA. Many of these influences have also reached the humanitarian community, as detailed in the following section.
THE EVOLUTION OF RBA IN HUMANITARIAN AID

Robert Wilkinson, former Head of Department of the Policy and Research Division Cabinet at the Department for International Development (DFID), notes that his personal impression is that the RBA in humanitarian aid did not gain the level of traction it did in international development.\(^{18}\) It is notable that the rhetoric and the discourse of RBA certainly gained less momentum in the humanitarian community than in the development one; nevertheless, RBA heavily influenced humanitarian aid.

It has been argued that the humanitarian agenda\(^{19}\) is separate from a human rights agenda. According to this view, “the humanitarian approach is essentially concerned with present and future outcomes, normally in the relatively short-term\(^{20}\) while the human rights approach is primarily concerned with exposing “current or past breaches of relevant legal obligations, such as to constitute abuse or denial of rights.” However, “[t]here is no inconsistency in principle between human rights and humanitarian goals,” as they are both concerned with protecting people from harm.\(^{21}\) During the decade in which RBA was mainstreamed in development cooperation, other concepts were evolving in the humanitarian world. These were in part influenced by evolutions in the development arena, and in part occurring in parallel to it.\(^{22}\) “The apparent shift from a focus on the meeting of needs to the defense and fulfillment of rights is taken to be a defining feature of what has been called the ‘new humanitarianism.’ (…). This shift, while not universal in the humanitarian sector, is widely observable in organizational policy formulations. (…) It shares many of the characteristics of its developmental equivalent: it is said to be people-centered, empowering, universal, dignified, anti-charity, and (on one view) anti-state – in the sense both of being concerned with protecting people against the state, and of challenging the state-centric view of the world.”\(^{23}\)

During the 1990’s, a series of problematic, high profile humanitarian operations (Somalia, Rwanda, the Balkans) led to a great deal of self-reflection in the humanitarian community. The Sphere Handbook is a key outcome of this period. Launched in 1997 (the same year Kofi Annan called for the mainstreaming of human rights), the Handbook is composed of the Humanitarian Charter and the Sphere

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**BOX 2: International Human Rights and Humanitarian Law referenced in the Humanitarian Charter:**

- Universal Declaration Of Human Rights;
- International Covenant On Civil And Political Rights;
- International Covenant On Economic, Social And Cultural Rights;
- Geneva Conventions And Additional Protocols;
- Convention On The Status Of Refugees And Additional Protocol Relating To The Status Of Refugees.
Standards. It has rightly been remarked that, “while the Sphere Handbook has evolved as both a field tool and a resource for articulating human rights, it does not fully offer a rights-based approach to humanitarian assistance.”

Yet, as noted by Peter Walker, one of the key individuals behind the Sphere Handbook, “Sphere is about technical quality and affirming people's rights. That's why you have the Humanitarian Charter up front, and the rest flows from that. Is it achieving those? It's very difficult to judge...” According to Walker, when the Humanitarian Charter was being developed the individuals drafting it had to decide between two possible ways to anchor the standards: either in physiological parameters, or in international rights. The human rights anchoring, however, was deemed preferable because of its focus to the dignity of individuals, which is at the core of the most fundamental guiding humanitarian principle – the principle of humanity. Dignity is evoked by Article 1 of the Universal Declaration of Human Rights that states that “all human beings are born free and equal in dignity and rights.” Such a focus would have been lost in relying on physiological parameters only that in a sense reduce human beings to their flesh and blood. While this may seem a minor detail, it should be noted that the Humanitarian Charter unsurprisingly also incorporates a set of references to International Humanitarian Law, while leaving out some of the main existing human rights treaties, as illustrated in differences between the content of Box 1 and that of Box 2.

Another area of humanitarian aid which is closely related to RBA is that of protection. As previously discussed, the 1990’s saw a gradual transition from an acceptance of absolute state sovereignty to the idea that “individuals have rights that neither their communities nor their governments can abrogate.”

The need to mainstream and incorporate civilian protection into humanitarian assistance increasingly gained momentum. Today, there is an increased emphasis by humanitarian actors on the concept of protection alongside assistance, although with varying interpretations of what this entails: “At a minimum, a concern with the safety of civilians from attack is recognized as central to the humanitarian
agenda." One of the possible ways for aid organizations to practically carry out protection work is by pressuring parties to stop abusive practices through **advocacy** efforts.\(^{30}\)

## RBA IN DEVELOPMENT

There are many possible benefits, as described above, to embracing RBAs. At the same time, there are some potential risks. Some apply to development cooperation and can be easily extended to humanitarian aid while some are specific to the latter. In the following section, the broader benefits to development cooperation are presented first, followed by the benefits that are more specific to humanitarian aid. As mentioned in the introduction, this brief suggests that, for these benefits to be enjoyed, it is not necessary for an organization to ‘embrace the full RBA package’\(^{31}\): on the contrary, a ‘cherry-picking’ attitude, adopting those aspects of RBA that make more sense in a specific context and for a specific purpose, may prove beneficial by ensuring modularity and context sensitivity. This point is advanced first and foremost concerning the case of RBA to humanitarian aid; nevertheless, an argument could be made for the same to be applied to development and to those delicate situations on the ‘relief-to-development continuum’. Furthermore, it should be noticed that, while often unacknowledged, such a ‘cherry picking’ attitude to RBA can nevertheless be found in the practice of aid organizations, which in their work adopt – consciously or unconsciously- many of the aspects that comprise the RBA.

## POSSIBLE BENEFITS OF INTEGRATING RBA IN DEVELOPMENT COOPERATION

Possible benefits stemming from the adoption of RBA in development cooperation include: (1) the potential to expose structural conditions causing underdevelopment, and to change those structures by empowering right holders; (2) the possibility that this emphasis may force organizations to undertake
thorough contextual analyses; (3) an added an element of accountability – not only for the state but for duty-bearers at large; and (4) a potential legitimizing effect for development cooperation actors. An adoption of RBA may furthermore (5) allow for the creation of larger coalitions of non-profits with development and human rights agendas, while (6) providing authoritative arguments for advocacy purposes. Finally, on a micro level, (7) RBA may improve assessments and evaluations by introducing more objectives measures anchored within a human rights context.

Expanding on the first point, it has been claimed that RBAs are significant because they signal a potential paradigm shift around aid recipients. This is the most promising and radical implication of the approach. It has hence been argued that “the real potential of human rights lies in its ability to change the way people perceive themselves vis-à-vis the government and other actors: (...) by demanding explanations and accountability, human rights expose the hidden priorities and structures behind violations.”32 In this regard, RBA encourage a more comprehensive stakeholder analysis with a focus on accountability and responsibility, and generally strengthen the causal analysis.

The second point, the fact that RBA require a contextual analysis, thus emanates from the first. If a development actor genuinely wants to adopt a rights based approach, program design must begin with a thorough contextual analysis of the fundamental root causes of underdevelopment. RBA provide a clear structure and focus for the analysis by pointing to the existence of rights and asking who in a given situation can claim them, who cannot, and why. An analysis informed by RBA also requires that the intervening organization clarify their role and position in such situations. The resulting analysis is thus both contextual and, at the same time, anchored in the global system.

Concerning the third point, as discussed in the introduction, RBA add an element of accountability – not only for the state but also for duty-bearers. In the broadest of interpretations, a human rights approach can extend obligations from national governments to rich countries and aid actors. This is one of the most controversial assertions, given the limited means for rights holders to claim their rights vis-à-vis international actors, but it may at least signal that organizations must acknowledge their power and potential shortcomings and engage in active efforts to improve their work.

As a fourth consideration, the reference to international treaties that are perceived as universal, both morally and legally, can potentially have the effect of legitimizing the work of foreign NGOs, framing the aid in relation to norms that have been ratified by most host governments. Nonetheless, this
instrumental understanding of RBA has been challenged by instances and contexts in which even human rights have been portrayed as expressions of Western values.\textsuperscript{33}

The fifth and sixth points concern the increased potential for advocacy. Scholars have remarked that RBA allow for new coalitions of interests to be formed among development and human rights actors, adding strength to their individual international advocacy efforts.\textsuperscript{34} Advocacy is also strengthened by the fact that human rights instruments have been ratified by a vast majority of states and these therefore bind their actions. This fact can be an effective leverage point for NGO advocacy, which can name and shame states that violate rights that they have committed to uphold.

Finally, when development is conceptualized as a right, it is then measured by internationally agreed upon standards – international human rights treaties. This, according to some, introduces a stronger form of evidence and improves the potential for evaluation.\textsuperscript{35} One could counter-argue that other types of goals – such as per capita income, malnutrition rates, etc. – could be equally measurable, albeit more arbitrarily defined. However, RBA force organizations to think not only about the presence or absence of certain services or phenomena (such as education), nor simply about aggregate figures, but also to inquire whether there is some form of discrimination in their enjoyment, either intentional or structural (such as physical or economic inaccessibility for certain groups). In order to do so, the approach leads to substantial improvements in the disaggregation of data along sex, age, class, ethnicity and other relevant variables to ensure nobody is discriminated.\textsuperscript{36}

POTENTIAL CHALLENGES OF INTEGRATING RBA IN DEVELOPMENT SETTINGS

While human rights based approaches have plenty of potential benefits, development actors embracing them have been criticized at a broad theoretical level for simply reframing and renaming many of the traditional development activities, thus making RBA less radical than suggested. They have furthermore been criticized, at a more practical level, for their incapacity to effectively challenge deep-seated structural injustices, as well as for getting involved in areas where they may lack capacity.
As noted, one of the first critiques leveled against RBA is the claim that they merely constitute a “repackaging of old wine in new bottles.”³⁷ This critique is indeed reasonable, as in many ways, some of the positive features of RBA simply confirm and conceptualize already existing principles and good programming practices. Some authors believe that these limitations emerge if an organization pursues a rights-based approach without fully mainstreaming it. According to this view, if an organization uses rights as a set of instruments, it becomes easier to only pay “tokenistic lip-service.”³⁸ Similarly, some fear that using rights as a component to be incorporated into programs may reduce the influence of a RBA by nature of its having been added to pre-set activities, and thus, once again, representing a mere repackaging of existing practices. In a sense, however, this position can be deemed to be optimistic, as it implies that RBA have the potential to be innovative, if approached in a holistic manner. A similar, albeit less optimistic view is synthetized by another scholar, who notes how most frequently “the RBA is compromised in implementation at the country level. NGOs are found to have difficulty implementing strategies that change power relations, strengthen accountability, promote non-discrimination, and strengthen partnerships among NGOs.”³⁹

Thirdly, RBA are implicitly predicated on the existence of a ‘social contract’ between the state – which provides services - and its citizens – who pay taxes and delegate responsibility to the state apparatus. But in many developing countries, this assumption is overly optimistic, as states may be corrupt, nepotistic and unresponsive to citizens. Scholars indeed note that there is no guarantee that formal state institutions will behave fairly and be accessible to marginalized groups. “Strengthening the capacity of organizations of marginalized groups may help those particular groups exercise rights, but may have limited impact in terms of broader societal transformation.”⁴⁰

Finally, for development actors, who are focused on all the complexities and sub specialities of that field, embarking in RBAs implies a risk of overstretching beyond the core capacity of the organization. This argument is discussed in greater detail in relation to humanitarian aid.
Oxfam America offers some great examples of what value a RBA can add in a context in which the state has the capacity to respond to a crisis and its citizens can rely on a stable rule of law and working democracy to claim their rights.

In 2005, when hurricane Katrina hit New Orleans, the U.S. government had the capacity, both in terms of funding and of skills, to provide relief to the population affected. The role of NGOs and other traditional humanitarian actors, therefore, appeared minimal. However, the most heavily affected population was also the most disenfranchised one, due to their race, class and sex. Hence, many of the poorest hurricane survivors were unaware of, or unable to access, governmental assistance. Oxfam America thus provided legal aid and legal representation to people affected, thus ensuring their enjoyment of rights.

An example of the potential of RBA: awareness Raising After Hurricane Katrina

The coexistence and interaction between human rights and humanitarian goals may have either positive or negative implications for the pursuit of each. These implications may be broken down on two levels. On one hand, large conceptual implications matter on a broad level, while a number of more pragmatic implications have potentially positive or negative impacts at the field level. Thus, implications are presented in the following subsection in reverse order of magnitude.

**POSITIVE EFFECT OF INTEGRATING RBA IN HUMANITARIAN SETTING**

This section discusses the ways in which RBA has been translated in humanitarian settings, emphasizing the positive features that could stem from such a perspective. Many variations of the advantages of RBA in development cooperation apply equally to humanitarian aid.

Namely, on a macro level, (1) RBA brings the potential to expose the political economy of the crisis, allowing for a better understanding of how structural inequalities may be perpetuated, lessened or worsened by certain types of intervention. (2), As with development cooperation, RBA adds an element of accountability – not only for the state but for duty-bearers at large, thus possibly increasing the participation of beneficiaries. On a meso level, (3) RBAs may have a legitimizing effect on providing authoritative arguments for advocacy purposes. Finally, on a micro level, (4) RBAs may improve the collection and use of data. There are, furthermore, some additional benefits that are especially pertinent to humanitarian aid. These include (5) that a broad definition ‘duty-bearer’ proves useful in holding accountable both state and non-state actors, given the nature of many modern conflicts.
Based on the understanding of RBA built so far, it is clear that the adoption of a rights-based approach comes with some built-in trade-offs. The challenges stemming from RBA in a humanitarian context are, in part, a reflection of the challenges existing in development settings. Other dangers, however, are more specific to the humanitarian context. According to Daniel Maxwell, experienced humanitarian practitioner and Research Director at the Feinstein International Famine Center, there are two main areas of resistance to RBA in humanitarian aid: (1) the first comes from “within” the humanitarian enterprise, where some claim that any diversion from the neutrality of the aid enterprise is dangerous as it may steer the humanitarian enterprise away from neutrality and lead to “ politicization”; (2) the second comes from outside the enterprise, and is represented by the resistance of host governments to allow external actors to promote rights that may put them in difficult positions. On a more practical level, there are a number of other risks: (3) the creation of unrealistic expectations, and (4) the investment in, and promotion of, mechanisms to claim rights that are, very simply, unavailable in humanitarian settings. Lastly, (5), by trying to accomplish too much, humanitarian organizations may overstretch their resources and capacities and compromise the quality of

An example of the challenges to RBA: human rights in Ethiopia

According to Tita Gemechu, a relief worker with experience with various prominent organizations involved in humanitarian programming with drought affected communities in Ethiopia, many international NGOs were trying to promote rights in Ethiopia; around 2005, the government became somewhat more permissive of this type of activity, in part because of the heightened international scrutiny due to the forthcoming elections and in part because of the confidence of the ruling party in popular support. In 2009, however – for a number of reasons, including of the poorer than expected electoral results, that some attributed to the awareness raising campaigns – a new “Civil Society Legislation” was enacted. This law forbid international organizations from raising awareness of human rights; local organizations had to raise 90% of their funds domestic to do so.

The result has been the closure of a series of activities by NGOs that had a RBA, including ActionAid, whose staff was endangered because of past RBA activisms. In turn the public space for self-organization and dissent has been shrinking. According to Tita, “when people lose their capacity to organize they lose their collective strength”. In such a context, organizations may try to continue RBA under less controversial names, “but how empowering may it be to talk about rights without even mentioning them?”
their results.

In the first argument, it is apparent that embracing a rights based perspective implies a certain degree of departure from ‘traditional, minimalist’ humanitarianism based on saving lives, alleviating suffering, and remaining as impartial and neutral as possible. The fear is that, taken to an extreme, this departure from traditional humanitarianism will lead to a manipulation of humanitarian aid towards justifying armed interventions. “Some see the rights framework as providing a basis for defining international responsibilities, and here the current debate is dominated by disputes over the use of rights arguments to justify the use of armed force or other forms of coercive intervention.”43 It has also been noted the risk for RBA to “open the door to forms of conditionality and subordination to wider agendas that are at odds with the humanitarian ethic,”44 taking the debate on humanitarian aid backwards by attaching some form of conditionality to aid, thus creating ‘undeserving victims’.45

A second challenge is largely a consequence of the loss of neutrality examined above. In order to provide assistance, it is imperative that humanitarian actors have access to the affected population. And to have access, the authorization of the host government is required. Hence, a government concerned about being ‘shamed’ by humanitarian actors who are simultaneously advancing an advocacy agenda will likely deny or restrict said access. This is a very real possibility; similar scenarios recently occurred in Sudan (see Box 3) and, to a lesser extent, in Ethiopia (see Box 4). Thus, a serious issue to consider is whether humanitarian actors will have to decide between access and advocacy, and if so, which they would prioritize. On one hand, as demonstrated by the case of the relief operation in the aftermath of the Rwandan genocide (where humanitarian aid led to a reorganization of an armed group and hence to an even higher death toll46), access should not be seen as the end goal in any circumstance, and it may be trumped by other considerations. On the other hand, relief interventions that “merely” alleviate suffering and keep people alive may be the only true possibility for action by international actors, especially absent political will to intervene. Hence, preserving access, even at the expense of human rights, may still be extremely important. Indeed, it has been provocatively stated that “nothing empowers people quite like their own survival.”47
The third challenge is that the duty-bearer’s capacity to protect rights cannot always be relied upon. The risk of relying on mechanisms for the protection of human rights in contexts of institutional fragility was discussed already under the challenges to RBA in development cooperation.

In humanitarian settings, however, this problem is exacerbated. Many argue that human rights may indeed represent a powerful political tool to shape the relationship between the individual and the state. However, “in weak or failed states, or where part of the territory is contested, the capacity or will to fulfill the sovereign responsibility of protection may be absent. (...) As a result, states in which individual rights are most vulnerable to violation may be precisely those which are least able to offer protection.” This issue, furthermore, can be extended beyond the state as duty-bearer: very often, international actors – including humanitarian organizations and even peacekeepers – lack the capacity to ensure the effective, meaningful enforcement of even the most basic human rights.

This leads to the fourth problematic aspect of RBA, the risk of raising false expectations about what humanitarian organizations can achieve: this risk is particularly worrying when agencies make references to human rights without being able to actually provide them, as is the case of NGOs, that possess neither the means nor the mandate to effectively protect a war affected population.

Finally, it has been observed that in order to adopt a rights-based approach, humanitarian agencies may over-reach in terms of capacity and expertise. Some argue that there are “very few international humanitarian NGOs with the simultaneous capacity (i) to do sophisticated legally oriented protection and protection gap analysis and (ii) to sustain the field-based expertise needed for meaningful, long-term, legally oriented protection work.” Hence, attempting to do both may actually prove a disservice to the intended recipients of aid.

“Nothing empowers people quite like their own survival”  
*(Jeff Drumtra)*
CONCLUSIONS

The concept of RBA remains somewhat fuzzy and ambiguous. Regardless of the debate between those who praise the innovation of RBA and those who negatively view the approaches as an excuse for Western aid actors to keep claiming a position of “high moral ground,” the conceptual ambiguity has some very real practical implications. Namely, it means that whenever an actor - either an organization as a whole or a program manager in a specific instance – is considering the adoption of a rights-based approach, the first thing to do is to decide exactly how to operationally define it.

As noted in the beginning, many argue that the best way for an organization to adopt a RBA is to ‘embrace the full package’. This brief suggested that on the contrary, taking up some limited aspects of the right-based approach may work well, if not better. A ‘cherry-picking’ attitude may prove beneficial by ensuring modularity and context sensitivity. Hurst Hannum, professor of International Law and human rights advocate, advances an argument in favor of specialization and complementarity, noticing that there is a merit in letting different agencies do what they do best, following their mandate and competencies. This argument is supported by the words of a former relief worker about his experience in the North Caucasus, where he "has seen [humanitarian] organizations (...) engage in visible, large-scale assistance activities, and national and international human rights organizations (...) engage in both outspoken rights-based advocacy and more discrete legal aid projects that has yielded real results."

The potential challenges and the added values discussed in this brief may provide an initial ‘checklist’ of issues to consider if, when, how, and to what extent a rights-based approach or components of one should be adopted. Any decision regarding the adoption of a rights-based approach requires, at the very least, a comparative analysis of the risks and benefits that the approach will entail. It remains essential, however, to keep in mind that any decision is highly context specific and different challenges or opportunities may arise in different places.
ENDNOTES

1 Cornwall, Andrea, and Celestine Nyamu-Musembi. "Putting the ‘rights-based approach’ to development into perspective." Third World Quarterly 25.8 (2004): 1415-1437, p. 1415. Over the course of this brief, the singular form, RBA, and the plural form, RBAs, are used interchangeably.


7 Ashley Tsongas, Lecturer on RB Approaches to Monitoring and Evaluation at the Fletcher School and Change Manager at Oxfam America, interview with the author, Medford, April 10th, 2013. The opinion expressed by Ms Tsongas are those of the individual only. They do not represent the official views of any of the organizations she works for or is associated with.


12 In particular, since the late 1960’s/60s – early 1970s/70s a number of Third World countries fought to include the so called “Right to Development” in the international agenda. The “Right to Development”, which placed an emphasis on the global dimension of inequality and claimed that all (wealthy) states faced a collective obligation to create a just and equitable international order. This right to development was officially recognized in 1986 in the (non-binding) United Nations Declaration on the Right to Development. For a more detailed discussion on the Right to Development see Mary Robinson, 'Bringing the gap between human rights and development: from normative principles to operational relevance,'relevance', World Bank Presidential Fellows Lecture, 3 December 2001. Available at www.worldbank.org/wbiiB-SPAN/sub_maryrobinson.htm

13 Offenheiser, Raymond C., and Susan H. Holcombe. "Challenges and opportunities in implementing a rights-based approach to development: An Oxfam America perspective." Nonprofit and Voluntary Sector Quarterly 32.2 (2003): 268-301. The authors remark that the end of the Cold War allowed Western actors to embrace and recognize both civil and political rights and social and economic ones without fear of being perceived as biased; at the same time, growing unease about the merits of globalization fueled the drive to reconnect these different types of rights as a framework for action.

In part, the discussion on human rights and humanitarianism depends on what is understood to constitute the proper business of humanitarian action. This is the object of a complex and lively debate, with different factions arguing in favor of a more or less expansive view of humanitarian aid. This debate is outside of the scope of this paper, but has been discussed, among others, in previous ATHA briefs, such as Humanitarian Action and the Search for Peace: Moving Beyond Protection?

In the 1990s, they have nonetheless been explored in various crucial moments of humanitarian history. For instance, the emergence of Médecins Sans Frontières (MSF) as an organization was precisely a response to the desire to incorporate advocacy and the defense of human rights after the crisis in Biafra. Only a very limited number of humanitarian actors have fully embraced RBAs, (re-)defining their organizational objectives in terms of the protection and fulfillment of rights. These are mostly actors that are simultaneously involved in development and humanitarian/post-conflict work, such as the NGOs ActionAid, CARE, the Danish Refugee Council, Oxfam and Save the Children; and the United Nations International Children’s Emergency Fund (UNICEF), the United Nations Development Program (UNDP) and the World Health Organization (WHO); as well as multilateral agencies such as the World Bank; and bilateral donors such as the UK Department for International Development (DFID) and Sida (the Swedish aid agency).
42 Daniel Maxwell, Interview with the author, Thursday, April 3 2013.
43 Darcy, James, op. cit.
44 Darcy, James, op. cit.
48 Cotterell, Lin Human Rights and Poverty Reduction Approaches to human rights in humanitarian crises, London, Overseas Development Institute, October 2005
49 Cotterell, Lin Human Rights and Poverty Reduction Approaches to human rights in humanitarian crises, London, Overseas Development Institute, October 2005
51 Per Ilsaas, A critical assessment of the use of a rights-based approach. Dilemmas between providing assistance versus human rights monitoring, reporting and denunciation. Experiences from the Danish Refugee Council’s (DRC) programme in North Caucasus, presentation held at Danish Institute for Human Rights, Workshop on Rights Based Approaches, available online https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&ved=0CE8QFjAE&url=http%3A %2F%2Fwww.humanrights.dk%2Ffiles%2Fdoc%2Frapport_til_hjemmesiden_04-12_2_.doc&ei=yOLxUdarkKZPhOAfQlGAAg&usg=AFQjCNFvqOZytxQQQ7GhM3GPwxXDdutHe9Yw&sig2=Cw0aZ_m0x_wXzTsw-sNeuw&bvm=bv.45373924.d.dmQ Accessed on April 1, 2013

Hurst Hannum, Interview with the author, Thursday, April 11 2013

Per Ilsaas, supra, note 44