

The purpose of these *Key Sheets* is to provide decision-makers with an easy and up-to-date point of reference on issues relating to the provision of support for sustainable livelihoods.

The sheets are designed for those who are managing change and who are concerned to make well-informed implementation decisions. They aim to distil theoretical debate and field experience so that it becomes easily accessible and useful across a range of situations. Their purpose is to assist in the process of decision-making rather than to provide definitive answers.

The sheets address three broad sets of issues:

- Service Delivery
- Resource Management
- Policy Planning and Implementation

A list of contact details for organisations is provided for each sub-series.

Overview of the debate

The last 10 years have witnessed:

- Widespread acceptance of the multidimensionality of poverty – that it comprises not just low income, but also vulnerability, insecurity and weak ‘voice’.
- The development of ‘rights-based’ approaches as a means of:
 - Empowering people to exercise their ‘voice’, and so acquire immediate benefits but also influence processes of change and social transformation.
 - Helping the state to clarify its responsibilities towards citizens, in terms of respecting, protecting, promoting or fulfilling rights.
 - Helping donors to identify how pro-poor political change can best be supported.
 - Helping to translate the lofty principles of international declarations and conventions into practice.

Key issues in decision making

Rights are generally classified into two broad groups:

- *Civil and political*, which are generally expressed in national constitutions or international conventions – prominent examples include the Universal Declaration of Human Rights, and the international convention on All Forms of Discrimination Against Women
- *Social, economic and cultural*, which are enshrined in both oral and written traditions, and which include rights to education, food, shelter, health care, and so on.

Rights approaches originally concentrated on ultimate objectives of freedom and wellbeing, and extrapolated back to the social and political relationships required to achieve this ideal state. This led to a view that rights should be universal and indivisible – i.e., no particular group in society, nor any particular right, should be privileged over others. However, in practice, governments do not have the resources to implement all rights at once, so that more pragmatic approaches have been developed, focusing on the most pressing rights issues for particular groups at particular points in time. In parallel, major efforts have been made to mainstream rights approaches. These include the mainstreaming of children’s rights by UNICEF, and the championing of reproductive and sexual rights by UNFPA. Even the World Bank, with the emphasis in WDR2000 on ‘voices of the poor’ and on empowerment, security and opportunity, is moving in this direction, but remains constrained by its constitution to avoid anything that may be construed as interference in countries’ internal affairs. There are also efforts to mainstream rights into some PRSPs. Others have tried to draw out key principles and objectives which can broadly inform development analysis and intervention. DFID, for instance, identifies social inclusion, participation and the fulfillment of obligations as fundamental principles that should inform all its work. Such principles in turn have strong implications for issues of governance, including the accountability of public officials and control of corruption. Three further trends are emerging: one is to attempt to link the rights of any particular group with their responsibilities; a second is to acknowledge (especially in the case of environmental issues and non-renewable natural resources) that future generations also have rights which must be protected in some measure from present claims; a third is a reference to human rights as a legitimation for empowerment and the obligation for political commitment to poverty reduction.

Rights regimes operate at several different levels:

- **Living law** and **customary law** incorporate kinship and resource rights specific to localities and to groups.
- **Religious law** enshrines rights and norms, mostly in relation to the domestic sphere, though in some contexts (e.g., some Muslim states) reaching also into civil law.
- **Statutory law** enshrines rights rooted in criminal, commercial and other law.
- **Constitutional law** guarantees civil and political rights, but in some contexts embraces also social, economic and cultural rights, such as provisions for land redistribution, or rights to food.
- **International human rights** law guarantees human rights with a universal application.

There is considerable scope for tension among these levels – thus ‘modern’ law providing commercial fishery or forest concessions may be at odds with customary rights to these resources. Customary law itself may break down over time: for instance, under population pressure, cultivators may assert new rights that conflict with those of pastoralists. For rights-based approaches to be fully operational at all these levels, an efficient and fair system of law or arbitration is required which is open to all, even the poorest. Clearly, this is far from the case in many countries: in India for example – which has one of the better-resourced systems – there are currently over 30 million cases pending in the courts.

Rights approaches set out the rights and entitlements within which the poor and their representatives can make claims. They also clarify for the state what its responsibilities are towards citizens, in terms of respecting, protecting, promoting or fulfilling rights and entitlements. They may either do this directly (where public investment and service delivery are concerned) or indirectly, by facilitating and regulating commercial agencies and NGOs to meet their responsibilities. Given goodwill on both sides, rights and entitlements can often be claimed without resort to the law. But to implement a rights-based approach will require context-specific answers to several questions concerning the relationships between these two sides:

Rights-based Approaches *continued*

DFID experience

- Communities' legal rights to forest, Cameroon
- Community rights in wildlife management, southern Africa
- Human Rights and Governance fund, Bangladesh
- Structuring bilateral aid policy according to a rights approach
- Sustainable Fisheries Livelihoods Project, West Africa (FAO/DFID)

DGIS experience

- Housing rights Project, South Africa
- Adjudication of HR violations through traditional tribunals, Rwanda
- Partnership for Governance Reform, Indonesia
- Legal support to Water Users Associations, Indonesia
- Women's rights project, Georgia, Armenia
- Child rights project, Bangladesh

Expertise and websites

- Univ of Sussex, Institute of Development Studies, www.ids.ac.uk/ids/
- Overseas Development Institute, Poverty and Public Policy Group, www.odi.org.uk/pppg/
- Human Rights Web, www.hrweb.org
- United Nations Children's Fund, www.unicef.org/crc/
- United Nations Documentation: Human Rights, www.un.org/Depts/dhl/resguide/spechr.htm
- Univ of Utrecht, Netherlands Inst. of Human Rights, www.law.uu.nl/english/sim/
- World Bank, www.worldbank.org/html/extdr/rights/

- What means of claiming their rights do people have? Can mechanisms be set up which do not require recourse to the legal system, such as 'complaints procedures'? Can new information technologies help in this? Can information be made more accessible to the illiterate or semi-literate?
- What space is there for activist groups to represent the poor by making claims on the state – through demonstrations (e.g., against displacement of people by dams, without adequate compensation) or public interest litigation? (For example, in India a judgment recently declared the government's holding of large food stocks as unconstitutional given the large numbers of people below the poverty line.)
- What scope is there in the first place of empowering people to meet their own needs, and then of engaging them in more consultative and participatory approaches to the prioritisation of public investment or service delivery?
- What other factors need to be in place for people to make effective claims against their rights? How important in specific settings are access to information, access to independent media, development of skills (including those relevant to leadership, organisation and communication), group solidarity, support from higher-level pressure groups, and recourse to a fair arbitrator? Can both livelihoods and rights perspectives help to strengthen these?
- How is the behaviour best understood of those who deny the poor their rights? What to do about this?
- Without group solidarity and collective representation – community groups, social movements, unions or NGOs – the poor are unlikely fully to establish or defend their rights. How can networks or alliances at national or international levels best serve to empower local voice, or to defend existing rights from predation by other groups? Whether and how such larger scale alliances can source legal and technical advice are key questions, and donors may have a key role to play here
- What needs to be done so that governments can respond more fully to the provisions of international conventions such as the Convention on All Forms of Discrimination Against Women, or in cases of recalcitrance, for pressure groups to coalesce more effectively around these? What can donors do here?
- How and how far can donors strategise the promotion of rights without 'meddling in internal affairs'?
- Perhaps one of the most pervasive questions, since all governments are resource-constrained, is how the fulfillment of (especially economic, social and cultural) rights should be prioritized. Again, the answers to this will be context-specific and may well be illuminated by livelihoods perspectives, which offer insight into the most important constraints and opportunities for particular groups at particular points in time.

The role of the state is largely one of respecting, protecting and fulfilling rights. The state may do this directly, but more often (especially in relation to economic, social and cultural rights) will act by facilitating and regulating private activity, whether commercial or non-profit. However, the state is not monolithic – in each practical context some within and outside the state will champion the rights of the poor and oppose predatory interests, and others will do the reverse. International organisations' commitment to the promotion of rights appears increasingly valuable in guiding them through the essentially political task of identifying who to work with in particular contexts, and how.

Key literature

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Key Sheets are available on the Internet at www.keysheets.org

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