Re-interpreting the rights-based approach – a grassroots perspective on rights and development

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Diana Mitlin and Sheela Patel

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Diana Mitlin (Global Poverty Research Group, and Institute for Development Policy and Management, University of Manchester, UK)
and **Sheela Patel** (SPARC, India).

Correspondence: Diana.Mitlin@manchester.ac.uk

Prologue (from SPARC, India)

February 2005: There have been terrible demolitions in Mumbai these last weeks and they continue even as we write. It has been a parallel and paradoxical event to the Tsunami and has produced the same devastation, but it is definitely man-made. There have been people's tribunals, protest meetings and many angry middle-class Indian and international activists e-mailing each other and everyone, asking pointed questions of SPARC, NSDF and Mahila Milan: what are you doing about this? It is a good question in the twentieth year of SPARC's partnership with people's organisations.

One approach to this ruthless action of the state machinery is to organise large protest demonstrations, write strongly critical articles in the English newspapers, set up people's tribunals and document the atrocities being committed. All these activities may be good in themselves and might win the approbation of activist circles and even donor agencies in the North, for they are based upon a traditional model of conflict with the state while seeking to defend the rights of the poor. However, we in SPARC and our alliance partners – the National Slum Dwellers Federation and Mahila Milan – have chosen another path. While there are many roads to God or the Truth and each traveller justifies their chosen road, our experiences in the past and the outlook of the poor communities that we work with have propelled us to eschew the path of righteous indignation and protest. To go back 20 years, when the homes of pavement dwellers in the city were being demolished at will, one group of activists approached the Supreme Court of India. They argued that the pavement dwellers had a fundamental right to live on pavements because they were close to their places of work and, since they could not afford public transport, their livelihoods would have been threatened were they to be shifted, and hence their fundamental right to life. In the event, the Supreme Court threw the case out with the caution that public authorities should give notice before demolitions, and pronounced that pavements were meant for pedestrians.

The irony was that these well-meaning activists did not consult the pavement dwellers whose cause they espoused. Had they bothered to do so, they would have been told that pavements were the last places where these people wanted to live – places without water, sanitation and electricity, and exposed to inclement weather and the hazards of traffic. The people wanted to be resettled in proper housing with secure tenure.

Then, as now, we were faced with alternative courses of action. We could have stormed the barricades and joined protest movements, but we chose otherwise. Instead, SPARC undertook a census of the pavement dwellers and organised them. The mobilisation of the community, and patient advocacy on their behalf, led to a change in policy a decade later. A change that recognised pavement dwellers as legitimate citizens and placed them on par with slum dwellers in terms of their right to be resettled. That policy is now being implemented and, for the last decade, pavement dwellers who have fulfilled certain conditions have enjoyed protection from demolitions.

There is another big issue that merits attention. The traditional rights-based approach places responsibility and obligation on the state, with little space for community participation and community-driven alternatives. In our model, organisations of the poor have to be built and their capacity strengthened, so that they can negotiate their entitlements with local, state and national authorities. Communities of the poor play a central role in the organisation and delivery of services for the poor, rather than leaving them to the exclusive domain of the state. Lest we be misunderstood, we are not arguing for the withering away of the state as many free-marketeers do. Rather, we urge the renegotiation of roles and responsibilities between the state and civil society, so that the state continues to recognise its responsibilities but changes the manner of realising these obligations. To give one example, the traditional method of providing public sanitation in slums was for municipalities to design, construct and maintain these facilities. There was no community participation at any level, and the experience all over India has been that these public facilities became defunct very quickly due to lack of maintenance. The model we propose, now implemented at scale in Mumbai and Pune, has the municipality providing land, capital costs, and water and electrical connections, and the NGOs and CBOs providing the design, construction and maintenance.

We feel that our approach could be described as "working for rights from the grassroots". This requires a sustained and long-term commitment to working with communities of the poor and strengthening their capacities to negotiate with state machinery. Our experience has been that the "protest mode" might well hit the headlines, but what happens after the mass demonstrations, the media hype and the documentation of injustice? What concrete alternatives are being offered, and what strategies are being employed to re-orientate the state? What pro-active steps are being taken to change the way things work? How is the genuine anger of people channelled into something more constructive? Who faces the consequences in the aftermath – the leaders or the people themselves?

We have learnt from these communities that the only way, at present, that the poor get housing entitlements regardless of international covenants and national policies is to survive the evictions and demolitions until such time that the state concedes and enacts first, protective legislation, and, later, legal entitlements. However irrational this might sound, this is the real insight into the process – the subtext to the on-going war of attrition between the poor and the state.

Reflecting on the relationship between SPARC and its community federating partners, NSDF and Mahila Milan, it is useful to analyse the changing roles and functions over a period of two decades. NSDF was founded in 1975 and SPARC in 1984, to fight

evictions. NSDF were fed up of NGOs who came to teach slum dwellers to be clean, hygienic and plant trees, when they were fighting evictions on a daily basis. They formed themselves into a Federation whose experienced leadership had a strategy to cope with evictions, and began assisting others in the same boat. SPARC, whose founding members had experience of welfare measures to address poverty through health, education and recreational activities, saw it all fall apart, with on-going evictions in which they could not play any useful role other than to help women store their important and precious belongings while the municipality took everything else away.

As the alliance began to work together, it strengthened community capacities, especially those of women, to fight demolitions. Initially, all dialogue with city and state institutions was fronted by the professionals from SPARC. In those initial meetings, insights and strategies developed to explore ways in which to blunt the violence by the state, in so far as this was possible, and to invest in creating long-term solutions for housing and habitat security with an acknowledgement of the rights of the poor in the city. This has paid many dividends for the alliance's aspiration to create sustainable policies and facilitate improved entitlements to those who have lived for a long time in the city. Between 50,000 and 55,000 households living on railway lands will be resettled in the next few years, with the alliance being responsible for the baseline surveys and for the preparation of resettlement plans and their implementation. But the real gains have been that community leadership, especially of Mahila Milan and women's collectives, have direct access and the confidence to negotiate with municipal officials.

However, in the midst of such positive and proactive strategies by the state in planning to house over 50,000 households of the poorest households in Mumbai, this present drive for demolition has been initiated by state institutions. It is a paradox: how does the same state protect the poor, and yet unleash an unimaginably cruel demolition drive?

This time, our (SPARC) proclivities to righteous indignation and protest action were severely restrained by the Federation leadership, to whom we had made a longstanding commitment to allow them, over time, to take the lead in providing direction. Their observation is that clearly there are some as yet inexplicable motives, probably political, which are not understood but which will reveal themselves in the near future, (especially since the manifesto of the ruling Congress party said that it would have housing constructed up to 2000 legalised).

Some politicians had the crazy notion that the state would be willing to give those who wanted to return to their villages the train or bus fare to do so! The state and city squads demolished the structures and left. NSDF observations and their study of the situation inform us that almost all of those who had no place else to go rebuilt their huts either in the same place or nearby. It is estimated that this group forms about one-third of the households whose shacks have been demolished. Another third are actually households who have an original slum dwelling, but who have expanded into new areas as the family has grown. They have gone back to their parents' homes until the demolitions are over. Another third of structures were built for sale by informal slum marketeers.

The Federation's suggestion for advocacy is very simple, but effective. It has encouraged community leaders to enter into dialogue with municipal officials, to minimise the brunt of the demolitions to the fullest extent possible. It also sent a message that unless communities of the poor get organised and participate in a process of transformation either through NSDF or through any organisational process, no real long-term solution would work. The leadership entered into dialogue with senior municipal officials to suggest that the state government must acknowledge that the city slums themselves need more space, because over half of the city is living in 18 per cent of the area and this calls for the allocation of more land. Unless an alternative is planned, there will be no way that the same slums will not emerge again. And thus the cycle of the search for a sustainable solution, that demonstrates scalable strategies, defines roles and functions that ensure the participation of the poor in these solutions, and creates space for dialogue and negotiation between organised poor slum communities and the state to drive these strategies forward continues…

Is this a rights-based approach or a needs-based approach? Will the international community that valorises and finances struggles for entitlements, and a range of human rights, acknowledge this as part of the pantheon of human rights activism? Or will this be dubbed reformist and welfare oriented?

It would be inappropriate to deem all rights-based approaches that are based on confrontation with the state to be counter-productive. Certainly, in the absence of democratic spaces – as in dictatorships – there will not be many alternatives. But our experience in the contexts in which we work has been that the building up of organisations of the poor contributes to the realisation of rights from below. And this is the path we have chosen.

Sheela Patel

Abstract

The rights-based approach is particularly associated with pro-poor development and the agency of the poor. At the centre of the approach is an understanding that successful development requires political analysis and action. Rather than development being reliant on charitable goodwill to meet the basic needs of very poor people, the rights-based approach emphasises that development should be based on a recognition of the equal rights of all citizens to the resources required for material well-being and social inclusion. Within such a conceptualisation of development, the contribution of the state is given prominence. Their role is that of provider, through equal access to essential services, and regulator, through a legal system that ensures equal rights for all. It is anticipated that under such conditions, the poor will experience a more supportive and less discriminatory context, and will be able to take advantage of new opportunities.

Despite this emphasis, SDI, an international group of grassroots organisations and their support NGOs seeking pro-poor urban development (notably secure tenure, basic services and housing), have struggled to work within the rights-based approach. While these groups believe in redistribution, social justice and people's empowerment, they have been criticised by rights-based groups for being "too close" to the state.

The discussion below considers the reasons for this tension, and focuses particularly on two related themes. First, women, who make up the majority of members in the local organisations (savings schemes), do not believe that an openly aggressive and critical campaign against this state is likely to be a successful strategy, given the present imbalance in power. While on occasion, savings schemes may be openly critical of the state, in general they seek to negotiate with local and national government around shelter, service and livelihood issues. Second, the women believe that there is no simple answer to their needs for tenure, basic services and housing that the state will deliver to them in response to successful advocacy campaigning alone. Rather, they believe that new alternatives have to be developed, and that requires collaboration between themselves and relevant ministries and departments. When the women propose and develop such solutions, they seek to build in an active role for local community groups. Strategically, they seek to strengthen local capacity, thereby investing in further opportunities to negotiate for redistribution and social justice, and to address specific material needs.

I. Introduction

Globalisation and its negative impact on the poor have produced a demand for international development agencies to create some measures to mitigate these impacts. Defending the rights of those who are negatively affected by such changes is now very high on the international development agenda. There is increasing evidence that almost every local process is affected by global economic development, and the inability to gain anything by either directly or indirectly confronting such global processes in local arenas demands a response from those who seek to guard the interests of the vulnerable. As development thinking has struggled to respond to this situation, the concept of rights has come to the fore in development debates in the last decade (Moser *et al.* 2001, 10 and Molyneux and Lazar 2003, 1). The rights-based approach has received considerable support from donor agencies.[1] Molyneux and Lazar (2003, 7-8) argue that it offers a more successful approach to people-centred development, including participation and empowerment through the emphasis on people's own agency. Hence the issue of people's own actions and capacities are brought centre stage - "…*making rights claims is a radical claim for substantive agency* …" (Molyneux and Lazar 2003, 28).

Moving beyond an emphasis on people's agency, the rights-based approach is also associated with an emphasis on ensuring that the political process within development becomes central to discussions and strategies (Moser *et al.* 2003, 2). Supporters of the rights-based approach and others argue that development cannot be approached simply as a technical problem, and that dealing with politics is central to the development challenge. Rights-based approaches are contrasted with needs-based approaches (that are associated with welfare and charitable strategies for development). Hence, in considerable part, rights-based approaches seek to change the relationship between citizen and state, to secure outcomes that are more developmental (see, for example, Piron 2003, 1): "*The move from a limited conception of need, conceived in terms of meeting a minimum of requirements, to a focus on rights entails a shift towards embracing a more strategic vision of what*

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[1] A report by INTRAC in 2001, which surveyed six major European NGOs, found that five of the six said that the rights-based approach was very, or of the utmost, importance for their NGO (Harris-Curtis 2002, 6).

citizens are entitled to and require for their further development" (Molyneux and Lazar 2003, 10-11).

Despite this emphasis on agency, and while the entitlement for all to have rights is rarely contested, this particular approach, especially as it is interpreted and actualised into practice, is not universally popular, even among those who clearly subscribe to people-centred development. This paper seeks to examine how the approach is interpreted when it links to local situations and how, in its own way, the process extracts and appropriates the knowledge, voice and choice of local communities. The paper uses the strategies and experiences of Shack/Slum Dwellers International (SDI) to offer a perspective on, and a re-interpretation of, the rights-based approach.[2] Shack/Slum Dwellers International is a network of people's organisations and support NGOs seeking to address the needs of the homeless. The network is now active in more than 12 countries in Africa, Asia and Latin America. At the core are local savings schemes, where women form the overwhelming majority of members. Savings schemes form an organisational platform for residents to explore and determine their development strategies to secure land tenure, basic services, housing and local economic development. The empowerment of the poor is central to their development activities. Generally speaking, SDI has sought to distance itself from the rights-based approach as it is understood by them. While few groups have been as nationally controversial as the National Federation of Slum Dwellers and their support NGO SPARC (the Indian members), when they refused to join the National Coalition for Housing Rights, there is some reluctance to engage with rights-based approaches or to identify strongly with this perspective.[3]

We argue that the lack of interest by women saving schemes members in following the rights-based approach suggests that it may be of limited value in addressing the problems of the urban poor. In part this is because its mainstream strategy is

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[2] This paper is written on the basis of internal reflections in SDI and its national Federation affiliates, and articulated by the NGO scribes who assist them. This is one more contribution to articulating the position of SDI, and sharing views of its leadership in an international development debate.

[3] In the early 1980s, many organisations in India formed the National Coalition for Housing Rights, but NSDF and Mahila Milan refused to join the process because they believed that solutions to the crisis were not going to emerge from one more piece of legislation or critique of policies on paper; these had to be contested in practice at large scale and through positive solutions that emerged from community processes. So they chose to invest there, despite severe criticism. Out of that emerges a national Federation of over 500,000 households that operates in 70 large and small towns in nine states in India.

developed along the skill sets of the Northern educated professionals rather than the strategies and approaches of the poor. Its lack of value also appears to be related to misconceptions about the way in which power relationships operate at the settlement and city level. Moreover, the premise that women's development needs can be resolved by more effective claim-making on the state is not borne out either by the women's initial choices or by the emerging experiences of SDI groups. Their issues with the rights-based approach do not appear to be conceptual or ideological but, rather, they are structural and pragmatic.[4]

The discussion begins by summarising the key characteristics of the rights-based approach. Section three then considers the key development strategies of SDI, to offer a basis for the ensuing discussion about the ways in which these strategies interact with their local context. Section four looks specifically at how SDI affiliates seek to resolve relationships between citizens and the state, in favour of the poor, and contrasts these approaches with those that have been associated with the rights-based approach. Two specific themes are considered: first, the issues of power, vulnerability, contestation and compromise; and second, the nature of the urban development process itself and how outcomes can be changed so that they address the interests of the poor.

Why should SDI seek to engage with supporters of an approach that it finds difficult to use? As an alliance of NGOs and grassroots organisations seeking to catalyse pro-poor change, SDI uses donor assistance to support its work. The concentration of socially progressive donors on the rights-based approach has been problematic for SDI. First, the frameworks that they are asked to use when they account for their activities to donors sometimes use the rights-based approach. Second, the significance of the rights-based approach within these agencies may influence SDI's capacity to secure resources. Third, the rights-based approach is influencing the broader discourse in development, including how problems are perceived and solutions developed. This affects the language, frameworks and programmes that donors fund in the state sector.

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[4] Hence the discussion does not consider some of the familiar concerns, including the universality of rights, the inter-dependency and/or hierarchy of rights, or issues to do with the international human rights framework (Nyamu-Musembi 2002, 2).

Hence, for SDI and its affiliates, it is very important to explore the relation between the rights-based approach, rights and pro-poor development strategies.

II. What is the rights-based approach?

It is clearly difficult in development to define a single approach as, in practice, each approach becomes defined in multiple and diverse ways. However, it is possible and useful to establish some of the characteristics of the rights-based approach. Moser *et al.* (2001, 3) argue that "*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.*" As discussed in the introduction, this is contrasted with needs-based approaches to development. These "rights" extend beyond human rights, and incorporate economic, social, cultural and political (including participation) rights (IDS 2003, 2). Other discussed rights are the right to development, the right to peace and security, and the right to a healthy environment. As summarised by the IDS Policy Briefing of August 2003 (page 1), the rights-based approach draws on a number of different traditions: the international human rights frameworks, attempts by advocacy organisations to improve national legislation, autonomous movements of the poor and dispossessed, and the shift from clientelist relationships between the state and people to ones of citizenship.

The attraction of the rights-based approach for development specialists lies in its development potential and how a focus on rights and claims might help enable the priorities, views and perceptions of the poor to be translated into real outcomes (Moser *et al.* 2001, 21). The approach is believed to lead to policies that enhance social justice which, in turn, reduces social risk and strengthens long-term livelihood security and the realisation of economic and social rights (page 37). More specifically, the rights-based approach is associated with two complementary strategies. First, "*[R]ights 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*" (Moser *et al.* 2001, 14). Hence the approach is associated with claim-making on the state to secure services. There is the understanding that organised communities that secure rights can address at least some of the fundamental structural issues that have kept them poor (the bottom-up strategy) (Molyneux and Lazar 2003, 55). Second, "*[I]nternational 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" (Moser *et al.* 2001, 14). Hence the rights-based approach offers a way in which pro-poor development institutions can argue that governments should first sign up to and then implement existing international rights treaties.

As has already been touched on, there is a persistent and strong association between the rights-based approach and legal processes, both in terms of specific laws and entitlements and their realisation (Molyneux and Lazar 2003, 48 and Eyben and Ferguson 2004, 165). While Moser *et al.* (2001, 21) argue that such an interpretation of the law is as a "*'social process'... rather than solely as a text or formal legal structures*", this is not necessarily the case, and authors such as Williams (2003, 3), Mameli (2003) and Perez Bustillo (2003, 67) are primarily concerned with formal legal processes. While there is a recognition that legal processes are more than laws, in practice the concentration within the rights-based approach appears to be on the latter.

A number of limitations of the rights-based approach have been identified (Moser *et al.* 2001 and Kabeer 2002).[5] One set of problems is related specifically to poverty. Where individuals and households have inadequate access to resources and are unable to secure a subsistence livelihood, they may have little interest in abstract rights which can only be realised through contestation and struggle. For Kabeer (2002, 20), this highlights the indivisibility of basic needs and basic rights; if basic needs are not met, people *"will only achieve security of livelihoods by binding themselves into highly asymmetrical relationships"*; hence citizenship cannot be quickly achieved, but requires changes in policy together with changes in individuals' consciousness and identity (which may emerge from involvement in protest movements and resistance struggles).[6] Nyamu-Musembi (2002, 9) highlights the potential conflicts between individual and group rights, and in so doing touches on the issues of, for example, women and women's rights within some cultures. Other limitations include concerns

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[5] More has been written on the universality of rights and on how to prioritise them, but neither emerges as being significant in this argument, and they are not elaborated on here.

that there is too great an emphasis on citizen–state relationships as the basis for accountability and better performance. Moser *et al.* (2001, 14) suggest that its effectiveness may be limited within weak states and where there is little possibility of support from multinational institutions. Mahmud's (2003, 37) study in Bangladesh supports this conclusion, with local communities finding it difficult to secure accountability from groups that are more powerful. A related problem is that while rights might exist there may be relatively little to ensure that they are enforced (Molyneux and Lazar 2003, 82). More specifically, the limitations of a reliance on rights in a context in which the courts may not be pro-poor have been noted previously (see Igoe 2003, 878-9 for a recent discussion of the lack of success of pastoralists in securing their land rights in Tanzania).

In one of a few detailed analyses of a rights-based approach that is particularly pertinent because it considers housing, Mageli (2004) reports on the National Campaign for Housing Rights in India. Unnayan is an Indian NGO that sought to address housing needs through a dual strategy of a people's movement and rights-based campaign. The Campaign for Housing Rights was initiated in 1986 by a lawyers' collective in Calcutta, with Unnayan as the secretariat. The main activists in the coalition were middle-class professionals, and the aim was to make the right to housing a fundamental right within the Indian Constitution. It was believed that the people themselves should articulate their own problems and demands, hence Unnayan supported the formation of Chhinnamul Sramajibi Adhikar (meaning "uprooting for the rights of the labouring people"). The movement was primarily political and did not seek to address basic needs directly. The intention was that the two activities would be complementary, as it was already recognised that even if the legal campaign was successful, implementation would require a mass movement (Magili 2004, 132). Equally, the NGO recognised that low-income people should be involved in designing the law. While the campaign took on a national orientation, and many were involved in lobbying, the community leaders (those not included in the campaign leadership) were frustrated: "…*for the bulk of the dwellers, the national campaign, appeared to have no immediate positive impact on their everyday lives*" (Mageli 2004, 135). The community members felt exploited by the NGO as there had been no positive

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[6] The conclusion is not universally accepted. In the same volume, Mahmud (2003, 36-7) argues that

difference in their lives; they had engaged in a process that they believed would offer them development benefits. Leaders demanded that the NGO share the foreign funds with them, and when this was refused, they broke with the NGO. After some years of intense activism and campaigning, the activities slowed down, and differences and conflicts increased. While the Campaign had a high profile for some years, its objectives were not realised.

This Section has raised a number of issues with respect to the rights-based approach. The following Section introduces the work of SDI, whose core approach is oriented towards securing the rights of the urban poor. It examines some key issues in more depth and questions the relevance of the rights-based approach to the needs and struggles of the poor.

III. Shack/Slum Dwellers International

This section briefly describes the approach of Shack/Slum Dwellers International (SDI) and outlines their strategy for securing pro-poor social change. SDI was formed in 1996, when five years of exchanges between India and South Africa produced two peer Federations. Over time, many others have reproduced this Federation model in countries such as the Philippines, Thailand, Nepal, Sri Lanka, Namibia and Zimbabwe. SDI seeks to create an institutional framework that allows the formation of nationwide organisations capable of organising people around housing, infrastructure and citizenship rights in urban areas. The process produces a critical mass of community members identifying their priority issues, fighting evictions, and negotiating solutions in which the claim-making is not just demands on the state but also a reformulated agreement of what city, national state and communities can do to produce scalable and lasting pro-poor urban development.

The SDI approach seeks to support a people-driven development process that addresses vulnerability and basic needs through two mutually supporting strategies. The first of these strategies, savings groups, strengthens self-reliance and organisational capacity among communities; the second, federating, then seeks the redistribution of resources by the state in ways that address the needs of members and

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collective action could overcome local and broader hierarchies to achieve rights.

strengthens their capacity to negotiate for more. The fulcrum of the movement, the savings schemes, helps to ensure a strong local movement with accountable leaders that know of, and represent, the interests of their members. The savings and credit process is a capacity-building strategy that brings women to the forefront of the leadership, strengthens the capacity to sustain high mobilisation levels during prolonged contestation and negotiations, nurtures trust, accumulates aggregate financial resources to help each other, and creates the knowledge to use these assets to manage money and leverage external resources. Self-reliance at the settlement level is based around local savings, and encourages lending to meet the immediate needs of members for emergency funds and small-scale enterprise development. Daily saving is one of the practices of the savings schemes, with the primary purpose of establishing regular interaction between members rather than accumulating funds. Over time, savings do accumulate and groups are encouraged to offer each other loans for crises and business. Daily saving plays an important further role in reducing the burden of debt, as loan repayments are collected alongside savings. Self-reliance is also considered to be important beyond the settlement. City and national autonomous grassroots movements need to be able to either enter or stand back from any specific political process. Such independence avoids the problems of movements that are highly dependent on their political fortunes (see, for example, some of the histories discussed in Castells 1983).

At the same time, the development philosophy of SDI groups asserts that addressing the needs of the poor requires redistribution by the state. To help them address such needs, and to strengthen each local group, the savings schemes federate, and these Federations develop their own identities. Reflecting the state's political structures, Federations often have city, provincial/regional and national identities. As Federations, the groups help each other to secure their development agendas, to deal with problems in local savings schemes, to build people's knowledge of the ways in which their aspirations can be achieved, and to dialogue with the state. Negotiations with local and national governments are an inevitable part of the process. Such negotiations involve distinct interfaces with politicians and with administrators. Support NGOs work with the Federations to identify strategies, prepare technical arguments and engage in a professional discourse (particularly with officials).

The political objectives sought by SDI Federations can, it is believed, only be realised through the integration of negotiation and poor people's "tried and tested" development strategies. The movement believes that previous development efforts have failed because the poor have not developed solutions that work for them. SDI has well-established strategies to encourage local communities to explore innovative practices, and demonstrate how they work and use the "clout" of the critical mass to negotiate the acceptance of such practices by the state. To support local learning and innovation, there is a regular programme of local, regional, national and international community exchanges. Such exchanges help the groups to analyse the problems they face and share solutions.[7] If and when a solution is found that works in a locality of a particular country, it is shared through exchanges, refined, revised and reformulated to suit local need, while maintaining the key qualities that make it a Federation tool.

Inevitably, solutions for secure land tenure, basic services, housing and, sometimes, economic development involve the state. However, the Federations of the poor are clear that everything that works for them is informal and illegal, and not within the framework of existing policies, rules and standards. The Federations have to persuade the state to support their solutions. Such persuasion requires a partnership role for the state; moreover, it requires the state to recognise the legitimacy of the Federations and their member savings schemes, and the potential offered by people's solutions. Federations collectively take the risk of demonstrating new solutions to the state. Rather than contesting things that don't work, they engage the state to review alternative options. This strategy turns "protest politics" on its head.

For most government agencies, accepting such ideas, that come from the poor and which work for the poor, is a huge step. Once taken, it forms a breach in the system and potentially offers opportunities for further policy reform. The Federation groups call this precedent setting, or the development of innovative strategies to address the need for land, infrastructure and services that set clear "precedents" for others to follow. Precedent setting is collective challenging of the rules through positive action. As Federations build relationships with the city and state institutions, they initiate exchange visits where politicians and administrators join the process to examine

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[7] The role of the professionals in the support NGOs is to help develop the solutions and revise

precedent setting in another city or country. The international movement is particularly significant in these critical political engagements.

The SDI vision for development clearly shares some characteristics with rights-based approaches; to be people-centred, empowering and redistributive, and secure pro-poor attitudinal change and pro-poor regulatory/legal/procedural reform are all aspirations sought by SDI. Nevertheless, the movement has been cautious with respect to aligning with the rights-based approach, and has faced criticism from such groups. The following Section explores why.

IV. Securing voice and ensuring pro-poor development

The analysis emerging from the experiences of groups affiliated to SDI suggests that there are two specific issues relating to SDI strategies and the principles and practices of the rights-based approach. The first issue is the vulnerability of the poor and the difficulties (often dangers) they face when openly contesting for power. The second issue is the extent to which pro-poor solutions exist that can be implemented by the state, and hence the ease with which claims can be articulated and met. The first, in particular, is recognised by advocates of the rights-based approach, although it is not associated with the difficulties that are discussed here. The second does not seem to be recognised to any significant degree.

Rights, vulnerability and contestation

The nature of the immediate social relations of the urban poor, and the location of their (often informal) settlements, mean that they are often distant[8] from the formal institutions of law and security. For these reasons, it is the experience of Federation groups that laws that are pro-poor are often not enforced. Vulnerability is a characteristic of poverty, and it is this vulnerability that makes it difficult for the urban poor to press for the implementation of laws that are supposed to protect them. Such vulnerability means that many low-income residents, particularly women, are reluctant to enter into direct dispute with the authorities. On most occasions, due to their vulnerability and proven strategy, the preferred response of the urban poor and

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strategies.

[8] This distance cannot simply be measured in physical terms. Even well-located low-income settlements can be overlooked or deliberately ignored by service providers.

the specific strategy of the Federation is to avoid the level of contestation that is associated with claim-making.

This attitude to contestation emerged early on in the life of the oldest SDI process, directly from the central engagement of women. In India, the grassroots organisations affiliated with SDI are divided into the National Slum Dwellers Federation and *Mahila Milan*. The former is the network of community organisations (that was mainly male-dominated when the partnership was initiated in 1986, but which now has 50 per cent women leadership), while the latter is a network of women's savings collectives. A strategic change was agreed when the male leadership of NSDF reflected on why their movement was not progressing beyond marches and demonstrations. The Federation leadership recognised that it is often men who are more comfortable with fighting against eviction and wrong-doing by the state. Women passionately sought security of tenure and basic amenities but, in the traditional and early strategies of the NSDF, were only used to provide numbers and were then ignored in the decision-making. The male leaders acknowledge that they used the women in their settlements as "marching fodder". When an eviction of pavement dwellers was threatened, women would be pushed to the front.[9] In the 1990s, as the women leaders in *Mahila Milan* gained in confidence, they began to challenge the way in which they were being used by the male leadership.

In documents produced by SPARC, NSDF and *Mahila Milan*, there is an historic milestone that is often quoted. In 1985, when the city threatened to demolish the pavement dwellings, all NGOs and youth groups wanted to fight street battles to defend the rights of pavement dwellers to reside on the pavements of Bombay. The crisis emerged after a petition concerning the right of abode of pavement dwellers was lost in the Supreme Court.[10] SPARC, who attended that meeting in their early days of inception, asked women in the Byculla area, who were living on pavements, and members of *Mahila Milan* what they wanted to do…. The women said "…*we don't want to fight and we don't want to stay on the pavements either! Go and speak to the municipality and to the state government and see if you can explain to them our situation*". It was out of the clear and complete lack of knowledge about pavement

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[9] The hope was that the police would find it harder to act against women.

dwellers that "*We the invisible*", the first census of pavement dwellers, was undertaken (SPARC 1987). In November 1985, the big evictions stopped, thanks to a combination of many factors, and most activists moved to other causes. *Mahila Milan* and NSDF began to work on their re-housing strategy and, in 1995, were able to ensure that pavement dwellers were included in the group of slum dwellers entitled to relocation under the Slum Rehabilitation Act. In 2003, a census of all pavement dwellers in the city was started, with a plan to relocate 23,000 households in collaboration with Mumbai municipality and the Mumbai Metropolitan Regional Development Authority (MMRDA).

However, the local problem of evictions continued. The first *Mahila Milan* group was located in the streets of Byculla, in Mumbai. As these women accepted the need to develop their own strategies, they also began to think about alternatives to existing responses to eviction from their pavement dwellings. Rather than confront the police, they sought to outwit them. When the police next came, they offered to take down their dwellings. They dismantled their shacks and neatly stacked their belongings and building materials on the pavement. This left only rubbish on the site where their shacks had stood, which they invited the police to take away. The police were willing to do this, as they could then go back and report that the dwellings had been dismantled. Once the police had left, the women replaced their dwellings. As a result, they kept their material possessions, they and their families were not traumatised by the experience, and the police began to see that they could negotiate with the poor. This showed the group that, when the poor are in a vulnerable position, a collective demonstration of strategic resistance is as powerful as confrontation, but more effective psychologically. Their slogan was "*todna tumhara kam, ghar bandhna hamara kaam*" ("it's your job to break our house, it's ours to rebuild ours") – it was a challenge to test tenacity.

A further example demonstrates that local Federation groups see advantage in building relationships with local councils, even in difficult circumstances. In Victoria Falls, the Federation groups were negotiating for land with the municipal council between 2000 and 2002. The Federation groups had started organising in 1996, but it

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[10] Olga Tellis versus the Union of India, 1985.

was only after some years that the council recognised that the Federation was a potential political and development ally. The savings scheme was offered a plot of land. However, there were considerable delays, particularly over the development of the plot (as plans had already been submitted to the relevant ministry). On numerous occasions, the Federation groups had to decide whether they would argue for their rights or would negotiate to achieve a compromise. For example, in one critical council meeting in 2002, a member of the savings scheme came in and sat at the back of the council chamber. The deputy mayor asked whether he was a leader and, upon hearing that he was not, asked him to leave. Federation members would have preferred him to stay as they believed in open meetings but, rather than insist on his rights, they decided not to antagonise the councillors and allowed them to assert their authority over the physical space, while seeking to further their negotiating position with respect to land and the constraints on land development. Equally, they agreed to stay with the layout prepared by the town planner, in order to avoid delays. After many months of negotiating, the group moved onto the land, with 356 plots. An important concession was granted by the council, namely that the group need not complete the road infrastructure during the initial development phase but could simply provide water and sanitation. The cost of roads was about one-third of the total infrastructure development costs. The council also accepted that some of the households would be too poor to construct shelters immediately, but would simply move their shacks from the land they were renting in the township.

The Federation members are very conscious that they cannot defeat the state. They may believe that the more oppositional their position, the more likely they are to risk violence and other forms of repression. As significantly, they believe that their proposals are more likely to be accepted if the state recognises mutual advantage; and they are more likely to do business if relationships are friendly. Also, there is no value in seeking confrontation. In fact, a weak and defensive state that is lacking in confidence is more liable to oppress if faced with criticism. It is also a fact that most city level crises are generated by an ungovernable international money market that also defies the state. Thus, along with the fight with the state, the poor are shadow-boxing with the financial institutions. The Federation seeks to control the psychology of the space between citizen and state, so as to advance their interests. Hence they

seek to persuade rather than to threaten, and their orientation is towards what is strategic in the longer term.

It has already been acknowledged that there are rights that exist but that are not recognised, because the poor are not powerful enough to have them implemented. Arguably, if the poor are strong enough to claim their rights, then there is probably no need for the rights-based approach (Kabeer 2002, 20). If they are not strong enough, the experience of the Federation suggests that the approach does not help. Other Southern analysts have similarly suggested that local groups have a different assessment of risks, and may be reluctant to demonstrate when such protests end in violence (Win 2004, 124). Agarwal (2003, 247) also highlights the problem of a lack of power to achieve implementation, when she notes that the Indian Constitution makes provision to protect the rights of the children, including protection from work, and yet, "…*in spite of all constitutional arrangements…India continues to use child labour even after half a century of planned development*" (page 247).

Such problems explain some of the analysis behind the decision by the National Slum Dwellers Federation not to join the Coalition for Housing Rights in India. The president, Jockin, could see that there were many constitutional rights that were not recognised. What, then, was the point of adding another? He believed that more fundamental strategy changes were needed. On the one hand, this required the recognition by both the poor and the state that confrontation was not in the interests of either; what was required was negotiation and collaboration so that both could move closer towards their goals. On the other hand, new solutions to the problems of urban development (notably land security and basic services) were required because the existing solutions depended on resources and institutional capacity, which were evidently not in place. This is the second issue that emerges from a study of SDI experiences with the state, and with claim-making on the state.

Rights with regard to state development action
One reason that helps to explain the strategy of the Federation groups towards the state is that they are interested in developing new, more pro-poor urban development strategies. Generally, the government is involved, particularly as resource providers, but also in other ways as there is an inevitable interface with the state with respect to

land tenure and services. Pilot "precedent-setting" projects help to define exactly what role the state needs to play. In Namibia, for example, the Federation has been active in changing the policy of several local authorities to enable community groups to install on-site communal infrastructure and increase residential densities, thereby lowering the costs of secure tenure and basic services. Some of the groups that have installed infrastructure are in Walvis Bay, a long way from the NGO support group that is based in Windhoek. Consistent support has been offered by the municipal engineering staff, and this has helped to reduce costs further and to build community confidence.

A rights-based approach might work for a relatively straightforward claim that involves a simple transfer of financial resources, but its applicability is less evident when there are multiple and complex needs, with no existing solutions that can be implemented with existing resources at scale. The Federation groups installing infrastructure face financial, technical and organisational challenges. Collaboration with the state helps build the political capital that groups need to provide flexible and ongoing support. The groups require more than an engineer being sent to their site; they require an engineer with the patience to explain the regulatory requirements, one who is interested in what they are trying to do and who can help to develop innovations that save time and money, one who does not mind when they make mistakes, and who is willing to check work late in the day.

In many of the development strategies that the Federation groups require, the state has no capacity. This is not simply a question of a lack of resources, it is also a recognition that the complex layers of informality that make up the life of the urban poor are not easily managed by state bureaucracy. In Mumbai, the state agreed to resettle families living along the railway tracks, thereby enabling the trains to go faster and the transport system to be more efficient. But they needed a process to establish individual household entitlements. Existing processes were fraught, as they were subject to corruption, claims and counter-claims; families claimed that they were within the beneficiary group and offered papers to prove it. Believing resettlement to be unmanageable, some politicians and bureaucrats argued for, and then initiated, eviction. However, after discussions with the government (and a legal challenge to the eviction) the National Slum Dwellers Federation set up community teams to survey and verify each household. A procedure was agreed to deal with families who argued

that they were present on the site but who had not been identified by the survey. The local communities and national leaders developed a capacity to resolve claims swiftly and fairly, as each of the 30,000 families in the designated area were surveyed and enumerated. This resettlement process required considerable precedent-setting, as problems emerged at each stage that needed to be resolved by all the parties working in collaboration. What drew the groups together was a realisation of mutual need.

The basic principles of the Federations are that the poor require secure tenure, basic services and improved housing, and that the state has a role in providing this through improved regulations and the redistribution of resources. Why does this not translate into a "right to housing"? Because the "right to housing" suggests that the state will provide a defined unit that the poor must take or leave. The experience of SDI is that this does not work for the poor. Most do not receive these benefits (because supply is limited), and some of those who do may sell the house at the first crisis that they face. Rather, the experience of SDI is that they must build relationships, develop alternatives, and then negotiate within those relationships. The process of negotiation must itself build the skills and confidence of the community to negotiate further. What are common points of negotiation with the state in pro-poor urban development? Land location, the ability to sell off some plots for cross-subsidisation, the development of commercial areas, the infrastructure standards, community involvement in infrastructure installation, and building standards are all areas where new solutions need to be developed and then implemented at scale.

The Federation strategies fit within present development debates on good governance. But not good governance as perceived by Molyneux and Lazar (2003, 20), which is efficient, accountable administration. In SDI's context, good governance is a more inclusive kind of process with the active citizen–state resolution of difficult issues. In this case, participatory governance goes well beyond the inclusion of the poor in decision-making, and the accountability of the state to the citizen. Rather, it is the reconsideration of the functions and roles of the state, to enable a realignment of responsibilities, rights and obligations. Hence the distinctive characteristics of state–citizen relations promoted by SDI include collaboration in which the poor gain in confidence and skills and negotiate for their interests and rights. The emerging solutions are as much around the process as they are around outcomes. Settlement

successes with regard to development and collaboration with the state are scaled up to municipal and then provincial level. As influence is achieved in one area (such as water), there is interest in extending to another, such as education or security. At all times, the process adds to the negotiating capacity of the poor.

The converse of the Federation's interest in re-conceptualising solutions to development is that the legal strategies within the rights-based approach are highly professionalised and formalised. The understanding of the Federations is that the formal world often fails to understand the realities of people's lives. While formal agreements between communities, support NGOs and municipalities arise regularly, there is a belief that formalisation follows, and does not precede pro-poor change.[11] This belief is related to both outcomes and process. While professionally driven outcomes are unlikely to be relevant and/or implementable, the professional/legal discourse itself excludes the poor. Exclusion reduces confidence, and this increases the disengagement of the poor from the processes being considered.

International rights campaigning

In some cases, this situation is made even more difficult – the rights-based approach can mean the valorisation of externally validated documentation, technically and professionally managed, which is presented to the world accompanied by an equally sophisticated media campaign, sometimes to an international agency that arbitrates such information and which confronts the nation–state or other violator. Almost always, the surveys, case studies and objectively verifiable data prove to the global arena that there have been violations, which have been documented by third party observers; the process then seeks to confront the violator on behalf of the victims, in order to seek justice. Such processes are associated with a number of problems, not least that they maintain the poor as perpetual victims, as they are only offered the role of beneficiary and supplicant to the process. Global rights norms are invaluable, and form an important part of frameworks for seeking local change. However, when these

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[11] This is illustrated in a recent debate in Kenya between the Kenyan Federation, together with its support NGO the Pamoja Trust, and other NGOs. The NGOs were arguing that the Federation should adopt recently reformed building regulations. The Federation wished to take up an offer from Nairobi city council to explore appropriate (and new) regulations, through joint experiences in upgrading a specific settlement. The Federation believes that, regardless of the quality of the earlier process, the interests of its members would be best served by a collaborative action research project with the city council.

processes are viewed at close quarters, they provoke deep frustrations and resentment among local grassroots activists, whose role and contributions are pushed to the periphery of the process whose central focus is the global, rather than the local, arena. This is further exacerbated by the reality that global actors, however committed to local injustices, cannot "afford" (literally) to remain in a local domain for long, and the attention and media support move to another local crisis that reflects global transgression of rights. So the global focus, or its national counterpart, keeps moving its spotlight, leaving the local process to deal with the consequences. In most cases, this involves leaving behind a very angry and furious violator, whose shaming has made debate and discussion impossible, and who completely denies that all local forces (good and bad) have to recognise the fact that they are in the same spatial reality of the city and must deal with each other.

V. Conclusion: what have we learnt? – why does this matter?

This discussion has highlighted some of the ways in which SDI believes local women-led savings schemes, and a large critical mass of geographically networked communities and their Federations, can further their need to address improved land security, basic services and housing. It has looked at how women's strategies interface with citizen–state relationships and secure rights. The urban poor seeking to improve their shelter and livelihoods are in a continuous engagement with state agencies, particularly municipalities. Rather than antagonising politicians and officials, they seek to establish commonality of interest in the furtherance of their strategic needs. Negotiations and collaboration are believed to be more effective strategies. This enables new policies to be explored, and their legislative implications to be considered. Furthermore, because the solutions that these low-income women seek emerge from their own analysis, and inevitably have a location in the informal world, with a degree of illegality, collaboration is needed to evolve a suitable form for large-scale implementation.

The local savings schemes and national Federations that make up SDI have a strong political consciousness. The groups practice the dual strategies of self-reliance (in part to maintain their autonomy as people's organisations) and negotiations to secure resources from the state. SDI affiliates believe that the capacity to dialogue and negotiate with the state is vital in addressing issues of entitlements, access to

resources and citizenship rights. Securing success in this dialogue is the most critical and difficult issue facing the poor. They face denial of entitlements, lack of planning and an unequal "playing field" for vulnerable groups; addressing such needs is the duty and obligation of the state.

SDI groups in a number of countries have been criticised by some NGOs who assume that dialogue with the state is cooption. SDI groups do not accept this analysis, and believe that their strategies are better at securing rights than more confrontational ones. This raises questions about how rights can be achieved and what is meant, or what should be meant, by a rights-based approach.

Kabeer (2002, 17) locates the emerging focus on rights to the transformation of social relations at the time of industrialisation in the European states. However, she suggests that this transformation of relations, with the reduced significance of kinship and a move towards a greater proportion of relations being mediated through the market, has happened only imperfectly in the South. In the South, there have been attempts to introduce formal rights alongside more traditional social relationships. "The highly partial, incomplete and fragmented notions of citizenship which result often serve to reproduce, rather than disrupt, the socially ascribed statuses of kinship, religion, ethnicity, race, caste, gender and so on in the public domain" (ibid, 18) Her conclusion is broadly in keeping with the Federation analysis of their situation. In this context, they seek to use multiple strategies to strengthen their position and thereby advance their cause.

However, the Federation position goes beyond building stronger citizen–state relationships to simply negotiating for the redistribution of resources to the poor. More fundamentally, we can recognise that they seek to challenge the consensus that prevails in the North, which is that the best strategy of disadvantaged groups is to advance their claims on the state and request that the state provides. Rather, the Federations seek to develop strategies for the provision of basic services, which may require the poor to do more rather than less. The key for them is that the activities strengthen organisational capacity, thus enabling the poor to return to government with a stronger negotiating capacity. The concept of citizenship is one of active

engagement rather than passive recipient, and the agent that safeguards their interests is their own collective capacity rather than professional legal structures and systems.

The experience of SDI suggests that the outcomes of the policy process, and the ways in which solutions to urban poverty are defined and implemented, reflect the nature of the process from which they emerge. More specifically, the rights-based approach, with its legal associations, takes the poor firmly into the "terrain" or space of the professionals and elites. Such a terrain influences the kinds of solutions that emerge and their characteristics. It influences the kinds of solutions that are acceptable, those who can propose solutions, the acceptable discourse around those solutions, and associated behaviours. The formality of the rights-based approach deals very explicitly with power relations, and such formality favours those who are able to enter and articulate within professional discussions, and disadvantages the poor.

Hence a discussion that started out as a pragmatic critique on the "do-ability" of the rights- based approach has resolved itself to be a challenge to Northern hegemony. Molyneux and Lazar (2003, 29) argue that the problem is not a lack of resources but, rather, a lack of political will. The SDI approach suggests that much more than just political will is required. Strategies that seek empowerment and participation may not, in themselves, lead to rights. Groups of the poor may choose to be more strategic in their approaches, recognising that claim-making alone may not result in a desired change. These discussions go to the heart of the relationship between citizen and the state, and between civil society and the state. The advocates of the rights-based approach argue that the role of civil society should be to challenge and critique the state. Molyneux and Lazar (2003, 84) suggest that too close an engagement might result in civil society losing its "*innovatory, challenging character and ability to represent the demands of groups with civil society that they were meant to serve.*"[12] The experiences here suggest that a much more open debate about what works for the poor and why it works for the poor is required before conclusions are reached on such strategies.

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[12] Hence "*…some informants felt that rights-based work has, for these reasons, renewed calls for NGOs to talk a more independent stance from government*" Molyneux and Lazar (2003, 85).

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