
Article

Funding Outcomes or Risk and Innovation? Implications for the Broader Role of Donors

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Abstract

Reflecting on two case studies and insights from experiences with two small grant making funds, the author adopts a practitioner's lens in arguing that donors fund risk-taking and innovation when they fund human rights activism, especially in aggressive human rights contexts such as that of Malaysia. Therefore, there are implications for the broader role of donors. Adopting the concepts of Outcome Mapping, the author first argues that human rights activists and organizations have no control over the achievement of desired outcomes, only of the levels and types of risks they take. The author points out that measures and actions taken to achieve desired outcomes are in effect to avert risk and failure. These measures and actions no doubt reflect a conscious and deliberate planning, but it is one which attempts to bring about the preconditions that are necessary before the desired outcomes can be realized. The author then argues that ideology must match practice, and donors, like human rights organizations, need to leverage their power and influence to help level the playing field for the advancement of human rights and to ensure the independence of human rights work. Drawing insights from two case studies and the practices of two smaller funds, the author suggests that donors more proactively contribute to creating a more enabling environment, and recognize the validity of risk-taking and project failure, which contribute to the learning curve of human rights activists and organizations. Contextual analyses are vital to determining the types and levels of risks to be taken.

Keywords: desired outcomes; donor politics; donor role; funding; risk-taking

Introduction

In aggressive social and political contexts, where the state and parts of civil society may fluctuate between moral policing and outright hostility, the language, principles and values

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of human rights can be either confrontationally challenged or completely rejected.¹ In these settings, non-governmental organizations (NGOs) tend to be small, loosely organized and/or unregistered. To be successful, they need to act with courage and imagination to challenge a social and political order that discriminates against minority communities or others who pose a threat to the status quo. NGOs and activists find themselves in constant flux, with restricted capacity to predict how governments, institutions and civil society will respond to their initiatives.

In these difficult situations, project ‘failure’ (even at the level of short-term objectives) becomes part and parcel of a learning curve for practitioners. The ultimate goal for any human rights work is of course the achievement of social justice and respect for human rights, and clearly this can take many years to achieve. Furthermore, the pathways to change, and what causes it to happen, are complex and multi-faceted; they are not always amenable to simple cause-effect equations. In this sense, human rights work draws parallels to rights-based development where research has shown that it can ‘improve people’s lives via long, busy, discontinuous pathways. Tracing the connections is at best unreliable and at worst impossible’ (Earl et al. 2001: 6).

What may be more possible and realistic, however, is to trace how the struggle for transformative social change can be sustained. Lessons can certainly be drawn from the experience of success but they can equally be drawn from failure. This is perhaps especially true in aggressive human rights contexts, where the work of activists is to challenge entrenched power structures. Risk is intrinsic to this endeavour, which tests the outer boundaries of what can be said, done and fought for in relation to human rights. While donors want to know that their funding is used to good purpose, they do need to appreciate that failure may simply reflect the depth of the authorities’ resistance to change. Such failure can nevertheless be used to strengthen further challenging work and to achieve better results in future. Donors’ good intentions could therefore helpfully shift to recognize this reality, and to support risk-taking work that may not result in instant success.

It must be emphasized that in hostile environments, ‘risk’ also refers directly to the security of activists who may face threats, intimidation, harassment, legal obstacles and so on. I will suggest that an understanding of the security risks faced by activists needs to be integral to donors’ funding policies, along with financial support when needed. The risk of project failure and to activists’ safety are two sides of the same coin, and both are detrimental to progress towards respect for human rights. The two case studies presented in this article will highlight how arduous and unsafe human rights work can be in these settings. I will argue that a strategic focus on what needs to be addressed (to strengthen human rights), and an NGO’s overall approach to meeting this challenge, is more pertinent than an insistence on the achievement of tangible short-term project objectives.

The article looks at women’s rights activism and initiatives with and for lesbians, bisexual women and transgender people in Malaysia. The first case study speaks to the

1 *Aggressive context* is used to refer broadly to environments that are hostile to human rights principles and practice. The criteria for defining such a context are derived from the author’s doctoral research and interviews with activists: ‘Authentically Ambiguous, Credibly Anonymous: Perceptually Reframing the Personal Narrative towards Effective Persuasion in Aggressive Human Rights Contexts’. An aggressive human rights context can be experienced at the national level, or can be localized, affecting specific communities like indigenous peoples, sexual minorities, refugees and migrant workers.

experience of the HerStory Films project team; the second discusses the Malaysia component of a five-country collaborative research project with OutRight Action International (formerly known as the International Gay and Lesbian Human Rights Commission, or IGLHRC for short) that involved country teams from Japan, Malaysia, Pakistan, the Philippines and Sri Lanka.² Both case studies along with further insights from the principles, values and practices of two smaller grant funds—Urgent Action Fund and the Global Fund for Women—are drawn from the author’s experiences in Malaysia.

Donor approaches to social change and human rights work

Over the last 15 years, donors have developed various criteria to be met by human rights NGOs submitting grant proposals. While there is considerable variation, the dominant format has been some version of the logical analysis framework. This requires applicants to set out overarching goals (what change the project sets out to achieve), the project objectives (short/medium-term goals) and the activities that will achieve them. In these approaches, ‘outcomes’ are generally thought of as the results of the project (what changes for beneficiaries). In recent years, Theory of Change frameworks have offered potentially more flexible approaches, crucially by allowing ‘outcomes’ to be defined in a manner that more closely matches NGOs’ actual capacities and what can realistically be achieved. In a nutshell, these approaches involve identifying the ‘milestones’ or preconditions that need to be met before long-term change can even begin to be realized.

The Center for Theory of Change describes this approach as:

[E]ssentially a comprehensive description and illustration of how and why a desired change is expected to happen in a particular context. It is focused in particular on mapping out or ‘filling in’ what has been described as the ‘missing middle’ between what a program or change initiative does (its activities or interventions) and how these lead to desired goals being achieved. It does this by first identifying the desired long-term goals and then works back from these to identify all the conditions (outcomes) that must be in place (and how these relate to one another causally) for the goals to occur. These are all mapped out in an Outcomes Framework. ([Center for Theory of Change 2016](#))

The concept of ‘outcome’ is here distinct from that used in logical analysis frameworks. In the logical analysis framework, an outcome signifies the achievement of a medium or long-term goal. In the Theory of Change approach, an outcome is the achievement of one or more of the preconditions that must exist or be brought about before a long-term goal of social change can be achieved. I have adopted this second concept of outcome for the purposes of this article.

The Theory of Change approach—adopted by progressive donors such as the Commonwealth Foundation and the International Development Research Centre (IDRC) of Canada – certainly presents a refreshing look at strategic planning, welcomed by NGOs and donors in the fields of human rights and rights-based development ([Gready and Vandenhoe 2014: 1](#)). It helps us to seriously think about the long-term social change we want to bring about, and to be realistic about both our capacities and our limitations in trying to realize that change, in particular by identifying what has been described as the ‘missing middle’.

2 The author was part of the management team for both the HerStory Films project and the Malaysia country research team with the OutRight Action International project.

Yet even this radical downsizing of outcomes assumes that changes will occur and that practitioners can control the change process. Unfortunately this is not entirely accurate; in truth all that activists can do is attempt to influence and persuade relevant communities, stakeholders, constituencies or authorities to support or implement the changes being sought; and to do this in a context-sensitive manner that incorporates the activists' best understanding of existing authority structures, vested interests, moral positions, laws, customs, beliefs, sensitivities and so on.

In practice, human rights work largely consists of initiating and developing relationships, building constituencies and engaging them to achieve the outcomes identified as pre-conditions for change, and eventually the desired change itself. In other words, practitioners take a series of calculated risks, large and small, that may influence progress towards change. Any practitioner will recognize, however, that success is unpredictable; bitter disappointment and joyful success are both possible, but overall progress is usually slow and erratic. As a fellow activist describes it 'with human rights advocacy, one just has to keep knocking'.³

In aggressive human rights contexts, the development of new relationships and alliances, activities that challenge the status quo, or advocacy targeting the authorities are themselves risk-taking acts. A hostile response (whether from the government or civil society) can be detrimental to both the work and the safety of the individuals involved; indeed in extreme cases this can result in loss of activist knowledge and experience, and an end to the work itself. To reduce these risks, careful project design and planning must go hand in hand with strategies to protect the security of activists, as change cannot be achieved or sustained without practitioners struggling for it. Donors could usefully factor these realities into their funding policies and decisions. The point is captured well by one of Urgent Action Fund's grantees and advisers, Almut Rochowanski, who asserts that:

Women fighting for women's rights challenge the underpinnings of patriarchal society and that elicits a violent reaction. If you want social change, you have to have security. [Urgent Action Fund] understands this—that investing in activists' security is not only a moral imperative—it is critical to social change . . . And it's also a good investment! These women have built networks and knowledge; they've raised money to continue the work. If their work falls apart because of a security threat, you lose all that. But if you make a small investment in security, you keep all of these assets, all the potential, all the momentum. (Urgent Action Fund 2015)

The problem of cause and effect

The difficulty in identifying the drivers of human rights change has continued to vex human rights academics, donors and practitioners. The debates have been usefully discussed in [Gready and Vandenhole \(2014\)](#), elaborating the work of [Jones \(2011: 4–5\)](#). They identify shortcomings in three key change theories, noting that: a) causal chain theories are weak because change is 'rarely linear, unidirectional or simple'; b) dimensional influence theories

- 3 In October 2015, Meera Samanther, a women's rights activist and human rights lawyer, provided a good example at a Law Reform Lobbying training session for UndiMsia, a civil society movement that works with youth. In response to the author's question, she could not say with conviction what persuaded the then Minister of Women, Family and Community Development to push through an amendment that included gender-based discrimination as a recognized form of discrimination under Article 8 of Malaysia's Federal Constitution.

pose problems in terms of attributing influence and assessing directly-attributed impact; and c) actor-centred theories of change risk over-prioritizing ‘actor behavior and relationships at the expense of tangible changes in the lived reality of stakeholders and target groups’ (Gready and Vandenhole 2014: 2).

The authors do, however, acknowledge the existence of more nuanced theories of change that combine elements of the above and can adapt to different contexts (*ibid.*). At a minimum, most would perhaps agree that the drivers of human rights change are both collective and indeterminate, and largely outside the direct spheres of influence of individuals and organizations.

These problems must indeed be confronted but, as noted above, the more fundamental problem with theories of change is their assumption that practitioners can control the outcomes sought, when in reality this is largely impossible, especially in aggressive human rights contexts. As practitioners, we identify the changes needed and develop initiatives that will contribute to their realization. We can take advantage of emerging opportunities and mitigate threats, but we cannot control the actual results of our activities because the external environment is hostile and unpredictable. However good our project conceptualization, planning and implementation, those we are trying to influence may not respond. This self-evident truth is surely outside our control.

Smaller grant makers seem to better appreciate this reality. For example, both Urgent Action Fund and the Global Fund for Women are much smaller than major donors like the European Union, the Ford Foundation, Hivos, the International Development Research Centre (IDRC), the United States Agency for International Development (USAID) and others. Both see themselves as participants in movements for change and recognize that grassroots leadership and community action are crucial in sustaining these movements. Both appreciate that flexible grant making allows activists to innovate and respond to unanticipated events as they arise. The two funders also explicitly assess the political and social contexts within which human rights activists and NGOs are embedded.

According to Urgent Action Fund’s website, since it was established in 1997 its annual budget has grown from 100,000 US dollars to 1.5 million US dollars (Urgent Action Fund 2015). The fund has awarded over a thousand grants in 97 countries. It provides small grants of 5,000 US dollars, responding to applications in any language on any day of the year, and guarantees a response within 72 hours (*ibid.*). Urgent Action Fund does not require that groups be formally registered, but stipulates that a neutral third party endorse the applications it receives. This could include a current or previous funder, or someone within the organization who would not be directly responsible for the funds being applied for.⁴

Similarly, the Global Fund for Women can accommodate groups that are not legally registered. Its founding philosophy is based on the belief that one woman’s rights-consciousness will translate into a chain of awareness and action that will lead to long-term social change (Murray 2006). The Global Fund for Women began with a mere 30,000 US dollars for grants in 1988, and by 2011 its grant making had surpassed 100 million US dollars (Global Fund for Women 2015).

The flexibility of both funds itself suggests that the donors understand that both the achievement and sustainability of outcomes (preconditions) are beyond the control of activists and their organizations. Change is indeed contingent on many external factors—political will, supportive allies, responsive institutions, sympathetic officials and so on; and this

4 This was the author’s experience of the grant application processing by Urgent Action Fund.

is especially true in aggressive human rights contexts. Flexible funding allows activists to respond to threats (for example, by adjusting the project timeline or activities) or to seize opportunities (such as momentum for a new policy or media attention to a particular human rights problem). It strengthens and supports the work without binding the implementers to rigidly defined short-term results. Yet even this flexible approach cannot ensure that the actual results of the project will meet donors' or activists' expectations.

In recognition of the above, both Urgent Action Fund and the Global Fund for Women have placed less emphasis on tangible short-term results and more on how projects help (or hinder) progress towards the NGO's overall goals, an understanding that is captured in the final reporting templates of both donors,⁵ summarized here as follows:

- a. Did the money help you reach your specific goal or objective? Were you able to resolve the situation for which the grant was given? Please explain/describe.
- b. Please describe how your organization decided to use the funds from this grant.
- c. Please briefly describe all of your organization's main activities/programmes during the grant period.
- d. Have the goals of your organization changed during the grant period? If so, how and why?
- e. Did this grant further your organization's mission? If so, how?
- f. How do you evaluate the impact of your activities on women's rights in your community/country?
- g. What is happening now as a result of your assistance or intervention in this situation?
- h. How did the grant enable you to further your overall strategy for advancing women's human rights?

These probing and intelligent questions are designed to help grantees to think about how their work is effective in bringing about respect for human rights and social change, as well as the difficulties encountered. They go beyond a linear cause and effect analysis of activities, outputs and outcomes. They understand and allow for the possibility that things might not have proceeded exactly as planned and envisage that practitioners may have responded and adjusted their work accordingly as the project unfolded. They appreciate that any particular initiative fits into a larger organizational whole and contributes to its broader purpose. The questions take as a given that failure to achieve results may reflect the depth of hostility to human rights rather than a weak project. As such, they enable practitioners to carry out a more holistic analysis of what was implemented, what was affected and how, and what is needed to address the many challenges that remain to be surmounted.

The Outcome Mapping framework

In a similar vein, for the purpose of this article, I have adopted IDRC's evaluation approach called Outcome Mapping as the framework for assessing the case studies presented below. As noted, 'outcomes' here refer to the preconditions for longer term change goals and more precisely the 'changes in the behaviour, relationships, activities, or actions of the people, groups and organizations *with whom a program [or intervention] works directly*' (emphasis added) (Earl et al. 2001: 1). The approach presents an extremely valuable and welcome

5 This was the author's experience on final reporting in 2011–14. Reporting templates may have changed since then, as the two smaller funds may be reliant on grants by larger funds.

alternative to standard donor templates and their rather rigid accountability requirements. In practice, the latter can be onerous and time-consuming, rather than enhancing and strengthening the human rights work that they are designed to support. The problem is perfectly captured in the following, which although describing development work, is equally applicable to human rights:

Donor efforts to measure, demonstrate, and be accountable for development impact have led to a reliance on logic-based approaches . . . that foster the belief among managers that appropriately completed and updated planning and reporting documents greatly increase the quality of development work, as well as increasing managers' influence over the achievement of results. While this may be true in a very limited sense, experience suggests that this approach reduces the likelihood of strong partnerships and stakeholder involvement. Shared vision, values, and commitment, risk-taking, innovation, and the seeking out of new partners are all incompatible with the domination of bureaucratic instruments. Passion and a sense of purpose can easily be lost and, with them, opportunities for achieving sustained benefits. (ibid: 7–8)

The practical advantage of this iteration of the Outcome Mapping approach is that only those directly involved in a programme or intervention can serve as the benchmark for assessing change. It also usefully recognizes the actors' contribution to change but never attempts direct attribution (ibid: 12).

In terms of project design and planning, the participants first identify 'boundary partners'—the 'individuals, groups or organizations with whom the program interacts directly and with whom the program *can anticipate opportunities for influence*' (emphasis added) (Earl et al. 2001: 41). An Outcome Challenge is then articulated and progress markers that comprise three levels of expectation are defined to measure achievement of the outcome. These are: expect to see, like to see, and love to see. In short, the approach helps the practitioners to articulate plausible outcomes that are rooted in their own knowledge and experience of what is realistic and possible. Crucially, the approach allows for the possibility that 'although the program can influence the achievement of outcomes, it cannot control them' (ibid: 47).

In hostile settings, funding human rights work serves at the core of it all to support risk and innovation by activists and organizations. The risks can be intense if the work challenges entrenched values and practices, thereby unsettling those who wield power and authority. The following case studies illustrate that while we can plan carefully, based on our knowledge of the context, and take measures to remain safe from harm, we can never guarantee the achievement of the outcomes we seek.

Case study 1: HerStory Films project, Malaysia

In recognition of the fact that there were very few women film directors in the country, a loose collective of women came together in 2010 to see how women storytellers could be matched with first-time or experienced women film-makers to tell stories of sex, love and desire from women's perspectives. The HerStory Films project had the following short and medium-term objectives:

- a. To present a diverse portrayal of women's desires which would help expand the discourse and understanding around women's sexuality. The team hoped that by doing so, women's sexuality would be understood more holistically instead of objectified or marked as the vanguard of morality.

- b. Through the sharing of stories of women's sexuality and by engaging in dialogue, to create spaces where women would feel safer and more secure and affirmed with their sexuality and start to see it as something positive and beautiful, thereby challenging the negative connotations imposed by the state and society.
- c. To increase opportunities and support that would encourage more women to engage in the creative arts, whether writing or film, by providing a safe and nurturing space.

The longer term aim was to expand opportunities and spaces for critical thinking, even if these merely served to encourage people, both young and old, to question why women's bodies are policed and remain the battleground for the most fundamental of women's rights in Malaysian society.

The project resulted in five short films that told stories of sex, love and desire, and also touched on controversial issues, like sex work, domestic violence and baby dumping. For example 'Happy Massage' presented the story of how a young woman with a violent father regained her trust in men through the love of a young man, but who ended up doing sex work to fend for herself after her partner's arrest. Another film, 'Sangkar', explored how a young woman was obliged to deny her love and desire, and married her boyfriend's father to ensure that her mother received the health care that the family could ill afford. 'Still' showed how a young woman's unwanted pregnancy and stillborn baby are perceived by society as just punishment for a woman who is comfortable with her sexuality. The stories were told by Malaysian women writers and directed by women.⁶

Three screenings took place—the official launch in Kuala Lumpur, a screening in Georgetown, Penang, and another in Kota Kinabalu, Sabah. Each was followed by a question-and-answer session at which both writers and film directors were present (when possible) to discuss the films with the audience.

Using the concepts of Outcome Mapping, the 'boundary partners' of the project were the women film directors, the women story writers and the audiences who watched the short films. The expected 'process outcome' was a close collaboration between the film directors and writers resulting in a final production. With audiences, a discussion or at minimum questions and/or reactions to what was said, how it was said, and what was allowed to be said was expected. These were in essence the Outcome Challenges.

Reactions to the five short films were mixed in complex and unexpected ways, and while one could argue that their impact was limited, they certainly generated important material for further reflection as well as highlighting the need to promote dialogue about women's rights, abuses against women and girls, and sexuality in Malaysia.

It was interesting to note that the films that took the form of dramas appealed to the audiences as stories with a story line. They were easily overlooked as true stories dealing with serious issues affecting women's rights in Malaysia. Audience members who asked questions on the films were more interested in the direction of the film, how the actors felt, and so on. They focused on the style of storytelling, rather than on what was said, how it was said, and what was allowed to be said. While the dramas told their stories well, they appeared to normalize the issues being dealt with, to the point that they were overlooked and forgotten during the discussions. For example, at the Kota Kinabalu screening, Ruby, the sex worker

6 To view these short films, go to <https://www.viddsee.com/channel/herstory>. Unfortunately, lack of funds meant that the herstorymalaysia.com website, outlining the history and experience of the project, could not be maintained.

whose story was told through 'Happy Massage', retorted to an audience member, 'To you it's a film, for me it's my life'. In Kota Kinabalu, Ruby was, for the first time, not accompanied by Shuba Jay, the lead actor who played Ruby in the film under the direction of Mien.ly. As this was the third screening, it was possible that Ruby had gained confidence in fielding questions; and the audience in turn had little choice but to question Ruby directly.

Similar audience reactions were experienced with the screening of 'Sangkar' that depicted an older man's sexual interest in his son's girlfriend.⁷ From the press preview (5 October 2010) and the screening launch (14 October 2010) to the screenings in Kota Kinabalu (29 and 30 October 2010), no one from the audience raised the issue of child marriage or underage marriages of young women who had obviously not finished school but were being married off to adult men. In fact, the issue of child and underage marriage was only discussed in Kota Kinabalu, the final screening location, when the story writer, Susan Bansin, who was present at the discussion, commented that 'I'm surprised no one is asking about the issue of marriages to underage girls'. These events suggest that the audiences were almost distracted by the storylines and failed to grasp the important human rights issues they portrayed. The story writer's intervention signalled that in future it might be more effective to take a proactive approach in facilitating the post-screening discussions.

In marked contrast, the short film 'Still' was either hated or appreciated as brilliant and engaging. 'Still' managed to create in audiences the kind of emotions one would want to witness when discussing issues like unsafe sex, unwanted pregnancies and baby dumping. The film, which was composed of 15 minutes of waiting for something to float through a monsoon drain, caused a high degree of agitation among the audiences. The director, Mislina Mustafa, had effectively surfaced a desire to see some form of a baby or representation of it floating through a monsoon drain—an unembarrassed desire to watch harm take place.⁸ The intensity of these reactions only came to light after the author responded to a pointed question from an audience member who expressed how disappointed she was with the handling of such an important human rights topic for women.⁹

Turning now to the question of funding, the team's inability to secure sufficient financial support limited both the scale and the impact of the project. Only one donor supported the project (with a grant of around 11,200 US dollars) and, to their credit, provided funds at short notice on the basis of an informal meeting and email exchanges describing the project. However, we were unable to secure funds from any other donor. On this basis, only five of the 22 submissions could be selected and made into short films. Limited funding also meant that the team was unable to put in place the processes needed to foster closer engagement between the film directors and the writers or storytellers, as well as to ensure a better consultative process in the conceptualization and development of these short films with the project team.

Our relationship with the project donor subsequently took a more problematic turn when a representative attended the official launch and was disappointed that none of the five stories had included explicit sex or physical intimacy scenes. A minimum 'lover's kiss' was expected and the representative expressed the view that even intimate scenes filmed in shadow or in silhouette would have made a statement. This was despite the fact that the

7 The film was based on 'Red Hibiscus', a story by Susan Bansin.

8 Soon after the screening, Mislina Mustafa was approached by Amnesty International (Malaysia) to screen 'Still' at their film-screening event—a testament to her skill in raising awareness about abortion and baby dumping.

9 Mislina Mustafa was unfortunately not present at the launch.

project proposal made no mention of implicit or explicit intimacy; its stated purpose was rather to expand the ways in which Malaysian women are able to talk about their experiences of sex, love and desire, as well as controversial issues such as underage marriage, abortion and sex work, objectives that were clearly achieved by the resulting films.

The donor seemed to be unaware of the threatening nature of the subject material depicted, and the hostility of the authorities towards these topics. Yet our past experience has repeatedly shown that any attempt to expand the discourse on gender and sexuality can meet with threats and reprisals.¹⁰ The manner in which the women film directors had creatively managed the telling of these stories, in a climate where moral policing and restrictions on what could be discussed or shown are the norm, was apparently lost on the funder's representative.¹¹ We were later informed that the project was not aligned to the donor's priorities and that no further grants would be given. The HerStory Films project was unable to raise additional funds for a second phase of the project as the team was not a legally registered entity in Malaysia, and the project eventually closed down.

The above summary shows that the team was able to exercise a degree of control over the project activities and reduce the risks associated with their implementation, including security risks. While one also could argue that the team met the immediate outcome challenges (preconditions for long-term change), it would be a stretch to assert that the short and medium-term project objectives were achieved.

Thus, for example, on the positive side, one could legitimately claim that a diverse portrayal of women's desires was achieved; that the involvement of Sharifah Amani, a famous local actress who directed 'Sangkar', attracted a wider audience than would have been possible without her presence; and that the films and screenings allowed stories about women's sexuality to be shared and discussed. One unexpected development (although we cannot claim a causal link) was that similar concepts and ideas were subsequently taken up on a larger scale in the form of a project called 'Ikal Mayang' (long black wavy hair) that managed to obtain funds from the private sector.¹² Whatever the logic, this was a welcome development that served our common purpose of improving the discourse surrounding women's sexuality and rights in Malaysia.¹³

10 For example, following events for lesbian, gay, bisexual and transgender (LGBT) people, the media sensationalized and demonized these communities (Kuga Thas 2012: 265); a Malay Muslim gay man received death threats when he took part in the local initiative of the 'It Gets Better' project in December 2010 (Kuga Thas 2014); and a roundtable event to discuss women's rights pertaining to sexual orientation and gender identity was attacked by authorities (author's own experience, September/October 2010).

11 See, for example, 'Creatures' by Nadira Ilana (2010) at <https://www.viddsee.com/video/creatures/3btuy>.

12 Their two-minute Public Service Announcements (PSAs) have higher production values and can be viewed on YouTube. See for example 'Khalilah—Ikal Mayang "Unspoken Truths" 2014' at <https://www.youtube.com/watch?v=6nTp6UhrPuk>. This particular example touched on the issue of how young women are assumed to be virgins, and even this production was subtle in broaching the topic. Similarly with 'N/A—Ikal Mayang "Unspoken Truths" 2014' that attempted to portray the lack of respect shown to women in a committed lesbian relationship. This PSA can be viewed at <https://www.youtube.com/watch?v=xhlo9UsnxZI>.

13 However, after only two years, this project, by WOMEN:girls, eventually included the screening of films made by male directors for their 2015 film festival theme, 'Similarities' (Bissme 2015). For more information on WOMEN:girls, see <http://www.womengirls.org>.

At the same time, it was unrealistic to expect that the films in just one short phase of implementation would substantively expand the discourse and understanding of women's sexuality or contribute to the creation of safe spaces for women outside the organized screenings. What emerged from the project rather was a nuanced picture (encompassing success and failure) that provided rich material for further reflection on the emotional and cultural difficulties surrounding questions of women's rights and sexuality—and the challenges involved in even broaching these topics in Malaysia. For example, we learned that the classic drama/storytelling films seemed to normalize women's sexual rights issues among audiences who focused more on the actors and plotlines than the issues raised. This learning could have usefully informed the design and implementation of a second phase, if further funds had been successfully raised.

Case study 2: Violence through the lens of lesbians, bisexual women and trans people in Asia—a research collaboration with OutRight Action International

OutRight Action International (formerly known as the International Gay and Lesbian Human Rights Commission or IGLHRC for short) is a human rights research and advocacy organization that works on behalf of people who suffer discrimination or abuse on the basis of their actual or perceived sexual orientation, gender identity or expression. OutRight Action International is technically not a donor agency. As an international NGO, it has to seek project funds to do its work and, like most international NGOs, it could not feasibly conduct its human rights work without national partner organizations. In relation to this two-year project, OutRight Action International served as a donor 'by proxy', lobbying for and channelling funds to its national partner NGOs (IGLHRC 2014: 1).

The project was derived from the urgent need for evidence-based advocacy to address the violence faced by lesbians, bisexual women and trans people (LBT) in Asia. It was defined as action research and OutRight Action International developed research and advocacy objectives for itself (the coordinating body) and its country partners. The research itself was to be used to begin a process of identifying and engaging with allies within the various constituency groups to be targeted by the advocacy strategy. The research objectives for participating national NGOs were: to document the nature, extent and impact of the violence experienced by LBT people; to identify LBT people's coping strategies, especially the successful ones; to identify resources and institutions that can be accessed for support; and to identify monitoring and response strategies.

The Malaysian research team decided that its advocacy would focus on two areas of activity: a) disseminating the research findings and stories of human rights violations through international reporting to UN treaty bodies and local reporting processes, as well as through other UN mechanisms such as lodging complaints with the relevant Special Rapporteurs; and b) strategic litigation on behalf of a group of trans women in the state of Negeri Sembilan. The start of the strategic litigation took place before the research was finalized, due to the pressing demands for social change by the trans women who had shared their stories with the research team and who were willing to challenge the constitutionality of Section 66 of Negeri Sembilan's Syariah Criminal Enactment which criminalized them as 'a male person posing as a woman'.¹⁴

14 By the time the Malaysian research team members had interviewed these trans women, they had been arrested repeatedly under Section 66. In practice, Section 66 has only been used to arrest trans women, known locally as the *Mak Nyah*.

Throughout the project, OutRight Action International supported the Malaysian partner NGO in multiple ways, all of which contributed to the project's impact, as well as enabling the activists to gain experience and skills that could be further utilized in future. In addition to funding, OutRight Action International shared information from their meetings with stakeholders, including the Malaysian Human Rights Commission (SUHAKAM). As a result, the country team learned, for example, that SUHAKAM was a member of the Asia Pacific Forum, a coalition of national human rights institutions that has taken a positive stand on human rights issues relating to sexual orientation and gender identity (see e.g. [Asia Pacific Forum 2016](#)). OutRight Action International sought international coverage of the project's research findings with media outlets such as Al-Jazeera and assisted the country teams to represent themselves in international arenas, leveraging their own position and contacts to achieve this. At a practical level, OutRight Action International provided training on the research framework for the project, including on data collection and interpretation.

Using the concepts of Outcome Mapping, the Malaysian country research project's boundary partners were the interview respondents and the advocacy boundary partners were the target stakeholders. Those to be targeted included SUHAKAM, the UN Special Rapporteur on violence against women, journalists, lawyers, psychiatrists, psychologists, and the human rights NGOs responsible for coordinating the alternative/shadow reports on implementing the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) and the Universal Periodic Review (UPR) country report on Malaysia.

Expected outcomes from the Malaysian research were that respondents would be willing to share their stories and allow these to be used for advocacy purposes. Even this limited outcome was challenging to fully achieve and was heavily dependent on respondents' willingness to give consent (a couple of the interviewees later withdrew their consent for their stories to be used beyond the immediate purpose of its documentation). This again highlights how even straightforward outcomes are not within the control of human rights organizations and activists—more so in aggressive human rights contexts.

Expected advocacy outcomes were defined as changes in the actions of allies and/or progress in identifying and engaging new ones. It was in precisely this realm that, as activists, we confronted the real constraints on what could be achieved—however careful our planning and preparation had been. Ultimately, a positive outcome depended on the goodwill of the stakeholders we approached. Some success was achieved via an established contact with a journalist. More broadly, however, positive media coverage depended on whether sympathetic journalists were themselves willing to risk reporting on human rights issues affecting the LBT community. Even then, the articles ran the risk of being excluded by the chief editor or desk editor.

By the same token, the lawyers' willingness to take on legal cases to defend the human rights of sexual minorities depended in part on established relationships with individuals and networks of supportive lawyers. It also depended on how well we had succeeded in our previous initiatives to build their knowledge and understanding of discrimination based on gender identity and sexual orientation. Interestingly, the strategic litigation on behalf of trans women in Negeri Sembilan was able to proceed because the author had trained the lead counsel on these human rights issues, and both he and his firm were interested and motivated to take up the case. Other lawyers were not so supportive, however, and they were perhaps more reflective of the majority view in Malaysian society. Achieving substantial changes in attitudes (in this case an essential precondition for longer term change) is likely

to be a slow and arduous process, one that requires sustained funding and ideally other forms of practical support from donors.

With respect to SUHAKAM, the situation was different but also problematic. SUHAKAM was willing to take up human rights issues of sexual minorities in Malaysia in response to complaints lodged by NGOs, but it did not itself actively monitor, investigate or take up cases. In one case, following a complaint we submitted on violence against trans women from Negeri Sembilan, SUHAKAM responded by referring to the issue in their annual report, but we prompted this development. While one of SUHAKAM's focus areas of work is the right to health in prison (see [Human Rights Commission of Malaysia 2015](#)), SUHAKAM has not identified or acted on the situation of LBT people in prison.¹⁵ SUHAKAM has produced thematic reports, covering the rights of people with disabilities, the need for aid for single parents, the Orang Asal (indigenous peoples of East Malaysia), and women's and children's rights, but it has yet to develop a thematic report on the human rights of sexual minorities.¹⁶

Nevertheless, there has been some important progress. SUHAKAM's then Chairperson, Tan Sri Hasmy Agam, had criticized the violence against those perceived to be homosexual or transgender and he defended SUHAKAM's 2012 annual report that referred to this issue ([Human Rights Commission of Malaysia 2013](#): 19). Indeed, SUHAKAM had remained open to receiving complaints on violations of the rights of sexual minorities because the Chair had remained in post. It should be emphasized, however, that these positive developments depended on the Chair's willingness to use his good offices and to risk a hostile response from the government, religious organizations and others.¹⁷ In other words, progress is dependent on individual political will rather than being sustainably embedded within the institution of SUHAKAM. The then Chair left his post on 24 April 2016 and it is possible that his replacement will not be so receptive to addressing the rights of sexual minorities.¹⁸ As activists, we have little control over any of these realities, and at best our work can aspire only to achieving uncertain progress, over long periods of time.

As this case study shows, under difficult circumstances, the value of support from an international NGO like OutRight Action International cannot be overstated. Unlike many traditional donors, it was willing to fund local organizations and loose coalitions that were not legally registered—the very organizations that can be at the forefront of social change. Yet the financial support was but one vital element of a much broader relationship that encompassed trust, partnership, mentoring, and skills development, as well as access to

15 Conversation between the author and one of the commissioners during a visit with OutRight Action International's representative to SUHAKAM, 4 April 2014. The extent to which the ideas and strategies shared with SUHAKAM have been incorporated in practice is unknown. SUHAKAM, however, remains open to receiving official complaints on the human rights issues of the sexual minorities in Malaysia.

16 It has only recently embarked on research into the human rights issues of transgender people.

17 SUHAKAM was verbally attacked by Islamic religious authorities for its 2012 annual report, which defended the human rights of sexual minorities against violence.

18 The new batch of Commissioners were announced on 21 June 2016. The Chair, Tan Sri Razali Ismail, was previously a Chairperson of the UN Security Council and also a former President of the UN General Assembly. He was also the UN Secretary-General's Special Envoy to Myanmar. He is still President of the Global Movement of Moderates.

national and international institutions, networks and individuals that could help us to further our national goals and objectives.

Crucially, and again in contrast to many donors, OutRight Action International was fully conscious of the security risks to the activists who were working on behalf of sexual minorities for legal recognition, protection and equality in law. Indeed, collective organization on these issues can itself be perceived as a threat by the authorities in many Asian countries. Throughout the project, OutRight Action International was in constant consultation with country teams on the risks, and they recognized and respected the need for those working in local settings to remain anonymous. As noted, this explicit recognition of security concerns needs to be integral to the funding relationship if it is to work well.

Debates continue on the benefits of frameworks that channel human rights funding from larger to smaller NGOs, and these include legitimate concerns that such frameworks could foster a cartel-like system in which wealthy international organizations progressively drive the agendas of a sector already wrought by lack of financial, cultural and political support. As this case study shows, however, the arrangement can work very effectively when it is based on a relationship of trust and mutual respect, and where the funder is knowledgeable and sensitive to the risks that prevail in environments that are hostile to human rights.

Conclusion

The two case studies point to risk-taking and innovation as core elements of human rights work, whether this involves research, advocacy, consciousness raising or a host of other activities, and this is especially true in aggressive human rights contexts. Where hostility to human rights is intense, progress towards objectives and outcomes can be very uncertain, with many forward and backward steps along the way. Despite these truths, most donors require human rights projects to be conceptualized in terms of activities that will result in measurable outcomes, whether defined as long-term goals or as short and medium-term objectives.

In reality, however, project planning—the elaboration of activities and the measures taken to increase the chances of success—are perhaps more honestly described in terms of a detailed process of risk assessment. Why one activity is chosen over another depends on an analysis of internal strengths and weaknesses on the one hand, and external opportunities and threats (including security risks to activists and organizations) on the other. What needs to be understood, however, is that even the best risk mitigation strategies cannot ensure that the desired outcomes will be achieved. When they are well executed, such strategies can only aspire to increasing the prospects for exerting a positive influence, and even then the achievement of tangible change usually remains a distant hope. In aggressive human rights contexts, even the limited outcome of positive influence remains uncertain and unpredictable.

Furthermore, even when everything goes according to plan, the sustainability of the project outcome can be questionable. The truth is that perhaps we, as human rights activists and organizations, have limited or no control over what we can actually achieve. We can only make decisions on the type and level of risks we take, and the measures that we put in place to avert risk and mitigate failure. The HerStory Films project illustrates this very well. It responded to a clearly defined need, yet the audiences reacted in unexpected ways. As a result, the controversial issues raised by some of the films were overlooked and could not be productively discussed. Only one of the more abstract films had a significant impact for those who realized and appreciated the power of its telling. Nevertheless, projects like

HerStory Films serve as fertile ground for learning from experience and adjusting and refining future work. It is in this sense that risk and innovation are vital stepping stones towards human rights goals.

The HerStory Films project involved a complexity of risk by highlighting threatening and taboo subjects relating to women's rights. Given a hostile environment, its awareness-raising objectives could not be guaranteed in advance. Precisely because of this hostile environment, the project also posed risks to the safety of those involved in its implementation (after all, human rights awards are often bestowed in recognition of the recipients' courage). It is in this sense that project templates based on tangible change or 'outcomes' can be ill-matched to the nature of human rights work. Activists can feel obliged to overstate their goals to donors, thus creating donor expectations that are unlikely to be met. More importantly, an insistence upon tangible results (outcomes) can stymie a valuable innovative—and much needed—project from the outset. For example, donors and activists alike agree on the need to advocate for the rights of women and sexual minorities to be firmly upheld and protected. Yet such advocacy may take months or years to achieve results. Progress will be slow and variegated and changes may be difficult to attribute to any individual cause or action. Donors such as the Global Fund for Women and Urgent Action Fund have grasped this reality, but it is one that could be more widely understood and embraced by a much wider range of human rights funders.

In recent years, donors have become more proactive in identifying their priorities and the work they will support, and this is a welcome development. Yet, from the donor side, the 'partnership' often refers primarily to the management of funds and to ensuring that grantees are accountable for the funds received. Other support is often relatively risk-free—the provision of training materials and other knowledge tools are common examples. Donors, whether governments, trusts or foundations, could potentially play a vital supportive role, particularly in settings where activists are at risk. More meaningful relationships could perhaps encompass the idea of 'partnership in risk', and include the leveraging of influence and explicit support for human rights principles and practice. Assuming that donors who fund human rights work share the same values and politics as those they fund, then donors too have a stake in that risk-taking; their actions to leverage their power and influence can serve to protect the space within which activists are working.

The most creative and effective work will depend on shared or distributed risk and relationships that are founded on mutual respect, as we have seen in relation to the policies and good practices of OutRight Action International, Urgent Action Fund and the Global Fund for Women. Risk-taking here should not be equated with a random leap of faith with an unknown organization, or dependent on an assessment of skills and capacities and the prospect of immediate change being delivered. In this article, I have suggested that risk-taking is more accurately defined in terms of actions that will draw attention to human rights principles and values, and that contribute to their progressively being upheld and respected in an ongoing and integrated manner. In short, an approach that works to create an enabling environment in which human rights can thrive.

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