



**APPLYING A HUMAN RIGHTS-BASED APPROACH
TO DEVELOPMENT COOPERATION AND PROGRAMMING:**

A UNDP Capacity Development Resource

**Capacity Development Group
Bureau for Development Policy**

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Acronyms and Abbreviations

ADR	Assessment of Development Results
CCA	Common Country Assessment
CD	Capacity development
CESCR	Committee on Economic, Social and Cultural Rights
CIDA	Canadian International Development Agency
CIHPI	Consultation of Investment in Health Promotion (Vietnam)
CAT	Convention Against Torture
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisations
DANIDA	Danish International Development Agency
DBS	Direct budget support
DFID	Department for International Development (U.K.)
EIDHR	European Initiative for Democracy and Human Rights
EU	European Union
FPAP	Family Planning Association of Pakistan
GDI	Gender Development Index
GDP	Gross Domestic Product
HDI	Human Development Index
HDR	Human Development Report
HRBA	Human Rights-based Approach
HRBAP	Human Rights-based Approach to Programming
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRC	Islamic Human Rights Commission of Iran
ILO	International Labour Office

LAC	Latin American countries
LLFA	Logframe Logical Framework of Analysis
MD	Millenium Declaration and Programme of Action
MDG	Millenium Development Goal
MINSAs	Ministry of Health (Nicaragua)
MOU	Memorandum of Understanding
MWC	Convention on the human Rights of Migrant workers and their Families
MYFF	Multi-year Funding Framework
NHDR	National Human Development Report
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OECD/ DAC	Development Advisory Committee of OECD
PAC	Project Approval Committee
PANE	Poverty Action Network for Ethiopia
PRA	Participatory Research Assessment
PRSP	Poverty Reduction Strategy Plan
RBM	Results-based management
RHDR	Regional Human Development Report
ROAR	Results-oriented Annual Report
RRF	Results and resources framework
RRRT	Regional Rights and Resources Team (Pacific Island countries)
SAHRC	South African Human Rights Commission
SARED	Sexual and reproductive health and rights project (Nicaragua)
SDC	Swiss Agency for Development and Cooperation
SDPRP	Sustainable Development and Poverty Reduction Programme (Ethiopia)
SIDA	Swedish International Development Agency
SITAN	Situational analysis

SRF	Strategic results framework
SWAp	Sector-wide approach
TA	Technical assistance
TC	Technical co-operation
UNDAF	United Nations Development Assistance Framework
UDHR	Universal Declaration on Human Rights
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNECHA	United Nations Executive Committee for Humanitarian Affairs
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNFPA	United Nations Fund for Population
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
VAW	Violence against women
WFP	World Food Programme
WHO	World Health Organisation

Foreword

The recognition of human rights as the ground rules for development and development programming stems from the 1993 World Conference on Human Rights in Vienna, the first and second UN Reform programmes of the UN Secretary-General, and the Millennium Summit of 2000. Its culmination has been found in the 2005 World Summit Outcome document, in which Member States unequivocally and unanimously stress their support for the further mainstreaming of human rights throughout the United Nations system. As stated in the document, *“We resolve to integrate the promotion and protection of human rights into national policies and to support the further mainstreaming of human rights throughout the United Nations system, as well as closer cooperation between the Office of the High Commissioner for Human Rights and all relevant United Nations bodies.”*¹

The 2005 World Summit Outcome highlights the fundamental nature of human rights by stressing that peace and security, development and human rights are interlinked and mutually reinforcing. In the context of the Outcome Document, human rights are intrinsically linked to all the major issues on the agenda of the United Nations: development, peace and collective security, democracy, terrorism, domestic resource mobilization, migration, the special needs of Africa, transnational crime, human security, and other issues.

Applying a human rights-based approach to development will enable UNDP, the UN system, and its partners to enhance the effectiveness of their work through a focus on equality and nondiscrimination, accountability, justice, and transparency as the core of human development results. In this context, this Guide comes as a response to the need identified by UNDP for an applications-based resource on human rights and human development (HD). The content relates to the different UNDP practice areas and promotes an approach that is easily adaptable to particular regional and national settings, drawing upon the experiences, challenges and opportunities of the UNDP Regional Bureaux and Centres. The Guide, therefore, seeks to assist UNDP staff and other development practitioners in the practical application of a human rights-based approach to development policy and programmes.

Conceptually, the Guide is framed by the United Nations Common Understanding on a Human Rights-based Approach (HRBA) to Development Cooperation² and seeks to enhance the capacity of UNDP staff to effectively adopt and implement the Common Understanding in the tasks that they are called upon to perform in their day-to-day work.

As far as the tasks relating to the Common Country Assessment (CCA) and the United Nations Development Assistance Framework (UNDAF) are concerned, the Guide draws upon and seeks to complement existing United Nations Development Group/United Nations Executive Committee for Humanitarian Affairs (UNDG/UNECHA) initiatives developed within the UN Action 2 realm. The primary focus is on UNDP’s policy and programme contribution within this larger process.

This Guide seeks to illustrate how human rights standards and principles should relate to UNDP engagement on the development agenda at country level, and influence advocacy, policy and programming initiatives, in all phases of the development planning and implementation process. It provides guidance and not instruction, and gives an overview that may be adapted to particular country needs. The given sections/modules can be used together or separately, according to local need. UNDP staff may use these guidelines with state and non-state actors and partners on the national and local level toward the achievement of the Millennium Development Goals (MDGs). Thus, depending on the specific context, an HRBA will be designed and implemented accordingly.

A significant change is taking place in the international development community, reflected in relationships between governments and donor agencies, and in ways that development programmes are funded, implemented and managed. This Guide identifies the ways in which the HRBA adds value and links into

¹ [2005 World Summit Outcome](#), para.126

² [“The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies”](#)

this changing context. UNDP must proactively take this UN-initiated process forward and facilitate the process of recognizing and acting upon its implications. It would not only be the right thing to do, but also the most effective thing to do in order to achieve concrete development outcomes for all and not just a few.

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Section I

Human Rights in Development Policy and Practice

“We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights.”

UN Secretary-General Kofi Annan, *“In Larger Freedom: Towards Development, Security and Human Rights for All,”* 2005³

“A broad vision of human rights must be entrenched to achieve sustainable human development. When adhered to in practice as well as in principle, the two concepts make up a self-reinforcing virtuous circle.”
Human Development Report, 2000⁴

1.1 Human Rights Are Central to Human Development

Human rights are legal rights enshrined in the Universal Declaration of Human Rights; various human rights Covenants, Conventions, Treaties and Declarations; Regional Charters; National Constitutions and laws. But human rights are rights not solely because they are recognized in legal instruments. Human rights inhere in the very nature of the human person. They define and affirm our humanity. They exist to ensure that human life remains sacred. They exist to guarantee that humanity and injustice are prevented or redressed.

Human rights, and in particular the human right to development, provide the values, principles and standards essential to safeguard that most precious of all rights — the right to be human, (of which the right to be woman is an integral component).

- Human rights, when upheld, spell the difference between being and merely existing.
- They safeguard both human dignity and human identity (individual and collective) and thus bring purpose and worth to existence.
- They protect the physical integrity of a person and the human security of all peoples.
- Freedom from fear and freedom from want constitute the minimal essential conditions of being, for individuals, communities and peoples.
- Human rights are holistic and interdependent, as indeed they must be since they inhere in the human person. Human rights are both individual and collective, as indeed they must be since no person is an island. Indeed our individual, solitary existence draws meaning from our social interactions: with family, friends and community.

Hence, human rights define and defend the future of the human race, being an essential component to achieving sustainable human development. Any effort toward this goal—including present development focus on efficiency and effectiveness—would benefit from the legitimacy and urgency that the human rights-based approach carries.

³ UN Secretary-General, *In Larger Freedom: Towards Development, Security, and Human Rights for All*, New York, NY, 2005. <http://www.un.org/largerfreedom/contents.htm>

⁴ UNDP, *Human Development Report 2000*, New York: NY, 2000.
<http://www.undp.org/hdr2000/english/HDR2000.html>

1.2 Duties Related to Human Rights

Human rights carry with them correlative duties owed by the State:

What Does Human Rights Law Require Of States?

Under international human rights law, States Parties have specific obligations to (i) respect, (ii) protect, and (iii) fulfill the rights contained in the conventions. Failure to perform these obligations constitutes a violation of such rights.

- The obligation to **respect** requires State Parties to refrain from interfering with the enjoyment of rights. For example, the right to housing is violated if the State Party engages in arbitrary forced evictions.
- The obligation to **protect** requires State Parties to prevent violations of rights by third parties. For instance, the failure to ensure that private employers comply with basic labor standards may amount to a violation of the right to just and favorable conditions of work. Also, when there is a conflict between culture and women's rights, the human rights of women prevail.
- The obligation to **fulfill** requires State Parties to take appropriate legislative, administrative, budgetary, judicial and other measures toward the full realisation of rights. This includes the duty to promote human rights.

States are obliged to move as expeditiously and effectively as possible toward the implementation of these obligations. The entire UN system — including the funds, programmes and specialized agencies — has a responsibility to support State Parties in these efforts: As stated in the International Covenant on Civil and Political Rights, "States have to undertake steps, individually and through international assistance and cooperation, to the maximum of their available resources, with a view to achieving progressively the full realisation of the rights recognized."⁵

The duties are both positive (relating to acts of commission) and negative (relating to acts of omission). Some of the duties must be undertaken immediately while others can be undertaken "progressively." The obligations are both obligations of conduct as well as obligations of result. Hence the obligation is not discharged merely by enacting a law for example, requiring that one third of all seats in local government be filled by women. It becomes pertinent to examine how many women, in fact, hold political office as a result of the law.

Conventionally, the duties are owed by the State. However, as a result of the breakthrough made by women in gaining recognition of their human rights, it is now recognized that the duties rest in non-state actors, as well (e.g., protesters and organizations fighting domestic violence against women). The duties may be individual or collective.

1.3 Human Rights Instruments

The term human rights instrument refers to international legal documents (such as treaties, conventions, covenants declarations and resolutions). The UN Charter and the Universal Declaration of Human Rights are subscribed to by every member state of the UN. The seven UN human rights treaties, are:

- The Covenant on Economic, Social and Cultural Rights (ICESCR);
- The Covenant on Civil and Political Rights (ICCPR);
- The Convention on Elimination of Racial Discrimination (CERD);
- The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW);
- The Convention on the Rights of the Child (CRC);

⁵ United Nations, International Covenant on Civil and Political Rights (ICCPR), Article 2.1, 1975.

- The Convention Against Torture (CAT);
- The Convention on Migrant Workers and Their Families (MWC).⁶

Human rights are reflected in these legal instruments adopted at the global and regional levels and/or enacted at the national level. States become parties to international human rights instruments voluntarily and thereby obligate themselves to comply with their legal provisions, and to report periodically to independent monitoring bodies on their implementation.

The international machinery for the promotion and protection of human rights is so vast that it would be impossible to provide an overview of the *entire* spectrum of human rights law in this Guide. The main elements of the international human rights framework include the United Nations human rights system; labour standards adopted under the auspices of the International Labour Organisation (ILO) and regional human rights conventions.⁷

The normative framework for human rights protection is grounded in the UN Charter and the Universal Declaration of Human Rights (UDHR). Since the adoption of the UDHR in 1948, the international community has developed, through the United Nations, a comprehensive and legally binding framework for the promotion and protection of human rights. Along with the UDHR, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICESCR) constitute the International Bill of Rights. These covenants are complemented by specific UN Conventions that protect the rights of women, children, and migrant workers, or address specific subjects, such as the elimination of racial discrimination and torture.

All States have ratified at least one of the major United Nations human rights conventions, while 80 per cent of them have ratified⁸ four or more. The States' ratification and implementation of major human rights treaties are monitored by committees of experts commonly referred to as "treaty bodies."

The legal force of the norms and standards of the UN human rights system is buttressed by the moral weight of the declarations, proclamations, platforms, programmes, plans of action and guiding principles adopted either by resolution of the UN General Assembly or at world conferences convened by the UN. Together with the legally binding norms and standards, they provide the platform for international efforts to respect, promote, protect and fulfill human rights.

1.4 Human Rights Standards

Each human rights instrument enumerates the rights guaranteed under the instrument. The legal description of the rights contained in the instrument is referred to by the term human rights standard. Below, for example, are the human rights standards contained in the Universal Declaration of Human Rights, the most-translated document in the world, as stated in the Guinness Book of World Records:

- Freedom from slavery;
- Freedom of association, opinion, expression, assembly and movement;
- Freedom of thought, conscience and religion;
- Freedom from torture and cruel, inhuman or degrading treatment or punishment;
- Freedom from unlawful or arbitrary arrest or detention;
- Freedom from arbitrary interference with privacy, family, home or correspondence;

⁶ For more information, please consult: OHCHR, "Human Rights Bodies," <http://www.ohchr.org/english/bodies/index.htm>

⁷ For more information, please consult: OHCHR, "The United Nations Human Rights Treaty System: An Introduction to the Core Human Rights Treaties and the Treaty Bodies (Fact Sheet No. 30)," Geneva, 2005. <http://www.ohchr.org/english/about/publications/docs/fs30.pdf>

⁸ For more information on ratifications, please consult UNHCHR "Documents by Treaty" <http://www.unhchr.ch/tbs/doc.nsf>

- Right to equal protection of the law;
- Right to a fair trial;
- Right to asylum from persecution;
- Right to a name and nationality;
- Right to nondiscrimination, equality and dignity;
- Right to vote and take part in public affairs;
- Right to life, liberty and security of person;
- Right of everyone to the highest attainable standard of physical and mental health;
- Right to education;
- Right to just and favorable conditions of work;
- Right to adequate food, shelter, clothing and social security;
- Right to participate in cultural life;
- Right to development.

1.5 Protecting, Promoting and Realising Human Rights: Complementary Approaches

There are two basic approaches to working on human rights: the reactive approach and the proactive approach. The reactive approach focuses on violations and addresses them after they have occurred. The proactive approach focuses on using human rights as the ground rules for development programming and cooperation. It builds upon the intrinsic and instrumental values of human rights to create sustainable human development. Both approaches are complementary and reinforce one another.

The Reactive Approach

This typically focuses and seeks to impose sanctions on the violator. But it could also help victims seek redress and gain security, relief, and rehabilitation. A violations approach could also focus on the bystander (one who is neither victim nor violator) and seek to mobilize awareness, indignation and concern.

For a development agency such as UNDP, the violations approach is important as a diagnostic: focusing on the system of institutions of governance. Patterns of violations indicate systematic weaknesses which need to be addressed through institutional strengthening or reform. The institutions involved include those responsible for implementation and enforcement of laws.

The Proactive Approach

There are four aspects of a proactive approach, and a development agency like UNDP can contribute to all aspects:

- Promotion of awareness about human rights and remedies for redress and grievances through, for example, human rights education;
- Strengthening of mechanisms for the protection of human rights such as the judiciary, national human rights commissions, ombudsperson, and the media
- Furthering the realisation and fulfillment of human rights through development programs in poverty alleviation, crisis prevention and recovery, HIV/AIDS, energy and environment and democratic governance.
- Further strengthening the normative processes ongoing in the UN system through operational activities .

Human rights are undoubtedly about power and empowerment. Human rights emphasise "right not might." One famous and poignant quote encapsulates the human rights-based approach: "*I complained because I had no shoes, until I met a child, who had no limbs.*". Upholding human rights goes both ways: it means providing shoes to every man and woman deprived of them, as well as preventing or avoiding circumstances that maim children.

Training In A Rights-Based Approach to Sexual Health in Vietnam

Save the Children and CIHP (Consultation of Investment in Health Promotion) organized a workshop for young on-line counsellors in Vietnam. The counsellors provided advice on sexuality, reproductive health, and HIV/AIDS. The one-day workshop began by asking the young counsellors to list the rights that are relevant to their area of work. Even though they had never talked about human rights before, they generated a solid list of relevant rights. This was because the areas of sexuality, reproductive health, and HIV/AIDS are already grounded in rights-based thinking. The counsellors then took each of the rights to explore possible counselling scenarios in relation to the right. For example: A young man with AIDS is denied access to health services—what do you tell him? This was a practical way of exploring the relevance of human rights for sexuality and HIV/AIDS.

The participants identified ways to promote human rights through on-line counselling. One suggestion from the workshop was to monitor and analyze the questions posed by young people seeking counselling advice. This information could be shared with other organisations for use in their advocacy work.⁹

1.6 Myths and Misconceptions about Human Rights

Myths and misconceptions about human rights:

- Human rights are western and alien to many cultures.
- Economic, social and cultural rights are not really rights.
- Human rights over emphasise the individual over the community.
- Human rights over emphasise rights over responsibilities.
- Human rights encourage adversarial and litigious approaches over compromise and consensus.
- Human rights favor the status quo over social change.

Concern is also raised about selectivity and double standards in the manner in which human rights are invoked by powerful States over weak, or poor States. In the course of working through this resource guide, we will each be challenged to clarify for ourselves the myths and misconceptions about human rights.¹⁰

1.7 Adopting a Human rights-based approach to Development: Why; What; How?

A human rights-based approach to development programming builds upon elements of traditional 'good programming practice', such as: emphasising the process as well as the outcome of programming; including the most marginalized in equitable service delivery; extending and deepening participation; ensuring local ownership of development processes; and strengthening the accountability of all actors. Yet a human rights-based approach also introduces new elements to programming practice.

WHY: adopt a human rights-based approach to development?

- Because it makes good sense and results in good development practice
- Because it is mandated by international human rights treaties, national constitutions and laws
- Because it is a practical necessity to realize the complementary and interdependent paradigms of sustainable development and human rights
- Because there is value-added in:

⁹ Theis, Joachim, *Promoting Rights-Based Approaches: Experiences and Ideas from Asia and the Pacific*, Sweden: Save the Children, p. 23, 2004.

¹⁰ UNDP, Virtual Development Academy (VDA) Human Rights and Development Module

- universality and indivisibility;
- equality and non-discrimination;
- participation and inclusion; and
- accountability and the rule of law

WHAT: does adopting a human rights-based approach to development entail?

- Internalizing human rights values and principles organisationally, nationally and individually
- Developing a human rights-sensitive organisational culture
- Strengthening internal and national human rights capacities
- Expressing institutional will in policies and demonstrating commitment in programming, for the promotion, protection and realisation of human rights

HOW: can the human rights-based approach be applied to development programming?

It involves applying international human rights values, principles, standards and goals in all stages of policy, programme and project formulation:

- Situational assessment and analysis which takes the national context seriously and is sensitive to national ownership as well as inclusivity
- Resource allocation in plans and programmes
- Design of programmes (priorities and targets) and implementation mechanisms (benchmarks, measures and indicators of results as well as of impacts which would identify both the 'why?' and the 'what?').
- Choice of developmental interventions, strategies and projects
- Results-based programme monitoring and evaluation
- Institutional and capacity development of both rights-holders and duty-bearers
- Impact-assessment of specific policies and programmes of one sector upon another

In sum, applying a human rights-based approach is always a work in progress. There is no set formula or pat prescriptions. The process must be contextual, participatory and based on national ownership. Hence, there is value in the very process itself.

Participatory Human Rights-Based Analysis, Addressing Conflicting Claims

In the Kileto District, Tanzania, WaterAid has been implementing a project to improve water access for residents in the Kileto District through constructing deep boreholes with pump engine schemes, overhead tanks and piped distribution. Kileto District is made up of three main ethnic groups: hunter-gatherers, pastoralists and agriculturalists/ farmers. Competition between the three different ethnic groups in Kileto over water resources is a source of social and political conflict. The power difference between these groups significantly determines their access to water services.

Using a human rights-based approach to programming enabled WaterAid to identify the deeper issues that prevented access to water in Kileto, including power imbalances, lack of land rights and exclusion from national policy decisions: for example, the hunter-gatherer communities and pastoralist communities in Tanzania are rarely mentioned in national government policies and are often excluded from policy-making. Moreover, their way of life is seriously threatened by changes in land laws, hunting regulations and land use. Both groups, however, are limited in their ability to engage in national and local debates about their rights due to a lack of formal education, cohesion and organisation. Similarly, lack of knowledge of land rights and processes for application for land had left villagers powerless to prevent the inequitable distribution of their village land. With the loss of their land to rich farmers or rich pastoralists, villagers are deprived of their traditional water sources.

A Human Rights-Sensitive Strategy :

Participatory methodology: Through involving each ethnic group in the analysis and assessment stage of the project, WaterAid was able to identify each group's different water needs.

Understanding the social context: Participatory assessment and planning methodology enabled WaterAid to develop an understanding of the power relations that existed between the different ethnic groups and the power imbalances that existed within each group: in particular between men and women, and the rich and poor. By bringing all stakeholders in the water project (including local and national authorities responsible for water policies) into the discussion, WaterAid was also able to improve understanding between each group.

Advocacy: In order to influence national policy and practices, WaterAid developed a coherent advocacy strategy in Tanzania, which included working with and training national government staff responsible for water services and policies.

Understanding the political and legal context: Through analyzing the political and legal context in which they were working, WaterAid was also able to understand how national policies and legal issues positively and negatively affected the access of these groups.

Discussion with all stakeholders: To explore and understand these issues sufficiently, WaterAid found that considerable time and effort had to be invested in discussions with and between the Kileto partnership management team, field staff, and project communities.

Partnership building: To achieve genuine community management of water services, an important strategy was building partnerships with civil society organisations and training them in the planning and implementation of the programme so that they could achieve autonomy in the future.¹¹

¹¹ Anderson, *op.cit.*, p.28. More information available at:
http://www.wateraid.org.uk/in_depth/country_programmes/tanzania/13

1.8 Adopting a Human rights-based approach to Development: Does it make a difference?

The above question is often posed. How does adopting a human rights-based approach to development differ from “good development practice?”

In practical terms, the application of the human rights-based approach influences programming in at least four ways:

- First, it forces programme staff and policy-makers to reflect upon the why and how of their actions beyond the question of what should be done;
- Second, the global legitimacy of human rights provides an objective starting point for dialogue and discussions with government, the people, and external partners;
- Third, it helps policy-makers and citizens recognise the power dynamics of the development process;
- Fourth, the accountability structure pursued through a human rights-based approach facilitates the development of quantitative benchmarks and indicators for measuring progress in development planning and delivery.¹² It also influences institutions to resolve grievances and moderate conflicts arising through the development process both at the project-level as well as the national level.

The application of the human rights-based approach also favorably influences the development of programming which prioritizes the needs of the poor, marginalized and vulnerable groups. In India, for example, human rights-based strategies have been used in programmes to enable marginalized and vulnerable children gain access to primary education¹³ and to reclaim their right to food.¹⁴

The following is an HRBA checklist for programming that may get UNDP staff to start thinking about human rights principles and standards and how to apply them to programme design.

¹² UNDP, “Human Rights in UNDP,” (Practice Note), New York, 2005.

¹³ Banerjee, Upala Devi (Editor); *Lessons Learned from the Rights-based Approaches in the Asia-Pacific Region*; p77,.UNDP, 2005. <http://www.undp.org/governance/docs/DLGUD%20-%20Guides%20-%20Checklist%20for%20Decentralisation%20and%20Human%20Ri.pdf>

¹⁴ Banerjee, *op. cit.*, p. 111.p111. OHCHR, 2005

HRBA Checklist for Programming¹⁵

1. Country Context and UNDP Programme

- ✓ What are the 3 top priorities for human development in the country today?
- ✓ What is the environment in the country for promoting human rights?
- ✓ Which rights have yet to be fulfilled for the population as a whole, and what are the structural causes for this?
- ✓ What treaty standards and treaty monitoring body recommendations are relevant in this context?
- ✓ How does the UNDP Programme support the realisation of human rights?
- ✓ Do programme staff have the capacity to integrate human rights in their work, and a sound grasp of the UN Charter, human rights instruments, and the country constitution?
- ✓ How do other international partners support the realisation of human rights? What gaps remain?

2. Excluded and Vulnerable Groups

- ✓ Which groups are the most disadvantaged? How are vulnerability and poverty in the country defined?
- ✓ How does UNDP define vulnerability and poverty in the country?
- ✓ Are tools and indicators to identify excluded groups sufficiently disaggregated?
- ✓ How does the overall Country Programme address exclusion and disadvantage? How do specific projects do so?
- ✓ How do other partners do so? How do partners coordinate? What gaps remain?
- ✓ Does the UNDP Country Office adequately reflect the diversity of the country?

3. Stakeholder Capacity

- ✓ Who are the Country Programme or project stakeholders and how were they identified?
- ✓ Which are duty bearers and what obligations are they supposed to meet? Do they have the capacity to meet obligations (including responsibility, authority, data, and resources)?
- ✓ Which are claim holders and do they have the capacity to claim their rights (including ability to access information, organize, advocate policy change, and obtain redress)?

4. Country Programme and Project Process (Conduct)

- ✓ Does project design and implementation incorporate human rights standards as set out in international and regional conventions? Does the Country Programme?
- ✓ Does project design and implementation incorporate principles of universality, indivisibility, interdependence, equality, participation, and accountability? Does the overall Country Programme?
- ✓ Do both duty bearers and claim holders participate in project design, implementation, monitoring and evaluation? In the overall Country Programme preparation?

5. Country Programme and Project Outcome (Results)

- ✓ How has the overall Country Programme built capacities to realise human rights in the country? Do these address the structural causes for non-realisation of human rights? Which human rights will be further realised?
- ✓ How does the project build the capacities of duty bearers to meet obligations and claim holders to claim human rights? Which human rights will be further realised? How is this monitored and evaluated?
- ✓ Do indicators capture perceptions on the enjoyment of human rights as well as qualitative aspects, such as accountability of public authorities?

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<sup>15</sup> UNDP, “Human Rights-Based Reviews of UNDP Programmes: Working Guidelines,” New York, 2003, p. 11.

## **EXERCISES**<sup>16</sup>

### **Activity #1**

#### **Real-life scenario**

- The year is 1984.
  - The state of Andhra Pradesh, in India has been rocked by an incident of collective suicide of some 15 families comprising some 65 mothers, fathers and children who killed themselves by ingesting rat poison.
  - The families belonged to the middle class, land-owning farmers who switched from growing rice to growing cotton under a national and state development program to encourage cultivation of the export crop of cotton. Government provided technology, know-how, credit, inputs and loans to encourage the switch.
  - Several years of profit came to an abrupt end. The world price for cotton dropped due to over-production. Two years' worth of crops were wiped out by the "white fly" that attacks monocrops. The farmers were using what they thought was pesticide, but was in fact talcum powder sold to them fraudulently by the nephew of the Chief Minister who had been granted an exclusive monopoly.
  - The families became heavily indebted to money lenders charging interest far in excess of what the law permits. The women sold their jewels to help out with the debt and were pressured by their in-laws for doing so. Desperate, the families made a pact and together, adults and children, committed suicide.
  - The government response was to lament the tragedy and make token sympathy payments to the relatives of the families. No other action was taken.
  - The year is 2003. In a different state in India, there has been a similar case of collective suicide of three sisters. The reason this time is that their parents are too poor to be able to pay the expenses (including dowry) associated with getting them married.
1. Identify the human rights that are ***involved*** in this scenario?
  2. Who are the human rights victims?
  3. Who are the violators?
  4. What action responses do you suggest?

The following case studies are good demonstrations of human rights victims claiming the rights that are owed to them and how a community responses may eradicate such human rights abuses:

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<sup>16</sup> The exercises in this guide have been developed by Patrick van Weerelt; please contact [patrick.van.weerelt@undp.org](mailto:patrick.van.weerelt@undp.org) for further inquiries.

**Combatting Discrimination: SDC and UNICEF's Girl Child Project**

The Girl Child Project is a joint DC-UNICEF collaboration implemented by the Family Planning Association of Pakistan (FPAP). It is a component of both SDC-Pakistan's Rights and Non-Formal Education Sector programme and UNICEF's Advocacy and Communications programme, one of the objectives of which is to support government and civil society in implementing the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of Discrimination Against Women (CEDAW).

The project addresses the deep-seated structural discrimination faced by women and girls in Pakistan by building the capacity of adolescent girls from marginalized rural and urban communities and raising awareness about rights. Initially involving pilots in 10 locations, the project had reached 730 communities and 35,500 girls by the end of 2004.

The objective of this project is to mobilise girls to become role models and agents of change in their communities. This is achieved through a range of activities, including:

1. Building the capacity of girls by providing them with visible skills that are useful within their community.
2. Providing girls with leadership and negotiation skills.
3. Awareness that boys have a large role to play in creating an enabling environment for the fulfillment of girls' rights has left to the inclusion of adolescent boys in the project.<sup>17</sup>

*The Story of Jannat Bibi*

Jannat Bibi, who lives in a village near Badin, Sindh in South Pakistan, was engaged to an older man at the age of 3. After participating in the Girl Child Project when she was 16, Jannat became aware that she had the right to make her own decisions about her life. The project trainers encouraged Jannat not to rebel against her family but to instead work to convince her elders to support her choices. The training that Jannat had received gave her knowledge about her rights and the confidence to begin the long process of persuading her family that she should be able to cancel the engagement. Despite initial strong resistance, Jannat was able to achieve her aim. She feels that, by giving her the skills to do this, the Girl Child Project has changed her life.<sup>18</sup>

<sup>17</sup> O'Neil, Tammie and Piron, Laure-Helene, "GOVNET Human Rights and Development Study: A Synthesis and Analysis of Donor Experiences with Human Rights-Based Approaches to Development and Integrating Human Rights Into Development Programming, Annexes (case studies)," United Kingdom: Overseas Development Institute, 2005.

<sup>18</sup> Ashen, Saman, "The Girl Child Project: A Silent Revolution," *UNICEF Annual Report* 2004.

**Building the Capacity of Claim Holders to Claim Their Rights and Duty-Bearers to Meet Their Obligations:**

**Women in Brazil Claiming Their Right to Natural Resources**

In the region of Maranhao, Brazil, through a traditional land use right, families were guaranteed the use of the land they had settled. In this land, the farmers cultivated the Babassu tree and the women and children gathered and broke the babassu coconuts. This resource was essential to the families' survival: products extracted from the coconuts were used for income generating activities, the nuts were exchanged for basic household products, and the crops were an important part of the families' subsistence.

After more than 20 years on the land, the families were forced to either leave or submit the land to large-scale farmers who had illegally gained ownership of the land. Women were no longer able to access the babassu tree and the new landlords began cutting down the trees so as to increase their pasturelands.

Action Aid supported the women's fight for the preservation of and free access to the babassu trees. They did this through enabling the mobilisation and organisation of women. Activities included building partnerships with grass root organisations; training the women on participatory methodologies, communication and negotiation skills; and providing guidance in empowerment and rights.

Through effective political and social advocacy, these newly formed organisations were able to achieve the creation of a municipal law: the Free Babassu Law. This law protects the babassu trees and assures free access to the lands with this natural resource. However, with the new law came a new struggle: the fight for enforcement. Even before the law the women physically stood up to the landlords, impeding the cutting down of the trees. Now, when the trees are being cut down the women denounce the event, as illegal to the authorities and have to wait for a response that usually comes too late. This is a result of the existing power relations between landlords and women coconut breakers. Power is in the landlords' hands. This then enables them to prevent enforcement of the law.

Action Aid is now supporting the women and their organisations in their activities to ensure the implementation of the Babassu Law. Activities include the creation of a mechanism of enforcement: the Council of the Environment, guaranteed by the law, and the organisation of seminars with government authorities.<sup>19</sup>

**Activity #2**

**The Card-Game: Demonstrating the existing involvement of UN Staff in Human Rights**

*Aim:* To demonstrate the involvement of all staff in human rights realisation and implementation.

*Participation:* All staff

*Material:* Carton/Paper, Creativity

Make sure that you have 2 different colours of paper;

Print out the text of the International Covenant on Civil and Political Rights (ICCPR), and the text of the International Covenant on Economic, Social and Cultural Rights (ICESCR)

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<sup>19</sup> Anderson, Michael and Filmer-Wilson, Emilie, "Integrating Human Rights into Energy and Environment Programming: A Reference Paper," p. 31, 2005

Write on one side of the paper only the core of the article/ or title. Example: torture, independence of the judiciary, freedom of speech, right to an adequate standard of living, minorities, refugees etc.

Paste the whole text of the respective articles on the other side of the paper.

Note that all civil and political rights cards should be done in the same colour (example orange) and the same goes for the economic, social and cultural rights (example blue).

Let's play:

This game needs to be played at the beginning of any session on human rights for international civil servants.

### **Steps:**

*Step 1.* Time: 15 minutes

- Put all cards, mixed, on a table with only the core issue/title facing the participants.
- Let all participants walk around the table to see what is there.
- All participants have to think about the cards they see, and are allowed to pick up any of those that seem relevant to their work. If more people want the same card, let them discuss, keeping in mind who picked that particular card.
- Under no circumstances are participants allowed to turn around the card, and read the other side.
- Participants return to their seats.

*Step 2.* Time: 15 minutes

- Participants should read the titles (only the titles) carefully, and relate these to their work.
- Participants are asked to write down in a few words what they are doing on this particular issue. What are the goals of those programmes etc
- Some of the participants will then be asked which cards they took and why.

*Step 3.* Time: 10 minutes

- Participants turn around their cards, and read the text of the respective articles carefully.
- They are asked to relate it to their current programmes. Do the articles provide more guidelines, or is the programme sufficient?

*Step 4.* Time: flexible

- Discussion:
- Participants share their experience, and discuss whether that what they are doing is in conformity with the human rights provision.
- When some cards are already taken by others (in particular by colleagues from different agencies) this emphasises the relevance of joint programming).

1. The facilitator explains that the respective country has ratified the particular documents, and that the fulfillment of these rights is legally binding upon the State.

2. The facilitator explains that one colour deals with the ICCPR, and the other with the ICESCR. Many people will have picked up both colours. Here the facilitator should draw on the acceptance that all human rights are universal, indivisible, and interrelated and interdependent.

3. The facilitator will walk back to the table, and pick up all remaining cards. Often several relevant cards are left behind. This provides more food for discussion.

End result:

The game will have demonstrated that the UN staff (irrespective of the agency they represent) is already involved in human rights one way or the other. Many people, however, have never realised that. By accepting this involvement, the whole concept of human rights is brought closer to the participants and the staff will therefore be more inclined to pay attention to the rest of the training. The relevance of what is still to come is immediately demonstrated.

## Section II

### Applying the UN Common Understanding

#### **2.1 HRBA and the UN Common Understanding**

A human rights-based approach to development programming (HRBA) is one which systematically applies the values, principles and standards contained in international and national human rights law to all aspects, both substantive and procedural, of the development process, namely to:

- Situational analysis and assessment
- Priority and target-setting
- Policy and strategy development
- Programming and project formulation
- Project implementation and service delivery
- Monitoring and evaluation

The Secretary-General of the United Nations, in his Agenda for Reform of the United Nations, and on several subsequent occasions has required the UN system to integrate human rights in all of its work. The major UN development and humanitarian agencies have responded by examining what HRBAP entails in respect of their institutional mandate, piloting and refining a human rights-based approach to their programming.<sup>20</sup>

UNDP has integrated the human rights-based approach in its Multi-Year Funding Framework (MYFF)<sup>21</sup> and has numerous publications on integrating human rights into all of its development work. UNICEF has integrated a HRBA in its programming manual.<sup>22</sup> WHO has issued a user-friendly pamphlet on “Twenty-five Questions and Answers on Health and Human Rights.”<sup>23</sup> The OHCHR has done the same regarding development and human rights including a Guidance Note on Human Rights and MDGs.<sup>24</sup> In addition, OHCHR has prepared a concept paper (2004) and draft guidelines (2002) on human rights and poverty reduction strategies (PRSPs).<sup>25</sup>

UNDP, UNICEF, UNIFEM, UNHCR, WFP and other UN agencies came together in 2002 and 2003 to exchange experiences and identify best-practices on HRBAP and in 2003 adopted a Statement on “The Human Rights-based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies”<sup>26</sup> which, has since been endorsed at the highest level by the United Nations Development Group (UNDG) and has been included in the CCA/UNDAF guidelines. Likewise, many bilateral donors including CIDA, DANIDA, DFID, OECD-DAC, and SIDA have made HRBAP a priority. So too have international NGOs such as CARE and OXFAM.

The success of human rights-based development strategies will primarily rest on the recognition and respect for the primacy of universal human rights by the State. As was highlighted in the Human Development Report 2000, respect for human rights is to be reflected in a State’s norms, institutions,

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<sup>20</sup> United Nations, “Action 2: Strengthening UN Support for the Promotion and Protection of Human Rights Worldwide,” New York, NY, 2002. <http://www.un.org/events/action2/summary.html>

<sup>21</sup> UNDP, Multi-Year Funding Framework, 2004-2007. <http://www.undp.org/execbrd/word/dp03-32.doc>

<sup>22</sup> <http://www.unicef.org/reseval/index.html>

<sup>23</sup> <http://www.who.int/hhr/NEW37871OMSOK.pdf>

<sup>24</sup> “A Human rights Perspective on the MDGs” prepared for the OHCHR by Philip Alston; 2005.

<sup>25</sup> OHCHR, “Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies,” Geneva, 2002 and 2004. <http://www.ohchr.org/english/issues/poverty/guidelines.htm>

<sup>26</sup> United Nations, “The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies,”

[http://www.unescobkk.org/fileadmin/user\\_upload/appeal/human\\_rights/UN\\_Common\\_understanding\\_RBA.pdf](http://www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf)

legal frameworks and enabling economic, political and policy environment. Intrinsic steps in this regard have to be taken through:

- Advocacy: sensitization of all stakeholders in the broadest sense of the word
- Institutional development: creation of sustainable institutional systems
- Implementation: the application of human rights in law and reality
- Monitoring: effective systems for societal monitoring of human rights enforcement
- Redress: transparent mechanisms to correct human rights violations
- Specific measures: affirmative action for addressing structural issues that perpetuate inequality and discrimination.

A Human rights-based approach promotes social transformation by empowering people to exercise their “voice” and “agency” to influence the processes of change. It strengthens democratic governance by supporting the state to identify and fulfill its responsibilities to all under its jurisdiction. And it gives substance to universal ethics by translating the principles of international declarations and conventions into entitlements and concrete action.

The human rights-based approach thus provides both a vision of what development should strive to achieve and a set of tools and essential references. Activating the tools and references will lead to better analysis and more strategic interventions to enhanced ownership by the people, and will forge automatic partnerships between the UN, government and civil society. Development interventions will moreover become more sustainable, through the explicit emphasis on accountability in decision-making and participation.

#### **Community Participation in Decision-Making: Citizen Report Card for Karachi Management, Karachi Pakistan**

UNDP's Urban Governance Initiative, a regional project based in Kuala Lumpur, addresses a number of urban governance issues. The following project, ‘the first field test of a Report Card on Water and Sanitation,’ aims to improve the capacity of authorities to meet local water needs through community participation in decision-making.

Karachi's water system is under tremendous pressure and poorly managed. As a result many people have to resort to taking unclean water or getting their supply of water illegally: over 60 percent of the water supply in this area is obtained through informal means. The principal reason why the system does not work well is the absence of dialogue in Karachi between the service providers and the people who use the water services. In April 2002, The Urban Governance Initiative decided to bring all the various stakeholders together to start discussing the issues. The main stakeholders were the local government authorities, development authorities, bulk consumers, katchi abadis (informal settlements) residents, civil society organisations, the private sector and support agencies such as the Asian Development Bank and the World Bank. At the end of the exercise, both citizens and authorities acknowledged that many useful and concrete lessons were learned. The authorities learned that they needed to be more inclusive and transparent in their decision-making process. The process of bringing together the key stakeholders to the table helped clarify the different interests that were at play. Consequently, the stakeholders were able to remedy actual and potential conflicts that existed. They did this through clearer understanding of each other's roles and responsibilities; through a process of open dialogue on self interests and how they can help avoid fighting one another. The government learned why it was important to bring the informal settlements into the formal system, while the citizens helped emphasise the need for rights-based laws as compared to rule-based laws regarding water. Moreover, the stakeholders were able to take a first step towards participatory decision-making regarding water services.<sup>27</sup>

<sup>27</sup> Thanentiran, Sivanthi, “Citizen Report Card for Karachi Water Management,” *The Urban Governance Initiative in Kuala Lumpur*, Malaysia: UNDP, 2003.

The UN Common Understanding on HRBA explains “ in a human rights-based approach, human rights determine the relationship between individuals and groups with valid claims (rights-holders) and State and non-State actors with co-relative obligations (duty-bearers). A human rights-based approach identifies rights-holders and their entitlements and corresponding duty-bearers and their obligations and works towards strengthening the capacities of rights-holders to make their claims, and of duty-bearers to meet their obligations”.

This section seeks to identify, at a very practical level, what operationalising each of the three premises of the UN Common Understanding entails:

- (i). All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.*

The resource guide addresses questions such as how one enters into policy dialogue, policy advice and development, and then designs, implements, monitors and evaluates a programme/project to ensure that it furthers the realisation of human rights.

- (ii). Human rights standards contained in and principles derived from the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming, in all sectors and in all phases of the programming process.*

The resource guide focuses on the *UNDP Results Management Guide(RMG)* and identifies what needs to be done at each stage of the programming process, from assessment and analysis to monitoring and evaluation, to applying a human rights-based approach. RBM focuses on effectiveness and efficiency. HRBA, in addition, adds a focus on legitimacy.

- (iii). Programmes of development co-operation contribute to the development of the capacities of duty-bearers to meet their obligations and of rights-holders to claim their rights.*

The resource guide seeks to strengthen the ability of UNDP staff to design, implement, monitor and evaluate programmes/projects which will clearly have such a capacity-development component directed at duty-bearers and rights holders. This will necessitate developing the capacity to undertake human rights capacity-assessments of such rights-holders and such duty-bearers,

## **2.2 Applying Key Human Rights Principles**

Under the UN Common Understanding, human rights principles guide all programming in all phases of the programming process. Key among these human rights principles are:

- *Universality and inalienability:* Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The human person in whom they inhere cannot voluntarily give them up. Nor can others take them away. As stated in Article 1 of the UDHR, “All human beings are born free and equal in dignity and rights”. UNDP strives to make universality a reality through its many national and regional programmes on access to justice. UNDP’s access to justice

programmes vary considerably from country to country. But they all present opportunities to apply a HRBA and they all are vehicles for claiming and realising human rights.

- *Indivisibility*: Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order. Yet to say that all rights are equal in status does not mean that programming to achieve all rights must take place simultaneously. In the practical world of development programming, it is often necessary to sequence work to start with targeting certain rights rather than others. The priority will depend on the context and the issues at hand.
- *Inter-dependence and Inter-relatedness*. The realisation of one right often depends, wholly or in part, upon the realisation of others. For instance, realisation of the right to health may depend, in certain circumstances, on realisation of the right to education or of the right to information.
- *Equality and Non-discrimination*: All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies. In Bolivia, the national development strategy focuses on rooting out exclusion and to do so, Bolivia has enacted a law on popular participation; set up an Office of the Defender of the People; and adopted a National Human Rights Action Plan. So too has Benin in adopting a National Human Rights Action Plan in order to promote equality, and in particular, gender equality. Cape Verde has a similar National Human Rights Action Plan. Brazil uses race as a variable for disaggregating data and statistics and applies human rights in all project processes. UNDP in Macedonia has a Strategy Statement for Minority Rights which gets incorporated in its programming.
- *Participation and Inclusion*: Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realized. Participation is the key rationale of many UNDP programmes on decentralisation and local governance. The Macedonia programme on Local Governance for Sustainable Development<sup>28</sup> promotes equality, nondiscrimination, participation and accountability through capacity development for monitoring. The Asian Regional programme<sup>29</sup> focuses on decentralisation, local governance and public administration reform .
- *Accountability and Rule of Law*: States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicators in accordance with the rules and procedures provided by law. The right to know and freedom of information are essential to securing transparency and accountability. In India, for example, UNDP has adopted a human rights based approach to develop capacities to access the right to information under its access to information projects by: stakeholder involvement; targeting media as a key in enabling access to the right to information; monitoring to ascertain human rights-based outcomes; and addressing power equations through a human rights-based approach. Information technology (IT) kiosks have been set up to access the right to information. The capacity of duty-bearers is thus being enhanced to address both the demand and the supply side of access to information.<sup>30</sup>

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<sup>28</sup> Macedonia Human Rights Review Mission Report.

<sup>29</sup> Bangkok SURF Regional Governance Programme document, 2004.

<sup>30</sup> Banerjee, *op. cit.*, p.139.

## **EXERCISES**

### **Activity #1**

You have been asked by your DRR to support the national entity design and implement a two-year pilot project on violence against women with an assured budget of \$300,000.

The project is to address:

- Domestic violence against women.
  - Violence against women in public institutions and processes.
  - Developmental violence against women.
1. For each of the three premises of the *UN Common Understanding* listed above, identify **three** issues/questions/themes that you will address in designing your project.
  2. Indicate **which** human rights standards will “guide” “all phases” of your project and **how?**
  3. Indicate how you will relate the project to the “**key human rights principles**” set out in the *UN Common Understanding* listed above

### Section III

#### Capacity Assessment and Development in the Context of HRBA

##### **3.1 The Importance of Capacity**

UNDP defines *capacity* as the ability of individuals, institutions, and societies to perform functions, solve problems, and set and achieve objectives in a sustainable manner.<sup>31</sup> Capacity development is at the very core of UNDP's mission and links closely to its support for democratic governance and a human rights-based approach to development, that promotes improvements in the quality of life of all citizens in an equitable and fair manner, and pays particular attention to alleviating the plight of the poor.

UNDP puts the development of capacity at the heart of development cooperation. As a member of the UN family, UNDP proudly promotes the principles and standards of the United Nations, notably those relating to human rights, in all of its activities.

Capacity development (CD) begins with capacity assessment which poses three fundamental questions: *what capacities; for whom; and how are they developed?* Capacity development requires a sustained process and therefore the importance of a *capacity development strategy* cannot be over-emphasised.

#### **Human Rights Training and Capacity Development in Kenya**

Monitors drawn from various regions in Kenya have been training to monitor and report on human rights violations. Training participants, who are influential and respected members of their local communities, were mobilized with the help of religious institutions, CBOs, NGOs, the District Social Development Officers, and political party representatives. The training aims to create awareness among participants and equip them with tools and skills to adequately address women's rights issues. It strengthens the participants' ability to monitor and document the violation of women's rights in their areas. An annual report capturing all reported and documented cases is produced to serve as a lobbying and advocacy tool with policy-makers as part of the strategy to address women's rights violations.<sup>32</sup>

##### **3.2 Capacity Development: For Whom and for What?**<sup>33</sup>

All development-related activities need to contain a capacity development component in which national entities, UNDP and other partners as involved, offer a range of responses: institutional twinning; leadership development; distance learning; strengthening management; performance review; results-based management; modernising information systems; learning networks; and facilitating communities of practice. Bosnia's Rural Municipal Assessment Project for instance is human rights-based and focuses on 48 municipalities, setting up a civil service college to build capacities at the municipal government level.

The basic principles of CD advocated by UNDP include the following:

- seek to build on existing capacities - there are always considerable strengths present in terms of human resourcefulness in all organisations, often these can be uncovered and given new life by enlightened management and improved incentives;

<sup>31</sup> Lopes, Carlos and Theisohn, Thomas, *Ownership, Leadership, and Transformation: Can We Do Better For Capacity Development?*, New York, NY: UNDP, 2003.

<sup>32</sup> UNDP, "Human Rights," (Practice Note), New York, 2005.

<sup>33</sup> UNDP, "Capacity Development," (Practice Note), New York, 2005, p. 4.

- clearly identify priorities and new policy for TA – as untied and well targeted technical cooperation (TC);
- ensure national engagement and ownership; CD processes must not be, or even perceived to be, externally driven;
- the design and support must adjust to country needs as they change across time;
- the effort should coordinate and integrate linkages with other ongoing CD efforts and reform programmes underway.

In human rights-based language, capacity development involves the capacity of duty bearers to guarantee rights and services and of rights holders to claim and use them. Moreover, CD itself must always further the realisation of human rights. One aspect of CD that is difficult to grasp and address is capacity in larger systems where inter-dependencies tend to be more complex and less tangible. Capacity also resides within larger systems and the enabling environment is critical for individuals and organizations to perform. The system level is an operational entry point for understanding capacity challenges and addressing them.

In every HRBA initiative, a capacity development response must be planned and budgeted, based upon a systemic capacity assessment. This goes beyond general human rights training. The need is for a package of CD delivery mechanisms most appropriate in a given situation. This menu may include: institutional twinning; mentoring; leadership development exercises; distance learning courses; virtual academy learning; self-learning and collective self-learning opportunities; workshops and seminars; strengthening management and performance review processes; results-based management; monitoring systems; modernized information systems; learning networks; and communities of practice.

### **3.3 Capacity Assessment**

Programming generally starts with a diagnosis that includes needs assessments, gap analysis, and costing of proposed actions. In particular, in any serious effort to develop a reform programme, capacity assessments are an important first step. Capacity assessments can help to:

- establish capacity baselines and identify strengths and weaknesses, opportunities for and threats to capacity development;
- establish parameters to measure, monitor and evaluate, progress and performance in capacity development;
- bring rigour and a systematic method to assessing capacity needs, establishing priorities and sequencing (as opposed to wishful shopping lists)
- distinguish what may appear needed inputs from the more profound systemic challenges thereby shifting the CD question from a TC framework to a more holistic framework
- make sense of sometimes very complex development situations where it is not always obvious where best to intervene to promote capacity development

UNDP's Capacity Assessment Practice Note<sup>34</sup> introduced the notion of systems context into capacity development. This was based on the insight that capacity resides on different levels (individual, entity or organization, system or enabling environment) and thus needs to be assessed and addressed across these levels.<sup>35</sup> And it is important to note that since these layers are interdependent, this means that a

<sup>34</sup> UNDP, "Capacity Assessment," (Practice Note), New York, 2005.

<http://www.capacity.undp.org/indexAction.cfm?module=Library&action=GetFile&DocumentID=5510>

<sup>35</sup>The literature distinguishes the levels by adding different emphasis and detail: All agree on the individual and skills as first level; followed by the organization, inter-organizational, institutional, societal or enabling environment, that are combined in various ways. The important point is to recognize that they form a system in which the parts are interdependent.

capacity assessment will be inadequate if it does not take into account conditions and dynamics that reside across all three levels of capacity.<sup>36</sup>

In this framework, UNDP has developed a systemic capacity assessment tool<sup>37</sup> that sets to diagnose capacities on these levels. Drawing upon recent research on cross-cutting or horizontal capacities, that are relevant to all sectors and technical specializations, five important capacities have been determined to be the focus in any capacity assessment:

- 1) Capacity to engage in multi-stakeholder dialogue;
- 2) Capacity to analyse a situation and create a vision;
- 3) Capacity to formulate policy and strategy;
- 4) Capacity to budget, manage and implement;
- 5) Capacity to monitor and evaluate.

In this tool, there is an indicator in the first capacity solely dedicated to monitoring whether policy, legal and regulatory frameworks safeguard minorities and human rights and support multi-stakeholder participation, but analysing each of these capacities across all levels is essential to operationalising a HRBA.

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<sup>36</sup> For more information, please consult, Fukuda-Parr, Sakiko; Lopes, Carlos; Theisohn, Thomas, *Capacity for Development: New Solutions to Old Problems*, New York, 2002.

<http://www.capacity.undp.org/index.cfm?module=Library&page=Document&DocumentID=5017>

<sup>37</sup> UNDP, "Capacity Assessment," (Practice Note), New York, 2005.

<http://www.capacity.undp.org/indexAction.cfm?module=Library&action=GetFile&DocumentID=5510>

**“Courts and Community Dialogue” in Fiji Helps Facilitate Citizens’ Access to Duty-Bearers**

In 2005, for the first time, the entire Magistracy and Judiciary of Fiji (including the Chief Justice and President of the Court of Appeal) sat down to a one-day “Courts and Community Dialogue” with representatives of CSOs—an event organized by the Regional Rights and Resources Team (RRRT) of the UNDP Project in Pacific-Islands countries and a female judge involved with judicial education. It has taken RRRT and its partners many years of advocacy and dialogue to get the judiciary to agree to participate in such a process. This landmark event enabled members of the judiciary to listen to concerns of the community in areas relating to gender, poverty, disability, children, minorities, and governance and their perceptions of justice. The evaluation of the event revealed that the judiciary was extremely receptive to this process as it enabled them to obtain a first-hand account of the manner in which citizens perceived the justice system. Although it is too early to tell whether the dialogue will translate into any significant changes at the policy and grassroots level, the process, in itself, enabled groups to gain access to influential decision makers.<sup>38</sup>

**Developing Duty-Bearers’ Capacities to Develop Human Rights Standards in the Pacific**

Training of relevant duty-bearers like judges, magistrates, and lawyers had produced three regional declarations<sup>39</sup>—*The Tanoa Declaration on Human Rights and the Law 1999*, *The Denarau Declaration on Gender Equality 1997*, and *The Pacific Island Judges Declaration on Gender Equality in the Courts 1997* (committing judicial officials to apply gender equality measures and human rights in the courts). These declarations have resulted in numerous court decisions in which judicial officials have shown intolerance to domestic violence, greater willingness to order more realistic financial settlements to deserted women and children, and to apply human rights conventions to decision making. Some 20 judgments in the courts of Fiji, Samoa, Vanuatu, and Kiribati have used or referred to various conventions in the course of decision-making, through training activities directed at lawyers, and judges/magistrates.<sup>40</sup>

**3.4 HRBA and the Relationship Between Capacity Assessment and Capacity Development**

A capacity assessment is an exercise undertaken to appraise the capability of an individual or collective entity to perform key functions and deliver expected results. It serves as a monitoring and evaluation tool at any stage or state of an organisation’s, individual’s, sector’s and even nation’s functions. It can be an exercise conducted by an external assessor or be part of an internal management process, on an ad-hoc or regular basis.

For both capacity assessment and capacity development, crucial questions that need to be addressed are what capacities; to be developed in whom; and how? In both cases, human rights and human rights instruments need to be understood, internalised, implemented, and enforced. But the capacities and skills needed will be different for the two sets of actors. The latter set will primarily need to develop skills to assess the capacity of the former set to effectively perform their task and functions regarding respecting, protecting, promoting and fulfilling human rights. The latter set will also need to have the skills to develop projects that develop such capacities in the former set. Both aspects of human rights capacity development are vital.

<sup>38</sup> Banerjee, *op. cit.*, p. 71.

<sup>39</sup> The Tanoa Declaration on Human Rights and the Law, 1999, by Chief and Senior Magistrates of the Pacific region; The Denarau Declaration on Gender Equality, 1997, by Fiji Magistrates; and The Pacific Island Judges Declaration on Gender Equality in the Courts, 1997, by Chief Justices and Senior Judges of the Pacific.

<sup>40</sup> Banerjee, *op. cit.*, p.65.

**Methodology: Assessment Through Capacity Development**

The HURIST Mission to UNDP Indonesia adopted the following methodology:

- Providing structured, 1-day training sessions for each CO cluster as well as staff attached to UNDP's office in Banda Aceh, so as to contribute to CO capacity to apply the human rights-based approach to development. In all, 60 staff participated in four training sessions.
- Enabling staff to assess their own projects and programmes from the perspective of human rights by focusing discussions, as part of the training sessions, on the specific project selected by each CO cluster in advance of the mission;
- Assessing and providing feedback on the projects selected by CO clusters, and conducting interviews with staff and counterparts on the overall thrust of the programme and on the work of each cluster so as to situate the assessment within the country and programme context.<sup>41</sup>

**3.5 Promoting and Protecting Human Rights Through Capacity Development Within**

Capacity development for adopting a HRBA begins at home. For instance, the UNDP Indonesia Country Office Action Plan for ongoing capacity development provides a good demonstration of strengthening the programming capacity of a Country Office by integrating human rights-based approaches into mainstream programme work. The methodology used is linking annual development targets to the ROAR (Results-oriented annual report), which is their country programme document, to project appraisals (PACs). The enabling factors for this Action Plan have been the commitment and support from senior management that have translated into risk management, time incentives, and additional learning

The strategy used by this Country Office has been learning by doing. They have developed process indicators and have collected lessons on obstacles and challenges to implementing HRBA in UNDP as well as with duty bearers and claim holders. The strategy has also involved incorporating HRBA into programme guidelines and learning sessions. The immediate next steps of this Action Plan will be to establishing a working group for HRBA, develop a timeline with upcoming activities, and designate the required financial and human resources. Finally, the programme will be presented to the programme team with the goal of getting consensus from senior management.<sup>42</sup> Below is another example of UNDP Country Offices adopting a HRBA, this time in Macedonia and Brazil.

**Human Rights-Based Approaches in Macedonia and Brazil**

The Macedonia country office has created a HRBA steering and advisory group and adopts a HRBA through special focus on most vulnerable groups in the practices and programmes of the office. It conducts focus group discussions with the vulnerable groups and with women's groups. It takes particular care to apply HRBA in the development of indicators and of monitoring mechanisms. All of this requires an ongoing capacity development strategy.<sup>43</sup>

The Brazil country office has identified needs for capacity development regarding the construction and use of indicators; methodology for continuing human rights reviews; formal knowledge of the UN human rights system; simplifying and demystifying the language used in HRBA; forming strategic partnerships; non-project advocacy work; and for dealing with potential conflicts resulting from the redistribution of power and resources as a result of its programmes and projects.<sup>44</sup>

<sup>41</sup> Indonesia Human Rights Review Mission Report, *op. cit.*

<sup>42</sup> Indonesia Human Rights Review Mission Report.

<sup>43</sup> Macedonia Human Rights Review Mission Report.

<sup>44</sup> Brazil Human Rights Review Mission Report, 2004.

There is a range of tasks and functions that have to be performed at the national level if human rights are to be effectively protected, promoted and realised and capacities need to be developed to perform these tasks and functions. There is thus much scope for division of labor between governmental, non-governmental and international organisations.

Most of these tasks and functions need to be performed at the national level, by national actors. These actors may be from government, NGOs, or the private sector. In Brazil for example, the Banco do Brasil denies credit to employers using slave labour or child labour. Human rights enforcement and sanctioning is not left to law enforcement officers alone.

### **The Banco do Brasil, Organisational Change, and Human Rights**

The Banco do Brasil, the largest, 200 years old Federal bank, has long used some of its resources to fund welfare and development. Two years ago this was taken to a new level by the creation of a Department for Social and Environmental Responsibility. The 2003 annual report reflects this commitment and is in fact titled the *Annual, Social, and Environmental Report*. Diversity is very visible in the photographs as well as text. The report states, "Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence and "make sure that they are not complicit in human rights abuses." It also upholds labour standards such as the right to collective bargaining, abolition of slave and child labour, and non-discrimination in employment. The Banco's approach is a model for any organisation embarked on change:

- Change is mandated from the top.
- The Department to promote and monitor change has both staff and resources. Of the 80 or so staff members, 20 deal with social responsibility. They have defined 11 audiences, both internal and external, to reach with the 11 principles they adopted on social and environmental commitment. They are determined to make all 84,000 bank employees agents of change
- The bank monitors performance, both internal and external. Projects and loans over 10 million Reals have to have a social impact assessment. The Annual Report lists the profile of employees, showing ethnicity and male female balance.
- The Department is including corporate social responsibility and human rights education in all the regular training of the bank.
- The Department is aware of and working to address resistance to change – and reassuring clients and partners that working on human rights, social responsibility, and the environment will not lose business.<sup>45</sup>

There is much that can be done through UNDP's governance programming and related capacity development activities. It is important therefore to have a broad understanding of the term national human rights institutions as encompassing more than a national human rights commission and an ombudsman. Brazil, for example, has a unique, civil society national human rights institution of National Human Rights Rapporteurs.

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<sup>45</sup> Brazil Human Rights Review Mission Report (edited excerpts)

### National Rapporteurs: a Unique Resource

The UN's Commission on Human Rights occasionally assigns Special Rapporteurs (international experts) to monitor the situation in a specific country, for example Afghanistan or Cuba, or as regards thematic issues such as poverty or summary execution. Brazil's civil society organisations have established a unique system of national human rights rapporteurs. The initiative has drawn international attention – Argentina is replicating it - and is managed by the Brazilian CSO coalition Plataforma of Economic, Social and Cultural Rights. The United Nations Volunteers programme provides national UNVs to assist the national rapporteurs. When their mandate is up, new rapporteurs may be chosen, and/or they may take on different rights. The six rapporteurs began work in 2002 on each of the following rights: food, work, health, the environment, education, and housing. Their work underscores the inter-dependence of human rights. For example, the national rapporteur on food, Flavio Valente, a physician with expertise in nutrition and public health, has also gained expertise on water, land, and the environment since the right to food cannot be realized without these other areas.

The national rapporteurs have travelled widely throughout the country, often using their own resources and have been welcomed by officials and civil society in the municipalities they have visited. They rapporteurs have developed good working relations with the Ministro Publico (ombudsman), which also has the responsibility to see that constitutional rights are promoted.

This provides another tool that can be used by claimants instead of going to court; e.g., for complaints against public bodies that do not fulfill their mandate (redirecting funds for education or school meals can lead to a loss of mandate). The rapporteurs are piloting approaches to mediate conflicts and secure rights. E.g. in the state of Pernambuco, which has a record of police violence, they are training police to be conflict mediators.

The national rapporteurs use their findings in “shadow” reports to treaty bodies. They are working on a national monitoring system, . especially to monitor human rights at the local level , including indicators for the realisation of human rights The rapporteurs' experience and expertise can contribute to the CO's different portfolios – environment, governance, public sector policies and human development – in some of the very areas where it has identified a need for expertise, including affirmative action policies, indicators, and conflict resolution and mediation.<sup>46</sup>

The effectiveness of promoting and protecting human rights at the national level depends, to a large extent on the effectiveness of the international human rights machinery led by the United Nations. Recognizing the interplay between protecting and promoting human rights at the national and international levels, UNDP provides support to the international human rights system in many ways. It provides support to the human rights treaty bodies by helping follow up on their recommendations and by assisting states meet their reporting obligations to such bodies. UNDP also provides support to UN Special Rapporteurs and Independent Experts.

It is important to recognize that a project adopting a HRBA must address at least two distinct but inter-related sets of actors:

- Respecting, protecting, promoting and fulfilling human rights at the country level requires a range of tasks and functions to be performed at the national level, primarily by national actors. These tasks range from the adoption and incorporation at national level of human rights standards, to their implementation, monitoring, enforcement and, if necessary, reform of national policies and laws. National capacity needs to be built both inside and outside of government to perform those tasks and functions.
- Identifying, designing, managing, implementing, and evaluating a HRBA project involves different, interrelated capacities which need to be in place in order to fully implement fruitful human rights-based approaches to programming. In addition to national capacities mentioned above,

<sup>46</sup> Ibid.

individual and institutional capacities toward human rights analysis and assessments are necessary components of the HRBA



## Section IV

### The Changing Context of Development Cooperation: Challenges and Opportunities for HRBA

A sea-change is taking place in the international development community, reflected in relationships between governments and donor agencies, and in ways that development programs are funded, implemented and managed.

Competition for Overseas Development Assistance (ODA) is becoming more and more intense. This poses the challenge “to do more with less”. A challenge that is ever more challenging for governments in developing countries who are under instructions from the international financial institutions to cut public spending. When it comes to provision of basic services in sectors such as health or education, Ministries find themselves becoming more and more reliant upon development assistance. In Nicaragua, for example, 39% of the budget of the Ministry of Health is provided by development assistance. Thus, pressures are acute to make aid all the more “effective”.

The Paris Declaration on Aid Effectiveness (March, 2005) was adopted by Ministers of developed and developing countries and Heads of multilateral and bilateral development institutions. The Declaration is built around key concepts needed to make aid more effective:

- *Ownership*: by partner countries exercising effective leadership over their development policies, and strategies.
- *Alignment*: by donors basing their overall support on partner country’s national development strategies, institutions and procedures.
- *Harmonisation*: by donors’ actions being more harmonised, transparent and collectively effective.
- *Results*: by managing resources in a way that focuses on the desired results and improving decision-making through better use of information.
- *Mutual Accountability*: by both donors and partners being held accountable for development results.

A HRBA encourages ownership by prioritising needs at the national, local and community levels. The approach provides a common set of values and principles that facilitate alignment and harmonisation. It requires results-based management that not only strives to make the programming process more efficient in achieving development goals, but also more effective in honoring, protecting and realizing human rights. With the legitimacy and urgency associated globally with human rights principles, the HRBA also puts a premium on mutual accountability between donors and partner countries.

#### **Lao PDR International Law Project of the Ministry of Foreign Affairs**

The International Law Project of the Ministry of Foreign affairs in the Lao PDR provides a good example of advancing national priorities and needs. The government of the Lao PDR decided that it would end its isolation and seek to become a full-fledged member of the international community. It chose to do this through ratification of international law treaties on environment, on human rights, on transnational organized crime and on terrorism. UNDP, with funding from the government of Finland, assisted the Ministry, in the first phase of the project to ratify and incorporate into national law a number of selected international law treaties. In its present phase, the project is continuing the study and advocacy for ratification of the two human rights Covenants, among other international instruments. Importantly the focus is now very much on national implementation of such treaties.<sup>47</sup>

<sup>47</sup> For more information please consult, “Evaluation of the Implementation of the Rule of Law in Lao PDR, 1997-2003, Lessons and Challenges,” 2003, <http://www.undplao.org/governance/LSE%20Report.pdf>

### Human Rights and Mutual Accountability

DFID's new policy on conditionality mentions both that human rights commitments form the basis of the aid partnership and also that significant human rights violations can be used as a justification to suspend aid. It is the latter aspect which is causing the most discussion, whereas the former would require a different approach to programming and dialogue. The Memorandum of Understanding with Rwanda is one example of a mutual accountability framework. Rwanda has signed four MOUs (with the UK, the Netherlands, Sweden, and Switzerland). The UK MOU includes references to human rights a shared commitment of governments (to meet aid effectiveness principles); and explicit references to the government of Rwanda's human rights and commitments. The methodology for assessing whether the MOU commitments have been met (usually based on annual independent reports rather than self reviews by governments) and the feedback loop into the actual aid agreements are, however, relatively weak.<sup>48</sup>

### Demanding Accountability—Working at local and macro levels in Solomon Islands:

The Regional Rights Resource Team (RRRT) UNDP Project in the Pacific Island countries' work on demanding accountability has resulted in producing some landmark results. Of specific interest is a Country Programme partner mobilising with environmental groups against the dumping of toxic wastes by a Taiwanese company in Makira province in Solomon Islands. The Country Programme partner and local NGOs worked at the community and local provincial governmental level against the dumping of wastes in their province whilst RRRT worked with UNDP at the macro level to demand accountability and lobby politicians that allowing passage of toxic wastes and dumping in Pacific waters would be in breach of the regional Waigani Convention<sup>49</sup> that the country was signatory to. The final decision led to the Government refusing the dumping of such wastes, notwithstanding the loss of a potential US\$40 million to the exchequer.<sup>50</sup>

Aid effectiveness requires strengthening partner countries' national development strategies and related implementation frameworks and institutions for planning, programming, budgeting and performance assessment. Thus, the development agenda itself is in the process of being redrawn and human rights are central to this process. The development agenda is placing greater emphasis on national ownership, participation, decentralisation, accountability and sustainability. This makes the adoption of a HRBA both essential and inevitable. Moreover as the Human Development Report reminds us, there is growing recognition that the eradication of poverty is not just a development goal, but a central challenge for human rights

In responding to the above changing context of development co-operation, there has been a shift in the ways that development programmes are funded, implemented and managed. In particular, there is a distinct move away from traditional methods of financing, with a move from funding through a 'development' budget, and to funding of 'core' budgets.

There is also a distinct move away from traditional methods of implementation. Instead of implementing through parallel project units and processes, more and more initiatives are being carried out using national systems through government ministries or other state institutions.

<sup>48</sup> Piron, Laure-Helene and O'Neil, Tammie, *Integrating Human Rights into Development: A Synthesis of Donor Approaches and Experiences*, United Kingdom, p.44, 2005.

<sup>49</sup> Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and the Control the Transboundary Movement and Management of Hazardous Wastes Within the South-Pacific Region, adopted at Waigani, Papua New Guinea, 16 September 1996.

<sup>50</sup> Banerjee, *op. cit.*, p.68.

**The European Initiative for Democracy and Human Rights (EIDHR): Different Funding Modalities:**

Created in 1994, the EIDHR is the EU's main financial instrument to implement its human rights and democracy policy, complementing geographic cooperation programmes and foreign policy tools. It funds predominantly civil society and non-governmental organisations and does not require the consent or involvement of state authorities. This allows it to operate in sensitive political contexts. During 2002-2004 nearly €327 million financed:

- democracy, governance and the rule of law (67%): civil society strengthening, human rights education and awareness raising, freedom of expression/media, elections, rule of law, governance, conflict
- abolition of the death penalty (2%)
- torture, impunity and international justice (15%)
- racism, minorities and indigenous peoples (10.5%)

An impact assessment concluded that 80% of respondents found the EIDHR had good or very good impacts and had strengthened the capacity of CSOs. It had been less effective with regards to gender equality, and needs to be more responsive, and improve its procedures. Two-thirds of its implementing partners came from Northern organisations.<sup>51</sup>

Today, there is an increased interest among a group of bilateral donors to use financing instruments such as direct budget support (DBS) and the sector-wide approach (SWAp) that provide development financing directly through national budgets. In 2004, OECD/DAC estimated that DBS will provide up to one-third of total aid flows in the immediate future. DBS and SWAp modalities have a very relevant rationale. They seek to promote cost-effectiveness, national ownership, sustainability, attention to the MDGs, and other national priorities, especially related to poverty to promote holistic, inter-sectoral, rather than project-specific approaches. But experience so far cast doubts on the ability of such modalities to fulfill their rationale unless a HRBA is applied.

While DBS and SWAps have been endorsed and practiced by some donor agencies over the past two years in select countries, from HRBA perspectives, DBS and SWAp practice necessitates careful management to allow for accounting back to the donors' own governments and stakeholders/taxpayers, as well as for accounting by receiving governments to their citizens. It necessitates careful management to safeguard participation and decentralisation and to ensure that project priorities and concerns do not get swept away by Ministry level needs and exigencies. It also needs careful management to address issues of accountability that will inevitably arise as a result of centralization of authority, decision-making and resource control at Ministry level. Such centralisation is inherent in the DBS/SWAp modalities. DBS does tend to reinforce the centrality of the budget process and empower Ministries of Finance. It also has the potential to strengthen national planning and budgeting systems and bring greater coherence among them. In the process, however, line ministries may be disempowered, and their ability to negotiate SWAps directly with donors may be curtailed. Given their holistic nature, realisation of human rights involves a role for such line ministries and a HRBA involves inter-sectoral cooperation even in a sector-specific project.

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<sup>51</sup> Piron, *op. cit.*, p.14.

### The SARED Project, on Sexual and Reproductive Health Services and Rights in Nicaragua

The SARED project adopts the SWAp modality of disbursing funding directly and solely to the Ministry of Health (MINSa) and leaving responsibility for project management and for monitoring project implementation to MINSa. But in the project design itself, the SILAHIS (municipalities) in Carazo and Chontales were to be the focal points of the project, tasked to reach and listen to voices at municipal and local and community levels, and respond directly, or through project partners in civil society, and to serve as a channel of communication between local and community organisations and health workers, municipal health centres and MINSa.

The project design is aimed at cost-effectiveness and sustainability of results and impacts, to be achieved through working within the existing structure of the SILAHIS and its service delivery system and integrating project activities with the on-going SILAHIS programme. Rather than initiate additional activities not previously included in the SILAHIS plans, the project sought to provide the resources and means for the SILAHIS to actually carry out activities which are or should be part of their on-going plans but which have not been achieved in the past due to lack of skills, unavailability of resources, and/or inadequate organisation and management systems.<sup>52</sup>

A recent study conducted on behalf of the government of Finland (the main donor of the project) reveals that in practice however, the project, as implemented according to design has centralized authority and finances in MINSa.<sup>53</sup> In doing so, the bureaucratic management, procurement, and accounting system of MINSa (and indeed any Ministry in Nicaragua) has resulted in long delays and inability to get resources out to the SILAHIS, and through them to the municipal and community levels in a timely manner. This has disrupted the work plans at the municipal and community levels. Similarly, the bureaucratic reporting, accounting and accountability systems of MINSa have prevented rendering of results-based reporting from the SILAHIS and from MINSa; as was envisaged in the project design and this has greatly hampered accountability (both vertical and horizontal) within the project. Participation in planning, at all levels below MINSa has become impossible. As a result there is growing disinterest on the part of local authorities and NGOs in merely participating in the implementation of decisions made by MINSa that they have been no part of. In sum, the decentralized participation that is the sine qua non of a HRBA, has now become a wistful memory of the past.

The SARED project experience underscores the importance of adopting a HRBA in all programmes and projects that are using either the DBS or SWAp modalities.

The drive to assist organisations to improve *organisational effectiveness* and maximise their contribution to *development effectiveness* is at the forefront of present UNDP programming and results-based management. However, in practice such effectiveness is often equated with efficiency and transparency, and as a consequence we sometimes count and value what isn't valuable while ignoring valuables when we count. A human rights-based approach to programme development and implementation will add value to the development effectiveness agenda by broadening the technocratic understanding of accountability and by instilling legitimacy as an important qualitative aspect for results-based management. The MYFF Report on UNDP Performance and Results for 2004 points out that "justice and human rights has become the second largest area of support under democratic governance with 83 out of 130 country offices reporting" such programming. The Report goes on to urge that UNDP should become more proactive in applying a human rights-based approach to programming based on the UN Common Understanding."

<sup>52</sup> "Applying a Human rights-based Approach in SARED", Ramboll Finnconsult, Helsinki, 2005.

<sup>53</sup> Ibid.

Effectiveness without legitimacy might easily result in exclusion, elite capture and tension, leading itself to lesser effectiveness. Legitimacy without effectiveness will on its part result in lower levels of legitimacy. Effectiveness and legitimacy are thus inter-dependent and interrelated in the same way that security, development and human rights are. None of these concepts are to be taken in isolation, and none can be measured and interpreted without a linkage to the other. Measuring success must henceforth focus on both 'doing things well' and on 'doing things right.' The broad-based human rights framework will elevate results-based management to a new level respectful of the normative foundation on which the UN is built.<sup>54</sup>

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<sup>54</sup> UNDP, "From Conditionality to Agreed Conditions: Human Rights, Legitimacy, and Aid Effectiveness," (Human Development Viewpoint), New York: NY, 2005.

## Section V Design of Advisory and Programme Support

### **5.1. Situational analysis**

Support to, or facilitation of a development intervention requires an assessment and analysis of the context in which that effort will operate. Such a situational analysis would study both the enabling and institutional environment involved. Through a human rights lens, a situational analysis is conducted in a participatory and empowering manner, using disaggregated data to reveal disparities and human rights-sensitive indicators. In adopting a human rights approach, the analysis is required to give priority to those who are deprived in society (usually the poor) and to make factors that empower poor families an explicit objective of its focus.

Situational analysis in HRBA programming depends on the determination, acceptance and implementation of the interrelated aspects of duty-bearers to fulfill their obligations, and of claim-holders to claim their rights. But first, it is important to identify the duty-bearers and the claim-holders. The most recent CCA/UNDAF Guidelines go a long way in integrating human rights with the development process. In fact, the systematic integration of human rights principles and gender equality features prominently among the guiding principles for the programming process. The operational guidelines advocate the application of a “causality tree analysis” to identify root causes and their inter-linkages, the differentiated impact of selected development challenges, as well as the roles and responsibilities of different national and international partners.

The tree analysis is divided in three parts: the causality analysis, obligation analysis, and capacity analysis. The causal analysis aims to achieve consensus on the causes of the problems, the obligation analysis establishes the responsibility of the duty-bearer, while the capacity analysis identifies why duty-bearers do not perform their duties properly.

The three-step methodology is as follows:

#### **Causality Analysis**

- This identifies human rights situations and impacts and the causes thereof. The problem identified is stated in human rights terms with human rights standards providing a road map to the problem. Questions to be asked are: ‘what rights are affected and in what way?’ (e.g. denial, non-realisation; failure to protect, outright violation). Whose rights are affected and why? What related impacts are on the human rights of others? While the causes of a problem may be different at the immediate and underlying levels, the basic causes are often the same; for example, lack of capacity, form of social organisation, gender discrimination etc. The implication is that addressing the basic causes of any of the problems is likely to result in creating enabling conditions for solving a number of other problems at the same time

#### **Obligation Analysis**

- This identifies the stakeholders (disaggregated by gender; age; race; location; and special needs) and the behavior of both claim-holders to claim and exercise rights (empowerment analysis) and of duty-bearers to fulfill their obligations. The obligation analysis is a means to understand the complex web of relationships between claim-holders (subjects) and duty-bearers (objects).

#### **Capacity Analysis**

- This helps to review the capacity of duty-bearers to discharge their duties. It analyses why duty-bearers do not perform their duties properly, and why claim-holders are not claiming their rights. Capacity analysis from the human rights perspective will look at the following issues: responsibility/motivation/leadership; authority; resources; capability to communicate; and the capability for rational decision-making and learning. For duty-bearers this means answering questions as to whether the duty-bearer feels that he *should* do something about a specific

problem, whether he feels or knows that he *may* take action, and whether he *can* act. For this last aspect he would need the adequate human, economic and organisational resources.<sup>55</sup>

### Empowering Claim-Holders and A Concern for Vulnerability

Keeping the above in mind, it is important throughout this process to determine ways to empower claim-holders. If men and women, households and communities are to assert their rights, they must first be knowledgeable and able to communicate effectively with duty-bearers, in order to negotiate for a share of the resources. Awareness of human rights and good communication are essential to the process of asserting rights. Thus, advocacy, learning, capacity development and social mobilisation are necessary strategies to pursue human rights.

The causal analysis looks at the behaviours and cultural patterns that influence respect for human rights; analysis of prevailing norms, laws, and the legal system as important determinants of human rights; tradition as a factor of resistance to change; and tradition and social cohesion as a factor of change. The emphasis must be on using national data and analysis to the fullest extent available and possible.

A concern for “vulnerability” permeates the situational analysis at all levels. Analysing vulnerability of individuals allows consideration for actual and potential hazards, the likelihood of their occurrence, the population that will be affected, and their ability to cope. An aspect of such analysis, carried out throughout the three-step methodology, is to show the gap in human rights enjoyment between those vulnerable and at risk and others. Bosnia provides a good example of acting on the results of a vulnerability analysis. It has set up an early warning system on human rights violations of ethnic groups, returnees and internally displaced persons. In addition, development programmes and services dealing with returnees and reintegration can be quite sensitive. Thus even though (as a result of the vulnerability analysis) an initiative may be well-justified, it may at times be strategic not to explicitly frame the effort in human rights terms. Rwanda provides a good example of these types of dilemmas.

### **Human Rights-Based Assessments in Bosnia-Herzegovina**

In Bosnia and Herzegovina (BiH), OHCHR and UNDP, in cooperation with the State Ministry for Human Rights and Refugees, are implementing a four-year project, the Rights-based Municipal Assessments Project (RMAP). RMAP is a pilot project to design and field-test methodologies on human rights-based approaches to development situation assessment, analysis and planning. The Project arose from a concern that grassroots human rights information was fragmented, undocumented or not publicly available, thereby inhibiting action to concretely overcome problems. RMAP operates through six municipal-level assessment teams of three to four members each, residing in particular municipalities for a five-month period. They are supported substantively, administratively and logistically by Project staff, OHCHR and UNDP. With the ultimate aim of improving the enjoyment of human rights locally, the RMAP project builds the capacity of the municipality and civil society to base local strategic development planning on human rights-based development assessments and analyses.

Forty-eight human rights-based municipal human rights-based municipal assessments will be undertaken. Central to each assessment is an analysis of the root causes of problems, identifying gaps between human rights entitlements and State delivery, and assessing the capacity of individuals and groups to claim their rights; of duty-bearers to meet their obligations and the relationship between these two groups.<sup>56</sup>

<sup>55</sup> For more information on capacity analysis, please also consult UNDP Practice Notes on “Capacity Development” and “Capacity Assessment” (<http://www.capacity.undp.org/index.cfm?module=Library&page=Document&DocumentID=5510>)

<sup>56</sup> UNDP, “Human Rights” (Practice Note), p. 22.

### Rwanda's Gisenyi Project

The project for the resettlement and reintegration of Gisenyi Province in Rwanda, while not explicitly so, is a good example of a human rights-based project. The project clearly addresses the right to housing of the people concerned as it aims to promote self-help shelter construction, sensitize the local population on environment protection, initiate small income-generating projects among the beneficiaries, and set up basic infrastructure. The project has also raised the confidence of villagers to claim their rights in that they have written to government bodies with their demands for improved feeder roads, water, and fuel for heating and cooking. Thus, while the project is not specifically framed in human rights terms, it clearly addresses the realisation of those rights.

While the Gisenyi resettlement and reintegration programme is inherently human rights based, there is no reference to the rights of the vulnerable nor to capacity development so that they can claim their rights. While the Sub-Prefect of the Province was quite open to the use of rights language and to human rights capacity-building within his office, the Provincial offices remain significantly under-resourced. Interventions at the district level could be strategic.<sup>57</sup>

#### Key questions for situation analysis:

Based on the above multiple lens that forms a situational analysis, the input to a national or local programme or strategy is designed, adopting a range of developmental interventions which mobilize technical assistance and other types of resources which are used to produce specified outputs and results. Thus, there are some key questions arising out of the situational analysis:

- What are the key human rights issues the programme is attempting to address?
- To what extent are these rights currently being either denied or supported by existing laws, policies, plans, budgetary allocations, and cultural practices?
- How are different groups of women being affected? Are some groups facing special or additional obstacles to enjoying these rights?
- What capacities exist to support the realisation of these rights and what capacities still need to be developed?
- What are other organisations, including UN agencies, doing to support these rights, and how will the programmes link to their work?
- How will discriminatory cultural norms and practices affect the programme's work?
- What is the baseline against which you will measure progress? What benchmark data are available, e.g. government and NGO reports to the CEDAW Committee and the Committee's concluding comments?<sup>58</sup>

Adapting a HRBA to a situational analysis provides an opportunity to use the very process of conducting a situational analysis to:

- Provide marginalised claim-holders with an opportunity to express their views to duty-bearers, thus increasing their participation in decision-making.
- Strengthen the capacity of claim-holders within a community to make themselves heard by duty-bearers and to participate in and influence decision-making.
- Provide an opportunity for *all* claim-holders in a community to reach consensus on the most appropriate development pathway.
- Provide a channel for a community to express its development priorities to outside duty bearers, such as government departments or private businesses.

<sup>57</sup> Rwanda Human Rights Review Mission Report, 2005.

<sup>58</sup> UNIFEM, Results Based Management in UNIFEM: Essential Guide, 2005.  
<http://www.unchina.org/unifem/Essential%20Guide%20to%20RBM.pdf>

The poverty speak-outs conducted in South Africa are an eloquent example of the above.

## **5.2 Programme Design**

A HRBA is relevant and adds value not only to programmes and projects, but also to all forms of technical cooperation be it policy dialogue, policy advisory services, facilitation of public dialogue and discussion, monitoring and evaluation. The justification of the project can usually be found in country-level plans; the Country Programme; the Country Programme Action Plan and the Multi-year Funding Framework. The project may have come as a response to requests from stakeholders, a partner in government or civil society, or the donor community. The questions to ask are: is the project an appropriate response to country needs? Is it an appropriate response to the needs of those most disadvantaged or excluded? Is it suitable for UNDP support? Project justification can also be drawn from the national report to a human rights treaty body, from the concluding observations of such a treaty body, from the recommendations of a Special Rapporteur, or from a National Human Rights Action Plan.

### **Establishing a National Human Rights Commission in Bangladesh**

As courts are very expensive, time consuming, and largely inaccessible especially for the very poor, UNDP Bangladesh is focusing on developing preventive strategies with regards to human rights, including the creation of a strong, independent NHRI to provide accessible remedies. Yet despite having conducted a PRA study on institutional development of human rights in Bangladesh that pointed out the need for a central organisation to deal with cases of human rights violations, a national human rights commission still has not been established. Though the PRA was helpful in developing baselines, the initiative lacked overall detailed guidance in setting up the NHRC. Also, while participation of all stakeholders should be encouraged, a prolonged political process may be disastrous, especially in a context where governments are unstable and policies change frequently. As a result, a national human rights commission has yet to be established in Bangladesh, but it is a work in progress and a case for many lessons learned through the whole process.

### **The Islamic Human Rights Commission in Iran**

The experiences of the Islamic Human Rights Commission (IHRC) in Iran demonstrate that a human rights watchdog organisation can operate successfully, despite the lack of a strong legal mandate, it is anchored well in national governance structure. Though the IHRC has a limited mandate (and has a status similar to that of an NGO), it is treated by the Government as a national institution and functions in a similar capacity. It works on human rights complaints, human rights education, and human rights reporting as well as building partnerships and networks. By supporting such institutions, UNDP can be involved even in sensitive and controversial issues.<sup>59</sup>

### Priority-setting and Target-setting.

A HRBA requires that priorities be set to address the human rights deficits (such as failure to respect, protect, promote or realize human rights; or lack, inadequacy, or ineffectiveness of remedies) identified in the situational analysis. It also seeks to avail of the opportunities for enhancing progressive realisation of human rights of specific groups or communities identified in the situation analysis. The priorities will address human rights issues, problems or concerns as they relate to specific groups, communities, or regions of the country facing abuse, exclusion, discrimination or neglect.

In setting project priorities, a HRBA requires that attention also be paid to development deficits (such as lack of voice and participation, nondiscrimination, misdirected priorities, inappropriate beneficiaries, lack of access to information, transparency or accountability) identified in the situation analysis.

<sup>59</sup> UNDP, *Programming for Justice: Access for All. A Practitioners Guide to a Human Rights-Based Approach to Access to Justice*, Bangkok, Thailand: UNDP, pp.112-113, 2005.

Project and programme identification and design need to have as overall goals, the advancement both of human rights and of capacity development.

#### Establishing Baselines and Benchmarks.

The situation analysis, usually in a UN context, found in the Common Country Assessment (CCA), should provide baseline information about the present-day condition of human well-being: nationally; as well as disaggregated by sex, age, group, sector, or region of the country. The condition of human well-being is expressed in a HRBA in international human rights standards which set benchmarks for measuring the progressive realisation of specific human rights of certain individuals, groups or communities. This baseline information and related benchmarks should be set out in the Project Document (ProDoc). They provide justification for the project. They form the basis for transparency and accountability in implementing the project, and they are essential for effective and meaningful participation in programmatic processes and for a meaningful evaluation of the project.

#### **The UNCT CCA March 2004 Workshop—A Step in Integrating Human Rights Into Development Planning and Programming in Vietnam by Identifying Development Priorities**

During the UNCT CCA workshop, two key documents for the CCA were presented: the UN-Report on the implementation of the MDGs—a report that had been elaborated with the participation of all UN agencies in Vietnam—and, a UNICEF-assessment on key entry points and challenges for adopting a HRBAP in Vietnam. Both documents presented an agenda of important challenges for Vietnam's future agenda, based on solid research and documentation. Both agendas were merged and built the basis for a CCA with five priority development challenges and a rights-based analysis. Their key development challenges identified include:

- Decreasing quality of growth
- Widening social disparities
- The growing threat of HIV/AIDS
- Youth
- Governance

It was also agreed that human rights and gender should be mainstreamed into the text. Hence, the CCA process in Vietnam mirrored the international trends in this area—a merger between the concept of human development and the human rights paradigm.<sup>60</sup>

#### Defining Results, Outputs, and Outcomes.

The UNIFEM Results-Based Management Guide states that the different levels of the results chain are usually termed goal (or impact), outcome and output. and adds that it is common “to have these three levels, to differentiate between shorter and longer term results.”<sup>61</sup> Table 1 presents the common definition of these terms in the UN system, as agreed by the UNDG.

<sup>60</sup> Banerjee, *op. cit.*, p. 336.

<sup>61</sup> UNIFEM, *op. cit.*

**Key terms in the results chain<sup>62</sup>**

| <b>Term</b>                       | <b>Definition and explanation</b>                                                                                                                                                                                                                                                                                                                                                                | <b>Example</b>                                                                                                                                                                                 |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Goal</b><br>▲<br>.....<br>↓    | The higher-order objective to which a development intervention is intended to contribute ( <i>UNDG harmonized definition</i> )<br><br>The change at this level is long-term, and through collective effort of partners, but it is important to establish the goal in programme planning to show the linkages between the programme and the MYFF.                                                 | More women in 3 countries in LAC able to enjoy their right to a life free of violence                                                                                                          |
| <b>Outcome</b><br>▲<br>.....<br>↓ | The intended or achieved short-term and medium-term effects of an intervention's outputs, usually requiring the collective effort of partners. Outcomes represent changes in development conditions which occur between the completion of outputs and the achievement of impact. ( <i>UNDG harmonized definition</i> ).<br><br>A combination of outputs is usually needed to produce an outcome. | Budget allocated by municipal councils to address VAW increased by 20% in x communities in 3 countries in LAC                                                                                  |
| <b>Output</b><br>▲<br>.....<br>↓  | The products, services, and capacities which result from the completion of activities within a development intervention.<br><br>UNIFEM adds "capacities" to the UNDG harmonized definition.                                                                                                                                                                                                      | Capacity of key NGOs in x communities in 3 countries developed to analyze implications of budget for VAW.<br><br>Key NGOs able to advocate increase in VAW allocations with municipal councils |
| <b>Activity</b>                   | Actions taken or work performed through which inputs, such as funds, technical assistance and other types of resources are mobilized to produce specific outputs.                                                                                                                                                                                                                                | Training of 50 key NGO representatives on analyzing budget implications for VAW conducted                                                                                                      |

For a HRBA to project design, it is essential that all project outputs, outcomes and goals be assessed in terms of their human rights results by way of their impact on the respect, protection, promotion and realisation of human rights of the project beneficiaries. UNDP's commitment to results-based management (RBM) has significant consequences not only for project management but for project design as well. A HRBA helps make results-based management all the more effective and will moreover ensure a strong focus on legitimacy of the steps taken by UNDP.

Outputs should facilitate human rights education, both formal and non-formal and should contribute to capacity development of both rights-holders to claim and enjoy their rights and of duty-bearers to fulfill their obligations. Outcomes should relate to the progressive realisation of human rights. The project goal should be one of improving the present human rights situation by working towards universality of realisation of all human rights of all.

<sup>62</sup> UNIFEM, *op. cit.*

In UNDP, project results are organized in a “results chain,” also referred to as a logframe (logical framework analysis). Every UNDP ProDoc is required to be prepared in a format that includes a logframe as well as a results and resources framework (RRF) and it is essential that a HRBA be visible both in the logframe and in the RRF.

#### Detailing Results Indicators and Measures<sup>63</sup>

Expected project results need to be clear, and to the extent possible, measurable. Hence a crucial aspect of project design is the selection of indicators and measures. (Basic information on indicators is provided in Annex 2 on Indicators.) When developing project indicators it is vital that the indicator is a measure of the expected result. A useful resource on this issue is *RBM in UNDP: Selecting Indicators* (UNDP Signposts of Development series). Within the RBM framework, UNDP uses at least 3 types of results indicators:

- Situational (impact) indicators: which provide an indication as to whether the developmental changes that matter to UNDP are actually occurring.
- Outcome indicators: which assess progress against specified outcomes.
- Output indicators: which assess progress against specific operational activities.

In a HRBA, the indicator needs to be a measure of the human rights-related results of the project. This will mean that often, in addition to quantitative indicators there will be a need for qualitative indicators as well as process indicators to measure for example, participation, civil engagement, commitment, political will, corruption, local ownership, accountability, etc. These indicators, together with stakeholder capacity indicators need to be an essential part of HRBA project design, and not an afterthought. A particularly important part of a HRBA project will be its capacity development indicators.

A HRBA does not necessarily require separate human rights indicators. Progressive realisation of human rights can often be measured by the same indicators used for demographic and sector analysis such as life expectancy, maternal and child mortality rates, or unemployment and underemployment rates. Specific human rights indicators, however, may be available in National Human Rights Plans, in State Party Reports to human rights treaty bodies and in the Concluding Observations of the treaty bodies on such Reports.

#### Implementation Mechanisms and Processes.

A UNDP project document would be incomplete if it did not detail project mechanisms and processes relating to implementation, monitoring and evaluation. Monitoring needs to take place on an ongoing basis throughout the project because it allows stakeholders to return to the logframe and assess both progress and any revisions required. Good monitoring provides the building block for a good evaluation. In addition to monitoring the implementation of the project, it is also important to monitor capacity development and performance. In fact, the performance monitoring framework is an RBM tool that programme staff, partners and programme managers can use to plan and implement systematic collection of data for monitoring, learning and reporting, and assist in developing a monitoring plan.

A HRBA requires that such mechanisms be designed in consultation with all project stakeholders, ideally with membership of all significant stakeholders in such mechanisms. Duty-bearers and their responsibilities must be clearly spelled out in the project document.

A HRBA also requires that all stakeholders be provided with meaningful opportunities for participation in all project processes and that full access to project information be made available to enable such participation.

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<sup>63</sup> Please also refer to Section VIII and Annex 1 of this Guide on “Human Rights Information and Indicators.”

The close link between participation and the realisation of human rights is demonstrated well in a programme of the Swedish International Development Agency (Sida).

#### **Sida's democracy and human rights approach**

Sida's approach closely links democracy and human rights objectives. It considers that poverty, understood in its broadest sense, is a state where almost all human rights are violated, and that a lack of democracy leads to greater poverty in the long term. Under the umbrella of 'democratic governance' Sida supports initiatives on human rights, democratisation, people's participation and good governance, all of which are seen to contribute to poverty reduction and to highlight the political dimensions of development.<sup>64</sup>

### **5.3 HRBA Programme Design in Select Programme Areas.**

#### HRBA in the Context of Poverty Reduction:

*"Human rights and human development are profoundly tied and lie at the heart of the Millennium Development Goals. Each goal can best be achieved when we address the rights-related issues of equality, nondiscrimination, participation, inclusion, accountability and social justice -as well as international solidarity and cooperation. This means that the approaches to achieve the MDGs must be based on human rights, with attention not only to development results, but also to the ways in which development is pursued".*

*Mark Malloch Brown, UNDP Administrator.*

In the area of poverty reduction, we all know that achieving the MDGs is feasible and affordable. But the international community must further stress the necessity of adopting a HRBA to reaching the MDGs. As Robert Archer has stressed, it would strengthen the legal authority, political legitimacy and precision of strategies applied. The human rights framework is after all the only universally applicable framework that is based on the claims of justice, objectivity, fairness and legitimacy.

Furthermore, any discussion of the relationship between poverty and human rights which takes the United Nations approach of indivisibility as its starting point must acknowledge the need to consider the role of both economic, social, and cultural rights and civil and political rights. The problems begin, however, when poverty is treated as being synonymous with economic, social and cultural rights, in which case the analysis of the relationship between the two concepts risks becoming tautological. We thus need to define our terms more precisely and namely take civil and political rights as seriously as economic, social, and cultural rights.<sup>65</sup>

In recent years this clarion call to take economic and social rights violations seriously has often been encapsulated in the maxim that 'poverty is a denial of human rights.' A recent UNDP report on this theme opens with a quote from Mary Robinson: "I am often asked what is the most serious form of human rights violation in the world today, and my reply is consistent: extreme poverty."<sup>66</sup> Compounding this problem is the inadequacy of attention given to pro-poor policies whereby there are significant gaps in populations with regards to the right to health and the right to education, most notably amongst minority groups such as indigenous peoples. Thus, the fact that overall progress has decelerated has been largely due to insufficient pro-poor policies. Unlike income, most social indicators have physical or numerical limits—life expectancy, for instance, cannot increase indefinitely; nor can net school enrollment exceed 100 per cent. Thus, the continued bias in directing social and economic investments in favour of better-off segments of

<sup>64</sup> Piron, *op. cit.*

<sup>65</sup> Alston, Philip, *A Human Rights Perspective on the Millennium Development Goals*, (Paper prepared as a contribution to the work of the Millennium Project Task Force on Poverty and Economic Development), 2004.

<sup>66</sup> UNDP, "Poverty Reduction and Human Rights," (Practice Note), New York, 2003, p. iv.

the population or regions will gradually yield less and less results as their social indicators approach their natural bounds. This will progressively slow down the average development growth of the entire country.<sup>67</sup> And as such, pro-poor policies and programming will be essential elements toward making development more progressive and realising the MDGs by 2015.

In the subsections below, two programming areas under poverty reduction have been used as examples of the possible issues to address when applying a HRBA:

*HRBA and Programming for Fiscal Decentralisation:*

UNDP applies a human rights-based methodology to fiscal decentralisation. This translates into the following main points, which together define the key entry points for UNDP:

- Clear assignment of functional (expenditure) responsibilities across different levels of central and local government is fundamental to the identification of duty bearers and their respective obligations.
- Assignment of responsibilities to local governments without the corresponding provision of adequate financial resources should be avoided since this would limit the capacity of local governments to meet their obligations.
- Special consideration should be given to the human rights implications of fiscal decentralisation reforms, in terms of analyzing whether public services are improved and rights better protected.
- Any assessment of a reform of intergovernmental fiscal relations should include an analysis of its likely impact on the poorest and most vulnerable groups, as well as on inter-regional disparities. Any UNDP programme should ensure that government decision-making bodies are aware of the likely impact of their policy choices on basic human rights and are sensitised with regard to their role as duty bearers.
- UNDP should ensure that the participation of local communities and citizens in decisions on fiscal decentralisation reforms is fostered and that, as claim holders, they have access to information on the impact of the decisions.<sup>68</sup>

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<sup>67</sup> Vandemoortele, Jan, *Ambition is Golden: Meeting the MDGs*, New York: Society for International Development, pp. 5-11, 2005. <http://www.undp.org/poverty/docs/48-1uf2.pdf>

<sup>68</sup> UNDP, "Fiscal Decentralisation and Poverty Reduction," (UNDP Primer). Another useful reference on this topic for further consultation are the International Council on Human Rights Policy's reports (2002 and current) on local rule and decentralisation, available at [www.ichrp.org](http://www.ichrp.org).

### **A Chronology of the Linkages Between Poverty and Human Rights at the United Nations**

1990:

Commission on Human Rights begins an ongoing study of the relationship between human rights and extreme poverty.

1993:

Vienna World Conference on Human Rights affirms that extreme poverty constitutes a violation of human dignity.

1995:

World Summit for Social Development commits governments to greater focus on efforts to eradicate extreme poverty by promoting effective enjoyment of all human rights.

1996:

First Special Rapporteur on human rights and extreme poverty, Leandro Despouy, is appointed by the Subcommission on the Prevention of Discrimination and Protection of Minorities.

1997:

First independent Expert on the question of human rights and extreme poverty, Anne-Marie Lizin, is appointed by the Commission on Human Rights.

1997: Proclamation of the first UN Decade for the Eradication of Poverty (1997-2006)

1999: World Bank and the International Monetary Fund launch Poverty Reduction Strategy Papers

2000: Millennium Summit declares: "We will spare no effort to free our fellow men, women, and children, from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected. We are committed to making the right to development a reality for everyone and to freeing the entire human race from want."

2001: Commission on Human Rights secures a group of experts to develop guiding principles on human rights, poverty, and extreme poverty. The same year, the Committee on Economic, Social, and Cultural Rights states that poverty constitutes a denial of human rights.

2002: Office of the High Commissioner on Human Rights develops draft guidelines on a human rights approach to poverty reduction strategies, with illustrations of how human rights can reinforce each MDG.<sup>69</sup>

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<sup>69</sup> Libertas, "Implementing the Millennium Development Goals: Our Human Rights Obligation," vol. 15, no. 1. <http://www.dd-rd.ca/english/commdoc/publications/libertas/vol15no1/libertasenglish.pdf>

### UNDP's Engagement of Roma Toward Poverty Reduction Strategies

The UNDP Regional Bureau for Europe and the Commonwealth of Independent States is training Roma to act as survey managers to gather information to be used in poverty reduction strategies. Thus, the collection of data is undertaken with the direct involvement of minorities. This may make some community members more comfortable in sharing their concerns around the MDGs. Minorities should also be invited to submit information to governments to help them prepare country reports. This can be an opportunity for communities to express their views on their own terms and with culturally relevant signifiers: for example, some communities may define poverty reduction according to different criteria than governments. Once reports are published, governments should undertake to translate the reports into minority languages and to disseminate the main findings of the report through information channels targeted for minority audiences.<sup>70</sup>

### HRBA and Programming for Poverty Reduction Strategies (PRSs)<sup>71</sup>

For those in extreme poverty, gaining access to resources and services to meet basic human needs and human rights can be invoked in a number of possible poverty reduction strategies. The main features of applying a HRBA to PRSs include the following:

- Empowerment of the poor and ensuring effective community participation in planning, decision-making and implementation
- Explicit recognition of the national and international human rights normative framework and ensuring that both the process and the concrete poverty reduction targets are consistent with international human rights standards
- Accessible mechanisms of accountability in accordance with rights and obligations
- Attention to non-discrimination and equality
- The informed and active participation of the public, particularly poor and vulnerable groups, by ensuring a basic standard of civil and political rights thus guaranteeing free and meaningful participation
- The well-being of especially vulnerable groups and supporting the collection of disaggregated data to identify those most in need
- The identification of immediate, intermediate, and long-term baselines, priorities, and targets along with effective monitoring methods, i.e. indicators and benchmarks
- To sustain ownership amongst stakeholders during structural economic change
- To transform *needs* for essential resources and services into *rights* that can be asserted and claimed.
- To raise awareness of such rights through human rights education directed both at rights-holders as well as at duty-bearers.
- To provide support for those in need to claim their rights through programmes of legal services and other access to justice programmes

MDG based poverty reduction strategies are a solid first step toward guidelines for achieving development targets. The equity of achievement and who gains and who loses, however, will be subject to them being firmly based upon the primacy of human rights in locally and nationally determined development. All human beings are born free and equal in dignity and rights; let's make sure this dignity

<sup>70</sup> Minority Rights Group International, *The Millennium Development Goals: Helping or Harming Minorities?*, New York: NY, pg. 20, 2005

<sup>71</sup> For more information regarding linking HRBA to Poverty Reduction Strategies, please consult the following resources: *UNDP Human Development Report 2000* (<http://hdr.undp.org/reports/global/2000/en/>); OHCHR, "Human Rights and Poverty Reduction: A Conceptual Framework," 2004 (<http://www.ohchr.org/english/issues/poverty/docs/povertyE.pdf>); UNDP Practice Note on "Poverty Reduction and Human Rights," 2003 ([http://www.undp.org/governance/docs/HR%20-%20PN%20-%20\(poverty\)%20English.pdf](http://www.undp.org/governance/docs/HR%20-%20PN%20-%20(poverty)%20English.pdf)); UNDP, "Frequently Asked Questions On A Human Rights-Based Approach To Development Cooperation," 2005

is respected, protected, and promoted through our development assistance and national development frameworks in practice as well.<sup>72</sup>

In sum, as stated by Nelson Mandela, “overcoming poverty is not a gesture of charity. It is an act of justice, It is protection of fundamental human rights, the right to dignity and decent life...”

**UNDP Support for the Elaboration of An MDG-Based National Development Programme (2005-2015) for Macedonia Using Human Rights-Based Approaches**

While the nationalized MDG framework was a first step to identify and mobilize support for the country’s development goals, an MDG-based National Development Programme with a broad social consensus and a comprehensive approach to development is needed in order to provide strategic orientation and point out how these goals could be reached. However, in terms of dealing with the socio-economic, cultural, environmental, gender issues a more holistic human-rights based framework methodology would be needed to add a missing element to the present activities by enhancing the enabling environment for human development, and by empowering people to claim their rights and influence decision about their lives.

The strategy for this project is based on the mounting commitment and growing efforts of the United Nations system in general and UNDP in particular, as a scorekeeper of the MDGs, to eradicate poverty and to examine its relationship and the decisive and devastating impact of poverty on human rights.

For the human-rights based approach to be applied systematically and effectively to poverty reduction as would be reflected in the National Development Programme, poverty itself will be defined in terms of the same dimensions in which human rights are articulated, i.e. a definition that meets this requirement is that of poverty defined in terms of enabling environment, empowerment and capabilities to achieve and sustain core critical elements of human well-being. Thus, poverty reduction itself would become a measure of improvement in the respect for, protection and fulfilment of human rights. The Programme will underscore human rights values, standards and principles, applying at each phase core human rights principles such as universality and indivisibility, equality and non-discrimination, participation and inclusion, accountability and the rule of law.

The activities are assessment/mapping and human-rights sensitisation and capacity-building process. In this preliminary phase, the following clusters of activities are envisaged: 1) Assessment/mapping activities; 2) Capacity development and awareness fostering. The next steps after these activities will be the preparation of the outline and then the actual National Development Programme.<sup>73</sup>

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<sup>72</sup> Van Weerelt, Patrick, “Implementing the MDGs: Our Human Rights Obligation,” (statement delivered at a “Rights and Democracy” conference, 8-9 June 2005), Ottawa, Canada, 2005.

<sup>73</sup> Government of Macedonia, UNDP, “Supporting the Elaboration of an MDG-based National Development Programme 2005-2015 for Macedonia, (project document), 2005.

### **Integrating the Human Rights-Based Approach Into the National PRS Elaboration and MDGs Monitoring System in Ecuador**

The project's aim is to support the elaboration of the national PRS and the MDGs monitoring system in accordance to the HRBA.

The project has three specific objectives:

1. To insert the HRBA in the follow up and monitoring of MDGs
2. To insert the HRBA in the elaboration of the PRS
3. To elaborate and test a methodology at the local level for applying the HRBA in the elaboration of the PRS

While integrating the HRBA in the elaboration of the country's PRS, the project will strengthen capacities among national and international actors in the HRBA and will provide tools for fostering its future application in the national and local PRS. Localisation of the PRS process in at least one municipality will provide the possibility to test the general PRS participation strategy and adjust it in view of replicating it to other municipalities.

The project foresees the creation of partnerships among the civil society and governmental bodies involved in the PRS strategy. Partnerships will also be built with the international community, namely UNDP, UN system (especially in the Poverty and Governance Interagency Roundtables), international donors and the Poverty Reduction Roundtable.

The project focuses not only on mainstreaming HRBA to counterparts and vulnerable groups: it seeks to develop UNDP capacity in order that this agency will take in future a leading position on HRBA issues within the international community.<sup>74</sup>

### HRBA in the Context of Democratic Governance

From the human development perspective, good governance is democratic governance. Democratic governance means that

- People's human rights and fundamental freedoms are respected, allowing them to live with dignity;
- People have a say in decisions that affect their lives;
- People can hold decision-makers accountable;
- Inclusive and fair rules, institutions and practices govern social interactions;
- Women are equal partners with men in private and public spheres of life and decision-making;
- People are free from discrimination based on race, ethnicity, class, gender, or any other attribute;
- The needs of future generations are reflected in current policies

Implementing the MDGs thus requires principles of democratic governance, and this process is about both effectiveness and legitimacy. The achievement of many programming areas within democratic governance, such as anti-corruption, must be firmly based in a rights-based approach as the foundation to achieve results. Thus the human rights-based approach is a fundamental component to such areas and this is why it has an unprecedented advantage over all other strategies.

Quick wins are welcome but only if and when they will fulfill both criteria. One country that has recently achieved this is Mongolia. On the 21<sup>st</sup> of April 2005, the Mongolian Parliament endorsed a historic

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<sup>74</sup> Government Of Ecuador, UNDP, "Integrating The HRBA Into The National PRS Elaboration and MDGs Monitoring System In Ecuador," (project document), 2005.

resolution adopting a Legislative Act on the Millennium Development Goals, which includes a 9<sup>th</sup> MDG on Democratic Governance and Human Rights.<sup>75</sup>

In the subsections below, two programming areas under democratic governance have been used as examples of the possible issues to address when applying a HRBA.

*HRBA and Programming for Access to Justice:*

UNDP is committed to using a human rights-based approach in its programming, guided by international human rights standards and principles. A human rights-based approach is useful to:

- Focus on the immediate, as well as underlying causes of the problem—the factors impeding access (lack of safeguards to access, or insufficient mechanisms that uphold justice for all under any circumstances);
- Identify the “claim holders” or beneficiaries—the most vulnerable (rural poor, women and children, people with diseases and disabilities, ethnic minorities, among others);
- Identify the “duty bearers”—the ones accountable for addressing the issues/problems (institutions, groups, community leaders, etc.); and
- Assess and analyse the capacity gaps of claim-holders to be able to claim their rights and of duty-bearers to be able to meet their obligations and use analysis to focus capacity development strategies.

Access to justice is, therefore, much more than improving an individual’s access to courts, or guaranteeing legal representation. It must be defined in terms of ensuring that legal and judicial outcomes are just and equitable.<sup>76</sup>

**Asia Pacific Rights and Justice Initiative**

In 2003, the UNDP Sub-Regional Resources Facilities in Asia and the Pacific, (based in Bangkok and Kathmandu) started producing a Practitioners Guide to a Human Rights-Based Approach to Access to Justice was developed and launched in September 2005. Under the Initiative, several projects were started adopting a HRBA to access to justice programming. In Cambodia for example a study entitled *Pathways to Justice* was undertaken on access to justice with a focus on the poor, women and indigenous peoples. In Nepal, application of a HRBA involved the use of human rights standards as qualitative parameters for the assessment of both the formal and informal systems of justice with a focus on the poor and disadvantaged groups emphasising free, active and meaningful participation and accountability. In India, a Legal Awareness Project uses Community Radio for stakeholders to define the concrete human rights issues to be covered and to build capacity of such stakeholders to report on grievances in the community to be taken up in interactive radio programmes.<sup>77</sup>

*HRBA and Programming for Public Administration Reform*

More recently, as the concept of governance has evolved, and as the exercise of democratic freedoms has become associated with sustainable human development, so has the role of state institutions in providing services and protecting rights and freedoms become more prominent in development thinking. The added emphasis during the last decade on anti-corruption and transparency draws from this thread.

<sup>75</sup> Van Weerelt, Patrick, *op. cit.*

<sup>76</sup> UNDP, “Access to Justice” (Practice Note), New York, 2004. <http://www.undp.org/governance/docs/Justice%20-%20PN%20-%20English.pdf>

<sup>77</sup> UNDP, “Programming for Justice: Access for All. A Practitioners Guide to A Human Rights-Based Approach to Access to Justice, 2005. <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/docs/ProgrammingForJustice-AccessForAll.pdf>

UNDP's focus on public administration is not only informed by, but also derives from its commitment to a rights-based approach to development. First, a cardinal concept of the Millennium Declaration is the right to development for which good governance is an essential guarantee. Second, key components of a human rights-based approach can only be achieved with the aid, *inter alia*, of an effective public administration. These are:

- Participation and transparency in decision-making – participation throughout the development process is a right, and obliges the state and other actors to create an enabling environment for the participation of all stakeholders.
- Non-discrimination – equity and equality cut across all rights and are the key ingredients for development and poverty reduction.
- Empowerment – people should be enabled to exercise their human rights through the use of tools such as legal and political action.
- Accountability of actors – public and private institutions and actors should be accountable to the public, especially to poor people, to promote, protect and fulfill human rights and to be held responsible if these are not enforced.

Finally, since the rights-based approach seeks to develop not only the capacities of rights-holders to claim and exercise their rights, but also of duty-bearers to fulfill human rights obligations, it increases the pressure on the public administration to put the poor and marginalized groups at the core of policy and of development strategies.<sup>78</sup>

#### **Formalising the link between public administration and human rights in South Africa**

South Africa has embedded an institutionally strong National Human Rights Commission in its Constitution. As a consequence, the South African Human Rights Commission (SAHRC) has acquired a special place within the administration of South Africa. It is not only known for its work on the promotion and protection of civil liberties, but also for its innovative work on economic and social rights flowing from section 184 (3) of the Constitution which reads:

“Each year, the Human rights Commission must require relevant organs of State to provide the Commission with information on the measures that they have taken towards the realisation of the rights in the Bill of Rights concerning housing, health care, food, water, social security, education and the environment.”

The SAHRC publishes a semi-annual report on “Economic and Social Rights in South Africa” that provides information on policy, legislative, budgetary and other matters, vulnerable groups, problems experienced by organs of the State and measures taken to address these, indicators, links to the South African National Human Rights Action Plan and budget allocations. If organs of the State do not respond they may be taken to court by the SAHRC.<sup>79</sup>

<sup>78</sup> UNDP, “Public Administration Reform” (Practice Note), 2004.

<sup>79</sup> Ibid.

**Example of a Human Rights Checklist for Decentralisation in the Context of Participatory Local Governance**

*Context:*

Decentralised participatory democracy is a human rights goal in itself—the right of self-determination. It is also a means to progress in the realisation of human rights although these do not follow automatically from attempts to decentralize. Political resistance can result in a repressive response. Participation can be co-opted with more effective dominance by power holders. Popular interests may not focus on strategic human rights agendas. Transference of responsibility to less capable implementers or less effective accountability systems can lead to loss of efficiency and effectiveness, to waste, corruption, and a reversion to centralization. Access to services may not be improved, especially where scarce resources are spread too thinly. Moreover, decentralisation in itself may be unable to effect change where national policies and political, administrative and judicial systems are unsupportive and the rule is not upheld.

UNDP needs to be informed by these realities and especially by the understanding that there is a path of development for governance systems reflected in the development of societal norms and that fully-fledged participatory democracy may not be the next step on this path. This understanding is essential in resisting advocacy for preconceived forms of governance and seeking instead to support the exploration of developmental steps suited to the historical and cultural context faced, and the movement toward the relational norms required of participatory governance.<sup>80</sup>

*HRBA Checklist for Decentralisation (some sample questions for further adaptation)*

- ✓ Is UNDP advocating for a human rights-based approach? Does UNDP bring an external vision with preconception of the forms that rights-based governance might take or is it truly supporting the country to design its own rights-based forms?
- ✓ Is UNDP supporting the development of country capacity for the design and implementation of the decentralisation programme?
- ✓ Does UNDP offer process consultation and coaching rather than prescriptive expertise?
- ✓ Is responsibility and authority for the national decentralisation programme held at an appropriate level, jointly as necessary (i.e. by Cabinet, Parliament and President's Office)?
- ✓ Does the national programme served by UNDP have a mandate that includes effective consideration of human rights issues relating to the form, content, and establishment of decentralisation?
- ✓ Is management of the change process informed by an explicit understanding of the dynamics of changing norms and the underlying values that they reflect?
- ✓ Is on-the-job coaching in the analysis of duty-bearers/rights-holders and the design of systemic intervention critical to rights-based programming provided as needed?<sup>81</sup>

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<sup>80</sup> Joy, Leonard and UNDP, “Decentralisation and Local Governance Enhancement: A Human Rights Checklist,” New York, 2003, pp.2-4. <http://www.undp.org/governance/docs/DLGUD%20-%20Guides%20-%20Checklist%20for%20Decentralisation%20and%20Human%20Ri.pdf>

<sup>81</sup> Ibid.

## **EXERCISES**

### ***Activity #1***

#### **Situational analysis**

The following development data is drawn from the Cambodia CCA but it could have been drawn from any least developed country CCA:

- Post-1996 GDP growth rates are less than 1/3 the 1996 level of 6%.
- 4 out of 10 Cambodians live below the poverty line
- Per capita income is less than \$300
- Half the children under the age of 5 years are malnourished
- 25% of all households are female-headed
- 75% of the workforce is in agriculture
- Less than 12% of the labor force is engaged in wage employment
- 42% of women and 21% of men have never attended school
- Child workers constitute 10% of the labor force
- 75% of the population (37% of the urban population) have no toilet facilities at all
- One in every 6 women is physically abused by spouse
- Only 277 of 1000 children enrolled, reach grade 6 in school
- The drop-out rate in grade 6 is 51%
- The adult illiteracy rate is 31 to 35% of the population
- The under 5 mortality rate is 181 per 1000 live births
- 53% of children under the age of 60 months are undernourished

The above items of development data have been subjectively selected as a result of a human rights-based reading of Cambodia's CCA.

1. Select any 3 of the problems identified above and identify which human rights are involved and whose? .
2. Human rights are interrelated. What clustering of the above bullet points would you suggest for the purposes of developing a project in response?

### ***Activity #2***

#### **Project design and justification**

Below are brief excerpts from the CCA of Kyrgyzstan.<sup>82</sup>

#### **Selected Highlights From The Kyrgyzstan CCA**

- By the year 2002, 46% of the population are under 20 years old.
- In 2002, 44.4% of the population are below the poverty line. 70% of the absolute poor are residents of rural areas.
- Human security is threatened by inequalities between regions and communities and by unresolved border issues with neighbouring countries.
- There is an increasingly heavy burden of ill health associated with poverty: rise in the incidence of infectious diseases; low reproductive health among women; iodine and iron deficiency among children; increased drug abuse among youth; and a rise in sexually transmitted diseases.

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<sup>82</sup> UNDP, Kyrgyz Republic: Common Country Assessment, 2003.  
<http://www.undp.kg/english/publications/2003/2005110701.pdf>

- Basic education suffers from low investment, resulting in deterioration of infrastructure.
- The country is prone to natural and man-made environmental disasters.
- The recently established Ombudsperson Institute needs to be better equipped to address human rights violations.
- Supportive policies for people's participation in the development process are required.

In response to the above country situation highlights:

1. Design one single project adopting a HRBA (and using the 5 ProDoc elements set out above) you would suggest that the CO take up.
2. Justify the project.

Also set out below, are excerpts from the UNDP Country Programme (CP) for Kyrgyzstan.<sup>83</sup>

### **Selected Highlights From The Kyrgyzstan Undp CP**

#### ***Situational analysis:***

- Kyrgyzstan embarked in 1991, on a dual transition: to a democratic system of governance; and to a market economy.
- Transition shocks and financial crisis occurred thereafter.

#### ***Lessons learned from past co-operation:***

- UNDP interventions at local level "have resulted insubstantial impact on policy-making".
- UNDP has contributed to the institutional and capacity-development of various State institutions.
- Poverty reduction efforts are yielding results. UNDP and UNV together helped 300,000 people (2% of the country's population).

#### ***Proposed CP***

- Poverty reduction through sustainable human development.
- Promoting good governance.
- Strengthening human security.
- Enhancing regional co-operation.

In response to the above CP highlights:

1. Review your choice of project.
2. Further justify if necessary.
3. Make changes in the project design if necessary.

Also set out below are excerpts from the UNDAF for Kyrgyzstan.<sup>84</sup>

### **Selected Highlights From The Kyrgyzstan UNDAF**

#### ***UNDAF situational analysis:***

- Collapse of the social protection system.
- Concentration of several groups at the lowest end of the poverty scale.
- Endemic corruption.

#### ***Three areas of co-operation:***

- *Democratic governance.* For UNDAF anticipated outcomes see Box 1.3.

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<sup>83</sup> United Nations Population Fund (UNFPA) Country Programme (CP) Document for Kyrgyzstan, 2005-2009, (2004). <http://www.unfpa.org/exbrd/2005/firstsession/dpfpacpd-kgz2.pdf>

<sup>84</sup> United Nations Development Assistance Framework (UNDAF) of the Kyrgyz Republic, 2005-2010, (2004). <http://www.undp.kg/english/publications/2004/undaf2004.pdf>

- *Poverty alleviation and Social Services*: For UNDAF anticipated outcomes see Box 1.2.
- *HIV/AIDS*: For UNDAF anticipated outcomes see Box 1.4.

**Areas for collaborative programming identified as “most promising” in the UNDAF:**

Six areas were identified. See page 12, Section 4.1.

**Other areas of concern:**

- Monitoring and evaluation.
- Internal reviews.
- Joint and external reviews.
- Partnership building.

**“Lack of inclusion as collaborative priority in the UNDAF, however, in no way precludes other themes from receiving support from individual UN organisations”.**

In response to the above UNDAF highlights:

1. Review your choice of project.
2. Further justify it if necessary.
3. Make changes in the project design if necessary.

The following is an example of an UNDP Kyrgyzstan HRBA project regarding Poverty Reduction Strategies (PRSs):

### **UNDP Pilot Project On HRBA to National Poverty Reduction Strategies**

This Pilot Project aims at using the human rights based approach (HRBA) to developing the National Poverty Reduction Strategy-II (2006-2008). As a result, human values, norms, and principals are intended to be integrated into NPRS-II. This Project will complement ongoing activities of UNDP and UN Agencies in introducing and strengthening HRBA towards development of national poverty reduction strategies.

To ensure a human rights based approach that leads toward achievement of the MDGs, CCA, UNDAF, and CPAPs focus on the most vulnerable groups, with explicit provisions on ensuring participation, equality, inclusion, accountability, and the rule of law. Moreover, to contribute to the reduction of regional disparities that underlie much of the poverty in the Kyrgyz Republic, the UNDAF points out strategic priorities and the causes of regional disparities. Both CPD and the UNDAF will be implemented during 2005-2010 that is consistent with the timing of the Country Development Framework (CDF) and the second National Poverty Reduction Strategy (NPRS-II).

Guided by UNDAF and CPD, the UNDP Poverty Reduction Program (PRP) consolidates social mobilization activities to provide a platform for the poor to lift themselves out of poverty and help them empower. Micro-level interventions of PRP are intended to be linked with the macro-level so that all lessons learned and valuable experiences in grassroots interventions are reflected in policy-making processes. The Country Development Framework considers efficient public administration and progress in democratic reform as essential components to achieve poverty reduction. In support of this, the UNDP Governance Program of (GP) supports the national government with policy guidance to strengthen the capacity of both central and local government authorities. In close cooperation with other donors, GP aims to strengthen the capacity of central and local to decentralizing. Hence, activities of GP mainly focus on increasing capacity of duty-bearers at all levels, while PRP largely focuses on increasing capacity of rights-holders. A country's ability to reduce poverty is intimately linked with its capacity for good governance.

Thus with the main outcome of this project being the human rights-based development of a national policy and strategy for poverty reduction and social inclusion (NPRS-II), the following four major outputs are anticipated in this project to contribute to the attainment of project outcome:

1. Knowledge and expertise about HRBA are gained by the NPRS Thematic Working Groups and applied in development of NPRS-II.
2. HRBA is introduced in establishment of mechanisms at central level for assessing, prioritizing, and strategizing claims of rights-holders.
3. Coordination and harmonization of all stakeholders and donors are effective in assisting the implementing bodies to develop NPRS-II.<sup>85</sup>

### **Activity #3**

#### **Development data from an African CCA**

- Those currently infected by HIV/AIDS exceed 120,000. This figure is projected to grow to one million by the year 2006.
- Costs to GDP (not including care) of the HIV/AIDS epidemic in the country are expected to reach \$2.8 billion between the years 2000 and 2006.

Working within the context of the CCA and CP of your country, choose one of the groups below and identify human rights-based strategic, developmental interventions dealing with the implications of the above development data for the group you have chosen:

- Those currently infected by HIV/AIDS

<sup>85</sup> Government of Kyrgyzstan, UNDP, "Pilot Project On HRBA To National Poverty Reduction Strategies," (project document), 2005.

- Those at high-risk or vulnerable
- The population at large

In doing so, assess the relevance of the following two sets of human rights principles:

**(I) Key Principles of the ILO Code of Practice on HIV/AIDS and the World of Work<sup>86</sup>**

- HIV/AIDS should be treated like any other serious illness/condition. This is necessary because the workplace, as part of the local community, can play a vital role in the wider struggle to limit the spread and effects of the epidemic.
- Workers, employers and governments should collaborate to promote prevention, particularly in changing attitudes and behaviors through information and education, and in addressing socio-economic factors.
- In the spirit of decent work and respect for the human rights and dignity of persons infected or affected by HIV/AIDS, there should be no discrimination and stigmatization against workers on the basis of real or perceived HIV status.
- The gender dimensions of HIV/AIDS should be recognized. More equal gender relations and the empowerment of women are vital to successfully preventing the spread of HIV infection and enabling women to cope with HIV/AIDS.
- HIV/AIDS screening should not be required of job applicants or persons in employment and testing for HIV should not be carried out at the workplace except as specified in this code. Even outside the workplace, testing for HIV should involve voluntary informed consent and be performed by qualified personnel only, in conditions of strictest confidentiality.
- HIV infection is not cause for termination of employment and persons with HIV-related illnesses should be able to work for as long as medically fit in available, appropriate work.
- There should be no discrimination against workers and their dependants living with HIV/AIDS in access to and receipt of benefits from statutory social security programmes and occupational schemes.
- Successful implementation of an HIV/AIDS policy and programme requires social dialogue between employers, workers and their representatives and government, where appropriate, with the active involvement of workers infected or affected by HIV/AIDS.

**(II). The following human rights principles are contained in several UNDP documents including the UNDP Corporate Strategy on HIV/AIDS ( [www.undp.org](http://www.undp.org) ) :**

- universality and indivisibility;
- human dignity;
- equality and nondiscrimination;
- equity and justice;
- participation and inclusion;
- responsibility and accountability.

**Some case studies for HRBA programme design:**

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<sup>86</sup> International Labour Organisation (ILO), *The ILO Code of Practice on HIV/AIDS and the World of Work*, 2001. [http://www.ilo.org/public/english/protection/trav/aids/code/languages/hiv\\_a4\\_e.pdf](http://www.ilo.org/public/english/protection/trav/aids/code/languages/hiv_a4_e.pdf)

### Targeting the MDGs in Argentina at the Local Level with a Human Rights-Based Approach

UNDP Argentina is supporting national development efforts in the areas of human rights and MDGs-Poverty reduction, as outlined in its CPO for the period 2005-2008. In terms of human rights, UNDP Argentina sets as one of the expected outcomes- as part of the goal of fostering democratic governance- the achievement of a deeper knowledge of human rights, with particular emphasis on economic, social and cultural rights. Regarding the MDGs, UNDP Argentina sets as strategic goal to contribute to the achievement of the Millennium development goals and the reduction of poverty.

The Project will develop an analysis and an action plan to achieve MDGs at local level adopting a HRBA. It aims at developing an in-depth understanding of the concepts and implications related to poverty alleviation, MDGs and HRBA from a local, people-centered perspective.

The aim of the project is, on one side, to increase knowledge among citizens about their rights to development. On the other side, it aims at strengthening the role of civil society in advocating for and participating to public policies at the local level, responsible for the achievement of the MDGs, adopting a human rights perspective.

The project will strengthen UNDP efforts in terms of Human Rights and promotion of the MDGs by linking the concepts of strengthening national human rights policies and strengthening national capacities in the design and implementation of poverty reduction strategies at local level.

Specifically, this project will adopt the Millennium Development Goals, which have been formulated from the perspective of human development, as the central dimension of the analysis. The project will consider the Goals as the relevant dimensions of poverty alleviation to be analyzed from a human rights perspective. The entry point chosen for the intervention is the municipal level. The idea is to design PRS in three pilot municipalities integrating a HR based approach and linking this strategy with the Millennium Development Goals

According to a human rights based approach to PR, the methodology of intervention will be highly participative: the idea is to work from the diagnosis to the formulation and monitoring of the action plan with local communities and from their own perspectives. The aim is therefore to maximize ownership, awareness and capacity of the community itself to adopt a HRPA to PR as a common framework for their joint actions.

The expected results of the project are as follows:

- The elaboration of a specific methodology for local PRS with a HRBA, which will be published and disseminated in the country
- The elaboration of a MDGs-HR situation analysis for the pilot municipalities
- The elaboration of an Action Plan for the achievement of MDGs in the selected municipalities, with a HRBA
- The creation of a permanent space where civil society and Government can periodically debate and follow-up the action plan and its outcomes, adjusting it when necessary..
- The generation of awareness among the population about the main concepts related to MDGs and HR. It is foreseen that 50% of the population living in poverty in the selected municipalities will be exposed to awareness related activities, which will include the dissemination of information material.<sup>87</sup>

<sup>87</sup> Government of Argentina, UNDP, "Targeting MDGs at the Local Level with a HRBA," (project document), 2005.

**Citizen Report Card Survey: A Roadmap to Engage More in the MDGs and SDPRP**

The Sustainable Development and Poverty Reduction Program (SDPRP), which came into effect in September 2002, is increasingly perceived to be the blueprint for Ethiopia's development trajectory as it prepares to meet the development challenges in line with the MDGs. The SDPRP has opened up a vital space for civil society involvement in the design, implementation, and monitoring of poverty reduction programmes. The establishment of the Poverty Action Network for Ethiopia (PANE) in March 2004 has been a significant step in this direction. The overall purpose of the Network is to coordinate the involvement of civil society groups and to empower citizens for active participation in the design, implementation, and monitoring of poverty reduction policies, with the intention of bringing rapid and sustainable changes in the welfare of the people, especially the poor.

PANE intends to conduct a comprehensive review of progress toward achieving the objectives set out in the SDPRP at the local level in selected regions. It will be a participatory process that will not only provide required data but will also help to raise awareness among citizens and, especially the poor, of the SDPRP and initiate an empowerment process for sustained participation in the implementation and monitoring of the SDPRP. It was in this context that the UNDP, on behalf of PANE, approached the Public Affairs Foundation to provide a proposal on building capacity to conduct a Pilot Service Delivery Monitoring Exercise in Ethiopia using the Citizen Report Card approach that provides critical information on the progress of SDPRP, especially in terms of indicators that supplement the conventional M&E frameworks.<sup>88</sup>

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<sup>88</sup> Minority Rights Group International, *op. cit.*, , pp. 42-43.

## Section VI

### Management and Implementation

#### ***6.1 Internalizing the values of human rights.***

Adopting a human rights based approach requires first and foremost the internalization of human rights values at the individual level and developing a human rights culture at the institutional level. This profoundly affects the way in which a project adopting a HRBA must be managed. The management process must itself respect human rights and the values of **nondiscrimination, dignity, accountability, and participation.**

**Access to information** must be guaranteed both as an end in itself and as a means towards securing participation and accountability. It may be necessary to provide the information in multiple media forms to ensure wider dissemination and for example, across communities which do not have access to computers and the internet. BDP/DGG has just completed a comprehensive global best practice analysis of access to information which includes relevant indicators that can be used to measure progress and impact in this area. Macedonia has an access to information policy built into its economic programme.

**Transparency** and integrity are other basic human rights values and must apply to all budget-related processes, to contracting and to procurement of goods and services. Transparency is essential both for access to information and for securing accountability. A HRBA requires the full and clear identification of duty-bearers and their responsibilities.

National ownership and stakeholder **participation** cannot be empty rhetoric and must become day-to-day practice. Stakeholder participation must occur during all stages of the project to ensure that issues of rights and obligations are consistently addressed. This does not necessarily mean large conferences and huge travel expenditures. Engagement can be through electronic communications, the setting up of a hot line, representative community participation, utilization of town hall meetings, and back-to-back sessions with other dialogue forums that bring people together.

Effective mechanisms for ensuring **accountability** must not only be built into the design but actually operate in practice. Such mechanisms could be internal (to the programme/project), external, or a mix of both. From a HRBA perspective, it is vital that stakeholders be part of such accountability mechanisms including key rights holders and key duty bearers who may need capacities to be developed if they are to play their roles effectively in securing and ensuring accountability. Bosnia provides an example of how to achieve this. It has a programme that provides "Citizens Guides to Government Institutions" providing important information to rights and claims holders about such institutions.

#### ***6.2 Initiating a programme or project.***

The UNDP Programming for Results Management Guide sets out basic policies relating to approval authority, accountability, and the need for indicators and tools for monitoring. It also provides a flowchart and procedures for initiating a project. It is vital that the human rights aspects of the project are built in from the very outset and not brought in as an afterthought. Reference and links must be made at the very outset to project-relevant articles of international human rights treaties; specific treaty body responses to state's reports, and to the domestic constitution and laws.

#### ***6.3 Programme or project teams.***

The UNDP User Guide identifies the main sets of team tasks in running a UNDP project: monitor; conduct reviews; provide financing; manage project activities; and provide project support services. It also details procedures for carrying out these tasks. Monitoring the implementation of the project is of course the most important task and the UNDP Programming for Results Management Guide provides for such monitoring within the annual cycle through a Quality Log, an Issues Log, a Risks Log, a Lessons Learned Log, a

Quarterly Report and an Annual Review. HRBA needs to be integrated into each of these tools and procedures.

Development projects contribute to the realisation of all human rights in general and of economic, social and cultural rights in particular. Economic, social and cultural rights are unique because the Covenant on Economic, Social and Cultural Rights itself calls for these rights to be “progressively realized”. A specific methodology for monitoring the progressive realisation of economic, social and cultural rights has been developed and is set out in Annex 3. Project staff applying a HRBA need to be familiar with such methodology, especially as it relates to project-relevant rights. It is recommended that UNDP staff take advantage of the various Communities of Practice (CoPs) and knowledge networking opportunities that are available for human rights issues. These are helpful resources at beginning stages of project initiation and later for project implementation.

### **UNDP Human Rights Communities of Practice and Knowledge Networking**

A Human Rights Community of Practice that brings together UNDP programme staff from country offices, the SURFs, the Regional Resource Centres and headquarters is essential for building synergies and for the practical implementation of UNDP’s policy of integrating human rights with human development. Such a community provides its members a platform for knowledge networking, for sharing experiences and lessons learned and for strengthening individual and collective capacity to apply the human rights- based approach to development.

“Human Rights Talk” (HURITALK), UNDP’s electronic discussion forum dedicated to human rights, serves as a vehicle for interaction among members of the UNDP Human Rights Community of Practice involving also external actors such as human rights academics, practitioners, advocates and activists from other UN entities, bilateral development cooperation agencies, international and national CSOs and NGOs and academic and research institutions. In the context of Action 2, HURITALK will expand further to serve the whole UN system.<sup>89</sup>

In addition to these sources, it should be noted that Support in the implementation of UNDP’s policy of integrating human rights with human development is provided to country offices through a number of on-going global and regional programmes, and several Trust Funds. The programmes include:

- Human Rights Strengthening (HURIST)
- “Assisting Communities Together” (ACT)
- Human Rights Cities, and the Programme on Governance in the Arab Region (POGAR).
- Two Asia-Pacific Regional Programmes with strong human rights components: Participatory Action Research to Advance Governance Options and Networks in the Asia-Pacific region (PARAGON), and Governance for Livelihoods and Development in Asia-Pacific (GOLD).<sup>90</sup>

### **6.4 Results based management.**

When the Administrator presented his Business Plan to the Executive Board in 2000, a commitment was made to reinforce results-based management (RBM) in order to improve the focus and effectiveness of UNDP operations within an increasingly demanding development environment. The monitoring and assessment of performance during 2000 rested on the strategic results framework (SRF) adopted by the Executive Board. The SRF has been refined in light of experience gained. Principles of RBM have been articulated and are being embedded in the routine work of UNDP. Since 2000, the annual results-oriented annual report (ROAR) has been put in place for all COs.

If UNDP is to take seriously the adoption of the UN Common Understanding and apply a HRBA to all its programmes and projects then the results framework must include human rights-related results of

<sup>89</sup> UNDP, “Human Rights” (Practice Note), p. 20.

<sup>90</sup> Ibid, p. 20-21, 26-26.

programme and project impact on respect, protection, promotion and fulfillment of project-related human rights in the country.

A development policy or programme can have several human rights-related results:

- Respect, protection, promotion, and fulfillment of specific human rights related to the concerns and problems addressed by SARED:
- Capacity of rights-holders to assert and claim their rights.
- Capacity of duty-bearers to fulfill their duties, responsibilities and obligations.
- Development of national capacities for monitoring and evaluating the progressive realisation of Project-related human rights.
- Development of capacities of those implementing the Project to adopt a HRBA.

### **6.5 Conflict resolution.**

The right to an effective remedy, guaranteed by Article 2 of the Covenant on Civil and Political Rights, is itself a most basic human right. Hence in adopting a HRBA, UNDP must provide in all its programmes and projects, avenues for conflict resolution such as arbitration, mediation, and direct negotiation, for purpose of redress during implementation, whether to tackle large conflicts or small. A knowledge and understanding of the workings of existing avenues of redress, both formal and informal, is therefore essential on the part of programme and project staff. Brazil pays special attention to managing conflicts in and regarding projects. It adopts a “conflict analysis” by asking 3 questions:

- Which conflicts already exist among project stakeholders?
- Which conflicts may be brought about by factors external to the project?
- Which conflicts may be caused by project implementation?

China too has a pilot project which has lawyers onsite to protect the rights of the accused in pre-trial and interrogation phases. And in Kampot province in Cambodia, the UNESCO-initiated education for peace and development project adopts human rights-based strategies for conflict prevention and resolution in areas formerly under control of the Khmer Rouge. Along with the UN Special Rapporteur on Education, UNESCO (Bangkok) has elaborated a human rights-based approach to educational programming.<sup>91</sup>

### **6.6 Human rights education**

The HRBA to programme and project design calls for a clear identification of the programme or project-related duty bearers and rights/claims holders, and their rights and obligations vis-à-vis each other. Duty bearers and rights/claims holders do not have a static relationship, and often can reverse roles in given situations. It is important to map such roles and relationships early on, as well as look at the multiple actors who may be involved in both areas. The role of human rights education is crucial and therefore, every programme/project should include a programme/project-related human rights education component directed at staff, national counterparts both governmental and nongovernmental, and all stakeholders be they claims holders or duty bearers.

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<sup>91</sup> For a summary of the approach please see Banerjee, *op. cit.*, p.41.

### Dealing with Conflicts in the Mahakam Delta Project

The Mahakam Delta Project is just completing the formulation phase. It aims at the protection and regeneration of the mangrove forests, together with sustainable shrimp farming as well as oil and gas exploitation by the multinational TOTAL (a company which has a respectable ranking on the environment register). Shrimp farming is not sustainable over the medium term, and needs to be cut back by 70% to preserve mangroves. New technologies and alternative livelihoods will be needed for those who will lose their livelihoods among the 50,000 people in seven villages. Project staff identified the human rights to be addressed as land, work, access to information, and participation. There are several potential conflicts:

- The area cannot provide livelihood for all, so some will lose the right to work.
- There are disagreements between the provincial and district governments over who should manage the delta, with the latter responsible for issuing permits for shrimp farming
- Investors, most of them settlers, dominate and marginalize the locals and have access to marketing
- The locals resent the settlers and would like to see them leave
- TOTAL is keen to support efforts to stave off destruction of the mangroves, and has no wish to be blamed for the degradation

Further discussion identified additional potential for conflict: among different interest groups within the community; in terms of gender relations and gender and class tensions (wives of village chiefs versus newly formed women's groups); and between the business community and the multinational. There is often no win-win outcome when it comes to conflicts over land use and the environment. Nevertheless, there are ways to manage conflict, and the following strategies were suggested:

- Providing clear information to all about the carrying capacity of mangroves, and the fact that the entire area will be destroyed within 10 years at this level of exploitation.
- Make clear provision of alternative employment beyond small-scale livelihoods, perhaps by requesting TOTAL to invest in people's skills for employment in gas exploitation with a view to replacing internationals. Such skills would be sought after because they would also be marketable and transferable.
- Enable the community to participate in establishing criteria and making decisions over how cutbacks in land use will be made. This will require further knowledge of and engagement with the seven village communities, since they appear not to have been included in the stakeholder analysis for the project document.
- Deal with the settler pond owners by promoting socially responsible business practices; if this push is ignored, support community cooperatives – which may put pressure on the pond owners to change practices
- Invest in acquisition of bargaining techniques; e.g. it is essential to come to the bargaining table with something to offer but not to offer too much too soon.
- Hire two staff to a) document process and lessons learned, as part of monitoring and ongoing conflict management and b) skilled in community communication and mobilization.

## Section VII

### Monitoring and Evaluation

#### **7.1 Monitoring**

In a HRBA project, it is important to use ongoing or mid-term reviews to measure both the increased capacities of the duty bearers and rights/claims holders supported by the project and the progressive realisation of project relevant rights. A mix of monitoring tools can be employed: sample surveys; peer reviews; consumer/client feedback; field visits; participatory action research; and self assessments, in order to capture the qualitative and empowering aspects of the project processes. Lessons and practices need to be documented which have enabled, or hindered, the realisation of rights (recognizing that unintended negative consequences could have resulted as well) and these lessons and practices need to be fed back into revised project design.

Thus, for example, to monitor and evaluate public service delivery at municipal and local district levels, participatory evaluation methods have been used to develop various measures of capacity to deliver services, such as report cards, citizen charters, and transparency commissions, and other forms of legally designated local government or “community” institutions.

HRBA requires that an independent monitoring mechanism, where possible should be provided for. Given the possible sensitivities involved around mainstreaming a human rights approach, the immediate project stakeholders on the ground, and others fully engaged with the project, could well, consciously or unconsciously bring their own biases into the assessment of project activity. Therefore, a somewhat more distant third party involvement in the monitoring process (and not only a one off involvement in evaluation) can prove effective in this regard.

Impact assessments need to be carried out, using both economic and social impact indicators, that focus on who really benefits, how and why. The design of such evaluations should have a mandate beyond the immediate project activities, to look also at the impact of (and lessons from) project results on relevant national and local level policy and legislation. In order to be effective, this then requires a follow-up engagement with national and state bodies, to provide feedback into national and local policy review and reform.

UNDP can support national capacity to assess progress and monitor the results and impact of sectoral, thematic or sub-regional programmes. This would require building capacities to formulate targets and indicators, compile base line data and statistics as well as to produce periodic surveys, assessments and impact evaluations, and put in place monitoring mechanisms and institutions for this purpose.

#### **Monitoring to Ascertain Human Rights-Based Outcomes from Human Rights-Based Strategies**

Nijera Kori, a Bangladesh NGO has been using human rights-based strategies to secure land rights for poor and vulnerable groups. It has developed in-built organisational monitoring mechanisms to ascertain the outcomes of its strategies. It maintains detailed records and reports of all its meetings and discussions and also publishes an annual report. Keeping track of change through qualitative reporting mechanisms contributes to its own internal learning processes by helping it to monitor which forms of change gather momentum over time, and which fade away, and why.<sup>92</sup>

Applying a HRBA to monitoring requires :

- A monitoring plan with dates, deadlines and reporting which focuses on monitoring the progressive realisation of the human rights impacts goals of the project.

<sup>92</sup> Banerjee, *op. cit.*, p. 24.

- A monitoring mechanism which involves full stakeholder representation and participation in the monitoring processes.
- A monitoring process that adheres strictly to HRBA principles.
- A capacity development programme that will ensure that all stakeholders/duty-bearers can participate in an effective and meaningful manner.
- A monitoring mechanism vested with adequate authority, capacity, and resources.
- Outcomes of the monitoring process that are transparent, accessible, and acted upon.

### **Human Rights-Based Civil Society Support for the PRSP/MDG Implementation and Monitoring at the State and Municipal levels in Bosnia and Herzegovina**

The development objective of this project is to enable participation of civil society and the media sector in policy debates, especially monitoring implementation of the BiH Development Strategy (PRSP) measures and the Millennium Development Goals (MDGs) through a Rights-Based Development Approach (RBA).

At the State-level, the Project will facilitate proactive and institutional participation of civil society representatives in the BiH Government's PRSP Monitoring Group through appointment of Civil Society Focal Points from the government side and Memorandums of Understandings defining specific roles civil society can play in implementing PRSP measures and MDGs (Poverty Reduction and Environment). These activities will be done in close coordination with the Initiatives for Civic Action (ICVA) – a local umbrella NGO, who will operationally chair the meetings on civil society monitoring.

At the Municipal-level, the Project will strengthen the capacity of local media (radios and newspapers) in understanding and monitoring municipal development priorities in municipalities covered by the Rights-based Development Assessment and Planning Project (RMAP). Through trainings and roundtables, the local media will be fully informed of Municipal Development Strategies that have been prepared by the Partnership Groups (municipal authorities and citizens) facilitated by RMAP as well as to be adopted by the Municipal Councils. Such a media support will be provided based on a premise that the local media has important roles to play for citizens to monitor implementation of the Rights-based Municipal Development Strategies, which would be a crucial step toward achieving PRSP/MDGs.

Furthermore, sequencing the State-level PRSP/MDGs with Municipal Development Strategies as well as updates and analyses will be done by a local Think Tank (Millennium Development Group) in close cooperation with the Economic Policy and Planning Unit (EPPU) under the Council of Ministers.<sup>93</sup>

## **7.2 Evaluation**

Internal and external developments have precipitated the significant development of UNDP's evaluation methodology. Internally, the introduction of RBM and the revamping of the UNDP monitoring and evaluation framework changed the nature of planning, reporting and analysis around programming and development results. The improved planning and analysis provided through the self-assessing ROAR (Results-Oriented Annual Report) gave rise to more demand for an independent validation of achievements of results. At the same time, externally, the aid community is moving towards evaluating results at the country level, rather than at the project level, based on the perception that "the country is in most cases the most logical unit of aid management and account" (OECD/DAC). UNDP has responded by developing its approach to country evaluations through an Assessment of Development Results (ADR) process. The ADR fills a void within UNDP for in-depth evaluations on results and a forward-looking analysis of strategic positioning. The ADR will help also promote learning around results and practice areas. Project management and staff need to follow the ADR process closely, adopt its evaluative methodology where possible, and appreciate that evaluation of a specific project has a crucial role to play in ADRs.

<sup>93</sup> The BiH Council of Ministers, UNDP, "Rights-Based Civil Society Support for the PRSP/MDG Implementation and Monitoring at the State and Municipal levels in Bosnia and Herzegovina," (project document), 2005.

UNDP's Evaluation Office will conduct 5 to 10 country ADRs per year. These will be linked closely with other UNDP corporate exercises such as RBM, SRF, ROAR, CCF, and the UNDAF. The ADR should be participatory. The empirical evidence on which the ADR will be based, will be gathered from three major sources of information: perception; validation and documentation.

Specifically, the ADR would include:

- Identifying the **major changes** (at outcome level) in the national development conditions, within the thematic areas in which UNDP has been active over the last five years.
- Assessing **UNDP's contribution** to key development results within those thematic areas.
- Assessing the **anticipated progress** in achieving intended outcomes in the UNDP thematic areas through an appreciation of the current status of intended outcomes.
- Reviewing the UNDP **partnership strategies**.

The ADR will use a mix of evaluative methodologies, including: Focus Group Interviews, Sample Surveys, Questionnaires, Mini-surveys, Structured Interviews, Statistical Analysis and Field Visits.

In assessing results at the country programme level, there are generally two broad approaches used in evaluation:

- **Top-down:** Looking at the overall achievements in the country, within a sector or thematic area, and then attempting to explain which parts of the national successes and failures are linked to the efforts of a particular donor. This approach is basically "subtractive"; starting from the top and "drilling down" results to the particular donor level, but *not* to a detailed project level.
- **Bottom-up:** Taking individual projects and aggregating the findings: an "additive" process that uses conventional evaluation techniques.<sup>94</sup>

Most ADRs will add an element of the bottom-up approach and analyze projects selectively, for purposive sampling. Hence, it is important that HRBA project managers and staff understand the ADR process and the value of their project being selected in an ADR.

Applying a HRBA to evaluation requires :

- An evaluation plan with dates, deadlines and reporting which focuses on monitoring the progressive realisation of human rights and its impacts to the goals of the project.
- An evaluation plan which involves full stakeholder representation and participation in the monitoring processes.
- An evaluation process that adheres strictly to HRBA principles.
- A capacity development programme that will ensure that all stakeholders/duty-bearers can participate in an effective and meaningful manner.
- An evaluation mechanism empowered with adequate authority, capacity, and resources.
- Outcomes of the evaluation process that are: transparent, accessible, and are acted upon.

### **7.3 Responding to the evaluation**

Most HRBA projects will have their protection of rights components strengthened. If conditions are appropriate for project closure, but adequate protection mechanisms do not exist, then continued support for strengthening such protection mechanisms must be ensured. Where a project has had unintended negative consequences by exposing sectors to new vulnerabilities, or where a project has put persons at risk by encouraging them to claim and assert their rights, then continued support for such persons must be assured even if the project closes.

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<sup>94</sup> UNDP, "Assessment of Development Results (ADR)," (Evaluation Office), New York, 2002.  
<http://www.undp.org/eo/documents/ADR/framework/Methodology-guidance-final-draft.doc>

## Section VIII

### Human Rights Information and Indicators

*“What has value, cannot always be counted. What gets counted does not always have value.”  
Albert Einstein.*

#### **8.1 Introductory Clarifications**

Indicators were once viewed as being purely quantitative, and therefore the monopoly of the statistician. By definition an indicator is an instrument to measure and evaluate.

Indicators have long been used in development. The conventional view of development was a purely economic one and hence GDP (gross domestic product) was the indicator most commonly used to measure development. When UNDP pioneered a people-centered paradigm of development, it created a human development index (HDI) which focuses on three important aspects of human well-being (longevity of life, degree of education and enjoyment of a decent standard of living). UNDP has also pioneered a gender development index (GDI).

In pondering indicators, it is important to revisit the concept of the right to development. The right to development is not the same as development. It is not just about improvement in the economy or in social conditions such as schooling. It is also not the same as ‘human development’, the expansion of capabilities and freedoms that individuals have to lead lives they value. The right to development is a much more complex concept; it is about advancing human dignity and freedoms by enjoyment of rights that requires social arrangements to secure.<sup>95</sup>

Therefore, development indicators differ from human rights indicators in terms of what they measure and why. Development indicators measure the effectiveness of development activities, as an essential step in undertaking development planning, programming, implementation monitoring and evaluation. Human rights indicators measure the degree of enjoyment of human rights, with a view to assessing the extent to which a State Party is complying with obligations undertaken under a treaty and a Government is complying with national Constitution and laws.

It would be fair to say that human rights indicators are not as well-developed as development indicators. This is due, in part, to the fact that human rights are universal, indivisible, interrelated and interdependent. It is also due to the fact that measuring realisation of human rights involves a complex, multi-stage process:

- First, it is necessary to identify the specific components of a right, e.g., in the case of the right to education, there are several component rights to basic or primary education, literacy education, adult education, vocational training, etc.;
- Secondly, it is necessary to set national benchmarks or targets of achievement, e.g., literacy rate targets;
- Next, it is necessary to identify the concomitant duties in terms of substantive content (duty to respect, protect, promote and fulfill); in terms of time frame (e.g., immediate or progressive); and in terms of who the duty-bearers are;
- The human rights framework necessitates measuring both conduct and result. The former may involve performance standards (e.g., of police behavior). The latter necessitates disaggregation of data—because human rights are for all irrespective of race, religion, gender, age, etc.;
- Preceding from the above, there is a need to collect data and human rights information;
- Finally, there is the task of analyzing the data.

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<sup>95</sup> Fukuda-Parr, Sakiko, “Millennium Development Goals 8: Indicators for Monitoring and Implementation,” Massachusetts, 2005, p. 5.

Indicators point to what type of data needs to be collected (e.g., primary school enrollment and drop out rates). Measures, applied against benchmarks, help analyse the data collected. While human rights are indeed universal, human rights indicators and benchmarks must be set at the national level but not in a manner that negates or defeats the right.

As is the case with all indicators, human rights indicators may be quantitative or qualitative, and usually both. Indicators may assess inputs, outputs, process or impact. And thus the realisation of human rights – and the right to development – needs to progress along multiple dimensions on different fronts: Two areas of outcomes: the condition in peoples lives and the social arrangements being put in place; several actors; several key characteristics of process; and benchmarking progressive realisation.<sup>96</sup>

There are many aspects of human rights that need to be monitored, namely: progress or retrogression in realisation; violations or denial of rights; fulfillment of duties or compliance with obligations. Because of the longstanding overemphasis in human rights practice on violations, methods for monitoring violations are well-developed. Moreover, the sheer existence and visibility of a victim or a violator makes it easier to monitor violations. The methodology for monitoring progress in realisation of human rights remains less well-developed and therein lies a challenge for both the human rights community and the development community--a challenge, as well as an opportunity for partnership.

There are, of course, a number of sources of human rights data and information in the form of self-assessments; NGO reports; reports of National Human Rights Commissions, Parliamentary Committees or other governmental institutions; National Reports to treaty bodies or global conferences; National Human Development Reports and counterpart publications of other UN agencies working in the country.<sup>97</sup> And most recently, the UNDP Oslo Governance Centre is producing a set of human rights indicators under the HURIST programme in the form of a “Human Rights Indicators Guide.”

### **Benchmarking To Agree On An Adequate Rate of Progress**

Benchmarks have the potential to bring statistical precision into national debates—and they are increasingly being used to set specific, time-bound targets for making progress. In Thailand more than 30 benchmarks for realising children’s rights in 1992-1996 were set as part of the Seventh National Social and Economic Development Plan, including:

- Reduce maternal mortality to 30 per 100,000 live births and infant and child mortality to 23 and 35 per 1,000 live births by 1996
- Ensure that at least 70% of newborn infants weigh more than 3 kilograms, and at least 93% more than 2.5 kilograms by 1996
- Expand basic education from six to nine years and ensure that not less than 73% of those who complete the sixth grade continue with secondary education by 1996

These benchmarks took into account proposals from the National Youth Bureau and civil society and also reflected the global goals set at the World Summit for Children in 1990. Setting goals through participation adds legitimacy—and encourages the NGOs involved to actively monitor results.

Like any tool, benchmarking has its weaknesses. The pressure to meet targets can sometimes lead to results being manipulated to report what people want to see. The lesson? Separate the monitor from the monitored, or benchmarks will have their biggest impact on recorded statistics, not reality.<sup>98</sup>

## **8.2 Implications for Human Rights-Based Programming**

<sup>96</sup> Fukuda-Parr, *op. cit.*, pp. 5-6.

<sup>97</sup> See Annex 1 on Human Rights Information

<sup>98</sup> UNDP, *Human Development Report 2000*, p. 99.

1. All of the above sources of human rights information need to be considered in making the situational analysis and the Common Country Assessment which will form the basis for planning and programming under an UNDAF or national plan.
2. Human rights standards with benchmarks need to be incorporated in the plans and programmes.
3. Indicators and measures to monitor all aspects of human rights need to be similarly incorporated in the plans and programmes.
4. A monitoring mechanism needs to be established for data collection and analysis.
5. Human rights-specific targets of achievement also need to be incorporated in the plans and programmes.
6. Human rights capacity-building needs should be addressed in the plans and programmes.
7. The creation and/or strengthening of a national system of institutions (both governmental and nongovernmental) for the promotion and protection of human rights should be seen as a vital element of such plans and programmes.
8. Human rights education and public awareness-raising should also be seen as an integral component of such plans and programmes.

### **8.3 Developing Indicators for Human Rights-Based Programming**

At least four categories of human rights indicators need to be developed:

1. Indicators to assess the present state of realisation of each human right, to help set development priorities, determine strategies and establish targets.
2. Indicators to assess the human rights impacts of specific development policies and programmes, noting that such impacts might be positive or they might be negative, calling for indicators to measure displacement, discrimination or exclusion from development, access to basic services, land-use conversion, demolition, labour contractualization, etc;
3. Indicators to assess process and ensure that human rights are respected and protected in all developmental decision-making processes and in all development activities, calling for indicators to measure: participation, transparency, accountability, cooperation and coordination, and capacity-building.
4. Indicators to assess institutions (and their capacities) for the promotion, protection and realisation of human rights in and through development.

In doing so, it should be kept in mind that indicators need to be relevant, objective, reliable, feasible, effective, direct, unambiguous, sustainable and practical.

It should also be borne in mind that there is no need to start from scratch. Existing development indicators should be reviewed, adopted where appropriate, and adapted where necessary.

As the Human Development Report 2000 states, "Information and statistics are a powerful tool for creating a culture of accountability and for realising human rights". Nationally designed human rights benchmarks, indicators and measures can provide even greater power to such tool.

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EXERCISES

Activity #1

Return to the project on HIV/AIDS that you have designed and managed under the previous exercise.

Draw up a comprehensive evaluation plan for that project, detailing:

- The indicators and measures to be used in the evaluation.
- The sources of information you plan to draw upon for the evaluation.
- The national partners you plan to involve in the evaluation and why you have chosen to involve them.

Note: Indicators are intended to serve several of the following purposes:

- Making better policies and monitoring progress;
- Identifying unintended impact of laws, policies and practices;
- Identifying which actors are having an impact on the realisation of rights;
- Revealing whether the obligations of these actors are being met;
- Giving early warning of potential violations;
- Enhancing social consensus on difficult trade-offs to be made in the face of resource constraints.

Section IX

Implementing UNDP Policy on Human Rights in the New Millennium

The Human Development Report 2000 reaffirms that “human rights and human development share a common vision and common purpose,” and “the combination of these two perspectives gives us something that neither can provide alone.” Thus, the Report provides a powerful message of the mutually reinforcing relationship between human rights and human development. The Report also argues that the eradication of poverty is not just a development goal, but a central challenge for human rights. Recognizing the importance of human rights to its mandate, and responding to the UN Secretary-General’s Agenda for UN Reform, UNDP, already in 1998 had adopted its policy on “Integrating Human Rights with Sustainable Human development.”

UNDP focuses on promoting human rights primarily through cooperation and constructive dialogue, and through its country programme. While many country offices are already integrating human rights, it is clearly a work in progress that presents many new and unexpected challenges. In August, 2000, Mark Malloch Brown (at the time the Administrator of UNDP), in a note addressed to all Resident Representatives entitled “Implementing UNDP Policy on Human Rights in the New Millennium,” made the following initial suggestions that UNDP should implement at the country level:

1. Make staff training on human rights a priority, particularly in relation to the preparation of the CCA and UNDAF that requires focusing on human rights.
2. Scan existing programmes and activities for their possible reorientation to ensure that human rights principles have been taken into account throughout the programme cycle. Apply human rights norms and standards in designing, implementing and evaluating future programmes.
3. Use the Human Development Report as an opportunity for fostering national dialogue on human rights and human development with government officials, parliamentarians, religious leaders, municipal leaders, NGOS, human rights organisations and others.
4. Develop through broad consultation and participation National Human Development Reports with a focus on human rights and human development.
5. Initiate capacity development activities with governance institutions and actors on human rights and human development including with parliamentarians, mayors, the judiciary, ministries, human rights institutions and NGOs.
6. Encourage human rights education to ensure active participation of civil society organisations in activities to raise awareness of human rights norms and standards in every sphere of the society – within families, communities, private sector, government etc.
7. Play a catalytic role in bringing together all relevant national actors in the preparation of the State party reports to the human rights treaty bodies and link this exercise to the CCA and UNDAF processes and to programme activities. This should include assessing the human rights situation at national level and conducting a comparative review of national legislation and international human rights standards to identify gaps and contradictions.
8. Encourage efforts to strengthen official data collection, to set benchmarks and indicators in the area of human rights and the establishment of national independent monitoring mechanisms.

Capacity assessment and capacity development are essential to any response to the above suggestions of the former Administrator.

ANNEX 1: Human Rights Information and Indicators

A. Generating, Collecting, Compiling and Using Human Rights Information.

1. Human Rights Information: Type and Source.

There is usually a great deal of human rights information available in a country, more than is readily appreciable. In looking for human rights information in order to apply a HRBA, it helps to search by both type and source:

- Event-related.
- Complaint-related.
- Law-related.
- Law-enforcement-related
- Implementation-related
- Person and people-centered (*human*).

2. Human Rights Analysis of Non-Human Rights Information

Human rights information from non-human rights sources (for example, development data) can be used imaginatively and effectively for human rights analysis. Such information can be found in:

- National and local statistics.
- 'Word of mouth'
- Development indicators.
- National Human Development Reports.
- National poverty reports

3. Human Rights Information: uses in applying a HRBA .

- Assessment and analysis
- Priority-setting
- Policy-making
- Programming
- Implementing
- Monitoring implementation
- Monitoring of capabilities, authority, and responsibilities
- Monitoring progressive realisation
- Monitoring violations
- Policy dialogue
- Advocacy
- Awareness-raising
- Social mobilisation

4. Human Rights Information and Reporting.

- Nationally: 'yearbook'
- Internationally: treaty-body reports

5. National, Regional and Global Human Development Reports

An important information source for applying a HRBA to programming is provided by the UNDP Human Development Reports.

The Global Human Development Report

Since 1990 UNDP has been producing, annually, a human development report (HDR) which is an important resource for UNDP policy-making and programming at headquarters, regionally and at country level. The first HDR (1990) was on the *Concept and Measurement of Human Development*. The most recent HDR (2004) is on *Cultural Liberty in Today's Diverse World*. HDRs develop concepts, methodologies and tools as well as contain invaluable development data, and help exchange ideas, resources and experiences.. Several of the HDRs have dealt with themes closely related to applying a HRBA.

The National Human Development Reports

Since 1992, UNDP Country Offices have been producing, periodically, national human development reports (NHDRs).The first NHDR (1992) was from Cameroon. Albania and the Dominican Republic are among the 2005 NHDRs. Some 144 Country Offices have produced one or more NHDRs. Some 220 countries are listed on the HDR web site including the 166 in which UNDP has country offices. Among those countries, the ones who have not produced NHDRs are all the donor countries and the countries in Western Europe, and significantly, the Small Island Developing States; and surprisingly, Sudan.UNDP

COs have identified a number of different subjects and themes for their reports ranging from *Local Governance* (Bangladesh, 1992) to *Pro-poor and Pro-women Policies* (Albania, 2005). There are 28 theme clusters for the NHDRs and all of them are relevant to HRBA. Thematic Guidance Notes have been (or are being) prepared on each of UNDP's 6 practice areas as well as on gender and on globalisation. The purpose of the Guidance Notes is to provide both theoretical background and practical guidance for NHDR teams on how to most effectively consider thematic issues within a human development framework .Generally, NHDRs are prepared through a process that encourages "buy in" from both national governmental counterparts as well as national nongovernmental partners.

Regional Human Development Reports

Since 1994, some 27 regional human development reports (RHDR) have been prepared in 14 regions and sub-regions. The first RHDR was on Sustainable Human Development in the Pacific region (1994) and the most recent is on Freedom and Good Governance in the Arab states region (2004). In most regions, notably the Arab states region, the RHDRs have proved very influential in shaping development thinking, policy and action and constitute a vital resource for applying a HRBA.

Human Development Reports for the theme Human Rights

At present, there are 26 NHDRs listed under the theme human rights and 2 global HDRs listed namely HDR (2000) on *Human Rights and Human Development* and HDR (2003) on *Millenium Development Goals: A compact among nations to end human poverty*.

Of the 26 NHRDs listed, 9 explicitly deal with human rights, and say so in the title of the Report:

- Human Rights and Human Development: Action for Progress, (Armenia, 2000).
- Human Rights and Human Development, (Colombia, 2000).
- Access to Social Rights, especially Health Care and Education, (Georgia, 2000).
- Human Rights, Liberties and Elections: The Quest for Democracy, (Czech Republic, 1998).
- Human Rights and Minority Issues, (Slovak Republic).
- The role of the State in Providing a Social Environment that Supports Human Rights, (Macedonia, 1998).
- Human Development and Moving towards a Rights-based Approach to Development, (Turkey, 1998).
- Population, Demographic Trends and Human rights, (Hungary, 1998)
- Human Rights and Governance, (Somalia, 2001)

The remaining 17 NHRDs listed contain human rights information, but deal with broader themes, issues or subjects such as: social cohesion (Russian Federation); status of women (Russian Federation); the state and human development (Lithuania); violence and human development (Colombia); fighting poverty for a better future (Kazakhstan); children and employment (Cambodia); governance for human development (Haiti); and rural development (Kazakhstan).

B. Indicators: Worked Examples and a Note on Sources

Using Indicators: Examples from Environment and Governance

The project for the **Sustainable Development of Traditional Populations** aims to strengthen the organisations of traditional populations and create effective legal protection mechanisms for the sustainable use of land. The project strategy comprises three stages: organisation and training of beneficiaries; establishment of natural resource-use reservations; and adoption of alternative income projects.

To monitor project progress, we can use process indicators. For example, we can ask if any community organisations have been founded and if their by-laws have been approved. The answer will indicate increased capacity for self-organisation and participation, such as the capacity needed to identify working rules and build a consensus around them. This would indicate an ongoing process of empowerment and of building capacities that is not a final result or impact, but rather an essential step along the way. Another example of a process indicator is to ask if plans to use natural resources were approved. The answer will give two pieces of information: it indicates that a phase of work has been accomplished (not just the procurement of inputs or conduct of activities); and it indicates a capacity to express their demands and preferences, to convince others of the worth of their own proposals, to deal with institutions and so on.

We can further examine which groups of right holders show a better pattern of development: fisherman, rubber tappers, or Brazil nut collectors. We can also disaggregate this information about membership of community organisations by age, race, gender, etc. By so doing we will find out if some groups were excluded from the process and support corrective measures. In this sense, process indicators work as red flags when they are used to monitoring project implementation.

If we want to examine project impact, we can use impact indicators, such as an indicator of income from the Municipal Human Development Index. However, this measurement is too aggregated. So we can try to break it down by race, gender, age, and other factors to get a fuller picture of impact.

We should also be alert to negative impacts. In the project under examination, an indicator of negative impact would be the number of migrants that move to the location year after year. Project success could attract other populations that would then strain the preserved area. If this happens, another indicator of negative impact could be the number of police interventions motivated by land conflicts. Indicators of negative impact are red flags that make it easier to take corrective action.

The **National Program to Support Modernization of Management and Planning** of Brazilian States and the Federal District (PNAGE) aims to improve the efficiency and transparency of state level governments in education, health and security. Growth in efficiency and transparency depends on a capacity that has to be developed in the area of administration. The project has constructed an indicator to identify if this is happening: the effectiveness index of the internal affairs unit. Its formal expression is $[(a+b)/2]$, where (a) is the average number of days between the time a complaint is lodged with the internal affairs unit and the time this unit generates its report, expressed as an annual rate of change; and (b) is the average number of days between the presentation of the report by the internal affairs unit and the enforcement of the recommendation, expressed as an annual rate. This indicator shows the capacity of the unit to investigate and propose sanctions as well as to have recommendations enforced, strengthening the citizens' rights.

To show whether the states are practicing principles of non-discrimination and equality, another indicator could be the number of women and Afro-Brazilians in managerial public positions. This

should not just be applied to the positions open to public competition, but to the ability of these groups to grow professionally in the organisation and to be promoted to higher functions. It would indicate the extent to which measures to eliminate gender and race barriers in the public sector are really working.

Sources of Data

It is necessary to identify sources of information to construct, identify and use indicators. Much information is contained in different institutional databases that should be identified during the project formulation phase, including data in the administrative records and statistics of the agencies that are involved in the project. A lot of data can be produced during regular project activities, without the need for new research. Thus it is important to agree with the partners on the administrative records and statistics to be provided. Only as a last resort should indicators be used that require collection of new data. Some institutional databases available in Brazil, most publicly available:

- The Brazilian Institute of Geography and Statistics (IBGE) offers many studies, including the National Household Sample Survey PNAD. This includes data on gender, race, age, income, employment, as well as data on participation, association, social capital and so on. Moreover, IBGE conducts censuses by sector on productive activities (agricultural, commercial, industrial, etc.) as well as other censuses such as the Census of Sanitary Conditions.
- The Health Ministry's DATASUS gathers all kinds of data on health. It also has the most important database on mortality, the SIM (Mortality Information System), which can support various studies on violence and public security.
- The National Institute of Educational Research (INEP) contains extensive databases on schools, students, teachers, proficiency assessment data, and other assessments.
- The National Association of Post-Graduates and Researches in Social Sciences (ANPOCS) and the University of São Paulo set up a Consortium for Social Information that includes 80 databases with more than 300 organized data sets.
- There are also diverse data in Federal administrative records, such as SIAPE (personnel information system), SIAFI (financial information system) and SIGPLAN (governmental planning information system). Brazilian states will soon implement their own versions. (*Maria das Graças Rua, UNDP Brazil*).

ANNEX 2: Monitoring Progressive Realisation of Economic, Social and Cultural Rights.

(One of the elements of UNDP's Human Rights Policy calls for "engagement with the UN human rights treaty bodies. This Annex seeks to promote familiarity with the report preparation procedures under one such UN human rights treaty.)

A unique feature of the Covenant on Economic, Social and Cultural Rights is that the obligations and commitments under this treaty are to be "progressively realized."⁹⁹

Monitoring of progressive realisation is the main mechanism envisaged by the Covenant, and is at the heart of the system of State-party reporting to the Committee.

State Parties are under an obligation to report initially, after ratification and also periodically, thereafter. The Committee has worked out its methodology for monitoring progressive realisation by State Parties and has developed **a seven step process**:

1. Within two years of the Covenant's entry into force for the State Party concerned, the State must undertake a comprehensive review of:
 - national legislation,
 - administrative rules and procedures, and practices to ensure the fullest possible conformity with the Covenant.

This will involve the twin tasks of:

- amending existing laws, rules, procedures and practices which are inconsistent with the Covenant, and
- enacting new legislation and adopting implementing measures to secure national incorporation and implementation of obligations under the Covenant.

As part of this initial reporting process, benchmarks will have to be set, and baseline information will need to be collected regarding the current situation regarding each Covenant right, in the country.

2. Thereafter, the State is required to monitor the actual situation with respect to each of the rights, in order to be aware of the extent to which the various rights are, or are not, being enjoyed by all individuals within the State. This will need indicators and measures which are appropriate and relevant in the country context. This is a costly and time-consuming process and involves the gathering of: aggregated national statistics and estimates, special data regarding any worse-off regions or areas of the country, specific data regarding groups which appear to be "particularly vulnerable or disadvantaged."

Countries may require international assistance and cooperation to undertake this process of monitoring and, if so, they may note this fact in their report to the Committee, indicating the nature and extent of the international assistance needed.

3. The above step of monitoring is designed to give a detailed overview of the existing situation. The Committee sees the principal value of such an overview as providing the basis for establishing priorities (reflecting the provisions of the Covenant) and elaborating "clearly stated and carefully targeted policies." The third step of the reporting process requires the government to report as to the priorities it has set and the policies it has adopted. This obligation is explicitly stated in Article 14 of the Covenant (regarding free and compulsory primary education) and the Committee is of the view that the obligation "to work out and adopt a detailed plan of action for the progressive implementation" of each of the covenant rights "is clearly implied by the obligation in Article 2, paragraph 1" to take steps... by all appropriate means.

⁹⁹ It should be noted that some ESCR obligations, including duties not to 'respect' (not violate) human rights are immediate, but for the purposes of this Guide, the authors have chosen not to cite the specific court decisions at the national level that provide the most persuasive illustrations of such obligations.

4. The fourth step relates to the preparation and consideration of the Report at the national level. The Committee encourages State Parties:
 - to facilitate public scrutiny of government policies with respect to economic, social and cultural rights
 - to encourage involvement of the various economic, social and cultural sectors of society in the formulation, implementation and review of the relevant policies;
 - to encourage "inputs by such nongovernmental groups into the preparation of their reports; and
 - to ensure "the widespread dissemination of their reports with a view to enabling comments to be made by the public at large.

5. The fifth step involves the State Party itself, and the Committee, "effectively" evaluating "the extent to which progress has been made towards realisation of the obligations contained in the Covenant". For this purpose, the Committee is of the view that, "global benchmarks are of limited use, whereas national or other more specific benchmarks can provide an extremely valuable indication of progress." Thus, for example, the Committee suggests the setting of specific goals with respect to:
 - reduction of infant mortality
 - the extent of vaccination of children
 - the intake of calories per person
 - the number of persons per health-care provider, etc.

Of course, in some countries, some of these goals and benchmarks may be more difficult to measure than others. The first two of the above four are perhaps easier to track than the third (caloric intake per person). For the fourth, it may be easier to start with rough measures such as ratio of licensed medical practitioners to population, and gradually develop more specific indicators that will cover paramedics, primary health care workers, etc., and that will differentiate on an urban-rural basis as well.

6. The sixth step involves the State Party itself, developing a better understanding of the problems and shortcomings encountered in efforts to realize, progressively, the rights and to report on "factors and difficulties" inhibiting such realisation. This, then, provides "the framework within which more appropriate policies can be devised."

7. The seventh step involves the Committee and the State Parties as a whole to:
 - "facilitate the exchange of information among States"
 - "develop a better understanding of the common problems faced"
 - "develop "a fuller appreciation of the type of measures which might be taken to promote effective realisation"
 - "identify the most appropriate means by which the international community might assist States, in accordance with Article 22 and 23 of the Covenant."

The above seven-step method is set out in General Comment 1 adopted by the Committee at its Third session in 1989. The next year, at its Fourth session, the Committee adopted General Comment 2 which details international technical assistance measures under Article 22 of the Covenant. This General Comment is of special relevance to National Human Rights Commissions who are planning to seek technical cooperation assistance from the OHCHR and/or development cooperation assistance from UNDP and the UN Development Group.

ANNEX 3: Some basic points to facilitate human rights-based programme development

The Legal Framework

- To which international human rights treaties is the country a party?
- Are the rights referred to in the human rights treaties protected in the Constitution or other legislation?
- Which judicial, administrative or other authorities have jurisdiction affecting the promotion and protection of human rights?
- What remedies are available to an individual who claims that any of his/her rights have been violated? Is there special legal protection for disadvantaged groups?
- Do non-formal judicial, administrative and other mechanisms respect human rights principles?

Human Rights-Based Assessment

- Are human rights reflected in the State's norms, institutions, legal frameworks and enabling economic, political and policy environment? If so, is there capacity and political willingness to promote and protect these rights?
- Is attention paid to the reviews carried out by the UN human rights treaty monitoring bodies, such as the CEDAW Committee and to their comments, observations and recommendations?
- Is the principle of non-discrimination in law or in practice in any field regulated and protected by public authorities?
- Who are the most disadvantaged and vulnerable groups?
- What is the status of the human rights of women?
- Are relevant human rights data accurate and available and disaggregated by sex, age, ethnicity, geographic origin, and urban/rural location?

Human Rights-Based Analysis

- Who are the duty-bearers and what rights are they mandated to promote, protect and fulfill? Do they have the capacity to uphold these rights and is there political will to do so?
- Who are the claim-holders? Do they have the capacity to claim their rights, i.e. the ability to access information, organise, advocate policy change, and obtain redress?
- Is there an alignment between international and national laws and practices?

Country Programme Process and Outcome

- Do programmes and projects incorporate human rights standards as set out in international and regional conventions? Are recommendations from human rights treaty bodies taken as focus for strategic interventions?
- Do both duty-bearers and claim-holders participate in the design, implementation, monitoring and evaluation of programmes and projects?
- How have the overall programmes and projects built capacities to realize human rights in the country? Do they address the structural causes for the non-realisation of human rights? Which human rights have been realized?
- How is progress monitored and evaluated? Do indicators capture perceptions on the enjoyment of human rights and other qualitative aspects, such as accountability of public authorities?

ANNEX 4: Select References

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