Human Rights Based Approach at Sida

Compilation of Thematic Area Briefs

Thematic Area Briefs

Introduction

Human Rights Based Approach at Sida

The Human Rights Based Approach (HRBA) is established in Swedish policy, where it is called the rights perspective. It is based on the UN Universal Declaration of Human Rights and adopted conventions, and is a central starting point for development cooperation. The integration and application of a HRBA in development cooperation is relevant in the analysis and management of operations and in the dialogue and cooperation with partners and other stakeholders.

For Sida, applying a HRBA implies both what to be achieved and how it can be done. A HRBA is primarily applied through the four principles of non-discrimination, participation, transparency and accountability. The main purpose of a HRBA is to empower boys, girls, men and women to claim their human rights (as rights holders) and to increase the capacity of those who are obliged to respect, promote, protect and fulfil those rights (as duty bearers).

Sida has developed methodological material on how to integrate a HRBA into development cooperation. The methodological material is intended to provide Sida staff with information, tools and inspiration to apply a HRBA. It includes a number of HRBA related information briefs on a range of issues. However, Sida partners and stakeholders have also found the material useful.

The methodological material includes guidance on practical application of a HRBA in various thematic areas, and addressing and including the human rights of children, Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons and persons with disabilities. The LGBTI and disability briefs are available for almost all countries and regions where Sida works.

Thematic Area Briefs

This compilation of briefs includes 10 thematic area briefs with information on the application of a HRBA in relation to a range of thematic areas. These briefs provide guidance and practical examples of how to apply a HRBA when assessing, planning, designing and monitoring programmes in various thematic areas. For each theme there is a full version that provides in-depth knowledge and a summary version.

In addition, there are two other compilations of briefs available: one on the application of a HRBA in relation to persons with disabilities and one on the application of a HRBA in relation to LGBTI persons.

More information about the methodological material is available on:

http://www.sida.se/English/partners/resources-for-all-partners/methodological-materials/human-rights-based-approach-at-sida/

A Human Rights Based Approach to Education and Skills Development

Purpose and framework

The purpose of this brief is to provide guidance to staff on how to apply a human rights based approach to support related to education and skills development. This will help in planning, assessing and monitoring education and training initiatives to ensure that they hold governments accountable to their commitments and empower students and care givers to know and claim the right to education and to skills for life and work.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.). Applying a human rights based approach entails

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes.

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations, and/or

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms etc.) to enable them to address their situation and claim their rights individually and collectively.

The United Nations has established a website called the 'Practitioners Portal on HRBA' — www.hrbaportal.org — which brings together a number of HRBA projects from different countries and sectors with the aim of mainstreaming information and understanding about HRBA. Although the information is aimed at United Nations practitioners, the website has a number of HRBA project examples and research studies from areas including disability rights, health, the environment, poverty and education.

The right to education and skills development

The internationally agreed Human Rights treaties form a common platform for enshrining equal rights to education for all. There are a number of Human Rights treaties relevant to education: the Universal Declaration of Human Rights (1948), the UNESCO Convention against Discrimination in Education (1960), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of All Forms of Discrimination

against Women (1981), the Convention on the Rights of the Child (1989) and the Convention on the rights of persons with disabilities (2006).

The eight ILO Fundamental principles at work or core conventions are:

- o Forced Labour Convention, 1930 (No. 29)
- o Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- o Right to organise and Collective Bargaining Convention, 1949 (No. 98)
- o Abolition of Forced Labour Convention, 1957 (No. 105)
- o Non-discrimination (employment and occupation) Convention, 1958 (No. 111)
- o Equal Remuneration Convention, 1951 (No. 100)
- o Minimum Age Convention, 1973 (No. 138)
- o Worst Forms of Child Labour Convention, 1999 (No. 182)

The most important convention is the CRC, because it is ratified by almost all countries in the world. These international treaties prescribe that

- Primary Education should be compulsory and free of charge for all
- Secondary Education should be made available and accessible to all
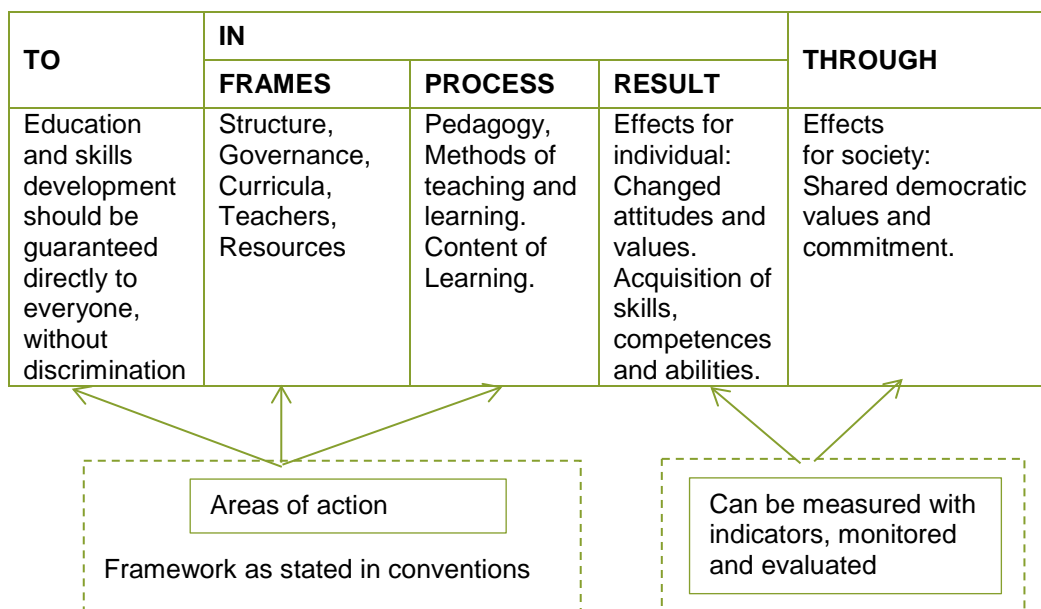- Higher Education should be made accessible to all on the basis of capacity

Sweden has a long history as one of the major donors supporting initiatives for education in Cambodia and is currently funding various programs for better access to good basic education for poor and marginalised children. Photo: Magnus Saemundsson, Sida

By signing international conventions, the state and its institutions have a legal and moral obligation to recognise, promote, provide and protect the rights of the people. International Conventions are monitored by treaty bodies. Country Reports from UN Treaty Bodies are useful sources of information for understanding progress and challenges in a particular country. But international treaties are not legally binding unless they are explicitly incorporated in national legislation. In the field of Education and Skills Development almost all countries have national legislation and policies committing them to provide Education for All.

In addition to the Human Rights treaties, many states have made commitments to international educational development goals – the Education for All (EFA) goals, and the Millennium Development Goals (MDG) which covers the period up to 2015. These goals are often translated into national level goals, policies and plans to which governments could be held accountable. Some countries have joined the Global Partnership for Education (GPE) to realise these common goals. New international education commitments Post 2015 are proposed (Muscat Agreement) and Sustainable Development Goals (SDG) have been drafted to replace the MDGs. The 17 proposed SDGs have one specific goal on education and skills development (Goal 4) "*Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*" (Goal 4), with seven specific targets. The new framework is expected to be adopted in 2015 and will cover the period up to 2030.

Sweden may use all of these legal and moral commitments to justify and underpin its position in dialogue with partner governments and other donors.

The educational rights have been translated into three core elements which should be addressed. These are Rights TO, IN and THROUGH education.

TO	IN			THROUGH
	FRAMES	PROCESS	RESULT	
Education and skills development should be guaranteed directly to everyone, without discrimination	Structure, Governance, Curricula, Teachers, Resources	Pedagogy, Methods of teaching and learning. Content of Learning.	Effects for individual: Changed attitudes and values. Acquisition of skills, competences and abilities.	Effects for society: Shared democratic values and commitment.

Areas of action

Framework as stated in conventions

Can be measured with indicators, monitored and evaluated

Right *to* education and skills development

- The right to education and skills development shall be ratified through legally binding documents, through the constitution or legally binding act. The act should have a particular focus on discrimination and guarantee that primary education is free of charge;

- Secondary education should be made generally available and accessible to all; higher education and Technical and Vocational Education and Training (TVET) should be made equally accessible to all on the basis of capacity.

- Assess indirect costs and to what extent they hinder all children and youth to participate in education and skills development

- Educational systems should be inclusive of girls, boys, women and men alike, irrespective of ethnicity, disability and location of residence. Educational strategies shall be based on solid analyses of the out-of-school population and strategies on how to include them.

- Disaggregated data shall be used as evidence to guide educational policies, plans, budgets and to an equitable resource distribution between different forms of education and skills development, out of school population and districts.

Rights *in* education and skills development

- The learner shall have the right to receive quality education and training in order to read, write, numeracy and basic skills for life and work.

- The learner should learn to respect human rights, fundamental freedoms, own culture and language, respect for natural resources, tolerance, equity of sexes, and living in peace.

- Education and skills development shall be in line with the dignity of human rights. Punishments, unfair treatment and discrimination due to gender, disability, HIV, sexual orientation or gender identity, pregnancy, etc. should be made illegal.

- Learning environment shall be safe and healthy.

- Teacher's training shall incorporate knowledge of human rights, participatory methods, child friendly pedagogies, including knowledge on how to meet the needs of learners with various limitations (in the classroom and/or with support from specialised services).

- Enable participation of learners and students to influence the quality and organisation of education and skills development.

Rights *through* education and skills development

- Education and skills development should promote values of peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin and respect for the natural environment

- Learners should be equipped with relevant skills and self-confidence to be able to participate meaningfully in democratic processes, exercise their political and civic rights, keep healthy and earn a living.

Applying a HRBA to education and skills development

A human rights based approach to education and learning uses the commitments made by the state towards its citizens as a point of departure. It analyses the reasons why girls, boys, women and men are not accessing education or reaching learning targets despite these commitments – and focus the support on addressing these barriers.

The barriers are often many and complex, such as lack of political priority, low expectations on the benefits of education, lack of accessible toilets and school buildings, discriminatory attitudes, inflexibility in organisation and curriculum, unsafe and long school roads, lack of competence and capacity of teachers and school authorities to meet the variation of learners needs etc. Girls, minority children, working children and children with disabilities are often the most excluded and disadvantaged in education.

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A).

Makhfi Girls High School in Faizabad, Badakshan is one of many schools that receive support from Sweden through the Education Quality Improvement Program (EQUIP) of the Afghanistan Reconstruction Trust Fund (ARTF). Now also girls can access quality education, lab equipment and libraries. Parents have started to prioritise education for all. Photo: Sida

Linking to human rights commitments and core elements

Key issues to monitor and analyse in assessing support for education and skills development initiatives are:

- Have the HR obligations and core elements of rights TO, IN and THROUGH education been used as a point of departure for dialogue, programming and funding decisions?

- Is the right to education recognised in the constitution, bill of rights or national legislation? If so, how can Sweden use these commitments to strengthen dialogue and programming?

- Is the program based on an analysis of the causes of the non-fulfilment of the rights to education and skills development?

- Is there a national education strategy based on these analyses and on internationally recognised standards for education, which can guide donor contributions?

Empowerment and capacity development (E)

While the UN treaties and General Comments provide guidance on WHAT has to be achieved, a human rights based approach relates to the process – HOW development programs are implemented. A human rights based approach specifically entails holding the duty bearers (the state) accountable to their commitments as agreed in international Human Right treaties and in their own legislation. It also means empowering the rights holders (individuals and care givers) to know their rights and enabling them to challenge the state and complain to a mandated body when rights are violated. Key issues to monitor and analyse in assessing support for health interventions are:

- Does the initiative enhance the capacity of the education system to address the core elements of rights TO, IN and THROUG education?

- Does the initiative enhance the capacity of adults and children (especially the most vulnerable) to understand their educational rights and to claim them?

Non-discrimination (N)

- Is non-discriminatory legislation, policies and resource allocation in place?

- Is disaggregated data on school and out-of-school population available?

- Are physical, structural and attitudinal barriers addressed?

Transparency (T)

- Is information regarding priorities and budgets communicated to the public via accessible formats and channels?

- Is there adequate monitoring of how resources are distributed throughout the education system, from central to local level (anti-corruption)

- Are learners and their guardians informed about their educational rights and rights related to working life? Are they able to engage with the education system and to make use of complaints mechanisms?

Participation (P)

- Do all stakeholders have a possibility to take part in planning, monitoring and influence policy and processes in education and skills development?

- Do teachers and school leaders have ability to initiate participatory processes?

- Are participatory methods developed for teaching and learning with respect to class-room size?

Accountability (A)

- Are there performance indicators in place that allow monitoring of progress in ensuring access to quality education and skills development?

- Are there complaint mechanisms?

- Do politicians, educational authorities at national and district levels, school leaders and teachers, and guardians have awareness, knowledge, capacity and resources to respond to educational rights?

Useful links and references

The United Nations 'Practitioners Portal on HRBA': www.hrbaportal.org

Sustainable Development Goals (SDGs) https://sustainabledevelopment.un.org/focussdgs.html

The Muscat Agreement (post 2015) on education
https://efareport.wordpress.com/2014/06/04/the-muscat-agreement-new-proposed-post-2015-global-education-goal-and-targets-announced-today/

Millennium development goals (MDGs):
http://www.undp.org/content/undp/en/home/mdgoverview/mdg_goals/mdg2/

Education for All (EFA) Goals:
http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/efa-goals/

UN human rights committees about the rights to education in specific countries:
http://uhri.ohchr.org/en

The Global Partnership for Education (GPE): http://www.globalpartnership.org/

The global human rights education and training centre (HREA) is an international non-governmental and non-profit organisation that supports human rights education;
http://www.hrea.org/index.php?base_id=104&language_id=1&erc_doc_id=4678&category_id=43&category_type=3&group=

Action Aid: Education Rights – A Guide for Practitioners and Activists
http://www.actionaid.org/publications/education-rights-guide-practioners-and-activists

Katarina Tomasevski, Former UN Special Rapporteur on the Right to Education, Manual on Rights-Based Education: http://unesdoc.unesco.org/images/0013/001351/135168e.pdf

UNICEF: http://www.unicef.org/education/index.php

UNESCO: http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/

The Right to Education Project (RTE) promotes mobilisation and accountability on the right to education and builds bridges between the disciplines of human rights, education and development: http://www.right-to-education.org/

Eldis is an online information service providing free access to relevant, up-to-date and diverse research on international development issues: http://www.eldis.org/go/topics/resource-guides/education

Making Schools Inclusive -How change can happen. Save the Children's experience, 2008:
http://www.eenet.org.uk/resources/docs/Making%20schools%20inclusive%20SCUK.pdf

Stonewall is a British lobbying group designed to prevent attacks on lesbians, gay men and bisexual people also working on Education for All: http://www.stonewall.org.uk/at_school/

Minority Rights Group International campaigns worldwide to ensure that disadvantaged minorities and indigenous peoples can make their voices heard: http://www.minorityrights.org/index.html

A Human Rights Based Approach to Education and Skills Development - Summary

The right to education is established in several international Human Rights treaties signed and ratified by most states.   The Convention on the Rights of the Child, article 28 and 29 is the most important. In addition to the Human Rights   treaties, many states have made commitments to international educational development goals – the Education for All   (EFA) goals, and the Millennium Development Goals (MDG) number 2 and 3. These goals are often translated into national level goals, policies and plans to which governments could be held accountable. Some countries have joined   the Global Partnership for Education (GPE), to realise these common goals. . New international education commitments Post 2015 are proposed (Muscat Agreement) and Sustainable Development Goals (SDG) have been drafted to replace the MDGs. The 17 proposed SDGs has one specific goal on education and skills development (Goal 4) "*Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all"* (Goal 4), with seven specific targets. The new framework is expected to be adopted in 2015 and will cover the period up to 2030.

The educational rights have been translated into three core elements, rights TO, IN and THROUGH education, meaning:

To	In			Through
	Frames	**Process**	**Results**	
Education and skills development should be guaranteed directly to everyone, without discrimination.	Structure, Governance, Curricula, Teachers, Resources	Pedagogy, Methods of teaching and learning. Content of Learning.	Effects for individual: Changed attitudes and values. Acquisition of skills, competences and abilities.	Effects for society: Shared democratic values and commitment.

A human rights based approach to education and skills development takes a starting point in *international human rights commitments and standards*. It analyses the reasons why girls, boys, women and men are not accessing education or reaching learning targets despite these commitments – and focus the support on addressing these barriers. Key questions are:

- Have the HR obligations and core elements of rights TO, IN and THROUGH education been used as a point of departure for dialogue, programming and funding decisions?

- Is the right to education recognised in the constitution, bill of rights or national legislation? If so, how can Sweden use these commitments to strengthen dialogue and programming?

- Is the program based on an analysis of the causes of the non-fulfilment of the rights to education and skills development?

- Is there a national education strategy based on these analyses and on internationally recognised standards for education, which can guide donor contributions?

An important element in a human rights based approach is the focus on *empowerment and capacity development* of both rights holders and duty bearers. A key driving force for change is knowledge of educational rights and empowerment to claim these rights. Key questions are:

- Does the intervention build capacity of the authorities to plan, deliver and monitor educational rights? Does it inform and empower students and care givers to claim these rights?

Finally, a human rights based approach is about planning and monitoring how the values and principles underpinning the UN human rights treaties *- non-discrimination, participation, accountability and transparency -* are applied in the programme design and processes. Key questions to consider are:

Non-discrimination	**M**eaningful participation
- Is non-discriminatory legislation, policies and resource allocation in place? - Is disaggregated data on school and out-of-school population available? - Are physical, structural and attitudinal barriers addressed?	- Do all stakeholders have a possibility to take part in planning, monitoring and influence policy and processes in education and skills development? - Do teachers and school leaders have ability to initiate participatory processes? - Are participatory methods developed for teaching and learning with respect to class-room size?
Openness and Transparency	**A**ccountability
- Is information regarding priorities and budgets communicated to the public via accessible formats and channels? - Is there adequate monitoring of how resources are distributed throughout the education system, from central to local level (anti-corruption)? - Are learners and their guardians informed about their educational rights and rights related to working life? Are they able to engage with the education system and to make use of complaints mechanisms?	- Are there performance indicators in place that allow monitoring of progress in ensuring access to quality education and skills development? - Are there complaint mechanisms? - Do politicians, educational authorities at national and district levels, school leaders and teachers, and guardians have awareness, knowledge, capacity and resources to respond to educational rights?

To learn more on a human rights based approach to education and skills development, read the full thematic area brief.

Sida

A Human Rights Based Approach to Environment and climate change

Purpose and Framework

The purpose of this brief is to provide guidance to staff on how to apply a human rights based approach (HRBA) when assessing, planning and monitoring initiatives related to environment and climate. Applying a HRBA, will make these efforts more effective in ensuring that the interests of poor and marginalised women, men and children (right-holders) are prioritised and that people of power (duty-bearers) are identified and held accountable.

In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.). The Aid Policy Framework also presents six objectives; one of them is "*a better environment, limited climate impact and greater resilience to environmental impact, climate change and natural disasters*". Applying a human rights based approach entails:

* Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how to ensure that it will do no harm to the livelihood strategies of the poor.

* Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes

* Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms, etc.) to enable them to address their situation and claim their rights individually and collectively

* Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

The United Nations has established a website called the 'Practitioners Portal on HRBA' – www.hrbaportal.org – which brings together a number of HRBA development interventions from different countries and sectors with the aim of mainstreaming information and understanding about HRBA. The website has a number of HRBA development intervention examples and research studies from areas including disability rights, health, the environment, poverty and education.

Environment and climate change in a context

The Swedish government puts environment and climate change among the top priorities within all its development cooperation.

Natural capital like natural resources, ecosystems, ecosystem services and climate is the basis for human existence and activity. People living in poverty are often directly dependent on natural resources and biodiversity such as forests, land and water. At the same time, groups that are already vulnerable suffer particularly from environmental degradation, exploitation, climate change and natural or man-made disaster risks. Changes in the environment and the climate have the greatest impact on the people living in poverty, people whose resilience to such changes is very weak.

The concept of environment includes a range of issues related to the environment such as air, water, land, climate, natural resources, natural flow, flora, fauna, cultural heritage, people, and the interaction between them and the social, political and economic factors in the society as well as the physical capital for instance infrastructure that mankind has created. Therefore, environmental issues can also address issues such as hygiene, health, food security, urban development, waste management, land tenure and access rights, indigenous and people's rights. At an ecosystem level, environment includes vulnerability to natural disasters such as flooding and cyclones, and measures for adaptation and resilience to climate change.

Social and economic development is crucial in a sustainable development context, especially in combating poverty, but the growth needs to be sustainable. Therefore green growth can be seen as a means to achieve a sustainable economy that provides a better quality of life for all within the ecological limits of the planet. That means taking into account different factors such as environmental impact, climate change, disaster risk and the loss of biodiversity as well as equal distribution of resources.

In many of Sida's partner countries, climate change and depletion of ecosystems is already evident, which has largely affected people's health and their ability to support themselves and for instance their basic rights.

The Swedish objectives for environment and climate change

Weak institutions, ineffective environmental legislation, unclear accountability, poor transparency and a lack of public access and participation further exacerbate the situation. The absence of these has led to the undermining of important ecosystem services and an inability to guarantee access to important natural resources and biological diversity.

In the Aid Policy Framework the objective for environment and climate change has five result areas to address these challenges, all of them with clear linkages to human rights and HRBA:

1. ***Greater resilience to environmental impact, climate change and natural disasters, and a reduced environment and climate impact****.* Natural capital like natural resources, ecosystems, ecosystem services and climate is the basis for human existence and activity. People living in poverty are often directly dependent on natural resources and biodiversity such as forests, land and water. At the same time, groups that are already vulnerable suffer particularly from environmental degradation, exploitation, climate change and natural or man-made disaster risks. Changes in the environment and the climate have the greatest impact on the people living in poverty, people whose resilience to such changes is very weak. A HRBA focus on solutions that benefit and empower the most vulnerable people.

2. ***Strengthened institutional capacity in environmental management and environmental institutions*** – Weak institutions, ineffective environmental legislation, unclear accountability, poor transparency and a lack of public access and participation further exacerbate the situation. The absence of these has led to the undermining of important ecosystem services and an inability to guarantee access to important natural resources and biological diversity. A HRBA entails supporting/demanding of authorities to establish legal frameworks and monitoring mechanisms to protect the people from human rights violations due to environmental degradation and empowering women, men and children concerned to seek information and take action to influence development and protect their rights.

3. ***Sustainable management of ecosystems and sustainable use of ecosystem services*** – Sustainable management and use of ecosystems prevents short term depletion of natural resources by people in power. A HRBA identifies the duty bearers and supports them to take responsibility for an appropriate legal and policy framework.

4. ***Increased access to sustainable energy sources*** – Equitable access to energy is a key non-discrimination issue. Access to energy is a pre-condition for economic growth and basic social services. A HRBA can help to determine what sorts of energy solutions are needed to realise poor or marginal communities' rights to clean, safe and affordable energy and their rights to health, education and water e.g. technical solutions chosen, structure and levels of tariffs and connection fees, subsidising systems for health and education services etc.

5. ***Sustainable urban development*** – Access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water has been established as part of adequate standard of living. A HRBA assists planners to design cities that are accessible and can provide an adequate standard of living to all – in the long term. It uses universal design principles to ensure that shelter, housing, sanitation and water are accessible to all regardless of age, disability, gender, social or economic situation.

Why adopt a HRBA to environment and climate change programming

The principle advantages of adopting a human rights-based approach include:

- *The inter-dependence of human rights and environmental sustainable development.* Human rights and environmental sustainable development are mutually reinforcing. Access to environmental protection is essential to the realisation of basic human rights, including the rights to food, health and even life itself. So too a human rights framework that ensures transparency and empowers citizens to contribute to the management of natural resources will help to achieve environmental goals.

- *A framework for addressing conflicting rights and interests.* A human rights-based approach establishes processes and mechanisms to bring conflicting interest and rights, for example the rights claims of present generations for livelihood security versus the inter-generation claims for environment protection, into the open and seeks to resolve them with accessible redress as necessary where rights are violated.

- *More effective and sustainable programmes.* Experience shows that development programmes are more likely to achieve their objectives when individuals are included as active participants rather than passive recipients. Programmes are more likely to meet local preferences and needs, use local knowledge and technology, and match local capabilities to sustain the projects. As informed citizens and genuine stakeholders, individuals feel committed to maintaining the programme and to protecting their environment.

- *An integrated approach:* Analysing environment and natural resource use issues through the human rights lens allows for a better understanding of how laws, social norms, traditional practices, and institutional actions positively or negatively affect these issues. This leads to more focused strategic interventions, which address the structural causes behind environment-related problems.

- *Attention to the poor and marginalised.* Poor and vulnerable groups often suffer disproportionately from environmental degradation and unjust access to natural resources such as water or land. A human rights- based approach ensures that such inequalities are highlighted in programme design.

- *Preventing "elite" capture of programmes.* With its emphasis on broad-based participation and programming that builds the capacity of poor and marginalised groups to claim and exercise their rights, a human rights- based approach prevents elites from capturing both the benefits and process of programming where environmental issues are at stake.

- *Enhances results-oriented management*. Human rights principles and standards helps to clarify and achieve goals while contributing directly to feedback and monitoring systems. A programme based on human rights design is more likely to provide early warning of problems and strengthen the accountability of all actors as well as promote sustainability.

Human rights systems and standards related to environment and climate

International level

The Universal Declaration of Human Rights (1948) does not include sustainable development or environmental rights as a human right or as a prerequisite to fulfil the human rights. However, environmental aspects are understood as being implicit in these treaties. Fundamental rights such as the right to the highest attainable standard of health - enshrined in the Covenant on Economic, Social and Cultural Rights (1966) - and the right to life - enshrined in the Covenant on Civil and Political Rights (1966) - depend on a sustainable, clean and healthy environment. The Human Rights Committee, established under the Covenant on Civil and Political Rights, has referred to environment issues in its concluding observations, notably with the General Comment on the Right to Adequate Food and the General Comment the Right to Adequate Housing.

More recently drafted international human rights instruments do specifically mention the value of the environment in their systems of protection. These include:

- The Convention on the Rights of the Child (1989); and

- The ILO Convention No.169 concerning Indigenous and Tribal Peoples (1989)

The United Nations Human Rights Council recognised the threat of climate change in its resolution 7/23, "Human rights and climate change" (28 March 2008), expressing concern that climate change "poses an immediate and far-reaching threat to people and communities around the world".

Through Resolution 64/2921, in 2010 the United Nations General Assembly explicitly recognised the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realisation of all human rights. It thereby confirmed the growing consensus that the environment is directly tied to human well-being and to the realisation of human rights.

The most comprehensive international statement on environmental rights to date is the 1994 Draft Declaration of Principles on Human Rights and the Environment, appended to the Report of the UN Special Rapporteur on Human Rights and the Environment.

The principles set out in the Draft Declaration reflect and build upon the rights found in both national and international law. Although this instrument is non-legally binding, national courts have used the Draft Declaration as a basis for decisions on environmental matters.

Regional level

At a regional level, both the European and Inter-American human rights systems have recognised environmental rights in their decisions. Moreover, two regional legal instruments for the protection of human rights contain specific provisions on the right to the environment:

- The African Charter of Human and People's Rights, (1981), which proclaims that "all peoples shall have the right to a general satisfactory environment favourable to their development" (Article 24); and

- The Additional Protocol to the American Convention on Human Rights, (1988), which stipulates that "*everyone shall have the right to live in a healthy environment and to have access to basic public services*" (Article 11).

National level

More importantly, human rights to natural resources and environmental protection have been recognised in national laws, constitutions, and policies. Presently over 100 constitutions throughout the world guarantee a right to a sustainable, clean and healthy environment, impose a duty on states to prevent environmental harm, or mention the protection of the environment or natural resources. Moreover, some of this legal provision provides individuals or groups with the right to file legal action to protect the environment or fight against for example pollution.

Soft and hard law

In the years since the 1994 Draft Declaration on Human Rights and Environment Principles, human rights- based approaches to environmental protection have increased in number and prevalence at the national and local level, supported in large part through programmes to implement Agenda 21 and Principle 10 of the 1992 Rio Declaration on Environment and Development. Principle 10 states that: "*Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided*".

Agenda 21 is the Programme of Action adopted to implement Principle 10. It has 21 Chapters dealing with all aspects of sustainable development including social and economic dimensions (combating poverty and promoting human health), conservation and resource management, major groups (e.g. women, indigenous people, business and unions), and means of implementation (e.g. aid, public awareness, education).

In international law, Agenda 21 and the Rio Declaration fall into the category of 'soft law': they are not directly enforceable in courts and tribunals. Yet although they lack legal status, there is a strong expectation that their provisions will be respected and followed by the international community. Furthermore, they reflect emerging principles of international human rights and environmental law.

One of the first 'hard law' texts to explicitly link environment rights and human rights and to recognise the rights of future generations to the environment is the regional UN/ECE Aarhus Convention. The Aarhus Convention goes to the heart of the relationship between people and governments. The Convention is not only an environmental agreement; it is also a Convention about government accountability, transparency and responsiveness. Although the Aarhus Convention is a regional instrument, between States members of the Economic Commission for Europe (ECE countries), its global significance is widely recognised. The Convention entered into force on 30 October 2001 and is open to accession by non-ECE countries, (as yet no non-ECE country has signed it).

In conclusion, it is noted that there are a highly significant number of legal instruments and voluntary agreements that deal with environment related human rights. Apart from, in some cases, the lack of political will among some states to address environmental challenges, the lack of capacity of governments (duty-bearers) to fulfil their obligations as outlined in the existing instruments the lack of capacity of the concerned women, men, girls and boys (right-holders) to claim and exercise these rights are the main obstacles to the realisation of environment-related human rights.

Applying a HRBA to environment and climate change programming

Sida staff is required to ensure that each development intervention supported is in line with Swedish policies for development cooperation. As part of this assessment questions are asked regarding its contribution towards poverty reduction, democracy and human rights/do no harm, gender equality and environmental/climate consequences. Questions are also asked about the way the development intervention will address accountability, transparency, participation and non-discrimination (the four HRBA guiding principles) in performance and processes.

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A).

Links to human rights treaties and agreements (L)

As described above, there are a number of binding and voluntary international agreements and standards related to environment and climate change. Ensuring that these are informing and guiding initiatives supported is an important part of a HRBA. Key issues to monitor and analyse are:

- Are international human rights agreements and standards used as a reference to justify and design the initiative?

- Are underlying obstacles to fulfilment of these international agreements and standards described and addressed by the initiative?

- Have the formal commitments to the human rights agreements described above been made a precondition for Swedish support to the various parties and sub-contractors?

- Are there measures to ensure that stakeholders are aware of relevant international and national environmental policies and documents?

- How will these international and national commitments be monitored and what will be done if there are gaps in compliance?

- Is there an analysis of the risks and opportunities related to human rights and environmental consequences – both positive and negative?

Mussel collectors benefit from mangrove forest on Asia's shores, which also mitigates the effects of typhoons. A protective and responsible use of ecosystems such as mangroves will reduce the long-term threats to coastal ecosystems and increase local people's ability to live in and from these coastal communities. Sweden supports the program Mangroves for the Future (MFF). Photo: Knud Falk/Sida

Empowerment and capacity development (E)

Empowerment is first about strengthening the organisations that provide voice, demand accountability and ensure protection for vulnerable people. Overcoming exclusion is about addressing power differentials, enhancing knowledge among the women, men, girls and boys affected (of for example planned investments and their consequences, of emerging environmental risks and of means for protection and risk reduction) and facilitating collective action. Empowerment is also about supporting duty bearers to develop policy frameworks that a) create an enabling environment for civil society organisations and b) ensure that private sector actors understand and respect international agreements and national laws that demand that investments are. Key issues to monitor and analyse in assessing support to initiatives:

- To what extent does the initiative contribute to capacity development of affected populations to develop necessary skills for dialogue, negotiation and organisation?

- Have measures been taken to develop the capacities of environmentally vulnerable populations to articulate their demands for protection and services that enable them to maintain and develop their livelihoods and health?

- To what extent does the initiative develop capacities of local community based organisations?

- Are strategies included to enable participants to deliver and manage natural resources or energy services themselves?

- To what extent does the initiative develop capacities of authorities, investors and businesses to monitor and adhere to legal and voluntary human rights instruments?

- Is there support to capacity development of associations representing farmers, fishers and groups engaged in natural resource management, and has analysis been made of who is included and excluded from these groups (in relation to gender, ethnicity, etc.)?

- Have capacities been developed among duty bearers (often together with private sector actors) to assess and mitigate the environmental risks?

- Are environmental considerations incorporated in schools' waste management, use of water and energy, positioning of windows, construction technology, including resilience to environmental hazards and climate change, in order to increase sustainability and cost effectiveness?

Non –discrimination (N)

All women, men, girls and boys are entitled without any discrimination to equal access to ecosystem services and natural resources and resilience for a standard of living adequate for their health and well-being. Discrimination may be expressed in law (explicit discrimination) and hence be part of official policy; such as lack of land rights; or it may be found in practice and behaviour (implicit discrimination); such as where a remote group cannot access water services because drinking wells provided by the state are too far away. Key questions are:

- Are vulnerable groups specifically identified and targeted?

- Is there a proper analysis of the consequences of the initiative for these women, men, girls and boys?

- Is there a plan for their inclusion and benefit including disaggregated data and indicators?

- Are tariffs and fees adjusted to accommodate also poor and marginalised groups?

- Are land and property rights addressed to ensure that women, minorities and poor people are protected or fairly compensated?

- Are the livelihoods supported resilient to risks related to climate and market volatility and uncertainty, and thereby relevant for vulnerable populations that cannot afford to shoulder uncertain risks?

Transparency (T)

All people have the right to obtain information in an accessible and timely manner e.g. about pollution levels, water quality, environmental health risks, exploitation plans, land use plans, disaster preparedness plans. Granting sufficient and accessible information to affected women and men in planning and policy making processes is of key importance to their ability to influence and monitor developments. Important also, taking into account local traditions, survival strategies and indigenous people's dependence on natural resources, and ensuring that separate views are documented. Essential as well is to take into account, poor people's access to natural resources and that a long term sustainable development can be promoted, to avoid future opposition and conflicts.

Key questions are:

- Are the plans and goals of the initiative made public and explicit in an accessible manner to all stakeholders concerned, including the most marginalised groups?

- Will affected women, men, girls and boys receive sufficient, timely and accessible information, including separate views on the plans, and will they be able to take part in and influence the process?

- Will the access to information regarding the local risk situation be improved and will early warning systems be developed so that vulnerable people's ability to protect themselves and quickly recover after disasters is strengthened?

- Does the initiative contribute to capacities and commitments for greater transparency in policies and practice affecting land and natural resource tenure, particularly in new forms of land acquisitions and concessions?

Participation (P)

Everyone has a right to freely participate in decision making that affects them and their environment. People of power have an obligation to offer meaningful participation and consultations to people affected. Everyone has the right to organise and hold opinions without any interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Promoting participation is essential for the outcome of projects and programmes. It is stated in international treaties that women, men, girls and boys have a right to participate in decision-making that affects them. Social and cultural roles that are prescribed women and men have impact on their possibilities of choices, economic independence, and access to natural resources, access to land tenure, access to clean and safe water, and decisiveness on housing, education and livelihood.

Nile Basin Initiative at the inauguration of an irrigation project in Lukhuna, Uganda. The project is part of the Swedish support to the Nile initiative and around 500 people take advantage of it by production of profitable crops. Photo: MariaVink/Sida

Key questions are:

- Are fair and effective platforms for public-private dialogue in place, and do they give space to representatives of women and men with less power and status?

- Are measures taken to include and enhance capacity of those with less knowledge and power so that they can participate meaningfully in the consultative processes? E.g. do all stakeholders have sufficient and accessible information on the issues being addressed; are they invited to truly participatory processes? Are barriers removed e.g. no expensive travelling, not during busy seasons, not inaccessible for women or persons with disabilities?

- Are stakeholders actively engaged at all stages of the programming process?

- Do initiatives make space for vulnerable people to take actions of their own choosing to manage perceived risks? This is especially important in 'transformative' efforts that encourage profound changes in livelihood systems in response to climate change or market upheavals?

Accountability (A)

The state has an obligation to respect, fulfil and protect the rights of its population. It entails a functional regulatory system for environmental/climate issues, concrete plans for disaster risk reduction and response, rule of law and a justice system that provides legal aid to poor and marginalised people and their organisations, functional and accessible complaints mechanisms. Emphasising the accountability of all actors whose actions impacts the environment and natural resources, both state and non-state actors, is a central element of the human rights-based approach. Asserting human rights without supporting effective and precise frameworks to hold duty bearers accountable will be of little practical use.

Strengthening the governance of natural resource management and securing natural resources tenure, also taking rights of local people, women and men, ethnic minorities, nomadic or other marginalised groups into account, can minimise corruption, have positive effects on conflict management and be a key step towards alleviate tensions in the society, and consolidating peace in post-conflict societies.

Key questions are:

- Does the initiative contribute to ensuring that public and private sector actors have systems in place to monitor and disclose social and environmental impacts according to national and international standards?

- Do monitoring and evaluation arrangements involve civil society organisations representing the concerned population?

- Are there consequences (legal, financial or moral) for non-compliance to human rights objectives and principles?

- Has the initiative established accessible and effective mechanisms for redress and complaints?

- Does the initiative facilitate access to networks, organisations and other sources of information that may assist duty bearers to enhance their accountability and rights holders to claim their rights?

Useful links and references

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Human Rights Based Approach to Environment and Climate Change – Summary

Natural capital like natural resources, ecosystems, ecosystem services and climate is the basis for human existence and activity. Changes in the environment and the climate have the greatest impact on the people living in poverty, people whose resilience to such changes is very weak.

One of Sida's main tasks is to contribute to a fair and environmental sustainable development. This means taking into account different factors such as environmental impact, climate change, disaster risk and the loss of biodiversity as well as equal distribution of resources. Applying a HRBA, will make these efforts more effective in ensuring that the interests of poor and marginalised women, men and children are prioritised and that people of power are identified and held accountable.

A human rights based approach takes a starting point in **_international human rights commitments and standards_**. Key questions to discuss when assessing proposed initiatives are:

- Are international human rights agreements and standards used as a reference to justify and design the initiative? Have these commitments been made a precondition for Swedish support?

- How will these international and national commitments be monitored and what will be done if there are gaps in compliance?

- Is there an analysis of the risks and opportunities related to human rights and environmental consequences – both positive and negative?

An important element in a human rights based approach is the focus on **_empowerment and capacity development_**. Key issues to consider are:

- To what extent does the initiative contribute to capacity development of affected populations to develop necessary skills for dialogue and negotiation? To articulate demands for protection and services that enable them to maintain and develop their livelihoods and health?

- To what extent does the initiative develop capacities of local community based organisations that can enhance knowledge and provide voice to the affected groups?

- Is there support to capacity development of associations representing farmers, fishers and groups engaged in natural resource management, and has analysis been made of who is included and excluded from these groups (in relation to gender, ethnicity, etc.)?

- To what extent does the initiative develop capacities of authorities, investors and businesses to monitor and adhere to legal and voluntary human rights instruments?

- Have capacities been developed among duty bearers (often together with private sector actors) to assess and mitigate the environmental risks?

The questions below, related to the four HRBA principles, may also help to prepare, asses and monitor initiatives to ensure that human rights are enhanced and respected both in results and processes.

Non-discrimination

- Are vulnerable groups specifically identified and targeted?
- Is there a proper analysis of the consequences of the initiative for these women, men, girls and boys?
- Is there a plan for their inclusion and benefit including disaggregated data and indicators?
- Are tariffs and fees adjusted to accommodate also poor and marginalised groups?
- Are land and property rights addressed to ensure that women, minorities and poor people are protected or fairly compensated?
- Are the livelihoods supported resilient to risks related to climate and market volatility and uncertainty, and thereby relevant for vulnerable populations that cannot afford to shoulder uncertain risks?

Transparency

- Are the plans and goals of the supported initiative made public and explicit in an accessible manner to all stakeholders concerned, including the most marginalised groups?
- Will affected women, men, girls and boys receive sufficient, timely and accessible information, including separate views on the plans, and will they be able to take part in and influence the process?
- Will the access to information regarding the local risk situation be improved and will early warning systems be developed so that vulnerable people's ability to protect themselves and quickly recover after disasters is strengthened?
- Does the initiative contribute to capacities and commitments for greater transparency in policies and practice affecting land and natural resource tenure, particularly in new forms of land acquisitions and concessions?

Participation

- Are fair and effective platforms for public-private dialogue in place, and do they give space to representatives of women and men with less power and status?
- Are measures taken to include and enhance capacity of those with less knowledge and power so that they can participate meaningfully in the consultative processes? E.g. do all stakeholders have sufficient and accessible information on the issues being addressed; are they invited to truly participatory processes?
- Are stakeholders actively engaged at all stages of the programming process?
- Do initiatives make space for vulnerable people to take actions of their own choosing to manage perceived risks?

Accountability

- Does the initiative contribute to ensuring that public and private sector actors have systems in place to monitor and disclose social and environmental impacts according to national and international standards?
- Do monitoring and evaluation arrangements involve civil society organisations representing the concerned population?
- Are there consequences (legal, financial or moral) for non-compliance to human rights objectives and principles?
- Are accessible and effective mechanisms for redress and complaints established or planned for?
- Does the initiative facilitate access to networks, organisations and other sources of information that may assist duty bearers to enhance their accountability and rights holders to claim their rights?

To learn more on a human rights based approach in environment and climate change programming, read the full thematic area brief.

Sida

A Human Rights Based Approach to Health

Purpose and framework

The purpose of this brief is to provide guidance to staff on how to apply a human rights based approach to health, on health related programmes and policies.

A HRBA to health aims to realise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (right to health) and other health-related human rights. A HRBA makes explicit reference to human rights from the onset of programmes, policies, and projects, as a way to prevent violations from happening in the first place. As such, the introduction of a HRBA to health is about approaches and processes as well as maximum public health gains.

Evidence indicate that applying a HRBA will contribute to improving maternal and child health, by improving access and the quality of services, as well as collaboration with other sectors. Where a HRBA to health has been applied, it has contributed to significant reduction in maternal and child morbidity and mortality (Women's and Children's health: Evidence of Impact of Human Rights, WHO 2013). There is also evidence that applying a HRBA will improve quality of mental health services.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.). In short, applying a human rights based approach entails:

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Treaties and internationally agreed standards, identifying and addressing underlying causes to non-fulfilment.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes.

- Empowering men, women, youth, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms, etc.) to enable them to address their situation and claim their rights individually and collectively

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations.

The right to health in all its forms and at all levels contains the following interrelated and essential elements, *availability, accessibility, acceptability and quality* (AAAQ) – as explained below – the precise application of which will depend on the conditions prevailing in a particular State party. When assessing health initiatives, both the four key elements and the four HRBA principles need to

be considered. As such, a HRBA to health encompass AAAQ and non-discrimination, participation, accountability and transparency.

Sweden has a global strategy on "Socially sustainable development" 2014-2017, which includes directions and result expectations within the areas of health and education. In the area of health, the strategy has three focus areas;

- survival and healthier lives (including child and maternity health, strengthened health systems and reduced health hazards),
- better access to sexual and reproductive health and rights, and
- better access to safe water and sanitation.

In terms of normative guidelines, the Swedish strategy refers to WHO tools. Some of the most relevant to this brief are: The WHO brief on HRBA to health, UN Special Rapporteur on the Right to Health, WHO, Health and Human Rights web portal and the monitoring body of ICESCR (International Covenant on Economic, Social and Cultural Rights).

The right to health

The right to health is an abbreviation of the 'enjoyment of everyone to the highest attainable standard of physical and mental health'. The right to health is not a right to be healthy: it is a right to facilities, goods, services and conditions that are conductive to the realisation of the right to health, such as, gender, water, sanitation, education. At the heart of the right to health is a functioning health system, accessible to all without discrimination.

The right to health was first recognised in the Constitution of the World Health Organisation (1946). Since then it has been protected in a number of treaties that spell out the rights of women, children and persons with disabilities, although the International Covenant on Economic, Social and Cultural Rights (ICESCR), seen as the core treaty on the right to health. It is also found in regional human rights treaties, such as the African Charter on Human and Peoples´ Rights, European Social Charter and the American Convention on Human Rights.

The right to health is a progressive right, implying that a State has to step by step improve the health of its populations, especially for those who presently have the least access to services (principle of non-discrimination). It also implies that more is expected of a rich country, such as Sweden than of a resource poor country. Although the right to health is a progressive right, some rights are of immediate effect and, irrespective of resource level of the country, needs to be in place immediately (referred to as core obligations).

The UN Committee on Economic, Social and Cultural Rights (CESCR), is a body of independent experts, which monitors the implementation of the ICESCR. Year 2000 they adopted the General Comment 14 on the right to health. This document sets out the Committee's interpretation of this human right. Further, since 2002, a UN Special Rapporteur on the Right to Health has been appointed to e.g. further clarify the contour and content of the right to health, monitor its realisation and take complaints.

In its General Comment No. 14 of 2000, the Committee has defined core obligations and priority areas of the state. These apply to all countries irrespective of income level and should be carried out first:

a) To ensure the right of access to essential primary health care facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalised groups;

b) To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;

c) To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;

d) To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;

e) To ensure equitable distribution of all health facilities, goods and services; States have a special obligation to provide those who do not have sufficient means with the necessary health insurance and health-care facilities.

f) To adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised on the basis of a participatory and transparent process; they shall include health indicators and benchmarks, by which progress can be closely monitored and give particular attention to all vulnerable or marginalised groups.

General Comment 14, Priority areas

The Committee has also pointed on some obligations that have very high priority:

a) To ensure reproductive, maternal (pre-natal as well as post-natal) and child health care;

b) To provide immunisation against the major infectious diseases occurring in the community

c) To take measures to prevent, treat and control epidemic and endemic diseases ;

d) To provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them ;

e) To provide appropriate training for health personnel, including education on health and human rights.

With this in mind, the right to health makes a number of demands on health system, a health plan and respect for primary health care and reproductive health services. General comment 14 outlines the following essential elements of the right to health:

Availability (A)

Functioning public health-care facilities, goods, services and programmes are available in sufficient quantity within the State party. The nature of the facilities services will vary depending on numerous factors, including the State party's developmental level. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs.

Accessibility (A)

Accessibility of health facilities and services for all, without discrimination: physically accessible and in safe reach for all, including women and girls, and disadvantaged persons (for example persons with disabilities) and groups, affordability for all, particularly for disadvantaged persons and groups, the right to seek, receive and impart health information, whilst respecting the confidentiality of personal integrity and data.

Acceptability (A)

Respect for medical ethics and confidentiality, and cultural appropriateness, sensitive to gender and life-cycle requirements, as well as specific individual needs in service delivery. Well-designed services aiming to improve health status of those concerned.

Quality (Q)

Health facilities, goods and services must be scientifically and medically appropriate and of good quality. This requires skilled personnel, unexpired drugs, hospital equipment, safe and portable water and adequate sanitation.

In its dialogue Sweden can use the UN treaties, the "core obligations" and the "core elements" established in General Comment 14 to justify raising questions and expect answers from partner governments and other donors – and also refer to evidence showing the added value of using a HRBA.

When working in conflict areas, Sweden can also make use of the Geneva Convention which speaks about the right to health services in conflicts and the right of health staff to be protected. It has been ratified by most states. Guidance is also provided in General Comment 14, which is also valid in conflicts.

Applying a HRBA to health sector programs

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A). In relation to health programmes the key elements of *availability, accessibility, acceptability and quality* are often used as an additional interlinked analytical tool.

Midwives at Nyong Primary Health Care centre in Eastern Equatoria attend to a pregnant mother. The health Pooled Fund is working with partners to strengthen supervision and on the job training for health workers across South Sudan. Sweden invests nearly two billion SEK per year in health sector programmes such as capacity development of health systems and reproductive health and rights. Photo: Andreea Campeanu/Health Pooled Fund

Linking to Human Rights commitments and core obligations (L)

The right to health is not a right to be healthy: it is a right to facilities, goods, services and conditions that are conductive to the realisation of the right to health, such as water, sanitation, good environment etc. At the heart of the right to health is a functioning health system, accessible to all without discrimination. The right to health makes a number of demands on the health system, including respect for primary health care and reproductive health services. Key issues to monitor and analyse in assessing support for health initiatives are:

- Have the HR obligations and key elements of availability, accessibility, acceptability and quality been used as a point of departure for dialogue, programming and funding decisions?

- Is the right to health recognised in the constitution, bill of rights or national legislation? If so, how can Sweden use these commitments to strengthen dialogue and programming?

- Is the program based on an analysis of the causes of the non-fulfilment of the rights to health?

- Is there a national public health strategy/ national health plan based on these analyses and on internationally recognised standards for health systems, which can guide donor contributions? (E.g. that the program is working towards improving the health system (and no parallel activities,) that there is an inter-sectorial collaboration, that the services are preventive, curative and rehabilitative also encompassing palliative care, that there are mental health services, etc.)

Empowerment and capacity development (E)

While the UN treaties and General Comments provide guidance on WHAT has to be achieved, a human rights based approach relates to the process – HOW development programs are implemented. A human rights based approach specifically entails holding the duty bearers (the state) accountable to their commitments as agreed in international Human Right treaties and in their own legislation. It also means empowering the rights holders (individuals and care givers) to know their rights and enabling them to challenge the state and complain to a mandated body when rights are violated.

Key issues to monitor and analyse in assessing support for health interventions are:

- Does the intervention build capacity of the authorities and health staff to plan, deliver and monitor availability, accessibility, acceptability and quality health services?

- Does the intervention build capacity of the poorer households and marginalised women and men so that they know how, where and when they can demand/ complain concerning their rights to health?

Non-discrimination (N)

Health Services must be provided to all without discrimination regardless of gender, religion, ethnicity, age, language, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status.

Key issues to monitor and analyse in assessing support for health interventions in order to combat discrimination in the health system are:

- *Are services affordable to all?* Preventive, curative and rehabilitative services and essential medicine for life threatening or disabling conditions (according to WHO list) as well as reproductive health measures for women and youth must be accessible also to poor and marginalised groups. Privatisation of health services must be accompanied by mechanisms that ensure access and quality for all. Programmes must monitor the affordability of essential health services closely and challenge inequalities and discrimination in the system. Insurance systems and subsidies must guarantee a minimum level. A good example has been introduced in Rwanda. Strategic alliances could be made between donors and with WHO in this respect.

- *Are services accessible, relevant and of good quality*? Long distances, poor transport and lack of expertise are often obstacles for poor and marginalised women, men girls and boys to access quality health services. Health systems must continue to build capacity of district and community health programs combined with training for staff and volunteers to improve their performance in terms of impact on health indicators especially for vulnerable and marginalised groups. Other measures may include mobile phone supported expert support (mHealth), sign language interpretation services, physical accessibility of health care facilities etc.

- *Are negative attitudes, stigma and prejudice addressed?* Governments must take deliberate measures and allocate resources to challenge actions and structures within the health service that lead to stigma and discrimination of certain groups (e.g. women, elderly, persons with disabilities (physical and mental), persons living with HIV and/or TB and Lesbian, Gay Bisexual and Transgender persons (LGBT-persons). Collaboration with the civil society and media actors may be a way forward in addressing stigma and misconceptions for example on physical and mental disability, LGBT rights, maternal mortality and sexual and reproductive health and rights (SRHR)

- Are there indicators? If so, are they disaggregated by e.g. sex, age, rural/urban?

Following the strong commitment to gender equality of Sweden, there is a need to focus specifically on how the national health sector plan and supported civil society health initiatives benefit women and girls and how their sexual and reproductive health needs and rights are met.

Key issues to monitor and analyse in assessing support for health interventions are:

- Does the national health plan encompass a SRHR component which is budgeted for? Does it include a strategy on SRHR with targets and time frames?

- Are there key indicators for gender equality outcomes and impact (e.g. reduced maternity mortality, increased access to legal and safe abortion, increased knowledge about sexual and reproductive health and rights among young women and men, decreased rate of fistula, existence and implementation of laws against FGM)?

- Are there key indicators for increased access to sexual and reproductive health and rights of young women and men (increased access to essential medicines and preventive methods, lower rates of unwanted pregnancies, increased use of condoms, attitude and behaviour change in relation to expectations on male sexual performance and female sexual accessibility, delayed sexual debut, decreased rates of forced marriage, presence of sexual and life-skills education in primary and secondary schools)?

- Is there a monitoring mechanism to supervise performance of the health service at different levels in relation to these indicators, particularly in rural areas?

- Are there functional, independent accountability mechanisms, such as gender commissions and civil society organisations?

Transparency (T)

In order for individuals and organisations to hold states' accountable – information on health policies, plans and budgets must be made available to the public as well as information on available services and how to access these.

Key issues to monitor and analyse in assessing support for health interventions are:

- Is the government communicating their health polices, plans, programs and available services in an accessible manner (e.g. radio, community and district offices, extension workers)? This includes information on the national and district health budgets and allocation of resources and health staff to different health areas and groups.

- Are policies, plans, budgets and services in the area of SRHR, mental health and rehabilitation for persons with disabilities explicit and communicated?

- Are the plans and programs communicated possible to realise "on the ground", in the communities? If not, what are the obstacles?

- Are medical research and technical capacity building accompanied with health campaigns/primary health care education to increase the awareness and knowledge of health issues and services among the population?

- Are economic and social costs for home-based care visible? This may not be stipulated in the law, but it is particularly important as chronic illnesses increase (such as HIV/Aids and cancer) and the population is aging. Making the unpaid work carried out by women visible and recognised, will also make it easier to support and train this group and improve quality of care.

Participation (P)

International treaties state that women, men, girls and boys have a right to participate in decision-making that affects them. This includes the health staff at all levels as well as the users of the health services, who have a right to participate in decisions regarding their treatment.

The socially prescribed role and expectations on women and girls as care givers have impact on their possibilities of choices, economic independence, access to education and labour market, and personal health. Different forms of gender discrimination have a great impact on women's health.

Everybody has a right to participation, but it is of particular importance that women and vulnerable and marginalised groups in the society have the possibility to give their input on how to challenge discrimination related to e.g. age, gender, HIV and disability(physical and mental) and have influence over the development of the health sector. Sweden could consider supporting relevant civil society groups to organise and be heard.

Key issues to monitor and analyse in assessing support for health interventions are:

- Are civil society organisations that organise marginalised groups (for example people living with HIV, patient organisations and disability organisations) invited as resources in programs and policy development? Are they taking part in formal spaces of decision-making such as local health committees, consultative development councils and likewise?

- Are home-care providers recognised as stakeholders in health programs and enabled to participate in decisions-making and monitoring of domestic and international HIV and Aids programs?

- Is the design of health education programs considering the views and experiences of different user groups and local health workers, including traditional healers and religious leaders (who are often key stakeholders that need to be brought on board)?

- Do patients participate in designing their treatment plan and do they have access to a patient complaints mechanism?

Sweden is one of the countries contributing most to the fight against Ebola epidemic in West Africa. As of 3 November 2014, the Swedish support reaches 549 million SEK, targeting the most urgent needs in crisis hit Guinea, Liberia and Sierra Leone.
Photo: Johan Lundahl, MSB

Accountability (A)

Governments must take responsibility for providing quality health services for all, and mechanisms must be put in place to hold them accountable.

Qualified health workers and accessibility of essential medicine (as listed by WHO) are basic conditions for the fulfilment of the obligation of providing quality health care to the population. The international community can facilitate access to essential drugs, assist governments to develop national medical education and research and support actions against so called brain drain in the health sector. Key issues to monitor and analyse in assessing support for health interventions are:

- Is there national legislation that guarantees the right to health for everyone without discrimination?

- Is the health sector program focusing firstly on essential primary health care, and secondly on preventive, curative, rehabilitative and palliative care in referral systems?

- Is health staff training of sufficient quality? Does it have both theory and practice? Are books and internet connections available and up-to date?

- Are there monitoring mechanisms of to ensure that availability, accessibility, acceptability and quality are guiding services at all levels and that the access to services is improving for vulnerable and marginalised groups such as women, poor, elderly and persons with disabilities?

- Are there independent complaints mechanisms, where individuals can go (e.g. ombudsperson, legal aid clinics or independent media)? Are there complaints mechanisms where civil society organisations and/or human rights commissions give voice to rights-holders and support them to report, call upon incongruities and seek compensation and corrections?

- Is there a mechanism for social audit of national health systems and budgets?

- Is there a system to regulate the transparency and quality of public health service provided through the private sector or civil society actors?

- Are health staff salary levels sufficient, thus preventing practices of corruption?

Useful links and references

Bustreo, F. and Hunt, P (2013), "*Women and Children's Health Evidence of Impact of Human Rights*" Geneva, WHO:
http://www.who.int/maternal_child_adolescent/documents/women_children_human_rights/en/

WHO (2014) Ensuring human rights in the provision of contraceptive information and services: http://apps.who.int/iris/bitstream/10665/102539/1/9789241506748_eng.pdfUN (2014),

Application of the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity: Available from OHCHR Application of the technical guidance on the application

UN (2014)Technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age: Available from OHCHR Technical guidance on the application of a human rights

WHO, Health and Human Rights web portal http://www.who.int/hhr/en/ and WHO HRBA brief www.who.int/hhr/news/hrba_info_sheet.pdf

UN Special Rapporteur on the Right to Health
http://www2.ohchr.org/english/issues/health/right/

The monitoring body of ICESCR: http://www2.ohchr.org/english/bodies/cescr/

UN Committee on Economic, Social and Cultural Rights 2000, General Comment No. 14, The Right to the Highest Attainable Standard of Health (E/C.12/2000/4)
http://www2.ohchr.org/english/bodies/cescr/comments.htm

the Geneva Convention about the right to health services in conflicts
http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp

Office of the United Nations High Commissioner for Human Rights and World Health Organisation, 2008. "The right to health - Fact Sheet no 31"
http://www.ohchr.org/Documents/Publications/Factsheet31.pdf

Human Rights Impact Centre http://www.humanrightsimpact.org/introduction-to-hria/hria-tutorial/introduction/

Human rights library: University of Minnesota: http://www1.umn.edu/humanrts/

International Federation of the Right to Health Organisations: http://www.ifhhro.org/

International network for Economic, Social and Cultural Rights http://www.escr-net.org/

Report on reproductive and sexual health from IPAS (International Programme on Reproductive and Sexual Health Law of the Faculty of Law/University of Toronto).
http://www.ipas.org/

WHO Mental Health Action Plan 2013-2020
http://www.who.int/mental_health/publications/action_plan/en/

A Human Rights Based Approach to Health - summary

A HRBA to health makes explicit reference to human rights from the onset of programmes, policies, and projects. Introduction of a HRBA into public health is about approaches and processes as well as maximum public health gains. Evidence indicates that applying a HRBA to maternal and child health will contribute to improved access and quality of services, as well as collaboration with other sectors. Where a HRBA to health has been applied, it has contributed to significant reduction in maternal and child morbidity and mortality. There is also evidence that applying a HRBA to health will improve quality of mental health services.

The UN, WHO and Sida have developed interpretations of HRBA to health, which are similar in understanding, but slightly different in terminology. This brief shows how to use these HRBA tools to analyse and monitor health initiatives.

A human rights based approach to health takes a starting point in ***international human rights commitments and standards***. At the heart of the right to health is a functioning health system, accessible to all without discrimination. The right to health makes a number of demands on health system, including   primary health care and reproductive health services. Key questions when assessing and monitoring a health initiative are:

- Is the right to health recognised in the constitution, bill of rights or national legislation? If so, how can Sweden   use these commitments to strengthen dialogue and programming?

- Is the program based on an analysis of the causes of the non-fulfilment of the rights to health?

- Is there a national public health strategy/ national health plan based on these analyses and on internationally   recognised standards for health systems, which can guide donor contributions?

- How does the initiative ensure/contribute to ***availability*** (public health-care facilities, goods/essential medicines, health services, information and programmes that are available in sufficient quantity to all)?

- How does the initiative ensure/contribute to ***accessibility*** (affordability and accessibility of health facilities and services for all, without discrimination e.g. physically accessible and in safe reach for all, including women and girls, and disadvantaged persons (for example persons with disabilities)?

- How does the initiative ensure/contribute to ***acceptability*** (respect for medical ethics and confidentiality, cultural appropriateness, sensitive to gender and life- cycle requirements)?

- How does the initiative ensure/contribute to ***quality*** (health facilities that are scientifically and medically appropriate and of good quality)?

An important element in a human rights based approach is the focus on **empowerment and capacity development** of both rights holders and duty bearers. Key issues to consider when assessing support for health initiatives are:

- Does the intervention build capacity of the authorities and health workers to plan, deliver and monitor availability, accessibility, acceptability and quality health services?
- Does the intervention build capacity of the poorer households and marginalised groups so that they know how, where and when they can demand/ complain concerning their rights to health?

In addition to the AAAQ components, a human rights based approach to health is about planning and monitoring how the values and principles underpinning the UN human rights treaties **- non-discrimination, participation, accountability and transparency -** are applied in the programme design and processes. Key questions to consider are:

Participation	**N**on-discrimination
International treaties state that women, men, girls and boys have a right to participate in decision-making that affects them.	Health Services must be provided to all without discrimination regardless of gender, religion, ethnicity, age, language, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status.
- Are patients informed about treatment options and invited to have a say? - Are civil society organisations that organise marginalised groups invited as resources in program design and policy development? Are they taking part in local health committees, consultative development councils and likewise? - Are care providers and health staff recognised as stakeholders in health programs?	- Are non-discriminatory policies in place? - Are legal, physical, structural and attitudinal barriers addressed? - Are resources explicitly allocated to reach/include the poorest and most excluded areas/groups? - Is disaggregated data on access to health services available?
Transparency	**A**ccountability
In order for individuals to hold states' accountable for their duties – information on health policies, budgets and services must be made available to the public.	Governments must take responsibility for providing quality health services for all, and mechanisms must be put in place to monitor performance.
- Is information regarding plans and budgets communicated to the public (and to health staff) via accessible formats and channels? - Is information on available health services communicated to the public via accessible formats and channels?	- Are there functional monitoring and complaint mechanisms in the health system – also when services are provided by private or civil society actors? - Is the international community facilitating access to essential drugs (defined by the WHO Action Program on Essential Drugs) and capacity development of local medical expertise?

To learn more on a human rights based approach to health, read the full thematic guide.

Sida

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A Human Rights Based Approach to Market Development

Purpose and framework

The purpose of this Brief is to provide guidance to staff on how to apply a human rights based approach when supporting market development initiatives and processes, be it in terms of private sector development, financial sector development, trade, employment or other. The brief briefly looks at synergies between HRBA and market development approaches, explains the key concepts of a HRBA and clarifies their relevance to market development, while providing examples of how the two approaches may go hand in hand.

The brief demonstrates that there can be strong synergies between – on the one hand - the objectives, processes and methods relating to Sida's approach to market development, and – on the other – a human rights based approach. The Brief shows how the main elements in the human rights based approach may help country teams to improve the preparation, assessment and monitoring of market systems interventions.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD)[1] and the government's Aid Policy Framework[2] (section 3.2.2.).

Applying a human rights based approach entails

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms, etc.) to enable them to address their situation and claim their rights individually and collectively

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

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[1] http://www.government.se/sb/d/14232
[2] http://www.regeringen.se/sb/d/18761/a/242899

HRBA and market development approaches – synergies

The Government's aid policy framework specifies six sub-objectives for Swedish development cooperation, one of them is – "Better opportunities for people living in poverty to contribute to and benefit from economic growth and obtain a good education". Special attention is given to the creation of more and better jobs and to the development of more inclusive and efficient markets and more liberalised trade.

There are obvious synergies between HRBA and the "pro-poor growth" and "inclusive markets" concepts. Market-based development programmes will often focus on developing the capacity of the state to provide a conducive and predictable market environment (duty bearers) and on increasing the power of marginalised women and men (rights holders) to access information, services, loans etc. and to organise themselves to be able to negotiate better conditions such as prices, working conditions etc. Market-based programmes also focus on addressing barriers in systems and practices to ensure non-discriminatory, transparent and predictable conditions and rules. This shows that there are strong synergies with the human rights based approach and its guiding principles.

Sida's approach to market development is based on the M4P approach ("Making markets work for the poor"). This approach underlines the importance of systemic change: understanding where market systems are failing to serve the needs of the poor, and acting to correct those failings. The M4P principles have a number of commonalities with the human rights based approach such as (i) making systems better at including poor and marginalised people in the long term (ii) using capacity development and incentives to build capacity of systems, functions and players and (iii) starting with an analysis of the causes of system failures and acting to correct these failings.

Sida is learning from on-going programmes and new research in order to adapt and develop market based approaches (for example Oxfam, the Donor Committee for Enterprise Development (DCED), ILO). As a result of this learning, many development agencies have increased their focus on empowerment of poor men and women – and their collective organisations (e.g. support to producer's organisations, pre-commercial investments and facilitation of access to information and government support mechanisms).

International human rights treaties, agreements and policy guidance

There are a number of international legally binding human rights conventions that are relevant to the development of market systems such as; the Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (ICESR, 1966), the Convention on the Elimination of All Forms of Discrimination against Women (1981), and the Convention on the rights of persons with disabilities (2008) etc. The ICESCR has been signed and ratified by most states. Furthermore, the Convention against Corruption specifies the requirements of the private sector (art. 12) and prescribes participation of society in monitoring activities (art 13). 140 countries have signed it. Using these commitments as a basis for dialogue and programming are often helpful as they provide internationally agreed standards and goals.

It has however been noted that the present international and national laws are not sufficient to protect and fulfil the rights of the poor in the market systems. For example: In most poor countries only a fairly small share (often not more than 20%) of all economically active women and men are engaged in the formal economy. A UN commission argued in 2008 that

"four billion people around the world are robbed of the chance to better their lives and climb out of poverty, because they are excluded from the rule of law" (The Commission on the Legal Empowerment of the Poor, 2008). The commission identified four pillars of action based on the following observations: "the sources of legal exclusion are numerous and very often country-specific. However, four common threads stand out. **First**, legal empowerment is impossible when poor people are denied access to a well-functioning justice system. **Second**, most of the world's poor lack effective property rights and the intrinsic economic power of their property remain untapped. **Third**, poor people, in particular women and children, suffer unsafe working conditions because their employers often operate outside the formal legal system. **Fourth**, poor people are denied economic opportunities as their businesses are not legally recognised. Hence they face difficulties in accessing credit, investment, and markets."

Increasing international food prices and the rush for agricultural land by international investors (including south-south investors) have triggered strong international criticism and debate on "land grabbing" in developing countries. In a report published by the Institute for Human Rights and Business[3] the linkages between land and human rights are described as follows: "Whereas international legal instruments have not adequately considered the considerable role that land plays in the international human rights framework it is clear with even a brief analysis that land is a fundamental element in access to numerous international human rights. Where land policies are carried out by both governmental and private bodies, a number of underlying rights can be affected, even where governments are acting under eminent domain or engaging in rural development programs, and states must consider and abide by their international human rights obligations." (Wickeri, xxxx). More information on land and human rights may e.g. be found in a study published by the International Land Coalition: "Land Rights and the Rush for Land" (Anseeuw, 2012).

To address the shortcomings of international and national law, a range of tools and voluntary agreements have been developed to supplement the UN Convention such as:

- The Donor Committee on Enterprise Development (DCED) has highlighted the importance of taking the rights of poor people working in informal economic activity into account when supporting business environment reforms (see "Supporting Business Environment Reforms. Practical Guidance to Donors, Annex How Business Environment Reform can promote Formalisation", DCED, 2011).

- The ILO's Global agenda for decent work which includes a legal framework with minimum standards as well as policies to promote employment creation, social protection and social dialogue.

- Good practices in trade between rich and poor countries developed by the 3DThree program and through Fair trade agreements.

- The UN Global Compact is outlining 10 human rights principles for companies to embrace, support and enact, within their sphere of influence.

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[3] Land Rights Issues in International Human Rights Law", Institute for Human Rights and Business; http://www.ihrb.org/pdf/Land_Rights_Issues_in_International_HRL.pdf

Finally, in order to provide a practical illustration on how Sida may promote the realisation of human rights law through market-based approaches, we refer to a project carried out by the International Rescue Committee in Northern Uganda ("The post-conflict recovery and economic empowerment of returnees through private sector development"). This project was justified by the right to food and decent living conditions for destitute refugees in northern Uganda. This project demonstrates that it is possible to apply market development approaches successfully to situations with people who have been totally excluded from access to markets and economic exchange.

Larisa Cojocari in Moldova has developed her business with support of "Women in Business programme" supported by Sweden and EBRD. The programme supports women through training, advisory services and starting capital. The programme also works to improve the regulatory conditions for small companies and address discriminatory practices. So far 24 businesses driven by women have been able to access the market. Photo: Nicolae Cushchevici

Applying a HRBA to market system interventions

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A).

Linking to human rights instruments (L)

As described above, there are a number of binding and voluntary international agreements and standards related to sustainable rural livelihoods. Ensuring that these are informing and guiding initiatives supported is an important part of a HRBA. Key issues to monitor and analyse in assessing support for market system interventions are:

- Has an analysis been made of the intervention in relation to its expected human rights improvements for the poor e.g. economic and social rights, land rights, labour rights, fair trade policies etc.?

- Does the analysis include identification of existing obstacles and underlying causes of lack of access to rights?

- Has an analysis been made of the possible risks of human rights violations?

Empowerment and capacity development (E)

An important element in a human rights based approach is to carry out an analysis of the causes of non-fulfilment of rights of poor women and men. Just like the M4P approach this means that the analysis should reveal the underlying reasons why poor women and men are not accessing markets and economic opportunities – and focus the support on addressing these obstacles. Obstacles are often complex and inter-related, such as unfavourable policy frameworks, poor governance/corruption, lack of information about opportunities, rules and regulations (concerning domestic, regional as well as international markets), limited access to credits or farming inputs, discriminatory practises, and lack of skills/education and so on. These obstacles often relate to limited capacity among duty bearers and disempowered rights holders.

The analysis of market systems often show that there are large discrepancies between what is prescribed by laws and regulations (the "de jury" situation) and how things work in practise (the "de facto" situation). It is not uncommon that well-intended efforts to modernise laws and regulations do not lead to any real world changes. In order to understand the underlying reasons for such lack of impact and to design more effective interventions, donors have to improve their understanding of power relations and how the political economy works in practise. A paper published by the Donor Committee for Enterprise development (DCED) provides a useful introduction: "The Political Economy of business environment reform: an introduction for practitioners" (Davis, 2011).

Oxfam research (2011) has shown that several of the obstacles are not identified, addressed, or even considered, by most development actors' interventions, such as: access to land and productive resources, time poverty, mobility, transport, and "restrictions from husbands and/or community" on women's actions and roles. The World Bank (2013) has specifically looked at challenges facing women involved in trade[4].

Key issues to monitor and analyse in assessing support for market development interventions:

- Is the intervention based on an analysis of how the current political economy and power relations may affect its implementation and impact?

- What are the major capacity gaps in terms of government performance (regulations, systems, monitoring mechanisms)?

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[4] Women and Trade in Africa – Realizing the potential
http://wlsme.org/sites/default/files/resource/files/Women%20and%20Trade%20in%20Africa%20Realizing%20the%20Potential_0.pdf

- What are the major obstacles experienced by poor and marginalised persons in their access to markets and economic empowerment (access to information, skills, services, land, capital, time, transport, free movement etc.)?

Non-Discrimination (N)

The exclusion of large groups of poor people from market access is an important obstacle to economic growth in general and economic empowerment of the poor in particular. The reasons for market exclusion vary, from cases of clear-cut discrimination to situations where poor people, women in particular, are excluded from markets and economic opportunities due to remoteness, lack of information, knowledge etc. **World Bank research shows that women in trade face barriers, discrimination, and harassment to a greater degree than men do. (Women and Trade in Africa, 2013).** There are strong arguments from an economic as well as from a human rights perspective for interventions supporting inclusion of excluded groups. This requires explicit measures which empower and build capacity (information, skills, capital, tools, etc.) of excluded groups (such as women, ethnic minorities and people with disabilities).

The financial sector provides an illustrative example of strategies to deal with exclusion. In most poor countries more than 50% of households (and an even greater share of women, rural households and ethnic minorities) do not have access to any kind of financial services. Usually less than 20% of households have access to formal banks, while less than 30 % rely on semi-formal or informal services, like micro-credit organisations and various kinds of group savings schemes. Special efforts have been made based on modern telecom technology, to improve the methods for money transfer to destitute households. The aim is to gradually help excluded and vulnerable women and men to gain access to financial services and economic opportunities.

Women are often in majority among farmers and small scale traders. At the same time the means of production are often owned by men who also often represent the family in consultations and dialogue. It is of key importance that women are specifically targeted and empowered in programmes supported by Sida. The Agriculture programme supported in Zambia[5] is a good example.

Key issues to monitor and analyse in assessing support for market system interventions:

- Is the intervention based on an analysis of the causes of exclusion from markets of marginalised groups   (women, ethnic minorities, people with disabilities etc.)?

- Are actions taken to address discriminatory policies, laws, regulations, practises and other power imbalances that exclude poor women and men from markets?

- Have targeted support to excluded groups of women and men been considered (e.g. persons with disabilities, minorities, women)?

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[5] http://www.sida.se/Svenska/Om-oss/Sa- arbetar-vi/Utvardering/Avslutade-utvarderingar/Study-of-Sida-supported-Agri-Programmes/

- Are measures taken to make information and opportunities accessible to marginalised groups?

Transparency (T)

Stakeholders have the right to information about the purpose, the opportunities, and the monitoring and complaints mechanisms of development interventions. Openness and transparency could in many cases be improved. Programme documents are often lengthy and complex and budgets are not disclosed. Tailor-made information may be required for groups of stake-holders e.g. those who are not able to read English or lack access to mass media. Sida may offer special funding for initiatives to improve communication strategies and enhance openness and transparency. The agricultural extension programme NALEP in Kenya is a good example.

Openness and transparency are not only important in relation to the process of implementation of projects, but may also be seen as outcomes of projects. One example is the Sida-supported FIT-SEMA commercial radio market project in Uganda. The project triggered an impressive expansion of local commercial radio stations and helped to empower poor micro-entrepreneurs (both women and men) to expand their business as a result of putting into practice what they learned on the radio.

Key issues to monitor and analyse in assessing support for market system interventions:

- Have effective communication strategies been put in place, which specifically consider accessibility of unbiased information for poor and marginalised groups?
- Have opportunities been considered to enhance openness and transparency by providing support to local monitoring mechanisms, like civil society monitoring?

Participation (P)

Relevance and effectiveness of programs supported will depend on meaningful and inclusive consultative planning process with stakeholders. This means that information, meeting places and dialogue methods need to be accessible to all stakeholders (means and format of communication) and that deliberate efforts are taken to accommodate poor women and men and their representatives. Consultations take time and effort. Some stakeholders may need some preparation before being able to understand the issues and participate in consultations.

Oxfam argues that giving marginalised groups a voice in governance and investment is crucial for their access to and benefit to growth and markets. Where regulations and public investment address the needs of small-scale and female producers, this can bring new producers into the market and level the playing field for women. It is essential to support marginalised groups in dealings with governments, helping them to access public pre-commercial investment in technologies such as irrigation. It is also important to influence policies that have an impact on women, such as those covering land rights.

Experience show that Business Environment Reforms cannot succeed without a continuous dialogue with all actors affected by changes in the regulatory environment. Unfortunately, not all government ministries and agencies in developing countries are well equipped and have sufficient incentives to organise meaningful participation of stakeholders.

The web site http://www.publicprivatedialogue.org provides useful information on public-private dialogue.

As a majority of micro-entrepreneurs and small holders are not formally registered, they may not be considered as valid stakeholders in business environment reforms. In reality they are often indirectly affected and should therefore be given a fair chance to influence the design of such reforms. Organisations that are set up to represent informal entrepreneurs, like the Sida-supported Amhara Women Entrepreneurs' Association (AWEA) in Ethiopia, may help to give small entrepreneurs a voice in reform processes. http://www.oecd.org/dac/gender-development/47563146.pdf

Key issues to monitor and analyse in assessing support for market system interventions:

- Are effective platforms for public-private dialogue in place?
- Do these platforms give space to representatives of informal actors to raise their voice?
- Has support to capacity development of associations which represent informal actors been considered?

Farmers in the Niassa-province in northern Mozambique are trading their produce. They are supported by the Malonda Foundation, a foundation for increased employment and economic growth, which is operating in Niassa with Swedish support. Photo: Kajsa Johansson

Accountability (A)

Accountability is first about identifying those with legal and moral responsibilities to ensure that poor women and men are: a) protected from rights violations by e.g. discriminatory laws, regulations and practices or by foreign and domestic investors or businesses; b) empowered to "take part in, contribute to and benefit from economic growth" and accessing market systems on fair terms. Second, it is about monitoring that those responsible fulfil their obligations in accordance with international laws, principles and agreements.

Those who could be held legally accountable in market development programmes are foreign governments and donors who engage in bilateral agreements, national and local governments who are responsible for laws/regulations and rule of law and large international and national businesses that are responsible to adhere to the national and international laws/regulations, contracts and agreements (labour rights, fair compensation etc.).

It is important to note that the significance of accountability varies substantially between different types of businesses involved in Sida support. On one end of the spectrum there are large international companies to which OECD's Guidelines for Multinational Enterprise apply (as well as ISO's Corporate Social Responsibility Program and the monitoring and complaints mechanisms outlined in the new ISO 26000). Many of these companies have committed themselves to the UN Global Compact outlining 10 human rights principles for companies to embrace, support and enact, within their sphere of influence.

At the other end of the spectrum there are a wide range of medium-sized and small formal and informal businesses, some of which operate outside the formal economy, either because they are excluded from access to formal institutions or because they have chosen to distance themselves from, or are not familiar with formal laws and regulations. For market system interventions targeted at these kinds of companies, the concept of accountability is challenging. To meet these realities, and enhance the moral accountability of such partners, Sida could use contracts (including Terms of reference) with organisations ("facilitators") implementing market interventions to introduce human rights principles. In their turn, these organisations may e.g. include human rights criteria when they enter into partnerships with and provide support to local market players.

Support to market systems development also involves many actors outside government and private sector actors. A broad spectrum of actors including business associations, civil society organisations, micro-finance organisations, academic think-tanks, individual businesses and associations of informal entrepreneurs are involved. Some of these actors represent rights holders rather than duty bearers, such as trade unions, small holders associations and civil society.

There has been considerable international discussion on the linkages between human rights and trade policy. This applies e.g. to international trade negations under the WTO framework, as well as to negotiations of regional and bilateral trade agreements. Sida provides substantial support to capacity building of developing country representatives e.g. aimed at strengthening their position in international trade negotiations. This could be supplemented with capacity building of Swedish representatives to contribute with the pro-poor and human rights perspective in trade policy discussions. A useful source of information on the links between human rights and trade is the Fair trade agreements.

Key issues to monitor and analyse in assessing support for market system interventions:

- Have assessments been made of the capacity of agencies involved in business environment reforms to deal with challenges related to formalisation?

- Are complaints mechanisms in place through which stakeholders affected by reforms and/or projects may challenge decisions or actions that affect them negatively?

- Could human rights perspectives be promoted through contracts with market facilitators or in criteria for selection of firms applying for grants from competitive so called "challenge funds" (like the Sida-supported Africa Enterprise Challenge Fund, AECF)?

- Does the intervention build capacity and monitor adherence of national and local authorities, investors and businesses to legal and voluntary human rights instruments and agreements?

Useful links and references

Donor Committee for Enterprise Development http://www.enterprise-development.org/page/m4p

M4P Hub, "Sharing knowledge on making markets work for the poor": http://www.m4phub.org/what-is-m4p/introduction.aspx

The Sida-supported FIT-SEMA commercial radio market project in Uganda: http://www.m4phub.org/userfiles/resources/2532011145516104-M4P_Hub_Case_Interview_FIT-SEMA_full.pdf

The Agriculture programme supported in Zambia is a good example of empowerment of women: http://www.sida.se/Svenska/Om-oss/Sa- arbetar-vi/Utvardering/Avslutade-utvarderingar/Study-of-Sida-supported-Agri-Programmes/

Example of an initiative to improve communication strategies and enhance openness and transparency: the agricultural extension program NALEP in Kenya: http://www.sida.se/Svenska/Lander--regioner/Afrika/Kenya/Program-och-projekt/500-000-smabrukare-far-hjalp-att-utveckla-sina-jordbruk/

Public Participation: International Best Practices Principles: http://www.iaia.org/publicdocuments/special-publications/SP4 web.pdf

ISO's (International Standardisation Organisation) Corporate Social Responsibility Program: http://isotc.iso.org/livelink/livelink/fetch/2000/2122/830949/3934883/3935096/home.html

ISO's (International Standardisation Organisation) Guidelines for Cooperate Responsibility: http://isotc.iso.org/livelink/livelink/fetch/2000/2122/830949/3934883/3935837/ISO_DIS_26000_Guidance_on_Social_Responsibility.pdf?nodeid=8385026&vernum=0

The UN Global Compact: http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html

Fair trade agreements: http://www.fairtrade.se/

The Convention against Corruption specifies the requirements of the private sector (art. 12) and prescribes participation of society in monitoring (art 13): http://www.unodc.org/unodc/en/treaties/CAC/

The ILO's Global agenda for decent work: http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm

ILO's global agenda for decent work is being implemented in a large number of countries. Regional and country progress reports: http://www.ilo.org/public/english/bureau/program/dwcp/countries/index.htm

Anseeuw, W. et.al. (2012), "Land rights and the Rush for Land", International Land Coalition: http://www.landcoalition.org/sites/default/files/publication/1205/ILC GSR report_ENG.pdf

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Study on land rights for the poor by the International Land Coalition: http://www.landcoalition.org/cpl/CPL-synthesis-report

Read more in the German development Agency HRBA fact sheet documents: http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf

A Human Rights Based Approach to Market development - Summary

There can be strong synergies between – on the one hand - the objectives, processes and methods relating to Sida's approach to market development, and – on the other – a human rights based approach. Both emphasise empowerment of women and men living in poverty, removal of barriers and discriminatory systems and practices, and accountability of people in power.

Applying a human rights based approach to initiatives related to market development will also help staff to understand the responsibilities of different actors in the public sector, private sector and civil society. The questions below are intended to assist in the preparation, assessment and monitoring of market development interventions and ensure that human rights are enhanced, respected and protected both in results and processes.

A human rights based approach takes a starting point in *international human rights commitments and standards*. Key questions to discuss when assessing support to market development initiatives are:

- Has an analysis been made of the intervention in relation to expected human rights improvements for women and men living in poverty e.g. economic and social rights, land rights, labour rights, fair trade policies etc.?

- Does the analysis include identification of existing obstacles and underlying causes of lack of access to rights?

- Has an analysis been made of the possible risks of human rights violations?

An important element in a human rights based approach is the focus on *empowerment and capacity development*. Key issues to consider are:

- Is the intervention based on a analysis of how the current political economy and power relations may affect its implementation and impact?

- What are the major capacity gaps in terms of government performance (regulations, systems, monitoring mechanisms)?

- What are the major obstacles experienced by poor and marginalised persons in their access to markets and economic empowerment (access to information, skills, services, land, capital, time, transport, free movement, negotiation skills etc.)?

The questions below, related to the four HRBA principles, may also help to prepare, asses and monitor initiatives to ensure that human rights are enhanced and respected both in results and processes.

Participation	Transparency
• Are effective platforms for public-private dialogue in place? • Do these platforms give space to representatives of informal actors to raise their voice? • Has support to capacity development of associations which represent informal actors been considered?	• Have effective communication strategies been put in place, which specifically consider accessibility of unbiased information for poor and marginalised groups? • Have opportunities been considered to enhance openness and transparency by providing support to local monitoring mechanisms, like civil society monitoring?
Accountability	**Non-discrimination**
• Have assessments been made of the capacity of agencies involved in business environment reforms to deal with challenges related to formalisation? • Are complaints mechanisms in place through which stakeholders affected by reforms and/or projects may challenge decisions or actions that affect them negatively? • Could human rights perspectives be promoted through contracts with market facilitators or in criteria for selection of firms applying for grants from competitive so called "challenge funds"? • Does the intervention build capacity and monitor adherence of national and local authorities, investors and businesses to legal and voluntary human rights instruments and agreements?	• Is the intervention based on an analysis of the causes of exclusion from markets of marginalised groups (women, ethnic minorities, people with disabilities etc.)? • Are actions taken to address discriminatory policies, laws, regulations, practises and other power imbalances that exclude poor women and men from markets? • Have targeted support to excluded groups of women and men been considered (e.g. persons with disabilities, minorities, women)? • Are measures taken to make information and opportunities accessible to marginalised groups?

To learn more on a human rights based approach to market development interventions, read the full thematic area brief.

Sida

A Human Rights Based Approach to Peace Building

Purpose and Framework

In Colombia, the demobilisation of the para-military groups, accused of severe human rights abuses, led to a deep divide in society on the issue on whether justice or peace should come first. Some argued that amnesty for the paramilitary was necessary for peace to be possible, while others meant that this would enforce a history of impunity. Development cooperation, including the work of the Swedish Embassy, was heavily affected by this dilemma. This case is not unique and the majority of Sweden's partner countries are in a situation of violent conflict or post conflict where human rights and peace are both important to poverty reduction.

Universal human rights, peace and human security are all key components of the global agenda to eradicate poverty. The purpose of this brief is to provide guidance to staff on how to:

- Apply a Human Rights Based Approach (HRBA) to peace-building; and

- Apply a HRBA in a conflict sensitive way.

What are then the differences and similarities between these concepts? To start, a brief definition of the concepts is given and then they are compared.

In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.). Sida staff can access further information and HRBA tools on Sharepoint. Applying a human rights based approach entails:

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms etc.) to enable them to address their situation and claim their rights individually and collectively

The aid policy framework also has six aims, one of them is "Safeguarding human security and freedom from violence", with focus on a) Reduced vulnerability to conflict and for re-

lapse into conflict b) Greater human security in conflict and post-conflict situations c) A reduction in gender-based violence.

The Interdependence of Human Rights, Peace & Security

As explained above, a human rights based approach takes its staring point in the values and principles underpinning the UN human rights conventions; non-discrimination, participation, accountability and transparency.

Peace, on the other hand is usually seen as the absence of direct personal violence – negative peace – or when used in a more comprehensive way – positive peace – which is the absence of direct and indirect structural violence and social justice.[i] Security can be referred to its Latin origin as the absence of threat and usually relates to state security. The more recent concept human security is more human centred and as comprehensive as positive peace in that it is usually defined as the freedom from fear, freedom from want and freedom to take action on one's behalf.

Comparing the areas, at a first glance it is obvious that the two bear similarities. Universal human rights, human security and positive peace are all three overarching visions, where all rights are fulfilled and direct and indirect violence is absent. However, in practice the promotion of peace and security is many times focused primarily on article 3, the right to life, of the Universal Declaration on Human Rights and thereby negative peace and the absence of violence. This brief will mainly focus on this narrower, and more operational, approach to peace-building and take its point of departure in the absence of armed violence or fear of armed violence[ii]. Similarities and differences are illustrated below and, as shown, there is a strong interdependence between the approaches.

Table 1: Implications of HRBA and Peace & Human Security Approaches in Conflict and Post-conflict Environments

Factor	HRBA	Peace and Human Security
Actors	Individual or group centred – rights holders – and state-centred – duty bearer.	States, armed or non-armed groups, powerful groups, potentially powerful groups and individuals, and conflict affected women, men, boys and girls.
Core principal	Rights are universal to all individuals and groups and they are indivisible.	Peaceful dispute resolution, impartiality.
Relation to "conflict"	Confronting/challenge those abusing HR and claiming rights. Supporting and monitoring duty bearers – non-violent conflict a tool for change. The approach might threaten the privileges of powerful groups and in the short run accelerate levels of conflict.	Conflicts and conflicting interests exist in all societies and most are solved/managed in a non-violent way. Focus is on preventing and stopping violent conflict to create conditions conducive for human security.
Approach/time-line	Principled approach: Promotion of Human rights, as principles, is oriented towards outcomes – the fulfilment of rights. However, HRBA adds a process dimension and highlights four key principles.	Pragmatic: Process oriented in order to achieve outcome – taking into account the balance of power when solving dispute issues - stop the violence, and prevent recurrence of violence.

Factor	HRBA	Peace and Human Security
Methodology	Achieving better life for poor people and fulfilment of HR standards. If necessary, demand the fulfilment of rights and report on abuses.	Find common ground and reconcile conflicting actors – dialogue and agreements with actors accused of human rights abuses if necessary.
Interdependence	War and insecurity, through their destructive nature, have a strong negative impact on political, social and economic rights. Armed conflict and insecurity are in other words root causes of challenges to HR.	Human rights abuses can cause the eruption of violent conflict or prolong existing armed conflicts. HR abuses are in other words root causes of violent conflict and insecurity.
Conflicting interdependence	Building peace can include accommodate actors that have committed crimes and abused human rights. It downgrades the principles of universality and indivisibility. Furthermore, it might help create a culture of impunity.	Demanding rights and confront actors and duty bearers might increase tension and the risk of violent conflict. Thus, a HRBA might trigger violent retribution or violent conflict and thereby be self- defeating in relation to article 3, the right to life, among others rights.
Enforcing interdependence	Addressing core drivers of conflict and building peace, for example access to land and defending the rights to culture and language of actors with less access to influence and power, is also to have a HRBA.	A HRBA and the promotion of human rights address many of the underlying causes/drivers of conflict. For example, strengthening social and economic rights through improved service delivery of duty bearers helps prevent violent conflicts.

Recent years' development debate in relation to these two areas has been centred on their conflicting interdependence and methodologies, and how to find common ground. However, and as illustrated above, in spite of challenges the two areas are complementary. Suggestions have been made by Gunner & Nordquist (2011) to try to have an *integrative* approach or to *twin* the efforts of HR and peace-building.[iii] *Twinning* is mainly to acknowledge how efforts in HR can pave the way for changes in peace-building or vice versa, as the mentioning above on land or group rights illustrates. Integration is when a project or programme promotes both areas. In the next section, examples will be given on both integration and twinning.

## HRBA and Peace & Security in Practice

This section will take one step further going from concepts to presenting tools and approaches that can be used in designing, assessing and implementing interventions.

Working ""in" and "on" conflict

What is the contextual setting where HRBA and peace-building should be related? The figure below illustrates the difference between working "in" and "on" conflict. Working "in" conflict, the first approach, means promoting development and human rights in a country where tensions are rising, armed conflict is ongoing or a post conflict phase has started, which is the situation in which 70-80% of Sida's partner countries are suffering. The main objective might not be focused on peace-building, which is the case when working "on" conflict. This second approach demands a conscious effort to address key drivers of peace and conflict in society. For example, the access to conflict resources such as diamonds or

arms, the distribution of power between different stakeholders, or decrease the exclusion of rebelling groups.

Figure 1: Conflict Sensitivity and Peace-building or "in" and "on" Conflict
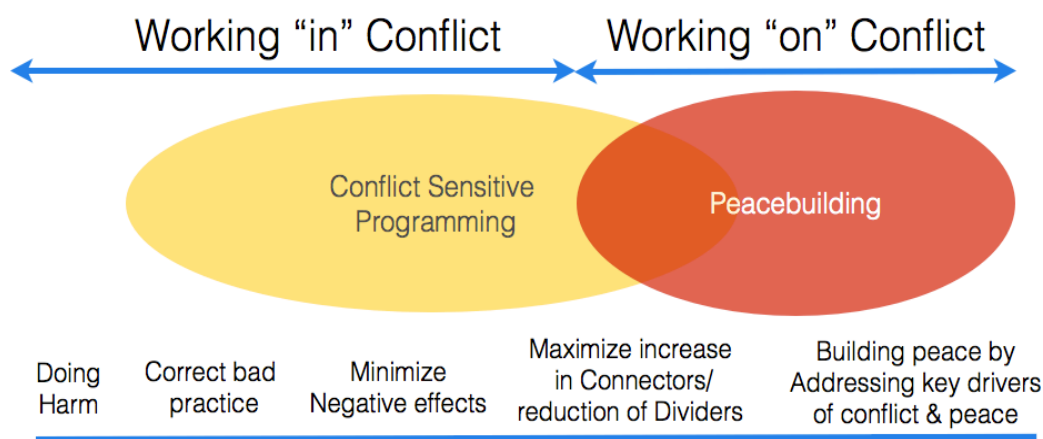
A common assumption is often that peacebuilding, by definition is conflict sensitive, but this is not the case. In practice, peace-building can be conflict insensitive. This figure is a slightly adjusted version of the one produced by CDA Collaborative Learning Projects (www.cdainc.org) in DNH Guidance Note: Peace-building and DNH, September 2011.

Why is the difference between "in" and "on" conflict important for the interphase between a HRBA and peace-building? It illustrates the essence of understanding the conflict dynamics in order to avoid unintended negative impact – doing harm. Development cooperation aims at changing power relations where power is contested and contributes with resources in resource scarce contexts. In spite of the aspiration to "Do Good", examples are numerous of development cooperation interventions, including peace-building and human rights initiatives, that have played into conflict lines and increased violence, for example in Afghanistan, Colombia and Zimbabwe. Good intensions cannot replace a thorough contextual understanding.[iv]

Avoiding Doing Harm – HRBA to Peace-building and Conflict Sensitive HRBA

The approach to prevent doing harm, endorsed by Swedish Government policy and the OECD-Development Assistance Committee, is to design conflict sensitive initiatives. HRBA is about demanding rights, reporting abuse and, when necessary, confronting duty bearers. This the process will most likely play into conflict lines and the distribution of power. A key recommendation to HRBA practitioners is therefore that when designing, implementing and doing follow-up on initiatives, to integrate a conflict sensitivity analysis.

This can be done by applying a conflict sensitive approach. Sida's Human Security Advisers or Help Desk can be consulted for support in this regard. By doing so, the initiatives can be slightly re-designed to correct bad practice, minimise negative effects and increase possible positive spin-off effects on peace and human security (strengthen what connects people and weaken what divides them). It is important to note that being conflict sensitive is not about avoiding change – essential to development – but to find ways of doing things differently, through a conflict-sensitive implementation, in order to avoid doing harm. Still, risks need to be taken and not all unintended negative impacts can be avoided.

The opposite is also true - peace-building initiatives will touch upon issues core to a HRBA. Without a careful analysis, these initiatives might have a negative impact on non-discrimination, for example excluding women from peace processes, or weaken accountability through general amnesties to perpetrators. This will be developed further below in relation to the four key principles of Sida's application of a HRBA.

A little boy tells, Sida supported, MAG (Mines Advisory Group) that he had seen "one of those" out in the woods. He points to a grenade during a briefing outside in a village not far from the provincial capital of Mbandaka in DRC. Photo: Daniel Tiveau/Sida

HRBA Analysis and Peace and Conflict Analysis - Finding Opportunities for Integration or Twinning of Initiatives

An important entry point for finding concrete options for action is to utilise easy-to- use and focussed tools for analysis when preparing for and designing initiatives – an approach much more ambitious than just avoiding doing harm. Several of the overview studies of HR and peace-building recommend integrating a HRBA analysis of rights holders and duty bearers with peace and conflict analysis – and this is an important opportunity for Sida or its partners when working to apply a HRBA in conflict settings.

Both approaches integrate a power or stakeholder analysis component and institutional capacities to respond. Integrated, these analyses can provide options for action and a constructive path ahead. Questions can be:

- What are the claims from rights holders and the response from duty bearers? How do these claims and responses relate to the key drivers of peace and conflict?

- How will those with power react to the proposed change and how can powerful actors be engaged, actors with less power be empowered and the influence of possible spoilers be limited?

- Based on the above questions: Which would be the initiatives with the highest relevance given the HR and conflict contexts and how can change be promoted in an effective, sustainable and conflict sensitive way given the stakeholders?

As illustrated above in the table, there is a strong interdependence of causes and effects between the two areas. Through a systematic analysis it is possible to find options for integrated projects or to see how initiatives can complement each other (twinning). A joint HRBA and peace & conflict analysis could, for example, ask the questions:

- How can initiatives to decrease discrimination or weak participation of an ethnic minority also be designed to address discrimination as a driver of conflict?

- How can security sector reform initiatives within a peace-building context be implemented with a rights based approach, for example improved transparency to increase accountability as well as improved institutional capacity as duty bearer?;

- How can women's meaningful participation be strengthened in local or national peace processes and how to improve the quality and longevity of peace by avoiding gender blindness?

- How methodologies or timing can be adjusted, as proposed by Swedish Government policy, in a constructive dialogue between national and international actors.

As an example of linking HRBA and peace-building, Sida's Strategic Conflict Analysis of Afghanistan (2012) illustrates a range of strong relations between HRBA, peace and conflict and proposes special efforts within the sector of human rights.

In the RDC (Research and Documentation Centre) files in Sarajevo there are more than 50,000 photos and 3,500 hours of footage, says Jadranko Kurbegovitch. Sweden supports the RDC to document the Yugoslavia war events and to educate the next generation preventively. Photo: Victor Brott

Conclusions on HRBA and Peace-building - Principle by Principle

The main recommendation of this brief is for staff to combine tools for HRBA analysis and peace & conflict analysis when assessing, supporting and evaluating development cooperation contributions. Possible steps can be to:

a) Analyse the current situation in the country carefully, assuming that HRBA and peace-building have a positive and negative interdependence;

b) Assess the claims of rights holders and the response and capacity of the duty bearers and how these relate to the key drivers of peace and conflict. Based on this analysis, find practical approaches and options avoiding mutual negative impacts and exploring mutually enforcing opportunities. Ask how peace-building can apply HRBA and the promotion of human rights can be conflict sensitive. Key issues to reflect upon, during assessment, according to Swedish policy is the choice of timing and methodology;

c) When the HRBA is made conflict sensitive and applied to peace-building, the following opportunities can be utilised:

d) Integration: Initiatives can be supported that integrate both HRBA and peace-building by addressing mutual root causes. For example, programmes that address both uneven land distribution (HRBA) and the conflicts caused by this distribution (peace-building).

e) Twinning: Initiatives can be supported where human rights and peace-building are complementary paving way for one and another. For example, when a programme on disarmament, demobilisation and re-integration of combatants (DDR - peace-building) is paving way for a programme in support of claims (HRBA) by war victims, and vice versa, in a planned and harmonised way, for example, by carefully documenting, during the demobilisation, the former combatants and their participation in the conflict.

When the context change and/or when preparing for a new phase of a strategy or programme, a re-assessment of the current situation (1) is needed.

Finally, peace-building should always be implemented in relation to the four HRBA principles. The table below illustrates some important aspects of working "in" and "on" conflict and possible questions to ask:

Table 2: The four HRBA Principles "in" and "on" Conflict

Non-discrimination

"In" conflict – effects of conflict on HR	Before or during violent conflict, powerful actors will seek to mobilise people based on different political or ethnic identities and discriminate others. Furthermore, conflict dynamics will make many individuals and groups more vulnerable such as persons with disabilities, elderly and children. This is obvious in relation to the recruitment or exploitation of children in war, abuses of and sexual violence against women and the overrepresentation of men among lethal casualties.
"On" conflict – HRBA when building peace[v]	When promoting peace, not only powerful groups shall be approached but also potentially powerful and the general public as well as conflict affected groups. By including both "key" people with access to power and "many people", the wider society, peace-building is made more effective with a HRBA dimension.
	It is also necessary to take into consideration and ensure women's participation. Women are often important actors in peace-building in society, but are neglected, for example, during formal negotiations. Furthermore, addressing discrimination e.g. of ethnic minorities, a root cause of both conflict and HR abuse will be targeted.
Questions to ask when working "in" and "on" conflict	- What are the root causes of discrimination and how can HR and peace-building interventions help address them?
	- When promoting peace, the powerful actors need to be included as well as the actors with less access to influence and power. How can this be done?
	- In what way can women be empowered to participate?
	- How can the rights of people with special needs, for example disabled people, be integrated into analysis and how can they be supported
	- How can persons with disabilities, elderly and ethnic minorities be supported to resist violent conflict and benefit from protection?

Transparency

"In" conflict – effects of conflict on HR	"The first victim of war is truth" is a classic saying. When military operations start dominating political life, secrecy is the result in the interest of "national security". This has implications for the civil service and for state transparency and accountability. Studies confirm, especially after 11 September 2001, that transparency has decreased. In addition, there is a tendency of many peace processes to be pursued byan elite without transparency.
"On" conflict – HRBA when building peace	When supporting peace processes, avoid the pitfall of treating secrecy as a pre-condition for negotiated peace. Both elites and society at large need to and have the right to be informed and participate in a reconciliatory process in order to be effective and to have a HRBA lens. Furthermore, by promoting transparency throughout the conflict process, fear as core driver of conflict can be addressed and more actors can help prevent or manage the outbreak of violence. In addition, lack of transparency feeds corruption during conflict which both threatens HR and peace by providing resources to violence.
Questions to ask when working "in" and "on" conflict	- Who has access to information and in what way is it used in relation to the conflict? Is it misused for propaganda reasons? - When promoting transparency from a HRBA, there is a risk of affecting an eventual peace process. How can this be mediated? Transparency is important for effectiveness, but timing is also an issue. What are the implications of timing in your context? - Access to information is essential for justice, reconciliation and peace. Are there opportunities to support initiatives on documentation?

Participation

"In" conflict – effects of conflict on HR	Due to the discriminatory and secret character of violent conflict, opportunities for meaningful participation many times decrease dramatically. This is especially true for minorities, civil society and women. However, women's participation can sometimes increase due to changed gender relations, but frequently with high costs and systematic abuses. A participatory democratisation process may also be hampered.
"On" conflict – HRBA when building peace	Broad participation during peace processes is central both from a rights perspective and for the sake of effective and durable peace-building. Women, youth and communities in the geographic periphery tend to be excluded from peace processes. Special efforts need to be made for the participation of women, distant communities and the "future" generation, without whom peace will be more difficult to achieve and maintain. It is also important to address the vulnerabilities and needs of female, male and child combatants after war. They have the right to participate and can, if excluded, become a threat to peace.

Questions to ask when working "in" and "on" conflict	- In order to have broader participation, both from a rights and a peace perspective, capacity building of civil society is essential. This is much more challenging during conflict and there is a need to be both flexible and willing to take risks. How can support to build capacity in civil society be made flexible while taking calculated risks?
	- It is important to include a broad spectrum of the population, in order to increase the likelihood of sustainable HR and peace. From a peace perspective, potentially powerful and democratic groups are especially important as presenting a future alternative to "warlordism" and strongmen dominance. How can these groups be supported?
	- The UN Resolution 1325 specifically highlights the importance of women's participation at all levels of decision-making for conflict-resolution and peace negotiations. Are there ways of strengthening women's participation?

Accountability

"In" conflict – effects of conflict on HR	State fragility during and after violent conflict and lack of transparency contributes to low level of accountability of duty bearers. Many times, parallel systems are built for justice and social and economic security through civil society organisations, which decreases the pressure on the state to provide.
"On" conflict – HRBA when building peace	State-building and peace-building have tended to become synonymous. However, state control is usually a disputed issue. Therefore, an inclusive and accountable state is important both from a rights perspective, as duty bearer, and from a legitimacy and peace perspective. By applying a HRBA on state building, the likelihood increases that the process also builds peace. Furthermore, accountability for human rights abuses should not be left aside, but carefully analysed during peace processes. The issue of "justice or peace first" must be handled and it cannot be an issue of "one or the other".
Questions to ask when working "in" and "on" conflict	- State-building is very difficult during on-going armed conflict. A power-analysis can help deem if it is at all possible as the state itself might be contested. During post conflict, state building is essential based on the existing consensus in order to help create a capable duty bearer and durable peace. Are there options for supporting state building?
	- During post-conflict and armed conflict, if the overall environment is supportive, local democratic governance could be a useful entry point for peace building and HR. Are there possibilities to strengthen local governance?
	- Capability of civil society to "voice" rights claims is important. However, the capacity of the state is also important. Otherwise development contribution might contribute to future conflict. In what way can state-building and civil society support be balanced?

- Post conflict processes many times result in reforms of the constitution, parliament, civil service etc. Can this process provide a window of opportunity to strengthen the state's adherence and capacity as duty bearer?

- Transitional justice offers a vehicle in fragile states to address both justice and peace-building needs and provides possible solutions to the dilemma "justice AND peace". In spite of this, a long term perspective for a permanent system of rule of law is important. How can transitional justice be supported while aiming at rule of law?

Further Reading and references

On conflict sensitivity and the Do No Harm methodology, visit www.cdainc.com to download the mentioned publications:

- Do No Harm Checklist (A4), CDA, 2007

- Do No Harm Handbook, CDA, 2004

- Mary, B. Anderson, Options for Aid in Conflict: Lessons from Field Experience, CDA, 2000 (download from web page above).

On the relationship between human rights/HRBA and peace-building:

- Göran Gunner & Kjell-Åke Nordquist, An Unlikely Dilemma: Constructing a Partnership between Human Rights and Peace-Building, Pickwick Publications, 2011

On HRBA:

- The United Nations has established a website called the 'Practitioners Portal on HRBA' – www.hrbaportal.org - which brings together a number of HRBA projects from different countries and sectors with the aim of mainstreaming information and understanding about HRBA.

On women and persons with disabilities

Disability and the post-conflict agenda here

Involvement of Persons with Disabilities in Conflict Resolution and Peacebuilding Efforts here

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[i] Johan Galtung, Violence*, Peace, and peace Research*, Journal of Peace research, 1969.

[ii] Peace-building and the promotion of peace and human security are here used synonymously. In reality, there are different definitions and interpretations of these concepts. However, for the purpose of this operational brief these differences are of less concern. If peace-building is mentioned in this brief it relates to the promotion of peace and human security before, during and after armed violence, be it so a formal violent conflict with stated incompatibilities or other types of organised violence, for example organised crime.

[iii] Göran Gunner & Kjell-Åke Nordquist, *An Unlikely Dilemma: Constructing a Partnership between Human Rights and Peace-Building*, Pickwick Publications, 2011, *Synthesis Report - Review Study on Human Rights*, OECD-DAC Joint Working Group on Human Rights and Conflict, OECD-DAC, 2008

[iv] *Conflict and Fragility:Do No Harm*, OECD, 2009: 1–202., Björn Holmberg, Civilsamhälle i väpnad konflikt: En rapport kring möjligheter samt svårigheter att stärka civila samhället i konfliktländer, Sida, 2012

[v] This column refers to some of the conclusions of the *Reflecting on Peace Practice* (RPP), CDA Collaborative Development Project, 2003 and Paffenholz, Thania,. Civil Society & Peace-building – A Critical Assessment, Lynne Rienner, 2009

A Human Rights Based Approach to Peace Building - Summary

In spite of the intuitive sense of similarities between the promotion of human rights and peace, experience from   development countries has emphasised the need to understand the relationship between the promotion of human rights   and peace-building. Sometimes the approaches can be conflicting, but the possibilities for synergies are numerous. The application of a Human Rights Based Approach (HRBA) and its four principles can be a useful tool to integrate the two. Possible steps can be to:

1. Analyse the current situation in the country, assuming that HRBA and peace-building have a positive   and negative interdependence;

2. Assess the claims of rights holders and the response and capacity of the duty bearers and how these relate to   the key drivers of peace and conflict. Based on this analysis, find practical approaches and options avoiding   mutual negative impacts and exploring mutually enforcing opportunities. Ask how peace-building can apply   HRBA and the promotion of human rights can be conflict sensitive. Key issues to reflect upon, during assessment, according to Swedish policy is the choice of timing and methodology;

3. When the HRBA is made conflict sensitive and applied to peace-building, the following opportunities can be   utilised:

   - Integration: Initiatives can be supported that integrate both HRBA and peace-building by addressing   mutual root causes. For example, programmes that address both uneven land distribution (HRBA) and   the conflicts caused by this distribution (peace-building).

   - Twinning: Initiatives can be supported where human rights and peace-building are complementary   paving way for one and another. For example, when a programme on disarmament, demobilisation and   re-integration of combatants (DDR - peace-building) is paving way for a programme in support of claims (HRBA) by war victims, and vice versa, in a planned and harmonised way, for example, by   carefully documenting, during the demobilisation, the former combatants and their participation in the   conflict.

4. When the context change and/or when preparing for a new phase of a strategy or programme, a re-assessment of the   current situation is needed.

Finally, peace-building should always be implemented in relation to the four HRBA principles. Possible questions to ask when working "in" and "on" conflict could be:

Non-discrimination	**T**ransparency
• What are the root causes of discrimination and how can HR and peace-building interventions help address them? • How can powerful actors be included as well as the actors with less access to influence and power this be done? • In what way can women be empowered to participate? • How can the rights of people with special needs, for example disabled people, be integrated into analysis and how can they be supported? • How can persons with psychological and physical disabilities and indigenous groups be supported to resist violent conflict and benefit from protection?	• Who has access to information and in what way is it used in relation to the conflict? Is it misused for propaganda reasons? • How can the risk of affecting an eventual peace process when promoting transparency from a HRBA be mediated? • When promoting transparency from a HRBA, there is a risk of affecting an eventual peace process. How can this • What are the implications of timing in your context? • Are there opportunities to support initiatives on documentation as access to information is essential for justice, reconciliation and peace?
Participation	**A**ccountability
• How can support to build capacity in civil society be made flexible while taking calculated risks? • How can potentially powerful and democratic groups be supported? • Are there ways of strengthening women's participation in decision-making?	• Are there options for supporting state building? • Are there possibilities to strengthen local governance? • In what way can state-building and civil society support be balanced? • Can the post conflict process of reforms of the constitution, parliament, civil service etc. provide a window of opportunity to strengthen the state's adherence and capacity as duty bearer? • How can transitional justice be supported while aiming at rule of law?

To learn more on HRBA and peace building, read the full thematic area brief.

Sida

A Human Rights Based Approach in Private Sector Collaboration

Purpose and framework

The purpose of this Brief is to provide guidance on how to apply a human rights based approach when collaborating with the private sectors. It also includes some useful references.

In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.). Sida staff can access further information and HRBA tools on Sharepoint. Applying a human rights based approach entails

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms etc.) to enable them to address their situation and claim their rights individually and collectively

Foreign Direct Investments plays an important role for a country´s development. Economic, social, and environmental sound investments are essential for sustainable development and for creating an enabling environment for people living in poverty. Through the creation of more and decent jobs, economic and social rights of women and men living in poverty can be enhanced.

Applying a human rights based approach can help to identify business collaboration opportunities that coincides with the Swedish development goals. For example collaboration with businesses willing to apply and develop inclusive business models (i.e. companies whose core business empowers poor and marginalised women and men as workers, distributors, producers, entrepreneurs and leaders), businesses willing to make socially and environmentally responsible investments and initiatives where the business sector plays an important role for the respect of workers social and economic rights.

Existing human rights tools for Sida's collaboration with the private sector

Sida's guidelines

[Sida's guidelines for CSR (Corporate Social Responsibility)](#) According to the CSR Guidelines, Sida should address a) State responsibility to protect human rights, b) corporate responsibility to respect human rights and c) shared responsibility to provide remedy for victims of human rights abuses. These are called the "Ruggie principles" and were endorsed in June 2011 by the United Nations Human Rights Council . The principles are designed to ensure that companies do not violate human rights in the course of their transactions and that they provide redress when infringements occur.

Protect:
The pillar Protect refers to states responsibility to protect human rights. Sida broadens the concept of responsibility to protect to include the environment, labour legislation, anticorruption and gender equality.

Respect:
The second dimension targets the business responsibility to respect human rights. Sida has a responsibility to respect human rights and other social and environmental issues in its own processes, while its role as an authority can influence the behaviour of companies how they act. This can be achieved by placing requirements on cooperation partners in procurement situations, in agreements and cooperation with companies.

Remedy:
Access to formal legal systems is often worst where the need is the greatest. Without proper remedying mechanisms, duties and obligations become vague. Therefore, effective remedying mechanisms play an important role in the state's duty to protect and the corporate responsibility to respect. Extrajudicial mechanisms, regardless of whether they are state-run or independent, should be in agreement with the principles on legitimacy, accessibility, predictability, rights perspectives, fairness and openness.

According to the PGD, Sweden shall also contribute to increased knowledge and observance of universal codes of conduct and instruments, such as the [UN Global Compact principles](#) and the [OECD Guidelines for Multinational Enterprises](#) through a continuous dialogue with representatives of government, the private sector and civil society in cooperation partner countries. These tools also support a human rights based approach.

UN Global Compact

The UN Global Compact is a strategic policy initiative for businesses to align operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. The Global Compact aims to mainstream these principles around the world and to assist the private sector in the management of increasingly complex risks and opportunities in the environmental, social and governance realms. The Global Compact provides a practical framework for the development and implementation of policies and practices to help advance sustainable business models and markets. The UN Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core principles in four areas:

Human Rights
Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
Principle 2: make sure that they are not complicit in human rights abuses.
Labour
Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
Principle 4: the elimination of all forms of forced and compulsory labour;
Principle 5: the effective abolition of child labour; and
Principle 6: the elimination of discrimination in respect of employment and occupation.
Environment
Principle 7: Businesses should support a precautionary approach to environmental challenges;
Principle 8: undertake initiatives to promote greater environmental responsibility; and
Principle 9: encourage the development and diffusion of environmentally friendly technologies.
Anti-Corruption
Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.

OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises is an international instrument for the promotion of responsible business conduct and cover areas such as Human Rights, employment and industrial relations, the environment, anti-corruption, consumer interests and competition. The guidelines provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The OECD Guidelines for Multinational Enterprises are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting. The recommendations express the shared values of the governments of countries from which a large share of international direct investment originates and which are home to many of the largest enterprises (OECD, 2011). The guidelines stipulate that National Contact Points should be established to help solve conflicts through dialogue when companies do not follow the guidelines and respect for human rights. The National Contact Points acts as mediators and can support the individual to get remedy.

Other human rights tools

- The Donor Committee on Enterprise Development (DCED) has highlighted the importance of taking the rights of poor people working in informal economic activity into account when supporting business environment reforms ("Supporting Business Environment Reforms. Practical Guidance to Donors, Annex How Business Environment Reform can promote Formalisation", DCED, 2011).

- The ILO's Global agenda for decent work may be seen as one of the answers to an increased focus on the situation of people in the informal economy. This agenda includes a legal framework with minimum standards as well as policies to promote employment creation, social protection and social dialogue.

- The European Commission has developed guidelines for Small and Medium sized Companies regarding Human Rights based on the UN Guiding Principles on Business and Human Rights. They include sector-specific guidelines for the extractive industry (oil and gas), employment companies and companies working with information and communication. http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-socialresponsibility/human-rights/index_en.htm

- Good practices in trade between rich and poor countries developed by the 3DThree program and through Fair trade agreements.

Applying a HRBA in private sector collaboration

The questions below may guide staff to further improve the preparation, assessment and monitoring of interventions and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A).

Linking to human rights instruments (L)

How the business sector can support and respect human rights is expressed in UN Global Compacts principles:

- Businesses should support and respect the protection of internationally proclaimed human rights and make sure that they are not complicit in human rights abuses.

- Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced and compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

- Businesses should support a precautionary approach to environmental challenges; undertake initiatives to promote greater environmental responsibility; and encourage the development and diffusion of environmentally friendly technologies.

- Businesses should work against corruption in all its forms, including extortion and bribery.

When assessing and monitoring initiatives, the overall key question is: Has an analysis been made of the initiative in relation to its human rights consequences – both positive and negative? Sida´s

[due diligence tool](#) will help staff to know more about business partner´s maturity regarding Business and Human Rights.

Empowerment and capacity development (E)

According to [Sida´s guidelines on Corporate Social Responsibility](#) (CSR), Sida's engagement with the private sector should reinforce the a) State responsibility to protect human rights, b) corporate responsibility to respect human rights and c) shared responsibility to provide remedy for victims of human rights abuses. This means that capacity building of these actors must be a central element of the supported initiatives. Equally important is the empowerment of poor and marginalised women and men as workers, distributors, producers, entrepreneurs and leaders in order for them to be able to engage with business opportunities and monitor compliance to Corporate Social Responsibility commitments. Key questions are;

- Does the intervention empower poor and marginalised women and men?
- Does the initiative enhance capacity of those responsible to protect, respect and remedy human rights to ensure better compliance?
- Does the initiative develop capacity of female and male entrepreneurs, smallholders and employees increasing their economic empowerment?
- Does the initiative empower these stakeholders to monitor compliance to CSR commitments and Global compact principles?
- Have barriers to inclusion of women and marginalised groups been identified?

Non-discrimination (N)

The exclusion of large groups of poor people from market access is an important obstacle to economic growth in general and economic empowerment of the poor in particular. The reasons for market exclusion vary, from cases of clear-cut discrimination to situations where poor people are excluded from markets and economic opportunities due to remoteness, lack of information, knowledge etc. World Bank research shows that mostly people are poor because they are powerless (Voices of the Poor, 2000). World Bank research also shows that as much as 30% of the poor are persons with disabilities. There are strong arguments from an economic as well as from a human rights perspective for interventions supporting inclusion of excluded groups. This requires explicit measures which empower and develop capacity (information, skills, capital, tools, etc.) of excluded groups (such as women, ethnic minorities and people with disabilities).

Key issues to monitor and analyse in assessing support for private sector actors are:

- Have barriers to inclusion of marginalised groups been identified and addressed?
- Are discriminatory policies, laws, regulations or practises identified and addressed?
- Does the intervention make a deliberate effort to facilitate inclusion of vulnerable and marginalised groups (e.g. women, ethnic minorities, people with disabilities etc.)?
- Are there deliberate, targeted measures to support/include vulnerable and marginalised groups (e.g. women, ethnic minorities, people with disabilities etc.)?

Transparency (T)

Stakeholders have the right to information about the purpose, the opportunities, and the monitoring and complaints mechanisms of development interventions. Openness and transparency could in many cases be improved. Program documents are often lengthy and complex for ordinary people to understand and budgets are often not disclosed or discussed. Sometimes transparency is unnecessarily denied, under the pretext of trade secrecy.

> Key issues to monitor and analyse in assessing support for businesses actors:
>
> - Have effective communication strategies been put in place, which specifically consider accessibility of unbiased information for poor and marginalised groups?
>
> - Does the collaboration partner have a business ethic policy against corruption, extortion and bribery?

Production of décor in Bangladesh. Sweden is contributing to fair and sustainable development through private sector collaboration. Partners in Bangladesh provide safe and just working conditions and economic empowerment of women. In collaboration with H&M. Photo: Wilda Nilsson

Participation (P)

Relevance and effectiveness of programs supported will depend on meaningful and inclusive consultative planning process with stakeholders. This means that information, meeting places and dialogue methods need to be accessible to all stakeholders (means and format of communication) and that deliberate efforts are taken to accommodate women and men living in poverty and their representatives. Consultations take time and effort. Some stakeholders may need some

preparation before being able to understand the issues and participate in consultations. Reference is made to the document Public Participation: International Best Practices Principles (André, 2006).

Experience show that Business Environment Reforms cannot succeed without a continuous dialogue with all actors affected by changes in the regulatory environment. Unfortunately, not all government ministries and agencies in developing countries are well equipped and have sufficient incentives to organise meaningful participation of stakeholders. For this reason, donors who participated in the large business environment reform program in Tanzania, decided to set up an independent entity to provide grant support to private sector associations for their dialogue with the government (see http://www.best-ac.org).

Key issues to monitor and analyse in assessing support for business actors:

- Is there a process/forum for people to express their view on the investment/projects´ impact on their livelihood (socially, environmentally and economically)?

- Are the workers allowed to form associations and do they have the right to collective bargaining?

- Is there a scope to enhance the capacity of workers associations?

Volvo supports mechanics vocational training courses for youth in vulnerable situations in Addis Ababa, Ethiopia. This will empower the youth and give them job opportunities, encourage companies to take social responsibility and offer good working conditions, while at the same time benefitting from availability of skilled workers. This is a collaboration between Volvo, Sida and Selam Vocational College. Companies always contribute at least 50 % of the project investment. Photo: UNIDO

Accountability (A)

Accountability is first about identifying those with legal and moral responsibilities to ensure that poor women and men are a) protected from rights violations by e.g. discriminatory laws, regulations and practices or by foreign and domestic investors or businesses b) empowered to "take part in, contribute to and benefit from economic growth" and accessing market systems on fair terms. *Second*, it is about monitoring that those responsible fulfil their obligations in accordance with international laws, principles and agreements.

Those who could be held accountable in business cooperation programs are foreign governments and donors who engage in bilateral agreements, national and local governments who are responsible for laws/regulations and rule of law and large international and national businesses that are responsible to adhere to the national and international laws/regulations and agreements (labour rights, fair compensation etc).

Regardless of size, businesses that Sida partners with are expected to contribute to poverty reduction and enhancement of human rights. They are expected to adhere to certain ethical standards.

Key issues to monitor and analyse in assessing support to business interventions:

- Does the partner have systems in place to monitor and disclose social and environmental impacts according to internationally agreed standards for business, according to internationally agreed standards for business, such as UN Global Compact, OECD guidelines for multinational enterprises, ILO labour rights and the Business and Child Rights Principles?

- Do they disclose their impact in a sustainability report, and is it build on material aspects of sustainability?

- Is there a salary-system in place that ensures fair and just wages based on experience and level of expertise?

- Are complaints mechanisms in place through which stakeholders may challenge decisions or actions that affect them negatively?

Useful links and references

Sidas guidelines for CSR (Corporate Social Responsibility):
http://www.sida.se/Global/KAPSAM/B4D/Sidas riktlinjer för CSR_eng.pdf

Sida's guidelines for Private public partnerships: http://www.sida.se/PageFiles/49984/FINAL Joint Declaration on expanding and enhancing public private cooperation for development FINAL 13_11_11.pdf

Sida´s due diligence tool for self-assessments, link here

Natural Resource Tenure – a crucial aspect of poverty reduction and human rights, Sida Studies No. 23 http://www.sida.se/globalassets/global/sa-arbetar-vi/economic-opportunities/sidastudies23_sida51603en_web.pdf

Children Rights and Business Principles
https://www.unglobalcompact.org/issues/human_rights/childrens_principles.html

Public Participation: International Best Practices Principles: http://www.iaia.org/publicdocuments/special-publications/SP4 web.pdf

The Convention against Corruption specifies the requirements of the private sector (art. 12) and prescribes participation of society in monitoring (art 13): http://www.unodc.org/unodc/en/treaties/CAC/

United Nations Human Rights Council 16 June, 2011 endorsed a new set of global guiding principles for business (Ruggie principles) designed to ensure that companies do not violate human rights: http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/3D7F902244B36DCEC12578B 10056A48F?OpenDocument

The ILO's Global agenda for decent work: http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm

ILO's global agenda for decent work is being implemented in a large number of countries. Regional and country progress reports: http://www.ilo.org/public/english/bureau/program/dwcp/countries/index.htm

Good practices in trade between rich and poor countries developed by the 3DThree program: http://www.3dthree.org/en/pages.php?IDcat=19 and through Fair trade agreements: http://www.fairtrade.se/

The Institute for Human Rights and Business (IHRB) is a global center of expertise on the relationship between business and internationally proclaimed human rights standards: http://www.ihrb.org/

The Danish Institute for Human rights (HIHR), Human rights and business program. Through research, tools and partnership with business actors, DIHR aims to maximise the positive impact and minimise the negative impact of business actors worldwide: http://www.humanrights.dk/focus+areas/human+rights+and+business

Business & Human Rights Resource Centre is an independent resource on the subject. The website is updated hourly with news and reports about companies' human rights impacts worldwide – positive and negative: http://www.business-humanrights.org/Aboutus/Briefdescription

The United Nations Office of the High commissioner of Human Rights, A Guide to integrating Human rights to businesses management: http://www.ohchr.org/.../GuideHRBusinessen.pdf

ISO's (International Standardisation Organisation) Corporate Social Responsibility Program: http://isotc.iso.org/livelink/livelink/fetch/2000/2122/830949/3934883/3935096/home.html

The UN Global Compact outlining 10 human rights principles for companies to embrace, support and enact, within their sphere of influence:
http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html

Annika Billing, Maja Forslind, Karin Metell Cueva, University of Gothenburg (2012), "Swedish Development Cooperation and the Private Sector - The role of business in poverty alleviation and the role of donors in promoting private sector contributions to development"

Anseeuw, W. et.al. (2012), "Land rights and the Rush for Land", International Land Coalition: http://www.landcoalition.org/sites/default/files/publication/1205/ILC%20GSR%20report_ENG.pdf

Ashley, C., "Harnessing core business for development impact", 2009, ODI Background Note

Commission on the Legal Empowerment of the Poor (2008), "Making the Law Work for Everyone"

CGAP (2011), "Reaching the Poorest: Lessons from the Graduation Model", Focus Note No. 69: http://www.cgap.org/gm/document-1.9.50739/FN69.pdf

Davis P. (2011), "The Political Economy of business environment reform: an introduction for practitioners", Donor Committee for Enterprise Development

Donor Committee for Enterprise Development, DCED (2011), "Supporting Business Environment Reforms. Practical Guidance to Donors, Annex How Business Environment Reform can promote Formalisation"

Foresti, M. et al (2010), "Human rights and pro-poor growth", Overseas Development institute (ODI) Project Briefing No. 34

Jones, L. (2012), "How can the making markets Work for the Poor Framework work for poor *women* and poor *men",* Springfield Centre for Business in Development

M4P Hub, "Sharing knowledge on making markets work for the poor": http://www.m4phub.org/what-is-m4p/introduction.aspx

OECD (2011), "OECD Guidelines for Multinational Enterprises"

Oxfam (2011), "Making markets empower the poor", Programme perspectives on using markets to empower women and men living in poverty.

Wickeri, E. and A. Kalhan (xxxx), "Land Rights Issues in International Human Rights Law", Institute for Human Rights and Business; http://www.ihrb.org/pdf/Land_Rights_Issues_in_International_HRL.pdf

World Bank – Voices of the poor (2000)

Monitoring of Human Rights Treaties per country UN web-page: http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx

Study on land rights for the poor by the International Land Coalition: http://www.landcoalition.org/cpl/CPL-synthesis-report

Trading conditions that take human rights into account as outlined by the 3DThree program: http://www.3dthree.org/en/pages.php?IDcat=19

Read more in the German development Agency HRBA fact sheet documents http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf

Human Rights Based Approach and Private Sector Collaboration - Summary

Foreign Direct Investments plays an increasingly important role for a country´s development. Economic, social, and environmental sound investments are essential for sustainable development and for creating an enabling environment for people living in poverty. Through the creation of more and decent jobs, economic and social rights of women and men living in poverty can be enhanced.

Applying a human rights based approach can help identifying business collaboration opportunities that coincides with the Swedish development goals. For example collaboration with businesses willing to apply and develop inclusive business models (i.e. companies whose core business empowers poor and marginalised women and men as workers, distributors, producers, entrepreneurs and leaders), businesses willing to make socially and environmentally responsible investments and initiatives where the business sector plays an important role for the respect of workers and economic rights.

The UN Guiding Principles on Business and Human Rights specifies that a) the state has the *responsibility* to protect the Human Rights while b) the business sector has the obligation to *respect* human rights. There is a c) shared responsibility to provide remedies for victims of human rights abuses.

The main areas are expressed in UN Global Compacts principles:

- Businesses should support and respect the protection of internationally proclaimed human rights and make sure that they are not complicit in human rights abuses.

- Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced and compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

- Businesses should support a precautionary approach to environmental challenges; undertake initiatives to promote greater environmental responsibility; and encourage the development and diffusion of environmentally friendly technologies.

- Businesses should work against corruption in all its forms, including extortion and bribery.

Sida´s guidelines on Corporate Social Responsibility (CSR) builds on these and other international agreed principles and describes how Sida should act to reinforce human rights in the collaboration with the private sector.

This means that awareness raising and capacity building should be a central element of the supported initiatives. Equally important is the empowerment of poor and marginalised women and men as workers, distributors, producers, entrepreneurs and leaders in order for them to be able to engage with business opportunities and monitor compliance to Corporate Social Responsibility commitments.

Key questions are;

- Does the intervention empower poor and marginalised women and men?

- Does the intervention build capacity of those responsible to protect, respect and remedy human rights?

- Does the intervention develop capacity of female and male entrepreneurs, smallholders and employees increasing their economic empowerment?

- Does the intervention empower them to monitor compliance to CSR commitments?

- Have barriers to inclusion of women and marginalised groups been identified?

Sida´s due diligence tool - a self-assessment made by Sida´s business partners, help us to know more about our business partner´s maturity regarding Business and Human Rights. The questions below, related to the four HRBA principles, may also help to prepare, asses and monitor private sector collaboration initiatives to ensure that human rights are enhanced and respected both in results and processes.

Participation	Non-discrimination
• Is there a process/forum for people to express their view on the investment/projects´ impact on their livelihood (socially, environmentally and economically)? • Are the workers allowed to form associations and do they have the right to collective bargaining? • Is there a scope to enhance the capacity of workers associations?	• Have barriers to inclusion of marginalised groups been identified and addressed? • Are discriminatory policies, laws, regulations or practises identified and addressed? • Does the intervention make a deliberate effort to facilitate inclusion of vulnerable and marginalised groups (e.g. women, ethnic minorities, people with disabilities etc.)?
Accountability	Transparency
• Does the collaboration/business partner have systems in place to monitor and disclose social and environmental impacts according to internationally agreed standards for business, such as UN Global Compact, OECD guidelines for multinational enterprises, ILO labour rights and the Business and Child Rights Principles? • Do they disclose their impact in a sustainability report, and is it build on material aspects of sustainability? • Is there a salary-system in place that ensures fair and just wages based on experience and level of expertise? • Are complaints mechanisms in place through which stakeholders may challenge decisions or actions that affect them negatively?	• Does the intervention include communication strategies which consider accessibility of unbiased information for poor and marginalised groups? • Does the collaboration partner have a business ethic policy against corruption, extortion and bribery?

To learn more on a human rights based approach in private sector collaboration, read the full thematic area brief.

Sida

Human Rights Based Approach to Research

Purpose and framework

The purpose of this brief is to provide guidance to staff on how to apply a human rights based approach to research cooperation. It also includes some useful references.

A human rights based approach takes its staring point in the values and principles underpinning the UN human rights conventions; non-discrimination, participation, accountability and transparency. Applying a human rights based approach can help in addressing power imbalances within and between institutions and programs, ensure transparent, inclusive and ethical research processes, enhance good governance of research institutions and promote research programs of particular relevance to men and women living in poverty, under oppression or subjected to discrimination.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.).

Applying a human rights based approach entails

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms etc.) to enable them to address their situation and claim their rights individually and collectively

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

The United Nations has established a website called the 'Practitioners Portal on HRBA' — www.hrbaportal.org — which brings together a number of HRBA projects from different countries and sectors with the aim of mainstreaming information and understanding about HRBA. Although the information is aimed at United Nations practitioners, the website has a number of HRBA project examples and research studies from areas including disability rights, health, the environment, poverty and education.

Research at Sida

The Swedish research contributions are guided by the Strategy for research cooperation and research within development cooperation 2015-2021. It has a clear pro-poor and human right focus and aims at addressing the power and knowledge imbalance between high and low income countries.

The overarching goal for research cooperation financed by Sweden is to strengthen and develop high quality scientific research of relevance for the fight against poverty and sustainable development, with a primarily focus on low and middle income countries and regions. To achieve this goal, Sida focusses on the following areas:

- Research capacity development in low income countries and regions
- Global, regional and national research of relevance to low income countries and regions
- Research that, through innovation, can contribute to poverty reduction and sustainable development
- The Swedish Research Council (Vetenskapsrådet) focusses on:
- Swedish research of relevance for the fight against poverty and sustainable development in low income countries

Gender equality and gender perspectives are important aspects of all Swedish support to research and research institutions.

Another cornerstone in research cooperation is the realisation that the right to education, teaching and research can only be fully enjoyed in an atmosphere of academic freedom and autonomy for institutions of higher education and that the open communication of findings, hypotheses and opinions lies at the very heart of higher education and provides the strongest guarantee of the accuracy and objectivity of scholarship and research.

In research cooperation, a human rights based approach could be applied in relation to the expected results of the research itself (content), in relation to the supported institutions (governance) and in relation to the process leading to support to research programs and their execution. Applying a human rights based approach will help ensuring effectiveness and relevance of supported initiatives.

Applying a HRBA in research initiatives

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A).

Linking to human rights instruments to inform dialogue and programming (L)

UN human rights instruments can be used to guide and justify interventions. They can also be used to hold governments and their institutions accountable to their commitments. There are a number of conventions relevant to research and to research processes. The most important are:

The Convention on Social, Economic and Cultural Rights, which prescribes that "*higher education should be made equally accessible to all on the basis of capacity*". This means that higher education and research should be available in sufficient quantity and quality, accessible to everyone without discrimination, acceptable and adaptable to the changing society and to the diverse needs of students (e.g. male, female, minorities, poor students, LGBTI students and students with disabilities).

Also Article 27 in the Declaration of Human Rights is relevant to research: "*Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits*".

Key issues to monitor and analyse when assessing support for research interventions are:

- Is the research of relevance to women, men, girls and boys living in poverty/under oppression? Is it relevant to human rights fulfilment? If not, what is the justification for selection of research topics that have no clear relevance to persons living in poverty or to human rights improvements?

- Will the research contribute to academic freedom, freedom of expression and autonomy of the research institution?

- Will the global disparity in knowledge production been addressed? Are the power imbalances within and between research institutions mentioned and minimised?

- Do the partner institutions have a governance system that respects the human rights principles and values?

- How will results be communicated and used for enhancement of human rights (e.g. health, education, livelihoods etc.) as stated in article 27?

- Is the research carried out in line with human rights principles (see chapter below) and international ethical guidelines?

Ethical guidelines for higher education institutions can be downloaded from the website of International Association of Universities http://www.iau-aiu.net/content/ethics-higher-education. UNESCO has a collection of documents related to ethics and science and technology at http://en.unesco.org/themes/ethics-science-and-technology. International ethical guidelines can also be downloaded from the web site http://icmr.nic.in/human_ethics.htm

Empowerment and capacity development (E)

An important key element in a human rights based approach is the focus on empowerment and capacity development of rights holders and duty bearers. Key issues to discuss when assessing support for research interventions are:

- To what extent will the research empower/build capacity of decision makers and people of power and help them better fulfil their duties in line with international commitments and human rights principles

- To what extent will the research provide evidence based tools that empower people living in poverty/under oppression and enhance their abilities to work for sustainable development, poverty reduction and human rights fulfilment?

- Is there a follow up how the increased capacity of researchers can contribute to human rights outcomes in the long term?

- Are deliberate measures taken to communicate the research results to stakeholders that can use it the research in their work to fight poverty and promote sustainable development?

Micaya near La Paz in Bolivia has around 2,000 varieties of potatoes, many rich in antioxidants and other beneficial substances. The University of La Paz conducts research on how production is improved - all in collaboration with the population in the villages. Photo: Leonidas Aretakis

Non-discrimination (N)

Non-discrimination is about being aware that even in the small group of university students and staff, there may be discrimination due to for example ethnicity, gender, age, kinship and disability. It's about removing barriers and taking affirmative or other targeted actions to ensure inclusion of underrepresented groups. While it may appear as if selection is made only on merit and competence, this is often not the full truth. Taking non-discrimination seriously can be about affirmative action for female students, ethnic minorities, socially disadvantaged students, and students/researchers with disabilities (including persons living with HIV/AIDS). It can also be about creating and implementing policies and practices that prevent discrimination of people from these groups, as well as challenging homophobic attitudes, religious intolerance, ethnic discrimination, or harmful traditional practices. Targeted actions can be taken in line with the specific needs of underrepresented groups to increase their competitiveness. The research can also bring evidence of the conditions of these groups, and contribute to recommended action.

Irrespectively of the research area, Sida should consider support to researchers and research institutions that are concerned with inclusive and participatory methods as well as transparent research policies. This has bearing on the principle of non-discrimination and challenge unequal power structures both within the research community and society at large. Their methods for making their results accessible and useful to marginalised people and poor communities are of equal interest.

So far Sida has mainly been concerned with gender equality. Sida could broaden its perspective on non-discrimination to include other underrepresented groups. The following issues could be raised in the dialogue:

- Are there non-discrimination polices for staff and students (e.g. gender, disability, LGBT, HIV/AIDS)? Are these policies applied?

- Are there affirmative or other targeted actions to ensure that underrepresented groups such as women, ethnic minorities, persons with disabilities etc. get a fair chance to compete for research grants/fellowships/academic positions etc.? What measures are taken?

- Is it possible to make a disaggregated analysis of the beneficiaries of scholarships, grants, promotions and support according to gender, ethnicity, social background and disability (sometimes impossible due to legal restrictions)? This could be a way of making discrimination visible and provides a basis for action at various levels.

- What measures are taken to support women to complete studies and research, when pressured by family demands? Student and researchers living with HIV?

- What is the number and proportion (%-age) of women in decision making bodies?

- Is the research institution, library, documentation system, languages etc. accessible for students with disabilities?

- In what way does the research of the research institution bring out evidence that lead to recommendations on policy change in relation to non-discrimination and participation?

In the case of research on vulnerable populations in human rights-constrained environments, the research should consider the guidelines on best practices for conducting research with

LGBTI and MSM "Respect, Protect, Fulfill" jointly developed by UNDP, the Foundation for AIDS Research, IAVI and the Johns Hopkins Bloomberg School of Public Health.

Non-discrimination also applies to Sida and the partnering Swedish/international research institutions. The same questions should be directed to these parties.

Sweden has supported research institutions in Tanzania for more than 30 years. Here, Dr Donatha Tibuthwa is doing research on mushrooms s as an important nutrition resource. Photo: Edwin Mjwahusi

Transparency (T)

Transparency is about having clear policies and regulations, and making them known. This entails having clear rules and regulations around the application and granting processes as well as application requirements and selection processes of students, grantees, fellows and staff. Key questions to discuss are:

- Is decision making open and transparent?
- Is there an institutional set up which ensures that research grants and positions are advertised openly, that selection criteria and procedures are fair and transparent?

Transparency is also about making research findings known and used. This includes being open about research processes, methods and results so that they can be cross-checked by others. It is includes making research results understood and ultimately used by others. Researchers have a responsibility to disseminate and communicate their research findings to other researchers and to policy makers and activist who can use research results as evidence in policy making or advocacy. Applicants could be asked to comment on how they intend to communicate the results to make them open for critique and testing and useful for other academics/policy makers/activists.

Sida could also follow up on the methods for dissemination of research findings used by the collaborating research institutions.

- Are research results communicated in a way that is accessible to other researchers, policy makers and other potential users?

- Are research results communicated in a way that fosters usages of research outputs?

- In the case that research involves a specific target group/community, are the results communicated to them in a suitable way?

The importance of having stakeholder analyses and communication strategies that meet the needs of these stakeholders could be raised by Sida's in the dialogue with the research institutions. This could also be supplemented with support to capacity building in this area and to development of examples of easy accessible material and material that can be used in popular media such as the radio. These could be produced by the researchers themselves, but the skills of people who develop educational material or journalists could also be used.

Transparency also applies to Sida and the partnering Swedish/international research institutions. The same questions should be directed to these parties.

Participation (P)

Participation is about democratic participation of students and researchers in planning and decision making at the research institutions. In what way can they influence the priorities and decisions made by the coordinating/steering committees? Are representatives elected or appointed? Are gender, age, ethnicity and disability barriers considered and mitigated? Sida could ask questions regarding the policy and practices used by research institutions and other actors supported to ensure meaningful participation. Key questions to discuss are:

- How do different stakeholder groups participate and in decision making on research programs, and institutional strategy?

- At universities, are there fora for student participation/influence?

- Is the fora organised and functioning democratically?

- Are opinions expressed freely and respected by the management?

Participation is furthermore about the way the agenda is set, how the research is planned, conducted and with whom research results are interpreted and recommendations are formulated. The same facts can be interpreted differently depending on who you are and what experience you have. Recommendations may also differ for the same reason.

Sida could ask for reports from research departments on how quantitative and qualitative participatory methods are used when working with people and communities, how international ethical principles/guidelines are used such as informed consent and feed back to informants, respecting informants' right to privacy and anonymity etc. In order not to be exploitative in character, research on poor, sick and marginalised groups should always contribute to their empowerment – or at least provide feed-back on results in an accessible manner. It is important not to give false expectations.

In order to link theory to practice and promote interest and utilisation of research, scholars can also be encouraged to participate in exchanges or networks with potential interest groups. This could for example be:

- other researchers/research institutions in the field,
- a relevant government body,
- CSOs and civil society networks,
- a company with interest in the results,
- professionals/experts in a field.

The purpose would be to engage them in research partnerships and/or in discussions on the implications of research results and how to take the issues further. Special funds could be set aside for collaborative research initiatives and networking efforts.

Meaningful participation and empowerment also applies to Sida and the partnering Swedish/international research institutions. The same questions should be directed to these parties. Regarding the equal participation in research design, implementation and ownership between researchers from various backgrounds and culture special care needs to be taken. Sida should ensure that an independent and accessible facilitation function is in place, which can assist researchers on issues of power imbalance.

Accountability (A)

Accountability is about the existence and implementation of good governance policies and regulations at the research institution, university or authority/agency supported. It is also about having well defined rights and obligations for students, researchers and staff and known and accessible complaints mechanisms. Sida support should strengthen the capacities of partners to implement policies that guarantee democratic practices, fair treatment and respect for human rights. Key guiding questions:

- Are there policies in place to monitor possible corruption and nepotism? Are there non-discrimination and sexual harassment policies?

- Is decision making democratic and transparent?

- Is the research institution sufficiently open about its staff recruitment, application procedures, granting system and review processes? Are these processes formally documented and available?

- Are there known and accessible complaints mechanisms for students, researchers and staff to turn to if policies are not followed?

- Is there clear division of responsibilities between the governing body and the research institution in terms of governance? Is this known by students/staff?

- What kind of policy or terms of reference is guiding the coordinating/steering committee that oversees the implementation of the Sida funded program?

Accountability is also about being effective in resource management by research institutions.

- Is an effective and transparent monitoring and evaluation framework in place?

- Is the financial control and auditing at the institution sufficient?

In addition, independent, objective knowledge is important to increase accountability, not only for the use of policy makers, but also to contest the same, by creating debate and provide knowledge and information to poor men, women and children who can use it to demand accountability of governments, companies and other stakeholders of power.

Accountability also applies to Sida and the partnering Swedish/international research institutions. The same questions on accountability are applicable also to these parties.

References – further reading

Strategy for research cooperation and research within development cooperation 2015-2021
http://www.regeringen.se/sb/d/1390/a/252995

STEPS Centre policy briefs: One of the main aims of the STEPS Centre is to ensure that environmental sustainability and making science and technology work for poor people become principal concerns for the people that make policy, http://steps-centre.org/ . The STEPS Centre is developing a new set of institutional designs, decision-making procedures, appraisal methods and analytical tools which enhance citizen engagement and environmental sustainability in uncertain environments. It also engages in the post 2015 framework and its implications: http://steps-centre.org/2013/blog/post-2015-policy-brief/. A new STEPS Centre/IDS policy briefing examines how science and politics must be engaged in a post-2015 framework in order to tackle the interlinked environmental and social justice challenges which the world faces.

Guidelines on best practices for conducting research with LGBTI and MSM "Respect, Protect, Fulfill" jointly developed by UNDP, the Foundation for AIDS Research, IAVI and the Johns Hopkins Bloomberg School of Public Health http://amfar.org/uploadedFiles/_amfar.org/In_The_Community/Publications/MSMguidance2011.pdf

21st Century Research Collaboration Workshop (October 2008) Institute of Development Studies (IDS): How can funders organise research that is rigorous, more globally constructed, user-oriented, capacity enhancing and, ultimately, more influential? http://www.ids.ac.uk/index.cfm?objectid=5C757CB6-5056-8171-7B27EABB37FEE1C7

Workshop report from '21st Century Research Collaboration Workshop' by Linda Waldman, IDS (pdf) http://www.ids.ac.uk/download.cfm?downloadfile=5C7A8C7F-5056-8171-7B695D85FB3F6106&typename=dmFile&fieldname=filename

Working paper on politics and dilemmas of research citizenship and marginality (IDS 2007): Development Research Centre (DRC) on Citizenship, Participation and Accountability based at the Institute of Development Studies, University of Sussex. Working paper 288 http://www.ntd.co.uk/idsbookshop/details.asp?id=993

HRBA and Research - Summary

In research cooperation, a human rights based approach could be applied in relation to the expected results of the research itself (content), in relation to the supported institutions (governance) and in relation to the process leading to support to research programs and their execution. Applying a human rights based approach can help in addressing power imbalances within and between institutions and programs, ensure transparent, inclusive and ethical research processes, enhance good governance of research institutions and promote research programs of particular relevance to people living in poverty/under oppression, women and marginalised groups while not compromising on quality.

A human rights based approach takes a starting point in *international human rights commitments and standards*. Key questions to discuss when assessing support for research interventions are:

- Is the research of relevance to women, men, girls and boys living in poverty/under oppression? Is it relevant to human rights fulfilment? If not, what is the justification for selection of research topics that have no clear relevance to persons living in poverty or to human rights improvements?

- Will the research contribute to academic freedom, freedom of expression and autonomy of the research institution?

- Will the global disparity in knowledge production been addressed? Are the power imbalances within and between research institutions mentioned and minimised?

- Do the partner institutions have a governance system that respects the human rights principles and values?

- How will results be communicated and used for enhancement of human rights (e.g. health, education, livelihoods etc.)?

- Is the research carried out in line with human rights principles (see table below) and international ethical guidelines for research?

An important element in a human rights based approach is the focus on *empowerment and capacity development*. Key issues to discuss when assessing support for research interventions are:

- To what extent will the research empower/build capacity of decision makers and people of power and help them better fulfil their duties in line with international commitments and human rights principles?

- To what extent will the research provide evidence base and tools that empower people living in poverty/under oppression and enhance their abilities to work for sustainable development, poverty reduction and human rights fulfilment?

- Are deliberate measures taken to communicate the research results to stakeholders that can use it the research in their work to fight poverty and promote sustainable development?

Particular aspects to monitor and analyse in design and processes are the four human rights principles *Accountability, Participation, Non-discrimination and Transparency*:

Accountability

Accountability is about the existence and implementation of good governance policies and regulations at the research institution or authority/agency supported.

- Are there clear and transparent policies and guidelines for decisions related to research grants, fellowships, academic positions, steering group nominations?

- To what extent do power relations within the research setting affect the priorities and choices?

- Is there a non-discriminatory and transparent policy framework for the institution?

- Does the institution/authority have capacity to monitor the implementation of this policy framework?

- Is there a complaints mechanism which is known and accessible to all?

- Is there a follow-up of how (to what extent) research is contributing to the intended overall purpose of combating poverty and enhancing human rights?

Non-discrimination

Non-discrimination is about being aware of possible unintended discrimination due to for example ethnicity, gender, age, kinship, sexual orientation and disability.

- Are there non-discrimination polices for staff and students (e.g. quotas or targeted actions to encourage equity)? Are these policies applied and monitored?

- Are there affirmative or other targeted actions to ensure that underrepresented groups get a fair chance to participate in research programmes and compete for research grants, fellowships, academic positions, steering group nominations etc.?

- Are premises, organisational systems and structures, tools and materials etc. accessible to all? Are there barriers that prevent some groups from participation (women, ethnic groups, LGBT persons, persons with disabilities etc.)?

Participation

Participation is about democratic participation of students and researchers in planning and decision making at the research institutions.

- How do different stakeholder groups participate and in decision making on research programs, and institutional strategy?

- At universities, are there fora for student participation/influence?

- Is the fora organised and functioning democratically?

- Are opinions expressed freely and respected by the management?

Transparency

Transparency is about having clear policies and regulations, and making them known. It is also about communicating research results

- Is decision making open and transparent?

- Is there an institutional set up which ensures that research grants and positions are advertised openly, that selection criteria and procedures are fair and transparent?

- Are research results communicated in a way that is accessible to other researchers, policy makers and other potential users?

- Are research results communicated in a way that fosters usages of research outputs?

To learn more on HRBA and research, read the full thematic area brief.

Sida

HRBA and Sustainable Rural Livelihood Systems

A Human Rights Based Approach to Sustainable Rural Livelihood Systems

Purpose and framework

The purpose of this Guide is to provide practical advice to staff on how to apply a human rights based approach when planning, supporting and monitoring initiatives related to sustainable rural livelihood systems, with an emphasis on agriculture, food security, market development and natural resource management. It also includes some useful references.

Applying a human rights based approach will help staff to understand the responsibilities of different actors in the public sector, private sector and civil society in inclusive and sustainable rural livelihood systems.

In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.). Applying a human rights based approach entails:

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how to ensure that it will do no harm to the livelihood strategies of the poor.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms, etc.) to enable them to address their situation and claim their rights individually and collectively

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

Sustainable rural livelihood systems

The realm of interventions referred to here, encompass a number of results areas within Sweden's Aid Policy Framework, such as food security, market development and increased agricultural production. The Swedish Aid Policy Framework very explicitly associates rights to own and use land as the basis for food security and access to other livelihoods that are generated by the investments that tenure security attracts. Stronger legal frameworks to protect this tenure are specifically mentioned as a priority.

The Swedish Aid Policy Framework furthermore states: "*Guaranteed access to nutritious and safe food is a right and a fundamental prerequisite for a decent life and the opportunity for people to contribute to the economy.*" (p27) The Framework makes clear

that many of the risks in adhering to this right stem from climate change and environmental degradation, and therefore preserving food security implies that these environmental risks are explicitly addressed.

Who are the rights holders?

Swedish development cooperation "*takes as its point of departure how individual people living in poverty and under oppression describe their situation themselves, on the basis of their own reality and their own experiences, needs, priorities and prerequisites for changing their living conditions*" (p10). For the majority of the world's poor, who live in rural areas, these perceptions relate to livelihoods that depend, directly or indirectly, on agriculture and natural resource management. Even in urban areas, the importance of agriculture and food security is becoming evident as the importance of peri-urban agriculture grows and the need to consider nutritional security of slum dwellers is increasingly recognised. The perspectives of the poor relate to their own struggles to engage in livelihoods that maintain their families' food security and sustainably access and manage their land, water, forest, fisheries and other natural resources. Their views on democratic governance and the legitimacy of the state reflect the extent to which the government is either contributing to or undermining their "rights" to the food, land, natural resources and the services they need to earn a living directly or indirectly from agriculture, forestry and fisheries. The ways that they struggle to maintain their food and livelihood security vary according to whether they are male or female, young or old, their ethnicity or religion, and the extent of their (dis)abilities. One size does not fit all.

Who are the duty bearers?

A central challenge to understanding and applying a HRBA in sustainable livelihoods systems is that the vast majority of these livelihoods are accessed through markets for goods, services (including financial services and agricultural extension), land, natural resources and labour. Even if the state is the ultimate duty bearer, rural livelihoods are overwhelmingly generated through markets that are led by the private sector. Key actors include farmer organisations, agribusinesses, supermarkets buying and processing food products, furniture or paper producers buying and processing forest products, traders bringing agricultural produce to local markets and international firms linking smallholders to consumers on different continents. This means that the room for manoeuvre for the State is constrained due to both globalisation and micro-political factors in isolated rural areas where the capacity of government to protect rights is limited. Definition of responsibilities requires an understanding of the extremely varied mix of roles and capacities of states in guiding, regulating, facilitating and persuading the private sector to generate markets that benefit the poor and agricultural systems that protect food security and access to land and natural resources.

Although the factors that determine who benefits from economic development are mostly related to private investment and the actions of non-state actors, that does not imply a laissez faire approach. On the contrary, the Swedish Aid Policy Framework makes clear that duty bearers should be identified and supported to direct and regulate investments and private sector activities in an appropriate manner: "*Sweden must also promote the use of clear guidelines and principles for responsible and sustainable investments that safeguard food security. In this way, investments will be better able to contribute towards broader economic development and food security without marginalising, excluding, exploiting or unfairly treating vulnerable or local populations*"(page 28).

Focus on Empowerment and Capacity development

A major focus of development cooperation to support rural livelihood systems consists of developing capacities that are needed to sustainably provide services and promote more inclusive, food secure and environmentally sound societal development. In most instances these services are provided by the private sector or civil society organisations. Capacity development also includes empowering organisations that can provide voice for the rights holders, assist them to access the information that they need to make decisions, and strengthen their stance in negotiating with other market actors. These services/capacity development efforts should be provided in a way that reflects human rights principles, even though the duty bearer is more often a regulator, financier, educator or even a "buyer" of these services, rather than a direct service provider. In light of this, the advice below regarding a human rights based approach reflects the directions that development cooperation should encourage duty bearers to pursue, even if civil servants are not always actually serving the rights holders.

Joseph Mwigei Michuk in the village of Gatei in Kenya has started to grow passion fruit instead of coffee. Sweden supports The National Agriculture and Livestock Extension Programme, NALEP, an organisation that supports farmers make their agriculture more efficient. Photo: Simon Maina

International human rights treaties, agreements and policy guidance

The concept of food security is broadly acknowledged as consisting of four dimensions, **access, availability, stability and utilisation.** These dimensions are completely in line with a HRBA and imply that a HRBA in relation to food security cannot be just about agricultural production, but also about the employment opportunities that enable people to buy food, and the systems to manage threats to this access, such as price spikes, extreme climate events or conflicts. HRBA is a way of underlining that food security is about people being able to maintain their nutritional status through steady access to food; i.e., it is not primarily a matter of producing more, though for some people producing more food is a means to enhance their food security if they consume what they produce or sell it to purchase what they need. Even when markets are weak and the capacity of states to preserve food security is limited, as is the case during humanitarian crises, Sweden has firm commitments to using food aid to uphold these rights and to maintain nutritional security.

On an international level these norms are mirrored in a range conventions and guidelines, including the following:

The right to food security was most clearly stated in the *Rome Declaration on World Food Security* in 1996 in which heads of states reaffirmed "the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger." This declaration drew upon and sought to operationalise earlier commitments such as the *International Covenant on Economic, Social and Cultural Rights* from 1966.

Due to concerns about the impacts of "land grabbing" and other attempts to take control over the natural resources that the rural poor rely on for their livelihoods, there are a range of initiatives underway to enhance global governance on these issues. In 2012 the Committee on World Food Security endorsed the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.* The Guidelines identify two sets of principles for responsible actions, i.e., "general principles" and "principles of implementation". The General Principles declare that states should:

1. Recognise and respect all legitimate tenure right holders and their rights
2. Safeguard legitimate tenure rights against threats and infringements.
3. Promote and facilitate the enjoyment of legitimate tenure rights.
4. Provide access to justice to deal with infringements of legitimate tenure rights.
5. Prevent tenure disputes, violent conflicts and corruption.

The Principles of Implementation (ten in number) are completely congruent with the four principles underpinning a human rights based approach. The ten include; Human dignity, Non-discrimination, Equity and justice, Gender equality, Holistic and sustainable approach, Consultation and participation, Rule of law, Transparency, Accountability and Continuous improvement.

Given the major role of investments of non-state actors in rural livelihood systems, in 2014 the Committee on World Food Security also agreed upon *Principles for Responsible Investments in Agriculture and Food Systems*. These principles highlight the convergence of the responsibilities of states with the need to ensure that investments and actions by a range of stakeholders contribute to global development goals and the multiple dimensions of human rights, including social, economic and cultural rights. These guidelines also note the importance of addressing issues such as corruption by highlighting governance as central to protecting these rights.

1. Contribute to food security and nutrition
2. Contribute to sustainable and inclusive economic development and the eradication of poverty
3. Foster gender equality and women's empowerment
4. Engage and empower youth
5. Respect tenure of land, fisheries, and forests and access to water
6. Conserve and sustainably manage natural resources, increase resilience, and reduce disaster risks
7. Respect cultural heritage and traditional knowledge, and support diversity and innovation
8. Promote safe and healthy agriculture and food systems
9. Incorporate inclusive and transparent governance structures, processes, and grievance mechanisms
10. Assess and address impacts and promote accountability

Finally, the upcoming seventeen global Sustainable Development Goals (SDGs) also speak to the importance of the right to food security and sustainable livelihoods, especially Goal 2: "*End hunger, achieve food security and improved nutrition and promote sustainable agriculture*". The draft SDGs so far are not clearly human rights based as they do not analyse underlying causes and obstacles to fulfilment of goals and do not identify rights holders and duty bearers and their capacity gaps.

Applying a HRBA in sustainable rural livelihood systems

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A). In many respects, the points below raise issues about the extent to which the initiative has been designed, implemented and evaluated based on an explicit analysis of the political, social and economic factors that stand in the way of inclusion of marginalised populations (including women) and how capacities are built to address these obstacles.

Links to human rights treaties and agreements (L)

As described above, there are a number of binding and voluntary international agreements and standards related to sustainable rural livelihoods. Ensuring that these are informing and guiding initiatives supported is an important part of a HRBA. Key issues to monitor and analyse are:

- Are international human rights agreements and policies used as a reference to justify and design the initiative?

- Are underlying obstacles to fulfilment of these international agreements and standards described and addressed by the programme?

- Have the formal commitments to the human rights agreements described above been made a precondition for Swedish support to the various parties and sub-contractors?

- How will these commitments be monitored and what will be done if there are gaps in compliance?

- Is there an analysis of the risks and opportunities related to human rights and environmental consequences – both positive and negative?

Empowerment and capacity development (E)

Empowerment is first about strengthening the organisations that provide voice, demand accountability and ensure appropriate services for climate vulnerable people and those who face challenges in accessing changing markets for products and jobs. Overcoming exclusion is about addressing power differentials, and this demands collective action for both political voice and to, for example, aggregate or enhance the quality of agricultural products so as to enhance the negotiating stance of producers. Empowerment is also about supporting duty bearers to develop policy frameworks that a) create an enabling environment for civil society organisations and b) ensure that private sector actors understand and respect international agreements and national laws that demand that investments contribute to sustainable and inclusive access to livelihoods. Key issues to monitor and analyse in assessing support to initiatives:

- To what extent does the intervention contribute to capacity development of female and male entrepreneurs and smallholders to access markets and negotiate fair prices?

- To what extent does the intervention develop capacities of authorities, investors and businesses to monitor and adhere to legal and voluntary human rights instruments?

- Is there support to capacity development of associations representing farmers, fishers and groups engaged in natural resource management, and has analysis been made of who is included and excluded from these groups (in relation to gender, ethnicity, etc.)?

- Have measures been taken to develop the capacities of food insecure and environmentally vulnerable populations to articulate their demands for services that enable them to take advantage of markets and maintain their production?

- Have capacities been developed among duty bearers (often together with private sector actors) to assess and mitigate the environmental and market risks that discourage vulnerable populations from engaging in new markets and more productive agricultural methods?

With support from a Swedish funded programme, Filomena Ventura and her family as well as many other families in Guatemala have learnt more about ecological farming. As a result they have been able to access new markets and increased their incomes. Photo: Sida

Non-discrimination (N)

In livelihood interventions it is common that the most vulnerable populations are discriminated against as they are labelled as being "non-productive" or seen to be engaged in natural resource management strategies that are considered to be environmentally destructive (e.g., fishers, pastoralists). Overcoming such indirect discrimination requires considerable efforts to understand the risks facing these vulnerable populations and strategies to overcome discriminatory practices that are anchored in policies and the attitudes and practices of service providers. Key issues to monitor and analyse in assessing support to initiatives:

- Do policies, laws, regulations or practices regarding investments and control over resources effectively discriminate against specific rural livelihoods (e.g., extensive livestock or smallholder production, slash and burn agriculture, etc.)?

- In many instances these forms of discrimination are intertwined with discrimination against the ethnic groups who have traditionally relied on these livelihoods. Is ethnic discrimination "embedded" in the notions within the intervention regarding what is assumed to be a good or sustainable livelihood?

- Are the different agricultural products or businesses of men and women effectively valued differently in terms of preferential investments in certain forms of agricultural production or market development?

- Are any deliberate measures taken to remove barriers for persons with disabilities, or other minorities to access services or programme components?

- Are the livelihoods supported resilient to risks related to climate and market volatility and uncertainty, and thereby relevant for vulnerable populations that cannot afford to shoulder uncertain risks?

Transparency (T)

Furthermore, people have the right to information about the purpose, the opportunities, and the monitoring and complaints mechanisms of development interventions. Openness and transparency are particularly important in interventions involving multi-stakeholder platforms (e.g., initiatives to support value chain development involving farmers, cooperatives, traders, processors and retailers) where powerful commercial actors may abuse their greater access to information. Key issues to monitor and analyse in assessing initiatives:

- Does the intervention contribute to capacities and commitments for greater transparency in policies and practice affecting land and natural resource tenure, particularly in new forms of land acquisitions and concessions?

- Are the services supported accompanied by measures to support smallholders or other marginalised rural people to learn about and understand changing legal norms and market demands that impinge on their livelihoods, land tenure and food security?

- Does the intervention contribute to making market and weather information available in forms that enable people to access the information and make informed decisions about how to manage climate and market uncertainty and volatility?

Participation (P)

Meaningful and inclusive consultative planning processes are central to HRBA in platforms involving a range of public and private stakeholders. A core challenge to this is to foster ownership by duty bearers and private sector actors of the benefits of listening to, and including, vulnerable rights holders. This will require significant dialogue to find a common ground when quick economic development impacts may be given precedence over sustainable economic growth which is inclusive of (and shared with) the poor and marginalised population. Key issues to monitor and analyse in assessing support to initiatives:

- Are fair and effective platforms for public-private dialogue in place, and do they give space to representatives of women and men with less power and status to access agricultural and business development services and to take advantage of opportunities to adapt production patterns and engage in changing markets?

- What channels exist for people to determine and choose their own priorities regarding investments in jobs, agricultural production and use of natural resource management?

- Do initiatives make space for vulnerable people to take actions of their own choosing to manage perceived risks? This is especially important in 'transformative' efforts that encourage profound changes in livelihood systems in response to climate change or market upheavals?

Accountability (A)

Accountability is *first* about identifying those with legal and moral responsibilities to ensure that poor women and men are a) protected from rights violations by e.g., discriminatory laws, regulations and practices or by foreign and domestic investors or businesses; b) empowered to "*take part in, contribute to and benefit from economic growth*" (Aid Platform sub-objective two) through access to market systems; and c) have access to an acceptable level of food security in the face of extreme climate events and conflict. *Second*, it is about monitoring that those responsible fulfil their obligations in accordance with international laws, principles and agreements and national commitments to maintaining food security for all. Key issues to monitor and analyse in assessing support to initiatives:

- Does the initiative contribute to ensuring that public and private sector agriculture and rural livelihood actors have systems in place to monitor and disclose social and environmental impacts according to national and international standards?

- Are systems in place that ensure that those providing agricultural, financial or business development services/investments are made accountable for adapting their services/investments to meet the demands and needs of all clients (including poor, food insecure and otherwise marginalised clients)?

- Are complaints or other governance mechanisms in place through which stakeholders may challenge decisions or actions that affect them negatively, including especially decisions related to tenure over land and natural resources or investments that reduce access to employment?

- Does the intervention contribute to clarity about who (public sector, private sector, civil society) is responsible for providing different livelihood related services, such as agricultural extension or market information?

Useful links and references

The ILO's Global agenda for decent work: http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm

Natural Resource Tenure – a crucial aspect of poverty reduction and human rights, Sida Studies No. 23 http://www.sida.se/globalassets/global/sa-arbetar-vi/economic-opportunities/sidastudies23_sida51603en_web.pdf

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Foresti, M. et al (2010), "Human rights and pro-poor growth", Overseas Development institute (ODI) Project Briefing No. 34

Jones, L. (2012), "How can the making markets Work for the Poor Framework work for poor *women* and poor *men",* Springfield Centre for Business in Development

M4P Hub, "Sharing knowledge on making markets work for the poor": http://www.m4phub.org/what-is-m4p/introduction.aspx

The UN Global Compact outlining 10 human rights principles for companies to embrace, support and enact, within their sphere of influence: http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html

Responsible rural investments in Developing Countries, Swedish FAO Committee, 2014: http://www.regeringen.se/content/1/c6/23/70/86/75b18844.pdf

Oxfam (2011), "Making markets empower the poor", Programme perspectives on using markets to empower women and men living in poverty.

Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food in the Context of National Food Security – Adopted by FAO in 2004;

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security – Adopted by the CFS in May 2012;

Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication – Endorsed by the Committee on Fisheries at its 31st Session in June 2014;

Global Strategic Framework for Food Security and Nutrition (GSF) of the CFS

Rio Declaration on Environment and Development, proclaimed by the UN Conference on Environment and Development in June 1992; and

The Outcome document on the UN Conference on Sustainable Development The Future We Want adopted UNCSD in June 2012.

International Treaty on Plant Genetic Resources for Food and Agriculture;

Read more in the German development Agency HRBA fact sheet documents http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf

HRBA and Sustainable Rural Livelihoods – Summary

This brief refers to a number of results areas within Sweden's Aid Policy Framework which are linked to rural livelihoods, such as food security, market development and increased agricultural production. The Swedish Aid Policy Framework states: "*Guaranteed access to nutritious and safe food is a right and a fundamental prerequisite for a decent life and the opportunity for people to contribute to the economy.*" (p27)

Applying a human rights based approach to initiatives related to rural livelihoods will help staff to understand the responsibilities of different actors in the public sector, private sector and civil society in inclusive and sustainable rural livelihood systems.

A human rights based approach takes a starting point in **international human rights commitments and standards**. Key questions to discuss when assessing support for rural livelihood initiatives are:

- Are international human rights agreements and standards used as a reference to justify and design the initiative?

- Are underlying obstacles to fulfilment of these international agreements and standards described and addressed by the programme?

- Have formal commitment to human rights agreements been made a precondition for Swedish support to the various parties and sub-contractors?

- How will these commitments be monitored and what will be done if there are gaps in compliance?

- Is there an analysis of the risks and opportunities related to human rights and environmental consequences – both positive and negative?

An important element in a human rights based approach is the focus on **empowerment and capacity development**. Key issues to consider are:

- To what extent does the intervention contribute to capacity development of female and male entrepreneurs and smallholders to access markets and negotiate fair prices?

- To what extent does the intervention develop capacities of authorities, investors and businesses to monitor and adhere to legal and voluntary human rights instruments?

- Is there support to capacity development of associations representing farmers, fishers and groups engaged in natural resource management, and has analysis been made of who is included and excluded from these groups (in relation to gender, ethnicity, etc.)?

- Have capacities been developed among duty bearers (often together with private sector actors) to assess and mitigate the environmental and market risks that discourage vulnerable populations from engaging in new markets and more productive agricultural methods?

The questions below, related to the four HRBA principles, may also help to prepare, asses and monitor initiatives to ensure that human rights are enhanced and respected both in results and processes.

Participation	Non-discrimination
• Are fair and effective platforms for public-private dialogue in place, and do they give space to representatives of women and men with less power and status to access agricultural and business development services and to take advantage of opportunities to adapt production patterns and engage in changing markets? • What channels exist for people to determine and choose their own priorities regarding investments in jobs, agricultural production and use of natural resource management? • Do initiatives make space for vulnerable people to take actions of their own choosing to manage perceived risks? This is especially important in 'transformative' efforts that encourage profound changes in livelihood systems in response to climate change or market upheavals?	• Do policies, laws, regulations or practices regarding investments and control over resources effectively discriminate against specific rural livelihoods (e.g., extensive livestock or smallholder production, slash and burn agriculture, etc.)? • Are the different agricultural products or businesses of men and women valued differently in terms of preferential investments in certain forms of agricultural production or market development? • Are any deliberate measures taken to remove barriers for persons with disabilities, or other minorities to access services or programme components? • Are the livelihoods supported resilient to risks related to climate and market volatility and uncertainty, and thereby relevant for vulnerable populations that cannot afford to shoulder uncertain risks?
Accountability	Transparency
• Does the initiative contribute to ensuring that public and private sector actors have systems in place to monitor and disclose social and environmental impacts according to national and international standards? • Are systems in place that ensure that those providing agricultural, financial or business development services/investments are made accountable for adapting their services/investments to meet the demands and needs of all clients (including poor, food insecure and otherwise marginalised clients)? • Are governance mechanisms in place through which stakeholders may challenge decisions or actions that affect them negatively? • Does the intervention contribute to clarity about who (public sector, private sector, civil society) is responsible for providing different livelihood related services, such as agricultural extension, financial services or market information?	• Does the intervention contribute to capacities and commitments for greater transparency in policies and practice affecting land and natural resource tenure, particularly in new forms of land acquisitions and concessions? • Are the services supported accompanied by measures to support smallholders or other marginalised rural people to learn about and understand changing legal norms and market demands that impinge on their livelihoods, land tenure and food security? • Does the intervention contribute to making market and weather information available in forms that enable people to access the information and make informed decisions about how to manage climate and market uncertainty and volatility?

To learn more on a human rights based approach in sustainable rural livelihoods, read the full thematic area brief.

Sida

Human Rights Based Approach to Water and Sanitation

Purpose and framework

The purpose of this brief is primarily to provide guidance to Sida country teams on how to apply a human rights based approach when preparing, assessing and monitoring initiatives in water and sanitation.

Applying a HRBA will contribute to increased social and environmental considerations in the sector and to improved accessibility for the whole population – and of extremely poor and disadvantaged groups in particular – to water and sanitation.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development (PGD) and the government's Aid Policy Framework (section 3.2.2.). The aid policy framework also specifies six aims. One of them is "improved basic health" and in particular: a) improved access to sexual and reproductive health and rights and reduced vulnerability to HIV and AIDS b) improved survival and healthier lives, with a focus on women and children c) improved access to clean water and basic sanitation. This brief deals with the last area.

Applying a human rights based approach to water and sanitation entails

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes.

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms etc.) to enable them to address their situation and claim their rights individually and collectively

The right to health – water and sanitation

The most important human rights instruments for the water/sanitation sector are contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Access to "safe and clean drinking water and sanitation" was explicitly recognised as a human right by the UN General Assembly in July 2010 and by the Council for Human Rights in September 2010. It is part of the right to and adequate standard of living and the right to health (articles 11 and 12 of the ICESCR). The UN committee monitoring the ICESCR implementation has clarified in Comment 15, 2002 that the right to water means:

Availability

A sufficient quantity of water for personal and domestic uses must be available. Although not legally established, many organisations estimate 20-50 litres per day/person as a minimum. Likewise, a sufficient number of sanitation facilities have to be available to all.

Control of water purified in wastewater treatment plants in Bolivia. Sweden supports Bolivia's efforts to improve access to water and sanitation in peri-urban areas through the state program PASAP.
Photo: Fundación Sumai Huasi. La Paz-Bolivia

Accessibility

Water and sanitation services must be accessible to everyone in the household or its vicinity on a continuous basis (maximum 1 km or 30 minutes round trip). Physical security must not be threatened when accessing facilities and must be within reach also for elderly and persons with disabilities. Accessibly of information on water and sanitation issues is also essential.

Affordability

Access to sanitation and water must be affordable to all, also for disadvantaged persons and groups. Expenditure may not compromise the ability to pay for other essential necessities guaranteed by human rights such as food, housing and health care. A bench mark of 5% of income available to the household has been established for water and sanitation.

Acceptability

Sanitation facilities, in particular, have to be culturally acceptable. This will often require gender-specific facilities, constructed in a way that ensures privacy and dignity.

Quality

Water has to be safe for consumption and other uses, so that it poses no threat to human health (refer to WHO guidelines for drinking water quality). Sanitation facilities must be hygienic, technically and environmentally safe to use. To ensure hygiene, access to water for cleansing and hand washing after use is essential.

A state is obliged to undertake whatever is necessary and within its power to gradually realise the right to water and sanitation for all, especially for those who have insufficient/no access.

A special rapporteur has been appointed by the Office of the High Commissioner for Human Rights to monitor progress and share good practices. Publications on this web site can provide helpful and up-to date information on the right to water and sanitation: http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx

Applying a HRBA to water and sanitation programmes

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A). In relation to water and sanitation programmes the key elements of *availability, affordability, accessibility, acceptability and quality* are often used as an additional interlinked analytical tool.

Linking to Human Rights commitments and core obligations (L)

The right to water does not mean that water is to be provided free of charge. However, individuals are entitled to water that is affordable. Water should be treated as a social and cultural good, a public good, and not primarily as an economic good. This point has been stressed by the UN Committee for Economic, Social and Cultural rights. Any payment for water services must be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable to all, including socially disadvantaged groups. Key issues to monitor and analyse in assessing support for health initiatives are:

- Have the HR obligations and key elements of availability, affordability, accessibility, acceptability and quality been used as a point of departure for dialogue, programming and funding decisions?

- Is the right to health recognised in the constitution, bill of rights or national legislation? If so, how can Sweden use these commitments to strengthen dialogue and programming?

- Is the program based on an analysis of the causes of the non-fulfilment of the rights to health, water and sanitation?

- Is there a national public health strategy/ national health plan based on these analyses and on internationally recognised standards for water and sanitation, which can guide donor contributions?

Empowerment and capacity development (E)

While the UN treaties and General Comments provide guidance on WHAT has to be achieved, a human rights based approach relates to the process – HOW development programs are implemented. A human rights based approach specifically entails holding the duty bearers (the state) accountable to their commitments as agreed in international Human Right treaties and in their own legislation. It also means empowering the rights holders (individuals and care givers) to know their rights and enabling them to challenge the state and complain to a mandated body when rights are violated. Key issues to monitor and analyse are:

- Do politicians, authorities at national and district levels, and their contractors have awareness, knowledge, capacity and resources to respond to water and sanitation rights?

- Does the initiative consider direct support to CSOs who represent the affected population, to engage in monitoring of the commitments made by contractors, e.g. trade unions, farmers associations, pastoralist associations, women organisations, child rights groups, environment groups?

- Are the men women and children affected informed about their rights to water and sanitation? Are they able to engage with the system and to make use of complaints mechanisms?

Non-discrimination (N)

Sida/donors could be more specific in terms of requesting a pro-poor focus and prioritisation of access to water and sanitation for the most marginalised groups. This means targeting areas and population groups with the least access to water and sanitation, which may not be the most profitable areas. Pro-poor tariff structures could be promoted along with subsidising of connection fees.

Non-discrimination also means insisting on disaggregated monitoring indicators and base line data. Most importantly, non-discrimination will require deliberate planning and affirmative actions. Lack of facilities for menstrual hygiene in schools and public places is a discrimination against girls and women. Approximately 25% of girls in India drop out of school (and do not return) once they reach puberty, due to lack of access to MHM facilities and imbedded taboos (according to WSSCC).

Too many latrines are still built in an inaccessible and unacceptable manner for women, elderly, children and persons with disabilities. Some good examples of accessible sanitation are Danish supported disability friendly latrines and WaterAid programs. Ecological sustainable sanitation programs have been developed by EcoSanRes. Key questions to monitor and analyse when assessing health initiatives are:

- Is there an explicit focus on regions or groups that have insufficient or no supply systems at all (informal settlements, rural regions)?

- Is there a pro-poor design of tariffs e.g. subsidies to connection fees and banded tariff structures that take into account ability to pay?

- Are there disaggregated data to monitor access to water and sanitation for various groups and regions (especially vulnerable and marginalised)?
- Are there indicators that monitor consequences for women and girls?

Transparency (T)

Governments need to formulate and communicate its overall policy for the use of its natural resources and a plan and budget for meeting the rights to water and sanitation of its population. At what pace and with what means will the right to water be realised? How will the poor and marginalised people get access? What will the consequences be for the environment, for people affected (women, men, girls and boys, persons with disabilities, workers, pastoralists, farmers etc.) and for peace and security?

Local government officials and the population affected by natural resources projects are often uninformed and therefore cannot participate meaningfully in consultations. Sida/donors could suggest that information about the project and its benefits and risks should be public and accessible (i.e. using local languages, radio etc.).

The governmental policy guidelines and monitoring mechanisms should be clearly communicated and explained so that local authorities, farmers, pastoralists and other concerned citizens can make informed decisions on if/how to participate in and benefit from the investment programs. Who is gaining what? Who is losing what? Who is responsible for what? Radio and CSOs could be used as channels for dialogue.

Key questions to monitor and analyse when assessing health initiatives are:

- Is information on water/sanitation policies, plans and budgets communicated openly and in accessible formats/channels?
- Are contracts with investors made public in terms of their commitments towards the population (water and sanitation rights)?
- Are regional and bilateral agreements on joint water resources fair, known to the population and monitored for compliance?

Participation (P)

Participation in planning, implementation and monitoring could be both formal and informal. Examples include;

- Inviting CSOs, particularly CBOs, to be part of formal decision making bodies such as steering committees, one stop centres, local consultative bodies etc.
- Consulting with local communities where ample time is given for people to understand the issues, reflect on the consequences and formulate their suggestions
- Seeking the opinion of groups that do not have a voice in terms of the established power structure and ensuring that they have access to information (CSOs could be helpful in organising discussions and hearings)
- Strengthening decentralisation and budget allocations to local government structures and CSOs to balance power of central government and their contractors/partners

Key questions to monitor and analyse when assessing health initiatives are:

- Are deliberate measures taken to make information and consultations accessible to various stakeholders?

- Are the views of women, children, elderly, persons with disabilities and minorities specifically probed and considered?

- Is there sufficient time for consultations?

- Do CSOs have capacity to monitor water and sanitation initiatives?

A simple arrangement for washing hands in Toroma Sub-County in Uganda. Sweden has supported Uganda's water and sanitation sector for over ten years and strengthened Ugandan institutions that manage water resources. Photo: Helen Holm

Accountability (A)

Governments should provide a functional, transparent, non-discriminatory legal and policy framework for water and sanitation. This includes defining the entity responsible for realising water and sanitation rights, clear guidelines for contractors and a monitoring system for compliance. Without monitoring mechanisms, indicators of progress and penalties for non-compliance to commitments related to human rights, there is a risk that commitments may not be fulfilled. Sida/donors could support governments to

- Develop a policy framework with key indicators for human rights outcomes (e.g. improved health among poor, reduced work load for women, accessibility of latrines for children/elderly/persons with disabilities etc.)

- Gather base line data for these indicators, preferably in collaboration with local universities and other research institutions

- Develop capacity to make human rights sensitive tenders and contracts and ability to monitor commitments made by contractors

- Set up a functional monitoring mechanism to supervise performance in relation to agreed indicators and coherence to government policy framework, coupled with an appropriate penalty/reward system

- Establish a complaints mechanism for the public that has legal capacity to act, is well known and easily accessible

Sida/donors could also support independent regulatory frameworks, national human rights commissions, parliamentary committees, civil society watchdogs as well as regional or global peer reviews. Media involved in investigative journalism can also be important partners.

Key questions to monitor and analyse when assessing health initiatives are:

- Does the state "walk the talk": does it deliver against plans and honour its obligation to respect, protect, and fulfil the right to water and sanitation?

- Is there a transparent legal and policy framework that defines accountability mechanisms?

- Do citizens and community groups have sufficient knowledge and capacity to effectively use formal accountability mechanisms?

- Has the state capacity to regulate and monitor human rights outcomes when contracting private service providers?

- Are there independent regulation, complaints mechanisms and civil society monitoring?

Useful links and references

The UN web page where countries and treaties can be monitored http://uhri.ohchr.org/en/.

Information portal to the human rights to water and sanitation: http://www.righttowater.info/

Special Rapporteur handbook: Realising the Human Rights to Water and Sanitation: http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Handbook.aspx

Danish supported disability friendly latrines http://www.danidadevforum.um.dk/NR/rdonlyres/7299ADB1-D5CC-4DE5-A890-EB21BD5D1C33/0/WS_TB_CaseStoryDisabilityLatrines.pdf

WaterAid is an international non-governmental organisation with a mission is to transform lives by improving access to safe water, hygiene and sanitation in the world's poorest communities: http://www.wateraid.org/documents/plugin_documents/all_people_one_goal_all_access.pdf http://www.wateraid.org/international/about_us/newsroom/10376.asp

Ecological sustainable sanitation programs: http://www.ecosanres.org/about.htm

On the Right Track: Good practices in realising the rights to water and sanitation - OHCHR 2012, Catarina de Albuquerque, Special Rapporteur. http://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices_en.pdf

Information portal to the human rights to water and sanitation: http://www.righttowater.info/

Water and sanitation for persons with disabilities: http://wedc.lboro.ac.uk/research/project_details.html?p=12

The 4th edition of the world water development report:
Volume 1: Managing Water under Uncertainty and Risk
http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SC/pdf/WWDR4 Volume 1-Managing Water under Uncertainty and Risk.pdf
Volume 2: Knowledge Base
http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SC/pdf/WWDR4 Volume 2-Knowledge Base.pdf
Volume 3: Facing the Challenges
http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SC/pdf/WWDR4 Volume 3-Facing the Challenges.pdf

Read more in the German development Agency HRBA fact sheet documents http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf

A Human Rights Based Approach to Water and Sanitation - Summary

The right to safe and clean drinking water and sanitation was explicitly recognised as a human right by the UN General Assembly in 2010. This means that the state is obliged to undertake whatever is necessary and within its power to gradually realise the right to water and sanitation for all, with the highest priority for those who have insufficient/no access. The right to water and sanitation has been defined in five performance pillars. The pillars are based on non-discrimination values (accessibility, acceptability and affordability for all) and accountability of the government to make available sufficient quality and quantity.

A human rights based approach to water and sanitation takes a starting point in *international human rights commitments and standards*. Key questions when assessing and monitoring a health initiative are:

- Is there a national public strategy/ plan based on internationally recognised standards for water and sanitation, which can guide donor contributions?

- How does the initiative ensure/contribute to *Availability* - A sufficient quantity of water for personal and domestic uses must be available. Sanitation facilities must also be available.

- How does the initiative ensure/contribute to *Accessibility* - Water and sanitation services must be accessible to everyone in the household or its vicinity on a continuous basis. Facilities and must be within reach also for children, elderly and persons with disabilities.

- How does the initiative ensure/contribute *to Affordability* - Access to sanitation and water must be affordable to all, particularly for disadvantaged persons and groups.

- How does the initiative ensure/contribute to *Acceptability* - Sanitation facilities, in particular, have to be culturally acceptable. This will often require gender-specific facilities, constructed in a way that ensures privacy and dignity.

- How does the initiative ensure/contribute to *Quality* - Water has to be safe for consumption and other uses. Sanitation facilities must be hygienic, technically and environmentally safe to use.

An important element in a human rights based approach is the focus on *empowerment and capacity development* of both rights holders and duty bearers. Key issues to consider are:

- Does the intervention build capacity of the authorities and investors to plan, deliver and monitor services as stipulated?

- Does the intervention build capacity of the poorer households and marginalised groups so that they know how, where and when they can demand/ complain concerning their rights to water and sanitation?

A human rights based approach also relates to the process – HOW development programs apply the human rights principles; non-discrimination, participation, accountability and transparency. When assessing and monitoring water and sanitation programs, the following could be guiding questions:

Non-discrimination

- Is there an explicit focus on regions or groups that have insufficient or no supply systems at all (informal settlements, rural regions)?

- Is there a pro-poor design of tariffs e.g. subsidies to connection fees and tariffs progressively related to level of consumption?

- Are there disaggregated data to monitor access to water and sanitation for various groups and regions (especially vulnerable and marginalised)?

- Are there indicators that monitor consequences for women and girls?

Participation

- Are deliberate measures taken to make information and consultations accessible to various stakeholders?

- Are the views of women, children, elderly, persons with disabilities and minorities specifically probed and considered?

- Is there sufficient time for consultations?

- Do CSOs have capacity to monitor water and sanitation initiatives?

Transparency

- Is information on water/sanitation policies and plans communicated openly and in accessible formats/channels?

- Are contracts with investors made public in terms of their commitments towards the population (water and sanitation rights)?

- Are regional and bilateral agreements on joint water resources fair, known to the population and monitored for compliance?

Accountability

- Does the state "walk the talk": does it deliver against plans and honor its obligation to respect, protect, and fulfil the right to water and sanitation?

- Is there a transparent legal and policy framework that defines accountability mechanisms?

- Do citizens and community groups have sufficient knowledge and capacity to effectively use formal accountability mechanisms?

- Has the state capacity to regulate and monitor human rights outcomes when contracting private service providers?

- Are there independent regulation, complaints mechanisms and civil society monitoring?

To learn more on HRBA and water/sanitation, read the full thematic area brief.

HRBA AND DEMOCRATIC GOVERNANCE

A Human Rights Based Approach to Democratic governance

Purpose and framework

The purpose of this brief is to provide guidance to Sida staff country teams on how to apply a HRBA to democratic governance programs – which includes democracy, human rights and public administration. As this sector is very wide, the advice in this brief is of a general character.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the Policy for Global Development and the government's Aid Policy Framework (section 3.2.2.). Applying a human rights based approach entails:

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how it will ensure to do no harm.

- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes

- Planning and monitoring how the values and principles underpinning these UN Conventions are applied in the initiative and its processes; non-discrimination, participation, accountability and transparency.

- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations and/or

- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms etc.) to enable them to address their situation and claim their rights individually and collectively

The United Nations has established a website called the 'Practitioners Portal on HRBA' — www.hrbaportal.org — which brings together a number of HRBA projects from different countries and sectors with the aim of mainstreaming information and understanding about HRBA. Although the information is aimed at United Nations practitioners, the website has a number of HRBA project examples and research studies from areas including disability rights, health, the environment, poverty and education.

Useful resources on human rights and democratic governance are

- Transparency International

- Sida help desk on anti-corruption and World Bank anti-corruption site

- Open budget reports

Applying a HRBA to democratic governance initiatives

Empowerment and capacity development (E)

Democratic governance includes democracy, human rights, and public administration, which are intrinsically related. Democratic governance is about the use of power and how state institutions and citizens relate to each other to make change happen. In its efforts to assist governments to become more democratic and respectful of human rights Sida needs to combine measures to a) support duty bearers to fulfil their obligations and b) empower rights holders to claim their rights.

In order to claim their rights men/boys, women/girls (rights holders) must	In order to fulfil their obligations government representatives (duty bearers) must
1. Be empowered and **know their rights**	1. Understand and **accept his/her responsibility** to promote and protect the rights of all citizens without discrimination
2. Have opportunities and tools to **express their claims**	2. **Be afforded the authority** to carry out his/her obligations.
3. Be able to **take action** against violations and to make **complaints** to a mandated body	3. **Have the capacity** e g the access and control over financial, human and institutional resources required to carry out his/her obligations

The role of both individuals and organised groups is crucial to strengthen and monitor the relationship between those in power and those claiming their rights; therefore the civil society organisations have a particular place, along with an active Parliament and a free media, in a system categorised of democratic governance. Sida support measures must be based on an analysis of these interlinked aspects and differ depending on the context and national challenges.

Linking to Human Rights instruments and policy (L)

Legislation, policies, planning and budgets are the most important steering processes and instruments of governments in trying to promote human rights. In many countries, lack of popular support of new laws/policies, absence of a functional, formal justice system and/or lack of budget allocations to finance reforms hinder enforcement. All these aspects (attitudes, rule of law and budgets) are crucial. The budget process is a powerful steering instrument. Therefore, improving transparency, accountability, participation and non-discrimination in budget systems and processes is of key importance. As decentralisation trends are increasing in most countries – in most cases bringing decision-making authority closer to people - it is necessary to work both on national and sub-national (e.g. regional, district and commune) levels of government.

Transparency (T)

Through a combination of dialogue and support measures, Sida/donors could support governments to develop understanding among decision-makers and civil servants at different levels, of the gains of being transparent in policy decisions, plans and budgets. Possible indicators of commitment to transparency could be:

- Existing and updated information on community/city and/or provincial level on policy decisions, budget, council meeting agendas and readiness and efficiency to provide information to the public

- Special measures for information accessibility for people with disabilities, language minority groups, children and illiterate population groups, especially women of all ages
- Public disclosure of parliamentary votes and parliamentary debates
- An enabling legislation according to e.g. AU Convention article 9
- Publicising public expenditure per sector and district
- Public disclosure of the actions taken to fight corruption, including in the financial systems and the judicial institutions
- Accessible and understandable information on how the justice system works and how the structures of decentralised power function

In on-going or post-conflict contexts special attention needs to be paid to the risk of exclusion of e.g. ethnic, religious or political groups. These groups may be excluded from their right to information, and security measures may limit the transparency of government systems and services.

Considering how disempowering corruption is to a rights-based policy implementation, special attention needs to be paid to this aspect. Sida/donors could support government to:

- work to increase awareness among public officials and actors in the private sector of the social costs of corruption in general and for already discriminated groups in particular
- promote public discussion on corruption reform and facilitate dialogue between actors from government, civil society and private sector
- continue to develop public expenditure tracking studies, which include specific analyses of how money and programmes reach women, children, marginalised and people living in poverty.
- enable civil society organisations, parliamentary groups, and the media to exercise control of the implementation of anti-corruption policies

Read more on [Sida help desk on anti-corruption](#) and [World Bank anti-corruption site](#).

Accountability (A)

The credibility of democratic governance depends on the effectiveness of the government's response to people's political, social and economic demands. Sida/donors could in their dialogue with governments promote the setting up of performance control mechanisms at all levels of the administration. Systems for rewards and sanctions must be in place. When private sector actors are subcontracted by the government to provide services or develop systems or infrastructure, governments must clearly stipulate in contracts that the human rights responsibilities are also subcontracted. Governments should set concrete human rights indicators and develop its capacity to monitor performance and ensure compliance, both at central and local government level.

Each sector has its special needs but some general recommendations include:

- establish indicators on access to justice and resource allocation for legal aid to marginalised groups
- set up [monitoring mechanism on public expenditures](#) from a gender, children and disability perspective (e.g. disaggregated data for public spending in different sectors, etc.)
- set up monitoring mechanisms to supervise performance of financial management that enable budget tracking, involving the participation of local councils, civil society and media actors
- establish indictors of women's influence and participation in the justice system and public financial management

- set up monitoring mechanisms to track governments ratification and domestification of international and regional human rights instruments, including measures taken by governments to report on progress to human rights mechanisms and to disseminate information on citizens' human rights.

Sida/donors could also provide support to parliamentary groups, media and civil society organisations in their role of watch-dogs. Possible indicators:

- Conducive political/legislative environment for civil society and media (including ICT) to fulfil its role as watchdog

- Open forum debates between state actors, civil society and parliamentary groups at local and national levels

- Increased demand from media and civil society of government reports, disaggregated statistics and public information and documents (and increased supply by governments)

Sida/donors could also consider supporting the establishment and capacity development of various complaints mechanisms such as parliamentarian "issue" groups, Human Rights Commissions, and free legal aid agencies.

Elections in Zambia. In the elections in 2015 Sweden contributed election observers and more than 4.9 million used to educate election officials and functionaries. Photo: Electoral Institute for Southern Africa (EISA)

Participation (P)

Decentralisation of political power and democratic institutions has the potential to strengthen participation and the possibility of citizens to hold their elected and bureaucratic representatives accountable. In dialogue with governments Sida/donors could continue supporting decentralisation and consider making funds available for capacity building of politicians and civil servants at local government level, and for development of participatory mechanisms, within the decentralisation process – e.g.:

- Raised awareness of human rights and their relation to accessibility, transparency and performance of public services, emphasising that politicians are accountable to their constituencies, and civil servants are accountable to the citizens and their elected politicians

- Introduction of public hearings, and establishment of consultative bodies between local government and civil society organisations
- Setting up of systems and routines that enable transparency and follow-up of performance in relation to assigned functions, service delivery and participatory processes
- How to handle increased demands on accountability, such as answering inquiries from citizens, members of the parliaments and the media,
- Assisting civil society to develop capacity and membership at district levels and especially abilities for holding duty bearers accountable.

Sida/donors could consider supporting civil society organisations to:

- give voice and power to people living in poverty and marginalised groups
- address rights violations by supporting, advising or servicing victims (human rights defenders)
- monitor/evaluate government performance and
- serve as a school in democratic culture.

Vietnam has developed a strong LGBT movement and the law on same-sex marriage is being reviewed by the National Assembly. Sweden supports activists and organisations of Lesbian, Gay, Bisexual, Transsexual and Intersexual (LGBTI) persons in many partner countries .Photo: ISEE

Non-discrimination (N)

> **In order to hold duty bearers accountable, civil society organisations must**
>
> - Have a **legitimate mandate** to speak on behalf of a certain group of rights holders
> - Have a **clear vision** about their role, their objectives and their strategies to achieve these objectives
> - Have **communication skills** and **knowledge** on both subject and procedures to be able to influence duty bearers and monitor their performance
> - Have the **financial and managerial capacity** to sustain and develop their operations in a transparent and inclusive manner

Promotion of democracy and human rights must depart from issues at heart of members of poor and marginalised individuals and groups (e.g. women, persons with disabilities, ethnic minorities, children, LGBT persons). It requires that these individuals and groups (rights holders) can meet, share experiences, form a vision, and take concrete actions to address their issues. It also requires accommodating legislative and budgetary conditions. Democracy pre-assumes that equality of all citizens is embedded in policy and practice. Discriminatory attitudes towards children, women, persons with disabilities, people living with HIV/AIDS, Lesbian, Gay, Bisexual, Transsexual and Intersexual (LGBTI) persons or simply poor people lead to exclusion from their rights.

Sida/donors could, depending on the context, in the dialogue with governments, include requirements of

- Freedom of association and special openness to the organisation of discriminated groups of rights holders
- Mechanisms for meaningful popular participation in democratic processes
- Direct and concrete actions to increase women's influence and participation in the debate, and development of institutions and organisation for democratic governance
- Special measures to ensure the inclusion of discriminated groups in services, information and dialogue by acknowledging the special needs of persons who have limitations in mobility, reading, language, seeing, hearing or understanding
- Establishment of a complaint mechanism or ombudsman function for marginalised groups, staffed by people from their own group
- Free legal aid services to bring cases to court
- Challenging prejudice through exposure of respected role models that disprove of and challenge existing harmful/discriminating norms and practices

Sida could consider giving special attention to the support of capacity development of organisations representing marginalised groups. Apart from support, invitations of these groups to social, cultural and professional events and networks can be very helpful and create an arena for advocacy and awareness raising. Indicators of success of such civil society empowerment could be:

- legitimacy and ability to give a voice to ethnical minorities, women's movement, children and youth organisations, disability organisations and LGBT-groups
- ability to address immediate rights violations of these groups
- ability to monitor government in terms of development and implementation of legislation, policy and budgets,
- the existence of shadow reports on International and Regional Human Rights Instruments

Useful links and references

The United Nations 'Practitioners Portal on HRBA' : www.hrbaportal.org

UN Treaty Bodies, General Comments: http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx

For resources on governance performance: www.moibrahimfoundation,org, www.afrobarometer.org or the Global Integrity Index (GII) www.globalintegrity.org.

UN Human Rights Office (OHCHR) online database with jurisprudence from the UN treaty bodies: http://juris.ohchr.org

For indicators on gender-sensitive governance see BRIDGE (2009) 'Gender and Governance', Cutting Edge Pack, Brighton http://www.bridge.ids.ac.uk/reports_gend_CEP.html#Governance

Academy of Democracy has tools for analysis and dialogue on democracy http://democracy.se/index.php?lang=english

An overview of Human Rights instruments and their status per country can be found on www.claiminghumanrights.org

To read more on budget transparency and indexes http://www.internationalbudget.org/ and http://www.openbudgetindex.org/

Sida help desk on anti-corruption and World Bank anti-corruption site.

The Global Portal on Anti-Corruption for Development: Information and knowledge specialised on anti-corruption for sustainable development. Link with Human Rights http://www.anti-corruption.org/index.php/en/themes/human-rights-transparency-accountability/human-rights

UN Special Rapporteur on the Independence of Judges and Lawyers http://www2.ohchr.org/english/issues/judiciary/index.htm

International Council on Human Rights Policy, Local Perspectives: Foreign Aid to the Justice Sector http://www.ichrp.org/en/projects/104

International Council on Human Rights Policy, Local Government: Links with Human Rights http://www.ichrp.org/en/projects/116 and International Council on Human Rights Policy, Local Government: Delivering Public Services http://www.ichrp.org/en/projects/124

German development Agency HRBA fact sheets: A Human Rights Based approach to democracy, civil society and public administration.
http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf