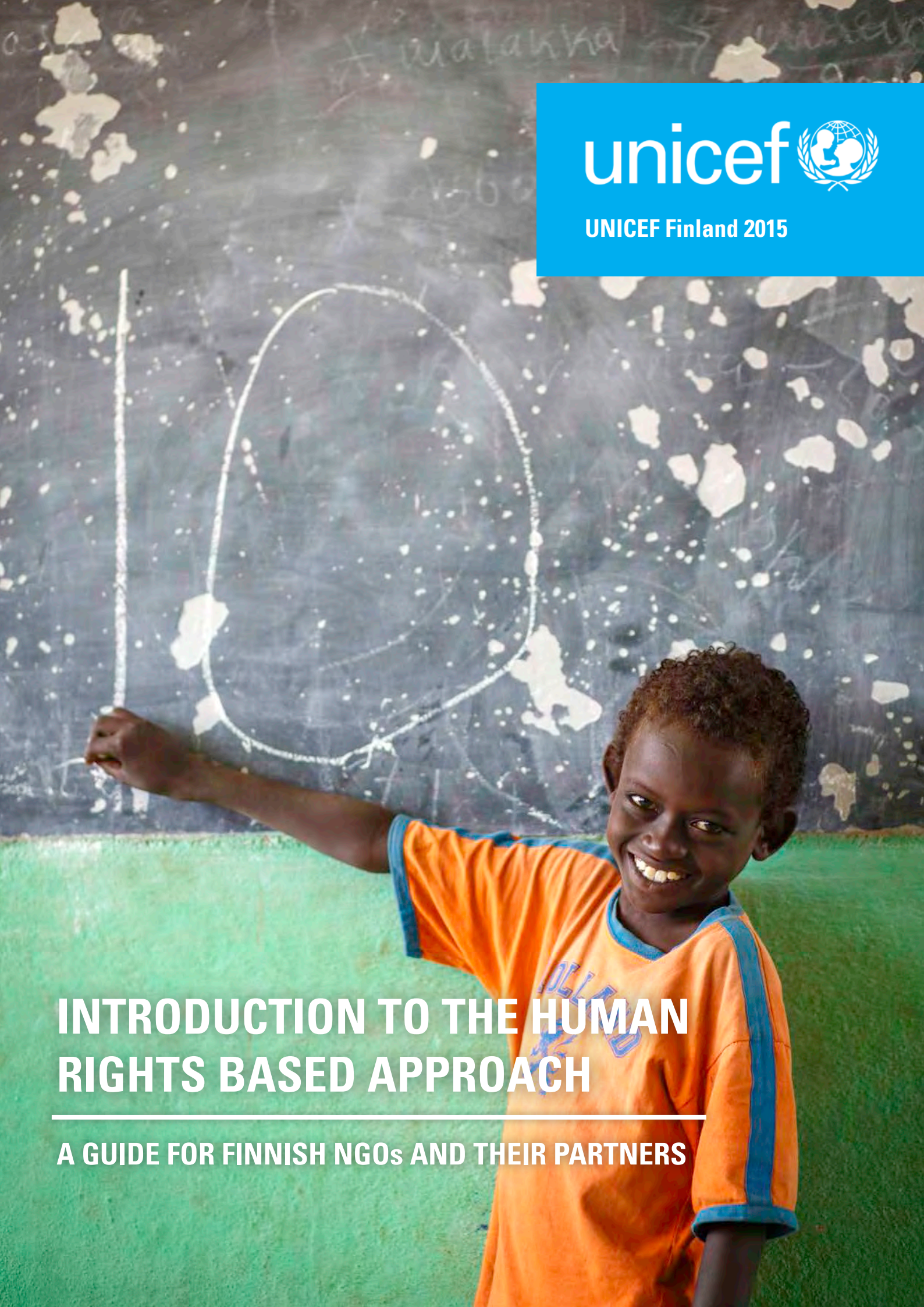

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INTRODUCTION TO THE HUMAN RIGHTS BASED APPROACH

A GUIDE FOR FINNISH NGOs AND THEIR PARTNERS

Guidelines developed by:
Anton Hausen and Annika Launiala
International Advocacy and Programmes

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FOREWORD

Human rights and development cannot be separated and the promotion of human rights and equality is at the center of Finland's development policy. By integrating human rights in development cooperation, we aim at promoting human centered development, addressing injustices and discriminatory structures in society and ensuring inclusive processes where those most vulnerable are not forgotten. Human rights provide a universally agreed framework, which benefits the recipients of development assistance and guides the various actors in their work as well.

In line with the UN Universal Declaration of Human Rights and the human rights conventions, Finland's human rights-based development policy stems from the idea that all human beings are born free and equal in dignity and in rights. The human rights based approach (HRBA) to development includes civil and political rights and freedoms, as well as economic, social and cultural rights. The HRBA is a lens, through which we can identify barriers to development and patterns of discrimination.

The guidelines developed by the Finnish Committee for UNICEF, with the support of the Unit for Civil Society of the Foreign Ministry, is a welcome contribution to deepening the knowledge on how to put the HRBA into practice. The guidelines are based on the United Nations Common Understanding on the HRBA and the experience and know-how of UNICEF. I value the efforts made by the Finnish Committee for UNICEF in developing practical guidelines, initiating the discussion and bringing the work forward on how make full use of the HRBA in practice - to the benefit for the people we want to help.

I therefore hope that the UNICEF Finland guidelines will be inspirational and provide a road map for Finnish and international non-governmental organizations implementing projects funded by Finland. I strongly encourage further discussion with government and civil society partners on best practices and on how to meet challenges related to the HRBA in practice. The learning process needs to continue and I look forward to seeing the results of the tool box developed by UNICEF Finland.

Sirpa Paatero,
Minister for International Development

ABBREVIATIONS

CAT	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CDC	Centers for Disease Control and Prevention
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CPAR	Canadian Physicians for Aid and Relief
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
HIV/AIDS	Human Immunodeficiency Virus Infection and Acquired Immune Deficiency Syndrome
HRBA	Human Rights Based Approach
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	Convention on the Rights of all Migrant Workers and their Families
ILO	International Labor Organization
ITN	Insecticide-Treated Nets
LGBTI	Lesbian, Gay, Bisexual and Trans and Intersex
M&E	Monitoring and Evaluation
MFA	Ministry for Foreign Affairs
MOHP	Ministry of Health and Population
NGO	Non-Governmental Organization
OECD/DAC	Organization for Economic Cooperation and Development (OECD) Development Assistance Committee (DAC)
PSI	Population Services International
RBM	Results Based Management
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
WHO	World Health Organization

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INTRODUCTION

These guidelines aim to address the need for easy-to-understand guidance on what the human rights based approach (HRBA) entails in the different phases of a project cycle, starting from the planning phase up to the monitoring and evaluation of a project. The foundation of these guidelines lie in the United Nations common understanding of the HRBA, a model widely recognized [1] within the international development community. These guidelines are meant to be practical and therefore concentrate on explaining the core principles and steps of the HRBA through practical case examples and illustrations. A manual providing practical tools on how to carry out a project planning processes, utilizing the HRBA with partners, is available separately.

These guidelines are primarily intended to benefit both Finnish and international non-governmental organizations (NGOs) that implement development cooperation projects with funding from the Finnish government. In addition, it is envisioned that the guidelines would serve as a reference document for the NGOs of the South - particularly those that partner with Finnish NGOs. At the same time, the content may prove beneficial to a wider audience.

However, it should be recognized that people working in a project management or programming capacity, or with NGOs that are about to start a new project, fall into the main target audience. The guidelines have been developed with the idea that both, an experienced development professional and someone who is just beginning to work with a NGO and planning a new project, can benefit from these guidelines. Nevertheless, if it is assumed that the reader is working on a project funded by the government of Finland, he or she is already familiar with the basics of the project cycle concepts, and with the *"Development Cooperation of the Civil Society Organizations: Project Guidelines"* developed by the Ministry for Foreign Affairs of Finland.

WHAT IS A HUMAN RIGHTS BASED APPROACH?

A human rights based approach is focused on conscious and systematic enhancement of human rights in all aspects of project and program development and implementation. **It is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.** The Universal Declaration of Human Rights (UDHR 1948) and other international human rights instruments form the core basis of the HRBA conceptual framework. The human rights based approach has a twofold objective:

1) to empower people (rights-holders) to claim and exercise their rights and

2) to strengthen the capacity of the actors (duty-bearers) who have a particular obligation or responsibility to respect, protect and fulfill the rights of the poorest, weakest, most marginalized and vulnerable, and to comply with these obligations and duties. See Figure 1. HRBA two-fold objective.

The term *rights-holder* is used to refer to individuals or social groups that have particular entitlements in relation to specific rights. For example, children are rights-holders and their parents are considered first-line duty-bearers according to the Conventions of the Rights of the Child: hence, parents have obligations and responsibilities to respect, protect and fulfill the rights of the children.

The term *duty-bearer* is most commonly used to refer to state actors and official authorities at all levels. The state is the ultimate duty-bearer as it ratifies international conventions. It is important to understand that the responsibility of the state arises from their ratification process of international conventions. If a state has not ratified a certain document, its legal duty is not binding and cannot be appealed to the same way as to states who have ratified the conventions. Non-state actors can in some instances also be considered as duty-bearers. Depending on the context and situation, individuals such as parents, local organizations, private companies, aid donors, international institutions, rebel groups, armed forces and so on can be duty-bearers.

RIGHTS-HOLDERS

are individuals or social groups that have particular entitlements in relation to specific duty-bearers. In general terms, all human beings are rights-holders under the Universal Declaration of Human Rights. In particular contexts, there are often specific social groups whose human rights are not fully realized, respected, protected or fulfilled. These groups tend to include women/girls, children in general, ethnic minorities, indigenous peoples, adults and children with special needs, migrants and youth.

DUTY-BEARERS

are those actors who have a particular obligation or responsibility to respect, protect, promote and fulfill human rights, and to abstain from human rights violations. Duty-bearers are both state and non-state actors. However, the ultimate duty-bearer is the state as it ratifies the international conventions.

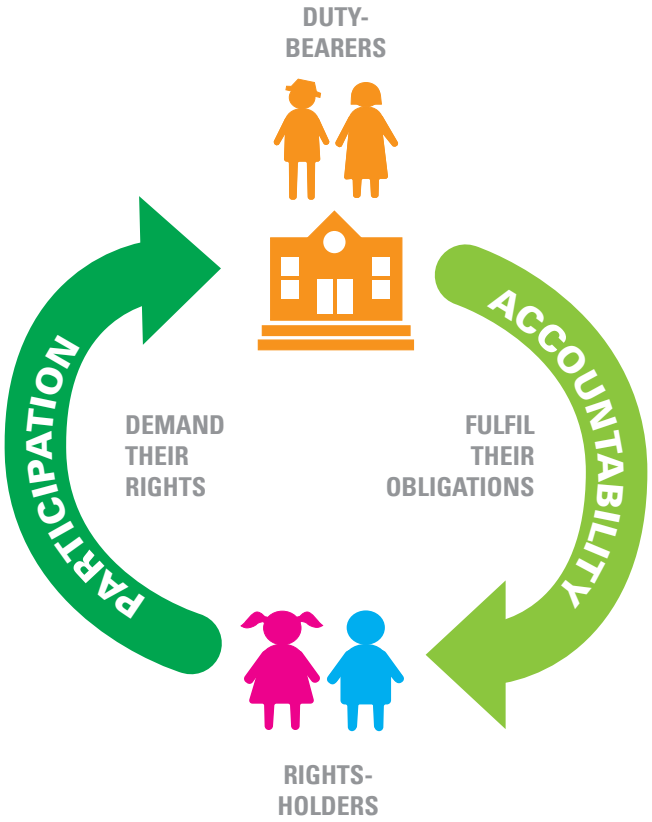
The HRBA recognizes that duty-bearers are not always able to comply with their obligations and duties for several reasons. For example, parents don't always have adequate knowledge and resources to take their children to the hospital for treatment and the medical staff may not have the medication and equipment needed for making an appropriate diagnosis and providing treatment; the district health officer has resource limitations that affect the quality of provided treatment, and the government, as ultimate duty-bearer should have made the necessary budgetary allocation to the health sector to ensure that the child's right to health and wellbeing is fulfilled.

Due to these different factors, these duty-bearers are not able to protect and fulfill a child's right to health and wellbeing. This makes all actors involved in development cooperation projects, including NGOs, accountable for working with local partners to strengthen the capacity of the duty-bearers to become more effective in realizing their duties.

The HRBA is also **a tool to reach people who are the poorest and most vulnerable.** It allows the views of the people (rights-holders) to be taken into account in such communities through active engagement and participation, providing comprehensive understanding of the problems at hand and their causes and consequences. The HRBA ensures that projects aren't planned in isolation from reality and without an understanding of the concerns of the perspective of rights-holders and duty-bearers. The process through which concrete results are achieved is fundamental in all HRBA-based project planning. The process is as important as the results. Therefore, the HRBA is **a tool for empowerment: one that acknowledges that the situation of people cannot change for the better without people's ownership.**

Over the last decade, human rights have gained prominence as a universal set of norms and standards that are increasingly shaping the programs and activities, including within the United Nations (See Figure 2. UN's Statement on Common Understanding of Human Rights Based Approach to Development Cooperation and Programs).

Figure 1. HRBA Two-fold Objective



It is widely recognized that promoting and protecting human rights is crucial for achieving peace, sustainable human development, democracy and security, and that these aspirations and common goals are inseparably linked and interdependent. An approach based on human rights is more and more regarded as an essential tool for achieving sustainable development outcomes. The many benefits of the HRBA can be summed up as follows:

- Promotes realization of human rights and helps government partners achieve their human rights commitments;
- increases and strengthens the participation of the local community;
- improves transparency;
- promotes results and aligns with results based management, which is used to ensure and measure aid effectiveness;
- increases accountability;
- reduces vulnerabilities by focusing on the most marginalized and excluded in society;
- more likely to lead to sustained change as human rights based programs have been designed to have impact on cultural and social norms and values, structures, policy, and practice.

Figure 2. UN's Statement on Common Understanding of Human Rights Based Approach to Development Cooperation and Programs

GOAL

All programs of development cooperation, policies and technical assistance should further the realization of human rights as laid down in the UN Declaration of Human Rights and other international human rights instruments.

PROCESS

Human rights standards and principles guide all development cooperation and programming in all sectors and phases of the programming process.

OUTCOME

Development cooperation contributes to the development of the capabilities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.

There are some clear differences between projects that are implemented using the HRBA framework and those that are not. The key differences can be simplified and summarized as follows (See Box 1: Key Differences Between HRBA and Non-HRBA Projects):

Box 1. Key Differences Between HRBA and Non-HRBA Projects

HRBA PROJECT	NON-HRBA PROJECT
Project target group is identified as active actors and agents of change (rights-holders & duty-bearers)	Project target group is often perceived as passive, receiving 'aid' (beneficiaries)
Participation is crucial to provide a voice in the process	Participation is limited
Participants gain awareness of rights and how to demand their fulfillment, as well as, how to fulfill the obligations and duties towards rights-holders	Rights are not discussed openly and directly
Focus is on violated, unfulfilled rights	Focus is on needs
Process is as important as results	Results are often seen more important than process

EXAMPLE OF A HUMAN RIGHTS BASED APPROACH TO HEALTH

A human rights based approach to health uses a combination of support and pressure to urge government departments to make basic health care accessible and affordable for all people in the country. It supports people and organizations in demanding better health services from the government and from other duty-bearers: allocating the health budget in a way that benefits the poor rather than the rich, making health services more patient friendly, making health insurance affordable for all people, providing access to safe drinking water, or controlling polluting industries. Far from creating dependency, such an approach empowers people to take action to claim their due, rather than passively accepting whatever the government is willing to give them. Adopting a human rights based approach to development has implications for programming:

BROAD GOAL: A clear focus on children and their rights.

EQUITY AND NON-DISCRIMINATION: A focus on the worst rights violations and on the most marginalized children.

ACCOUNTABILITY: Strengthening the accountability of duty-bearers for children's rights at all levels. This should be achieved through a combination of direct action for children's rights, changes in laws and policies, institutional practices and adult's attitudes and behaviors.

PARTICIPATION: Empowering rights-holders (children, adults and civil society institutions) to demand child rights. The promotion of children's participation in society and in programs.

BEST INTERESTS OF THE CHILD: Programming based on what is in children's best interests in the short and long term.

LINKAGES: Working with other government and non-government agencies towards common rights-based goals. [2]

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THE NATIONAL FRAMEWORK OF THE HRBA IN FINNISH DEVELOPMENT COOPERATION

The roots of the HRBA for Finnish development lie in Finland´s international commitments to advance human rights, such as the core UN human rights treaties (See Box 2: Core Human Rights Treaties). Finland has ratified numerous additional international conventions with a bearing on human rights, including ILO Conventions. The HRBA in Finnish development cooperation guides development cooperation performed bilaterally, as project or program-based cooperation through local cooperation funds and Finnish NGOs, and multilaterally, through global, financial and regional partnerships and through institutional cooperation. HRBA in Finnish development cooperation is explicitly referred to in the following documents:

- Manual for Bilateral Programmes
- Development Cooperation Manual for NGOs
- Finland´s Development Policy Programme 2012
- Implementing the Human Rights Based Approach In Finland's Development Policy Guidelines
- Cross-cutting Objectives of Development Cooperation – Guidelines HEL7215-63 [3]
- Human Rights Strategy of the Foreign Service of Finland
- Human Rights Action Plan of the Foreign Service of Finland 2013-2015 [4]

The integration of the HRBA into the Finnish national foreign policy and development cooperation agendas can be summarized in five points.

First of all, Finnish development cooperation is based on human rights.

Secondly, it does so by supporting duty-bearers in fulfilling their obligations and rights-holders in claiming their rights, especially with regards to people who are among the most marginalized and vulnerable.

Thirdly, the HRBA is used to contribute to the realization of the cross-cutting objectives of development programs and projects. Systemic application of HRBA ensures that the cross-cutting objectives are addressed at all levels and in all phases of development cooperation and its management cycle.

Fourthly, the HRBA includes civil, political, economic, social and cultural rights, and freedoms.

Fifthly, Finland proactively promotes the HRBA in its foreign and security policy, especially advocating it in the post-2015 process.

Box 2: Core Human Rights Treaties

CORE HUMAN RIGHTS TREATIES

- United Nations Charter
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocols
- International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and its Optional Protocol
- Convention on the Rights of the Child (CRC) and its Optional Protocols
- Convention on the Rights of All Migrant Workers and their Families (ICRMW) and
- Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol.

CORE PRINCIPLES OF THE HRBA

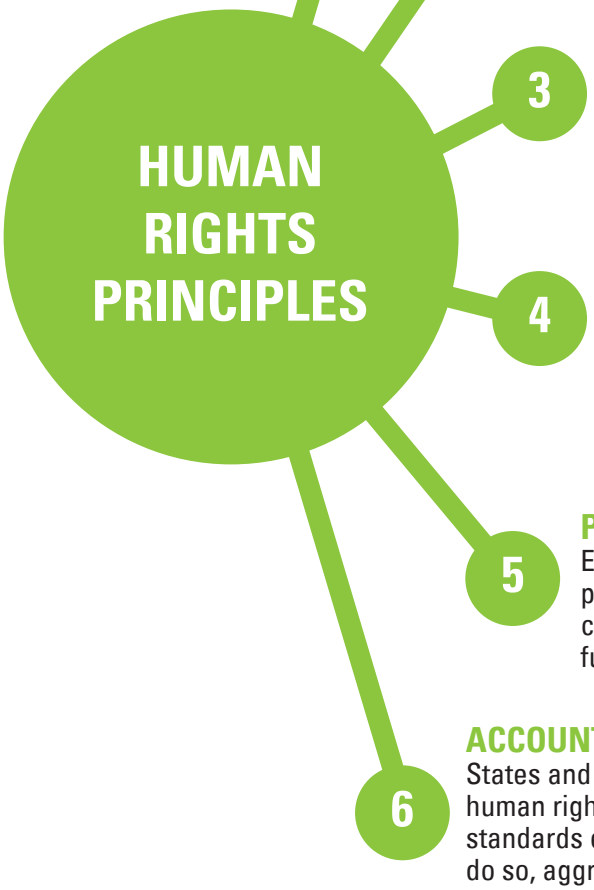
The principles of the HRBA should be applied from the onset of project identification and formulation. **First of all,** all people everywhere in the world are entitled to human rights. All individuals are equal as human beings by virtue of the inherent dignity of each human person. **Secondly,** all human beings are entitled to their human rights without discrimination of any kind, such as race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth, or other status. **Thirdly,** every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realized.

Therefore, it is important to consider:

- How rights-holders and concerned actors (duty-bearers) can participate in project identification, in particular at the situation analysis stage (See pg. 22). Their participation ensures their voice is heard, they participate in gathering data for the situational analysis, are asked to contribute to sources of information, and participate in the analysis itself.
- How people affected by the problem take part in decision making during both the planning process and the project implementation.
- How it is defined who are affected by the problem, who are the vulnerable, and who are the marginalized.

In order for a project to be human-rights based, it is essential that the planning process, including situational analysis in the beginning of the planning process, is conducted following the human rights principles. In other words, human rights principles guide all programming in all phases of the programming process including assessment and analysis, planning and design (including setting of goals, objectives and strategies); implementation, monitoring and evaluation. (See Figure 3. Guiding Human Rights Principles in All Programming Phases).

Figure 3. Guiding Human Rights Principles in All Programming Phases



UNIVERSALITY AND INALIENABILITY

Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The human person, in whom they inhere cannot voluntarily give them up. Nor can others take them away from him or her. As stated in Article 1 of the UDHR, "All human beings are born free and equal in dignity and rights".

INDIVISIBILITY

Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.

INTER-DEPENDENCE AND INTER-RELATEDNESS

The realization of one right often depends, wholly or in part, upon the realization of others. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information.

EQUALITY AND NON-DISCRIMINATION

All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.

PARTICIPATION AND INCLUSION

Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development, through which human rights and fundamental freedoms can be realized.

ACCOUNTABILITY AND RULE OF LAW

States and other duty-bearers are answerable for the observance of human rights. In this regard, they must comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator, in accordance with the rules and procedures provided by law.

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THE POOREST, WEAKEST, MOST MARGINALISED AND VULNERABLE

It is important to recognize that the voices, views, opinions, and experiences of the most marginalized are often undermined by the strongest. In reality, not all people have an equal opportunity to participate: especially those who are vulnerable, disadvantaged and marginalized due to attributes such as age, gender, class, ethnicity, religion, economic situation, sexual orientation and so on. The government of Finland pays particular attention to the rights and equal opportunities of people in such situations. The following people have been highlighted for particular focus.

CHILDREN

The fact that children (persons below the age of 18) are dependent on adults for survival, are usually physically weaker and can be influenced or manipulated by adults, who have the power to make decisions in society, often gives them a lower status in most societies. In almost all countries of the world, children are denied political power as they cannot vote and are left out of decision making. In most countries, parents are permitted to punish their children physically, for example, by hitting them. Psychological punishment and cruelty are noticed in only in extreme cases as there are no outward signs and it is not mentioned by the victims. Children's lower status in society also means they are more vulnerable to sexual abuse and other forms of violence and exploitation (e.g. child labor) which is detrimental to children´s education and both physical and mental wellbeing and development.

According to the Convention on the Rights of the Child, states are legally responsible for ensuring allocation of adequate resources for their citizens through provision of basic social services in health and education to enable parents to fulfill their responsibilities to the child. According to UNICEF, the concept of child poverty is based on access to a number of specific economic and social rights. These rights include freedom from material and social deprivation, premature death, hunger, malnutrition, and lack of access to clean water, sanitation, education, health care and information. [5]

WOMEN (gender equality)

Women's situation in the world has not changed significantly during the past two decades. The often quoted UN statistic still holds true: *"Women work 2/3 of the world's working hours but earn 10% of the world's income and own less than 1% of its property".* There is ample evidence of the discrimination and violation of women's rights all over the world. Particularly women who are poor,

GENDER

refers to the social attributes and opportunities associated with being male and female. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context/ time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in rights and responsibilities assigned, activities undertaken, access and control over resources, as well as decision making opportunities. Gender is part of the broader socio-cultural context.
UNWOMEN

illiterate, disabled, and those who live in rural areas, have several children, have no cash work, etc., are often invisible in the society and, therefore, are easily ignored by civil servants, decision makers and even program planners. In Sub-Saharan Africa alone, the majority of the female population fall into this category of invisible members of society. It is a known fact that women do not have the same access to education, capital, and resources as men. Yet, women play a key role in the wellbeing of the household and children and, consequently, they need to be recognized as equal and active members in a society and be empowered to demand their rights.

According to the MFA of Finland: *"Gender equality is a human rights issue and thus essential for development and poverty reduction. Measures that strengthen gender equality and the status of women promote well-being and economic development and lay the foundation for sustainable development."* [6]

PERSONS WITH DISABILITIES

Persons with disabilities often experience discrimination in their everyday life. Discrimination describes a situation where an individual is disadvantaged in some way because of a 'protected characteristic'. Discrimination takes place in different forms. It can be direct or indirect, manifest in the form of harassment, or there can be direct instruction to discriminate.[7] Direct discrimination is based on negative attitudes, prejudice, and/or on discriminatory legislation. Indirect discrimination, for example, can be caused by physical barriers, such as stairs as the only means to get to vital locations, or by the use of media. For example, people who are visually impaired or have difficulties hearing cannot use media without assistance. Indirect discrimination is banned by international legal instrument and Finnish legislation.

A general argument is that you seldom see children with disabilities in schools in Finnish development partner countries. The explanation is not that poor parents do not have children with disabilities. Quite the contrary, disability is more common in poor populations, but children with disabilities cannot get to school for a variety of reasons. Obstacles to inclusion of children of disabilities include negative attitudes, prejudice, unsuitable transport, physical and legal barriers, study material and, generally, the lack of necessary support services.[8] It should be noted that indirect discrimination can also be based on prejudice and attitudes, but the difference is often that direct discrimination is based on intent to differentiate whereas indirect discrimination is a result of not considering the differentiated consequences of action or inaction.

LESBIAN, GAY, BISEXUAL AND TRANS AND INTERSEX

Discrimination and violence against individuals based on their sexual orientation and gender identity is common in all parts of the world. The situation is the worst in countries where the legal protection of citizens is also otherwise weak. Lesbian, gay, bisexual, and trans and intersex (LGBTI) people often face serious human rights violations: the most common forms of which are physical violence, restrictions of civil and political rights and discrimination in health services, education, and working life. In many countries, the discrimination and persecution of LGBTI persons is based on discriminatory laws. Currently, homosexuality is criminalized in 78 countries: five of them imposing the death penalty for engaging in homosexual acts.[9]

PEOPLE LIVING WITH HIV AND AIDS

HIV/AIDS continues to be a major social and health burden particularly in the Sub-Saharan Africa. It may no longer be seen as a killer disease, as more effective medication is available for free in many countries. However, it impacts not only the physical health of individuals, but also their social identity and status. The stigma and discrimination surrounding HIV/AIDS can be as destructive as the disease itself. Lack of recognition of human rights not only causes unnecessary personal suffering and loss of dignity for people living with HIV or AIDS, but it also contributes directly to the

spread of the epidemic, hindering the preventive response. For example, when human rights are not respected, people are less likely to seek counselling, testing, treatment, and support, because it may lead to discrimination, breach of confidentiality, or other negative consequences. It also appears that the spread of HIV/AIDS is disproportionately high among groups that already lack human rights protection, suffer from social and economic discrimination, or are marginalized by their legal status.[10]

INDIGENOUS PEOPLE AND ETHNIC MINORITIES

The world's indigenous population has been estimated at 370 million individuals living in more than 70 countries, made up of more than 5.000 distinct people. Although representing 5% of the world's population, indigenous people account for 15% of the world's poorest populations. Indigenous people face many challenges, among which human rights violations are frequent. These groups are often denied control over their own development based on their own values, needs and priorities; they are politically under-represented and lack access to social and other services. They are often marginalized and voiceless when it comes to projects affecting their lands and have been the victims of forced displacement as a result of ventures such as the exploitation of natural resources.[11]

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HUMAN RIGHTS BASED PROJECT PLANNING

A thorough planning process forms the basis of any successful project that will eventually achieve its expected results, becomes sustainable, and has positive development impact in the long run. The most common reason for projects to fail in sustainability is linked to poor planning with very little participation from the local people whose problems the project aims to address. In addition, inadequate planning time is to blame.

Experience shows that good and thorough planning requires time and resources, but the returns are many-fold already in the implementation phase. In a project that executes the HRBA, planning is done together with the rights-holders as well as with duty-bearers who have duties and obligations to respect, protect, and fulfill the rights. It is important to understand that a project will not be human rights based if the project identification and formulation phase itself is not conducted by using the human rights based approach and if the human rights principles (pg. 15) have not been applied throughout the planning process.

The project planning phase combined with HRBA steps can be divided into seven main steps as follows:

1. SITUATION ANALYSIS
2. CAUSALITY ANALYSIS
3. ROLE PATTERN ANALYSIS
4. CAPACITY GAP ANALYSIS
5. IDENTIFICATION OF CANDIDATE STRATEGIES AND ACTION
6. PARTNERSHIP ANALYSIS
7. PROJECT DESIGN

These seven steps can be combined with any project planning and management guidelines; additional analysis can be carried out as per requirements of a given funding agency. However, **it is important to carry out all analysis following the HRBA core principles and equal participation with rights-holders and duty-bearers throughout the process.**

1. SITUATION ANALYSIS

A comprehensive situation analysis (also known as initial statement, background study, and problem analysis at the identification stage of the project cycle) is the first stage in the sequence of activities in a typical project cycle. Situational analysis refers to a process of gaining understanding of the current situation in the area/theme/location of interest. Typically this is done by identifying the key factors influencing the situation considered, problems and their causes, as well as the needs, interests, capacities and constraints of different stakeholders. As per the Finnish Ministry for Foreign Affairs Project Guidelines for Civil Society Organisations: ***"situational analysis ensures that the project is suitable for its surroundings and appropriate in scope, advances the inclusion of cross-cutting objectives when properly conducted and identifies the following factors that must be taken into account in the pursuit of sustainability".***

Project planning starts with getting clarity on the exact problem that the project seeks to address from a human rights perspective and the reasons behind them. This analysis stage seeks to clarify who exactly is affected by the problem and the seriousness of the situation to those affected. In addition, it is important to carry out a wider analysis of the social, institutional and political factors: social norms, institutional capacities at all governmental levels, accountability mechanisms, policy and legal frameworks. All these factors and may hinder or potentially support the creation of enabling environments for the realization of the rights of vulnerable groups. Once this clarity has been achieved, i.e., through relevant stakeholder consultations, a desk review of available research, reports, and data, it is possible to carry out the second step, the causality analysis. Key stakeholders to the situation analysis normally include key ministries and government agencies at national and sub-national levels, parliamentarians and other representative bodies, relevant civil society organizations, NGOs, international cooperation partners, vulnerable groups, etc., depending of the focus of the analysis.

This is the step where a development problem, planned to be addressed through a project, is identified. It is important to examine human rights covenants and conventions to find out which economic, social, cultural, civil, and political human rights are relevant to the problem, and in addition, to ask questions such as what is happening to whom, where, and why.

Example: Have the rights of certain groups been violated, neglected or ignored? What are the reasons behind this? Who has a duty to do something about this situation (to respect, protect and fulfill these rights)? [12]

2. CAUSALITY ANALYSIS

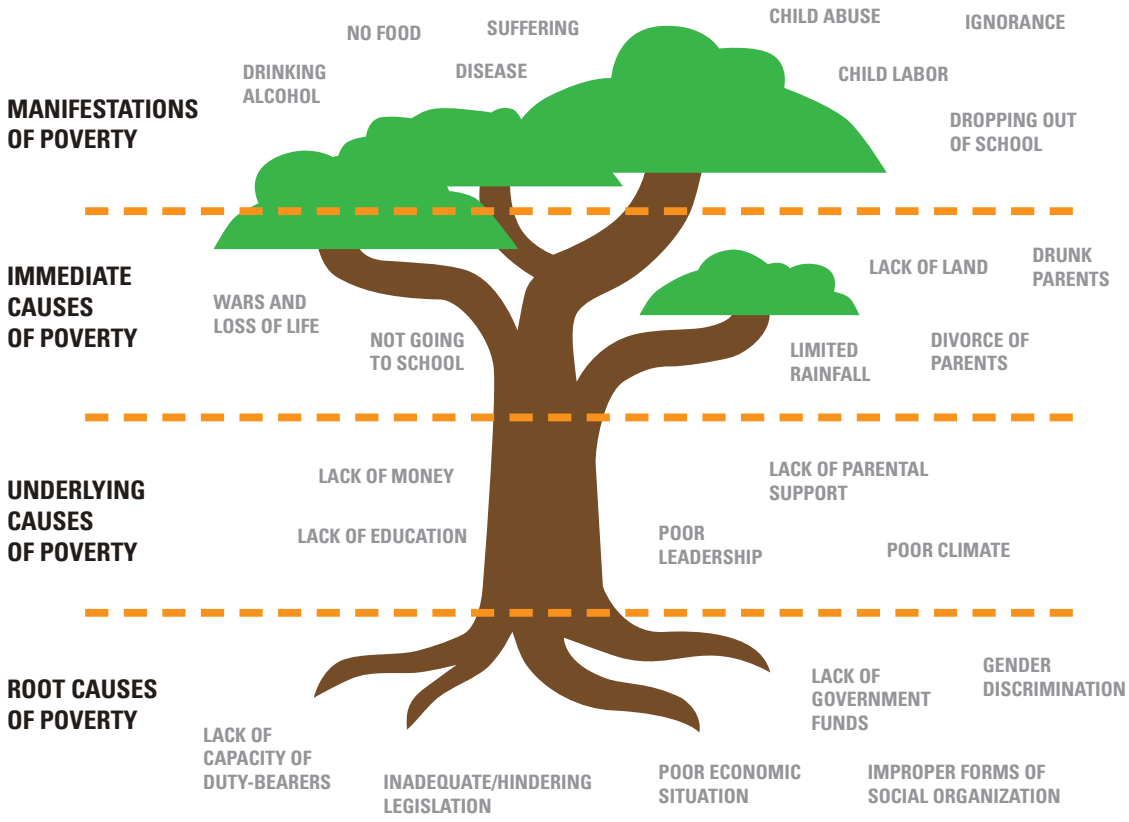
Once a consensus has been reached that a particular problem exists and requires addressing, the causes of the problem need to be identified. The causality analysis should be carried out by those actors who are likely to enter into the roles of rights-holders and duty-bearers in the required improvement process. Hence, the result of the causality analysis will be the identification of multiple causes of unfulfillment of a specific human right in a particular context, together with a list of candidate rights-holders and duty-bearers.

Causality analysis is used to specify the major consequences of the problem and identify the key immediate, underlying and basic/structural causes. In causality analysis, it is assumed that there is an awareness of the problem being analyzed among the people whose rights are affected. If this awareness is missing, as may be the case, the people involved must be sensitized to the issue before further steps are taken.

Causality analysis should start from the main manifestation of the problem and continue down the hierarchy of its causes. Hence, causality analysis is carried out in the following order:

1) the analysis starts by first looking at the inter-dependence between the severity of the problem and the immediate causes;
2) the second step of the analysis concentrates on the relationships between immediate causes that are most relevant to the problem and its underlying causes;
3) as the third step, the relationships between the identified key underlying causes and the basic, structural, or "root" causes are analyzed.

Figure 4. An Example of Poverty Causality Analysis from the Perspective of Out of School Boys Aged 11-14 in Rural Uganda



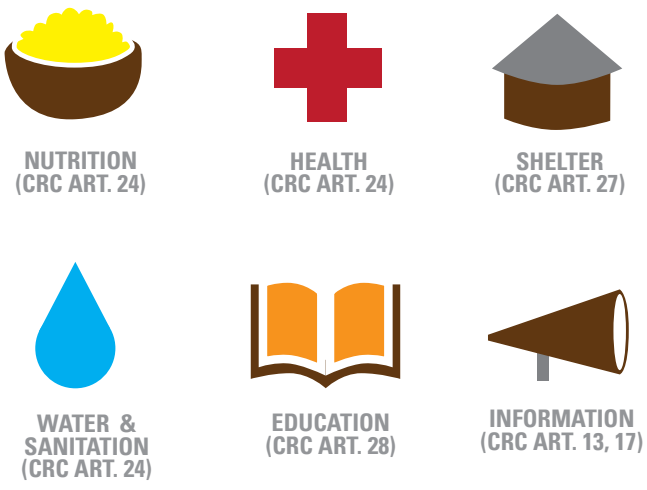
Results of the causality analysis are often visualized in a form of a '*problem tree*'. See Figure 4. An Example of Poverty Causality Analysis from the Perspective of Out of School Boys Aged 11-14 in Rural Uganda. [13]

Experience shows that while the causes of a problem may be different at the immediate and underlying levels, the root causes are often the same: for example, lack of capacity among duty-bearers such as parents, community leaders, civil servants and government officials, improper forms of social organization, gender discrimination, inadequate and/or hindering legislation, poor economic situation, lack of government funds, etc. Addressing the root causes of any of the problems is likely to create enabling conditions for solving a number of other problems at the same time, thereby enhancing sustainability of any effort. At the same time, the root causes are the most difficult ones to address because they are often related to power distribution in the particular context, to control over production and distribution of national resources, to social norms that are hard to change, social organization, and physical environment.

Recognition and identification of the manifestations, immediate, underlying and root/basic causes of a problem

Performing a causality analysis by using a well-justified conceptual framework (one which rights-holders and duty-bearers can believe in) is an opportunity to build consensus on the causes of a problem. The causality analysis will result in a list of rights that are either being violated or at risk of being violated together with the major causes of these violations. For example, the poverty causality analysis by the Ugandan boys' absence from school reveals that several rights being are violated. However, it should be recognized that there is no comprehensive list of rights violated because this depends on the context and particularly case in question. (See Figure 5. Rights Not Realized Due to Poverty.)

Figure 5. Rights Not Realized Due to Poverty



3. ROLE PATTERN ANALYSIS

Identification of duty-bearers and their roles and responsibilities concerning the particular problem

The next HRBA step is the role pattern analysis. The role pattern analysis identifies or confirms the exact individuals or groups of people who have claims concerning the problem, its causes, and unfulfilled rights. The people who are entitled to claim their human rights are the rights-holders (also known as claim-holders). This information is generated through the causality analysis and the selection of priority causes.

The result of the analysis is the identification of a key "right – duty" relationships linking individuals in their roles as rights-holders and duty-bearers, in relation to a selected cause. Hence, a role pattern analysis helps to determine the following aspects of the problem: 1) who the rights-holders are, 2) who the duty-bearers are and what roles and obligations they are expected to fulfill, 3) what the relationship between the rights-holders and duty-bearers is in the particular community or society that has been chosen as the project area. One should recognize that the same individual or group of individuals often may enter into the roles of both rights-holders and duty-bearers.

For example, children have a valid claim (right) against their parents to support their ability to attend school regularly (the right to education). The parents can therefore be considered as the first line duty-bearers. The second line duty-bearers would be teachers and community leaders, district and national level government officials together with the state. The state being the ultimate and most important duty-bearer as the state ratifies human rights covenants and conventions and is therefore legally bound to meet the obligations. It is important to recognize that each "right – duty" relationship must be recognized as a right in a covenant or convention ratified by the country. The role pattern analysis should always be undertaken by representatives of the key rights-holders and duty-bearers.

4. CAPACITY GAP ANALYSIS

The purpose of the capacity gap analysis is to identify obstacles that the rights-holders have in claiming their rights as well as the duty-bearers' capacity gaps in meeting their obligations. Ideally, this list should be made by different categories of capacity, such as responsibility, authority, resources, etc. The result of the analysis is a list of capacity gaps of both the rights-holders and the duty-bearers with regards to the cause and the rights related to the issue.

Capacity gap analysis provides explanations why a particular right has not been realized. The analysis is based on the basic assumption that rights are not realized because rights-holders lack the capacity to claim the right, and/or duty-bearers lack the capacity to fulfill their duties.

Individuals in their duty-bearing role should be held accountable to the rights-holders. However, they may only be held accountable if they have the capacity to carry out their role. Capacity defined in a broad sense includes five components as follows: [14]

1. **Responsibility/motivation/commitment/leadership** is related to the acknowledgement of an individual that s/he should do something about a specific problem. This refers to the acceptance and internalization of a duty and is often justified in legal or moral terms.

2. **Authority** is related to the legitimacy of an action; when an individual or group feels and/or knows that they may take action or that it is permissible to take action. Laws, formal and informal norms and rules, tradition, and culture largely determine what is or is not permissible in a given society. The power relations reflect the structure of authority in a society.

3. **Access and Control of Resources** If an individual accepts that s/he should do something and is capable of acting, it may still be impossible to act because the person lacks resources. Capacity must therefore also mean that the person is in a position to act or has the power to act. The resources available to individuals, households, organizations, and society as a whole may generally be classified into the following three types: human resources, economic resources and organizational resources.

4. **Capability for Rational Decision Making and Learning** Rational decision making requires evidence-based assessment and a logical analysis of the causes of a problem. Actions should be based on decisions informed by the analysis. After action has been taken, a reassessment of the result and impact will lead to improved analysis and better action in the next round. Such interactive learning-by-doing relies heavily on the capability to communicate.

5. **Communication Capability** The capability to communicate and to access information and communication systems is crucial for individuals and groups of individuals in their efforts to claim their rights or meet their duties. Communication is also important in "connecting" various key actors in the social fabric to functional networks able to address critical development issues.

These five dimensions of capacity should be taken into account in the capacity gap analysis as they provide understanding why duty-bearers are often unable to meet their obligations.

The relationships between rights-holders and duty-bearers form a pattern that links individuals and communities to each other, and, further on, to the higher decision-maker levels of the society. In this perspective, right-duty relationships

are linked and form a pattern of human rights. The identification of duty-bearers and the determination of the extent of their accountability are crucial to a well-implemented human rights based approach to programming. An example of the levels of accountability can be shown in Figure 6. Levels of Accountability.

Figure 6. Levels of Accountability.

To summarize, the reduction of the capacity gaps of duty-bearers is fundamental to the respect, protection and fulfillment of human rights, and should, therefore, be the focus of a project complying with the HRBA.

5. IDENTIFICATION OF CANDIDATE STRATEGIES AND ACTIONS

An important part of project planning and formulation phase is making strategic choices based on the large amount of evidence gathered throughout the analysis process. The goal of this step is to identify candidate actions that are likely to contribute to the reduction or closing of the capacity gaps of rights-holders and duty-bearers. Such actions should aim at increasing responsibility, authority, resources, and decision making and communication capabilities of rights-holders and duty-bearers by taking into account basic/structural/root causes of the identified problem. This includes summarizing the findings from previous steps:

1) What are the main basic/root causes of the identified problem to be addressed?

2) Which and whose rights are violated?

3) Who are the main duty-bearers who have a role and obligation to respect, protect, and fulfill these particular rights and

4) What is their capacity to carry out their duty-bearer roles

The next step is to move from the analysis of what is missing to what the project should do about the problem, its root causes, and the capacity gaps identified. At this point it is important to identify opportunities for the best way of addressing the capacity gaps identified. These are strategic choices that will influence the expected project results in both the short and long term. This step is best done by following the project planning and formulation guidelines of the particular funding agency in question.

6. PARTNERSHIP ANALYSIS

Typically, in developing countries, there are multiple international and national organizations, UN agencies, NGOs, foundations, and -most importantly- also government agencies working with the same problems and issues. Some of these actors may even overlap in the geographical areas of implementation. It is very confusing for the local communities if there are projects that are dealing with the same problems, all using diverse approaches and having different goals. In the worst case scenario, a new project may be introducing implementation strategies and goals that are not in line with the given government's policies and goals, causing problems for everyone involved.

The aim of the partnership analysis stage is to identify the key actors working with the same problem(s) in the intervention area and to find out what their focus areas and strengths are. This will allow the discovery of synergies and the establishment of partnerships that support new projects and their goals while building on existing interventions. Experience shows that the earlier partners are involved in the planning process, the better their commitment and support are. See Figure 7. An Example of a Malaria Prevention Partnership Analysis in Malawi.

7. PROJECT DESIGN

In the last step of the planning process, the priority actions should be clustered into a specific project, and a clear project objective should be defined. The project activities should be clustered or aggregated according to the level of society in which rights-holders and duty-bearers operate. At each level, some activities will aim at developing capacities of individuals as rights-holders, while others will aim at developing capacities of individuals as duty-bearers.

Figure 7. An Example of a Malaria Prevention Partnership Analysis in Malawi.

FOCUS AREA/MAIN ACTIVITIES IN RELATION TO THE PROBLEM (U-5 malaria treatment & prevention)	WHO	PSI	MOHP	UNICEF	CPAR	AFRICARE	USAID / CDC
1. Advocacy and social mobilization on ITNs	X	X	X	X	X	X	
2. ITN promotion	X	X	X	X	X	X	X
3. Policy development	X			X			X
4. vector control	X		X				X
5. operational research	X						X
6. case management	X		X	X			X
7. support supervision & monitoring	X	X	X	X	X	X	
8. epidemic preparedness & response	X			X			X

PROJECT IMPLEMENTATION

Project implementation is the phase where everything that has been done in the planning phase is put into action. The better the planning was conducted, the easier the implementation. Project implementation utilizing the HRBA differs from a non-HRBA project in three main ways.

First of all, there is a difference in **who is involved in the implementation.** In a HRBA project, both duty-bearers and rights-holders are involved in the implementation process.

For example, in a water and sanitation project taking place in a rural community in Ivory Coast, the project would involve all identified stakeholders, rights-holders and duty-bearers alike, thus engaging the children, the parents, community leaders, and the district government officers at all pertinent levels. In a non-HRBA project, implementation is often performed with development partners only and without direct involvement of the beneficiaries

Second of all, the implementation strategy is focused on **empowering the rights-holders and strengthening the capacity of the duty-bearers** to eventually fulfill their duties and obligations to the rights-holders.

For example, a project may aim to increase parents' knowledge about the importance of hand washing, use of pit latrines, linkage diseases and poor sanitation, and to build parents' income generating capacity in order for the parents to be able to buy soap and other sanitation related items. In a non-HRBA project, the focus is often on service delivery to beneficiaries, e.g., the building of latrines and boreholes only, without any behavior change or empowerment components.

And finally, a crucial element of a HRBA- implemented project is the way **implementation is carried out**. Participation and engagement of the rights-holders and duty-bearers are important parts of implementation. Meaningful participation means that the voices of all parties are heard and taken into consideration.

For example, children and their parents are involved in decision making at various levels of the project. A core element of the execution of the HRBA in development projects is empowerment through engagement.

MONITORING AND EVALUATION

Monitoring and evaluation (M&E) are critical parts of any project. They form the basis for clear and accurate reporting on the results achieved and provide an opportunity for critical analysis and organizational learning, informing decision making, and continuous learning.

Monitoring is the routine collection and analysis of information that allows tracking of progress against set project plans. Monitoring helps to identify trends and patterns in order to adapt strategies and to inform decisions, particularly in relation to project management.

Evaluation is used to measure and assess the long term impact and sustainability of a project. The OECD/DAC definition of evaluation is as follows: "an assessment, as systematic and objective as possible, of an ongoing or completed project, programme or policy, its design, implementation and results. The aim is to determine the relevance and fulfillment of objectives, developmental efficiency, effectiveness, impact, and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision making process of both recipients and donors."

Monitoring in HRBA-focused projects concentrates on monitoring the realization of the human rights addressed by the project. Hence, the focus of monitoring and evaluation is on the following three issues:

1. participation and empowerment of rights-holders
2. accountability of duty-bearers
3. change at all levels of society

This requires specific kinds of indicators that allow monitoring progress and assessing changes in people's lives (both rights-holders and duty-bearers') and, therefore, indicators used in HRBA programs concern monitoring both the process and outcome of development programs.

As explained in earlier chapters, human rights determine the relationship between rights-holders (individuals and groups with valid claims) and duty-bearers (state and non-state actors with correlative obligations). One of the main factors having adverse impact on the realization of human rights is the lack of capacity of duty-bearers to fulfill their obligations and the capacity of rights-holders to claim and exercise their rights effectively. Developing these capacities and improving the relationship between these two groups is a cross-cutting and crucial element in any HRBA program. It is both an end in itself and the means or process to achieving expected results. Indicators will therefore need to measure the impact of programs on these capacities and on the relationship between these two groups.

Basically, at the end of the project, the necessary change should take place so that duty-bearers capacity gaps are closed, thereby allowing them to fulfill their obligations and contributing to achievement of the rights in question.

For example, a project focusing on the right to education should, in the end, change the extent to which children enjoy their right to education by attending a good quality school on a regular basis. This may mean changes in legislation and policies at the governmental levels as well as changes at the community level to support boys' and girls' access to education.

EXAMPLE OF HRBA INDICATORS

OUTPUT INDICATOR - Goods, services, and deliverables produced to develop the capacity of duty-bearers and rights-holders.

OUTCOME INDICATOR - Legal, policy, and behavior change leading to better performance of rights-holders in claiming their rights and duty-bearers in meeting their obligations.

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KEY HRBA TERMINOLOGY [15]

ACCOUNTABILITY & RULE OF LAW Using a HRBA requires identifying who are the rights-holders (the people claiming their rights) and who are the correlative duty-bearers. This identifies the duty-bearers answerable for the observance of human rights for rights-holders. Duty-bearers are accountable through budget allocation, through building capacity to work on realizing specific rights, as well as through rule of law and juridical mechanisms.

CANDIDATE STRATEGIES AND ACTION The goal is to identify candidate actions that are likely to contribute to the reduction or closing of the capacity gaps of rights-holders and duty-bearers. Such actions should aim at increasing responsibility, authority, resources, decision making, and communication capabilities of rights-holders and duty-bearers by taking into account basic/structural/root causes of the identified problem (HRBA Step Five).

CAPACITY GAP ANALYSIS The purpose of the capacity gap analysis is to identify obstacles that the listed rights-holders have in claiming their rights as well as the duty-bearers capacity gaps in meeting their obligations. The result of the analysis is a list of capacity gaps of both the rights-holders and the duty-bearers with regards to the cause and the rights related to the issue (HRBA Step Four).

CAUSALITY ANALYSIS Causality analysis is used to specify the major manifestations/consequences of the problem and identify the key immediate, underlying, and basic/structural causes. The causality analysis will result in a list of rights that are either being violated or at risk of being violated, together with the major causes of these violated (HRBA Step Two).

CIVIL & POLITICAL RIGHTS Rights relating to participation in public life, such as right to life, liberty and security; equality before the law; freedom of thought, conscience and religion; freedom of speech; freedom from torture; juvenile justice; and the right to vote and stand for election.

CONCLUDING OBSERVATIONS United Nations human rights treaties stipulate that states parties to the treaties submit periodic reports to the respective treaty monitoring bodies (committees) on the implementation of their ratified treaty obligations. The treaty body issues a set of 'concluding observations', containing its assessment of the State's record and makes recommendations for further implementation of the rights in question.

CONSTITUTION The system of fundamental laws and principles that prescribes the nature, functions, and limits of a government or another institution.

DUTY-BEARER Duty-bearer is the specific role into which an individual, a group, or an institution enters as a result of the existence of rights-holders (individual, group or institution) who have valid claims against the duty-bearers. This is to say that duty-bearers are those actors who have a particular obligation or responsibility to respect, protect, promote, and fulfill human rights and to abstain from human rights violations. Duty-bearers are both state and non-state actors. However, the ultimate duty-bearer is the state as it ratifies the international conventions.

ECONOMIC, SOCIAL & CULTURAL RIGHTS Amongst other things, these rights include the right to health, food, education, and adequate housing, and the right to preserve and develop one's cultural identity.

FULFILLMENT OF RIGHTS

Fulfillment (Facilitate) – requires the duty-bearers to adopt appropriate legislative, administrative, budgetary, judicial, promotional, and other measures towards the full realization of the right;

Fulfillment (Provide) – requires the duty-bearers to directly provide assistance or services for the realization of the right.

HUMAN RIGHTS The rights that everyone has just by virtue of the fact they are a human being.

HUMAN RIGHTS-BASED APPROACH (HRBA) A Human Rights Based Approach is focused on the conscious and systematic enhancement of human rights in all aspects of project and program development and implementation. It is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed towards promoting and protecting human rights. The Universal Declaration of Human Rights and other international human rights instruments form the core basis of the HRBA conceptual framework. The human rights based approach has a two-fold objective: 1) to empower people (rights-holders) to claim and exercise their rights and 2) to strengthen the capacity of actors (duty-bearers) who have a particular obligation or responsibility to respect, protect, and fulfill rights of the poorest, weakest, most marginalized, and vulnerable.

HUMAN RIGHTS OBLIGATIONS All governments are obligated to guarantee international human rights law, primarily because they have ratified certain treaties. States that have not are still obligated to respect general principles of international customary law, e.g., the right not to be held in slavery or servitude.

HUMAN RIGHTS PRINCIPLES Human rights principles guide programming in all phases of the programming process including assessment and analysis, planning and design, implementation, and monitoring and evaluation. These principles represent criteria for an acceptable process in a HRBA to development. They include equality and non-discrimination, participation and inclusion, accountability, and the rule of law.

HUMAN RIGHTS STANDARDS Human rights standards guide all development cooperation and programming in all sectors and in all phases of the programming process. These standards represent desirable outcomes in a HRBA to development, e.g., universal basic education, access to health services, social protection, absence of torture, etc.

INDIVISIBILITY There is no a priori hierarchy among human rights, all rights are necessary for the dignity of every human being.

INTERDEPENDENCY & INTERRELATEDNESS The realization of one right, often depends on the acknowledgement and realization of other rights. This helps contribute to a long term human rights goal in development projects and programs.

EQUALITY AND NON-DISCRIMINATION All persons within a society enjoy equal access to available goods and services that are necessary to fulfill basic human needs. There is an important difference between 'equality of opportunity' and 'equality of result.' All individuals are equal as human beings: all human beings are entitled to their human rights without discrimination such as race, religion, political or other opinion, disability, property, birth or other status. As explained by the human rights treaty bodies non-discrimination applies to all state policies and practices, including healthcare, education, access to services, travel regulations, etc.

PARTICIPATION AND INCLUSION Every person is entitled to active, free and meaningful participation, contribution to, and enjoyment of civil, economic, social, cultural, and political development in which human rights and fundamental freedoms can be realized. A HRBA to development requires full participation of key duty-bearers and rights-holders.

PARTNERSHIP ANALYSIS The aim of the partnership analysis is to identify the key actors working with the same problem(s) in the intervention area and identify their focus areas and strengths. This will allow the discovery of synergies and the establishment of partnerships that support new projects and goals, while building on existing interventions (HRBA Step Six).

PROGRESSIVE REALIZATION There is an obligation to "move as expeditiously and effectively" as possible towards the realization of human rights with minimum core obligations to ensure the minimum essential levels of each of the rights, including health, education, housing, etc.

RATIFICATION A country officially decides that it wants to become a state party to a treaty. It then "ratifies" the treaty or convention.

RIGHTS-HOLDER When a country has ratified a UN Treaty, all individuals or groups of individuals in that country whose rights are enshrined in the treaty enter into the roles of rights-holders with valid claims against others who have correlative duties, i.e., these enter into the roles of duty-bearers. Rights-holders are individuals or social groups that have particular entitlements in relation to specific duty-bearers. In general terms, all human beings are rights-holders under the Universal Declaration of Human Rights. In particular contexts, there are often specific social groups whose human rights are not fully realized, respected, protected, or fulfilled. These groups tend to include women/girls, children in general, ethnic minorities, indigenous peoples, adults and children with special needs, migrants, and youth.

ROLE PATTERN ANALYSIS Role pattern analysis is the identification of duty-bearers and rights-holders in the particular project/problem/case and their roles and responsibilities. The result of the analysis is the identification of key right – duty relationships linking individuals in their roles as rights-holders and duty-bearers (HRBA Step Three).

SITUATION ANALYSIS A situation analysis (SitAn) is the first stage in the sequence of activities in a typical project cycle. Situational analysis refers to a process of gaining understanding of the current situation in the area/theme/location of interest. Typically this is done by identifying the key factors influencing the situation considered, problems and their causes, as well as the needs, interests, capacities and constraints of different stakeholders. The SitAn examines human rights covenants and conventions to find out which economic, social, cultural, civil, and political human rights are relevant to the identified problems (HRBA Step One).

TREATY An agreement under international law agreed primarily between states and international organizations (UN Covenants and Conventions are treaties).

TREATY MONITORING BODY A committee of experts mandated by the UN to oversee and monitor the implementation of a specific treaty (covenant or convention).

UNIVERSAL & INALIENABLE A HRBA is grounded and guided by the fact that all people are born with human rights that cannot be voluntarily given up or forcible taken away (Article 1 of the UDHR, 'All human beings are born free and equal in dignity and in rights').

UNIVERSAL DECLARATION OF HUMAN RIGHTS
This treaty was adopted by the UN General Assembly on December 10, 1948, has increasingly been recognized as international customary law and all UN member states have agreed to adopt the principles and standards in the UDHR.

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RESOURCES AND USEFUL LINKS

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http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4404.pdf

Save the Children, Promoting Rights-Based Approaches - Experiences and Ideas from Asia and the Pacific:
http://resourcecentre.savethechildren.se/sites/default/files/documents/1833.pdf

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UNICEF Finland
Lautatarhankatu 6
00580 Helsinki
FINLAND
Tel +358 9 584 501