



United Nations  
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Cultural Organization

## UNESCO STRATEGY ON HUMAN RIGHTS

SOCIAL AND HUMAN SCIENCES SECTOR

# The Human Rights based approach and the United Nations system

DESK STUDY PREPARED BY  
ANDRÉ FRANKOVITS

HUMAN RIGHTS



Organisation  
des Nations Unies  
pour l'éducation,  
la science et la culture

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## INTRODUCTORY NOTE

**T**he study on *Mainstreaming Human Rights: The Human Rights-Based Approach and the United Nations System* was prepared at the request of UNESCO by André Frankovits, International Project Director of the Human Rights Council of Australia. This institution played a pivotal role in promoting the agenda of human rights mainstreaming.

The author accepted the challenging task of putting in a nutshell the diverse and rich experiences of different UN agencies, programmes and bodies. Since the launching of the UN reform in 1997, human rights have been increasingly integrated in the action of the UN system as a whole. Although more efforts should still be deployed in this direction, there are several important accomplishments to be accounted. The most important is perhaps the harmonization of the different UN institutions' perception of the rights-based approach to programming reached in 2003 at the Interagency Workshop in Stamford (Connecticut, USA).

The study looks into policies and practices endorsed throughout the UN system and highlights lessons learned and good practices that could provide inspiration for UNESCO's action. Furthermore, it puts forward recommendations that are specific to UNESCO's mandate in education, sciences, culture and communication.

The study is closely linked to UNESCO's human rights mainstreaming programme that was initiated in conformity with its Human Rights Strategy (adopted in 2003), which set the following objectives:

- “(i) integration of a human rights-based approach into all UNESCO activities and projects in line with the United Nations Reform Programme;
- “(ii) intensified in-house coordination of human rights activities, ensuring a more effective contribution to the advancement of all human rights, particularly those within UNESCO's competence;

- (iii) increased awareness and knowledge on the part of UNESCO staff of human rights standards, major challenges to human rights and human rights-based programming” (paragraph 14 of the Strategy).

The present study could serve as a useful resource for UNESCO staff in the efforts to integrate a human rights-based approach in their activities and as a background material for the in-house capacity-building seminars being organized since 2005.

# EXECUTIVE SUMMARY

**A**n exploration of the lessons learned by UN agencies in the implementation of the human rights-based approach to development cooperation reveals both common constraints and common solutions. From the initial adoption of policies on the human rights-based approach, all agencies have progressed to the development of training materials and then to the sharing of practical examples to encourage wider use of the approach.

Some agencies have had greater experience in applying the approach than others. UNICEF seems to have been the first (to have begun) to programme for human rights following the adoption of the Convention on the Rights of the Child in its mission statement in 1996. The specific focus on the rights of children and women has facilitated the development of tools for integrating their rights in situational analyses, in the setting of human rights goals and in identifying appropriate human rights benchmarks. This has required the development of training programmes targeting all levels of the organization with an emphasis on continuing education rather than on one-off training events.

The UNDP has tackled the issue differently by entering into a partnership with the Office of the High Commissioner for Human Rights and creating a specific programme to assist its Country Offices and national partners in implementing the policy on the integration of human rights in sustainable human development. The role of the UNDP as the coordinator of UN activities in-country has also assisted other agencies in adopting and applying the approach. In addition, the Human Rights Strengthening Programme has been influential in the development of the UN Common Understanding on the Human Rights-Based Approach to Development Coordination as well as in the evolution of the collaboration with OHCHR on the Action2 Plan.

Other agencies have contributed to the pool of experiences and lessons learned and have exploited their know-how gained in the implementation of their mandates to apply the human rights approach to women, children and youth, and to specific rights – health in the case of WHO and food in the case of FAO. OHCHR and the ILO have brought their special expertise to further the acceptance of the human rights-based approach internationally and at country level.

The lessons drawn from the experiences of those agencies that have progressed the human rights-based approach include the need for strategic training programmes for agency staff at all levels as well as for national and international partners; institutional changes within agencies based on clear messages from the highest levels, coherence in the demands imposed by different policies, and the integration of human rights in planning documents and frameworks; and, finally, the more systematic sharing of practical experiences in overcoming obstacles to the implementation of the approach within and outside the agencies.

Constraints shared by most agencies include a lack of political will at national level, resistance by governments to accept any dialogue based on human rights either because of their human rights record or for fear of another form of conditionality, lack of awareness of or understanding by UN staff and national partners of the nature and core content of rights, and scepticism within the agency over the value of the human rights-based approach, often seen as yet another development fad. These constraints have necessitated the identification of entry points that can demonstrate the added value of the human rights-based approach or open avenues for dialogue. The entry points available include various planning frameworks together with the Millennium Development Goals, and thematic issues such as gender, children, indigenous peoples and minorities.

UNESCO has taken a first step in adopting the Strategy on Human Rights in 2003. It can now draw on the experiences of other agencies in their efforts to mainstream human rights and apply these to UNESCO's special competencies. In addition, UNESCO is in a position to contribute to other agencies' endeavours by clarifying for them further the nature and content of economic, social and, especially, cultural rights. The organization can also play a greater role in integrating human rights in the global planning frameworks.

# ACRONYMS

- AIDAB** ..... Australian International Development Assistance Bureau  
[now AusAID]
- BDP** ..... Bureau for Development Policy
- CCA** ..... Common Country Assessment
- CDG** ..... Capacity Development Group
- CO** ..... Country office
- CEDAW** ..... Convention on the Elimination of All Forms  
of Discrimination against Women
- CRC** ..... Convention on the Rights of the Child
- DfID** ..... Department for International Development
- ECHA** ..... Executive Committee for Humanitarian Affairs
- ECOSOC** ..... Economic and Social Council
- EFA** ..... Education for All
- ESARO** ..... Eastern and Southern Africa Regional Office [UNICEF]
- EU** ..... European Union
- FAO** ..... Food and Agriculture Organization
- HDI** ..... Human Development Index
- HRBA** ..... Human rights-based approach
- HRBAP** ..... Human rights-based approach to programming
- HRCA** ..... Human Rights Council of Australia
- HRE** ..... Human rights education
- HURIST** ..... Human rights strengthening [programme]
- IATG** ..... Inter-agency thematic group
- ICESCR** ..... International Covenant on Economic, Social and Cultural Rights
- ICVA** ..... International Council of Voluntary Associations
- IDS** ..... Institute of Development Studies
- ILO** ..... International Labour Organization



- INGO** ..... International non-governmental organization(s)
- MDG** ..... Millennium Development Goals
- MRG** ..... Minority Rights Group
- MTSP** ..... Mid-Term Strategic Plan
- MYFF** ..... Multi-Year Financial Framework
- NGO** ..... Non-governmental organization(s)
- NHRAP** ..... National human rights action plan
- NPC** ..... National Planning Commission
- OHCHR** ..... Office of the High Commissioner for Human Rights
- PANEL** ..... Participation, accountability, non-discrimination, empowerment, linkage to human rights
- PRSP** ..... Poverty Reduction Strategy Paper
- RBM** ..... Results-Based Management
- RC** ..... Resident Coordinator
- ROAR** ..... Results-Oriented Annual Report
- RR** ..... Resident Representative
- SIDA** ..... Swedish International Development Cooperation Agency
- SRF** ..... Strategic Results Framework
- SURF** ..... Sub Regional Resource Facility
- UNCT** ..... UN Country Team
- UNDAF** ..... UN Development Assistance Framework
- UNDGO** ..... UNDevelopment Group Office
- UNDP** ..... UN Development Programme
- UNESCO** ..... UN Educational, Scientific and Cultural Organization
- UNFPA** ..... UN Population Fund
- UNICEF** ..... UN Children's Fund
- UNIFEM** ..... UN Development Fund for Women
- UNITAR** ..... United Nations Institute for Training and Research
- UNV** ..... UN Volunteers
- VIPP** ..... Visualization in Peoples' Participation
- WFP** ..... World Food Programme
- WHO** ..... World Health Organization

# HUMAN RIGHTS

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# HUMAN RIGHTS

## INTRODUCTION

“UNESCO seeks to contribute to the creation of a universal culture of human rights through all its fields of competence. However, UNESCO’s activities aimed at the promotion of human rights focus on those areas where the Organization has a special mandate and a clear comparative advantage, experience and expertise, drawing upon the Organization’s functions as a laboratory of ideas, a standard-setter and a clearing house. In accordance with the UNESCO Strategy on Human Rights, five areas stand out for particular attention. The first relates to the mainstreaming of human rights, i.e. integrating a human rights-based approach into all activities of the Organization. The second area is linked to the promotion of policy-oriented research. The third area is that of advancing knowledge on human rights through education, training and information. The fourth area is linked to standard-setting, monitoring and human rights protection within UNESCO’s fields of competence. The fifth area is related to fostering partnerships with various actors and networks.”<sup>1</sup>

In response to the UN Secretary’s Reform Programme and as a contribution to the UN Agenda for the 21<sup>st</sup> Century, UNESCO adopted in 2003 its Strategy on Human Rights to “strengthen ... the promotion and protection of human rights through the application of a coherent and Organization-wide vision of human rights”<sup>2</sup>.

The UNESCO Strategy proposed the “development, with due consideration of the mainstreaming experience accumulated within the United Nations, of a phased plan to mainstream human rights into all of UNESCO’s programmes and activities on the basis of human rights instruments and the conclusions of treaty monitoring bodies”<sup>3</sup>. In line with this proposal, the Division of Human Rights and Struggle Against Discrimination has commissioned the present desk study to explore what policies, administrative practices, training programmes and changes to existing manuals have been used to mainstream human rights in other UN agencies. The study was to look at challenges faced by the UN agencies in mainstreaming human rights and the means to overcome these obstacles. The study draws on policy documents, programme reviews and evaluations obtained over the Internet, as well as in the author’s files or directly from UN agencies. The author attended the HURIST workshop to review the pilot human rights reviews of eleven UNDP Country

Offices<sup>4</sup> in March 2005 and took the opportunity to consult with senior staff at UNICEF, UNIFEM, OHCHR and UNDP. Much of the information from other UN agencies was communicated by email from their headquarters and from experts from a number of UN agencies.

Various formulations of the human rights approach and its implementation appear in the collected documentation, but they all share some common concepts and assumptions. The essential steps for the implementation of the human rights approach to development are commonly accepted as:

- the formulation of goals and implementation processes in human rights terms;
- an agreement by all stakeholders on the appropriate performance indicators;
- an evaluation of the outcomes based on human rights and participation.

The study assumes these steps as given. For their implementation, programmes need to incorporate:

- a human rights analysis based on State obligations;
- human rights goals and standard-setting with clear time-lines;
- plans and programmes of action that are the responsibility of all levels of government and the bureaucracy;
- the effective monitoring of compliance and enforcement involving both government authorities and the beneficiaries themselves.

UNESCO plays a unique role within the UN family as a think tank, a knowledge base, a facilitator and an advocate. The majority of its activities, particularly those relating to education and culture, serves to complement the work of those UN agencies with specific thematic mandates as well as the more generalist ones. Furthermore, its relations with the UNESCO National Commissions enables it to be influential far beyond the spread of its administrative presence and its headquarters and field staff, again complementing other UN organizations' field work. Accordingly, the lessons learned from the experience of others in mainstreaming human rights should prove useful for UNESCO in its implementation of the 2003 Strategy on Human Rights while the organization's own experience will be able to help the entire UN family to further advance the cause of human rights.

The study briefly sketches the development of the human rights-based approach over the last decade not only within the UN but also with relation to a number of events and institutions that have impacted on the evolution of the approach in UN

agencies. It then examines how the human rights policies of specific agencies have evolved and the way that they have been integrated in programming. The principal development agencies that have been at the forefront of the implementation of the human rights-based approach are the Food and Agriculture Organization (FAO), the UN Development Programme (UNDP), the UN Population Fund (UNFPA), the UN Children's Fund (UNICEF), the UN Development Fund for Women (UNIFEM) and the World Health Organization (WHO).

The study does not cover the work of the Office of the High Commissioner for Human Rights (OHCHR) and the International Labour Organization (ILO) since the mandates of these organizations are so intricately related to the human rights agenda that their experiences would take much more space than allowed for in this study. In any case, OHCHR is already a partner with many UN agencies, including UNESCO, and its expertise is readily available to all of them. By the very nature of the organization, OHCHR does not have – or certainly ought not have – any issues with mainstreaming human rights. It does facilitate standards setting and the promotion of rights but all of its experience is readily available to all UN agencies. Also left out are agencies such as WFP<sup>5</sup> and UNCHS (Habitat)<sup>6</sup> that have formulated policies on human rights but accessible information on how the policies are translated into practice are lacking.

The study's terms of reference did not include the lessons from non-governmental organizations. A more in-depth study would also take into account the experiences of a number of international NGOs that have faced very similar challenges to the UN and the lessons they learned in winning the hearts and minds of staff, in dealing with resistant partners and in enabling meaningful participation. As an indication of the similarity between the two sets of institutions, the resource and training materials at the end of this document include some outstanding examples in mainstreaming human rights by the international NGO community.

The 'Lessons learned' section does not give chapter and verse and does not necessarily relate each lesson to the relevant experience of a particular UN agency. Again, to have done so would have taken far too much space. However, each chapter or verse emerges from real experience and from the documentary sources that are listed at the end of the study in the 'Resource materials' section. The lessons cover administrative issues, how to address constraints in-country, and what has worked in various contexts and circumstances. Not all of these will be directly relevant to UNESCO's activities but are nevertheless relevant for the collabora-

tion within agencies through framework processes such as the Common Country Assessment (CCA), the UN Development Assistance Framework (UNDAF), the Poverty Reduction Strategy Papers (PRSP) and the Millennium Development Goals (MDGs) reports.

The final substantive section raises some tentative questions directly relevant to UNESCO's practice, especially as it relates to Education for All and for human rights education (HRE). Here again, there is no attempt at any comprehensive recommendations, first because of space limitations, and second because of the spread and complexity of the organization.

# HUMAN RIGHTS

## MILESTONES

**I**t is difficult to pinpoint when precisely the human rights-based approach to development gained the prominence that it now has. Ever since Woodrow Wilson enunciated the ‘four freedoms’ at the beginning of the twentieth century, development and human rights workers have strived for the integration of rights in human development. The milestones identified below are not comprehensive but point to the contribution at various stage of many actors in clarifying the relationship between human rights and development, and between human rights and poverty.

### **The UN World Conference on Human Rights 1993**

The UN World Conference on Human Rights in Vienna provided the momentum for the integration of human rights in the UN’s development agencies. First, the Conference reaffirmed in the Vienna Declaration and Programme of Action that development was a right, stressing the link between human rights and development articulated in the 1986 Declaration on the Right to Development. Second, the Conference decided to establish the post of High Commissioner for Human Rights, a decision that reinvigorated the Geneva-based Centre for Human Rights. The creation of the Right to Development Branch in the newly-renamed Office of the High Commissioner for Human Rights gave an impetus to collaboration between the Office and other UN agencies.

### **Human Rights Council of Australia 1995**

Among those exploring the human rights approach to development in the mid-1990s, the Human Rights Council of Australia’s The Rights Way to Development provided an early basis for discussion of the approach within the UN system. Starting in 1994 with a project that attempted to assess if and how the Australian aid agency (AIDAB) used development assistance to promote human rights, the Council organized an international symposium in Parliament House Canberra in early 1995 that brought together human rights experts, representatives of donor agencies and non-governmental organizations to debate what the Council called “the rights way to development”<sup>7</sup>. The same year representatives of the Council presented the report of the project and the symposium to donor



agencies including those of Belgium, Canada, Denmark, Japan, Netherlands, Norway, UK and USA as well as the Office of the High Commissioner for Human Rights.

The report called for a de-linking of human rights from conditionality, for the priorities for assistance to be set within the human rights obligations of governments, and for an emphasis on genuine and meaningful participation. It stressed that a thorough understanding of human rights and the obligations and responsibilities they entail are essential components of policy formulation and that these should guide the strategies that must be devised to assist governments in taking action on the full realization of human rights.

An almost universal response to the report was a call for greater clarity and for practical recommendations for the implementation of the approach. To address this demand, the Council followed up the original report with a manual for a human rights approach to development assistance<sup>8</sup> that adapted the traditional project cycle through the use of the human rights approach. This again was presented to a number of development agencies including the UNDP and UNICEF in 1997 and this fortuitously coincided with the formulation of the UNDP policy document, “Integrating Human Rights with Sustainable Human Development”. A firm basis for collaboration was also established with the Right to Development Branch of the Office of the High Commissioner for Human Rights (OHCHR) that was establishing the groundwork for the partnership with the UNDP that was to result in the 1998 Memorandum of Understanding between the two bodies. The eventual outcome of this partnership was the Human Rights Strengthening Programme (HURIST) Programme in 1999.

## **UNICEF and the Convention on the Rights of the Child 1996**

In 1996 the Executive Board of UNICEF declared that the Convention on the Rights of the Child (CRC) was the frame of reference for UNICEF. It also made clear that the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) underpinned the mandate and mission of the organization. Since the Convention on the Rights of the Child is the single most ratified human rights instrument, this step opened the agency up to a rapid integration of children’s and women’s rights in its development activities.

## UN Reform 1997

Not soon after his 1997 appointment as UN Secretary-General, Kofi Annan presented a report to the UN General Assembly on his vision and proposals for UN reform. He placed “sustained and sustainable” development firmly at the centre of the UN’s reform: the “Agenda for Development addresses not only conventional development issues but also stresses the mutually supportive though complex relationships among development, peace, democracy, good governance and human rights. It affirms the United Nations role in the field of development, and identifies ways of reinforcing the capacities and effectiveness of the United Nations system in that field”.

The reform focused on improving leadership and management structures throughout the UN system. The outcome of his proposals were strengthened coordination through the UN Development Group at UN Headquarters and a focus on the integration of human rights in all principal UN activities and programmes. These changes together with the reform of the Resident Coordinator system at country level that made a single officer responsible for the smooth transition to framework documents, such as the CCA and UNDAF, facilitated the evolution of the human rights-based approach to development.

## UNICEF Executive Directive 1998

The year 1998 was foundational for the elaboration of the human rights approach to development. The fiftieth anniversary of the Universal Declaration of Human Rights provided the impetus for many UN agencies to develop clear policy statements on human rights following the UN Secretary General’s 1997 call for the integration of human rights in all areas of the UN system.

First was UNICEF which adopted a human rights-based approach to programming for children and women. Initial guidance was issued to the field through Executive Directive 1998-004, “*Guidelines for Human Rights-Based Programming Approach*”. Under this approach, all UNICEF Country Programmes of Cooperation are focused on the realization of the rights of children and women. Furthermore, human rights principles guide all phases of the UNICEF programme process and are applied in all programme sectors. The principles include universality, indivisibility, accountability and participation as well as the four foundation principles of the Convention on the Rights of the Child, namely non-discrimination; the child’s right to life, survival and development; the best interests of the child; and respect for the views of the child<sup>9</sup>.

The Directive was designed to help UNICEF staff to implement the human rights-based approach. It drew attention to the need to work within more extended time frames since outcomes would take longer to achieve and this would affect the strategies applied to each programme and the measurements of their success. The Directive also drew attention to the need for increased efforts and priorities related to advocacy as well as an increased emphasis on participation of the stakeholders.

### **UNDP Policy Document 1998**

The 1998 UNDP policy document, “Integrating Human Rights with Sustainable Human Development”, was a break-through document for UN agencies<sup>10</sup>. Whereas UNICEF had adopted the Convention on the Rights of the Child as its mission document, UNDP’s mission as reflected in the policy document was based more broadly on the comprehensive human rights framework. Significantly, both the Convention on the Rights of the Child and the Convention on All Forms of Discrimination against Women encompass both civil and political as well as economic, social and cultural rights, negating the perceived dichotomy between the two. The UNDP document adopts a holistic view and stresses the indivisibility of rights but does take its starting point from aspects of the International Covenant on Economic, Social and Cultural Rights with a focus on progressive realization. The policy recognizes that the ‘violations approach’ whereby research and publicizing human rights is one way to hold governments accountable. It points out that emphasizing the protection and promotion of human rights is more appropriate to a development agency such as UNDP and is complementary to the other approach. The policy document also stresses the principle of universality by emphasizing the importance of protecting the human rights of disadvantaged and minority groups.

### **Oslo Symposium October 1998**

The Oslo Symposium, “Human Development and Human Rights’ convened by UNDP’s Human Development Report Office, the Office of the High Commissioner for Human Rights and the Norwegian Ministry of Foreign Affairs brought together UN and academic experts, representatives of multi-lateral organizations and NGOs. There was a sharing of experiences in applying the human rights-based approach and the final session addressed strategies for the ‘operationalizing of an integrated human rights-based approach to human development’. The Symposium laid the groundwork for the 2000 Human Development Report.

## HURIST 1999-2002

The Right to Development Branch of the Office of the High Commissioner for Human Rights had been liaising with the Management Development and Governance Division at the UNDP to develop a close cooperation between the two organizations. As a result, the HURIST was established to support the implementation of UNDP's policy on integrating human rights in sustainable human development.

The programme had five 'windows':

- 1 Promotion of National Human Rights Action Plans (NHRAPs)<sup>11</sup>
- 2 Development of human rights mainstreaming methodologies in UNDP programming
- 3 Promotion of the ratification of human rights treaties
- 4 The human rights impacts of globalization
- 5 Generic support for national human rights-related capacity-building initiatives, and the placements of United Nations Volunteers (UNVs).

The HURIST team identified a number of pilot countries and UNDP Country Offices were invited to request HURIST support under the appropriate window. Attention was paid to ensure geographic balance. Funding was sought and received from a number of bilateral donor agencies who have maintained an interest in the project and, through HRCA, from the Ford Foundation. HURIST produces a regular status report on the programme available on the UNDP web site.

## The Human Development Report 2000

The Human Development Report Office of the UNDP enlisted the assistance of prize-winning economist Amartya Sen to provide and write up the conceptual framework for the 2000 Report<sup>12</sup>. His chapter "Human rights and human development" has influenced subsequent debates around the human rights approach to development.

The UNDP Administrator Mark Malloch Brown set the direction for the future of the organization and of the UN system in his Preface with his conclusion that the Report was "intended to help promote practical action that puts a human rights-based approach to human development and poverty eradication firmly on the global agenda". The Report highlighted the need for innovative thinking, strategic planning and cultivating new partnerships in programme formulation and implementation.

## Working Together Symposium, October 2000

In 2000 HRCA proposed to the Swedish International Development Cooperation Agency (SIDA) to facilitate a workshop to explore the challenges and opportunities posed by the implementation of the human rights-based approach (HRBA)<sup>13</sup>. The workshop was held in Stockholm in October 2000 with funding from the Swedish International Development Cooperation Agency, the Swedish Ministry for Foreign Affairs and the Swedish NGO Foundation for Human Rights with the participation of donor agency officials, human rights experts and NGOs from both north and south. The UN system was represented by officials from OHCHR, UNDP, UNICEF and ILO. The workshop was held in three separate sessions, the first with NGOs and the Swedish Ministry of Foreign Affairs, a joint session with donors and a third with the participation only of bilateral and multi-lateral development organizations<sup>14</sup>.

The workshop identified a number of constraints in the implementation of the human rights approach as well as some tentative solutions.

On the positive side participants agreed that:

- The HRBA adds the ethical and moral dimension to development efforts.
- By focusing on individuals, it enables better targeting on those who are left behind and provides a means to empower them to claim their rights.
- It provides a more realistic view of the inequities, inequalities and patterns of discrimination that perpetuate deprivation and vulnerability than a more traditional statistical and econometric approach.
- It enables a better focus on the root causes of poverty and vulnerability through its focus on the accountability of agents of the state at each level.
- It is a more efficient analytical tool because it is based on internationally accepted standards.
- It provides a legal standard and a framework which is internationally recognized and which clarifies state obligations.
- It enhances the empowerment of the individual with relation to State obligations to realize rights.
- It is a way of holding recipient governments accountable to commitments and agreed objectives.
- It assists in identifying more appropriate budget priorities.
- It is an entry point for raising awareness, knowledge and expectations about human rights in general.

The obstacles to the implementation of the HRBA fell into five broad categories:

- Political sensitivities;
- Lack of leadership and institutional resistance to change;
- Lack of understanding of the approach and human rights in general;
- Scepticism about its value;
- Shortage of resources.

The agenda and outcomes of the workshop provided a framework for subsequent consultations at two inter-agency workshops.

## The Millennium Declaration, September 2000

The UN General Assembly adopted the Millennium Declaration in September 2000 following the Millennium Summit earlier that year. The Declaration commits governments to take action on peace and security, development and poverty eradication, protection of the environment, human rights and democracy, protection of the most vulnerable, and focus on the situation in Africa. With respect to human rights, the Declaration enjoins governments to “strive for the full protection and promotion ... of civil, political, economic, social and cultural rights”.<sup>15</sup>

In order to translate the Declaration into action, the Summit formulated the eight Millennium Development Goals (MDGs). The MDGs are an ambitious agenda for reducing poverty and improving lives. For each of the eight goals one or more targets have been set, most for 2015.

The goals include halving by 2015 the proportion of people living on less than \$1 a day, and the proportion of people without access to water and basic sanitation; eliminating gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015; ensuring that by 2015 children everywhere will be able to complete primary schooling; and ensuring a significant improvement in the lives of at least 100 million slum dwellers. Governments also committed themselves to report regularly on their progress towards achieving the goals.

### **Princeton University Inter-Agency workshop, 2001**

In January 2001 UNDP, OHCHR and UNICEF with support from UNDGO organized an inter-agency workshop on the implementation of a human rights approach in the context of the UN reform with a specific brief for the mainstreaming of human rights. The catalyst was the call from the UN Secretary-General for 'comprehensive human rights training of UN staff'. The workshop reviewed what various UN agencies were doing to implement the human rights approach. One important finding was the need for ensuring the integration of the approach in the CCA and the UNDAF.

### **An Agenda for Further Change, 2002**

The UN Secretary-General presented his Agenda for Further Change<sup>16</sup> at the 2002 UN General Assembly. He stressed that the promotion and protection of human rights were fundamental for the realization of the UN Charter's vision of a just and peaceful world. In the Action 2 section of the document that gave its name to the eventual *Action 2 Plan*, he proposed to strengthen the capacity of the UN to assist countries to build strong human rights institutions and to improve the operations of the treaty bodies and the special procedures. He emphasized that this was not a move away from the primary focus on development but one of its essential ingredients.

### **HURIST 2, 2002-2005**

A mid-term review of the HURIST programme shifted its emphasis towards application of a human rights approach in UNDP's main practice areas with a special focus on pro-poor human development policies; the integration of human rights with HIV/AIDS strategies; the promotion of a human rights dimension of sound environmental management and energy use; inclusive decentralized governance; and human rights mainstreaming programme reviews. The original windows that aimed to support the formulation of National Human Rights Action plans and studies on the impact of globalization were backgrounded following the mid-term review.

### **Stamford Inter-Agency workshop, 2003**

The second inter-agency workshop was designed to gauge the extent to which human rights were mainstreamed in the work of UN agencies, particularly within the context of the CCAs and UNDAFs, and to see what steps might be taken

to harmonize the work of the UN Country Teams (UNCT) in implementing the human rights-based approach. The workshop brought together staff of UN agencies at headquarters and country level, government officials from a number of developing countries, staff from bilateral agencies, and expert facilitators.

The workshop noted that there was a need to strengthen the capacity of UN Country Teams to work with a human rights approach and to achieve its better integration in development activities. To make the human rights based approach standard for UN agencies, the workshop drafted and agreed a statement of common understanding on the human rights-based approach to development, and suggested improvements to the guidelines for CCA/UNDAFs.

The workshop noted the lack of HRBA training in the CCA/UNDAF process and recommended that this lack be addressed including in the induction courses for Resident Coordinators (RCs). However, training for UNCTs and senior staff was not seen as sufficient in itself. Not only should there be HRBA training programmes for government officials and NGOs but mechanisms should be established for drawing on the expertise of regional institutions and other advisors. In order to strengthen human rights in the activities of the UN at country level, the workshop recommended that clear directives be issued from the UN Development Group and the Chief Executive Board to the effect that staff will be held accountable for the implementation of the HRBA. The workshop also identified the need for each agency to assess its strengths, weaknesses and constraints in implementing the approach and to seek assistance to build the competencies of staff and especially UNCTs in applying the human rights-based approach.

### **UNESCO Strategy on Human Rights October 2003**

The 32<sup>nd</sup> UNESCO General Conference in 2003 adopted a new strategy on human rights. This clarifies the objectives for further integrating a HRBA into all UNESCO's programmes including greater coordination within UNESCO itself. The Strategy is based on the UN Common Understanding that all programmes processes should further the realization of human rights and be guided by human rights standards and norms, taking into account the obligations of duty-bearers and the capacity of rights-holders to claim their rights. The Strategy seeks to promote human rights globally through conducting research to clarify the content of rights within UNESCO's competence, and to identify threats and obstacles to their realization; and to increase cooperation and coordination within and outside the Organization.



To promote human rights globally, the Strategy calls for a focus on human rights education as an integral part of the right to education and its inclusion in Education for All (EFA) initiatives, and active promotion and clarification of the UNESCO mechanisms of accountability. In particular, the Strategy calls for awareness-raising on the work of the Committee on Conventions and Recommendations and a contribution to the standard-setting activities of the UN bodies and agencies relevant to UNESCO's mandate.

### The UN Common Understanding October 2003

The Common Understanding on a Human Rights Based Approach to Development Cooperation agreed at the Stamford Inter-Agency Workshop was approved by the UN Development Group (UNDG) and have now been included in the CCA/UNDAF guidelines.

The Common Understanding<sup>17</sup> is based on three concepts<sup>18</sup>:

- 1** All programmes of development co-operation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
- 2** Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
- 3** Programmes of development cooperation contribute to the development of the capacities of duty-bearers to meet their obligations and of “rights-holders” to claim their rights.

The first concept requires staff to be familiar with the international human rights framework, not only for its own sake but to be able to conduct a human rights analysis that will enable the establishment of human rights objectives whose implementation can then be measured against human rights standards and norms. The second focuses on the basic human rights principles of equality and non-discrimination as the broad overall objective of the development effort, as well as on participation and inclusion, and accountability and the rule of law. The third concept requires strengthening the capacities of rights-holders to claim their rights and of duty bearers to meet their obligations. The last principle, therefore, requires a comprehensive claim-holder/duty-bearer analysis.

## Action 2 Plan, October 2004

The Action 2 Programme is a direct result of the Secretary-General's plan for UN reform and is a joint initiative of the UNDG, the Executive Committee for Humanitarian Affairs (ECHA) and OHCHR<sup>19</sup>. It aims to develop UNCTs' capacity to support Member States to strengthen their human rights protection systems and to effectively integrate human rights in UN development and humanitarian operations. It is expected that one of the principal emphases will be the coordination of inter-agency support to the UN Country teams.

The focus of the Plan is on national human rights promotion in recognition of the special relationship between UN agencies and national governments. One critical factor in monitoring the Plan is the intention to incorporate reporting on progress through the Annual Reports of the RCs. The plan includes placing OHCHR human rights advisers within the UN country teams and a special focus on human rights in the formulation of the CCA/UNDAFs. The plan leaves it open for country teams to choose the preferred modality for its implementation. This may be the establishment of thematic groups within each country team or the integration of human rights in development frameworks such as the Poverty Reduction Strategy Papers (PRSPs) and the Millennium Development Goals (MDGs).

The Action 2 Plan demonstrates a clear link to the groundwork of the two phases of HURIST and shares many common aspects with HURIST II. It also has in common with the latter a lack of budgetary allocation and dependence on funding based on extra-budgetary resources. OHCHR and UNDP are responsible for the mobilization of the necessary resources and once these are available, UNDP will be responsible for the allocation of funds. Funding of roughly fifteen million US dollars is now being sought from the donor community and once the funds have been secured, UN country teams will be provided, via the RC's office, with the criteria for Action Two funding and support and will be invited to submit proposals. Country level support will include seed funds for in-country capacity building, the deployment of human rights advisors and joint programmes for human rights education, rule of law, protection of vulnerable groups and adherence to international human rights and humanitarian law.

The Plan envisages a major contribution from the Office of the High Commissioner for Human Rights through operational support to UN country teams. The OHCHR special focus will be on the preparation of the CCA/UNDAF by cooperating with the UNDG to revise the Guidelines and on the provision to country teams of Human Rights Status Notes for the preparation of analyses and programmes.

In order to better coordinate all these activities, the Plan envisages a “knowledge-sharing network” to exchange good practices and lessons-learned and the HuriTalk network has now been charged with implementing this aspect of the Plan<sup>20</sup>. It is also proposed that an inter-agency workshop would explore the interlinkage between human rights, development and humanitarian issues and to evolve a consensus on policies related to the strengthening of national protection systems.

## UN AGENCIES AND THE HUMAN RIGHTS- BASED APPROACH

**T**he process of mainstreaming human rights in the various UN agencies seems to follow a fairly common pattern. The adoption of a policy on the human rights approach at the highest echelons of the organization is the main impetus towards this mainstreaming although the period leading from one to the other varies from months to years. The UNDP is a case in point. The policy *Integrating Human Rights in Sustainable Human Development* was published in early 1998 and was soon followed by a Memorandum of Understanding between the UNDP and the Office of the High Commissioner for Human Rights. However, the practicalities of implementing the policy are only now coming to the fore.

This section does not cover the policies announced or initiatives taken by every agency in the UN system. The agency with the longest experience in applying the human rights approach is UNICEF which adopted the Convention on the Rights of the Child (CRC) in its mission statement (one article in the CRC specifically refers to UNICEF). UNICEF thus has an advantage because it has guidance from a human rights instrument which is the single most ratified instrument by governments (only Somalia and the USA are not a party to the Convention). This relatively long experience explains the fact that UNICEF has developed the most extensive training programmes and exhibits the most experience in mainstreaming human rights within an organization. It should be noted, however, that even UNICEF does not have hundred per cent acceptance amongst staff, and that it faces the same challenges as all other institutions working in the fields of development and human rights.

The UNDP has benefited from support from senior management in integrating human rights and from the collaboration established with the Office of the High Commissioner for Human Rights. Administratively, it is interesting to note that UNDP has a very small staff allocation devoted to mainstreaming (unlike UNICEF) yet has achieved a lot since its 1998 policy document on human rights. This is partly due to funding support from a number of bilateral donors and their continued involvement in supporting the HURIST programme. The reputation of this programme has grown but this too should be seen in perspective. The UNDP is the largest UN development

agency and its role as coordinator of the UN's presence in-country gives it a critical role in ensuring that the Secretary-General's reforms are carried out. Because it is not closely associated with a specific human rights treaty, UNDP has confronted greater resistance among staff including at a senior level to the integration of human rights than UNICEF. However, it has played a key role in the evolution of the UN Common Understanding and has an investment in gaining its global acceptance. The lessons learned from efforts to integrate human rights in development programming have significance for many other agencies, including UNESCO.

One surprising fact is that there are still great gaps in gender mainstreaming within both UNDP and UNICEF and that this still presents challenges to other agencies as well. Yet the mainstreaming of gender has been on the agendas of all UN organizations for more than two decades. UNIFEM and the UN Population Fund (UNFPA) are far more advanced in this regard and this may be explained by the mandates of the two organizations with their special focus on women. Their close working partnerships with women have no doubt also enabled the development of special expertise in the identification of discrete human rights objectives as well as ensuring that staff pay particular attention to women's rights. The fact that UNICEF has not been as successful while having a similar mandate may be due to its size in comparison to UNIFEM and UNFPA.

The two other agencies that have developed a profile with relation to the human rights approach are FAO and WHO. WHO in particular has been working for some time now on developing specific mainstreaming strategies and has produced a number of educational tools for young people on the nature of rights and the right to health specifically. FAO has been encouraging academic experts and NGOs to explore the normative content of the right to food and is instrumental in promoting the concept through its activities.

## FAO

The FAO contribution to the 50<sup>th</sup> Anniversary of the Universal Declaration of Human Rights was "The Right to Food in Theory and Practice". This is a compilation of articles by international experts and by FAO staff on the right to food. Significantly, the publication does not set out a clear policy on the right to food. However, FAO's Legal Office does promote the implementation of the right to food in national legislation.

Indeed, for a considerable time the FAO had little experience with the human rights-based approach to development. This changed to a certain extent following the World Social Summit confirmation of “the right of everyone to have access to safe and nutritious food”.<sup>21</sup> The FAO Council commissioned the formulation of voluntary guidelines to support Member States’ efforts to achieve the progressive realization of the right to adequate food in the context of national food security. Subsequently the FAO Committee on World Food Security adopted the guidelines to ‘support the progressive realization of the right to adequate food in the context of national food security’<sup>22</sup>. These Voluntary Guidelines take into account a wide range of important human rights principles, including equality and non-discrimination, participation and inclusion, accountability and the rule of law, and the principle that all human rights are universal, indivisible, inter-related and interdependent.

The FAO states that the Guidelines are a “human rights-based practical tool addressed to all states”.<sup>23</sup> The Guidelines cover the full range of actions that need to be taken at the national level to build an enabling environment for people to feed themselves in dignity and to establish appropriate safety nets for those who are unable to do so. Voluntary guidelines are often criticized for the lack of in-built accountability processes and the challenge explored by FAO is how to encourage governments to make use of the ones on food security. In this it has benefited from support from the NGO community.

## UNDP

As the largest UN development agency the UNDP has experienced many challenges in mainstreaming human rights since it adopted its policy on the integration of human rights in 1998. It has established a programme specifically dedicated to this project and in many ways has succeeded in clearly identifying the obstacles it faces and the means to overcome them. In great part this is due to the collaboration between the UNDP and the Office of the High Commissioner for Human Rights initiated by the UNDP Administrator, Gustav Speth and High Commissioner for Human Rights Mary Robinson, and their successors. The HURIST that was the child of their collaboration has been influential in many ways, including in the formulation of Action 2 (see above).

HURIST was the outcome of the Memorandum of Understanding between the Office of the High Commissioner for Human Rights and the UNDP to translate the 1998 Policy Document “Integrating Human Rights in Sustainable Human Development”

into practice. The MoU between the two agencies resulted in the Human Strengthening Programme (HURIST) in 1999 designed to implement the policy.

The Programme has been coordinated by a minuscule team of two persons located at Headquarters and Geneva which was also responsible for raising the funds for the programme to operate since there was no funding provided out of the consolidated budget. The first HURIST incarnation from 1999 to 2002 involved the five “windows” described above. In this first phase there was considerable emphasis on assistance for the formulation of national human rights action plans drawing on the expertise of the Office of the High Commissioner for Human Rights’ Special Adviser on Human Rights Institutions. A number of pilots were initiated in all regions and consultants were appointed to help each CO in the pilot in partnership with government and civil society. The second and fifth ‘window’ was principally focused on the promotion of human rights within the emerging development frameworks<sup>24</sup> and on placing UNVs in UNDP COs to act as national human rights focal points. Promotion of ratification received less attention since OHCHR was already active in this area and the globalization issue was seen as a lesser priority still because of limited funding and the complexity of the issues which was not an active concern of most UNDP COs.

In 2002 following the mid-term review of the HURIST programme which identified capacity building of UNDP staff in implementing the human rights approach as a priority, UNDP initiated a process of human rights-based programme reviews and subsequently developed the Working Guidelines for Human Rights-Based Reviews of UNDP Programmes<sup>25</sup>. This meshed with the outcome of the mid-term review that recommended that HURIST should be seeking to develop and field test tools for human rights-based programming including:

- a** Human rights and gender mainstreaming programme reviews;
- b** Human rights-based participatory assessments; and
- c** Human rights-based performance assessment procedures.<sup>26</sup>

The human rights reviews had two main purposes, to ascertain the degree to which the 1998 policy document on Integrating Human Rights in Sustainable Human Development was being implemented at the country level, and to assist COs to gain a greater understanding of the policy and its programmatic implications. COs were encouraged to seek assistance to pilot these reviews, and missions were conducted using the evolving Guidelines which would take into account the UN Common Understanding on the Human Rights-Based Approach. The eleven pilot reviews were subsequently evaluated at a workshop in New York in March 2005.

The key messages for UNDP programming according to the working guidelines for human rights reviews<sup>27</sup> include:

- human rights standards should underpin baselines and indicators;
- assessing national capacity must include the capacity to realize human rights;
- to upholding universality advocacy must be directed against discrimination and for equality;
- programme priorities should focus on areas of greatest disadvantage;
- analyses must include the capacity needs of and constraints on duty bearers;
- analyses must also take into account the capacity of claims-holders to advocate and participate;
- attention should be paid to mechanisms for redress;
- project strategies must incorporate human rights principles.

The Guidelines included a methodology for the reviews and a HRBA checklist for programme staff. The checklist which is under review<sup>28</sup> comprises five sections, the country context, excluded and vulnerable groups, stakeholder capacity, country programme and project *process* and country programme and project *outcome*. Its dual purpose was seen as a method for programme staff to examine their own practice and a way to structure the human rights reviews.

The reviews usually included a training component for staff and sometimes for partners as well, documentary research, and interviews with UNDP staff and national and donor partners. The preliminary evaluation of the pilot reviews identified a variety of constraints and recommended actions. Recommendations included use of the periodic reporting to the treaty bodies where this takes place as an entry point for dialogue with government and as a guide to programming. There was also support for use of the reports on the MDGs to draw the link with human rights. One consistent finding was the necessity to incorporate human rights education as a component of UNDP-funded projects as an inexpensive means of empowering the rights-holders. Training of the duty bearers also featured prominently with an emphasis on explaining the human rights approach as a non-threatening entry point. The CCA/UNDAF process was seen as key to ensure that adequate resources are allocated to the protection and promotion of human rights.

The March 2005 evaluation had mixed views about the usefulness of human rights reviews of programmes. Questions were raised about the value of such reviews when they are unable to focus on the practicalities of implementation. The most useful reviews were those that incorporated in the training workshops practical tools for



implementation. This could either be by using the actual local programme as a starting point or by conducting real or fictitious concrete human rights analyses.

Among the constraints identified were lack of will and capacity of governments to meet their human rights obligations. There was concern that “short-term donor-driven project cycles do not promote participation, ownership, learning and other facets of sustainability”.<sup>29</sup> Lack of collaboration between UN agencies at the country level was also a source of concern and while the CCA/UNDAF process provides an important opportunity, too few heads of agencies are familiar with the approach or the UN Common Understanding. Among other issues were lack of coordination across portfolios in the COs and a lack of coherence with the procedures such as the Multi-Year Funding Framework (MYFF) that guide country programming.

The workshop recommended that the reviews should continue as a regular activity of UNDP but that they might be renamed ‘human rights strengthening initiatives’ to stress the capacity development aspects of the review. It is thus likely that the reviews will continue as a training and self-assessment mechanism in parallel with the Action 2 initiative. The latter will focus more specifically on the entire UN country teams while the reviews themselves will develop the capacity of UNDP COs. There was a consistent message at the evaluation of the reviews for the need to gain more general acceptance and understanding of the Common Understanding within the UN system as a whole and in UNDP.

One other UNDP initiative that has now become global is the HuriTalk project<sup>30</sup>. In 1999, UNDP began the HuriTalk project designed to provide a forum for discussion among UNDP staff on human rights and development. In its infancy this electronic network was limited to UNDP staff and a few associates and the exchanges were of a general nature mostly focusing on the CCA and UNDAF processes. More recently with the project incorporated in the Oslo Governance Centre<sup>31</sup> and its inclusion in Action 2, field staff have been seeking advice on how to implement the human rights-based approach in their various programme activities.

Recent HuriTalk exchanges have included human rights education, National Human Rights Action Plans, the suppression and prevention of human trafficking, and on HIV/AIDS. The membership of the network is growing and members can draw on the expertise of an ever-widening group of resource persons. Most recently, the HuriTalk Coordinator has begun to issue a monthly ‘Resource Update’ which carries news about standard setting, new policy directions and developments that may facilitate the governance programme in COs. With the Action 2

Plan in place, HuriTalk falls under the ambit of the UNDG and the Oslo Centre is inviting participation from a wider constituency in the network from staff from other UN agencies.

## UNFPA

UNFPA's mission statement stresses the universality and indivisibility of human rights with its focus on reproductive rights, the empowerment of women and the participation and representation of youth. The organization recognizes a wide range of civil, cultural, economic, political and social rights relevant to sexual and reproductive health.

In December 2002 UNFPA released a report of an analysis of a structured questionnaire sent to all their COs and Country Support Teams.<sup>32</sup> Significantly, a large response rate served to identify a general acceptance of the value of the rights-based approach (RBA) although it became clear that this remained principally at the rhetorical level and that the practical implications of the human rights instruments relevant to UNFPA's mandate – the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) – had not been adequately internalized.

UNFPA takes advantage of civil society organizations for service delivery and advocacy because of their greater outreach and natural roots in the community. Service delivery is covered mainly by development NGOs while advocacy is the natural preserve of human rights-oriented NGOs and women's organizations. This calls for a greater understanding of the HRBA by all of these civil society partners even among traditional opponents of sexual and reproductive rights such as the faith-based organizations.

Many UNFPA COs have also established close working relationships with governmental institutions such as national human rights institutions and government bodies. This relationship focuses on advocacy and capacity building and legislative change to bring practice in line with international human rights standards. The COs are assisted by five regional structures – the Country Support Teams in Sub-Saharan Africa, Middle East and North Africa, Eastern Europe and Central Asia, Latin America and the Caribbean, and Asia and the Pacific. The 2002 Report notes that, Country Support Teams report that there is little cooperation at the regional level in those regions where this type of cooperation could further human

rights at the national level. One positive example cited was the organization of an inter-agency “Symposium 2001: Gender Violence, Health and Human Rights in the Americas”.

UNFPA faces similar obstacles to other UN agencies and bilateral donors in applying the human rights-based approach to development. Some of the challenges include:

- Governments perceive any talk of human rights as a direct criticism of their policies and practices
- Culture and tradition often militate against community acceptance of certain rights including the rights of women, adolescents and children
- Inadequacies exist in the legislative and judicial areas either contradictory to or ignorant of the international human rights framework
- The insistence on participation is unacceptable to governments who may identify NGOs as opponents and prefer not to relinquish control over development assistance
- Staff are frustrated in getting communities and NGOs to participate in decision-making or they find it too burdensome to try
- In some cases there is a lack of NGOs with human rights expertise or NGOs are ignorant about the HRBA
- There is a lack of understanding on the part of governments about the nature of the HRBA, particularly in those cases where UNFPA staff may themselves not be at ease with the approach
- UNFPA staff may believe that the HRBA is not concrete and better results are achieved by not using human rights as a guiding framework
- Staff see the HRBA as another development fad imposed by headquarters

One other constraint that is perhaps more specific to UNFPA is the resistance from conservative and faith-based institutions to accept the very existence of reproductive and sexual rights.

The report commented that to mainstream the rights-based approach would require additional resources, both financial and human to increase the capacity of both staff and partners. It noted that applying the approach is time consuming and adequate attention and patience will need to be a feature of the application of human rights situation analyses and meaningful participation. The report recommended training of UNFPA staff and partners and the production of materials that are not overly technical but provide examples of the application of the approach and the value added.

One point of note was the need to link gender mainstreaming to human rights mainstreaming; this paralleled a similar finding of the UNDP evaluation of human rights reviews that the various mainstreaming exercises and policy notes (e.g. poverty, decentralization) needed to be better integrated. The report also recommended a closer relationship with the UN human rights system and use of the findings of the treaty bodies for planning, monitoring and evaluation. It went on to urge greater focus on advocacy and the use of the HRBA and economic, social and cultural rights as entry points to dialogues with governments and civil society on the mandated concerns of UNFPA, especially in the context of national planning.

The lessons of the 2002 report have been taken to heart. UNFPA as a member of the UNDG has embraced the UN Common Understanding on the Human Rights-Based Approach to Development Cooperation that was the outcome of the Stamford Inter-agency Workshop. Following up on one of the suggestion from the report, the Executive Director issued a policy note in 2004 calling on all staff to consider redirecting existing programmes and activities “to ensure that human rights principles and standards have been taken into account throughout the project cycle”<sup>33</sup>. In addition, the Director called for a concerted effort to support national partners’ preparation of State party reports to the human rights treaty bodies and the follow up recommendations from the latter. This reflects the established practice of UNFPA in engaging with the UN Commission on Human Rights and the human rights treaty monitoring bodies by providing them with country analytical reports on the issues that the organization is mandated to promote.

Some of the advantages of using the human rights-based approach in the policy note include the identification of “immediate, underlying and structural causes of the non-realization”<sup>34</sup> of sexual and reproductive rights, a more authoritative basis for advocacy, and a clearer focus on “poor, marginalized, disadvantaged, and excluded groups”.

Most UNFPA programme planning in all regions unfailingly refer to the human rights approach. However, it is the UN Common Understanding and Action 2 that will hopefully generate comprehensive mainstreaming of the approach in the organization at all levels.

## UNICEF

UNICEF has been at the forefront of the evolution of human rights-based programming mainly due to its incorporation of the Convention on the Rights of the Child in its mission statement and to the Executive Directive of 1998 calling on

all programming to be rights-based. Yet UNICEF also had to struggle with making sense of what was a new approach and to analyse precisely what difference the human rights approach would bring to practices evolved over many years and how human rights would be ‘mainstreamed’ throughout the activities of the organization. In a 2004 Paper Akila Belembaogo notes that the 1998 Executive Directive necessitated “various new activities consistent with the broader rights agenda, particularly with regards to civil and political rights, special protection, issues of adolescents and other areas. In addition greater attention will be due to areas [ ] e.g. policy dialogue and issues related to discrimination and equity ...<sup>35</sup>”. She goes on to point out that even now only 50% of UNICEF COs are integrating the human rights-based approach to programming. “The reason for non systematic application can include: lack of understanding of training, lack of will due to the perception that HRBAP is ‘not integral to the way UNICEF works in all sectors’, lack of monitoring and evaluation mechanisms adequate for assessing impact of HRBAP, or a difficult country context”.

To address capacity gaps and to monitor progress in the integration of the approach a range of tools have been developed in UNICEF. These include guides on reporting to the UN Committee on the Rights of the Child, an annual review of the Planning and Programme Policy Manual, a yearly questionnaire to COs asking how they are utilizing the HRBAP and a range of training materials. As well, UNICEF has published four booklets outlining exemplary experiences of the human rights-based approach to programming in Peru, Jordan, Mali and the Southern Cone of Latin America<sup>36</sup>. Each of these is informative either for innovative strategies for implementing the HRBAP or for identifying specific constraints in its application.

UNICEF has adopted a regional approach to programming in the Southern Cone of Latin America (Argentina, Chile and Uruguay)<sup>37</sup> – much in the same way that UNESCO Asia and Pacific regional Bureau for Education has done with Cambodia, Laos and Thailand. This approach enables the sharing of expertise and experiences while conducting joint activities among the three COs. The challenges facing each CO are the legacy of the colonial years and the cultural belief that the poor (children, immigrants, women) are somehow inferior and a threat to society. The privileged rich elites are predisposed to accept the responsibility of providing charity to the poor and the notion of obligation is alien to the region.

The historical context resulted in Minors’ Codes in all three countries governing the treatment of children and particularly those at risk and empowering the authorities to place them in protective custody. UNICEF identified the need for

legislative reform to integrate the principles of the Convention on the Rights of the Child (ratified by all three countries) into national legislation.

This called for a redirection of UNICEF's traditional programming towards advocacy, capacity building and technical assistance on both the "supply" side (legislative, policy, institutional) and on the "demand" side (children, families, local communities). The shift from a "needs-based" approach to a "rights-based" approach is one of the major steps forward in development programming and a critical aspect of the human rights-based approach to development.

The UNICEF CO in Mali was one of the first to adopt a child-rights based approach to programming as early as 1997. Programming was based on a situational analysis where the principles and standards of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women provided the main framework for the analysis. These included non-discrimination, best interest of the child, participation, indivisibility of rights and universality.

Poverty is prevalent in Mali but it is social and cultural factors that have aggravated the plight of women in Malian society. Such practices as female genital mutilation, scarring as an identifier of ethnicity, over-feeding of women as a sign of wealth, and nutritional deprivation during pregnancy all represent obstacles to the implementation of the CRC and CEDAW.

The human rights-based situational analysis was used by UNICEF Mali in its dialogue with the national authorities and in the preparation of the new country programme. The four components of the programme were 'survival', 'development', 'protection', and 'advocacy and planning for social development'. Participation was treated as a cross-cutting issue. The first two of these programmes resembled closely more traditional development approaches, the first focusing on national policies on health, water and sanitation and the second on decentralization. Protection involved advocacy and capacity development in legal, social and economic areas, while the last emphasized programmes targeting the most vulnerable in society.

It was indicative of the state of the art at this stage that accountability which is key to the human rights-based approach only featured in the last two programmes. Recognition of this fact has enabled the CO to re-examine its programme. The CO has also identified a number of constraints in implementing the approach. These included insufficient or inadequately disaggregated data, discontinuities and

inaction caused by changes of or untrained international staff and inequality in partnerships with NGOs who were seen as critical to support for the programme.

In Jordan, UNICEF faced a similarly complex situation. A human rights situation analysis was conducted that revealed both legislative and cultural constraints to the realization of the human rights of children and women. The legal issue is exemplified by the fact that Jordan has not publicized its ratification of CRC and CEDAW and has not legislated CRC into domestic law. One reason is the cultural mores that endorses the corporal punishment of children whilst child abuse is prevalent. Local custom restricts the movement of women outside their homes and their labour participation. In response to the situation, the critical factor for UNICEF was the adoption of the human rights-based approach by the UN Country Team and the establishment of an inter-agency human rights task force that brings consistency in the UN system's advocacy for the rights of women and children.

As stated above, the evolution of human rights-based programming in UNICEF has been assisted enormously by the incorporation of the Convention on the Rights of the Child into the organization's mission statement. Yet the obstacles in implementing the human rights-based approach facing all development agencies, within and outside the UN, are also manifested in UNICEF evaluations more than ten years after the coming into force of the Convention. The findings of an assessment exercise in 2002<sup>38</sup> are in the main echoed in a survey of 35 case studies conducted by UNICEF two years later (see below).

The authors of the assessment identify a lack of strategy to bring about political and legislative change in favour of merely analysing – albeit frankly – the status quo. They suggest that rather than mainstreaming child rights in national and sectoral policies, UNICEF should be actively seeking to change these policies from a rights-based perspective. With regard to accountability, the assessment expresses surprise that after twenty years' efforts to affect budget and resource allocation for the realization of child rights, little of this work addresses public budgets from a rights-based perspective. The authors also express words of caution about the rigid focus on the most marginalized that in some cases disproportionately redirect resources away from other groups. In a familiar vein, they comment on the nature of participation in programming wherein the voices of children themselves are rarely taken into account. Finally, they express dismay about the almost exclusive focus on children's rights at the expense of the rights of women and the integration of women's rights in UNICEF programmes.

## HRBAP Progress Review 2003

In 2003 UNICEF commissioned its fourth assessment of progress in UNICEF's application of the human rights-based approach to programming<sup>39</sup>. The review consisted of a survey sent to COs analysed by the consultant. The recommendations of the assessment give a good indication of the types of obstacles identified and the possible lessons learned:

- Redouble training efforts in regions with less HRBAP experience.
- Translate key HRBAP materials into other languages .
- Make more effort to bring key staff from regions with more and less experience with HRBAP together to share programming experience.
- Ensure that existing resources, such as case studies, tools created for use with communities, reports on innovative approaches, etc. are widely circulated among all regions.
- Develop practical training and other operational tools that explain to COs how to make the transition from using human rights principles in their work to adopting a full-blown human rights based approach to programming, using concrete examples. For example, providing suggestions on how to utilise a rights-based approach to achieve Mid-Term Strategic Plan (MTSP) goals.
- Produce a “Guide to Best Practice in HRBAP” that can be used by UNICEF COs and partners and counterparts.
- Until all regions are more familiar with HRBAP, create mobile HRBAP teams in each region to travel around to all COs and advise them on next steps, etc. for a three-year period.
- Integrate reporting on HRBAP progress into the Annual Report format
- Develop strategies to overcome the obstacle posed by highly centralised government structures.
- Ensure that all new staff members receive intensive training in both the theory and practice of HRBAP.

## Survey of 35 case studies 2004

In 2004 UNICEF commissioned a review of 35 cases which attempted to operationalize the human rights-based approach to programming. The review identified good practices, common entry points, successful strategies and obstacles to the implementation of the approach<sup>40</sup>.



The review placed a focus on the relationship between duty bearers and rights claimants and described the importance of strengthening the capacity and willingness of duty bearers to fulfil their obligations through the provision of support for rights holders to claim their entitlements. Despite difficult political environments it was possible to bring about societal change without being overly confrontational.

Accountability is one of the major principles of the rights-based approach and this applies equally at the community level so that capacity building is required at this level as well. Decentralization was one problematic area where accountability at the local level was key. The review issued a warning that possible negative impacts of decentralization needed to be identified (including the concentration of power in local elites). This pointed to the essential need for more explicit analyses of power relations.

In order to enable claimants to claim their rights UNICEF was found to be in a position to promote rights to information, expression and association. It is in this way that the interdependence of civil, cultural, economic, political and social rights can be made real. This also calls for a greater awareness of the inter-connectedness of human rights by staff and partners. The review stressed the finding that process was key to the human rights-based approach and called for more than technical solutions and for efforts to change the relationship between rights holders and duty bearers by involving them in accountability mechanisms such as budget monitoring, auditing government institutions and legislative reform.

The review found that one of the factors that needed to be more explicit in programmes is the issue of accountability. The review refers specifically to needed changes in:

- attitudes and beliefs;
- legislation;
- economic policies (such as pro-poor economic policies);
- budget and resource allocation;
- quality of institutions: responsive, transparent accountable;
- data, information, monitoring;
- participation and empowerment.

If the changes required were more explicit, this would impact on strategies for bringing about these changes. For these changes to be permanent, it was also necessary to address the issues of incentives, sanctions and redress for without these accountability was meaningless.

One area of special concern was the finding that gender equality and women's rights had lost programme support as a result of increased emphasis on children's rights. The case studies "confirmed the growing consensus among development agencies that gender mainstreaming as a cross-cutting issue has not been generally successful<sup>41</sup>. There is too much resistance in society and within organizations and institutions for a broad brush approach such as the cross-cutting one. The Review calls for more targeted strategies and more explicit focus on gender and women's rights.

Of particular importance to the UN's development frameworks, the Review finds that there are significant problems with inter-agency collaboration and different levels of understanding of the human rights-based approach among UN agencies. Given the importance placed by the UN system on the CCA/UNDAF processes, this is of particular concern.

## UNIFEM

UNIFEM focuses on three principal areas: violence against women, support for the implementing of the Convention on the Elimination of All Forms of Discrimination against Women, and enhancing the understanding of governments, advocates and UN partners of the intersection between human rights gender and HIV/AIDS to strengthen responses to the epidemic. The UNIFEM women's human rights programme is specifically focused on building capacity, awareness and compliance with globally agreed norms and standards to advance women's human rights.

The shift towards using a human rights approach dates back to 1997 partly because of a decision to focus its work, partly in response to pressure from its constituency, with many women's groups seeing themselves as advocates of the human rights of women, and partly because more of its field staff were coming from an NGO background.

UNIFEM itself advocates on behalf of and supports those advocating reform of legislation and policies touching on equality and non-discrimination in education, labour, property rights, and access to information. The organization has worked to make CEDAW more accessible to national and local organizations, disseminating it in local languages, providing training, supporting "shadow" reports, and supporting national representatives of women's groups attending the sittings of the CEDAW committee when their governments present their periodic reports to the Committee. This has increased the sense of transparency around the way governments work in the international arena.

Before moving into these two areas, much of UNIFEM's work to promote human rights had involved staff training on the issues. A problem faced in this regard was that of rapid turnover with trained staff replaced by newer and less experienced staff affecting continuity of programmes and of advocacy.

UNIFEM's work on CEDAW has focused on increasing the effectiveness of reporting, monitoring and implementation of the Convention. Key to this is the strengthening of the capacity of governments and NGOs to use the Convention to create stronger legal and policy frameworks for gender equality. Fostering NGO-government partnerships is also a critical piece of this work. The programme has included regionally-specific areas of focus such as CEDAW and Shari'a law in Western Asia, popularizing CEDAW in the Caribbean, a 'Training of Trainers' programme on women's human rights in the context of CEDAW in the Arab region and technical expertise to link CEDAW to other critical issues on the global agenda, such as HIV/AIDS.

UNIFEM has combined awareness-raising within the organization with practical tools for the implementation of the HRBA. Thus it has drafted a Results-Based Training manual to meet the demand of staff for tools to implement the human rights-based approach. The manual covers situational analysis, human rights indicators to measure the effectiveness of programmes at various stages, and guidance on what to incorporate in logframes. UNIFEM, like UNICEF and UNDP to a certain extent, has taken advantage of regional thematic programmes in drawing the link between human rights and development, and used CEDAW as the basis for a practically-oriented human rights analysis.

## WHO

The WHO considers human rights to be a cross-cutting issue and has accordingly situated human rights oversight within the Department of Health and Sustainable Development. The organization's human rights strategy asserts its commitment to make "human rights an integral dimension of the design, implementation, monitoring and evaluation of the entire spectrum of health-promoted policies and programmes in all spheres – political, economic and social".<sup>42</sup> At the 2001 Princeton Inter-Agency Workshop the WHO declared its intention to develop a health and human rights approach within WHO, to develop the capacity of member states to integrate human rights in health, and to influence and advance the international human rights agenda relating to health.

In 2002 the WHO published “25 Questions & Answers on Health and Human Rights”. This reference document written in an easy to understand style and attractively presented is clearly aimed at readers outside the organization. It outlines existing human rights norms and standards, touches on the integration of the right to health in health management and covers a number of problem issues related to basic human rights principles. In an appendix it also lists relevant legal human rights instruments. As a contribution to the UN Decade on Human Rights Education, 25 Questions was complemented with two pamphlets aimed at the younger reader, one on the right to health and one on HIV/AIDS. The WHO is also developing a reference guide on CEDAW to assist WHO staff and national level partners in addressing women’s health issues in various CEDAW processes.

The formulation of a human rights strategy for WHO remains to be completed and the organization acknowledges the lack of tools to integrate human rights in health development policies and programmes. Accordingly, it is committed to strengthen its capacity to adopt a human rights-based approach in its work through policy development, research and training. According to its report to the Commission on Human Rights, one area where the WHO has been actively applying the human rights-based approach is sexual and reproductive rights. “*Using human rights for maternal and newborn health: a tool for strengthening laws, policies and standards of care* has been designed to facilitate a multi-disciplinary analysis of the legal, policy and health systems determinants of maternal and neonatal mortality and morbidity and the interventions to address them.”<sup>43</sup>

The WHO also works with a number of partners to develop human rights indicators for the right to health and plays an important role in the country consultative process including in the CCA/UNDAF and PRSPs.

Some training of human rights staff has been taking place since 2002 at WHO headquarters by bringing human rights experts to address staff seminars; in 2004 lecturers have included the UN Special Rapporteur on the Right to Health Paul Hunt, and David Patterson, a health and human rights consultant, who presented on “Programming HIV/AIDS: a human rights approach”.

# PLANNING FRAMEWORKS

**N**umerous planning frameworks have been evolving in the context of UN reform and as a response to globalization. This is a reflection of the recognition within the UN that competition, duplication, lack of coordination all lead to the inefficient use of scarce resources. There is no space here to deal with all the frameworks in and outside the UN System. In the context of the HRBA the most relevant ones are national action plans, the CCA/UNDAF process and the Poverty Reduction Strategy Papers. Advocates exist for the integration of human rights in each of these planning frameworks and each is facing specific challenges to this process. UNESCO as a member of the UN family takes part or endorses each of the frameworks and can play an important role in the formulation of the respective planning mechanisms.

## National plans of action

Almost all of the major UN conferences of the nineteen-nineties called for national planning in each sector or theme identified in the final declarations from each conference. Proposals for national plans range from those for women and children, EFA plans, and National Human Rights Action Plans proposed by the Vienna Conference on Human Rights. The Plan of Action for the United Nations Decade for Human Rights Education 1995-2004) specifically called for the establishment of focal points whose responsibilities included the development of national plans of action for human rights education. Each UN agency has supported the formulation of one or more national action plans relevant to their respective mandates. Thus UNESCO has assisted in the formulation of national EFA and HRE plans, UNICEF, UNIFEM and UNFPA have provided advice and resources for plans on children and on women, and the UNDP and OHCHR provide support for the formulation of National Human Rights Action Plans. The PRSPs are another national planning mechanism (see below) supported by virtually all the agencies.

All the plans have some common characteristics. They are supposed to be participatory so that the respective constituency should not only be consulted but also be intricately involved in the formulation of the national plan and, importantly, also provide the accountability mechanism through the monitoring and evaluation of

each plan. Further accountability may be assured through encouragement of governments to present the plan to the relevant international forum: national human rights action plans at the UN Commission on Human Rights, plans to implement CEDAW to the Commission on the Status of Women and so on. Most plans are expected to involve legislative and judicial amendments to domesticate the relevant human rights instrument into national law. Referring to national human rights action plans but relevant to thematic plans as well, the benefits of national plans have been outlined in the OHCHR's handbook on human rights action plans<sup>44</sup>:

A national action plan will:

- Review a country's human rights needs.
- Raise awareness of human rights issues among government officials, security authorities, civil society organizations and the general public.
- Mobilize a broad spectrum of society in a cooperative atmosphere.
- Propose realistic activities.
- Set achievable targets.
- Promote linkages with other national programmes, particularly in the areas of development and education.
- Generate commitment to action.

The outcomes of a national action plan will include:

- Stronger legal frameworks, embracing firmer adherence to international norms, more effective incorporation of human rights standards in domestic law, enhanced independence of the judiciary and more effective rule of law.
- Better protection for individuals.
- A stronger culture of human rights.
- Stronger national institutions for the promotion and protection of human rights.
- More effective social programmes that enhance the quality of life for all, particularly vulnerable groups.
- Improved national harmony, reducing risks of internal conflict.

One issue that has arisen with the formulation of these plans is the resource and capacity gaps that interfere with the ability of national governments to formulate the respective plan. There have been two major responses by the UN agencies to address these capacity gaps. The first is to provide direct assistance in their formulation either through the establishment of thematic working groups that include the major development partners or by appointing either international or domestic consultants (sometimes both) to work directly with the national govern-

ment. The other response is to provide support for domestic actors to draft the plan for subsequent approval by the government. The selection of this method has very much been dependent on the political context but has often been applied to the formulation of national plans on women's rights.

There has been criticism of national plans of action, particularly from the NGO community but also from within UN agencies. For example, it has been noted that in many cases the plans are formulated for international consumption and languish on ministry shelves with little if any attempt at implementation. One response to this is the claim that the existence of the plan itself provides a mechanism by which civil society can hold the government accountable and that it can provide the basis for improvement once the political will is there. Another concern is the question of ownership. While lack of meaningful participation is not uncommon, it is also not unusual for the plan to be formulated by government-appointed personnel from a single ministry so that the plan does not express the commitment of the government as a whole. From a cursory examination of HuriTalk traffic it appears that the current trend – at least within UNDP – is to no longer actively promote these plans but to wait for expressions of unprompted interest from governments.

## CCA/UNDAF

The Secretary-General's reforms required a better integration of UN system initiatives in-country to avoid overlap, duplication, competition and wastage. This resulted in the Common Country Assessment as the basis for the UN Development Assistance Framework that enables collaboration with national partners for the formulation of national planning strategies. The CCA provides a coordinated snapshot of the state of development in a country while the UNDAF is the planning document for the agencies within the UN system. Both the CCA and the UNDAF are to integrate human rights. The UNDG was encouraging UNCTs to integrate human rights in their UNDAFs as early as 1999 and a number of UNCTs took up this challenge in 1999-2000. Indeed, there has been a vast improvement in the integration of the HRBA in UNDAFs in recent times and many reflect closely the principles in the UN Common Understanding on the Human Rights-based Approach to Development Cooperation.

Different approaches have been used by UNCTs. Most relate the development framework to the international, regional and domestic human rights commitments the respective governments have made. Some also explicitly refer to the comments and concluding observations by the treaty bodies on governments' periodic reports

where these exist. However, not all actually frame their proposed development initiatives to address the gaps between commitment and implementation, even though noting the constraints caused by lack of resources or political will. Most CCAs' analyses cover both the human rights situation in the country as well as the capacity of rights-holders to claim their rights and integrate advocacy on this in the UNDAF. The major criticism from the evaluation carried out in 2004 by William O'Neill<sup>45</sup> is that the issue of accountability through reference to the jurisprudence clarified by findings of the treaty bodies and Special Procedures is lacking in many UNDAFs. The extent of the participatory process in the formulation of the UNDAFs under review is not clear from O'Neill's 2004 evaluation<sup>46</sup>.

### One early model: the Nepal UNDAF process

It might be useful to look at the formulation of the Nepal UNDAF that was for some time claimed as a model process. The formulation of the UNDAF in Nepal started in November 1999 immediately after the launch of the CCA. During the Annual Heads of Agencies Retreat, the UNCT was introduced to the RBA and the UNCT decided to adopt this approach as the most appropriate to develop the UNDAF as it gave a common approach and identity to all the agencies, funds and programmes. Some heads of agency expressed some concern over a possible negative reaction from the government.

To prepare for the actual drafting and to build the capacity of the staff in rights-based programming, it was decided to prepare an UNDAF Position Paper "Towards a rights-based UNDAF", that would deepen the CCA analysis from a rights-based perspective and look at the way economic, social and cultural rights were being respected, protected and fulfilled in Nepal. These rights were focused on as the least confrontational to the government and the closest to the issue that the stakeholders would be familiar with in the context of their daily work. A one-day Orientation Workshop on the RBA was organised for the UNDAF Task-Force members and the Chairs of the existing UN Inter-Agency Thematic Groups. An invitation was also extended to representatives of the National Planning Commission (NPC) and the Ministry of Finance. The government's Ninth Five-Year Plan was used as a basis for a rights-based analysis on the right to education, to work and to food.

This workshop was followed by a UN half-day workshop "Towards a Rights-Based UNDAF" that provided inputs on the way rights were respected, protected and fulfilled and what the UN comparative advantages were. The workshop was attended



by the UN Heads of Agencies, UNDAF task-Force members, and the inter-agency thematic group chairs. The Position Paper was presented to the government during a half-day government-UN sponsored Consultative Meeting on the UNDAF, co-chaired by the Vice-Chairperson of the NPC and the RC, which brought together representatives from all the Ministries and the Heads of UN Agencies, including the World Bank. The paper was well received by the government. The government representatives also realised that human rights were not only civil and political rights but also economic, social and cultural rights and were therefore intrinsically linked to development. The Ministry of Law and Justice even requested UN system assistance in building its capacity on international instruments. At the end of the meeting, it was decided to enlarge the UNDAF Task-Force to representatives of the Ministry of Finance and the NPC, and to include government representation in the drafting process of the UNDAF.

The existing Inter-Agency Thematic Groups (IATGs) were consequently restructured in order to include government representation and to reflect the six rights-based thematic areas:

- right to adequate standard of living;
- right to special protection and assistance of women and children and right to social security;
- right to health;
- right to education, culture and science;
- right to work;
- civil and political rights.

Terms of reference for the drafting process were prepared for the IATGs and the document was consolidated and reviewed by the joint UNDAF Task-force and the Heads of Agencies. The first draft was presented to and reviewed by a wide range of development partners during a National Consultation on the UNDAF. More than 150 persons from the government, UN, other donors, INGOs, NGOs, media, research institutions and private sector participated. This was followed by decentralised consultations with focus groups, the results of which were incorporated in a second draft of the document, before being circulated to the government and respective agencies' headquarters for final comments. This process took considerably longer than anticipated and much resistance came from the Ministry of Finance whose economists were less than enthusiastic about the inclusion of the HRBA, resulting in a much-diluted final document.

## The Poverty Reduction Strategy Papers

The ever-greater emphasis on poverty reduction by the multilateral financial institutions and UN development agencies has seen the initiation of the Poverty Reduction Strategy Papers increasingly linked to the Millennium Development Goals. The idea is that national development plans should take poverty reduction as their starting point and assistance, whether as technical cooperation, grant or loan, will take account of the poverty focus of these plans. National governments are encouraged to link their PRSPs to the MDGs. While the process is designed to be consensual, there is considerable encouragement to incorporate good governance and accountability in the PRSPs and meaningful participation in their formulation. Whereas the original promotion of PRSPs focused on Highly Indebted Poor Countries, in a welcome gesture towards greater aid coordination, they have become a common feature of assistance and have also been embraced by the bilateral donor community.

There has been considerable criticism from the NGO community about the nature and process resulting in the PRSPs. This ranges from inadequate participation, renewed conditionalities, economic orthodoxy, and inadequate attention to accountability – often the various criticisms are contradictory. One issue that has not been widely taken up by critics of the PRSP process is the lack of encouragement for the linking of poverty reduction to the human rights obligations of governments<sup>47</sup>. Taking its lead from the statement on poverty and economic, social and cultural rights by the UN Committee on Economic, Social and Cultural Rights in May 2001<sup>48</sup>, the Office of the High Commissioner for Human Rights in 2003 circulated the *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* and called on governments and donors to invite OHCHR to assist with the formulation of PRSPs in using the Guidelines. This offer has not yet been taken up in any meaningful way.

One possible reason is that the Guidelines do not offer so many practical recommendations for addressing poverty but rather focus more on restating the nature of the obligations of state parties under the various human rights treaties as elaborated in the General Comments of the treaty bodies. In this the Guidelines share some of the characteristics of many policy documents issued by other UN and bilateral agencies.

Since 2003 OHCHR has been piloting the Guidelines in a small number of countries. While the results are not conclusive, there is some argument for considering that the PRSPs are not the ideal vehicles for the integration of the human rights

approach. First, they seldom represent the genuine priorities of the governments concerned but rather the policy – however well-meant – of multi and bilateral donor agencies. Second, the PRSPs are generally policy documents even when they include budgetary allocations and therefore not operational. Finally, the economic emphasis of most PRSPs make it difficult to incorporate some of the basic principles of the HRBA: participation is time-consuming and difficult to ensure when highly technical economic issues are at stake; some – including within the UN – have argued that a single focus on the most marginalized and disadvantaged can distort and redirect benefits away from larger and legitimate constituencies; finally, it has proved difficult in many cases to generate meaningful commitments to mechanisms of accountability.

Against this scepticism towards a PRSPs as a vehicle for the integration of the RBA, proponents argue that the PRSP exposes very real human rights issues around concerns about privatization, budgetary priorities and an entry point for donors in promoting enlightened policies that will address the realization of economic, social and cultural rights.

## The Millennium Development Goals

The MDGs cannot strictly be categorized as planning frameworks. They are government commitments to achieve eighteen goals to reduce poverty and to bring peace and security to the globe in a healthy and rewarding environment that refuses discrimination of any kind. There is no mechanism in the MDGs or in the Millennium Declaration that can serve to hold governments accountable for the achievement of the goals. Nevertheless, UNDAFs and PRSPs, as well as those National Action Plans formulated post-2000, all incorporate or link their objectives to the MDGs. While there are few who can be confident that all of the goals will be met in all countries by the time designated in the MDGs, the very linkage with other frameworks gives rise to some hope that the high profile of the Goals in the media and elsewhere will have some impact on government policies and on development outcomes. Certainly, as a tool for advocacy, the MDGs have proved extremely useful in the work of all UN agencies and non-government organizations, particularly in the identification of gaps and capacity needs. UNIFEM has been particularly successful in drawing the link between women's rights and the MDGs and has based part of its programming on this link.

To bring into line the efforts of the various UN agencies in promoting the realization of the MDGs, the UNDP has accepted the role of coordinator at the request of the

UN Secretary-General. This involves the integration of the MDGs in the Common Country Assessment and encouraging development partners to include them in national development frameworks. The UNDP has also taken on the responsibility in cooperation with other UN agencies, the World Bank, the International Monetary Fund, civil society and other partners, of assisting governments to prepare regular MDG reports on their progress in achieving the goals. In addition, UNDP plays a role in promoting international and national support for the MDGs, including through judicious trade and development policies and technical innovation, and awareness raising at all levels.

There has been criticism of the MDGs from within and without the UN for not situating the goals within the international human rights framework. The Millennium Declaration does include a section on human rights, but this is linked to 'democracy' and 'good governance'. Critics point out that many of the goals are focused on human rights guaranteed in the major human rights instruments, but that the omission of any linkage to these voids the goals of the concept of accountability so critical to any human rights approach. One response is to point to the reporting process that at least provides opportunities for advocacy on government and development agency priorities and for public criticism of perceived lack of progress in the achievement of the goals. Some COs have attempted to draw the link between the goals and the respective economic, social and cultural rights – at least in their reports and documentation – and this has served to place human rights on the agenda. However, a further comment from critics is that, in some cases, the MDG reports are actually drafted by UN personnel and that this will inevitably skew the results and provide an easy way for governments to ignore their own commitments to the goals.

# HUMAN RIGHTS

## LESSONS LEARNED

The following discussion of lessons learned draws mainly on the experiences of UN development agencies such as UNDP, UNICEF, WHO and FAO outlined in the previous chapter and incorporates comments from documents as well as individuals consulted. The chapter focuses less on human rights education as there is a wealth of materials and accounts of experiences available through a search of the Office of the High Commissioner for Human Rights' database<sup>49</sup> and in UNESCO's own archives.

It must be recognized at the outset that all development agencies have had imposed upon them a series of development "approaches" over the last decades. Some of these have been deemed 'cross-cutting' (see below) while others have claimed the status of 'new paradigms'. In this way we have had 'sustainable development', 'human development', 'women in development' and so on. It is not surprising that many development professionals, most often skilled technical experts, have greeted each new perceived fad with considerable scepticism.

The initial response to the 'human rights approach' by development professionals was that development was already addressing the realization of economic, social and cultural rights while civil and political rights fell outside the ambit of development<sup>50</sup> and was more properly the concern of diplomats. With the progressive clarification of the normative content of economic, social and cultural rights by the UN Committees charged with monitoring the application of the major human rights instruments and with the increased focus on poverty reduction, there has been a more general acceptance that the human rights approach to development requires more than rhetorical repackaging.

The 'operationalizing' of the HRBA is the major challenge confronting all development and human rights actors and has been the subject of numerous workshops, conferences and discussion groups. Most of the practical work, at least at the outset, focused on the human rights situational analysis.

## Human rights situational analysis

*The HRBAP ... calls for a holistic and comprehensive assessment and analysis that takes into account the interrelationship of all human rights in order to identify the gaps and priorities*<sup>51</sup>.

A human rights situational analysis is not equivalent to human rights research, a concept that is not widely understood in some UN development agencies. The state obligations to respect, protect and fulfil human rights – obligations that are clearest with relation to economic and social rights – should be the basis of such an analysis. The analysis of the status of the obligation to respect human rights will reveal inadequacies in legislative, judicial and administrative practices and enable relevant objectives to be established<sup>52</sup>. The analysis of the status of the obligation to protect human rights will reveal lack of oversight of the practices of non-state actors, lack of regulatory mechanisms and lack of mechanisms of redress for violations of human rights by these actors. The analysis of the status of the obligation to fulfil human rights will reveal procedural inadequacies in the realization of human rights as well as a lack of resources, appropriate priorities, budgetary allocations, and capacity gaps in respective state institutions.

A human rights situational analysis should be based on accepted human rights principles. Those intending to simplify the human rights approach use the so-called 'PANEL' analysis, the acronym for 'participation', accountability, non-discrimination, empowerment, and linkage to human rights. Of the five, non-discrimination is the one that should lead to operational change while accountability is a critical aspect of the human rights approach. As for the others, in the words of Stefan Priesner, "... the others are good for guidance, but may be more confusing than adding value. I am still convinced that if the principle of non-discrimination is taken seriously, we come to a fundamentally different programming".<sup>53</sup>

The principle of accountability requires the situational analysis to also look at the capacities of claims-holders and duty-bearers. To quote Priesner again "... Conventional development projects are usually designed to strengthen the capacity of a national partner or the grassroots, but rarely both in parallel. In fact, our national execution modality often makes it necessary to partner with one side only. The rights-based approach if consistently applied, would start from a claim holder-duty bearer dual analysis and devise strategies accordingly."

One further aspect of the human rights situational analysis is worthy of note. There is already far too much duplication among UN agencies and the various frameworks

should provide the opportunity to achieve a common analysis (after all, the CCA was meant to achieve precisely this). A collective analysis should throw up the comparative advantage of each agency and enable more focused programming in collaboration with development partners.

### **Necessary information**

*... disaggregating data beyond traditional markers could detect discrimination on the basis of ethnicity against indigenous and tribal peoples ...*<sup>54</sup>

Virtually every evaluation of programming in UN agencies<sup>55</sup> repeats the need for better disaggregation of data. Many UN agencies are providing support to governments to collect this disaggregated data particularly as it refers to marginalized and disadvantaged groups. Once again, discrimination should be a critical indicator and the use of the situational analysis can help in identifying the data that needs to be collected. The UNDP checklist and proposed changes and amendments also provides an indication of the type of information that needs to be disaggregated and the avenues for its collection<sup>56</sup>.

Another aspect of information is closely allied to meaningful participation. Because of the common focus on governmental partners mentioned above, information about programme and project is often restricted to these partners and the various stages of the development process remains opaque to the claims-holders. Experiences in a number of agencies suggest that the provision of information on project design and objectives, while sometimes resented by government officials, is a means toward greater transparency and sustainability.

### **Realistic time frames**

There is a continuing tension between those who need to deliver product and those who place their emphasis on sustainability. The pressures on UN agencies parallel those on bilateral donor agencies that are responsible to the constituencies that support them. Hence the imperative to produce results that can demonstrate the effectiveness of the programmes. One major lesson from the UN agencies is that human rights work often cannot deliver instant results and is not able to bring about change in the short term in most cases.

### Consider this quote

*“In Zimbabwe, a rights-based approach initially encountered strong opposition and scepticism from the government ... Similar opposition was experienced at the local level, particularly due to the premium given to children’s and women’s rights. Therefore a lot of time (two years) was invested toward gradual assimilation of the fundamental values represented by a rights approach and showing that these were not entirely strange and that many of these values could be found in the local socio-cultural context. Once this was accepted, human rights provided an ethical basis for justifying the full participation of women and youth in decision-making forums, particularly in programmes around HIV/AIDS. A wide-reaching network of district facilitators and community mobilizers became the chief avenue through which UNICEF carried out its assessment, analysis and programming work, so that initiatives could be seen to be emerging from locally developed action plans. This had enormous impact because people were accustomed to a heavy bureaucratic central planning approach.”<sup>57</sup>*

The groundwork took two years and was perceived as being essential to acclimatizing communities and government to the human rights discourse. The lesson is that the HRBA must integrate realistic time frames and take account of cultural resistance as well as lack of will from government officials and politicians.

### Leadership in promoting the HRBAP

*One fundamental ingredient for a programme based on rights to be effective is strong leadership within the country office that seeks to build a culture of rights among the staff not only through training, but through the integration of human rights in all activities and programme documents<sup>58</sup>.*

Evaluations and reviews of programmes all identify strong commitment to the human rights-based approach to development cooperation from senior management at all levels as a critical basis for its implementation and among the foremost factors in every investigation of the obstacles to the implementation of the approach. Many UN staff perceive that this commitment is at best lukewarm in many cases. In most cases this is not offered as a criticism or condemnation but rather as a recognition of the complexity of the new approach. Reasons advanced for this attitude include:

- Most senior managers started their careers and climbed up the career ladder at a time when the human rights-based approach was little known, if at all.



The traditional technocratic approach to development is the one they are most familiar with.

- Senior managers feel responsible for spending the funds allocated within an agreed time frame. The human rights-based approach may not fit within this time frame so that the HRBA is seen as a disincentive.
- At the country level, managers may not be up to date with current thinking in the head offices of the agencies and report to staff there who may also not be overly familiar with the HRBA.
- Managers may not be convinced of the value added because of a lack of examples of programmes that have improved or are more sustainable than those using more traditional approaches.
- Heads of agencies may not all share acceptance of the HRBA and this may undermine the commitment of some others.

Suggestions to overcome these areas of concern have included making promotion in some way contingent on performance indicators assessing the implementation of the HRBA and a clear directive that annual – and other – reports to head office include the ways that the CO has implemented the policy on HRBA.

The UNDP workshop on human rights reviews in March 2005 also identified a number of structural issues that impact on senior management's acceptance of the HRBA. It is not enough to devise so called 'human rights projects' and include these as examples of the HRBA; the issue is to integrate the approach in all programming. Some lay the reasons for the lack of faster progress in implementing the HRBA at the feet of the development community: bilateral donors are not consistent in promoting the HRBA even though some have formulated quite detailed policies on this. As well, there is a perceived conflict between market-oriented results and societal change implied by the HRBA.

One recurrent lesson is that allocating responsibility to a human rights 'focal point' within the larger COs usually means a downgrading of the importance of the HRBA since most often these are junior staff with little authority within the bureaucracy. At the very least implementation of the HRBA should rest with the deputy head of the CO. This is also related to the treatment of human rights as a cross-cutting issue (see below) and may be reflected in the head offices of some of the agencies where 'human rights' is segregated in a separate department rather than that department being seen as a resource for the whole organization.

In general most experiences have shown that clear and unequivocal messages need to come from senior management in agency headquarters. Here, the Action 2 Plan and the UN Common Understanding will play a major role. All of the identified constraints so far may be addressed by training programmes and executive directives, but more important still is the consistent provision of practical examples circulated on a wide and systematic basis.

### **UN system coordination**

The awareness of the human rights approach varies among UN agencies and even more so among UN personnel. This is reflected in most accounts of the meetings of heads of UN agencies in-country and predictably there is a vast disparity among those UN Country Teams which have considered the implications of the HRBA. Action 2 will bring about greater adherence to the UN Common Understanding on the Human Rights-Based Approach to Development Programming and the integration of human rights in the CCA/UNDAF process.

Action 2 proposes the establishment of thematic groups to discuss and coordinate human rights related issues at the country level. This is similar to the approach that some teams adopted in the formulation of their rights-based UNDAFs and the lessons from these will also apply to many of the Action 2 initiatives. A look at the process in the formulation of rights-based UNDAFs exposes a number of circumstances and factors that impact positively and negatively on the process.

On the positive side, one important requirement is for the RC and UNCT to be convinced of the added value of the RBA and to be committed to the RBA right from the beginning. One means of achieving a consensus is to ensure that heads of agencies are at least familiar with the approach and this will require focused training. It has been shown that delegation of this training to more junior staff is not necessarily a time-saving initiative on the part of the heads of agencies. There is also the need to ensure ownership by the government and one way of achieving this is to engage with the government at the earliest stage possible in the process. Again, it is important to win over the bureaucrats as well as the political leadership and this requires solid advocacy from all the heads of agencies.

Of course, National ownership is, also critical and experience shows that decentralized consultations can contribute. However, this is extremely context sensitive and in situations where mutual suspicion exists between government and non-governmental, there may be arguments for playing down the consultation process. One of the

benefits of the decentralized consultation process is that this is usually implemented by non-managerial staff; this leads to the need for them to be familiar with and be able to advocate for the human rights-based approach with governments as well as with communities.

As for the content, the RBA is a very powerful instrument to find common grounds, mandate and method for the UNDAF. Systematically addressing the issues of discrimination, participation and accountability in the UNDAF enables the UN system to address the basic underlying causes of poverty, thereby enhancing the impact of the UN system assistance. The focus on the most deprived as a matter of priority helps re-focus the UN system assistance. For those UNDAFs that have focused on the International Covenants on Economic, Social, Cultural and on Civil and Political Rights as the reference framework, this has shown the benefits of a comprehensive development framework based on internationally recognized standards and norms. It has also enabled reference, where applicable, to the observations of the treaty bodies so as to more accurately focus on changes that are required to better realize human rights.

However, in recent times there has been a tendency to use the International Covenant on Economic, Social and Cultural Rights at the expense of the inclusion of civil and political rights. This is understandable given the sensitivities of government to the shaming and naming tactics of the more traditional human rights organizations, but care needs to be exercised to avoid total silence about civil and political rights violations.

Care also needs to be exercised to spend more time for building the capacity of the governments in human rights-based programming, thereby influencing their own planning methods and to devote adequate time to the consultation process, especially at decentralised level: it is extremely difficult to discuss rights-issues at village level given the total lack of awareness of people of the rights they are entitled to and the possible means to claim them.

Finally, for those agencies with a broad mandate such as UNDP, the principles of indivisibility and slogans such a 'all human rights for all' create their own problems. Realistically, the imperative is to draw up priorities and this may require putting the realization of certain rights ahead of others in order to marshal limited financial, technical and human resources. Thus, sector-based human rights strategies will be much more results-oriented than comprehensive human rights-based action plans. Note that for agencies with a more clearly defined mandate such as UNICEF this may be less of a problem.

## Results-Based Management

Results-Based Management (RBM) adopted by UNDP and other UN agencies is a response to the changing nature of development assistance and the challenges posed by globalization. It is an attempt to move away from prioritizing a provider's perspective on assistance towards the achievement of measurable results affecting the recipient's situation; UNDP describes it as moving away from 'entitlements' to 'results', from 'control' to 'delegation'. RBM for UNDP (and this is echoed in other agencies, albeit using different names) involves new ways to plan and new ways to measure results. The UNDP planning instruments are the Multi-Year Funding Framework which includes a Strategic Results Framework (SRF) and an Integrated Results Framework and the Evaluation Plan. The reporting instruments are the Results-Oriented Annual Reports (ROAR) and the Multi-Year Funding Framework Reports. These documents guide the CO's programming and are designed to increase the effectiveness of the agency's development cooperation.

All these new tools lend themselves to the integration of human rights. The SRF, for example, might incorporate human rights targets, disaggregated indicators, identification of the rights-claimants, capacity gaps in applying the HRBA and so on. The ROAR could review progress towards the realization of rights and the state of the institutions that support them. There are in fact recommendations to this effect in the HURIST Working Guidelines on Human Rights-Based Reviews of UNDP Programmes. However, anecdotal evidence shows that this has not taken place so far in any systematic manner. Even within UNICEF, although sometimes implied, the causal analyses and problem trees often lack a children's and women's rights perspective.

A recent training of UNDP Deputy-Resident Representatives, "Managing for Development Results", failed to place any emphasis on the HRBA and glossed over human rights as a cross-cutting issue. One participant stressed that it was only when it becomes clear that both the planning and reporting documents demand the integration of the HRBA that programmers will take the challenges posed by the approach seriously.

## HRBA as the basis for dialogue with governments

*In addition to building a culture of human rights within the country office, another critical element for a country programme based on rights to be effective is having an agreement with government that stipulates that the goals and objectives of the cooperation programme are based on principles of human rights.<sup>59</sup>*

It is widely reported that government and non-government partners are largely ignorant of the human rights-based approach. This is compounded by the relative lack of familiarity with the approach within the agencies themselves. In addition, the sensitivities to any discourse on human rights in many countries has put pressure on agency staff not to put at perceived risk programmes and projects that depend on collaboration with the national partner. Yet some agencies such as UNICEF and UNIFEM have not faced as great difficulties in basing the dialogue with governments on human rights principles.

Action 2 will prove invaluable in this regard and experienced programme staff have stated that by referring to the obligation of UN personnel to abide by, in the first instance to the UN Charter, and then the various agency policies, including in the context of the Secretary-General's report, it should be possible to explain to resistant governments that the agencies do not have a choice but to integrate human rights in their programmes and projects and to insist on the application of the human rights principle of participation.

By making it quite clear that the Secretary-General has called for the HRBA to guide all UN agency and funds, the CO would be in a much stronger position in its dialogue with Governments and in insisting on the mainstreaming of human rights in programmes and projects. This calls for an unequivocal message from agency headquarters that could be used to demonstrate to Governments that the agency is bound by policy and executive directive, thus relieving pressure on CO staff.

## Building a culture of human rights in the organization

*We should have the Universal Declaration of Human Rights on the wall of every office in the building.* Kjetil Hansen, Head of Governance Unit, UNDP Rwanda

The UNDP human rights reviews pointed to the importance of building a human rights culture within the agency. All too often the human rights focal point is a junior staff member with little authority and who is overloaded with many respon-

sibilities among which human rights are not perceived as a priority by the majority of staff. As well, human rights training is not seen as a process but very often as a one-off event varying from a couple of hours to a two full days at the most. Given the complexity of the international human rights framework and the relative youth of the HRBA, it seems to make sense to allocate increased resources to awareness-building and explanation of new ways of working. Here it may be possible to draw on the expertise of different agencies and possibly develop the facility of UNESCO to add its own expertise to those of OHCHR and UNICEF.

It is also important to create a human rights positive environment within the agencies. Gender mainstreaming within the office can be related to the overall human rights framework as can anti-discriminatory practices and fair and safe working conditions. This again requires leadership from senior management and not delegation to focal points. Increased acceptance of the HRBA can be achieved through a demonstration that human rights also applies within the organization. The comment quoted above may appear simple but locally-engaged staff of UN agencies may never have been exposed to human rights except in the most cursory manner and simple techniques such as this may have greater impact than seems obvious at first.

## Meaningful participation

Participation is one of the main principles of the HRBA. It has also long been an integral part of development practice. So, for example, all UN agencies act to encourage women to participate with the aim of guaranteeing their involvement in development as both actors and beneficiaries.

Like human rights themselves, participation needs to be seen as a long-term process. Thus UNICEF's experience in Zimbabwe was that it took two years or more for the groundwork to be set in place before implementation of a project could proceed. A longer-term perspective with regard to participation needs to be incorporated in programme and project design for a particular sector. But what does participation mean in this context? The principle of subsidiarity obviously applies and people need to be involved at the level that most directly affects them. This is where one of the issues of concern manifests itself. Given that many projects depend on NGOs and consultants to deliver at the local level, the process of participation is often removed from the control of the agency. The lesson here is that implementing NGOs and consultants also need to receive training and be sensitized to the HRBA in order to ensure that participation really occurs.

One of the issues of participation that have been identified in the implementation of the HRBA is the representativeness or lack of representativeness of NGOs. There is no standard response to this issue which is so dependent on the country context. Most agencies are on guard against the situation where organizations exploit their relationship with the agency to advance their own interest. Some experiences point to the need to by-pass NGOs altogether where such problems arise and deal directly with communities. However, with changes in development practice that increasingly depend on NGOs for service delivery, this is becoming unrealistic in many cases.

Concern has also been expressed that human rights NGOs are sometimes too closely identified with opposition groups by the government or that the insistence on participation can actually worsen power imbalances. This can impact on agency programmes if the government feels that there is too close an association between programmers and NGOs or special interests. From past experience in attempting to ensure participation in difficult political and cultural contexts Priesner goes so far as to be reluctant “to accept the outcome of participation as the ultimate wisdom”. He believes that it is extremely difficult to design a participatory process that is not “captured” by the elite and so for him, in programmatic terms, non-discrimination has to remain the higher principle.

These concerns have not resulted in agencies curtailing their efforts to increase participation. Forums such as meetings to consider national action plans, thematic groups, sectoral clusters, and development forums all provide opportunities for the participation of NGOs and marginalized groups. Reference to the Action 2 Plan may also facilitate acceptance of participation as an essential principle of the HRBA and may overcome the suspicion and resistance of some governments about consultation with communities in the context of development.

From a technical perspective, most UN agencies have identified the provision of information as a key element that will enhance participation. There is encouragement, therefore, for governments to increase transparency to ensure that rights-claimants are able to participate in decisions that affect the realization of their human rights. Often this takes the form of support for the enactment of freedom of information legislation. However, there has been criticism from NGOs and others that this transparency is sometimes not applied to the UN agencies’ own practices. Some recommend that documentation relating to programmes and projects should be made available to affected communities in their own languages. A common response to this proposal is that this can be a hugely costly exercise both in terms of financial and human resources, and pointless when literacy itself is at issue.

## Entry points

UN agencies have used a number of entry points to apply the human rights-based approach to development cooperation and to introduce human rights in their programmes. The most readily available and acceptable are the Millennium Development Goals that have provided opportunities for UNIFEM and other agencies to link – especially – economic and social rights to the Goals. It could be argued that the concept of ‘entry points’ may actually undermine the very notion of ‘mainstreaming’ since it suggests that the approach can be isolated to specific programmes or themes. Nevertheless, they can serve to demonstrate to sceptics in government and in development agencies the value-added of the human rights approach to development and promote the approach to both government and agency personnel. The entry points below apply to sectors that are generally recognized as worthy of intervention by all development actors – even though there is a long way to go before their respective rights are fully realized.

### HIV/AIDS

UNAIDS is the lead agency on HIV/AIDS. The organization strongly supports the human rights-based approach to HIV/AIDS at the international and national levels. However, just like other agencies it has found it difficult to integrate the approach in projects and programs at the country level. Obstacles include a lack of familiarity with economic, social and cultural rights both in the organization and outside with relation to people living with HIV/AIDS, and more specifically the nature of state obligations to respect, protect and fulfil rights. This points to the need to overcome the lack of awareness through greater understanding of the content of these rights and of the human rights related to HIV/AIDS generally. These are:

- Non-discrimination and equality before the law;
- Human rights of women;
- Human rights of children;
- Right to marry and found a family, and protection of the family;
- Right to privacy;
- Right to enjoy the benefits of scientific progress and its applications;
- Right to liberty of movement;
- Right to seek and enjoy asylum;
- Right to liberty and security of person;
- Right to education;
- Freedom on expression and information;
- Freedom of assembly and association;
- Right to the highest attainable standard of physical and mental health;



- Right to an adequate standard of living and social security services;
- Freedom from cruel, inhuman or degrading treatment or punishment<sup>60</sup>.

HIV/AIDS provides the opening to work with governments to meet their obligations under the human rights instruments that they are party to and thus to introduce the human rights-based approach. UNDP in collaboration with others has advocated for legal reforms and the formulation of anti-discrimination legislation to protect the rights of people living with HIV and AIDS, supported national policies on gender equality and empowerment of women, including the elimination of all forms of discrimination as well as all forms of violence against women and girls, and in collaboration with UNICEF and UNIFEM promoted CEDAW with a focus on women's rights to information, protection and resources.

It should be noted that some influential bilateral donors are strongly opposed to the human rights-based approach to HIV/AIDS (as well as to other programmes) and this impacts on the attitude to the approach of some national field staff. There is also a lack of understanding and commitment on the part of governments and among some donors to the meaningful participation of people infected and affected in policy development and program design and implementation.

One positive aspect of using the HRBA in this context is the inclusion of gender-specific interventions and the opening provided by linking advocacy around HIV/AIDS to the realization of women's and children's rights. This is exemplified by the UNIFEM-led Inter-Agency Task Team on Gender and HIV/AIDS, and the establishment of Gender Equality Zones in India in a collaboration between UNIFEM, UNFPA, UNAIDS and the Indian Government.

## ■ Gender

Detailed consideration of the lessons learned in gender mainstreaming is beyond the scope of this study and its length would preclude an adequate treatment of them. Suffice it to say that the very concept of mainstreaming is put in question by the experiences of many UN agencies. We have noted above that even in UNICEF whose mandate is directly related to CEDAW, there has been insufficient attention paid to integrating women's rights in its programming. This is also the case in UNDP and other UN agencies. UNFPA and UNIFEM have largely been successful in mainstreaming gender within their organizations owing to their very specific mandates. One possible contributing factor for the lack of success in the other UN agencies is the appointment of gender specialists in COs. In some cases these have been extremely effective in awareness-raising within the office and in the design of

programmes and projects. However, anecdotal evidence suggests that the problems associated with ‘human rights focal points’ identified above might also apply to gender focal points in not a few cases.

### ■ Children

This is again a wide-ranging topic and has been canvassed mainly in the section on UNICEF. The principal issue related to the HRBA as it applies to children is the relative difficulty in ensuring that the voices of children are heard. The issue of children’s participation is fraught owing to cultural norms (e.g. Minors’ Codes in Latin America and corporal punishment in Jordan mentioned above). UNICEF has been successful in encouraging this but it is a moot point whether their interventions are sustainable in those contexts where culture and custom are the main obstacles. Also at issue is the status of parents’ obligations under the international legal human rights framework. Even though parents are secondary duty-bearers, it remains the responsibility of the state to ensure that parents do not violate the rights of their children. Most UN agencies have found it a challenge to convince governments to take action in this area – with some notable exceptions regarding legislation – owing to the political reality that parents may be voters too. Also at issue is the tension between the right to an adequate standard of living of parents and the right to a free and compulsory primary education for children. Here UNICEF and UNESCO have shown the way in balancing livelihood with education through non-formal education and similar initiatives. This points to the need to remain flexible, innovative and a preparedness to think beyond standard and rigid solutions to problems.

### ■ Indigenous and Minorities

*Human development requires more than health, education, a decent standard of living and political freedom. People’s cultural identities must be recognized and accommodated by the state, and people must be free to express these identities without being discriminated against in other aspects of their lives. In short: cultural liberty is a human right and an important aspect of human development—and thus worthy of state action and attention. From Human Development Report 2004, Cultural Liberty in Today’s Diverse World*

The coupling of these two sectors as entry points is not to gloss over the intrinsic differences between the two sectors but a recognition that lessons learned in applying the HRBA are common to both.

Many UN agencies are actively involved in programmes related to indigenous issues and human rights including through the Inter-agency Support Group on Indigenous Issues which has supported greater participation of indigenous peoples in the MDG process. One entry point is the involvement of indigenous groups in discussions on environmental sustainability and the establishment of forums for dialogues on practical steps to be taken to preserve bio-diversity that enables inclusion of human rights. The matter of disaggregated data has been addressed by UNDP in its encouragement of the drafters of regional and national human development reports to disaggregate data by ethnic groupings and language groupings. Many of the interventions addressing the rights of indigenous peoples and minorities have focused on legislation that needed to be brought into line with the state obligations to respect, protect and fulfil their rights. The conflict between customary law and national law is also a sensitive issue in many contexts, not only in the developing world but also in industrialized countries. There is a need for further debate and discussion on this contentious issue and UNDP has shown the way in supporting the commissioning by the Indian Government of studies dealing with the problem and how to address the conflict.

There are numerous forums that enable exchanges on indigenous and minority rights and UN agencies are represented or actively host them, including through the HuriTalk network that has sponsored discussion and debate likely to result in a practice note for the use of COs. Available opportunities for the exploration of indigenous and minority rights include the Permanent Forum on Indigenous Issues and the UNDP's Regional Initiative on Strengthening Policy Dialogue on Indigenous, Highland and Tribal Peoples' Rights and Development. The international NGO Minority Rights Group International (MRG) has formally adopted the HRBA. UNDP is collaborating with MRG to "develop practical programming tools that should assist UNDP in the development of a firm position on the subject". The challenge will be to see how these can be made real at the country level. The challenges are not inconsiderate: in some post-conflict situations – Rwanda is one example – governments actively discourage any special focus on indigenous groups using the excuse that support for these groups can foster divisions in society and aggravate ethnic conflict.

Self-determination for indigenous peoples and minorities has also been the cause for much debate and conflict. UN development agencies have been careful not to become too heavily involved in definitions of self-determination and not to appear to directly support interest groups advocating secession, autonomy or independence, as the case may be<sup>61</sup>. However, this hands off attitude is undermined in the case of grave violations of human rights or humanitarian emergencies where discrimination against

minorities and indigenous peoples involved. The problem for the UN is compounded when minorities and indigenous groups rightly or wrongly accuse the UN of quietism in the face of human rights abuses. One solution has been to collaborate with bilateral partners and encouraging them – particularly through the RC system – to become more active when the UN agencies are forced to remain neutral.

## Decentralization

Decentralization is increasingly seen as a means to achieve two principal objectives. First, the decentralization of administrative structures and development programmes has tended to diminish corruption at the national level. Second, decentralization can increase participation in that governmental processes are brought closer to the citizen, can be more transparent and may encourage greater accountability of local government authorities.

One issue in holding local governments accountable is the capacity of the community to monitor the financial aspects of decentralization and to assess whether adequate financial priorities are allocated to the provision of services that will assist the realization of the rights of the claims-holders. Some NGOs have devised programmes of support for community monitoring of budgets and there has been some interest by UN staff to explore the possibility of supporting economic literacy at the local level.

The capacity of local government to implement the HRBA (whether this is the policy of the national government or not) has also been raised in a number of programmes. Lack of capacity is often associated with a simple lack of awareness and the lesson seems to be that projects and programmes should build into decentralization training of local government officials in human rights in general and the HRBA in particular.

## Cross-cutting

Since the early to mid-nineties many development agencies including most in the UN system have treated human rights as a ‘cross-cutting’ issue. The term has caused a great deal of scepticism among development professionals who recall the numerous cross-cutting issues imposed upon them by senior management. Thus, “women in development”, “environment”, “children”, “HIV/AIDS” have all been cross-cutting issues in the living memory of agency staff. In many cases ‘cross cutting’ has meant yet another line or column in the logical framework analysis and, predictably, has been treated as simply another box to be ticked in the pro-

gramme officers' regular reports. The term has also encouraged a perception that the human rights approach is just another development fad imposed from above or by academics ill-informed about development programming.

CCAs that have used human rights as a cross-cutting issue have been criticized by some aid coordinators because human rights were again relegated to one chapter among many thematic ones rather than being integrated in all the programmes of the UN system. The lesson is that 'cross cutting' is a term that needs to be used sparingly and preferably not in the context of a human rights-approach to development programming. It is a term better shunned by senior management in particular because it devalues the approach as equivalent to many other cross-cutting issues. It should also be noted that the proponents of these other issues are sometimes equally uncomfortable with the term.

## Violations of human rights

Traditional human rights advocacy is centered around naming and shaming as exemplified by Amnesty International and other human rights NGOs. By virtue of its status as the creation of governments, the Office of the High Commissioner for Human Rights has taken a more diplomatic and less strident approach but it is involved too in researching human rights violations and reporting these to the international community by way of authoritative reports, many drafted for the Special Procedures appointed by the UN Commission of Human Rights. Governments that are exposed for violating rights (and there are few that are not) have been generally resentful of their practices being exposed to public scrutiny and this is the very strength of the technique as it serves to pressure violators to mend their ways. The recent tendency on the part of governments, including from the developed world, to simply ignore criticism and the refusal of others to condemn abuses by regional, economic or political allies are a cause for concern and go some way to explain the recent proposals of the Secretary-General to revamp the UN's human rights system.

UN development agencies have tended to steer right away from the criticisms levelled at offending governments for abusing human rights, as any association with this type of criticism could undermine the collaborative efforts with their development partners and jeopardize their development programmes. It has been seen as more productive to focus strictly on the mandate of each agency and to leave naming and shaming to the NGOs whose expertise this is. The Human Development Report that attempted to include human rights indicators in its Human Development Index (HDI) was widely criticized and condemned by governments – unfortunately at least in part because the indicators were ill-chosen. This experience reinforced the

tendency of some development professionals to consider any treatment of human rights with suspicion. There is no question that this attitude survives among many in the development community.

Generally speaking most of the staff of UN development agencies are opposed to the agency conducting research into human rights violations – civil, cultural, economic, political or social. They see this as the responsibility of NGOs (international and domestic), national human rights institutions, the Special Procedures and the Office of the High Commissioner for Human Rights. They can quote anecdotal evidence that association with such research has been harmful for the agencies who may have been implicated. However, at the same time there is considerable support provided for these non-government organizations and institutions from most agencies.

The main initiatives relating to human rights violations focus on support for the creation or strengthening of national human rights institutions, the promotion of good governance programmes including reviews of legislation, and political reform. Projects include access to justice, support for civil society organizations to assist claim holders to claim their rights, and support for the creation or the improvement of accountability mechanisms. A number of agencies use the concluding observations and the general comments of the treaty bodies to guide their programmes and some encourage the formulation by NGOs of alternative reports to the treaty bodies. UN agencies need to rely on indirect means to pass on their concerns about human rights abuses within their mandates. For example, the visit of Special Rapporteurs and Independent Experts – often supported by the agency – provide the opportunity for informal briefings on human rights.

The question of reacting to information about abuses is even more sensitive. Many RCs and RRs are prepared to include in their major speeches reference to human rights concerns, especially in those cases where international attention of one kind or another has served to focus attention on the abuses. Some agency staff are critical of a perceived timidity from their senior management and would like to see more forthright reference to violations in the dialogue with governments. It has been suggested that when substantiated reports of breaches of civil and political rights are brought to the attention of the CO of a UN agency, heads of units/thematic clusters/thematic groups should be briefed and work out a common strategy so that each can raise the issue with their government counterparts. Even more effective would be a similar process coordinated across agencies.

One lesson that seems to be accepted across a number of agencies is the relative easier path to human rights dialogue with governments through a focus on economic, social and cultural rights. Some claim that this lays the groundwork for introducing civil and political rights in a non-confrontational manner. This is borne out by the relative ease with which UNIFEM, UNFPA and UNICEF have been able to debate the whole range of rights with their national counterparts based on the CRC and CEDAW that encompass the range of rights.

### Human rights training

Virtually every document consulted has called for increased, better, more consistent, repeated, and/or comprehensive training on human rights and on the human rights-based approach for senior and more junior staff, government officials, non-government organizations and/or communities. This demonstrates the general lack of awareness of the international human rights framework, the UN system and the HRBA among the staff. Some of the resources available to this end are listed in the last section of this study.

There is a wide variety of approaches to human rights training available but certain themes are repeated in most calls for training. The target audiences for human rights training should be mixed, with an emphasis on mid-level management but with some senior staff and some less experienced staff taking part in the training. There is support for the idea of a sectoral approach but the sectoral approach may not work well with mid-level management. An essential task is to determine who needs to know what in order to do their job, but consideration must be given to the minimum level of knowledge so as not to overload staff. There may be resistance to legal language but this cannot be avoided given the importance of international law in holding governments accountable. Whether rights-based language or a legal approach is used, what is important to get across is the need to take action. The lesson seems to be that each context is different and requires specific training approaches. It is clear, however, that one-off events are inadequate and considerable thought and preparation needs to be devoted to devise appropriate and continuing training programmes. It goes without saying that requirements for improved and more extensive training programmes apply equally to NGOs, consultants and partners.

## Cultural rights

UNESCO is the lead UN agencies in the promotion of cultural rights. Its presence in the UN Country Teams should ensure that cultural rights feature in the UN's planning frameworks such as the UNDAF. Yet, very few UNDAF's display any focus on cultural rights *as rights*. There are, of course, many indirect references to culture but mostly these are related to the right of indigenous peoples or ethnic groups.

Elissavet Stamatopoulou of the Secretariat for the Permanent Forum on Indigenous Issues in the Office of the High Commissioner in New York has argued (from a legal perspective) that there is a tendency to avoid discussion of cultural rights for fear of undermining the concept of universality by opening public debate on cultural relativism.

Another concern of governments with sizeable minorities in resisting the concept of cultural rights is the fear of claims for collective rights and self-determination that might lead to separatism or secession. As Stamatopoulou says, "... Official state support of cultural rights has often taken the form of promoting for example seemingly innocent folklore while remaining silent or hostile to the promotion of minority languages in the education systems and the media. The other side of this coin is that governments may be wary of the threat that majorities may feel from the promotion of minority cultures which may lead to claims for collective rights".<sup>62</sup> She goes on "UNESCO's definition of culture, which has followed the anthropological paradigm (namely culture as "a way of life"), while extremely useful within the context of UNESCO's work, is viewed by some as too vague to base actual rights and obligations on". If this critique is justified, then there seems to be a call for UNESCO to clarify the nature of cultural rights within the framework of the human rights-based approach.

Some of these questions associated with cultural rights could give the impression of major obstacles for the application of the HRBA as it relates to culture. Yet the successful experiences of UN and bilateral agencies and NGOs in combating the practice of female genital mutilation in parts of Africa where long-term advocacy has brought about spectacular results, demonstrates that strategic advocacy and the consistent promotion of women's rights can have sustainable outcomes in the realm of culture. The lesson, yet again, is that initiatives focusing on cultural rights need to adopt a long-term view and devote considerable efforts to the formulation of long-term strategic interventions.



## Human rights education

UNESCO is of course at the forefront of the promotion of human rights education, often in collaboration with the Office of the High Commissioner for Human Rights. The two will be the lead agencies in the implementation of the World Programme for Human Rights Education launched in December 2004. Most existing national human rights action plans already incorporate human rights education while human rights education is mentioned in a wide range of national development plans. In fact, during the UN Decade for Human Rights Education (1995-2004) governments were encouraged to draft national human rights education action plans. Questioning the proliferation of national plans of action, UNDP staff have recommended that national plans for action on human rights education be incorporated into existing national action plan for human rights.

From an RBA perspective national plans of action – including on human rights education – provide civil society with an advocacy tool to hold governments accountable so that non-compliance may be questioned. However, this can only become reality if the community is actually aware of these plans. As noted above, all too often the plan is either directly drafted by UN personnel or by consultants supported by the agency. The lesson is to ensure that there is widespread public knowledge, dissemination and understanding of the commitments made by the government in the respective plan. Only when people are informed of their government's commitments can they hold it accountable for its implementation. This extends to reports on the implementation of the plans that are often restricted to the donor community rather than disseminated widely to the public.

Another important benefit of the national action planning process is that it can directly contribute to human rights education. Indeed, some claim that this is the major positive in the formulation of such plans. This points to the need to pay special attention to support for the consultation of as many layers of society as is practical and concerted advocacy by agencies to encourage the national government to facilitate this process.

The issue of the content of human rights education has been raised in a number of evaluations and assessments. There is still a gap in understanding of the core and normative content of economic, social and cultural rights, as well as of the human rights-based approach to development. Again, it seems accepted that this should be a major feature of any support for human rights education but this is dependent on adequate training of UN agency personnel (a full circle). Many human rights

education projects are implemented at the local level by NGOs and not a few such projects display similar shortcomings to those initiated by governments. The conclusion is that a training component aimed at NGO personnel needs to be built into UN supported projects.

The question of definition also arises through the experience of some COs. Is ‘civic education’, ‘democratic governance’, ‘citizen’s rights’ the same as ‘human rights education’? They are all terms that create less anxiety in programme staff than the use of the words ‘human rights’ but experience seems to show that this timidity is often not justified and that through the use of appropriate entry points (see above) a fruitful dialogue on rights is possible.

In some agencies support for human rights education represents the total and only effort of the agency to promote human rights. The HRBA calls for agencies to translate human rights norms into practice and the UN Common Understanding clarifies the need to analyse the rights-claimants/duty bearers relationship. The implication is that the prospect of ‘action’ should be a key element in human rights education and that human rights education should include both advocacy skills as well as the content of international law. Human rights education should also incorporate means by which the realization of human rights can be measured by establishing benchmarks, and here UNIFEM’s experience in distinguishing between human rights indicators on the *enjoyment* of rights and those on *compliance* under treaties – CEDAW in this instance – becomes especially relevant.

# HUMAN RIGHTS

## IMPLICATIONS FOR UNESCO PRACTICE

This study has not explored the structural and other challenges faced by UNESCO in applying a human rights-based approach based on the assumption that most of the experiences of other UN agencies can inform UNESCO's own efforts. What follows are some very tentative questions about initiatives that UNESCO could take in implementing its Human Rights Strategy. The UNESCO Strategy on Human Rights correctly identifies the right to education and human rights education itself as the two human rights areas relevant to the Organization. However, UNESCO can make a contribution to other agencies' endeavours in operationalizing the HRBA through the evolving development frameworks and in collaboration with OHCHR in a variety of ways that are canvassed below.

UN agencies have accumulated a wealth of data on challenges to the implementation of the human rights approach and how to address them. The lessons learned over the past decade by UNICEF, UNDP, WHO and similar programmes and funds are relevant to UNESCO in terms of organizational change and the dynamic between donors and their partners. Unfortunately, there is still no systematic collection of practical examples and in many cases those that have been identified as such may not fit with the UN Common Understanding. This points to an opening for UNESCO to play a role in collecting and disseminating appropriate examples not only for its own practice but for use by the entire UN system.

As we have seen from the sections above, almost all of the lessons learned point to the need for institutional changes within the organization in order to mainstream human rights in a UN agency. These changes can be separated into roughly the following categories:

- clear and consistent messages from the highest level
- making senior and middle-management responsible for implementation of human rights policies and strategies
- ensuring coherence in the demands imposed by different policies
- collection and dissemination of lessons learned
- integration of human rights in programme manuals and resource documents
- tools for the practical demonstration of the added value of the human rights approach

The discussion below takes each potential change in turn and asks a series of questions as a contribution towards the implementation of UNESCO's Strategy on Human Rights.

**a Clear and consistent messages from the highest level**

How extensively has the Strategy on Human Rights been disseminated? Is there agreement about how to deal with the tension between exposure of human rights violations and dialogue with governments on their obligations to respect, protect and fulfil human rights? What further efforts need to be made to raise the awareness of UNESCO National Commissions about Strategy on Human Rights and its implications for their national role?

**b Making senior and middle-management responsible for implementation of human rights policies and strategies**

This may not always be relevant at the national level where there is only a small field presence. What steps could be taken to ensure that this takes place at headquarters level? Is a directive from the top the best means to achieve this or should there be a process of sensitization over an extended period? Would this be successful without an extensive dossier of practical examples applicable directly to UNESCO's programmes?

**c Ensuring coherence in the demands imposed by different policies**

Who should be responsible for this within UNESCO? To what extent is the Division of Human Rights and Struggle Against Discrimination in a position to do this? If it is not, how is this to be brought about? What is required: an executive directive allocating the responsibility to a division, a thematic working group comprising representatives of all sectors/divisions, a training programme mandated for all division managers?

**d Collection and dissemination of lessons learned**

How relevant are the lessons learned by other UN agencies to the work of UNESCO? If they are, what degree of acceptance is likely from UNESCO staff? What would be the best mechanism for collating these: commissioning extended research by a UNESCO staff or consultant, hosting an inter-agency workshop at headquarters, designing a research project in collaboration with OHCHR? How can the methodology followed in UNESCO's current collaboration with OHCHR be improved? Once a compilation has been drafted, what are the best means to disseminate these?

The lessons learned exercise by UNDP in evaluating eleven pilot human rights reviews of UNDP programmes are informative and comprehensive. Would there be value in piloting similar human rights reviews in collaboration with the national Commissions?

**e Integration of human rights in programme manuals and resource documents**

The need for reference materials and training documents as well as the importance of examples of implementation of a human rights approach have been identified by all UN agencies looked at. However, efforts at producing training manuals on human rights for staff have been frustrated by lack of resources and expertise within the organization. As well, it is often difficult to extract practical guidance from many of these manuals. What are the processes needed to see that more user-friendly and practical manuals are produced in UNESCO? Who should be responsible? What resources can be drawn upon and will they be approved? At what level?

**f Tools for the practical demonstration of the added value of the human rights approach**

There is a need to “localize” human rights objectives. In most mainstreaming situations one needs to start from the local problem and not from the normative framework – the latter is simply too abstract and will often trigger a “so what” by stakeholders if not translated into achievable benchmarks. The starting point for this logically needs to be a given human rights problem. Who will be involved in identifying these problems in UNESCO’s activities? What programme needs to be designed, and by whom, to address this? How can the National Commissions for UNESCO be involved?

**g Benchmarks and indicators**

There is a measure of disagreement about the value of the search for human rights indicators. According to some, human rights indicators perpetuate the marginalization of human rights in development. The commonly accepted state obligations to respect, protect and fulfill human rights can be used as human rights indicators as suggested in some of the resource documents listed in the following section. Is there a need to revisit the four “As”<sup>63</sup> proposed by the former Special Rapporteur on the Right to Education in favour of the three obligations? If so, who will be responsible for this?

**h Cultural rights**

As identified by numerous informants, cultural rights are the least explored by human rights experts and the UN Committee on Economic, Social and Cultural Rights has not yet produced a General Comment that could be useful in the implementation of the human rights-based approach. Is there a role for UNESCO in working with the Committee and the Office of the High Commissioner for Human Rights to begin to elaborate a General Comment on cultural rights?<sup>64</sup>

**i Complaints mechanism**

The UNESCO Strategy on Human Rights notes the communications procedure that relates to examination of cases concerning alleged violations of human rights within UNESCO's sphere of competence. The procedure is confidential. Existence of the procedure seems equally confidential with hardly anyone aware of its existence. Are there mechanisms available that would raise awareness of the existence of this procedure without compromising its confidentiality? Who would be the primary target audience for dissemination of the information? What opportunities exist to draw on successful resolutions in order to include them in any lessons learned exercise?

**j Economic, social and cultural rights**

The present study has exposed a lack of awareness of the normative and core content of economic, social and cultural rights. The Office of the High Commissioner for Human Rights has promoted these rights in various documents and training endeavours. Is there a role for UNESCO to promote these rights more actively? Is UNESCO in a position to develop training programmes that are more user-friendly? What can national Commissions do to popularize these rights beyond the right to education?

# RESOURCE MATERIALS

The list of resource materials below is selective and certainly in no way comprehensive. For example there is a plethora of materials available from NGOs but most of these are suited specifically to NGOs contexts and needs. Included are those that may be useful to an agency such as UNESCO. The annotations aim to give some indication of the content of each listing but should not be considered authoritative.

## UN System Manuals and Training Materials

The popularity of the term ‘human rights based approach’ has resulted in a proliferation of resource materials including manuals, PowerPoint presentations, and training programmes. Quite a few suffer from various inadequacies that make them difficult to adapt to various contexts and often little help to development practitioners. Manuals are particularly prone to wordiness and to incorporate so much material that even when this material is relevant, it overwhelms the targeted learning group.

One example of an authoritative and well-designed manual is the “Manual on Rights-based Education: Global Human Rights Requirements Made Simple” published by the UNESCO Asia and Pacific Regional Bureau for Education. This was written by the former Special UN Rapporteur on the Right to Education, Katarina Tomasevski and is an invaluable resource for the range of human rights instruments relevant to the right to education and the nature of the state obligations to respect, protect and fulfill the right. It outlines the international human rights instruments relevant to the right to education and in what manner states are committed to respect, protect and fulfill the right to education. However, it faces the common problem with many human rights manuals of still falling short of providing enough practical guidance for programmers and focusing a little too much on the international legal dimension of the right to education.

By contrast some manuals such as the UNDP Philippines Training Manual, “Rights-based Development” is far more manual-like. It includes process as well as content, practical exercises as reference and resource materials. Using this, a facilitator

can adapt or copy individual modules and can easily choose which materials are key to a specific training and what documents may be circulated to support the training. It is also possible to use the manual as a stand-alone reference that will be of programmatic significance to most development professionals. Another similar manual is UNICEF's "Human Rights Approach to Programming and Community Capacity Development". This is not to claim that these manuals are problem-free but more that they demonstrate an understanding of the training needs of the target audience of a more practical nature than the Manual on Rights-Based Education.

- **UNDP Philippines Training Manual – Rights-Based Development, 2002 [see comments above]**

The 127-page Manual was commissioned by UNDP Philippines, devised by Maria Socorro Diokno and revised and finalized by Amparo Tomas. Each module has a Reading and also many Case Studies and Worksheets. The Case Studies are all Philippines-based and therefore context specific. The Manual has a major focus on economic, social and cultural rights.

- **UNDP: A Human Rights Approach to Development – Primer for Development Practitioners**

The Primer is not so much a manual as a cheat sheet describing a human rights approach to development, how it came about over the past two decades, and what is its value added to development practice. It was put together at the UNDP SURF Office in Nepal.

- **UNDP: Human Rights in UNDP, Practice Note**

The purpose of this Practice Note is to serve as support material for HRBA programming in UNDP. Based on past experiences and lessons learned, it highlights opportunities and possibilities that arise during the UNDP programming cycle in the strategic areas of intervention covering UNDP's work on human rights and human rights mainstreaming. It further provides tips as to appropriate approaches and techniques.

- **UNESCO: Manual on Rights-Based Education – Global Human Rights Requirements Made Simple, Collaborative project of the UN Special Rapporteur on the Right to Education and UNESCO Asia and Pacific Regional Bureau for Education.**

See comments above.



■ **UNICEF: Core Course (Human Rights Principles for Programming), 2000-2001**

This 110-page training programme introduces human rights principles and international human rights law. It is designed for UNICEF staff and teams and comprises readings, activities, handouts and facilitators' guides.

■ **UNICEF: Human Rights Approach to Programming and Community Capacity Development: A training course**

This training programme builds on the Core Course (see above) and is aimed at UNICEF facilitators and staff who are already familiar with UNICEF mission and its activities. A pre-requisite for taking the course is a degree of self-directed prior study of the human rights approach to programming. The six modules are based on multiple PowerPoint presentations, VIPP exercises and selected readings and the entire course is designed to be delivered over six days. The modules can be used to devise shorter trainings.

■ **UNICEF: Programme Policy and Procedure Manual – Programme Operations, (Revised) June 2004**

The Programme Policy and Procedure Manual reflects UNICEF's organisational transition to an approach to programming cooperation for children and women based explicitly on human rights principles. The most recent amendments incorporates changes resulting from UN reform, including the further elaboration of modalities for Joint Programming; sharpens guidance on the Human Rights based Approach to reflect the consensus – including among UN agencies – obtained at recent global consultations. The Programme Policy and Procedure Manual provides up-to-date guidance on UNICEF programme operations for use by COs, Regional Offices and, selectively, with external partners and counterparts.

■ **WHO: Advancing Safe Motherhood through Human Rights 2001**

This is not so much a manual as a tool to sensitize government agencies, non-government organizations and others to the relationship between human rights and safe motherhood. The document “outlines how the dimensions of unsafe motherhood can be measured and comprehended, and how causes can be identified by reference to medical, health system and socio-legal factors”. In a positive vein it tries to show how human rights can be applied to advance safe motherhood and thus women's human rights.

## Evaluations

- **“From High Principles to Operational Practice: Strengthening OHCHR Capacity to support UN Country Teams to Integrate Human Rights in Development Programming”, Report By William O’Neill and Vegard Bye, March 2002**

An assessment commissioned by OHCHR but not endorsed by the organization. The principal conclusions were that OHCHR and UNDP should devote substantial time and energy to gathering, analyzing and disseminating practical examples, case studies and guidelines, that the treaty body process should be integrated in all development efforts, that there should be closer cooperation between OHCHR and the international financial institutions, and that CCA/UNDAF should not be the dominant process for mainstreaming human rights.

- **“Application of the rights-based approach to programming: Report of experiences at the country level” UNFPA December 2002**

This report analyzed 57 COs and six Country Support teams responses to a questionnaire. It includes an overview of obstacles to implementation and provides a set of recommendations. A chapter on capacity development identifies the need for training, and tools and experiences to assist HRB programming.

- **“Moving Ahead with Human Rights, Assessment of the Operationalization of the Human Rights Based Approach in UNICEF Programming: 2002”, Caroline Moser and Analyse Moser, Social Policy International**

The consultant-drafted evaluation looks at compliance with UNICEF’s mission statement, UNICEF’s work with relation to the international financial institutions, human and children’s rights principles for programming, programming for realization of women’s rights, capacity building and training, and humanitarian assistance and rights. It presents some critical insights and recommendations for further progress

- **Joint Questionnaire Analysis, UNICEF**

This is a 2004 questionnaire to complement information from a standard questionnaire (SQ) sent to UNICEF COs to gather data for the Mid-Term Review (MTR) of

the Mid-Term Strategic Plan (MTSP). It sought to complement the questionnaire on the implementation of the MTSP by highlighting the use and impact of human rights programming (including gender mainstreaming) in the five MTSP priority areas. The 14-page analysis includes specific recommendations.

■ **“Application of the rights-based approach to programming: Report of experiences at the country level, UNFPA”, December 2002**

This report is based on the analysis of responses of 57 COs and six Country Support Teams to a structured questionnaire. Its five sections a) provide a summary of UNFPA experiences in introducing and in applying a RBA at country level; b) describe the nature of partnerships and their purpose, and suggest shared areas of interest with agencies, NGOs and interested stakeholders, d) describe difficulties encountered in applying a RBA, e) suggest objectives and training contents to build capacity of staff and of national counterparts, and e) a set of recommendations for the implementation of an RBA.

■ **“Review of 2003 CCAs and UNDAFs from Human Rights Perspectives”, William G. O’Neill December 2004**

This was commissioned by the UNDG but is not endorsed by it. The author recommends that UN Country Teams include a dedicated professional human rights officer; that on an annual basis OHCHR provide findings of treaty bodies, special procedures and country reports; that human rights training at all levels emphasize practical applications of human rights rather than legal and theoretical aspects of the human rights framework; that the capacity gaps and the relationship between duty-bearers and rights-holders guide the formulation of CCA/UNDAs; that accountability mechanisms should be reviewed as accountability is key to the rights-based approach; and that greater attention be paid to advocacy on public finances including the 20/20 initiative.

■ **“Human Rights Reviews of UNDP Programmes: Issues Arising from the Pilot Phase”, HURIST and the Capacity Development Group/Bureau for Development Policy 2005**

This analysis was prepared by Nadia Hijab and examines lessons from eleven human rights reviews of UNDP country programmes. The reviews used guidelines drafted based on the UN Common Understanding and included a checklist for the purpose of standardization. The findings are to be incorporated in future reviews.

## NGOs Training materials

- **Australian Council for Overseas Aid – Developing a Human Rights Approach to Development Projects: Human Rights Checklist for Project Design and Implementation Strategies**

This check list was compiled following groups exercises in a number of training sessions for development NGOs in which participants considered the design, implementation and evaluation of development projects which reflected a human rights framework.

- **CARE Human Rights Initiative – Basic Introduction to Human Rights and Rights-Based Programming: Facilitators’ Guidebook**
- **Human Rights Council of Australia – Interactive Training Programme for Southern NGOs: Human Rights and Development, Holding Donors Accountable (text or CD-ROM) 2004**

This CD-ROM is aimed at building the capacity of NGO in the South to apply the human rights approach to development in their advocacy. It provides a simple overview of the international human rights framework, reflections on globalization and the link between poverty and human rights, and some suggestions about good lobbying practice. The programme includes exercises and research tasks.

- **OHCHR (and ICVA) – Record of proceedings, Workshop on the Development of Human Rights Training for Humanitarian Actors, Geneva, November 2001**

The account of this workshop does not constitute a training programme as such but it does highlight the ideas of a mixed-group of participants about what kinds of issues need to be incorporated in a training programme for development and humanitarian assistance NGOs on the human rights approach to development programming. Therefore, for instance, training module could be designed to address different sectors or different rights. Training materials should also incorporate means of protection and include a section on security of NGOs staff in situations in conflict.

■ **International Human Rights Internship Program – Circle of Rights: Economic, Social and Cultural Rights, A training resource, 2000**

This ‘training resources’ is aimed at NGOs who may not be familiar with economic, social and cultural rights. It outlines some strategies and tools for the realization of these rights and gives some guidance on how to access international, regional and national accountability mechanisms.

■ **Minority Rights Group – Training Curriculum for Development Agencies on Minority Rights: Outline, 2003**

This is a table of contents of six training modules that apply a human rights approach to development focusing specifically on the rights of minorities. The modules themselves are available from Minority Rights Group.

■ **Save the Children Alliance – Child Rights Programming: How to apply Rights-based Approaches to Programming, 2002**

This is more a background document to assist in facilitating workshops on using the CRC as an advocacy tool for child rights programming. The five sections in the document are the human rights framework; rights based approaches; the principles of child rights programming; child rights programming in practice and follow up suggestions on promotion and skills sharing in developing child rights based programmes, including those working in emergency and refugee situations.

■ **Save the Children Sweden – Promoting Rights-based Approaches: Experiences and Ideas from Asia and the Pacific, Joachim Thiess, 2004**

This is a 162-page book that comprehensively addresses the human rights-based approach as it applies to the work of the Save the Children Alliance. The book is very much practical in its treatment and covers necessary organizational changes for human rights-based programming as well as the tools provided by the approach. Lessons learned are included in each chapter and there are experiences in applying the HRBA in Vietnam and South Asia.

## PowerPoint presentations

- **UNDP: A Rights-Based Approach to the Nepal UNDAF – PowerPoint presentation by Pia Pannula, Human Rights Focal Point Nepal, 2002**

This 27-slide presentation outlines the principles, process and strategies for the formulation of the rights-based Nepal UNDAF which is considered a model of its kind.
- **UNDP: The Rights-based Approach – PowerPoint presentation by Stefan Priesner, SURF Nepal, 2002**

This 22-slide presentation was put together by Stefan Priesner at the UNDP SURF Office in Kathmandu for a workshop on Nepal's NHRAP. Drafted by a development practitioner rather than a human rights expert, it incorporates issues of particular interest to government officials and UN Country Teams.
- **Save the Children – Child Rights Programming: prepared by Joachim Thies for the Workshop on ESC Rights, Bangkok 2003**

This is a 20-slide presentation from a workshop on economic, social and cultural rights for Asia-Pacific NGOs co-convened by the Asian Centre for the Progress of Peoples and HRCA. The presentation focuses on practical aspects of rights-based programming from a development NGO perspective.
- **UNICEF: A Human Rights-Based Approach to UNICEF Programming**

See under 'UN System Manuals and Training Materials' above. The training programme has multiple PowerPoint presentations on CD-ROM that can be of specific training needs.
- **HRCA: The Rights-Based Approach – Training workshop for UNDP staff in Rwanda 2004**

This includes an introduction to the approach and includes challenges facing development professionals in its implementation and outlines of two experiences related to the right to education in Nepal and Vietnam.

- **CARE presentation – prepared by Andrew Jones, Ayacucho, Peru 2001**

An annotated workshop presentation that compares traditional development approaches with the rights-based approach. As well, it explores some of the obstacles facing those who attempting to implement the approach.

- **CARE 4-part presentation – prepared by Andrew Jones, Lusaka, Zambia 2001**

This is another introductory presentation designed for CARE field staff. It introduces human rights concepts and the international legal framework and discusses what the approach means and how it adds value to the development effort.

- **Human Rights Unit of the Commonwealth Secretariat – Pacific Islands Human Rights Consultation, Fiji 2004**

This 38-slide presentation includes discussion of the nature of development including its economic aspects and introduces “PANEL” (participation, accountability, non-discrimination, empowerment, linkage to human rights standards) as an analytical tool.

## Others

- **HREA: Course 5E04: Rights-Based Programming**

This commercial training institution provides Internet-based courses for a moderate fee. The facilitator for this course (which seems to be offered once a year depending on a minimum take-up) is a staff member of the Office of the High Commissioner for Human Rights responsible for Central and Eastern Europe.

## Reference Documents

- “A Human Rights-based Approach to Development Programming in UNDP: Adding the Missing Link”, UNDP 2001, at [www.undp.org/governance/HURIST.htm](http://www.undp.org/governance/HURIST.htm)
- “Human Rights and Human Development: Learning from Those Who Act”, Nadia Hijab, Background Document for 2000 HDR
- “Human Rights-Based Reviews of UNDP Programmes: Working Guidelines”, UNDP 2004
- “Learning Together: The Challenge of Applying a Human Rights Approach to Education – Lessons and Suggestions from Zambia”, Norwegian Agency for Development Cooperation 2002
- “The Application of a Human Rights-based Approach to Development Programming: What is the added value?”, UNDP 2000
- Canadian HIV/AIDS Legal Network, Promoting a rights-based approach to HIV/AIDS internationally [www.aidslaw.ca/Maincontent/issues/discrimination/rights\\_approach.htm](http://www.aidslaw.ca/Maincontent/issues/discrimination/rights_approach.htm)
- Handbook on Human Rights Action Plans, Professional Training Series Number 10, OHCHR 2002
- Guidelines for National Plans of Action for Human Rights Education, UN General Assembly document number A/52/469/Add.120 October 1997
- Human Development and Human Rights, Report of the Oslo Symposium, UNDP 1998
- Human Development Report, UNDP 2000
- Implementation Handbook for the Convention on the Rights of the Child, Rachel Hodgkin and Peter Newell, UNICEF 2002
- Institute for Development Studies Working Paper 234: What is the “rights-based approach” all about? Perspectives from international development agencies
- Jonsson, U., 2003, Human Rights Approach to Development Programming, Nairobi: UNICEF
- Manual on Human Rights Reporting, OHCHR, UNITAR and ILO Turin Centre, 1997
- Operationalization for ESAR of UNICEF Global Guidelines for Human Rights Programming, 2001, UNICEF Regional Office (ESARO) Nairobi



- Papers from the Inter-Agency Workshop on Mainstreaming Human Rights, Princeton January 2001
- Promoting and Defending Economic, Social and Cultural Rights – A Handbook, American Association for the Advancement of Science 2002
- Report of the Second Inter-agency Workshop on Implementing a Human Rights-based Approach in the Context of UN Reform, Stamford, May 2003
- Working Together: Reports and papers of the Stockholm Workshop on the Human Rights Based Approach to Development Cooperation, October 2000, SIDA and HRCA 2001
- “Workshop on Human Rights-Based Reviews of UNDP Programmes: Lessons Learned and Future Directions”, UNDP and OHCHR April 2005
- “What is the ‘rights-based approach’ all about? - Perspectives from international development agencies”, IDS Working Paper 234, Celestine Nyamu-Musembi and Andrea Cornwall, November 2004

## UN Agency Policies

- FAO – The Right to Food in Theory and practice, FAO 1998
- ILO – A Human Rights-Based Approach to Development: The ILO Experience, Princeton 2001
- UNAIDS – UNAIDS-activities-human-rights-law\_en\_pdf[1].pdf
- UNCHS – Position Paper on Housing Rights, Princeton, November 2000
- UNDP – Integrating Human Rights with Sustainable Human Development, 1998
- UNESCO – UNESCO Strategy on Human Rights, Adopted by the 32nd UNESCO General Conference 2003
- UNFPA – Policy Note on Implementing a Human Rights-Based Approach to Programming in UNFPA, UNFPA/CM/04/7, January 2004
- UNICEF – Guidelines for Human Rights-Based Programming Approach, Executive Directive, CF/EXD/1998-04
- WFP – World Food Programme and Human Rights, WFP 1998

# HUMAN RIGHTS

## APPENDIX 1: HURITALK

### Focus and Objectives

The UN Secretary-General has again confirmed the UN's commitment to placing human rights at the heart of the activities of the UN system. Through the programme "Action 2", this commitment is being translated into action at the national level.

The **HURITALK** – the human-rights policy network – addresses UN system-wide efforts in applying a rights-based approach to development, specifically targeting members of UN country teams and UN country theme groups on human rights. As the UN country teams increasingly focus on the rights dimension in the preparation of the CCAs and UNDAFs, there is a growing demand for advice, guidance and sharing of experiences in the area of human rights from a number of programme countries.

HURITALK will serve as a forum where members discuss, access information, share tools and build knowledge on emerging issues and on the best strategies to incorporate human rights aspects into all aspects of UN's work.

HURITALK is a knowledge network of the UN Development Group (UNDG). It is hosted by UNDP, but supports all UN development and humanitarian agency partners striving to integrate rights-based approaches in their policy and programme framework, based on the *UN Common Understanding*.

### Membership

HURITALK connects 500 members representing more than 70 countries and 10 parts of the UN system, of which the majority are human rights focal points in UN country offices. HURITALK also includes select non-UN participants such as representatives of governments, civil society groups and academia.

HURITALK is moderated by Else Leona McClimans at the UNDP Oslo Governance Centre.

## Services

**eDiscussions:** A virtual knowledge sharing forum for substantive discussions on key issues relating to the implementation of Action 2 and mainstreaming of a rights-based approach within specific thematic areas.

**Queries:** The HURITALK posts queries from members for specific information and experiences. This is a virtual bulletin board for information sharing and networking for members across the globe requesting knowledge sharing on either comparative experiences or referrals of best experts and institutions. All queries and discussions are finalized with a Consolidated Reply, summarizing as well as supplementing the exchanges with further resources.

**Information:** Members share information on events, new initiatives, good practices, publications, workshops, resource materials/tools and much more. A monthly resource update is prepared by the network facilitator at the end of each month, to which network members are invited to contribute.

The UNDG website ([www.undg.org](http://www.undg.org)) will host a resource corner for HURITALK under the framework of Human Rights/ Action 2, where network services as well as resources are posted. Currently the network archives can be accessed here (<http://www.undg.org/content.cfm?id=1318>).

## How to join

Send a message to the network address:

[humanrights-talk@groups.undp.org](mailto:humanrights-talk@groups.undp.org),

or contact the Network Facilitator, Else Leona McClimans, at:

[else.leona.mcclimans@undp.org](mailto:else.leona.mcclimans@undp.org)

## APPENDIX 2: CHECKLIST ON THE HRBA

**T**he Checklist below (col. 1) is appended to the UNDP Working Guidelines for Human Rights Reviews and is designed for the staff to be able to assess the level to which they are applying the human rights-based approach. The Guidelines also suggest that the check list be used to reveal information to enable a thorough human rights review. At a 2005 workshop to evaluate the pilot reviews, it was suggested that some additions and changes be made to the checklist (col. 2). The workshop did not endorse this checklist but suggested that country offices develop their own in collaboration with national partners and stakeholders. The checklist is included here to show the range of issues that may be the basis for self-assessment.

<b>UNDP HRBA CHECKLIST</b>	<b>SUGGESTED ADDITIONS/ CHANGES</b>
<p><b>1. Country Context</b></p> <ul style="list-style-type: none"> <li>• What are the 3 top priorities for human development in the country today?</li> <li>• What is the environment in the country for promoting human rights?</li> <li>• Which rights have yet to be fulfilled for the population as a whole, and what are the structural causes for this?</li> <li>• What treaty standards and treaty monitoring body recommendations are relevant in this context?</li> <li>• How does the Country Programme support the realization of human rights?</li> <li>• Do programme staff have the capacity to integrate human rights in their work, and a sound grasp of the UN Charter, human rights instruments, and the country constitution?</li> <li>• How do other international partners support the realization of human rights?</li> </ul>	<p><b>Country context</b></p> <ul style="list-style-type: none"> <li>• Status of ratification of human rights instruments</li> <li>• Nature of reservations</li> <li>• Status of periodic reporting to the treaty bodies</li> <li>• Any concluding observations from the treaty bodies?</li> <li>• Rights that appear in the Constitution</li> <li>• Rights enshrined in legislation</li> <li>• What mechanisms of accountability are present?</li> </ul>
<p><b>2. Excluded and Vulnerable Groups</b></p> <ul style="list-style-type: none"> <li>• Which groups are the most disadvantaged? How are vulnerability and poverty in the country defined? How does UNDP define vulnerability and poverty in the country?</li> </ul>	<p><b>Excluded and Vulnerable Groups</b></p> <ul style="list-style-type: none"> <li>• Does the programme/project focus on the most needy/those suffering the most human rights neglect?</li> <li>• Have those suffering the most human rights neglect been consulted? Refer to disaggregated data/local knowledge.</li> </ul>

<b>UNDP HRBA CHECKLIST</b>	<b>SUGGESTED ADDITIONS/ CHANGES</b>
<ul style="list-style-type: none"> <li>• Are tools and indicators to identify excluded groups sufficiently disaggregated?</li> <li>• How does the overall Country Programme address exclusion and disadvantage? How do specific projects do so?</li> <li>• How do other partners do so? How do partners coordinate? What gaps remain?</li> <li>• Does the UNDP Country Office adequately reflect the diversity of the country?</li> </ul>	<ul style="list-style-type: none"> <li>• Is the presence of the most disadvantaged/neediest within that community ensured and the outcomes of the meetings documented?</li> </ul>
	<p><b>Participation</b></p> <ul style="list-style-type: none"> <li>• Do the stakeholders agree with and own the aims and objectives of the programme/project?</li> <li>• Does the programme/project sustainably enhance the power of the local community?</li> <li>• Have communities been informed (for example, through media) of the programme/project objectives?</li> <li>• Are community representatives and leaders encouraged to attend? To speak?</li> <li>• Have discussion workshops in human rights issues/UDHR been held at progressive intervals for government representatives etc?</li> </ul>

UNDP HRBA CHECKLIST	SUGGESTED ADDITIONS/ CHANGES
	<ul style="list-style-type: none"> <li>• Were the local people consulted before the formulation of the human rights policy of the programme/project framework? Is this discussion ongoing?</li> <li>• Was there fair and equal representation?</li> <li>• Have peak bodies and human rights organizations already working in the country been consulted?</li> <li>• Have regular meetings been held at the community level about human rights issues?</li> <li>• Are monitoring visits carried out in the spirit of ensuring interaction with the most vulnerable members of the communities and documenting their responses?</li> </ul>
<p><b>3. Stakeholder Capacity</b></p> <ul style="list-style-type: none"> <li>• Who are the Country Programme or project stakeholders and how were they identified?</li> <li>• Which are duty bearers and what obligations are they supposed to meet? Do they have the capacity to meet obligations (including responsibility, authority, data, and resources)?</li> <li>• Which are claim holders and do they have the capacity to claim their rights (including ability to access information, organize, advocate policy change, and obtain redress)?</li> </ul>	<p><b>Stakeholder Capacity</b></p> <ul style="list-style-type: none"> <li>• Do donor and recipient share goals and objectives?</li> <li>• Are they aware of and do they agree about the relevant human rights?</li> <li>• Are there any advocacy/lobbying options?</li> <li>• Do all players have a transparent understanding of what the programme/project involves?</li> <li>• Have people involved in the process been trained in human rights?</li> </ul>

<b>UNDP HRBA CHECKLIST</b>	<b>SUGGESTED ADDITIONS/ CHANGES</b>
<p><b>4. Country Programme and Project Process (Conduct)</b></p> <ul style="list-style-type: none"> <li>• Does project design and implementation incorporate human rights standards as set out in international and regional conventions? Does the Country Programme?</li> <li>• Does project design and implementation incorporate principles of universality, indivisibility, inter-dependence, equality, participation, and accountability? Does the overall Country Programme?</li> <li>• Do both duty bearers and claim holders participate in project design, implementation, monitoring and evaluation? In the overall Country Programme preparation?</li> </ul>	<p><b>Country Programme and Project Process (Conduct)</b></p> <ul style="list-style-type: none"> <li>• Does the programme/project plan identify the relevant human rights instruments that pertain to the project?</li> <li>• What human rights are being supported directly and indirectly by the programme/project?</li> <li>• Has adequate research been undertaken to establish the human rights status of the focus of the programme/project?</li> <li>• Is it possible that the programme/project directly or indirectly violates any human rights?</li> <li>• Are programme/project objectives framed in terms of human rights?</li> <li>• Have non-negotiable human rights been identified?</li> <li>• What conditions can be agreed/negotiated around rights? What is the bottom line for withdrawal or no funding? Is the process participatory? What is the grievance procedure?</li> <li>• Does the MOU state any conditionalities?</li> <li>• Do the conditionalities compromise human rights? (Collective, individual, cultural)</li> <li>• How is data about human rights abuses utilized?</li> </ul>



<b>UNDP HRBA CHECKLIST</b>	<b>SUGGESTED ADDITIONS/ CHANGES</b>
	<ul style="list-style-type: none"> <li>• Does the programme/project partner adequately represent those whose rights are most neglected the most?</li> <li>• Does the policy dialogue continue all the way through the programme/project cycle?</li> <li>• Are the beneficiaries themselves involved in ongoing evaluation? Is evaluation in-depth and local?</li> <li>• Can changes/amendments be made to the objectives etc of the programme/ project in response to community feedback?</li> <li>• Have barriers to participation been broken down?</li> </ul>
<p><b>5. Country Programme and Project Outcome (Results)</b></p> <ul style="list-style-type: none"> <li>• How has the overall Country Programme built capacities to realize human rights in the country? Do these capacities address the structural causes for non-realization of human rights? Which human rights will be further realized?</li> <li>• How has the Programme contributed to a culture of rights and respect for the rule of law?</li> <li>• How does the project build the capacities of duty bearers to meet obligations and claim holders to claim human rights? Which human rights will be further realized? How is this monitored and evaluated?</li> </ul>	<p><b>Country Programme and Project Outcome (Results)</b></p> <ul style="list-style-type: none"> <li>• Does the programme/project design include indicators to judge human rights achievements/impacts?</li> <li>• How are human rights achievements being evaluated?</li> <li>• Is evaluation continuous and participatory with constant review of the impact of the programme/project on human rights?</li> <li>• Does the programme/project design ensure local watchdogs give regular feedback on the status of human rights and any violations?</li> <li>• Does the programme/project design allow for re-evaluation and modification as part of a continuous process?</li> </ul>

**UNDP HRBA CHECKLIST**

- Do indicators capture information on – as well as perceptions of - the enjoyment of human rights as well as qualitative aspects, such as accountability of public authorities?

**SUGGESTED ADDITIONS/  
CHANGES**

- Does it enhance environmental sustainability?
- Are there mechanisms in place for determining awareness of rights and obligations for all stakeholders? Is stock taken of the unintended human rights consequences of the programme/project activities on a regular basis?
- Has the understanding of the term ‘human rights’ been discussed with donors, field partners, field workers, and local people?
- Has gender inclusive language been used in all documents and contracts?
- Does the project impact on other sectors/achievement of other rights?

## ACKNOWLEDGEMENTS

**T**his report includes information gathered over more than ten years' work in exploring the human rights-based approach to development cooperation. It would be impossible to personally thank all those from the UN and other donor agencies and NGOs who have generously contributed to this exploration. However, the author would like to single out and acknowledge the invaluable and informed assistance provided to the present study by Ana Angarita, Akila Belembaogo, Kai Buchholz, Monica Canafoglia, Rose Gakuba, Else Leona McClimans, Helena Nygren-Krug, Thord Palmlund, Annette Peters, Stefan Priesner, Dorothy Rozga, Olof Sandkull, Elissavet Stamatopoulou, Konstantinos Tararas, Inger Ultvedt, and Lee Waldorf.

## FOOTNOTES

- <sup>1</sup> UNESCO Strategy on Human Rights, Adopted by the 32nd UNESCO General Conference 2003 (Document 32 C/57); accessible at <http://unesdoc.unesco.org/images/0013/001316/131627e.pdf>
- <sup>2</sup> Ibid
- <sup>3</sup> Ibid
- <sup>4</sup> See below page 19
- <sup>5</sup> “World Food Programme (WFP) is the frontline United Nations organization fighting to eradicate world hunger. By meeting the needs of refugees, the internally displaced and other civilian victims of famine, natural disaster and conflict, WFP protects and promotes the right of individuals to adequate food.” From FAO Corporate Document Repository
- <sup>6</sup> “UNCHS addresses housing rights focusing on the practical aspects of its realization process. These specific activities are undertaken in addition to the general work related to shelter development. The main mandate for UNCHS (Habitat) work on housing rights is the Habitat Agenda and directives from the Commission on Human Settlements”. Position Paper on Housing Rights, Nov 2000
- <sup>7</sup> See *The Rights Way to Development: A human rights approach to development assistance*, Human Rights Council of Australia [HRCA], Marrickville 1995 ISBN 0646235591
- <sup>8</sup> See *The Rights Way to Development Manual for a Human Rights Approach to Development Assistance*, Human Rights Council, Marrickville 1998 ISBN 0958569606. The two publications were reprinted in one volume “*The Rights Way to Development: Theory and Practice in 2001*”.
- <sup>9</sup> From “Applying a Human Rights Approach to Programming” Paper by Dorothy Rozga of UNICEF for the Workshop on Human Rights, Assets and Livelihood Security and Sustainable Development London, June 2001
- <sup>10</sup> The policy was formulated in 1997 with input from a number of individuals and organizations including the International Centre for Law in Development and HRCA. It was reproduced as an appendix in the 1998 HRCA *Right Way to Development Manual*.
- <sup>11</sup> See ‘Lessons learned’ below

- <sup>12</sup> Human Development Report 2000, UNDP and Oxford University Press
- <sup>13</sup> Throughout the document the acronyms 'HRBA' and 'RBA' are used interchangeably since this is prevalent in the document sources. In the view of the author, the first is preferable since it carries a clearer reference to international law.
- <sup>14</sup> For a report of the workshop, see "Working Together, The Human Rights Based Approach to Development Cooperation", Parts 1 & 2, report prepared by André Frankovits and Patrick Earle, SIDA and HRCA 2001
- <sup>15</sup> Accessible at <http://www.un.org/millennium/declaration/ares552e.htm>
- <sup>16</sup> "Strengthening of the United Nations: an agenda for further change", General Assembly A/57/387
- <sup>17</sup> "The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies", UNDG May 2003
- <sup>18</sup> These are referred to as 'principles' in some UNDP documents.
- <sup>19</sup> See "Action 2: strengthening United Nations Support for National Human Rights Protection and Promotion Systems Worldwide". Accessible at <http://www.un.org/events/action2/index.html>, this document outlines the context of the UN reform agenda, strategic responses to human rights capacity building at country level, the implementation arrangements and the financial management of the Plan.
- <sup>20</sup> See Appendix 1
- <sup>21</sup> The Declaration on Social Development, adopted at the World Social Summit in 1995.
- <sup>22</sup> Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, Adopted by the 127th Session of the FAO Council, November 2004
- <sup>23</sup> Accessible at the FAO web site [www.fao.org](http://www.fao.org)
- <sup>24</sup> See 'UNDAF' below
- <sup>25</sup> "Human Rights Reviews of UNDP Programmes: Issues Arising from the Pilot Phase", HURIST, 2002 (revised in 2005)
- <sup>26</sup> See the HURIST page on the UNDP Web site
- <sup>27</sup> "Human Rights-Based Reviews of UNDP Programmes: Working Guidelines", UNDP 2004
- <sup>28</sup> See Appendix 2 – The checklist was discussed at the evaluation workshop in New York in March 2005
- <sup>29</sup> "Human Rights Reviews of UNDP Programmes: Issues Arising from the Pilot Phase", HURIST and the CDG/BDP 2005

- <sup>30</sup> See Appendix 1 for a flyer
- <sup>31</sup> The Oslo Governance Centre is UNDP's global facility on democratic governance designed to assist Country Office programme staff. According to its Web site the Centre "has a special focus and competency in the area of access to justice, human rights, civil society, and governance and conflict prevention".
- <sup>32</sup> "Application of the rights-based approach to programming: Report of experiences at the country level". The Country Support Teams are now called 'Country Technical Services Teams'
- <sup>33</sup> Note the wording from the UN Common Understanding on the Human Rights-Based Approach to Development Cooperation
- <sup>34</sup> "Policy Note on Implementing a Human Rights-Based Approach to programming in UNFPA" January 2004 UNFPA/CM/04/7
- <sup>35</sup> "UNICEF's experience of promoting a human rights-based approach to programming 1996-2004, Paper by Akila Belembaogo, Global Policy Section, UNICEF Headquarters, December 2004
- <sup>36</sup> See discussion below. While there are similarities in experiences, each country context throws specific constraints and solutions.
- <sup>37</sup> "Taking Rights Seriously in the Southern Cone: UNICEF's work in Argentina, Chile, Uruguay"
- <sup>38</sup> "Assessment of the Operationalization of the Human Rights Based Approach in UNICEF Programming", Caroline Moser and Annalise Moser Social Policy International, 2002
- <sup>39</sup> "HRBAP Progress Review 2003: Implementation of Human Rights Approach to Programming in UNICEF Country Offices (1998-2003)", Alison Raphael, May 2004
- <sup>40</sup> "Consolidation and Review of the Main Findings and Lessons Learned of the Case Studies on Operationalizing HRBAP in UNICEF", Joachim Thiess 2004
- <sup>41</sup> The Review cites similar findings by DfID, the EU and ECOSOC.
- <sup>42</sup> "25 Questions & Answers on Health and Human Rights", Health and Human Rights Series, Issue No.1, WHO July 2002
- <sup>43</sup> Accessible at the WHO web site [www.who.int](http://www.who.int)
- <sup>44</sup> Handbook on Human Rights Action Plans, Professional Training Series Number 10, OHCHR 2002
- <sup>45</sup> "Review of 2003 CCAs and UNDAFs from Human Rights Perspectives", William G. O'Neill December 2004.

- <sup>46</sup> See “Lessons learned” below.
- <sup>47</sup> In his 2000 report to ECOSOC the Independent Expert on the Effects of Structural Adjustment Policies and Foreign Debt on the Full Enjoyment of All Human Rights, particularly Economic, Social and Cultural Rights notes that none of the 19 interim PRSPs that he looked at made reference to governments’ obligations under the international human rights framework.
- <sup>48</sup> “Poverty and the International Covenant on Economic, Social and Cultural Rights”, E/C.12/2001/10
- <sup>49</sup> Accessible at <http://www.unhchr.ch/hredu.nsf>
- <sup>50</sup> See The Rights way to Development, Human Rights Council of Australia and Human Rights 1995 and Development and Human Rights, Peter Uvin 2004
- <sup>51</sup> “Human Rights Based Programming: The Mali Experience”, UNICEF 2003
- <sup>52</sup> Refer to some of the training modules listed below
- <sup>53</sup> Private communication, March 2005. Stefan Priesner is a former deputy chief of the UNDP SURF in Kathmandu, currently Deputy Resident Representative UNDP Bosnia.
- <sup>54</sup> “25 Questions on Health & Human Rights” WHO 2002
- <sup>55</sup> Refer to the evaluations section under ‘Resource materials’ below
- <sup>56</sup> See Appendix 2
- <sup>57</sup> “What is the “rights-based approach” all about? - Perspectives from international development agencies”, IDS Working Paper 234, Celestine Nyamu-Musembi and Andrea Cornwall, November 2004
- <sup>58</sup> “Peru Case Study: A Human Rights Approach”, UNICEF 2002
- <sup>59</sup> Idem
- <sup>60</sup> See UNAIDS web site [www.unaids.org](http://www.unaids.org)
- <sup>61</sup> Examples that spring to mind are Aceh in Indonesia, Jamur and Kashmir, and Sri Lanka.
- <sup>62</sup> “Why Cultural Rights Now?”, Elsa Stamatopoulou. Paper delivered to the Carnegie Council on Ethics and International Affairs, September 2004
- <sup>63</sup> The four As are availability, accessibility, acceptability and adaptability. Criticism of these as a framework include the fact that they have not been endorsed by state parties and that they do not have the legal standing of the more widely accepted obligations.
- <sup>64</sup> This author is not aware of such an initiative but it may be in the works.

A decorative graphic consisting of several curved lines in white and yellow, originating from the top left and curving towards the right side of the page. The lines are of varying lengths and thicknesses, creating a sense of movement and flow.

This study brings together the experiences of different UN agencies, programmes and bodies, undertaken with a view to integrating human rights in their action. The study looks into policies and practices endorsed throughout the UN system following the launching of the UN reform in 1997. It highlights lessons learned and good practices that could be useful for UNESCO's action. Closely linked to UNESCO's human rights mainstreaming programme that was launched in conformity with its Human Rights Strategy, the study puts forward recommendations that are specific to UNESCO's mandate in education, sciences, culture and communication.