A Human Rights-based Approach to Development Programming in UNDP – Adding the Missing Link

1. INTRODUCTION

There exists global consensus around the international development goals, the Millennium targets, as testified by the 160 plus world leaders who came together to endorse the United Nations Millennium Declaration in 2000[i]. UNDP has placed these targets at the centre of its development strategy. Obviously these elaborate development goals cannot be achieved without poor people's participation in the decisions and processes that affect their lives. It is therefore natural that respect for human rights and fundamental freedoms features prominently in the Millennium Declaration. Human rights provide a means of empowering all people to make decisions about their own lives rather than being the passive objects of choices made on their behalf.

UNDP's Results Oriented Annual Report (ROAR) 2000, registers as a key finding: "Emergence of human rights- including political, social and economic dimensions- as a key focus in governance, with almost 40% of country offices providing assistance for advocacy, awareness raising, action planning and development of the underlying framework". This is all very encouraging, but human rights is only gradually finding its way into regular UNDP programming approaches. It is now time that UNDP, generally, starts applying a human rights-based approach to development programming. Such programming rests on the needs and aspirations of individuals, focusing not on development in general, but on human development. Human rights does not only provide a vision of what development should strive to achieve (to secure the freedom, well-being and dignity of all people everywhere), but it also provides for a set of programming tools and essential references (human rights standards and principles) that ensure pertinent analysis, focus on important human development goals, ownership by the concerned people and sustainability of development efforts.

Both processes and practices in development will change as a result of the application of a human rights-based approach. A human rights perspective calls for enhanced attention to the phase of assessment and analysis providing, among others, full understanding of the legal framework of a country, and the factors that create and perpetuate discrimination and social exclusion and hinder people from realising their potential. A human rights-perspective, therefore, helps us to fully understand how laws, social norms, traditional practices and institutional actions positively or negatively affect people[ii].

As the Administrator has stressed, applying a rights-based approach will require from UNDP innovative and strategic thinking and leadership to mobilise support of decision and policy makers[iii]. Important will also be the cultivation of new partnerships and alliances with civil society. Human rights values, standards and principles should be underscored during all phases of programme development and in all UNDP activities, in democratic governance, pro-poor policies, crisis prevention

and recovery, information and communications technology, energy and environment and HIV/Aids.

The following note touches upon both the normative and operational aspects of a human rights-based approach to development programming and attempts to deal with the why, what, how and when questions that are regularly raised by colleagues in the field and in HQs. The paper will moreover show that UNDPs programming process offers ample opportunities for the application of a human rights-based approach to development programming.

The paper is written in full awareness of the fact the application of a human rights-based approach to development programming is not the concern only of UNDP, but also of our UN partners, bilateral donors and major civil society organisations.

2.   WHAT IS A HUMAN RIGHTS-BASED APPROACH ?

A human rights-based approach constitutes for UNDP a holistic framework methodology with the potential to enrich operational strategies in key focus areas. It adds a missing element to present activities by enhancing the enabling environment for equitable development, and by empowering people to take their own decisions. It brings in legal tools and institutions – laws, the judiciary and the rule of law principle - as a means to secure freedoms and human development. It is further based on the recognition that real success in tackling poverty and vulnerability requires giving the poor and vulnerable both a stake, a voice and real protection in the societies where they live. A human rights-based approach is not only about expanding people's choices and capabilities but above all about the empowerment of people to decide what this process of expansion should look like.

Adopting a human rights-based approach may not necessarily change what we do, but it will raise questions about how we do it. As stated before, a human rights-based approach provides both a vision of what development should strive to achieve (to secure the freedom, well-being and dignity of all people everywhere), and a set of tools and essential references (human rights standards and principles). It is essentially based on the values, standards and principles captured in the UN Charter, the Universal Declaration of Human Rights and subsequent legally binding human rights conventions/treaties (box 1). It not only defines the subjects of development, largely confirming UNDP present policy priorities, but it also translates people's needs into rights, recognising the human person as the active subject and claim-holder. It further identifies the duties and obligations of those against whom a claim can be brought to ensure that needs are met. The value of a human rights-based approach lies particularly in the transformative potential of human rights to alleviate injustice, inequality and poverty. Human rights are moral norms, standards of accountability and weapons in the struggle for social justice[iv].

3.   WHY ADOPT A HUMAN RIGHTS-BASED APPROACH IN UNDP ?

As part of the United Nations family, UNDP is guided by the provisions of the UN Charter. As such it is mandated to respect and promote human rights in its activities. Furthermore, in the words of the Human Development Report 2000 on *'Human Rights and Human Development"*, human rights and human development share a common vision and a common purpose – to secure the freedom, well-being and dignity of all people everywhere. United in a broader alliance, each can bring new energy and strength to the other.
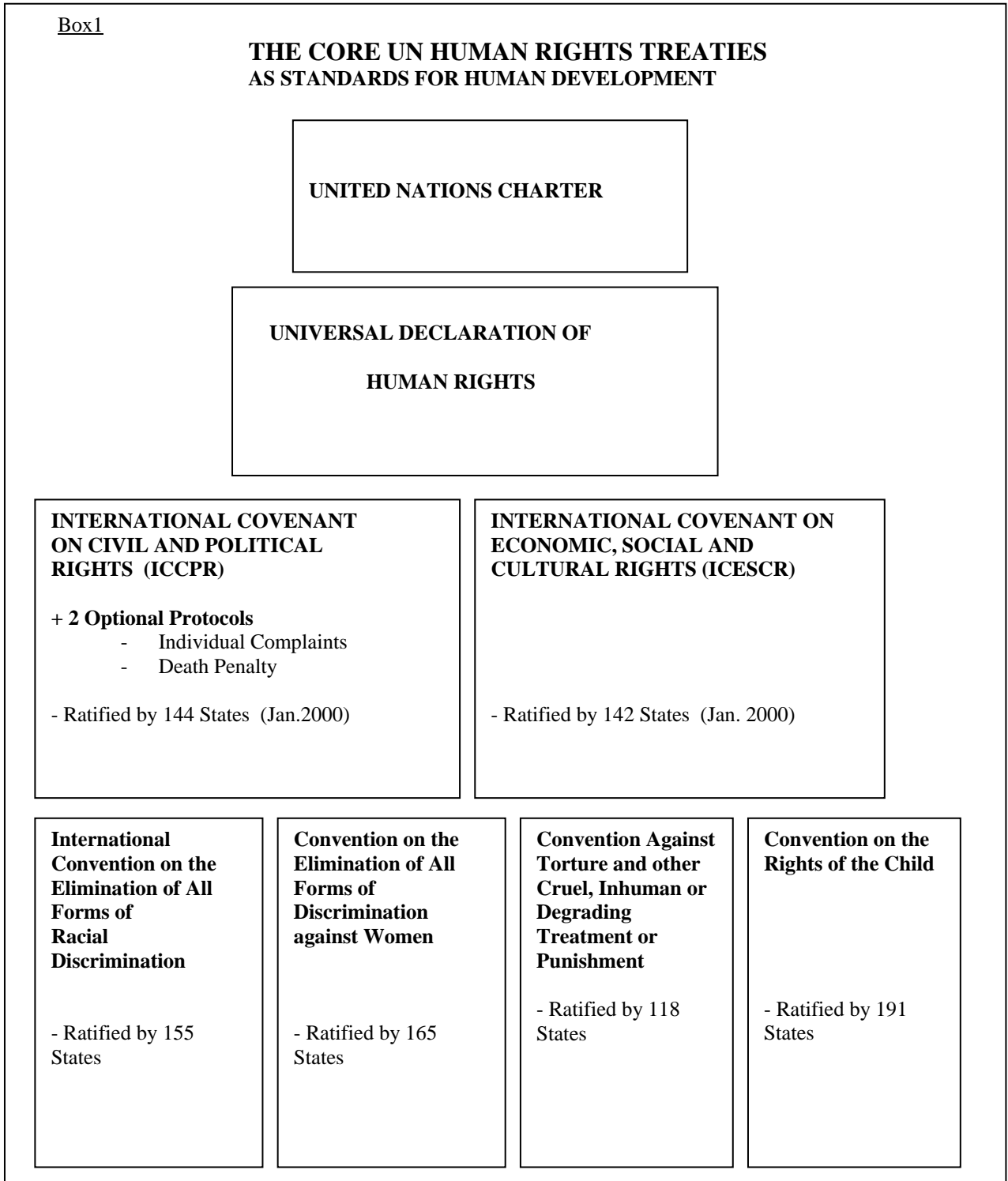
Human rights add value to the agenda for development by drawing attention to the accountability to respect, protect, promote and fulfil all human rights of all people. Increased focus on accountability holds the key to improved effectiveness and transparency of action.

Another important value provided by the application of a human rights-based approach is the focus on the most marginalised and excluded in society as their human rights are most widely denied or left unfulfilled (whether in the social, economic, political, civil or cultural spheres, and often, a combination of these). A human rights-based approach will further generally lead to better analysed and more focussed strategic interventions by providing the normative foundation for tackling fundamental development issues.

A human rights-based approach will moreover help bring about the essential requirements of a social transformation. Such a transformation will not only require a change in the process, outcome and management of development, but it will also bring about a profound shift in values and subsequent behaviour[v]. A human rights-based approach will consistently strive to align these values with consistent actions.

4.   THE NORMATIVE FRAMEWORK OF A HUMAN RIGHTS-BASED APPROACH

4.1 Human Rights Values, Standards and Principles

Box1

THE CORE UN HUMAN RIGHTS TREATIES
AS STANDARDS FOR HUMAN DEVELOPMENT

UNITED NATIONS CHARTER

UNIVERSAL DECLARATION OF

HUMAN RIGHTS

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) **+ 2 Optional Protocols** - Individual Complaints - Death Penalty - Ratified by 144 States (Jan.2000)	**INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)** - Ratified by 142 States (Jan. 2000)

International Convention on the Elimination of All Forms of Racial Discrimination - Ratified by 155 States	**Convention on the Elimination of All Forms of Discrimination against Women** - Ratified by 165 States	**Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment** - Ratified by 118 States	**Convention on the Rights of the Child** - Ratified by 191 States

The mark of all civilisations is the respect they accord to human dignity and freedom[vi]. All religions and cultural traditions moreover celebrate ideas like compassion and empathy, respect for diversity and mutual interdependence. These values as codified in the international human rights instruments should be the point of departure of any assistance programme.

Human rights refer to those rights that are inherent to the person and belong equally to all human beings regardless of their race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. They deal with freedom from fear and want, and call for respect, protection, promotion and fulfilment from duty-bearers.

Examples of Human Rights   <u>Box 2</u>

Civil and Political Rights

➢ The right to life
➢ The right to liberty and security of person
➢ Freedom of movement
➢ Equality before the law
➢ Independence of the judiciary
➢ The right to privacy
➢ Freedom of thought, conscience and religion
➢ Freedom of expression
➢ Freedom of association
➢ The right to take part in the conduct of public affairs
➢ The right to vote and to be elected
➢ The right to freely determine political status

Economic, Social and Cultural Rights

➢ Right to work, form trade unions, safe and healthy working conditions
➢ Right to the highest attainable standard of physical and mental health
➢ Right to education
➢ Right to an adequate standard of living, including adequate food, housing and clothing
➢ Right to take part in cultural life
➢ The right to freely pursue economic, social and cultural development

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As stated before, human rights have found their way into legally binding treaties (box 2), ratified voluntarily by a majority of States. As such they have been given the force of law, give rise to entitlements, and increasingly carry weight in international and national contexts. Human rights have, of course, also found their way into major regional conventions and national constitutions. The fact that human rights are backed by the force of law arising from States obligations is crucial, giving legitimacy to basic tenets of SHD, such as empowerment, equity and sustainability.

In scrutinising the UN Human Rights Conventions, in particular those that constitute the International Bill of Human Rights, a few fundamental recurring principles can be identified. It is in these principles that guidance can be found for the application of a rights-based approach to development programming. The following four pairs of human rights-principles are of particular relevance for UNDP programming:

UNDP'S HUMAN RIGHTS PRINCIPLES

➢ **UNIVERSALITY**   and   **INDIVISIBILITY**

➢ **EQUALITY**   and   **NON-DISCRIMINATION**

➢ **PARTICIPATION**   and   **INCLUSION**

➢ **ACCOUNTABILITY**   and   **RULE OF LAW**

Box 3

4.2   The Human Rights Principles Explained

The human rights principles referred to above contain the minimum required for human rights-based programming. However, a human rights-based approach is dynamic, and leaves scope for additional context specific elements to be added. The transformative potential of human rights to alleviate poverty, injustice and inequality can after all only be realised, if rights show an understanding of people's lives, and the political, social, cultural and legal context in which rights are deployed[vii]. The non-negotiable core of the human rights principles is, however, found in the four pairs. They should be understood as follows:

- **Universality and indivisibility of human rights**

  Every woman, man and child is entitled to enjoy her or his human rights simply by virtue of being human. It is this universality of human rights that distinguishes them from other types of rights – such as citizenship rights or contractual rights. The principle of universality requires that no particular group, such as geographically remote communities or prisoners, be left out of the reach of development assistance programmes.

  Human rights are indivisible. Enjoyment of one right is indivisibly inter-related to the enjoyment of other rights. For instance, enjoyment of the highest attainable standard of health requires enjoyment of the rights to information and education as well as the right to an adequate standard of living. All human rights - civil, cultural, economic, political and social – should be treated with the same priority.

Policies and programmes should not therefore be aimed at implementing one particular right alone, but in combination with all other rights. However, the principle of indivisibility of human rights does not preclude priority setting in programming support. The scarcity of resources and institutional constraints often require us to establish priorities,[viii] for instance favouring food, and basic education and health to other rights in a given situation.

- **Equality and non-discrimination**

  The principle of equality is a primary principle of human rights. Human rights are for everyone, as much for people living in poverty and social isolation as for the visible and articulate. By international law the principle of non-discrimination prohibits discrimination in the enjoyment of human rights on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The term "or other status" is interpreted to include personal circumstances, occupation, life style, sexual orientation and health status. Thus all people living with HIV and AIDS are entitled to the enjoyment of their fundamental human rights and freedoms without any unjustified restriction.

  Equality requires that all persons within a society enjoy equal access to the available goods and services that are necessary to fulfill basic human needs. Equality before the law prohibits discrimination in law or in practice in any field regulated and protected by public authorities. Thus, the principle of non-discrimination applies to all state policies and practices, including those concerning healthcare, education, access to services, travel regulations, entry requirements and immigration.

- **Participation and inclusion**

  An essential principle of the international human rights framework is that every person and all peoples are entitled to participate in, contribute to, and enjoy civil, economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized. This means that participation is not simply something desirable from the point of view of ownership and sustainability, but rather a right with profound consequences for the design and implementation of development activities. It is concerned also with access to decision-making, and the exercise of power in general.

  The principles of participation and inclusion means that all people are entitled to participate in society to the maximum of their potential. This in turn necessitates provision of a supportive environment to enable people to develop and express their full potential and creativity.

- **Accountability and the Rule of Law**

  States have the primary responsibility to create the enabling environment in which all people may enjoy all human rights, and have the obligation to ensure that respect for human rights norms and principles is integrated into all levels of governance and policy-making. The principle of accountability is essential for securing an enabling environment for development. It provides for the most obvious value-added flowing from a human rights-based approach as compared to traditional development programming. Human rights do not simply define the needs of the people, but also recognize people as active subjects and claim-holders, thus establishing the duties and obligations of those responsible for ensuring that needs are met. Duty holder identification will have to become an integral part of programme development.

  Accountability needs to be viewed in light of justice. The principle of the Rule of Law includes resolution of competing claims, access to justice and redress for abuse of human rights and the just distribution of public resources and the benefits and burdens of particular policies.

  Rights themselves must be protected by law. Any dispute about them is not to be resolved through the exercise of some arbitrary discretion, but through the adjudication by competent, impartial and independent processes. These procedures will ensure full equality and fairness to all parties, and determine the questions in accordance with clear, specific and pre-existing laws, known and openly proclaimed. All persons are equal before the law, and are entitled to equal protection. Without a sound legal framework, without an independent and honest judiciary, economic and social development risks collapse. The rule of law ensures that no one is above the law, and that there will be no impunity for human rights violations.
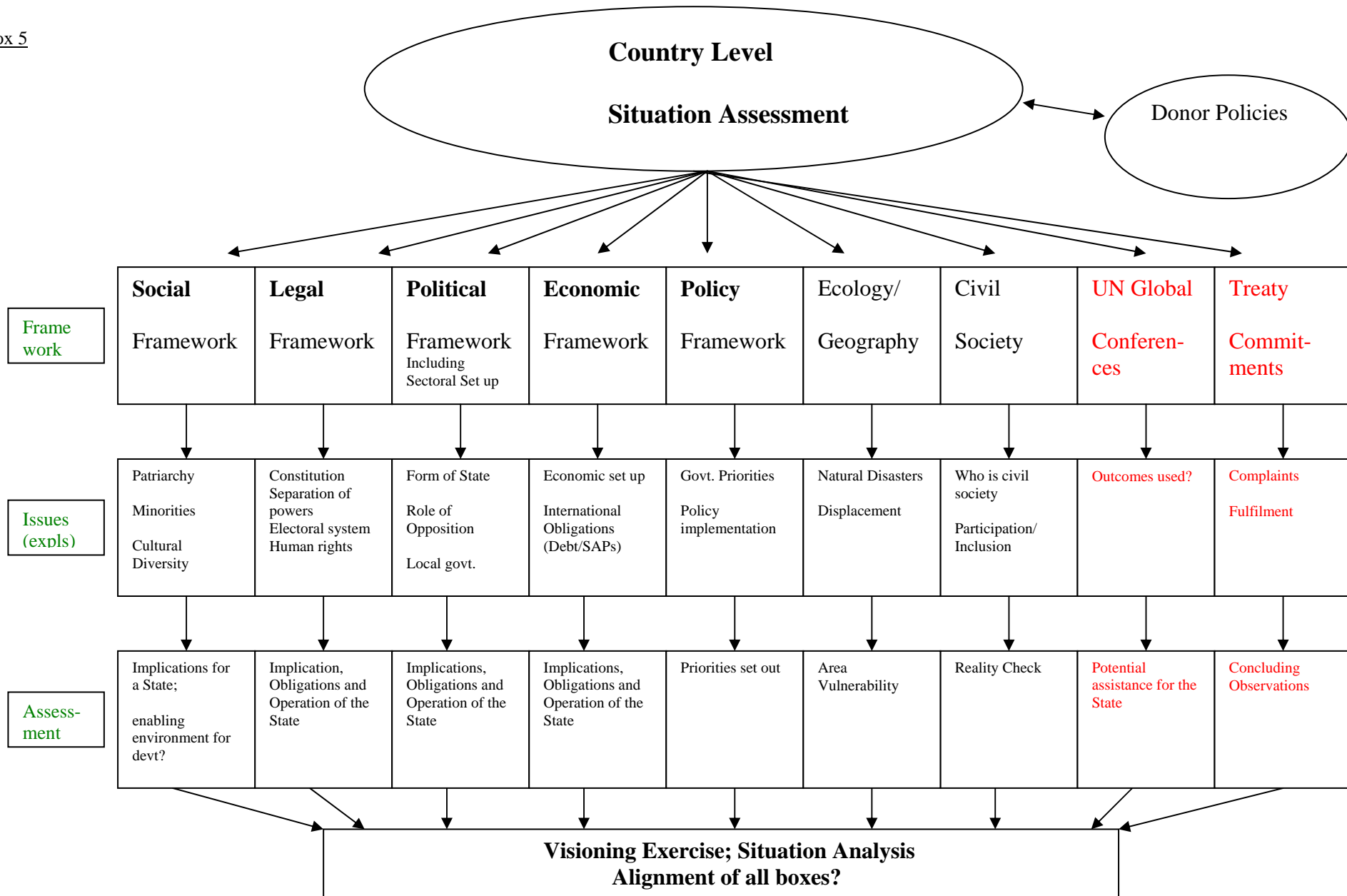
THE OPERATIONAL FRAMEWORK FOR THE APPLICATION OF A HUMAN RIGHTS-BASED APPROACH IN UNDP

5.1   <u>The Programming Process</u>

Human rights values, standards and principles should permeate all aspects of UNDP's programming, in democratic governance, pro-poor policies, crisis prevention and recovery, information and communications technology, energy and environment and HIV/AIDS. In order to illustrate how this can be done, the development programming process is presented in its main phases: assessment, analysis, planning, implementation, monitoring and evaluation. This breakdown will facilitate the identification of the entry points for human rights during the development process. It further helps to highlight the multifaceted and intersectoral nature of a human rights-based approach, and shows that human rights values, standards and principles come to bear at different times (together or independently) during the programming exercise. It moreover stresses the continuing nature of development and the subsequent need for alignment of development assistance.

Reflecting the permanent **Monitoring and Evaluation Cycle**

ASSESSMENT

IMPLEMENTATION

ANALYSIS

PLANNING

<u>Box 4</u>
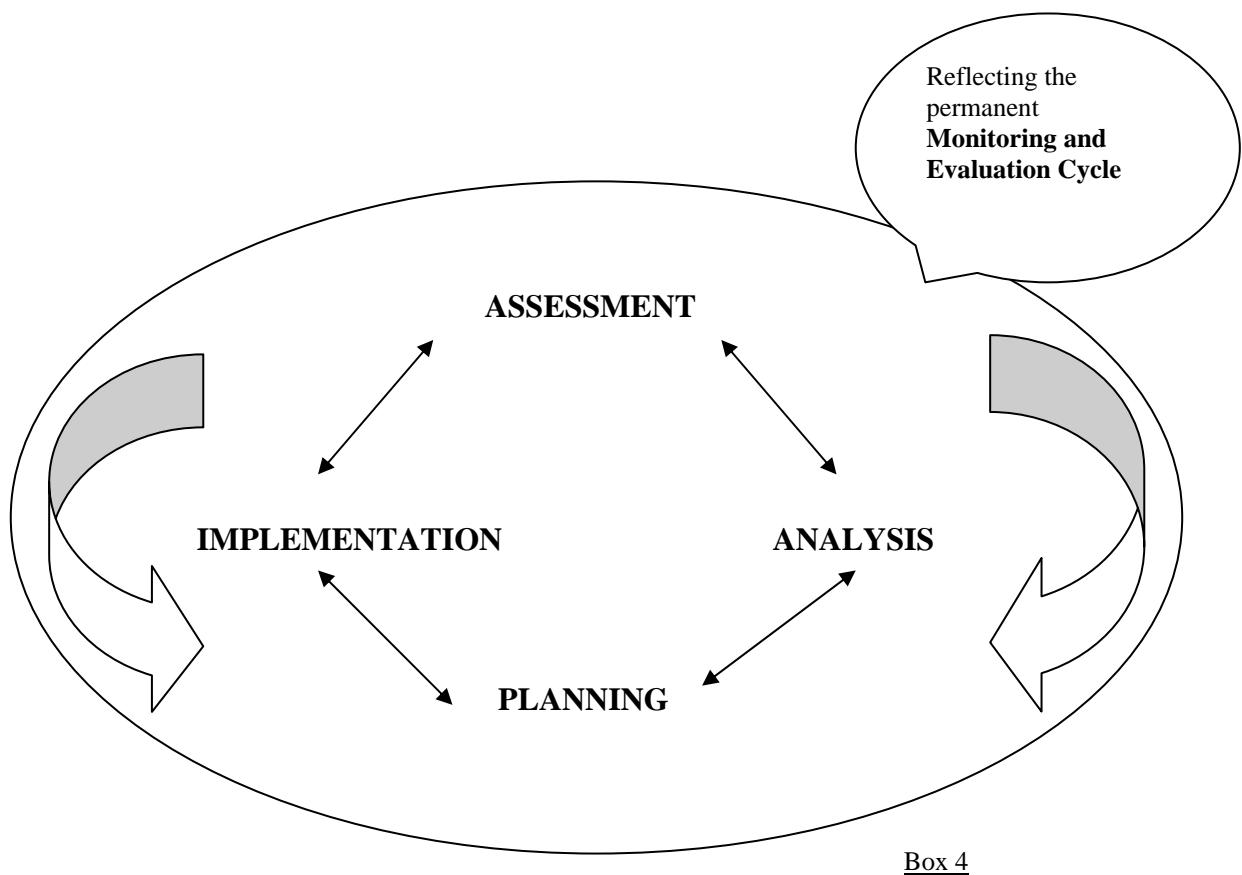
The need for an inter-sectoral perspective cannot be stressed enough in the application of a human rights-based approach. The first steps are a comprehensive situation assessment and an analysis from the country perspective. The following framework could provide guidance in this regard.

Box 5

Country Level

Situation Assessment

Donor Policies

	Social	Legal	Political	Economic	Policy	Ecology/	Civil	UN Global	Treaty
Frame work	Framework	Framework	Framework Including Sectoral Set up	Framework	Framework	Geography	Society	Conferen-ces	Commit-ments
Issues (expls)	Patriarchy Minorities Cultural Diversity	Constitution Separation of powers Electoral system Human rights	Form of State Role of Opposition Local govt.	Economic set up International Obligations (Debt/SAPs)	Govt. Priorities Policy implementation	Natural Disasters Displacement	Who is civil society Participation/ Inclusion	Outcomes used?	Complaints Fulfilment
Assess-ment	Implications for a State; enabling environment for devt?	Implication, Obligations and Operation of the State	Implications, Obligations and Operation of the State	Implications, Obligations and Operation of the State	Priorities set out	Area Vulnerability	Reality Check	Potential assistance for the State	Concluding Observations

Visioning Exercise; Situation Analysis
Alignment of all boxes?

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5.2 Human Rights sensitive Assessments

The above sketched country level situation assessment is, of course, not new. UNDP has always carried out assessments along such lines, and the CCA/UNDAF Guidelines largely direct the UN System in the same direction. The human rights perspective adds strong emphasis on the disaggregation of data - by sex, geographic origin, age and ethnicity, religion, physical location etc. It is after all based on the premise of *" all human rights for all"*. A human rights perspective in the assessment will moreover highlight accountability issues, and matters of effective participation and non-discrimination in practice. So for instance, questions need to be raised concerning discrimination in legislation, budget allocation, policies and in society, the latter for instance in the case of gender roles or attitudes to minorities.

The legal framework is a relatively new concern for UNDP. In the human rights based assessment, it is of great importance. Which judicial, administrative or other authorities have jurisdiction affecting the issues at stake? Does the judicial system have mechanisms ensuring equal access to justice for all citizens? What remedies are available to an individual who claims that any of his/her rights have been violated? Are the rights referred to in the human rights treaties protected in the Constitution or in other legislation? Which implementation measures and mechanisms are foreseen, and with what capacities? To what extent are existing capacities used?

A human rights sensitive assessment should however above all be a broad examination of how people fare in relation to the full range of rights. For this, enhanced methodologies need to be devised that adequately capture people's own perception of their rights and developmental situation. Some experiences have already been gained of such so- called Rights Sensitive Participatory Assessments[ix] and these could be built on in further experiments along these lines. Human rights sensitive participatory assessment methodologies should be able to demonstrate the link between rights, obstacles faced for realisation, and strengths and assets helping poor /vulnerable people secure their livelihood.

Rights sensitive participatory assessment methodologies

Several countries, among others Uganda through its "Uganda Participatory Poverty Assessment" and South Africa through its "Speak Out on Poverty Hearings", have used creative participatory methodologies to solicit the views of the poor themselves. The assessments have highlighted disparities between legislation and policy frameworks, and the reality as lived by the poor. Outcomes have become valuable entry points for future policy and programming directions. Enhanced UNDP support should be provided to the development and practice of rights sensitive participatory assessments. They could provide valuable guidance for poverty eradication strategies based on accountable and transparent structures and practices of governance.

<div align="right">Box 6</div>

5.3   Human Rights-based Analysis

The problems identified in an assessment have interconnecting causes that together impact negatively on vulnerable groups in different ways. The analysis stage should help to understand these causes and the linkages between the various problems. The situation analysis makes it possible to give relative weight to various problems, to understand how their interaction affects communities and individuals and to arrive at a consensus on the causes and possible solutions. The analysis will assist us in understanding the synergy, or lack thereof, between the legislative process, the development of public policy and the development choices that affect people directly or indirectly.

The situation analysis should not only focus on problems but should also reflect areas where progress has been made. Important issues that need to be analysed are whether macro-economic and sector policies and programmes are consistent with the principles of human rights law, who controls resources, and the effect on people's lives of this resource situation. We also need to know what institutions working to protect people exist in a society. Broad participation should be secured in the analysis of constraints and opportunities, because it can lead to increased understanding by members of society of what their roles are in realising rights. To take an example: Understanding the interaction between social practices, policies and laws is central to addressing HIV/Aids[x].

Human rights should not be regarded, or approached, as a separate sector but should underpin all governmental policies and programmes. A relatively easy way of facilitating the integration of human rights into the analysis of actual Government priority setting and implementation could be through a matrix of governmental policies and programmes with regard to the obligations to **respect, protect, and fulfil** human rights. The obligation to fulfil in turn contains the obligations to facilitate, provide and promote. The approach builds on a model developed by Asbjorn Eide in his study on the right to food. It is an instrument to analyse the accountability of states and to illustrate social progress. The matrix provides a framework for policy-making (and subsequently for UN assistance) as well as a means to monitor the performance of governments with regard to human rights integration with development.[xi]. The Committee on Economic, Social and Cultural Rights, the supervisory body of the International Covenant on Economic, Social and Cultural Rights is promoting the matrix model by basing its deliberations on the three types or levels of obligations. For example, in its General Comment nr. 14, the Committee sets out a detailed process for dealing with the right to the highest attainable standard of health[xii].

 The terms to respect, protect and fulfil should be understood as follows:

The obligation to respect: requires the State and all its organs and agents to abstain from carrying out, sponsoring or tolerating any practice, policy or legal measure violating the integrity of individuals or impinging on their freedom to access resources to satisfy their needs. It also requires that legislative and administrative codes take account of guaranteed rights.

The obligation to protect: obliges the State and its agents to prevent the violation of rights by other individuals or non state actors. Where violations do occur the State must guarantee access to legal remedies.

The obligation to fulfil: involves issues of advocacy, public expenditure, governmental regulation of the economy, the provision of basic services and related infrastructure and redistributive measures. The duty of fulfilment comprises those active measures necessary for guaranteeing opportunities to access entitlements.

The following table provides the example of the matrix that could be drawn up on the basis of General Comment nr. 14 of the Committee on Economic, Social and Cultural Rights. Subsequent UNDP support, both up and down stream, should at least not be contrary to these obligations, and preferably support the creation of the enabling environment for Governments to implement and realise these rights for their constituents.

Non-exhaustive Example of the application of the matrix-model as a means for analysis

	The Right to the highest attainable standard of Health
Obligation to Respect	➢ Refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers to preventive, curative and palliative health services. ➢ Abstaining from enforcing discriminatory practices as a State policy. ➢ Abstaining from imposing discriminatory practices relating to women's health status and needs. ➢ Refrain from censoring, withholding or intentionally misrepresenting health-related information, as well as from preventing people's participation in health-related matters. ➢ Refrain from limiting access to health services as a punitive measure.
Obligation to Protect	➢ The duty for States to adopt legislation or to take other measures ensuring equal access to health care and health related services provided by third parties. ➢ To ensure that privatisation of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services. ➢ To ensure that medical practitioners and other health professionals meet appropriate standards of education, skills and ethical codes of conduct. ➢ To prevent third parties from coercing women to undergo traditional practices, e.g. female genital mutilation.
Obligation to Fulfil ➢ Facilitate ➢ Provide ➢ Promote Box 7	➢ To give sufficient recognition to the right to health in the national political and legal systems (national health strategy). ➢ Provision of health care, including immunisation programmes against the major infectious diseases, and ensure equal access to nutritiously safe food and potable drinking water, basic sanitation and adequate housing and living conditions. ➢ Appropriate training of doctors and other medical personnel. ➢ Provision of a sufficient number of hospitals, clinics and other health related facilities. ➢ Take positive measures that enable and assist individuals and communities to enjoy the right to health. ➢ Disseminate appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services.

5.4 <u>Human Rights-based Planning</u>

The assessment and analysis of the country situation prepare the ground for human rights-based planning, which consists of setting the objectives and developing the strategies for implementation. Priorities for action will be determined on the basis of UNDP's mission and mandate and the obligation/role/capacity analyses as seen within a human rights framework.

In most cases, the human rights situation can be strengthened through capacity development in institutions of the central and local government; by aligning national laws with treaty obligations; by strengthening/fostering a culture of human rights; by focussing on the most vulnerable; by taking into account the recommendations of UN Treaty Bodies; by influencing the national budget allocation; by improving mechanisms for implementation, etc.

It remains important to protect the holistic nature of a human rights-based approach in setting the objectives and determining our strategies. Do our objectives reflect the need to be inclusive, participatory and accountable? Who determines the strategies, how will resources be allocated and by whom, and is the time-frame realistic given the need for meaningful participation? The programme goals and objectives need to be set by aligning the values, standards and principles of human rights with subsequent programmatic action. The actual content of the programmes will vary depending on the specific context and may deal with issues such as capacity development, advocacy, social transformation, livelihood support, legal reform and empowerment at grassroots level.

5.5 <u>Human Rights-based Implementation</u>

As stated before, adopting a human rights-based approach may not necessarily change what we do, but rather be a question of how we do it. This is, of course, particularly important during times of implementation. Normally, we are pushed to deliver instantly, even more so in this time of results-based management. However, this should not be allowed to inhibit the application of a human rights-based approach. The tension between human rights principles and results based management and its time-frames comes to the fore particularly in the application of the principle of participation.

Participation under human rights law means that every person and all peoples are entitled to participate in, contribute to, and enjoy civil, economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realised. Thus, participation is not simply something desirable from the point of view of ownership and sustainability, but rather a right with profound consequences for the design and implementation of development activities. Human rights law uses the word 'meaningful participation' in this regard. It is not participation at any price, the more the better, but it has to be meaningful to be valid from a human rights point of view.

However, emphasising the human rights notion of participation does not necessarily mean that completely new methodologies need to be devised. Often it is rather a question of making sure that the participation is meaningful. It is in this respect useful

to refer to UNDP's: "Empowering People; A Guide to Participation"[xiii], which presents a comprehensive overview of participation as a concept, and provides useful advice on how to bring meaningful participation about. As shown on the next page, one of the tables in the document can easily be adjusted to reflect participation in a human rights-based context, as it provides a complete overview of who, when and in what form people are participating during programme assessment, analysis, planning, implementation and monitoring and evaluation. The implementation of this table will also highlight issues pertaining to universality, equality and accountability and is therefore very appropriate for operational application.

Participation Table

Box 8

WHO / HOW	Inform	Consult	Active Involvement	Assuming Responsibility	Self- Management
Problem Identification					
Project Design					
Planning					
Implementation					
Monitoring					
Evaluation and Impact Assessment					

➢ The first column, which represents a hypothetical project cycle, shows the kinds of stages at which beneficiaries might/should participate, while the second row illustrates the types of participation which could be used or which might be relevant at each stage. Within the context of any particular project there will be a need to examine in detail both axes and to determine exactly what the process of participation will involve during the project's development. From a human rights-perspective due regard should be given to assessing the effectiveness of participation. The human rights instruments always use the word "meaningful participation".

5.6   Human Rights-based Performance Assessment

The programming process of assessment, analysis, planning and implementation is, as reflected in box 4, surrounded by and embedded in a continuing cycle of monitoring and evaluation. This cycle itself needs to be rights-based as well. Although the Human Development Report 2000 is right in emphasising that rights can never be fully measured, it also stressed that without information, data and more subjective insights, the realisation of rights cannot be assessed. Existing performance assessment methodologies with all their elements (indicator design, benchmark determination, monitoring and evaluation) need to be strengthened to better contribute to the accountability of public authorities, the strengthening of human rights enjoyment, and their integration with development.

Results-based programming need to make space for consideration of participation in the process of development, whilst the monitoring and evaluation system needs to move beyond existing dominant models of programme evaluation and recognise the quantitative and qualitative dimensions of a human rights-based approach. Moreover, recognising the fundamental principle of universality will mean that measurement should not only focus on rights fulfilled, but also on exclusion (reflecting those not reached).

It is finally important to stress the need for solid indicators in programming. Given that the programming process stresses the continuing nature of development and the subsequent need for alignment of development assistance, it will be crucial to be guided by appropriate indicators. Indicators can be used as a tool for[xiv]:

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

6.   IMMEDIATE IMPLICATIONS AND OPPORTUNITIES FOR UNDP PROGRAMMING

The application of a human rights-based approach to development programming will entail several new steps for UNDP. Some are under way already. Some will need new initiatives. These are some opportunities that can be explored immediately.

6.1   Implications of the CCA/UNDAF process

For UNDP, the Common Country Assessment (CCA) is an integral part of the development cooperation cycle at the country level. It provides the basis from which the United Nations Development Assistance Framework (UNDAF) and the Country Cooperation Framework (CCF) are derived. The CCA is undertaken by the UN system in consultation with key partners - Government, civil society, donors, private sector.

The CCA is a " country-based process for reviewing and analysing the national development situation and identifying key issues as a basis for advocacy, policy dialogue and preparation of the UNDAF".[xv] In practice, this comprehensive process is not always followed. Sometimes the CCA reflects a sectoral approach, restricting itself to the areas of expertise of the UN Agencies and Programmes rather than providing a comprehensive human rights based analysis from a country perspective. UNDP has an important role to play in this context, considering its responsibility for the Resident Co-ordinator system and its broad programming mandate. Table 5 in this paper could be useful in supporting adherence to the broad CCA definition. All the elements mentioned in the Table need to be adequately assessed and analysed to establish the national development situation.

Following the CCA, the UN system is to devise its operational support to countries, based on the comparative advantages of the Agencies and the priorities and needs as identified through the CCA. For this purpose, theme groups are often established to support the formulation of the UNDAF[xvi]. This practice should be welcomed. It is important, however, that the themes chosen truly reflect development priorities in the individual countries. When the same theme groups, based on UN priorities, are established in country after country, there may be reason to wonder whether the specificity of the situation in each country has really been allowed to determine the selection of theme groups, and subsequently the content of UN assistance.

The UNDAF is the planning framework for the development operations of the UN system at country level, establishing common objectives and strategies for cooperation, a programme resources framework and proposals for follow up, monitoring and evaluation. It lays the foundation for cooperation among the UN system, government and other development partners through the preparation of a complementary set of programmes and projects. The UNDAF Guidelines specifically refer to the need to include cross-cutting issues such as human rights, food security, environmental sustainability, population, gender equality, poverty eradication, governance, HIV/Aids and the promotion and protection of children's rights.

A human rights-based approach during this operational phase of programme formulation should be supported by the application of, at least, the core of non-negotiable human rights principles.

6.2   UNDP Country Programming

Within the framework established by UNDAF, the government collaborates with UNDP in preparing the Country Cooperation Framework (CCF). The CCF is the programming instrument in which a government and UNDP set out their planned cooperation over a multi-year period. It outlines the areas where UNDP will concentrate its activities based on comparative advantages and defines the objectives for support. The CCF is based on national plans and priorities, country-specific circumstances, lessons learned from previous cooperation, and the goals, sub-goals and strategic areas of support from UNDP[xvii].

The CCA/UNDAF process will, of course, largely influence the CCF formulation. There will be situations, however, where a subsequent application of a human rights-based assessment, analysis, planning and implementation to identify UNDP support areas would be merited, especially as the CCF should be the result of a participatory process to identify the most effective use of UNDP resources for achieving results. Sometimes the CCA/UNDAF process is incomplete or very sectoral, and additional information is needed. A rights sensitive participatory assessment, as earlier described, might for example not feature in the CCA/UNDAF process, whilst UNDP could benefit from this type of assessment.

It is important to stress that the programme country government has the primary responsibility for the formulation of the CCF (in consultation with UNDP), and that National Execution (NEX) is the preferred modality for programme implementation. Consequently, it will be crucial for UNDP to familiarise government counterparts and other country level stakeholders with the implications and operational aspects of a human rights-based approach to development programming. This should, of course, preferably already have been done through the CCA/UNDAF process, but it should at least happen before the CCF formulation under government leadership starts. One of the immediate results of the adoption of a human rights-based approach by UNDP will therefore be the need for advocacy, training and the creation of partnerships for human rights-based development.

The above mentioned elements will subsequently also figure in the respective Programme Support Documents (PSD) and Project Documents. The Programme Support Objectives (PSOs), as formulated through the Logical Framework, should also be grounded in the actual situation analysis and formulated in the human rights framework[xviii].

7. ARE ADDITIONAL RESOURCES REQUIRED FOR THE APPLICATION OF A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT PROGRAMMING?

The Millennium Declaration reaffirmed the aim to strive for the full protection and promotion in all countries of civil, political, economic, social and cultural rights for all. UNDP has a supportive role to play in this context. It can be done through the application of a human rights-based approach to development, thus adopting a human rights perspective in identifying and addressing development challenges and priorities in the country. It is sometimes argued that this will be a costly exercise that countries and UNDP cannot afford. This is largely a false argument in that a rights-based approach is not a separate sectoral programme with cost implications, but rather a different methodology which changes the way in which we are programming. The requirement for participation will, however, often mean a lengthier and therefore more costly programming, which normally will be balanced by reduced costs during implementation.

The following regular funds, available for programme development in UNDP, can also be used for rights-based programming: Support Services for Policy and Programme Development (SPPD), Support for Technical Services (STS), Development Support Services (DSS), Support to the Resident Coordinator Funds (SRC funds)[xix]. In addition to these regular programme development funds there is in some cases also the possibility to get support from the joint UNDP/OHCHR HURIST-Programme. HURIST has as its primary purposes the testing of guidelines and methodologies and the identification of best practices and learning opportunities in the development of national capacity for the promotion and protection of human rights and in the application of a human rights-based approach. For information about these sources of programming funds, see the addendum 1.

8. THE HUMAN RIGHTS-BASED APPROACH AND UN AGENCIES, BI-LATERAL DONORS AND CIVIL SOCIETY ORGANISATIONS

Presently several UN Agencies (notably UNICEF) are pursuing the application of a human rights-based approach to development programming. In addition, Agencies like the ILO and OHCHR have for a long time provided technical assistance to activities based on labour standards/human rights instruments. Through the United Nations Development Group, and with the assistance of the UN Staff College, the UN is now preparing a human rights training for UN Country Teams linked to the CCA/UNDAF.

On the bilateral side it is important to note that the Governments of the United Kingdom, the Netherlands, Norway and Sweden have all explicitly recognised the value of a human rights-based approach to development programming. These countries will therefore be of particular interest as partners in efforts to realise a human rights-based approach to development. At the country level, UNDP should see as its role to co-ordinate efforts in this direction, to create synergy of initiatives, facilitate learning and ensure consistency in policy and practice.

Civil Society Organisations are equally active in the field of human rights mainstreaming. To name just a few, OXFAM, CARE, the Minority Rights Group (MRG) etc. are all exploring human rights-based approaches. There is no doubt that there will be many excellent partners at country level too. Partnerships with them will be crucial to pursue ownership and sustainability.

9.   NEXT STEPS

To make a human rights-based approach to development programming operational in UNDP is an evolving process. The continuing cycle of assessment, analysis, planning and implementation will require constant adaptation and enhancement. The concrete steps proposed here, and the tables provided are only meant to serve this evolving process.

A human rights-based approach will, however, only materialise at country level, and in specific contexts. Comments and additions to this paper will therefore be highly appreciated. Concrete programming examples will be particularly welcomed. It will only be through this kind of participatory approach, and specifically through the contribution of our field-offices and SURFs, that UNDP will be able to develop an operationally meaningful human rights-based approach to its activities.

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ADDENDUM 1

AVAILABLE PROGRAMME DEVELOPMENT FUNDS FOR HUMAN RIGHTS-BASED PROGRAMMING IN UNDP.

Support Services for Policy and Programme Development (SPPD)

Through SPPD funds, countries can obtain support from participating UN Agencies to develop policies and programmes, such as:
- ➢ Significant studies within the UNDP focus areas;
- ➢ Formulation of national programmes, including gender or environmental assessments;
- ➢ Formulation of the CCA, UNDAF and the CCF

SPPD can also be used for development of regional programmes. Country Offices can estimate their SPPD funding as approximately five per cent of their TRAC 1 resources (funds assigned immediately to countries). The Resident Representative, in consultation with the government and the participating UN Agencies, is responsible for the programming and management of SPPD funds related to a country.

Support for Technical Services (STS)

Support for Technical Services permits countries to obtain technical support for UNDP programmes and projects from participating UN Agencies. The support can be for identification, formulation, appraisal and backstopping, as well as for monitoring during implementation, reviews or evaluations. STS aims especially at supporting National Execution, and is also available to support regional programming. Country Offices can estimate their STS resources as four per cent of their TRAC 1 resources. Management responsibilities are the same as for SPPD funds.

Development Support Services (DSS)

Development Support Services enable Resident Representatives to obtain independent short-term expert advice nationally or regionally. DSS activities must fall under the following categories:
- ➢ Substantive advice in programme priority areas;
- ➢ Substantive inputs relating to the development of CCFs;
- ➢ Development of sector or thematic programming, for example, the programme approach;
- ➢ Development of programme initiatives relating to global themes, such as the environment, gender and human rights.

DSS funds are equitably allocated among country offices. DSS funds are furthermore released in two steps. First, allocations are made to all country offices at the beginning of the calendar year. Second, additional funds are released on a first-come, first-served basis (following specific criteria) and depending on resources available.

DSS funds can only be used for substantive advice on programme matters in support of the CCF and not for administrative expenditures or other inputs such as equipment.

Moreover, DSS consultants are normally nationals of the country (consultants from other developing countries may also be used). There must be special justification if international consultants should be used instead.

Support to the Resident Coordinator Funds (SRC funds)

UNDPs Executive Board has earmarked resources for programme support to the Resident Coordinator/Aid Coordination. SRC funds allow Resident Coordinators to respond quickly and effectively to opportunities for UN system collaboration. Each SRC funded activity acts as a catalyst for the development and strengthening of country coordination initiatives.

SRC funds are managed separately from DSS funds, which are available to UNDP Resident Representatives for obtaining short-term advice rather than to the UN Resident Coordinator for coordination purposes.

At the beginning of each year 75% of available resources are distributed among Resident Coordinators. All receive the same initial allotment. The remaining funds are assigned by the Development Group Office (DGO) based on a specific request of the Resident Coordinator and a review of the annual work plans of the Resident Coordinator system. The following types of activities qualify for SRC funding:
> Collaborative programming;
> Follow-up to major international conferences;
> Public information activities and advocacy;
> Common premises and common services;
> Special assignments.

Within the framework of these activities the following inputs could be financed, either fully or partly, by SRC funds: short-term consultancies, workshops, logistics for meetings, local training relating to collaborative programming, equipment and supplies, including reproduction of reports, materials for public information, communications etc.

The HURIST-Programme

HURIST, which is a joint programme of UNDP and the Office of the High Commissioner for Human Rights, is supporting the implementation of UNDPs policy on human rights as presented in the policy document "Integrating Human Rights with Sustainable Human Development". Its primary purposes are to test guidelines and methodologies and to identify best practices and learning opportunities in the development of national capacity for the promotion and protection of human rights and in the application of a human rights approach to development programming.

The HURIST Programme can use approximately $ 50.000 per country for the design, monitoring and evaluation of projects. Resources allowing, seed support for programme implementation is moreover foreseen for 10 projects at a maximum of $ 100.000 each. Support will be provided after consultation in the HURIST Steering Committee that comprises HQ representatives for the two organisations. Requests to HURIST can be submitted by the Resident Representative to the Steering Committee through BDP, UNDP, or the OHCHR.

[i] UNGA 55/2 United Nations Millennium Declaration

[ii] Taken from: A Human Rights Approach to UNICEF Programming for Children and Women: What it is, and some changes it will bring, UNICEF New York, 17 April 1998.

[iii] Administrator's Note on Implementing UNDP Policy on Human Rights in the New Millennium; 22 September 2000.

[iv] Prof. Cathy Albertyn; University of Witwatersrand, South Africa, 7 November 2000; Windhoek Workshop 13 – 17 November, organised by the UN Division for the Advancement of Women.

[v] Monica Sharma in "Saving Women's Lives, A Call to Rights-based Action"; UNICEF Regional Office for South Asia, 2000.

[vi] Undp Human Development Report 2000, "Human rights and Human development".

[vii] Ibid. note iv.

[viii] Human Development Report 2000, page 23.

[ix] Based on existing experiences, DFID is in the process of launching a Programme called "Patricipatory Rights Assessment Methodologies". UNDP should support this initiative and actively participate in furthering the concept and application of these kinds of assessments.

[x] Ibid. note 2.

[xi] For more on this see also: "The Rights Way to Development: A human Rights approach to development assistance"; Human Rights Council of Australia Inc., 1995.

[xii] The right to the highest attainable standard of healt; CESCR General Comment nr. 14, 4 July 2000, E/C.12/2000.

[xiii] Empowering People; A guide to Participation; A publication prepared by the International NGO Training and Research Centre (INTRAC), in collaboration with UNDP, 1998.

[xiv] Ibid., note ix.

[xv] CCA Guidelines; April 1999, page 4, "What is a CCA".

[xvi] Often theme groups are already established during the early phase of the CCA process, especially since the CCA Guidelines describe the role of the theme groups as the core mechanism for undertaking the CCA assessment and analysis.

[xvii] The goals, sub-goals and strategic areas of support are defined based on the guidelines incorporated into the results framework. The four components of the results frameworks are the strategic results framework (SRF), the results-oriented annual report (ROASR), the multi-year funding framework (MYFF) and the multi-year funding framework report (MYFFR). It is worth mentioning here that the SRF as a planning instrument for country, regional and global cooperation frameworks will easily accommodate a human rights-based approach in the defined categories in which UNDP aims to achieve results. The categories are: Enabling environment for SHD; Poverty eradication and sustainable livelihoods; gender equality and the advancement of women; environment and natural resources; speciual development situations; support to the UN; management. Executive Board, DP/1999/CRP.12; 12 August 1999; The Strategic Results Framework.

[xviii] A relevant report related to the LogFrame, is the recently published SIDA document: " The Evaluability of Democracy and Human rights Project, A Logframe related assessment"; ITAD Ltd in association with the Overseas Development Institute; http://www.sida.se/evaluation.

[xix] Addendum 1 provides a summary explanation of the respective available funds.