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PILOT VERSION

A HUMAN RIGHTS-BASED APPROACH ACCOUNTABILITY MECHANISM

THE HRBA CHECK

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INTRODUCTION

In 2003, United Nations (UN) Agencies agreed on the UN Statement of Common Understanding on Human Rights-Based Approaches. As per this definition, “all programmes of development co-operation should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.”¹

Several European development agencies have developed legal and policy commitments to further a human rights-based approach within their development co-operation, drawing on this UN Statement of Common Understanding on Human Rights-Based Approaches.

However, there is currently no standardized means by which to assess the degree to which development co-operation respects and furthers the realization of human rights nor to systematically report on progress.

Where human rights assessments are compulsory in the approval process of projects and programmes, the focus is primarily on the agency or donor’s commitment to “do no human rights harm.” It is seldom linked to the degree to which the projects and programmes support the implementation of the recipient State’s obligations to respect, protect and fulfil human rights (the realization of human rights), or to “do human rights good.”

WHAT IS THE HUMAN RIGHTS ACCOUNTABILITY MECHANISM – THE HRBA CHECK?

The HRBA Check is an assessment framework for use in development co-operation. It has the following objectives:

To improve the quality of the implementation of a human rights-based approach to sustainable development.

To provide a systematic framework for reporting on progress or regression in the integration of a human rights-based approach to sustainable development.

To secure accountability for policy and legal commitments to a human rights-based approach to sustainable development.

WHAT DOES THE HRBA CHECK MEASURE?

The HRBA Check measures the degree to which development co-operation is implementing a human rights-based approach to development.

It assesses:

- a) The degree to which projects and programmes aim at respecting human rights (i.e., do no human rights harm) and/or advancing the realisation of human rights in partner countries. Advancing the realisation of rights means enhancing states' efforts to abide by their obligations to respect, protect, and fulfil human rights.
- b) The degree to which projects and programmes incorporate indicators to effectively monitor human rights risks and advance human rights standards and principles.
- c) The degree to which interventions in projects and programmes can further the respect and realisation of human rights.
- d) Whether monitoring and evaluation plans and reports monitor and evaluate the degree to which development co-operation has applied a human rights-based approach, including effectively addressed and mitigated human rights risks and achieved its objectives related to the advancement of human rights.

The HRBA Check does not, however, aim at documenting the impact of programmes and projects on the enjoyment of human rights. As such, it does not replace project and programme reviews and evaluations. The HRBA Check can, nevertheless, provide guidance for reviews and evaluations on key elements that should be assessed at these stages of the project and programme cycle.

HOW IS THE HRBA INTEGRATED INTO THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT?

Sustainable development is “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”. It comprises and aims to balance the social, economic, and environmental dimensions of development.

Sustainable development frameworks that tackle structural barriers and root causes of poverty and inequalities can enhance the respect, protection, and promotion of human rights, including the fight against discrimination in all its forms. These frameworks can contribute to furthering the realisation of human rights and to averting negative human rights impacts when human rights standards and recommendations guide their implementation. Human rights contribute to the balancing of the three dimensions of sustainable development, addressing the potential human rights impacts of laws, policies, programmes, and plans related to sustainable development.

The current international framework for development co-operation, the 2030 Agenda for Sustainable Development (2030 Agenda), includes a commitment to a human rights-based approach to development.

The 2030 Agenda seeks to “realize the human rights of all and to achieve gender equality.”² It is also explicitly grounded in the Universal Declaration of Human Rights and international human rights treaties.³

Through the resolution adopting the 2030 Agenda for Sustainable Development, States pledged to implement the 2030 Agenda “in a manner that is consistent with the rights and obligations of States under international law.”⁴ They agreed to “leave no one behind”⁵ in the pursuit of sustainable development, in keeping with the human rights principle of equality and non-discrimination. Furthermore, the human rights principles of accountability and participation are key components of the 2030 Agenda’s Follow-up and Review processes.

The Danish Institute for Human Rights (DIHR) has assessed that more than 90% of the targets in the Sustainable Development Goals (SDGs) reflect core international human rights and labour standards.⁶

WHO IS THE HRBA CHECK FOR?

The HRBA Check is developed for use by a range of different actors working on sustainable development issues. These can include development agencies, civil society organizations, multi-lateral development organizations, and national human rights institutions.

THE HRBA CHECK MEASUREMENT SYSTEM

To facilitate multiple use, including for those ministries and development agencies that may wish to draw on the HRBA Check for use as a form of marker, a scoring system has been developed akin to those used within OECD/DAC for its policy markers.⁷

The methodology proposed for the marker follows the OECD/DAC's three-tier system as follows:

THE THREE TIER SYSTEM OF THE HRBA CHECK

Human Rights Blind	No inclusion or reference to human rights.	-1
Do No Human Rights Harm (Not targeted as an objective)	Human rights standards are primarily used to assess and mitigate risks and ensure that the funded activity does not have any negative human rights impacts.	0
Human Rights Progressive (Significant)	Human rights principles (transparency, accountability, participation, equality, and non-discrimination) are embedded/mainstreamed in the process of the interventions.	1
Human Rights Transformative (Principal)	The realization of human rights is the principal objective and structural barriers to the enjoyment of rights are addressed in the interventions.	2

The minimum standard is that the project should “do no human rights harm” and be based on a human rights risk assessment analysis. It is recommended that projects and programmes that are classified as human rights blind are not financed.

Projects and programmes are then classified against the HRBA Check based on their meeting of a clear majority of the criteria within the respective level (Levels 0,1,2).

WHAT IS THE COMPLY-OR-EXPLAIN PRINCIPLE?

This principle acknowledges that there is no “one size fits all” approach.

In short, project or programmes either meet all the indicators or standards for each level or a solid explanation on why compliance is not relevant or possible in the case is provided.

If a criterion has not been met, it is the responsibility of the person completing the HRBA Check to provide a solid justification as to why compliance with the criterion is not relevant or possible in the circumstances, in keeping with the comply-or-explain principle.

As with other similar scoring systems such as the OECD DAC Gender Equality Policy Marker, a project or programme with a (2) score, while potentially having the most impact on the enjoyment of human rights if effectively implemented, is not always possible or desirable. The ability to carry out a human rights transformative project or programme in a specific context depends on a range of contextual factors. These must always be taken into consideration when designing, implementing, monitoring, and evaluating projects and programmes. Factors can be related to the legal, political, social, and cultural environment; the specific partner or actor; or whether the thematic issue has national traction or not.

IS A LEVEL 2 PROJECT BETTER THAN LEVEL 1 OR LEVEL 0 PROJECT?

No, a Level 2 (human rights transformative) project or programme, is not by definition better than a project categorised as a Level 1 human rights progressive or a level 0 Do No Human Rights Harm project.

What is most important is that the categorisation accurately reflects the contents of the project and programme, including the elements identified in the HRBA Check as being definitive for each level, that it reaches the level that is feasible within the context, and does no human rights harm.

WHEN TO USE THE HRBA CHECK?

The HRBA Check can be used at the following key points in the project or programme cycles to avoid doing human rights harm and to further the realization of human rights.

Together with a partner when developing or discussing a new project or programme.

The key elements in the HRBA Check can help in the planning and design phase of a project both as a form of capacity-development for the partner, an alignment of expectations on what is possible with a particular partner and in a particular context, and, in general, to determine the level of ambition feasible in terms of integrating human rights principles and standards.

When finalizing a project or programme document for approval.

It is key that an official assessment against the HRBA Check is made when the project or programme has been finally developed and is ready for approval. This allows those developing and designing the project to ensure that the minimum standards have been met, and that the project design process has taken into consideration human rights standards and principles.

When monitoring an approved project.

The classification of a project as “do no human rights harm,” “progressive”, or “transformative” can change during the project or programme’s life. The “do no human rights harm” criteria further demand continuous monitoring and is, as mentioned earlier, a minimum standard in all projects regardless of their final classification. There could also be situations where, due to a dramatic change in the operating context, a project should be reclassified as “human rights blind”, unless a new context analysis and/or human rights risk assessment is undertaken, and the findings reflected in a redesign of objectives, indicators, and activities. Alternatively, it could become apparent during implementation that some important elements were inadvertently overlooked during the initial human rights analysis and/or human rights risk assessment, requiring a different classification and remedial measures. It is therefore good practice that the project be monitored using the HRBA Check, including when reviewing project or programme reports.

When evaluating a completed project.

Finally, many programme and project evaluations carried out by development actors fail to effectively assess the degree to which the project has been implemented using a human rights-based approach. To assess whether the project or programme has achieved its intended results from a human rights-based perspective, the HRBA Check and the assessment carried out with the HRBA Check at project start can be used.

WHAT CAN DATA GENERATED FROM USING THE HRBA CHECK BE USED FOR?

The aggregated results from the individual project and programme assessments can be used in a variety of different ways, for example:

- a) To assess the amount of funding that the development actor has provided to different HRBA ambition levels, as per the HRBA Check. Used in this way, the HRBA Check can be transformed into an HRBA marker, along the lines of other OECD/DAC markers.
- b) To facilitate inter-staff and inter-agency dialogue on how projects and programmes can be better aligned with a human rights-based approach. It can facilitate sharing of knowledge on where the development actor is in relation to their HRBA ambition level and be the basis for a discussion on what measures need to be taken to further the implementation of the methodology.
- c) To report to Management and the public on the degree of implementation of the actor's legal and policy commitments on a human rights-based approach to development. Used in this way, the HRBA marker can function as an accountability mechanism.

THE HRBA CHECK MATRIX

Levels	Criteria Analysis	Objectives/ Commitment	Indicators	Activities	Monitoring and Evaluation
Human Rights Blind (-1) No inclusion or reference to human rights.	<input type="checkbox"/> No human rights analysis or human rights risk assessment.	<input type="checkbox"/> No specific human rights-related objective or commitment.	<input type="checkbox"/> No human rights-related indicators.	<input type="checkbox"/> No activities for addressing human rights risks or furthering the realization of human rights principles or standards.	<input type="checkbox"/> No monitoring or evaluation of human rights risks or the implementation of a human rights-based approach to development.
Do No Human Rights Harm (0) Human rights are used primarily for assessing and mitigating risks and ensuring negative human rights impacts are avoided.	<input type="checkbox"/> A human rights risk assessment has been conducted with explicit references to human rights standards and recommendations.	<input type="checkbox"/> There is an explicit commitment to respect human rights (do no human rights harm).	There are indicators which: <ul style="list-style-type: none"> <input type="checkbox"/> Assess, prevent, mitigate and monitor identified human rights risks, including as related to discrimination. <input type="checkbox"/> Assess and monitor stakeholder engagement in human rights risk assessments. <input type="checkbox"/> Assess and monitor the establishment of/and use of an effective grievance mechanism (within the project or programme). <input type="checkbox"/> Assess and monitor the approach to transparency and access to information of the implementing partner (within the project or programme). 	There are interventions which, within the project: <ul style="list-style-type: none"> <input type="checkbox"/> Involve persons and groups at risk of human rights violations and other stakeholders in the identification, assessment, mitigation, and monitoring of risks, and, where necessary, when developing remedial action. <input type="checkbox"/> Strengthen the effectiveness of grievance mechanisms or/and remedies for human rights violations and abuses. <input type="checkbox"/> Strengthen the accessibility and quality of information within the project and programme. 	There are monitoring and evaluations plans which: <ul style="list-style-type: none"> <input type="checkbox"/> Monitor and report on identified human rights risks. <input type="checkbox"/> Adjust implementation plans accordingly. <input type="checkbox"/> Evaluate the degree to which risks been mitigated and, where necessary, remedied.

Levels	Criteria Analysis	Objectives/ Commitment	Indicators	Activities	Monitoring and Evaluation
Human Rights Progressive (I) Human rights principles are embedded in the process of the development interventions. SIGNIFICANT	<input type="checkbox"/> A context and sector-specific human rights analysis, including a human rights risk assessment, has been conducted with explicit references to human rights standards and recommendations.	<input type="checkbox"/> There is a commitment to apply the human rights-based approach principles.	<p>There are indicators which:</p> <input type="checkbox"/> Are disaggregated by at least two prohibited grounds of discrimination, as per human rights law. <input type="checkbox"/> Monitor the degree of participation and consultation of rights-holders in decision-making processes. <input type="checkbox"/> Monitor levels of human rights-knowledge and capacity of duty-bearers. <input type="checkbox"/> Monitor levels of transparency and access to information in decision-making processes.	<p>There are interventions which:</p> <input type="checkbox"/> Address capacity-building of duty-bearers and rights-holders. <input type="checkbox"/> Facilitate the involvement of rights-holders in consultations and decision-making and in interfaces with duty-bearers. <input type="checkbox"/> Address the human rights of persons and/or groups in vulnerable situations, including based on gender. <input type="checkbox"/> Facilitate access to remedies. <input type="checkbox"/> Strengthen access to information.	<p>Monitoring and evaluations plans and reports:</p> <input type="checkbox"/> Are based on disaggregated data (at least sex, age and disability). <input type="checkbox"/> Assess the implementation of the human rights-based principles in the process of the project's implementation, and monitoring, and evaluation.

Levels	Criteria Analysis	Objectives/ Commitment	Indicators	Activities	Monitoring and Evaluation
<p>Human Rights Transformative (2)</p> <p>Human rights standards influence both the outcomes and processes of development. The realization of human rights is the main objective of the project or program.</p> <p>PRINCIPAL</p>	<p><input type="checkbox"/> A context and sector-specific human rights analysis, including a human rights risk assessment, has been conducted with explicit references to human rights standards and recommendations.</p>	<p><input type="checkbox"/> The main objective is to advance the realization of human rights (by the partner State).</p>	<p>There are indicators which:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reflect human rights standards or recommendations from human rights bodies. <input type="checkbox"/> Monitor changes in structural barriers (laws, policies, norms etc.) to rights enjoyment for persons and/or groups in vulnerable situations, including based on gender. <input type="checkbox"/> Monitor changes in structural barriers (laws, policies, norms etc.) to the public participation and consultation of persons and/or groups in vulnerable situations, including those related to gender. <input type="checkbox"/> Are disaggregated based on all prohibited grounds of discrimination, as possible in context (including sex, age and disability). <input type="checkbox"/> Monitor measures taken to ensure the effective operation of accountability mechanisms and to increase transparency and access to information. 	<p>There are interventions which:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Address rights-holders and duty-bearers based on explicit human rights and human rights obligations. <input type="checkbox"/> Address discriminatory laws, policies, customs, and/or budget provisions in keeping with related human rights standards. <input type="checkbox"/> Address barriers to participation and consultation of persons and/or groups in vulnerable situations in keeping with related human rights standards. <input type="checkbox"/> Institutionalize participation and consultation mechanisms in keeping with related human rights standards. <input type="checkbox"/> Address identified gaps in accountability mechanisms and / or gaps in inequitable access to remedies for rights-holders. <input type="checkbox"/> Address identified gaps in the implementation of the right to information (both its proactive and responsive aspects). <input type="checkbox"/> Have a specific focus on organizational development and capacity-building to embed a culture of human rights, with adequate budget. <input type="checkbox"/> A human rights policy or a political dialogue with the State actors is strategically linked to the project or programme. 	<p>Monitoring and evaluations plans and reports:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Include rights-holders and duty-bearers, as relevant, in the process. <input type="checkbox"/> Monitor and assess the implementation of the human rights-based approach, including the use of human rights standards and mechanisms, and the human rights objectives defined for the programme or project.

RECOMMENDATIONS FOR IMPLEMENTING THE HRBA CHECK

Apply the mechanism from the early phases of programme / project design.

The mechanism should be applied while the project or programme is still being planned and designed, rather than at the time it is submitted for financing approval.

Applying the mechanism from early in the planning and design phase will facilitate discussions around integration of the human rights-based approach to sustainable development that will lead to better substantiated and targeted projects and programmes.

Apply the mechanism to the entire programme /project.

The mechanism, like the human rights-based approach itself, is to be applied to all development cooperation activities, and not only to certain sectors or to certain components of individual projects and programmes.

If the assessment was to be limited to those components of projects that were considered by the project designer to have a 'specific' human rights content or focus, it would defeat the purpose of the human rights-based approach.

Applying the mechanism to the entire programme or project is also essential when an agency will be using it to gather data for reporting on the OECD-DAC policy marker on Democratic and Inclusive Governance.

Continue to apply the mechanisms throughout the programme / project implementation period.

As discussed above, the classification level of a project or programme can change during implementation.

Changes in the implementation context may necessitate a lowering, or justify a raising, of the level of human rights ambition.

In the worst-case scenario, a deterioration in the implementation context may render nugatory the human rights context analysis and risk assessment conducted at the time the project was designed. In the most serious of cases, a revised context analysis and human rights risk assessment will need to be undertaken if the project is not to be reclassified as level -1.

It is therefore important that the mechanism continues to be applied periodically during the programme cycle, and that adjustments to the level and to the programme documents are made where necessary.

It is important that a monitoring of the do no harm level takes place throughout a project or programme, also if a project or programme is assessed as human rights progressive or transformative, in order to ensure that also new, emerging or previously undetected human rights risks are identified, assessed and mitigated across the project or programme span.

Invest in staff capacity in applying the mechanism.

While the HRBA to sustainable development is simple to describe, practitioners sometimes report that they find it difficult to apply in practice, due to lack of knowledge of or confidence to integrate human rights standards and principles in programming.

Building staff capacity to apply the mechanism correctly is therefore essential if it is to fully realize its potential as a tool for improving accountability in integration of the human rights-based approach. This could take a variety of forms, for example:

- Dedicated staff trainings, for both HQ staff and field officers.
- Development of internal guidance material, combined with technical support.
- Sharing existing materials and tools between agencies and organizations interested in strengthening integration of the human rights-based approach in their work.
- Setting up helpdesks or nominating HRBA contact points to support officers responsible for applying the mechanism or for overseeing the design and implementation of programmes.

Allocate funds in programme and project budgets to build capacity in beneficiary and partner institutions.

Building capacity on the application of human rights principles, standards and the use of recommendations from human rights bodies is also an essential element of the human rights-based approach to sustainable development.

Capacity-building can take various forms, and could include:

- Dedicated trainings for staff of beneficiary and partner institutions.
- Support for the integration of the human rights-based approach to sustainable development in organizational development processes, including strategic and operational planning and policy development.

It is important, particularly but not only for projects at level 2, to seek HRBA engagement and buy-in at all levels of the beneficiary and partner institution, including senior management. If the institutional understanding of or commitment to respect, protect, or further the realization of human rights is restricted to the officers in the programme coordination unit, then it is highly unlikely that the human rights benefit of the programme will be sustained in the medium or longer term.

Integrate the mechanism into monitoring and evaluation processes.

External evaluations of the degree to which development agencies have been successful in integrating a human rights-based approach into their programme portfolio have identified a general tendency for HRBA commitments made at the outset of the programme to diminish during implementation.

A valuable means by which to counteract this tendency is to integrate the mechanism into project review processes. This will assist operational staff in provision of feedback and ongoing dialogue with implementers and contractors and with beneficiary and partner institutions.

It is also important to integrate the mechanism into the project monitoring and evaluation framework and to ensure that it is included in the ToRs for mid-term and endline reviews or evaluations. What gets measured is also what tends to be done.

Collect and disseminate examples of good implementation practice.

Development practitioners responsible for implementing the human rights-based approach consistently request examples of good implementation practice. Providing examples of projects at levels 0, 1 and 2, including information about implementation challenges and how they were addressed in dialogue with stakeholders (donor, implementing agency and partners / beneficiary institutions, rightsholders and duty-bearers) is a valuable form of capacity-building.

ANNEX

DEFINITION OF CONCEPTS

Human Rights

The human rights referred to in the HRBA Check are the civil, political and economic, social and cultural rights recognized in the Universal Declaration of Human Rights and the nine core human rights treaties. According to the OHCHR, eighty per cent of States have ratified four or more of these human rights treaties. This means that States have obligations and duties under international law to respect, protect and fulfill human rights.

Duty-bearers

The duty-bearer is the State, or where the State does not exercise control over all parts of its territory, the relevant authorities in that part of the country.

The State has direct responsibility in relation to the operation of formal governance mechanisms, and an indirect responsibility in relation to the operations of informal governance mechanisms, to respect, protect, and fulfil human rights.

Non-State actors (e.g., the private sector, traditional or other informal governance structures, religious authorities, community-based organizations, international development organizations, and others) have a responsibility to respect human rights.

Rights-holders

Rights-holders are all the people who are living in the State, regardless of their nationality, ethnicity, gender, age, or any other defining characteristic. All rights holders have the right to enjoyment of their rights, as set out in the Universal Declaration of Human Rights and elsewhere in international human rights law.

Human Rights Risk Assessment

A human rights risk assessment analyses the negative impacts that a development project or programme might have on the human rights of rights-holders and proposes adequate prevention and mitigation measures.

Such an assessment should identify and analyze impacts against all internationally recognized human rights, including by drawing upon information provided by human rights bodies and organizations. It should involve potentially affected rights-holders, or their legitimate representatives, in the identification, prevention and mitigation of the adverse impacts.

A human rights risk assessment should refer explicitly to the five HRBA working principles in its analysis and findings. For example, the assessment should pay heightened attention to any particular human rights impacts on individuals from

groups or populations that may be at heightened risk of discrimination, including by considering the different risks that may be faced by women and men.

In the context of private sector development interventions, the UN Guiding Principles on Business and Human Rights should be used as an authoritative benchmark for conducting such assessments.

Human Rights Context and Sector Analysis

A Human Rights Context and Sector Analysis goes beyond a Human Rights Risk Assessment in that it is not limited to analyzing the negative impacts that a development project or programme might have on the human rights of rights-holders.

A Human Rights Context and Sector Analysis aims at developing a comprehensive understanding of the human rights situation in a particular context to ensure that the project or programme is contextually relevant, appropriate and builds upon local knowledge about human rights challenges. It draws on all internationally recognized human rights, including recommendations, concluding observations and guidance provided by human rights bodies. Specifically, a human rights context analysis for a particular project or programme must identify the key human rights issues at stake; the inequality and discrimination issues related to the problem, including the groups most affected; the structural barriers to the enjoyment of the related human rights; the relevant duty-bearers, including their mandates, capacity, norms, and attitudes as it affects the meeting of their human rights obligations; and the capacities, mechanisms, and environment for the affected groups to claim their rights.

Human Rights Principles

Human rights principles are the overarching principles, drawn from international human rights law, that are to be applied in the operationalization of the human rights-based approach to development. There is no standard formulation of these principles. Since the publication of the UN Common Understanding (2003) various development agencies have proposed variations on the original list of 8 principles.

For the purposes of the HRBA Check, we are generally following the five principles (known by the acronym APNAT) that are described in the EUs Toolbox on the Human Rights Based Approach (2nd edition, 2021), with some slight rewording intended to bring into clearer focus the precise meaning and operational scope of each principle.

These **five principles** are as follows:

Alignment with Human Rights Standards and Mechanisms

Human rights are legally binding State obligations. The principle calls for actors involved in development to seek to contribute to the respect, protection and promotion of human rights, as listed in international human rights conventions and interpreted by authoritative bodies. It does not mean that an action should focus on all human rights, but rather understand the linkages and interdependence of the human rights at

stake. Human rights standards from treaties, laws, and related recommendations, as well as information from monitoring mechanisms and reviews, shall be used to define and advance the outcomes of the intended intervention. Reference should be made to the human rights systems at UN, regional, and national levels, as well as to its outputs (for example reports, concluding observations, recommendations of treaty bodies and independent human rights mechanisms).

Meaningful and Inclusive Participation, and Access to Decision-making Processes

Ensuring participation entails a shift from perceiving stakeholders as passive actors to rights-holders and duty-bearers and active agents in development processes. Active, inclusive, free, and meaningful participation is both a means to securing rights and a right in itself. It is putting rights-holders at the center of our action by empowering them to identify and help address the main obstacles and structural barriers impeding them from enjoying their human rights. To effectively participate, there must be an enabling environment: fundamental to this is the respect for other rights, including the freedoms of expression, assembly and association.

The most developed guidance to date on the right to participate is the [OHCHR Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs](#). The Guidelines were adopted by the Human Rights Council in October 2018 and are considered “a set of orientations” for States and other stakeholders.

Consultation rights are also increasingly being recognized in human rights standards and in authoritative guidance notes for specific vulnerable groups (notably indigenous peoples; ethnic, religious and linguistic minorities; children; persons living with disabilities; women; and rights of peasants and other people working in rural areas etc.). When furthering the participation of these groups at the national level, an important starting point is understanding the specific entitlements contained in the related international human rights standards.

In many cases, access to decision-making processes can only be granted by representation, which is why the participation principle places a special emphasis on invigorating rights-holder representatives and civil society organizations, including trade unions and worker’s representative bodies, as well as other representative groups and bodies. Parliaments, national human rights institutions, the national gender equality bodies, and other independent State mechanisms can play an essential role in promoting participation.

Non-Discrimination and Equality

Non-discrimination and equality are fundamental principles in human rights law.

Discrimination is defined as “any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing”⁸ of the related right.

The prohibited grounds of discrimination in human rights law are discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. In terms of the ground, other status, the following additional grounds have been recognised in subsequent human rights instruments and jurisprudence: disability, migration status and sexual or gender orientation. Monitoring of the enjoyment of rights for all should therefore be based on data disaggregated based on as many of these prohibited grounds of discrimination, as relevant in context.

All human beings in all their diversity are entitled to the protection and enjoyment of their human rights. In practice, this means development actions must address patterns of inequality and discrimination. This working principle also means identifying those who are facing discrimination and unequal access to and control over resources, goods, and services.

Non-discrimination is a legal obligation and requires the State to address it with specific laws, policies, and institutional measures, including budget allocations. It can involve the need for temporary special measures for certain groups to address historical and systemic discrimination. Gender discrimination and gender inequalities must always be assessed and addressed.

Accountability and Access to Justice

Accountability means upholding State institutions to the highest standards in realizing and protecting people's human rights, and promoting accessible, transparent, and effective mechanisms of accountability. States are accountable for respecting the rule of law.

This principle entails ensuring rights-holders can claim their rights and seek justice, redress, or compensation for violations, through accountability mechanisms, including through the justice system.

There are a range of different stakeholders that can play important roles in ensuring accountability and transparency, including State institutions (duty-bearers): parliaments, supreme audit institutions, ombudspersons, national human rights and gender equality bodies and anti-corruption commissions, as well as other actors independent from the State, including civil society, private enterprises, and the media.

Access to justice encompasses the ability of rights-holders to obtain necessary information about the law and about legal, administrative, and judicial mechanisms and processes that allows them to make informed decisions about how best to claim their rights, to seek justice, to obtain a remedy, or to otherwise resolve disputes or legal problems.

To fulfil the right of access to justice, the State must therefore undertake proactive measures to enable rightsholders to effectively claim their rights, in social environments characterized by complex administrative, legal, and judicial rules and procedures.

Access to justice also involves the ability, in practice, to access accountability mechanisms and the extent to which these mechanisms operate effectively, fairly, and impartially, including through the enforcement of judgments or decisions reached, without fear of reprisals or sanctions against the decision-maker(s), the rights-holder, or any other participant in the process.

Transparency and Access to Information

This principle involves making information on policies and interventions understandable and accessible to all stakeholders. It promotes the right to freedom of information. State institutions become more accountable with transparent, reliable, and trustworthy information, available via accessible channels and access to information mechanisms.

Transparency and access to information could be understood as two sides of the same coin. While the scope of the right varies from country to country, transparency involves proactive measures by public institutions to provide more information about decisions, decision-making processes and working methods of government. Access to information refers to the right to access information and documents related to the management of public affairs, as well as to the right of all individuals to access a copy of their personal data, including, in the case of EU citizens and residents, information about the processing of that data.

SELECTED RESOURCES

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GIZ, in cooperation with the German Institute for Human Rights 'The Human Rights-Based Approach in German Development Cooperation' (2014): [The Human Rights-Based Approach in German Development Cooperation](#) (giz.de)

GIZ, 'Implementing Human Rights in Development Cooperation 2020-23' - Project Portal: [Implementing Human Rights in Development Cooperation - giz.de](#)

Ministry for Foreign Affairs of Finland 'Human Rights Based Approach in Finland's Development Cooperation – Guidance Note' (2015): [human_rights_based_approach_in_finlands_development_cooperation__guidance](#)

Ministry for Foreign Affairs of Finland 'Evaluation report: Human Rights-Based Approach in Finland's Development Policy and Cooperation (2023): [Evaluation report: Human Rights-Based Approach in Finland's Development Policy and Cooperation - Ministry for Foreign Affairs](#)

Ministry for Europe and Foreign Affairs of France 'Policy paper: Human Rights and Development - A Human Rights-Based Approach to Development', Directorate General for Global Affairs, Culture, Education and International Development (2019): [policy_paper_human_rights_cle01e941.pdf](#) (diplomatie.gouv.fr)

Sida (The Swedish International Development Cooperation Agency) 'Human Rights Based Approach Toolbox': [Human Rights Based Approach | Sida](#)

Sida 'Evaluation of the application and effects of a Human Rights Based Approach to development: Lessons learnt from Swedish development cooperation. What works well, less well and why?' (2020): [Evaluation of the application and effects of a Human Rights Based Approach to development: Lessons learnt from Swedish development cooperation. What works well, less well and why? | Sida](#)

United Nations Development Group 'The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies' (2003): [UNSDG | The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies](#)

ENDNOTES

- 1 The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies. Available at: [UNSDG | Human Rights Based Approach to Development Coordination](#)
- 2 UN General Assembly, Transforming our world : the 2030 Agenda for Sustainable Development, 21 October 2015, A/RES/70/1, Preamble, available at: [Transforming our world: the 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs \(un.org\)](#) (accessed 10 September 2023)
- 3 UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 21 October 2015, A/RES/70/1, para. 10, available at: [Transforming our world: the 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs \(un.org\)](#) (accessed 10 September 2023)
- 4 UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 21 October 2015, A/RES/70/1, para. 18, available at: [Transforming our world: the 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs \(un.org\)](#) (accessed 10 September 2023)
- 5 UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 21 October 2015, A/RES/70/1, para. 4, available at: [Transforming our world: the 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs \(un.org\)](#) (accessed 10 September 2023)
- 6 See [The Human Rights Guide to the Sustainable Development Goals | Linking human rights with all Sustainable Development Goals and targets](#)
- 7 The HRBA methodology used by the Ministry for Foreign Affairs of Finland on classifying development cooperation funding as human rights blind, human rights sensitive, human rights progressive or human rights transformative has also been used as inspiration. See Ministry for Foreign Affairs Finland (2015) Human Rights Based Approach in Finland's Development Co-operation, Guidance Note 2015. Available at: [human_rights_based_approach_in_finlands_development_cooperation__guidance](#)
- 8 See for example Committee on Economic, Social and Cultural Rights (2009) General Comment 20, Non-discrimination in economic, social, and cultural rights, Art. 2 para. 2.

