PRACTICE NOTE

Human Rights-Based Approaches to Development

Endorsed at ACFID Development Practice Committee (DPC) Meeting 19 May 2010

1.   Purpose of this practice note

This practice note aims to provide a possible definition of human rights-based approaches, and to outline tools typically used to implement these, in order to assist Australian aid and development NGOs in their own consideration of human rights and their work. The definition used in this practice note has been drawn from consultation and discussion with ACFID members during 2009.[1]

2.   Why human rights?

As stated in the 2000 Human Development Report, human rights and human development share a common vision and a common purpose — to secure, for every human being, freedom, well-being and dignity. In Australia, ACFID and its members recognise that the achievement of human rights is crucial to sustainable human development and the eradication of poverty, as emphasised in ACFID's Vision Statement[2] and its Code of Conduct[3].

ACFID's human rights consultation report, *Rights in Sight,* indicates that 90 per cent of ACFID members view human rights as important to their development activities. However, only 25 per cent of participants were able to demonstrate implementation of a human rights-based approach through the adoption of appropriate policies or the integration of human rights tools in their programming cycle. The consultation involved ACFID undertaking semi-structured interviews and discussions with 69 representatives from 29 organisations.

Rights in Sight also found a lack of conceptual clarity amongst Australian aid and development NGOs on what was meant by a human rights-based approach. This practice note aims to provide members with some clarity about the definition of a human rights-based approach and identify some common programmatic elements.

3.   Defining a human rights-based approach

There is no one or correct definition of a human rights-based approach. The most fundamental definition of a human rights-based approach is that development activities aim to respect, protect and fulfil the human rights codified in the international human rights legal framework.[4] For example, gender equality is a core human right identified in the legal framework that has widely been recognised as key to good development practice. Other human rights include equality and freedom from discrimination

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[1] ACFID, *Rights in Sight*, available at: http://www.acfid.asn.au/resources/docs_resources/docs_papers/Rights%20in%20Sight.pdf and an ACFID workshop held in Canberra in August 2009 with member practitioners, human rights, government and United Nations stakeholders.
[2] ACFID Mission Statement, available at: http://www.acfid.asn.au/about-acfid
[3] ACFID Code of Conduct, available at: http://www.acfid.asn.au/acfid/code-of-conduct/acfid-code-of-conduct. AusAID's human rights statement also maintains that sustainable development requires that individuals in developing countries have secure and long-term access to the resources required to satisfy their basic needs, be they economic, social, cultural, civil or political, available at: http://www.ausaid.gov.au/keyaid/humanrights.cfm. In recent years, there has been an acknowledgement by Western donors of the role human rights plays in promoting good governance and building democratic institutions in developing countries, see Piron, L and O'Neil, T, *Integrating Human Rights into Development: A synthesis of donor approaches and experiences,* 2005, available at: http://www.odi.org.uk/rights/Publications/humanrights_into_development.pdf and Australian Parliament, *The Link between Aid and Human Rights*, 2001, available at: http://www.aph.gov.au/house/committee/jfadt/HR_Aid/HRRptindex.htm.
[4] The international human rights legal framework refers to the binding United Nations human rights treaties. For more information see ACFID Information Sheet 'Human Rights and Development', available at: http://www.acfid.asn.au/resources/information-sheets/human-rights and ACFID Information Sheet 'International Law and Human Rights', available at: http://www.acfid.asn.au/resources/information-sheets/intnl-law-human-rights

generally, fair trial, health, education, housing and freedom from torture. Acknowledging that fulfilment of rights necessarily involves the action of numerous stakeholders, development NGOs may regard their work as a contribution to the realisation of rights.

Human rights-based approaches can be distinguished from other traditional approaches to delivering aid and development (such as a needs-based or charity approach) by their emphasis on discrimination, exclusion and the intersectionality of disadvantage as the underpinning causes of poverty.

The foundation of a human rights-based approach is the centrality of the relationship between rights-holders and duty-bearers to the development process as an exercise of power and law. This relationship requires participation from rights-holders in the decision-making processes of the duty bearer, and that duty-bearers are accountable to rights-holders for human rights obligations under international law and codified in national legislation. This relationship enables poverty to be seen in terms of rights and duties and provides clarity on the responsibilities of individuals, governments and development organisations. Although definitions of human rights-based approaches vary, there are some common 'elements' that are used by NGOs to implement a human rights-based approach. In addition, there are similar 'actions' taken by development NGOs to operationalise these 'elements' of a human rights-based approach.

ACFID encourages its members to use the definition in this practice note as a starting point for discussions within their own organisations about how they can become stronger human rights-based organisations and contribute to the realisation of human rights.
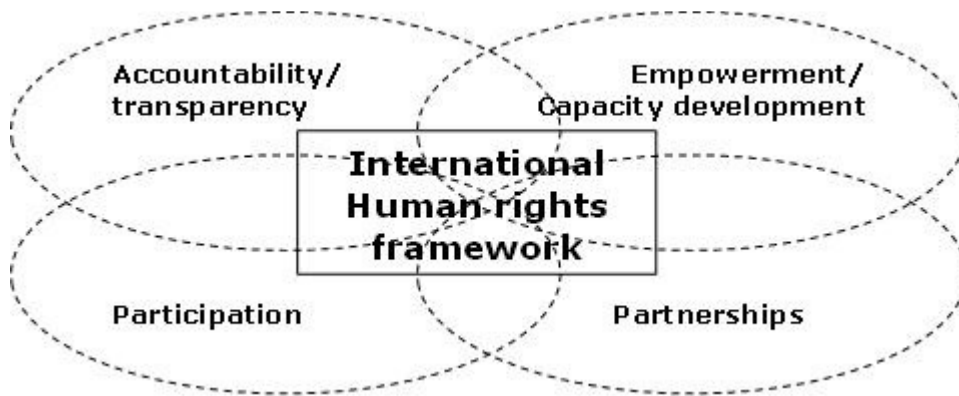
4.   Elements of a human rights-based approach

Just as there is no single definition, there is no one single strategy for implementing a human rights-based approach. Different organisations around the world have adopted different programmatic approaches to implement their human rights-based approaches.[5] In *Rights in Sight* and in a multi-agency workshop in September 2009, ACFID members aimed to generate clarity on the elements of a human rights-based approach for the Australian development sector. As a result of these consultations, the elements required by development NGOs to respect, protect and fulfil human rights, are:

1. Promoting **accountability** and **transparency** among duty-bearers, including NGOs themselves

2. Fostering **empowerment** and **capacity development** of rights-holders to hold duty-bearers to account

3. Working in **partnership** with rights-holders and, when relevant with duty-bearers and other rights-focused alliances

4. Ensuring meaningful **participation** of rights-holders.

Each of these four elements is describe below with reference to the rights-holder duty-bearer relationship that is the foundation of all human rights-based approaches.

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[5] For example, United Nations Common Understanding, available at: http://www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf; Organisation for Economic Cooperation and Development, Human rights and development, available at: http://www.oecd.org/dataoecd/50/7/39350774.pdf; Save the Children, available in Joachim Theis, *Promoting Rights-Based Approaches,* 2004, p 5.

Diagram 1: Elements of a human rights-based approach

a) Accountability and transparency

A human rights-based approach necessitates accountability of duty-bearers to rights-holders. States bear primary responsibility for human rights.

Even though NGOs are not primary duty-bearers, they do exercise power and influence on the realisation of human rights by others. Therefore, NGOs still need to be appropriately accountable to their stakeholders. This means that an NGO's mandate, activities, decision-making and consultation processes must be transparent, ensuring that relevant information is provided in a readily accessible format for all stakeholders.

Further reading: Organisation for Economic Cooperation and Development, *Human Rights and Aid Effectiveness: Key Messages on Mutual Accountability*

b) Empowerment and capacity development

The first element of a human rights-based approach, accountability and transparency, is mainly targeted at the responsibilities of duty-bearers whereas the second element, empowerment and capacity development, recognises that rights-holders and their capacity to demand and have their human rights upheld must also be a focus of NGO development activities. Both these activities contribute to fostering an enabling environment for the realisation of human rights.

Most fundamentally, a human rights-based approach requires an NGO to focus on empowerment and capacity development because it recognises rights-holders as stakeholders in the development process rather than beneficiaries of NGO programs.

There are many ways through which NGOs can foster empowerment and build capacity. Typically this is done through training, and by involving rights-holders as active agents in program implementation. Increasingly, however, the promotion of collective action by rights-holders with regards to duty-bearers is a central theme, requiring not only training but also supporting organisations through which people can exercise collective power to realise and advance their rights.

c) Partnerships

Partnership, like empowerment and capacity development, also recognises rights-holders as NGO partners in the development process. In addition, a human rights-based approach recognises that human rights are interdependent and interrelated. This means that all human rights must be achieved but this grand endeavour will be beyond the capacity, skills and mandate of most development NGOs. Therefore, NGOs and rights-holders must form strategic alliances and partnerships so that human rights beyond the scope of the NGO are adequately addressed and are sustainable.

d) Participation

Promoting participation from stakeholders is not a new concept for many development NGOs. It is a crucial element of a human rights-based approach. However, under a human rights-based approach, participation from all stakeholders is not just a matter of good development practice; it is a human right listed in several human rights treaties and requires consistent and dedicated action and resources. In particular, human rights-based approaches require that women, children, people with disabilities and other marginalised groups can participate in a way that is appropriate is meaningful.

5. Human rights complementing and supporting good development practice

Australian development NGOs do collaborate and share learning on good development practice. Basic development practices such as implementation of a gender perspective or using participatory processes are not new to many Australian development NGOs and further collaboration and sharing to deepen use of these practices is warranted. Human rights add a legal legitimacy to good development practices, because most countries have ratified and implemented major human rights conventions.

Needs-based and welfare-oriented models of development are not consistent with a human rights-based approach. Many Australian aid and development NGOs have moved away from needs-based, or welfare-oriented models. Adopting a human rights-based approach reinforces and reframes their work as fulfilling entitlements rather than needs or wants. Therefore, a human rights-based approach is more respectful of community members and their own agency.

Many practitioners feel that human rights-based approaches are effective because of the focus on rights-holders and duty-bearers. Greater evidence is required, however, to link these approaches with better development outcomes. More work is also required to develop meaningful human rights indicators and promote rigorous discussion about some of the potential weaknesses of a human rights framework. Research and work in these areas is ongoing.

Human rights-based development and gender

Gender awareness and analysis is crucial for good development practice and a human rights-based approach can support existing work on gender by promoting the legal basis for equality and non-discrimination. Development work that acknowledges and seeks to redress inequality on the basis of gender is an essential component of a human rights-based approach. Many development organisations find the rights and principles articulated in the United Nations *Convention on the Elimination of Discrimination Against Women* useful for reinforcing gender equality and inclusion.

As gender fundamentally determines likely outcomes for the lives of every human being, gender analysis and gender equality are critical considerations for all development organisations. The human rights framework is based on the principle that there is no hierarchy amongst rights; meaning that realising women's rights is no more or less important than realising the rights of persons with a disability, the rights of children etc. In practice development NGOs do specialise in (or prioritise work with) one or more groups of rights holders, however, all organisations should consider how gender is relevant to their work.

Human rights-based development at the local level

Whilst grounding human development within the human rights framework can add legal legitimacy, the relevance of international human rights language at the local level may not always be apparent. The battle against HIV is not won because people learn they have a right to health or hear about the international working groups aimed at linking human rights with HIV strategies. Indeed, that virtually all nations in the world have signed the *Convention on the Rights of the Child* since 1989 does mean that the rights of children were not protected through cultural and traditional practices prior to that time.

The local context, cultural and traditional practices are all ways of elaborating on the meaning of human rights-based development. A human rights-based approach should be sensitive to cultural and traditional forms of knowledge and protective measures, which has recently been affirmed by the United Nations General Committee on the right to cultural life.[6]

Some of ACFID's members are already engaged in exploring how best to localise human rights. However, more work needs to be done on understanding the diversity of community perspectives regarding human rights activities.

6.   Human rights-based approaches in practice

Several ACFID members have noted that operationalising the elements of a human rights-based approach is difficult. Whilst there is not sector-wide consensus about the essential 'actions' of a human rights-based approach in Australia, there are several common and similar activities, tools and processes used by ACFID members and by international NGOs leading in this area.

The activities, tools and processes that have been identified by ACFID members are relevant to a number of the elements of a human rights-based approach. Nonetheless, they have been represented below in the element that is most relevant, so that gaps in terms of operationalising a human rights-based approach can be considered.

Diagram 2: Examples of activities, tools and processes of a human rights-based approach

International human rights framework	• Supporting human rights training • Fostering and supporting local human rights demand, dialogue and discussion • Conducting human rights and power analysis tools
Accountability/ Transparency	• Fostering and supporting local capacity to engage with national, regional and international human rights mechanisms • Developing a human rights policy • Establishing processes for grievances and issues outside of mandate • Communicating organisational mandate and access to information policy
Empowerment/ Capacity development	• Fostering and supporting local capacity to undertake participatory budgeting, social auditing, human rights costing and monitoring of human rights violations • Situational or social analysis tools (looking at issues of gender, disability etc)
Participation	• Fostering and supporting local capacity for civil society participation in government processes and access to information • Undertaking community-led action planning • Establishing processes for participatory M&E
Partnerships	• Fostering and supporting legislative reform by government aimed at protecting and promoting human rights • Developing a strategy for linking rights-holders to other organisations

ACFID is working with its members to develop a toolkit to aim for greater consensus on the activities, tools and processes that should be implemented as part of a human rights-based approach and how these activities, tools and processes can be adapted by different NGOs.
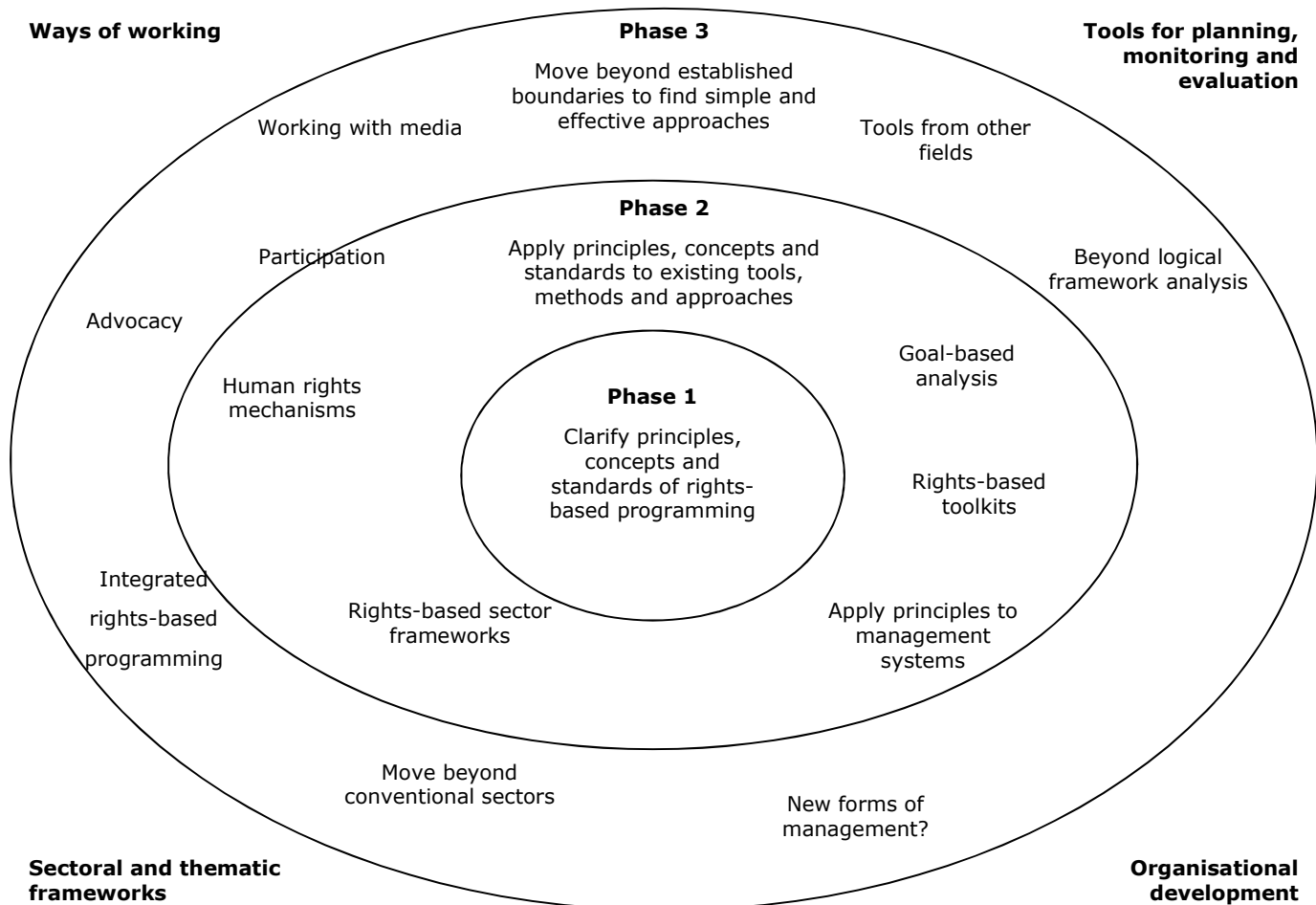
7.   Human rights-based approach at an organisational level

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[6] Committee on Economic, Social and Cultural Rights, *General Comment 21: the right to take part in cultural life*, available at: http://www2.ohchr.org/english/bodies/cescr/docs/gc/E-C-12-GC-21.doc

Different organisations will use human rights-based approaches in different ways and the activities, tools and processes used will depend on if and how the organisation already integrates human rights into its work. The research that informed *Rights in Sight* found that ACFID members are evolving towards becoming stronger human rights-based organisations.

The following diagram illustrates the phases that an organisation may go through in terms of activities, tools and processes.

Diagram 3: Evolution of rights-based approaches

Ways of working

Tools for planning, monitoring and evaluation

Phase 3
Move beyond established boundaries to find simple and effective approaches

Working with media

Tools from other fields

Phase 2
Apply principles, concepts and standards to existing tools, methods and approaches

Participation

Beyond logical framework analysis

Advocacy

Goal-based analysis

Human rights mechanisms

Phase 1
Clarify principles, concepts and standards of rights-based programming

Rights-based toolkits

Integrated rights-based programming

Rights-based sector frameworks

Apply principles to management systems

Move beyond conventional sectors

New forms of management?

Sectoral and thematic frameworks

Organisational development

Source: J Theis, *Promoting Rights- Based Approaches*, 2004, p 22

8. Sources of advice

ACFID members have a range of expertise and experience in implementing human rights-based approaches to development that may be utilised. For examples of Australian NGO practice in implementing a human rights-based approach, see:

- *Rights in Sight* (ACFID, July 2009)

- ACFID Development Practice Committee's report, *Promoting Voice and Choice: Exploring Innovations in Australian NGO Accountability for Development Effectiveness* (May 2010), which touches on several of the elements of a human rights-based approach

- ACFID human rights-based approach resources list: contains links to useful human rights-based approach materials from around the globe

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