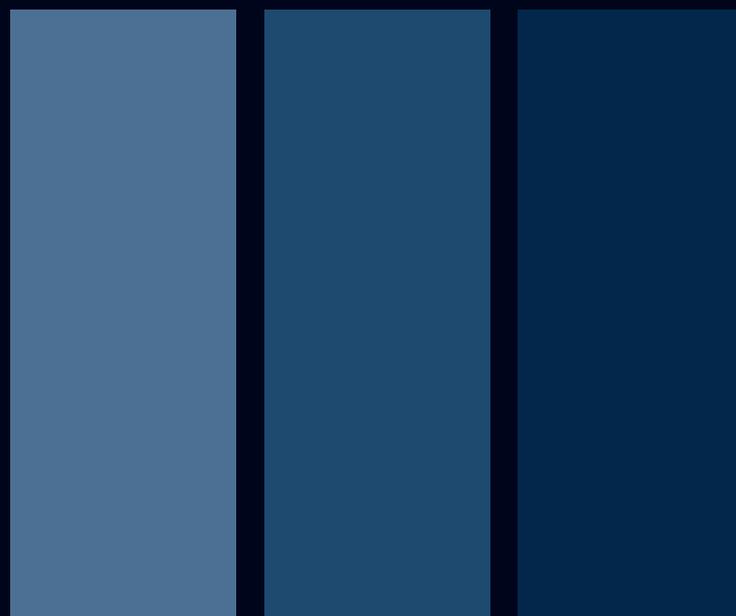


JAKOB KIRKEMANN BOESEN & TOMAS MARTIN

APPLYING A RIGHTS-BASED APPROACH

AN INSPIRATIONAL GUIDE FOR CIVIL SOCIETY



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AN INSPIRATIONAL GUIDE FOR CIVIL SOCIETY

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Jakob Kirkemann Boesen & Tomas Martin

FOREWORD

With the hallmark UN conferences of the 1990s human rights have come to represent a system and a movement, which address human concerns with considerable strength and legitimacy – internationally and domestically. Despite growing economies – also in the poorest regions of the world – people however continue to be deprived of the most fundamental needs and marginalisation and discrimination consign alarmingly many of our fellow human beings to situations of extreme deprivation.

In most countries of the world the idea of interdependence of human rights has become strongly established. Consequently, we have come to recognise poverty as a human rights violation – a realisation that holds the potential to abate the quiet suffering of millions of people. Communities, governments and the international community need to face up to the challenge of combating the root causes of poverty and to reach and empower poor people. This is where a rights-based approach to development becomes relevant.

Rights-based development starts from the ethical position that all people are entitled to a certain standard in terms of material and spiritual well-being. It takes the side of people who suffer injustice by acknowledging their equal worth and dignity; it removes the charity dimension of development by emphasising rights and responsibilities. It recognises poor people not as beneficiaries, but as active rights-holders and establishes corresponding duties for states and other actors against whom claims can be held. The concept of rights-holders and duty-bearers introduces an important element of accountability into development work and moves the focus where it should be: development by people – not for people.

As a concept, RBA ensures the meaningful and systematic inclusion and empowerment of the most vulnerable. It is very promising, but is RBA just one of these buzz words which appears only to vanish again when a new craze hits the scene? I do not think so; however, the approach still needs to be nurtured by practical experiences in order to sharpen its edge. The approach is conceptually very strong and convincing, but does it make sense on the ground?

The Danish Institute for Human Rights has pursued this question on many fronts – initially from a research perspective, but more recently we have also worked with DanChurchAid and their partners to grapple with the practical implementation of RBA. Our experiences so far have encouraged us to produce this inspirational guide to civil society organisations in countries challenged by poverty. I hope it will serve its intended purpose – to inspire towards development based on justice and universal human dignity.



Morten Kjærum

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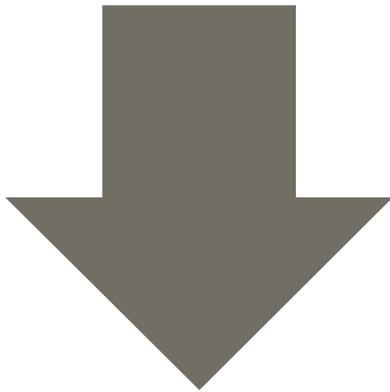
INTRODUCTION

Rights based approaches (RBA) offer new perspectives and solutions to traditional development projects. This guide hopes to offer practical ideas and inspiration to civil society organisations wanting to apply this approach in their day-to-day work. Although we hope that this publication may be of interest to a wider range of those involved in development assistance, the booklet is primarily aimed at staff and directors of smaller organisations in countries challenged by poverty. Since it is intended for people who are busy doing, it has been kept short and simple and aims to inspire rather than direct.

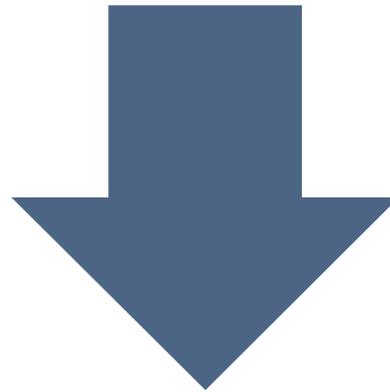
Many organisations are introduced to rights-based development through the guidelines and policies of their partner or donor agencies in a way that relates to a specific subject or way of managing programmes. This booklet offers a more generic model, which does not take its outset in a specific mandate, strategy or policy of an organisation. Human rights are relevant in all regimes and cultures; and due to its embeddedness in universal norms and standards RBA lends itself to some level of generality. However, local lives and contexts should always be the point of departure for development and rights-based approaches should take different forms and focuses in different societies. The generic format of this booklet challenges you, the readers, to continuously seek to 'apply' this inspirational guideline to your own organisation and context allowing it to reflect your specific needs, interests and concerns.

Guidelines and checklists will not transform society. When reading this booklet, it is essential to keep the basic impetus of RBA in sight: poverty as an injustice imposed on people. RBA is flexible and it is possible to be inspired by some elements, while finding others too cumbersome or unproductive. RBA should, however, always be addressed with sincerity, by adhering to the basic human rights principles and with a focus on the central goal of achieving justice. If not, there is a real danger that both RBA and the human rights vocabulary will become diluted as more organisations flock to this approach.

THE GUIDE CONSISTS OF TWO MAIN PARTS:



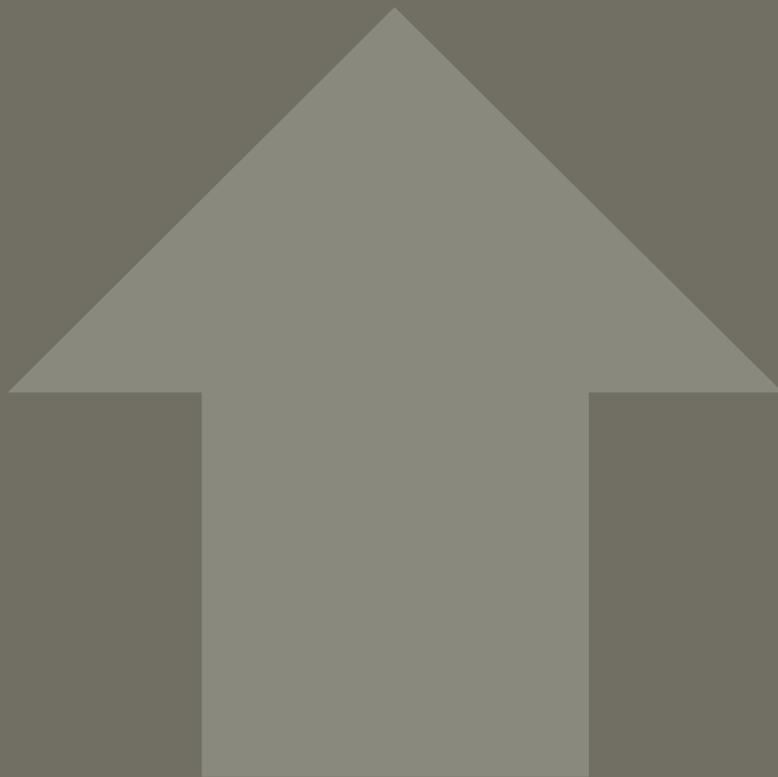
SECTION I: What is it? – provides the history and an understanding of the basic thinking behind RBA. It relates these elements to the context of poverty and development and establishes some of the challenges and advantages of using RBA.



SECTION II: How to get going – forms the bulk of the publication and offers practical guidelines for how an organisation can begin to use RBA in its work. It presents the human rights principles often associated with an RBA and translates these into four focus areas that have a more practical applicability in relation to development work.

WHAT IS IT?

This section provides the history and an understanding of the basic thinking behind RBA. It relates these elements to the context of poverty and development and establishes some of the challenges and advantages of using RBA.



WHAT IS IT?

A definition of RBA

A rights-based approach to development is a framework that integrates the norms, principles, standards and goals of the international human rights system into the plans and processes of development. It is characterised by methods and activities that link the human rights system and its inherent notion of power and struggle with development.

RBA is able to recognise poverty as injustice and include marginalisation, discrimination, and exploitation as central causes of poverty. In RBA poverty is never simply the fault of the individual, nor can its solution be purely personal. However, RBA also refuses simply to place the burden of poverty and injustice on abstract notions such as society or globalisation. Human rights claims always have a corresponding duty-bearer. A central dynamic of RBA is thus about identifying root causes of poverty, empowering rights-holders to claim their rights and enabling duty-bearers to meet their obligations. In this way RBA calls attention to a number of central features of poverty and development:

- The re-emergence of the state and governance as a central element in development, through a focus on the interrelation between the state and its citizens in terms of duties and rights. RBA draws attention to the basic obligation of the state to take care of its most vulnerable citizens, including those not able to claim their rights for themselves.
- The acknowledgement that severe poverty is a human rights violation, and that poverty in itself is a root cause of a number of human rights violations. Looking at poverty through a lens of justice calls attention to the fact that poverty is something that often is imposed on people as an active act of discrimination and marginalisation. It also calls attention to what is *not* done. Sometimes the most cruel violations are through acts of omission.
- The growing recognition that poverty is about more than economic needs and that growth-centred development has to address more complex and fundamental causes of poverty and inequality such as discrimination, exploitation and abuse. This also ensures that poverty is not merely seen as a fact of individual circumstances or capacities, but rather perceived within the structures of power and inequity embedded in the local, the national and the global context.

These realisations have had two major consequences:

- An increasing demand to shift away from a simple needs-based approach in development thinking; and
- An increasing acknowledgement of the complexity of poverty.

From Needs to Rights

Like all development, RBA implies an effort to improve the situation of people, focusing on their needs, problems and potentials. In this sense, RBA relates to the same issues as most development initiatives such as food, water, shelter, healthcare, education, security, freedom to pursue life goals etc.

However, it is central to the premise of RBA that human beings have inalienable rights and a deprivation of needs can often be addressed as a denial of rights. In other words, clean drinking water is not only something you need, it is also something you have a right to have as a human being. Thus, while the fundamental human needs are the basis of human rights there are some notable differences between needs and rights:

- Human rights go beyond the notion of physical needs and include a more holistic perspective of human beings in terms of their civil, political, social, economic, and cultural roles.

- Rights always trigger obligations and responsibilities, whereas needs do not. Rights cannot be addressed without raising the question of who has obligations in relation to these rights. This automatically raises questions about the actions and accountability of duty-bearers.
- People are often expected to be grateful when their needs are met; this is not the case when people's rights are met. This reminds us not to campaign for 'the needy', but rather to support marginalized people as equal human beings in their efforts to claim their rights and address the poverty, suffering and injustice in their lives.

The shift in development thinking introduced by RBA is well illustrated when compared to traditional charity- or needs-based approaches to development:

Charity Approach	Needs Approach	Rights-Based Approach
Focus on input not outcome	Focus on input and outcome	Focus on process and outcome
Emphasizes increasing charity	Emphasizes meeting needs	Emphasizes realizing rights
Recognizes moral responsibility of rich towards poor	Recognizes needs as valid claims	Recognizes individual and group rights as claims toward legal and moral duty-bearers
Individuals are seen as victims	Individuals are objects of development interventions	Individuals and groups are empowered to claim their rights
Individuals deserve assistance	Individuals deserve assistance	Individuals are entitled to assistance
Focuses on manifestation of problems	Focuses on immediate causes of problems	Focuses on structural causes and their manifestations

The Complexity of Poverty

We build solutions based on how we see and identify the world around us. If one argues that a man is hungry because he has no food, the solution is to give him food. If one argues that a man is hungry because he is unable to get sufficient food from his small plot of land, then the solution will imply increasing the amount of land available or its output. If we add in extra information, i.e. that the plot is too small because most of the village land was taken over by a government farm then the solution is different again. If we also identify that he is in fact more likely to be a she, and that being a woman she was not eligible to the government scheme of redistribution of land then the complexity deepens further. Simple solutions may thus scratch only the surface of the reality that makes up poverty.

Once we realise that poverty is complex and multi-faceted, we also have to acknowledge the need to address poverty by solutions that can encompass this complexity. RBA has a lot to offer in this respect, in being able to encompass the multitude of civil political, social, cultural as well as economic causes of poverty.

In RBA, poverty is not merely about a lack of adequate resources and can therefore seldom be addressed adequately by material solutions alone. Even when resources are *available*, *access* to them is often denied to the poor because of who they are, where they live, or sometimes simply because of neglect and lack of concern. Such discrimination may be the result of social norms and values causing stigmatisation and marginalisation in communities or within households, or it may be the result of discrimination in policies or the product of legal inequalities, or inequalities in status and entitlements. In this perspective, poverty is something that is done to people. One might in fact argue that people are not poor, but become impoverished. RBA is based on the concept that impoverished people must be protected from illegal and unjust discrimination, dispossession, denial and disenfranchisement.

Rights-holders and Duty-bearers¹

Human rights form the basis of a rights based approach. In short, human rights can be described as:

- universal legal guarantees protecting individuals and groups against actions and omissions that affect their freedom and human dignity
- basic minimum standards based on human needs
- universal and inalienable i.e. all people are born with the same human rights everywhere, at all times, and they cannot be taken away or given up
- indivisible and interdependent, i.e. all rights are equally necessary for human life and dignity

Human Rights stem from the international covenants, conventions and declarations defining the rights, standards, and mechanisms of protection, which states commit themselves to. A fundamental thesis for the human rights framework is the idea that the legitimacy of the state is based on its respect, protection and fulfilment of the rights of each and every individual.

One of the most fundamental dynamics of a human rights, and consequently of a rights-based approach, is that every human being is a **rights-holder** and that every human right has a corresponding **duty-bearer**.

A rights-holder,

- is entitled to rights
- is entitled to claim rights
- is entitled to hold the duty-bearer accountable
- has a responsibility to respect the rights of others

Consequently, those who have the obligation to **respect, protect, and fulfil** the rights of the rights-holder are duty-bearers.

The overall responsibility for meeting human rights obligations rests with the state. This responsibility includes all the organs of the state such as parliaments, ministries, local authorities, judges and justice authorities, police, teachers or extension workers. All these are legal duty-bearers.

¹: For a short description of the human rights system and framework see appendix 2.

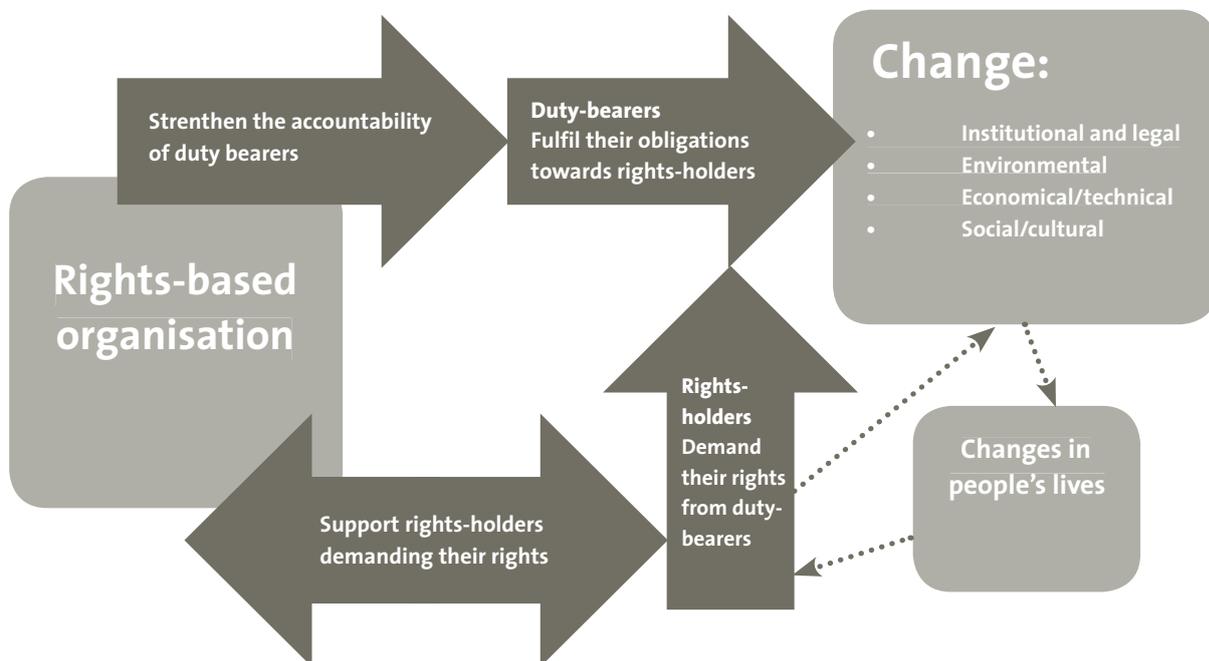
Every rights-holder has the responsibility to respect the rights of others. In this sense you can say that every individual or institution that has the power to affect the lives of rights-holders is a moral duty-bearer – the greater the power the larger the obligation to fulfil and especially to respect and protect the human rights of others. In this sense private companies, local leaders, civil society organisations, international organisations, heads of households, and parents, and in principle every individual are **moral duty-bearers**. You should remember that the state as a legal duty-bearer also has a duty to regulate the actions of moral duty-bearers – e.g. parents, companies etc. – to ensure that they respect human rights.

RBA – a Response to Poverty

RBA builds on the knowledge and the technical foundations of existing development practice. By merging development with the human rights

framework and its focus on justice, RBA, however, becomes much more sensitive to issues of power balances, discrimination, insecurity, and vulnerability. RBA recognises that economic growth does not necessarily lead to social development or better conditions for the poor. RBA emphasises the interrelationship between the individual at the micro level and the state and the international community at the macro level. It focuses on participation and empowerment of the poor and their right to hold governments and other responsible actors accountable and in this way it legitimises and supports the struggle of poor people to secure the full spectrum of their rights.

Right-based approaches seek to hold governments and other duty-bearers accountable and encourage rights-holder to claim their rights. Demanding accountability does not simply imply confrontation with the state. RBA also aims to enable duty-bearers to meet their obligations. States may violate rights because of lack of awareness, knowledge or capacity. If this is the case an



approach based on dialogue may be more constructive and powerful than confrontation.

Working with power balances, marginalisation and the obligation of duty-bearers means that development efforts must integrate practices and methods from the human rights field. The following pages aim to inspire you to make this integration in practice. As you will see, many of the methods and perspectives presented here were already part of development methodology before RBA came to the fore. However,

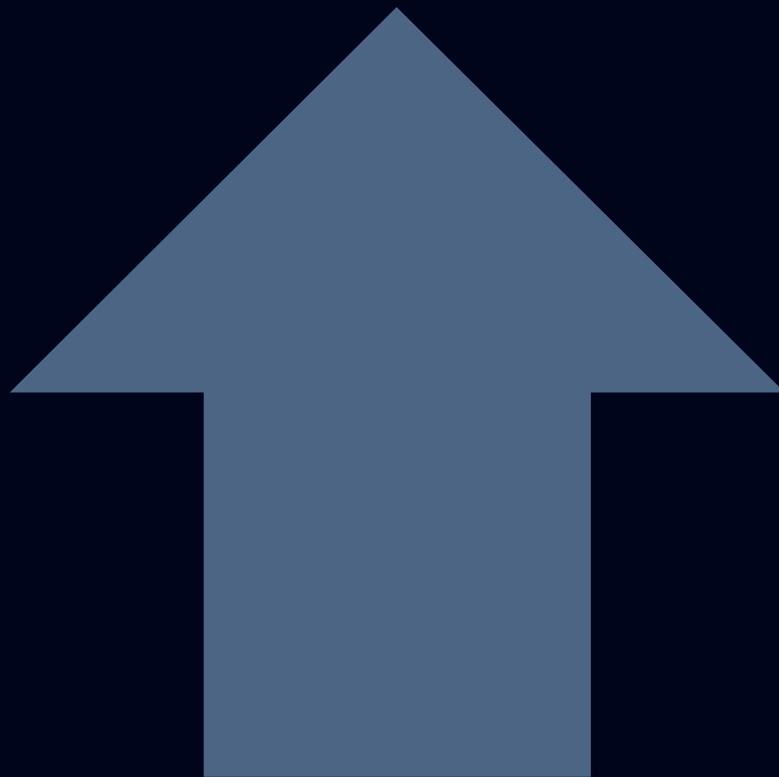
RBA offers a coherent framework as well as an element of legitimacy by being based on internationally agreed laws and standards.

Today's shrinking world is equipped with a lot of international conventions and treaties to safeguard the rights of the individual in exactly the fields that impact on poverty and deprivation. We find that the combination of development and human rights practices that RBA offers represent a number of strengths and dynamics. Most importantly, RBA:

- ➔ Offers a framework to address the problems of the poorest and most vulnerable human beings
- ➔ Understands poverty not only as a personal circumstance, but places it within the context of the community, the government and international society.
- ➔ Offers better focus on root causes of poverty by stressing the accountability of duty-bearers
- ➔ Offers a dynamic view on poverty by including a focus on power balances and politics through the inclusion of the full range of inalienable and indivisible rights
- ➔ Offers legitimacy through a common and internationally recognised framework for development
- ➔ Recognises and assists states in fulfilling their international obligations towards their citizens without discrimination
- ➔ Enhances empowerment by building accountable relations between state structures, social groups and the individual
- ➔ Has considerable potential to achieve positive changes in people's lives due to its focus on injustice, inequality, discrimination, exploitation and denial.

HOW TO GET GOING

This section offers practical guidelines for how an organisation can begin to use RBA in its work. It presents the human rights principles often associated with an RBA and translates these into four focus areas that have a more practical applicability in relation to development work.



HOW TO GET GOING

Based on an understanding of what RBA is, this section will show how RBA can be put into practice. Rather than a comprehensive overview, this is an illustration of the fundamental stages and issues that need to be dealt with when applying RBA to actual development programmes.

Human Rights and Development – Four Focus Areas

RBA enriches and enhances development initiatives by bringing a lot of existing elements of development such as gender, participation, and empowerment into a coherent framework. Also, it adds a number of missing elements to current activities such as a focus on law, policy and accountability, on vulnerability and on the role of the state, and the interrelation between rights-holders and duty-bearers.

RBA is defined as an approach that integrates the norms and principles of the international human rights system into development work. This understanding of RBA has to a great extent been elaborated and promoted by the UN, who have established a list of basic **human rights principles** of consequence for development initiatives². The number and order of these principles can vary slightly, but they are generally consistent and refer to the same ethical impetus of ensuring justice and dignity for each individual. The principles are defined as:

- ➡ ***Inalienability, indivisibility and interdependence of human rights***
- ➡ ***Empowerment and participation***
- ➡ ***Equality and non-discrimination***
- ➡ ***Accountability***

The application of these human rights principles to the development process forms the fundamental basis of an RBA. While the principles are strong, many organisations often find them difficult to operationalise. By virtue of being principles they are fundamental, abstract and guiding. They express values and need to be translated into practice.

On the basis of our experience of RBA programmes, we have elaborated these principles into four concrete focus areas, which offer clear direction to RBA programming efforts, as well as some of their most immediate implications for development.

1: See appendix 3.

Four Focus Areas:



Most vulnerable groups



Root causes



Rights-holders and duty-bearers



Empowerment

Four Focus Areas:

Focus on the **most vulnerable groups**, including issues of gender and discrimination



- Development efforts should target/include vulnerable, disadvantaged or excluded groups
- Development work should pay attention to structural and indirect forms of vulnerability and discrimination in terms of public policies (or lack thereof), local power structures or cultural practices
- Development strategies should highlight not only what is done and who is reached, but also what is not done and those who are excluded

Focus on the **root causes** of poverty, deprivation and human rights violations



- Development programmes must describe a situation not simply in terms of needs, but in terms of society's obligation to respond to the rights of individuals.
- Development approaches must be comprehensive and consider the full range of rights. This will form the basis for setting priorities
- Development should not only target economic improvements, but expand people's choices and their capabilities to exercise their rights and freedoms.
- Development efforts should target problems as they are traced through the local, national and international level

Focus on the relationship between **rights-holders and duty-bearers**



- Development programmes should be informed by the recommendations of international human rights bodies
- Development work must recognise beneficiaries as rights-holders and target their ability to claim their rights
- Development work should target duty-bearers' ability to fulfil their obligations towards rights-holders
- Development actors should use or target laws and policies to demand accountability from duty-bearers
- Development efforts should seek to install legal and administrative procedures that strengthen accountability and make it possible for ordinary people to claim their rights

Focus on **empowerment**



- Development must include beneficiaries, stakeholders and partners when deciding development strategies and goals
- Development should not only regard participation as a tool, but also as a goal for development
- Accountability is not only a concern for the outcome of development, but also for the **process** by which it is achieved and for the organisations implementing it.
- Development should promote platforms and networks for mobilisations and support peoples ability to take part in governance and claim their rights individually and in groups

Focusing on these four areas – the most vulnerable; root causes; rights-holders and duty-bearers; and empowerment– has an impact on all stages of RBA programming processes. In the following sections we will look at RBA programming phases from the perspective of these four areas. We will look at three basic steps of programming:

1. Analysing the context: What issues, actors, problems and solutions to focus on.
2. Designing the programme: What to do about it.
3. Implementing and evaluating: How to carry this out in practice and how to learn from it.

Analysing the Context

RBA PROGRAMMING STEP 1:



Programming Step 1: Analysing the Context

RBA uses human rights standards and principles to place seemingly local problems of poverty and deprivation in a national, regional and global context. This positioning is one of the most important added values of RBA as it gives development work a broader and more complex perspective. Analysing the context, the problems and the stakeholders involved in human rights terms is therefore crucial for any RBA programme. A good and thorough analysis can be a cumbersome task, but it is part of the fundamental groundwork. The process of analysis can be divided into three stages:

1. **Problem identification**
2. **Problem analysis**
3. **Stakeholder analysis**

Problem Identification

The first step towards RBA programming is to make a broad, overall assessment of the situation in the development area that you want to address – be it food security, legal aid, HIV/AIDS etc – in the specific country or region where you are working. It is important to assess what national policies exist in relation to the issue you want to address, what the authorities, civil society and donors are doing (or not doing) and what international actors such as the UN have highlighted or recommended.

The next step in the analysis is to identify the most relevant focus. This will often be the core problems of the most vulnerable groups or a problem shared across a number of groups. There will often be a number of vulnerable groups. If, for instance, you work with food security programming, they may comprise such diverse categories as the landless, the internally displaced and female-headed households.

One way to decide on your focus is to list all the vulnerable groups and to identify the most vulnerable groups and their main problems. Gender aspects of vulnerability are often given specific attention. Other aspects of vulnerability include:

- Limited productive and economic means
- Lack of education
- Poor health
- Lack of power and influence
- Denial of access to services and information
- Lack of recognition in policies and development plans
- Religious-, caste-, race-, or ethnic-based stigma and discrimination

When identifying the core problems of the most vulnerable groups it is important to think broadly and include issues such as economic deprivation, discrimination, cultural practices etc. If, for instance, you work with a HIV/AIDS programme and have identified sex-workers as the most vulnerable group, you might have come up with the following set of problems:

- Economic deprivation leads to transactional sex
- Cultural practices force young women to have sex
- Stigmatisation prevents women from being HIV-tested

On the basis of this overall assessment you will be able to define i) the most vulnerable groups; ii) which groups and what problems that are not addressed by other development actors; and iii) where your organisation has a comparative advantage. This should direct you towards a set of prioritised target groups and problems that you want to focus on. It is important to strive to include the most vulnerable groups or shared root causes of vulnerability in your focus. Sometimes it may be difficult to target vulnerability directly, but it should, however, always be taken as the point of departure

ensuring that it is included in your thinking, and that the vulnerable as a minimum integrated as secondary or indirect target groups. You should keep in mind that focusing on the most vulnerable should not necessarily be done to the exclusion of other less vulnerable groups or the poor in general. What is important is to ensure that their problems are included in your project.

Once the focus has been identified, the next step is a much more in-depth analysis.

Problem Analysis

Once specific groups of vulnerable people and sets of issues have been selected as your focus, it is necessary to understand the problems and actors in more detail.

As a first step, you need to define the key human rights issues related to each problem and what rights violations this implies. This will help to define what the ideal situation should be for the vulnerable group according to international standards, and also point to the relevant national legal and policy framework, where some of the main deviations occur.

It is important to keep in mind that human rights are interlinked. Rights violations are likely to have a multitude of immediate causes and root causes, which need to be captured in the problem analysis. It is one of the most important aspects of RBA that it links the problems of the individual rights-holders with the state's obligations at national level and the international community's responsibilities at the global level.

As pointed out in the first section, there are a number of root causes to poverty – and deprivation is seldom caused simply by lack of resources. Often it is the consequence of a lack of *access* to resources for reasons of race, caste, belief or place of origin – i.e. because of discrimination – and specific groups within society tend to suffer from such multiple deprivations of rights.

Discrimination may be cultural, but it can also be the product of legal inequality in status and entitlement. Social norms and values can also lead to discrimination – within households, on a local level, nationally and even globally. Thus, in an RBA perspective there is more to poverty and deprivation than lack of clean drinking water, seeds, medicine, tools or roads. Guiding questions for this analysis of root causes include:

- Do law and policy adequately address the identified problem?
- Is there awareness of and willingness to solve the problem at national level and is action being taken?
- Are relevant state services adequate – i.e. both available and accessible – to the vulnerable group? (health services, resources, information, courts etc)
- Is sufficient information accessible to the vulnerable group?
- How do cultural or customary laws and practices and local or social norms relate to the problem?
- Are elements of passive or active discrimination involved in the problem?
- Is there a gender dimension to the problem?

A central element of RBA is that the legal and policy environment is regarded as a dominant root cause for rights deprivation and violations. While human rights are formulated as international law, national laws and policies are often more important in regulating national practices. These two levels – the legal and the policy level – are of course interconnected, but only the legal provisions are enforceable.

The legal level includes:

- International human rights law
- Regional human rights law
- National Constitutions
- National legislation.

The policy level includes:

- Policies, strategies and action plans
- Customary and religious laws, practices and values (some countries apply religious legislation as formal legislation. Customary law may also in some cases be regarded as part of formal legislation).

You do not need to undertake a full legal and policy analysis at this stage, but it is important to understand how law and policy – or their absence – are potential root causes of the specific problem. It should also be recognised that good laws and policies already in place, which are improperly enforced/implemented, may become an important tool to remedy the problem.

The central question is whether existing laws protect the rights in question, aggravate the problem, or discriminate against the vulnerable group. To answer this question a number of issues need to be determined, including:

- Are the relevant conventions or treaties ratified by your country?
- Are the relevant rights recognized in the constitution?
- Do relevant national laws and policy regulations correspond to international human rights standards?
- Does national law or policy relate to the specific problems of the vulnerable groups?
- Does national law or policy adequately guide customary laws and practices, which are related to the problem?
- Are laws upheld and enforced?
- Are there systems of redress?

Clarifying these issues is a key element in defining the relationship between rights-holders and duty-bearers in the final phase of the analysis.

Stakeholder Analysis: rights-holders and duty-bearers

The aim of a stakeholder analysis is to understand the characteristics, interests and expectations of groups or individuals likely to be important in your project. In this way you find out who needs to do what. Who has a vested interest in the present situation, and thus might oppose changes, as well as what forces – especially in civil society – should be empowered in the process. RBA programmes are holistic and often require new and unusual alliances. Faith-based development NGOs might pursue partnerships with bar associations and local women's groups might team up with international confederations of unions or with journalists.

Stakeholder analyses are carried out in most development programmes, but a central issue in RBA is that it always seeks to identify who is responsible for addressing a given problem in terms of rights and obligations. It may not be possible in relation to all issues, but once something has been identified as a human rights problem, it is a basic human rights principle that rights always correspond to specific obligations. Consequently, to apply RBA you need to identify the rights-holders and the corresponding moral or legal duty-bearers. They are the main stakeholders of the programme and both rights-holders and duty-bearers have issues – be it deprivation or neglect of obligations – that are interconnected and need to be addressed in a holistic manner.

It is of course of central importance to assess whether rights-holders can claim their rights through the courts or through more informal means at the community level. It is also important to remember that rights-holders have specific responsibilities. Rights-holders have an obligation to respect the rights of others and to take responsibility for their own lives and actions. Thus, a stakeholder analysis will also clarify what should be expected from the vulnerable themselves. Are they able to influence their own situation? What are their capacities? How can they use and strengthen these capacities in order to obtain maximum empowerment?

When identifying the rights-holders it is important to be as specific as possible:

- Who are the rights-holders?
- What are their immediate needs?
- Are they aware of their rights or how and where to claim them?
- What are their assets and capabilities?
- How are they organised?

The state is the primary legal duty-bearer. The duty of the state extends to all its bodies such as government, parliament, local and national authorities, the legal and the educational system, police and many more.

As mentioned in the previous section, there are also moral duty-bearers, i.e. individuals and institutions that have the power to affect other people's lives. Local leaders, companies and civil society organisations are duty-bearers – even though they are regarded as rights-holders in other respects.

Duty-bearers will vary from problem to problem and it is an important part of the analysis to define them as specifically as possible:

- Who are the duty-bearers? Are they legal or moral, governmental or non-governmental?
- What are their characteristics in terms of resources and capacity?
- Are they to be found at community level, national level, or international level and how do they interact with rights-holders?
- What are their obligations in relation to the specific problem?
- Do they meet their obligations? Are they aware of them? Do they recognise them?
- If they do not meet their obligations, why not?
- What is their position on the problem?

Once the duty-bearers and their specific duties are identified it is equally important to define what to expect of them.

- What should they do to respect the relevant rights? Should they, for instance, refrain from evicting people unlawfully from their homes.
- What should they do to protect the relevant rights? Should they, for instance, ensure that companies provide a safe working environment for their employees.
- What should they do to fulfil the relevant rights? Should they take positive measures to put a realistic programme together that ensure access to health care.

The analysis must determine whether the duty-bearers are able to meet these obligations and undertake these actions. If the answer is yes, how do we get them to act. And if the answer is no, why is this so and what should be done?

It is important that key stakeholders participate in the process of developing the analysis. You may carry out interviews or try to organise stakeholder meetings. Rights-holders themselves are the best people to describe and prioritise their problems and involving duty-bearers at an early stage is part of letting them know about their obligations. Be sure that what you are told is reflected in the choices you make.

With this analysis in hand – the problem identification, the problem analysis and the stakeholder analysis – you should have identified the key problems and actors involved in human rights terms. The below table summarises the whole analysis process in relation to the four RBA focus areas. The next stage is to design the programme and formulate the objectives and actions.

Four Focus Areas: Analysing the Context

RBA Focus on ...

Analysing the Context:

- Identifying the problem based on relevant human rights data.
- Analysing the problem by defining the most vulnerable groups and the root causes.
- Defining the stakeholders in terms of rights-holders and duty-bearers.

... the Most Vulnerable



The analysis should take the most vulnerable groups as the point of departure.

The analysis should define their vulnerability, their problems and the rights deprivations and violations they suffer.

The analysis should open up for their inclusion as primary or secondary target groups in future programmes.

... the Root Causes



The analysis should seek a holistic understanding of the identified poverty-related problems including social, cultural and economic issues and issues of discrimination, exclusion and inaccessibility.

The analysis should look beyond immediate causes and problems and towards underlying factors that shape people's lives such as policies, laws, norms, practices and knowledge.

The legal and policy environment of a given problem should be given special attention in identifying root causes for rights deprivations and violations.

... Rights-holders and Duty-bearers



The analysis should identify the interests, potentials, and powers of the actors related to the problem in terms of their position as rights-holders and duty-bearers.

The analysis should identify rights-holders and duty-bearers (both legal and moral) as specifically as possible.

It should be established whether or not the stakeholders know and recognise their rights and obligations and whether they have, or do not have, the capacity to claim and meet them

Relevant mechanisms for redress should be identified and assessed

... Empowerment



The stakeholders should be included in the drafting of the analysis and consulted on its conclusions and recommendations.

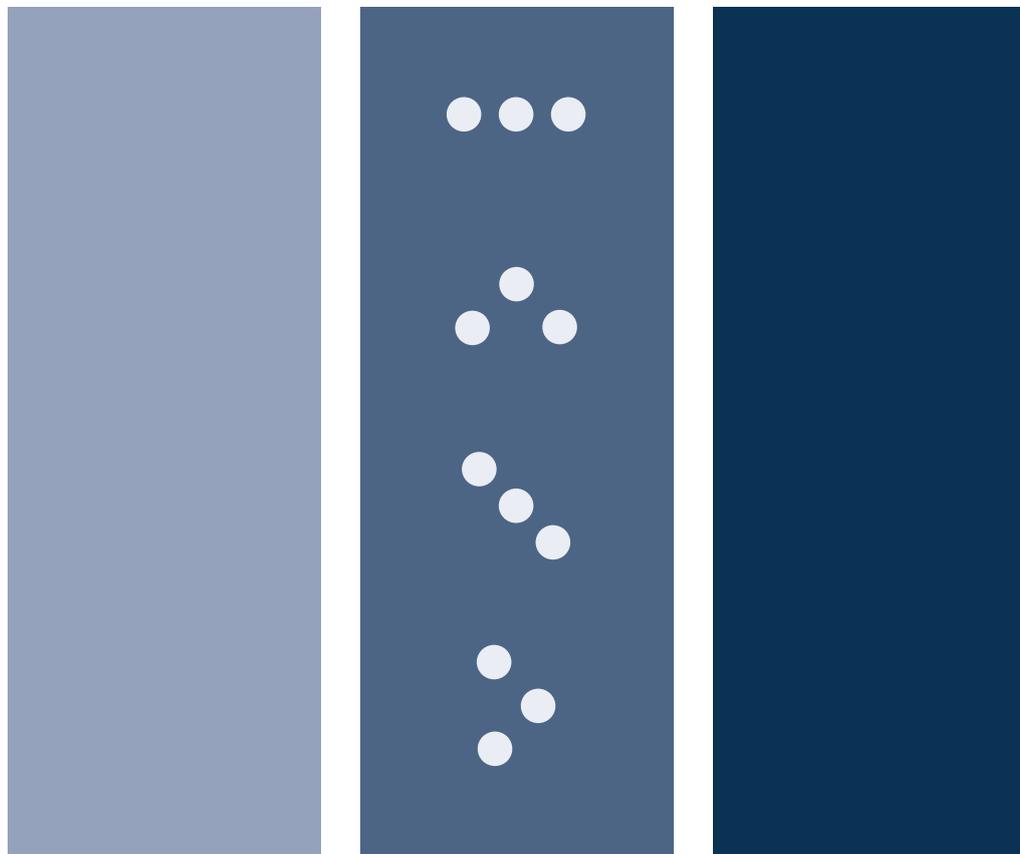
The participation of stakeholders and partners should be meaningful and adequately supported by enabling structures and feedback processes.

The analysis should seek to identify means and mechanisms for strengthening the participation of the poor and their control over resources

The analysis should identify existing and potential groups, platforms and constituencies as well as strategies for further mobilisation of the poor

Designing the Programme

RBA PROGRAMMING STEP 2:



Programming Step 2: Designing the Programme

The analysis should have provided you with the focus of the programme i.e.

- the core problems;
- the rights issues to be addressed;
- the primary and secondary target groups (by defining the issues of the most vulnerable groups and identifying rights-holders and duty-bearers)

To operationalise the chosen focus you need to design a programme focusing on the core problems and including both rights-holders and duty-bearers. Such a process will typically follow standard programme design methodology like Logical Framework Approach with a number of objectives and ensuing activities and outputs aimed at fulfilling these objectives. Whatever approach you decide to take, a number of elements are significant to RBA programming.

Objectives

With the core problems identified, whether they be problems of access to clean drinking water, lack of food security or lack of treatment of people living with HIV/AIDS, the programme should be designed to address them and their structural causes.

A programme may be designed to directly alleviate the problems of the vulnerable by addressing their immediate needs, such as the provision of food or medicine or the digging of wells; however, RBA rather seeks, to add a focus on the root causes by asking why this group of people does not have food, medicine or water? Are there questions of exclusion and discrimination? Are the public systems not functioning? Who is responsible? What are they doing to address their responsibility?

When formulating objectives and outlining potential activities, the programme design should:

- Focus on both duty-bearers and rights-holders and promote their awareness and capacity and their interrelations
- Focus on synergies within sectors and pay attention to linkages between micro and macro levels
- Create special mechanisms to ensure focus on and inclusion of the poorest and the most vulnerable
- Ensure ownership and meaningful participation
- Include mechanisms for complaint, resolution and redress

Both programme partners and stakeholders should play a significant part in the design of programmes. It is useful to organise a workshop with partners, rights-holders and duty-bearers to gather input for the design process.

The programme's objectives should reflect both an envisaged change in the lives of these vulnerable groups and an envisaged change within identified duty-bearers (even if only partial) in relation to the identified problem. See if you can formulate the objectives so they include the vulnerable group and the root causes to be addressed. Objectives should, as much as possible, relate either directly to rights or to elements of human rights standards, such as increased participation, accountability or empowerment.

When checking programme objectives the following list can be applied:

- Do the objectives relate to human rights law and/or to human rights principles?
- Are the objectives clear on the particular rights-holders to be addressed?
- Do the objectives point towards changes for both rights-holders and duty-bearers?
- Do the objectives reflect the problems raised in the context analysis as the most relevant for the targeted rights-holders? Do they reflect the priorities voiced by the vulnerable groups themselves?
- Do the objectives relate to the prioritized root causes, including any policy and legislative changes needed?

Projects and Activities

When objectives have been designed in accordance with the focus of the programme, activities need to be formulated to fulfil the objectives.

In general, all projects and activities should:

- Actively use and promote human rights
- Relate to and complement other human rights initiatives by such actors as the UN, the State and international as well as national NGOs
- Target root causes, including issues of exclusion, disadvantage, discrimination or non-fulfilment of rights
- Have an explicit gender dimension
- Ensure the participation of the relevant rights-holders or duty-bearers in the implementation of the project.

The concrete activities will obviously be very specific to the given focus and area of development that you work with. Formulation of activities will therefore not be dealt with here.

That said, RBA projects and activities undertaken by civil society organisations – in addition to addressing immediate problems through services – typically add dimensions to development within three main areas:

- 1. Capacity building**
Projects and activities in this area could include research, development of handbooks, manuals or training materials, education, awareness raising activities, organisational or network development (including your own organisation!)
- 2. Strengthening of governance structures, state and civil society dialogue and mechanisms for rights-holder and duty-bearer interaction**
Projects and activities in this area could support change in legal and administrative procedures and institutions at micro level in the communities or at macro level in state or interstate bodies; building dialogue and interrelations between rights-holders and duty-bearers; or promote networking.
- 3. Advocacy and practical actions on violations**
Projects and activities in this area could encompass campaigns, promoting changes in specific laws, policies or practices, legal aid or development of legal literacy.

These three areas complement traditional development interventions and should be seen as mutually reinforcing. An RBA programme that focuses on one area of intervention may achieve some impact, but programmes which comprise activities across these three areas – of course with respect to rights-holders' needs – are more likely to be effective. This also reflects the clear priority in RBA programmes to address root causes and work with both rights-holders and duty-bearers and to strengthen the interconnections between them.

Four Focus Areas: Designing the Programme

RBA Focus on ...

Designing the Programme:

- *Setting the objectives according to the focus derived from the analysis.*
- *Formulating projects and activities that can fulfil programme objectives.*

... the Most Vulnerable



Programme objectives should reflect the priorities expressed by the vulnerable groups themselves.

Programme activities should increase empowerment and inclusion of vulnerable groups.

Programme outcomes should result in improvement of the human rights situation of vulnerable groups

... the Root Causes



The programme should address the root causes, including policy and legislative changes, which were prioritised in the analysis.

Programme objectives should relate to human rights law and human rights principles

... Rights-holders and
Duty-bearers



The programme should point towards changes for both rights-holders and duty-bearers – for rights-holders in terms of empowerment and inclusion and for duty-bearers in terms of strengthened accountability, interest and responsiveness.

Programme activities should focus on the interrelationship between rights-holders and duty-bearers by creating synergies within sectors, linking micro and macro levels and establishing structures and competencies from both sides.

... Empowerment



The programme should operate with clear and transparent standards and objectives.

The programme design should include and budget for special mechanisms to ensure inclusion of the most vulnerable groups and meaningful participation by relevant stakeholders.

The programme should develop mechanisms for complaints and redress, which can be applied both internally to the programme as well as externally to include duty-bearers and relevant institutions.

The programme should promote constituency building and development of platforms and networks for promoting claims of rights-holders

The programme should actively seek to strengthen and facilitate the inclusion and empowerment of rights-holders through awareness raising, capacity building, organisational and institutional development and support advocacy.

Implementation, Monitoring and Evaluation

RBA PROGRAMMING STEP 3:



Programming Step 3: Implementation, Monitoring and Evaluation

Implementation of programmes is of course what really counts; where plans have to materialise in reality. A primary challenge for an RBA programme is to ensure that programmes not only in words but also in deeds remain true to basic human rights principles. Monitoring and evaluation is one of the main tools to ensure this.

While implementation is what counts, most changes should already have been introduced as an integrated part of a rights-based design process. Basically, the implementation, monitoring and evaluation of the programme should follow the plans that have been made.

How you implement and monitor is again dependant on the development field and the specific projects and activities you have designed, but some general issues concerning RBA programmes can be highlighted.

Implementation of the Programme

As noted earlier the main challenge of implementation is to ensure that the principles that have underpinned the analysis and design are not lost in the pragmatics of carrying out the programme. Once a programme is rolling, project implementers sometimes loose sight of the main objectives and focus instead on the immediate production of project outputs. It then takes an extra effort to, for instance, ensure that the participation of vulnerable groups is in fact taking place – and in a meaningful way. When implementing an RBA project it is important to continuously focus on the role of duty-bearers and their conduct. It is however also important to turn the human rights principles inward and seek to ingrain them in the way that your own organisation and its employees act. Rights-based organisations and their staff should move forward by setting an example and should focus on ensuring that the values of dignity, accountability, non-discrimination, participation are embedded in project implementation procedures as well as every day behaviour and attitudes.

Focusing on the Vulnerable

Projects tend to take on a life of their own. It is important to keep in mind that the project has been developed for the rights-holders and that it is their concerns that should remain in focus. Once a project is under implementation it is so easy to be paced by targets, time plans, indicators, reports and budgets. While all these are important for projects, the rights of the poor should remain at the centre of the programme and ensure that its implementation is in fact addressing what they say they need.

Root Causes

When distributing food or building a well, changes can be immediately registered, but changing root causes is a long process and it can be difficult to remain motivated during implementation, when changes do not occur as an immediate result of action. However the solutions brought about by RBA are also likely to be more fundamental.

Addressing root causes is difficult. They often require the interplay of a number of different skills, and rights-based programmes often need to be more multifaceted than traditional programmes. You will need to work both at local and national level, with law, and policy as well as with organisational and community empowerment. The sheer scope of RBA often represents a problem for smaller organisations. A central element of implementing rights-based programmes is building platforms and networks between different organisations to cooperate on addressing the root causes identified in your project. There may be a media organisation or newspaper that shares common values; there may be a bar association that is willing to extend its services to include some of the issues that you are dealing with. You should identify and approach these stakeholders already when designing the programme to ensure that you have access to the skills you need. During implementation you have to keep the platform interested, motivated and functioning.

Working with Rights-holders and Duty-bearers

Strengthening the mechanisms and interfaces between rights-holders and duty-bearers is a fundamental element of RBA and will often be integrated into the programme activities and design. Theoretical interfaces are one thing, ensuring that real, on-the-ground cooperation takes place on a regular basis is quite another. It is not enough to

put representatives from authorities and vulnerable groups around the same table. The project activities need to establish meaningful dialogue and interaction. A given RBA programme should also strive to build sustainable, jointly owned and recognised structures and institutions through which rights-holders and duty-bearers can cooperate – on their own and also after project activities are completed.

Accountability

When demanding accountability from duty-bearers it is important to remember that you, as an organisation, are a moral duty-bearer yourself. This requires an effort to ensure accountability in your actions - not only in terms of achieving programme outcomes and results, but also in terms of the processes undertaken and the standards and values adhered to during implementation.

Thus, your organisation should also adhere to human rights principles. The challenge is to translate these principles into practical standards and policies that determine how your organisation acts and operates internally, in projects, and in relation to the general public. Programme implementation needs to be documented, allowing partners, stakeholders and oversight mechanisms to have access to relevant information, including financial information such as project budgets, contributions from donors, project accounts as well as the accounts of the organisation itself.

Ensuring Empowerment

Programme partners and target groups have to be heard through the mechanisms for inclusion and complaints that have been incorporated in the programme design, and programme needs to be flexible enough to include and adapt to such input.

To be able to participate, the stakeholders need to know what is happening, when and why. It is not enough simply to introduce the programme in the initial phase. Albeit time consuming, a constant flow of information between you and the relevant stakeholders needs to be created to ensure active and informed participation.

Sounding boards and steering committees with stakeholder participation is obviously a basic element to ensure participation, but public meetings, media campaigns, support to self-mobilising groups, awareness raising and targeted educational activities also facilitate inclusion. If participation is not structured, participatory events may often be captured by the most powerful of the participants. Organisations tend to establish their own project structures. Too many structures may weaken coherence and involvement. If community or other project committees already exists see if you can use them, but make sure that the platform is one where also the poorest and most vulnerable can participate.

Project structures have to be taken seriously in terms of the allocation of human and financial resources. They also need to be adequate – i.e. available and accessible – for the target groups. It is, for instance, often of fundamental importance that inclusion mechanisms also reach illiterates.

Time is a valuable commodity and participation fatigue is common when people cannot see the direct result or effect of what they say or do. Make sure that participation is not just meetings and information gathering, but that you return to communities with results and information, and that you include people in decision-making and encourage the self mobilisation of the rights-holders in question.

You should remember that participation is more than just participation in a project. The project should be a springboard for strengthening public participation. In general, RBA is about supporting people who wish to act on their problems and demand their rights on their own and in their own community and help them create and sustain the inspiration and networks to act and to organise themselves.

In sum, when implementing RBA programmes you should seek to:

- Ensure that focus remains on the vulnerable and that they are participating and benefiting from your project
- Work in networks and use platforms to broaden your scope and capacity for multifaceted projects.

- Include rights-holders and duty-bearers as active agents in the implementation of your project and ensure that you promote their ownership and capacity.
- Establish clear standards for your implementation routines based on human rights standards and ensure that they are conveyed to all stakeholders.

Monitoring and Evaluation

Monitoring and evaluation is an important way to ensure that we implement according to plan and reach the desired results. In that respect, RBA is similar to other development approaches, but RBA adds a number of dimensions to monitoring and evaluation:

RBA programme objectives often include elements that relate to behaviour or conduct e.g. that rights-holders are more organised and active in claiming rights or that duty-bearers have changed their conduct. Thus, it becomes important to monitor behaviour and conduct as well as to evaluate how this has added to the lives of rights holders.

In RBA it is important not only to monitor and evaluate results but also the **process** by which they are achieved. It is a core principle of RBA that processes of development should rest on human rights principles and we thus have to continuously ensure that project processes are accountable, participatory and non-discriminatory.

When monitoring RBA the focus may be somewhat different, but the technique is not, and you should draw on existing tools. The following section will focus on what should be monitored and measured.

Monitoring of Process

As a starting point RBA programmes should do **'no human rights harm'**. In the attempt to improve one human right, you must make sure that you do not end up violating other human rights, e.g. by spraying hazardous chemicals to produce more food. Any complaint or indication that your project has a negative effect should immediately be investigated and remedied.

You also have to monitor to ensure that human rights principles are integral to your work. For example, you have to monitor possible overt or hidden discrimination in the way that your projects are implemented. Unintentionally cultural and societal practices often end up embedding themselves in project practices. Men are hired to positions rather than women, only a certain group shows up for community meetings etc. An important element when monitoring discrimination is to use sufficiently **disaggregated data**. It may be that 'women' are not discriminated against, but it could be that young women from a specific ethnic group or women heading their own household are in fact excluded.

Monitoring should be regular and ideally include feedback or **complaint mechanisms** to allow genuinely participatory monitoring and acknowledge stakeholders' status as rights-holders. An important element of complaint mechanisms is that rights-holders are aware of your goals, intended outcomes and implementation standards.

Finally, it is important to monitor potential conflict. When right-based projects are successful they change the power relations between the rights-holders and the duty-bearers, which is always a source of conflict. Tension is an expected part of rights-based programmes, but these tensions should be monitored to ensure that they do not break out into detrimental or violent conflict.

Evaluating the Results

The results of your programme can basically be measured in terms of the improvement of the human rights situation of the rights-holders you are working with. In this way monitoring itself becomes a way to promote human rights. Collecting and documenting gaps and unfulfilled rights puts pressure on duty-bearers to comply with human rights standards. Thus, the monitoring and evaluation of RBA programmes offers legitimacy and underpins future interventions and prioritisations.

What should be monitored in order to measure your results? The answer is change, positive change. RBA programmes are ultimately about improving people's lives and it is this change for the better (or lack thereof) that monitoring and evaluation efforts should focus on. What are the **changes in people's lives** that the project and programme has contributed to? Which rights are being better fulfilled? Which rights are no longer being violated?

The changes you seek to generate and measure are of course directly linked to the area you work with. Some changes may be directly measurable in people's lives while others focus directly on the duty-bearers and their behaviour which refer to a general distinction in human rights assessments, emphasising on the one hand duty-bearers' compliance and commitment to human rights obligations and on the other hand rights-holders enjoyment of human rights. It may be important to monitor both levels.

Another way to present more general dimensions of change or results relevant to RBA, can be summarised as follows³:

Changes in policies and practice

- Are duty-bearers more accountable for the fulfilment, protection and respect of the rights of the target groups?
- Are policies developed and implemented? Do the attitudes of duty-bearers take into account the best interests and rights of the target groups?

Changes in participation

- Can the target group claim their rights and are they supported when they do so? Do spaces and opportunities exist which allow participation?

Changes in equal treatment and non-discrimination

- Do policies, programmes, and community services reach the most vulnerable groups?

Changes in civil society's capacity to support human rights

- Do networks, coalitions and/or movements add value to the work of their participants?
- Do they mobilise greater forces for human rights change?
- Are processes of advocacy being strengthened?

3: From Joachim Theis. Rights-based Monitoring and Evaluation - A Discussion Paper. Save the Children, April 2003.

Four Focus Areas: Implementation, Monitoring and Evaluation

RBA Focus on ...

Implementing, Monitoring and Evaluation:

- Translating RBA principles into practical standards for implementation.
- Monitoring and evaluating project processes, final outcomes and results in human rights terms

... the Most Vulnerable



Ensure that you act towards your target group as rights-holders, not as beneficiaries

Strengthen the possibility of the most vulnerable to organise and mobilise on their own

Ensure that your modalities of implementation do not inadvertently reproduce social and cultural stigmatisation and discrimination

... the Root Causes



Engage in networks with media and other civil society organisations to ensure that you are able to reach all the relevant levels and spheres

Monitor and evaluate if you are making changes and use your results to press for further changes

... Rights-holders and Duty-bearers



Create a non-antagonistic dialogue with duty-bearers and monitor tension to ensure that power struggles do not descend into serious conflict

Work to establish and strengthen the mechanisms that interrelate rights-holders and duty-bearers in practice

... Empowerment



Include rights-holders and other stakeholders in the implementation and evaluation of the project

Monitor the process by which the project is implemented to ensure that human rights standards are implemented in practice

Ensure transparency and accountability through clearly formulated organisational principles and implementation standards and strong information systems

Monitor whether rights-holders have become more aware of their rights, better organised and able to claim their rights more effectively

PERSPECTIVES

PERSPECTIVES

This publication has outlined what RBA strives to do, what you need to know to apply RBA, and most importantly how you can start to carry it out in practice. In sum, these pages have aimed to support your efforts to gain more insight into the benefits that RBA can have for your work and for your organisation.

There are a number of general challenges to the continued application of RBA, which have been raised as comments and concerns throughout the publication. It can be cumbersome, it requires long-term planning and it can demand capacities – e.g. in law – that need to be established and further developed. Furthermore, human rights are sensitive in many contexts since they address power and injustice and can provoke governments and decision makers into non-cooperation or even retribution. Finally, it is worth remembering that the development and systematisation of RBA tools, guidelines, policies and strategies is still an ongoing process.

But RBA continues to gain ground in development thinking and practice. RBA introduces a new vocabulary of rights and legal terms and proponents of this approach tend to present RBA as revolutionary. It is true that RBA, in essence, offers a radical focus on rights rather than needs and that it is a conceptual shift to base development so strongly on justice and universal human dignity. It is also an innovation to link development so directly to the international human rights framework, which both strengthens the focus on the most vulnerable and emphasises the relationship between micro and macro levels, as well as between rights-holders and duty-bearers.

All in all, RBA widens, deepens and strengthens development interventions by drawing new perspectives, facilitating new alliances and supporting a coherent framework that reaches the web of power relations and causes across all spheres of society. In this way RBA offers a response to poverty that on the one hand grasps the complexities of peoples' lives and on the other hand provides precise and meaningful tools for development actors.

That said, it is hopefully also apparent that RBA in many ways offers simply a re-structuring and re-formulation of the very well-known and hard-earned truths of development thinking. Apart from the legal focus, most aspects of RBA – e.g. empowerment

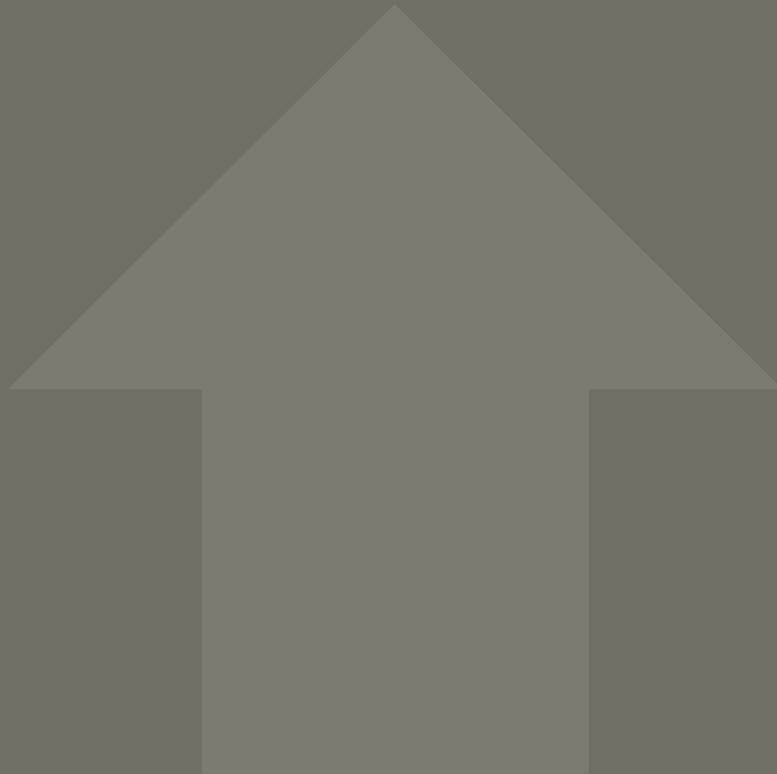
– should be easily recognisable. However, it is our experience that even the most resourceful development actors regard RBA as so radical and so challenging that they are reluctant to adopt it. And this might represent one of the most significant weaknesses of RBA – its air of offering a revolution and its conceptual top-heaviness. In practice, many of you, who consider working with RBA are skilled practitioners of empowerment-based and participatory development processes, who can benefit a lot from the framing and the perspectives that RBA offers. In our opinion, smaller organisations in countries challenged by poverty can gain from RBA if they allow themselves to adapt the thinking to their own environment, needs and capacities, if they take the application of this approach step-by-step and pick and choose the aspects of RBA that seem most relevant as a point of departure. With time and experience, one can choose to become a more or less fully-fledged rights-based organisation (without taking all members and staff through law-school), but it does not happen overnight. And it does not work wonders by itself.

It is a basic tenet of RBA that society can be transformed. With its focus on law and the root causes of poverty, proponents argue that RBA releases a new transformative potential for development. This might be the case in the political realm – better laws, better institutions, better governments and empowered citizens. But one should also remember that there are elements of development, which are beyond the immediate reach of political reforms such as lack of capacity, of education, of infrastructure, etc. Thus, the all-encompassing character of RBA concepts, based as they are on universal human rights, can run the risk of promising too much. RBA is not a panacea. It is a tool – among others – which has good potential to combat poverty in a way that brings the people whose rights are denied by poverty to the centre of the analysis, the implementation and the evaluation of any response to poverty. If the actual empowerment and meaningful inclusion of the most vulnerable are underplayed, RBA runs the risk of becoming mere rhetoric and jargon.

In conclusion, we hereby advocate a pragmatic and sensible approach to the use of this booklet and to the application of RBA in general, whilst keeping in mind the fact that RBA should always be addressed with sincerity, by adhering to basic human rights principles and with eyes fixed on the central goal – achieving justice.

APPENDICES

- *The RBA Basic Checklist*
- *An introduction to the International Human Rights Framework*
- *Fundamental Human Rights Principles*
- *RBA References Online*



APPENDIX 1: THE BASIC CHECKLIST

Important Elements in RBA*:

1. It seeks to further the realization of human rights as laid down in the universal declaration and other international human rights documents as well as in national constitutions
2. Programmes contribute to the development of capacities of duty-bearers to meet their obligations and of rights-holders to claim their rights.
3. Human rights principles guide all programming in all sectors and in all phases
4. Programmes, priorities, and objectives are based on recommendations and monitoring mechanisms of international human rights bodies
5. Empower those vulnerable and discriminated against to claim their rights
6. Strengthen accountability and capacity of legal and moral duty-bearers
7. Focuses on the legal system and its mechanisms
8. Development should seek to establish accessible, transparent and effective measures of redress
9. Both top-down and bottom-up approaches are used in combination/synergy
10. Development work must respond to the needs of all groups, also those without immediate 'development potential'.
11. No goal or right can be pursued to the detriment of other rights
12. Development approaches must be comprehensive in considering the full range of rights, this does however not preclude priority setting in programming.
13. Development work should target not only immediate problems, but also seek to expand people's choices and capabilities.
14. Development strategies must include people in the decision of development strategies and goals. People are recognised as key actors in their own development, rather than passive recipients
15. Development programmes should not only ascribe to participation as a tool, but also as a goal for development
16. Development efforts should target vulnerable, disadvantaged or excluded groups
17. Employing gender sensitive approaches
18. Development work should pay attention to structural or indirect forms of discrimination in terms of public policies (or lack thereof), local power structures or cultural practices
19. Development strategies should highlight not only what is done, and who is reached, but also those that are excluded.
20. Programmes should enhance the oversight and monitoring role of civil society
21. RBA takes advantage of available legal and administrative systems
22. Goals and targets must be clearly stated
23. Monitoring of both outcome and process

*Not all themes are unique to RBA, some are also part of other development approaches.

APPENDIX 2 : THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK

RBA is characterised by methods and activities where the legal and moral obligations inherent in human rights are integrated into development efforts. This integration reinforces duty-bearers' respect for and realisation of human rights on the one hand and on the other hand empowers individuals and groups – rights-holders – to claim their rights.

Human rights standards and principles, and the systems and structures that enforce them, are obviously important to understand when working with RBA. This appendix offers a brief overview of some of the fundamental aspects necessary for getting started.

The Human Rights System

Human rights are part of international law, which is primarily directed towards states and assigns these with rights and obligations. Human rights law and humanitarian law are the only examples where individuals are considered subjects of international law.

Human rights law is based on the philosophy that an individual possesses human rights simply because she or he is a human being. The obligation to respect, protect and fulfil human rights rests with the state. International human rights law, therefore, deals first and foremost with the protection of individuals – and in some cases groups – against government acts or omissions that constitute violations of individual rights.

In short we can identify human rights as:

- universal legal guarantees protecting individuals and groups against actions and omissions that affect their freedom and human dignity
- basic minimum standards based on human needs

- universal and inalienable i.e. all people are born with the same human rights everywhere, at all times, and they cannot be taken away or given up
- indivisible and interdependent, i.e. all rights are equally necessary for human life and dignity

The human rights system is, in its global context, based on the UN framework. The sources of international human rights norms are, in addition to customary law, found in two types of documents: *declarations* and *treaties* (also referred to as “*conventions*” or the more solemn term “*covenants*”).

When states sign **declarations** they assume a moral obligation, but when they sign and ratify **treaties**, they assume a legally binding obligation.

There are a number of human rights declarations and treaties. The most important are constituted by the

International Bill of Human Rights:

- The Universal Declaration of Human Rights (UDHR)
- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The most important declaration is the **Universal Declaration of Human Rights**, which has become widely recognised as a foundational and authoritative interpretation of human rights. The two main UN Covenants distinguish between civil and political rights on the one hand and economic, social and cultural rights on the other. In spite of this or any other classification, the international human rights community stresses that all human rights are inalienable, universal, indivisible and interrelated.

The **Covenant on Civil and Political Rights** has 148 signing parties, while the **Covenant on Social, Economic and Cultural Rights** has 145. Both covenants were adopted on December 16, 1966 by the UN General Assembly. Together these two covenants legally codify the principles from the Universal Declaration.

Both covenants, as all human rights treaties, have a monitoring body consisting of independent, international experts, to which the signatory states are obliged to report every four years. On the basis of the report this body – often referred to as a Treaty Body – will identify problems and issue recommendations for the next period. Civil society may enter into these deliberations by issuing parallel reports. Some treaties, including the Covenant on Civil and Political Rights, also have a complaint mechanism, where individuals under certain circumstances can lodge complaints against their own states if a grave rights violation has taken place.

Through this system, states take on moral and legal obligations to respect, fulfil and protect the rights of citizens as laid down in the relevant international documents. A party to the covenants assumes immediate obligations.

The Covenant on Civil and Political Rights imposes, without exception, immediate obligations to *respect* and *ensure* the rights proclaimed, and to take the required action to bring about results. However, for most of the rights within the Covenant on Economic, Social and Cultural Rights (ICESCR), there is room for gradual implementation over a period of time. The ICESCR obliges the state to undertake steps with a view to achieve *progressively* the full realisation of the rights recognised in the covenant by all appropriate means. However, steps towards the goal of full realisation must be taken when the covenant has become legally binding for the states; for instance to adopt legislation and formulate policies and to ensure, at the very least, *minimum levels* of each of the rights of the covenant, that can be achieved at a given time within the maximum available resources. To provide a clearer definition of the obligations under the ICESCR a number of documents have been elaborated to define some of the terms of the covenant more clearly.

Progressive realisation does not allow a state to put implementation on hold forever, but implies that the state immediately prepares plans for the realisation of the relevant rights, moves speedily towards the realisation of those plans, and ensures that the conditions in the domain of any of the rights do not deteriorate. Further, there are clear, immediate obligations. These include undertaking and beginning to take steps towards guaranteeing the rights, to protect the marginalised and to ensure non-discrimination in relation to all rights. Furthermore, the implementation of basic education and fair and equal remuneration should be immediate and is thus not subject to progressive realisation.

By all appropriate means includes judicial remedies, financial allocations, administrative and policy measures.

Thus **maximum available resources** implies that all resources available are used equitably and effectively, that the allocation of resources is given due priority, and that the state immediately acts to ensure equal access to existing resources and a level of minimum subsistence.

Resources provided for under the covenant should be **adequate**. This means that they should be **available** in sufficient quantity and quality, they should be **accessible**, both physically and economically, and they should be **acceptable** to the rights-holders and be **adaptable** to the specific context and circumstances.

THE COVENANT ON CIVIL AND POLITICAL RIGHTS

“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”

States should:

- **Adopt the necessary legislative measures to give effect to the Covenant**
- **Ensure immediate remedy for violation before a competent judicial or administrative authority as well as the enforcement of any such remedies when granted.**
- **Ensure the equal right of men and women**

Article 6: Right to life

Article 7: Freedom of torture, inhuman and degrading treatment or punishment

Article 8: Freedom of slavery, servitude and forced labour

Article 9: Rights to liberty and security of persons

Article 10: Rights of detained persons to humane treatment

Article 11: Freedom of imprisonment for inability to fulfil a contract

Article 12: Freedom of movement

Article 13: Right of aliens to due process when expelled

Article 14: Right to a fair trial

Article 15: Freedom from retroactive criminal law

Article 16: Right to recognition as a person before the law

Article 17: Right to privacy

Article 18: Freedom of thought, conscience and religion

Article 19: Freedom of opinion and expression

Article 20: Freedom from propaganda, and freedom of incitement to racial religious or national hatred

Article 21: Freedom of assembly

Article 22: Freedom of association

Article 23: Rights of the family and the right to marry

Article 24: Rights of the protection of the child

Article 25: Right of participation in public life

Article 26: Right to equality before the law and right of non-discrimination

Article 27: Rights of minorities

COVENANT ON SOCIAL, ECONOMIC AND CULTURAL RIGHTS

Each State Party to the present convention undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measure.

States should:

- **Ensure non-discrimination or distinction of any kind, as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status**
- **Ensure the equal rights of men and women**

Article 6: The right to work

Article 7: The right to fair conditions of employment

Article 8: The right to join and form trade unions

Article 9: The right to social security

Article 10: The right to protection of the family

Article 11: The right to an adequate standard of living

Article 12: The right to health

Article 13: The right to education

Article 14: The right to free basic education

Article 15: The right to culture

APPENDIX 3: FUNDAMENTAL HUMAN RIGHTS PRINCIPLES

Where a very stringent approach to RBA may see the achievement of human rights as the end goal of development, the UN applies a broader and more holistic approach which focuses on integrating a number of human rights principles into development work.

Most organisations within the UN define a rights-based approach to development as a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed at promoting and protecting human rights.

There are many ways to define the elements that should be integrated into development work, but they are generally captured in a list of basic human rights principles of consequence for development initiatives. The number and order of these principles can vary slightly, but they are generally relatively consistent and refer to the same ethical impetus of ensuring justice and dignity for each individual. Broadly speaking, the common principles and their elements can be summarised as follows:

1: Inalienability, Indivisibility and Interdependence

The principle of inalienability entail that every woman, man and child is entitled to enjoy her or his human rights simply by virtue of being human; the right cannot be given up or taken away. Indivisibility and interdependence imply that all human rights are equally important and equally essential to ensure the respect, dignity and worth of every individual and that the realisation of one right will depend on the realisation of others. These principles promotes a holistic and comprehensive perspective on development that encompasses micro and macro levels and gives attention to the complexities and root causes of poverty.

2: Empowerment and Participation

The principles of empowerment and participation entail that all people are entitled to participate actively and meaningfully in society to the maximum of their potential. Participation is thus not only a method to ensure ownership and sustainability in development, but also implies empowerment and public participation. It requires the provision of a supportive environment, including institutions and information that enable people's access to the public decision-making processes and the exercise of power in general. Increasing participation signifies a process by which people's ability to exercise their influence or claim their rights is improved and through which people are given control over the means necessary to control their own lives. Empowerment and participation should be enshrined both in the process of development and as a fundamental goal of development itself. Consequently, people, whose rights are deprived, must be brought to the centre of the development process. If not, development interventions run the risk of reproducing the power relations and the perspectives that produced the rights deprivations in the first place, and people living with injustice are likely to be portrayed as defective, intrinsically dependent and responsible for their own situation.

3: Equality and Non-Discrimination

The principles of equality and non-discrimination are among the most basic tenets in the human rights framework, obliging us to recognise that all individuals are equal as human beings and by virtue of their inherent dignity. It demands that all human beings are entitled to their human rights without discrimination on grounds such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status in law and in practice in any field

that is regulated and protected by public authorities. Within development it should be ensured that all have equal access to the process and benefits of development. Safeguard mechanisms must be established and special attention given to address issues of discrimination, inequality, and vulnerability.

4: Accountability

Accountability within the human rights framework focuses especially on the accountability of duty-bearers towards rights-holders and demands on the state to be answerable for the observance of human rights and to comply with standards, laws and policies. Where states fail to do so, means that enable rights-holders to seek and obtain redress should be available. Adherence to the principle of accountability should also be demanded from any development actor whose actions have an impact on the rights of people. Measures for accountability must be accessible, transparent and effective. Raising the level of accountability in development entails that rights-holders and duty-bearers (as well as the corresponding system of laws, policies, and institutions) are identified and addressed as part of the development process.

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