

Human Rights-Based Reviews of UNDP Programmes *Working Guidelines*

June 2003

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Preface

The Bureau for Development Policy's Institutional Development Group first issued these Working Guidelines on 1 October 2002 to support reviews of UNDP programmes from the perspective of human rights and to enable reorientation of existing activities as well as the design of new programmes. The Working Guidelines were to be piloted in selected UNDP Country Offices and revised based on field experience.

This June 2003 revision incorporates the UN Common Understanding on the human rights based approach (HRBA) issued on 7 May 2003 at Stamford, Connecticut (pp. 3-5). It also incorporates new tools developed during a three-person mission to UNDP Bosnia and Herzegovina 12 - 30 May 2003, the first Country Office pilot: an HRBA Checklist and a Methodology for an HRBA Review.

The HRBA Checklist (pp. 11-12) helps Country Offices ensure that their project processes incorporate human rights standards and principles, contributing to societies governed by the rule of law and a culture of human rights, and that their project results include strengthened national capacity to realise human rights.

The HRBA Checklist also poses other questions for Country Offices about the capacity to realise human rights, the excluded and vulnerable groups in the country, and where the UNDP Programme fits in. The Checklist can be used independently of these Guidelines, as a stand-alone 1-page (back-to-back) tool as projects are designed and implemented.

The Methodology for an HRBA Review (pp. 9-10) suggests some steps that Country Offices could take if they want to conduct an HRBA review of the entire Country Programme. The rest of the document discusses specific ways to apply the HRBA to the instruments produced at different stages of the UNDP programme cycle. The Working Guidelines will continue to be revised based on field experience.

The Guidelines were written by Nadia Hijab (consultant), and benefited from comments and inputs from UNDP and UN staff and human rights experts, including Thord Palmlund, Simon Munzu and Arusha Stanislaus (UNDP New York), Patrick Van Weerelt (UNDP Geneva), Amparo Tomas (UNDP Philippines), Henrik Kolstrup, Moises Venancio, and the UNDP BiH Country Office team; Mac Darrow (OHCHR - UNDP partner in the HURIST Programme); Habib Hammam and Dorothy Drozga (UNICEF); Roxanna Carrillo (UNIFEM) and Ermie Valdeavilla, UNIFEM Gender Advisor in the Philippines; and Clarence Dias (International Center for Law and Development).

1. UN System Common Understanding on the Human Rights-Based Approach to Development

In May 2003, the second inter-agency workshop on “Implementing a Human Rights-Based Approach to Development in the Context of UN Reform” was held in Stamford, Connecticut. Agencies agreed on a Common Understanding on HRBA based on three principles, and distinguished between an HRBA and “good programming practices”. The section below is extracted from this Common Understanding as issued on 7 May 2003.

1. All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.

A set of programme activities that only incidentally contributes to the realisation of human rights does not necessarily constitute a human rights-based approach to programming. In a human rights-based approach to programming and development cooperation, the aim of all activities is to contribute directly to the realisation of one or several human rights.

2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.

Among the human rights principles are: universality and inalienability; indivisibility; interdependence and inter-relatedness; non-discrimination and equality; participation and inclusion; accountability and the rule of law.

Universality and inalienability: Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The human person in whom they inhere cannot voluntarily give them up. Nor can others take them away from him or her. As stated in Article 1 of the UDHR, “All human beings are born free and equal in dignity and rights”.

Indivisibility: Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.

Inter-dependence and Inter-relatedness: The realisation of one right often depends, wholly or in part, upon the realisation of others. For instance, realisation of the right to health may depend, in certain circumstances, on realisation of the right to education or of the right to information.

Equality and Non-discrimination: All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, colour, sex, ethnicity, age,

language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.

Participation and Inclusion: Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realised.

Accountability and Rule of Law: States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

3. Programmes of development cooperation contribute to the development of the capacities of duty-bearers to meet their obligations and of 'rights-holders' to claim their rights.

In an HRBA, human rights determine the relationship between individuals and groups with valid claims (rights-holders) and State and non-state actors with correlative obligations (duty-bearers). It identifies rights-holders (and their entitlements) and corresponding duty-bearers (and their obligations) and works towards strengthening the capacities of rights-holders to make their claims, and of duty-bearers to meet their obligations.

Experience has shown that the use of a human rights-based approach requires the use of good programming practices. However, the application of "good programming practices" does not by itself constitute a human rights-based approach, and requires additional elements. The following elements are necessary, specific, and unique to a human rights-based approach:

- 1 Assessment and analysis identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realisation of rights.
- 2 Programmes assess the capacity of rights-holders to claim their rights, and of duty-bearers to fulfill their obligations. They then develop strategies to build these capacities.
- 3 Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- 4 Programming is informed by the recommendations of international human rights bodies and mechanisms.

Other elements of good programming practices that are also essential under an HRBA, include:

- 1 People are recognized as key actors in their own development, rather than passive recipients of commodities and services.
- 2 Participation is both a means and a goal.

- 3 Strategies are empowering, not disempowering.
- 4 Both outcomes and processes are monitored and evaluated.
- 5 Analysis includes all stakeholders.
- 6 Programmes focus on marginalized, disadvantaged, and excluded groups.
- 7 The development process is locally owned.
- 8 Programmes aim to reduce disparity.
- 9 Both top-down and bottom-up approaches are used in synergy.
- 10 Situation analysis is used to identify immediate, underlying, and basic causes of development problems.
- 11 Measurable goals and targets are important in programming.
- 12 Strategic partnerships are developed and sustained.
- 13 Programmes support accountability to all stakeholders.

Key Messages • All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments. • Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process. • Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights. *UN Common Understanding on the Human Rights-Based Approach to Development 7 May 2003, Stamford, Connecticut*

2. UNDP Programming Today: A Natural “Fit” with Human Rights

The UN Charter mandates the achievement of fundamental human rights. UN member states commit to upholding the Charter and are duty-bearers of human rights. As bodies established under the Charter, the UN and its funds, programmes, and specialized agencies, are also duty-bearers of human rights and have a responsibility to support States Party in these efforts. This was recognised in the programme of reform launched by the UN Secretary General in 1997, which designates human rights as “cutting across each of the four substantive fields of the Secretariat’s work programme: peace and security; economic and social affairs; development cooperation; and humanitarian affairs”.

The international community now recognises that national and international inequalities - many of which are growing with globalisation - require a paradigm shift in development efforts, renewing commitment to standards and preventing exclusion and deprivation. The Millennium Development Goals reflect this recognition and set out minimum standards of achievement, within the overarching human rights framework of the Millennium Declaration.

There is also growing understanding of the ways in which respect for human rights in development reinforces respect for the rule of law, which protects achievements in development as well as peace and security. This is recognized in the 1998 Report of the Secretary General to the UN Economic and Social Council, which includes the following recommendations to mainstream human rights:

- 1 Adoption of a "human rights-based approach" to activities carried out within the respective mandates of components of the United Nations system;
- 2 Development of programmes/projects addressing specific human rights issues;
- 3 Reorientation of existing programmes as a means of focusing adequate attention on human rights concerns.

More than at any time in the past, the principles and procedures that underpin the way in which UNDP programmes are designed, implemented, monitored and evaluated make it relatively simple to ensure that the organization’s efforts promote human rights. Some of the relevant features of UNDP programming are set out below.

i. Results-Based Management

The RBM System that UNDP introduced in 1999 makes the organization and its staff accountable for development results that improve people’s lives. In other words, successfully achieving project outputs - such as workshops and study tours - is no longer enough. UNDP must be able to account for outcomes. The annually updated Strategic Results Framework requires measurable statements of outcome. In addition, baselines must be established, targets set and indicators selected that can clearly show progress (or setbacks) towards those targets over time. Clear statements of outcome and indicators introduce accountability by the organizational unit - and staff member - for results.

The HRBA relates to RBM in several ways, starting with accountability, a key element in the fulfilment of human rights. “Accountability means beginning with the identification of (1) an explicit standard against which to measure performance, (2) a specific person/institution owing

performance (3) a particular right-holder (or claim-holder) to whom performance is owed; (4) a mechanism of redress, delivery and accountability”.

HRBA makes it possible for UNDP to more easily assess whether its work does - or does not - contribute to the progressive realisation of human rights. It defines results in terms of national capacity built to realise human rights as well as the human rights furthered through interventions. It introduces human rights standards into baselines and indicators used to monitor progress, and focuses attention on the rights of the most excluded and vulnerable groups. An important aspect of accountability highlighted by the HRBA is that beneficiaries must be able to seek redress if they are negatively affected.

ii. Policy Advice and Advocacy

The UNDP shift from projects to policy advice and advocacy positions the organization to better promote human rights. Much of work at the policy level is concerned with enhancing the legal framework and its application and with analysing budgets to ensure just and transparent resource allocations. UNDP’s advocacy work through the National Human Development Reports and others advocacy tools highlights excluded and vulnerable groups.

The HRBA relates to the UNDP policy/advocacy shift by drawing attention to the standards in international and regional conventions that should underpin the national legal framework and its application. It grounds projects and programmes in relevant international, regional and national legislation, contributing to a society governed by the rule of law and a culture of human rights. It calls for stakeholder analysis to identify capacity gaps - the gaps in the capacity of duty-bearers (the state) to meet its obligations as well as that of rights-holders to claim their rights - and focuses on allocating resources to bridge these gaps. In addition, it establishes a baseline against which to measure results in strengthening national capacity to realise human rights.

The HRBA underscores the importance of thoroughly disaggregating data to identify groups excluded from development, and the reasons for exclusion, so as to end discrimination and to promote justice and equal rights through equitable allocation of resources. Ending discrimination and promoting equality is key to promoting and fulfilling human rights and to upholding the principle of universality of human rights - all human rights to be enjoyed by all.

iii. Participation and Transparency

UNDP has actively promoted participation since the 1980s, and places increased emphasis on partnership strategy in its results-based management tools. It has adopted organizational policies on civil society and information disclosure. The HRBA makes this approach more systematic, and introduces a set of principles that should be incorporated into programme processes. Access to information is vital if beneficiaries are to be able to participate.

iv. Multi-Sectoral Mandate

The international community recognizes that human rights - civil, cultural, economic, political, and social - are indivisible and interdependent, although it is accepted that priorities will be set for action based on available resources. The concepts of indivisibility and interdependence mesh well with the present understanding of Sustainable Human Development, bringing in the inter-linkages between the different dimensions of development, political and socio-economic as well as environmental.

While other UN system agencies focus on a particular sector, theme or population group, the traditional UNDP mandate to support multi-sectoral development makes the organization particularly well suited to promote a holistic approach to human rights. UNDP has articulated its multi-sectoral mandate in terms of achieving and sustaining human development. This articulation makes the human being central to the development process as subject and object of development, a key tenet of the Declaration on the Right to Development. There could be no greater fit between human rights and development than the UNDP focus on achieving and sustaining human development.

Key Messages •1 Accountability for measurable results helps assess progress to fulfil human rights •2 Human rights standards should underpin baselines and indicators •3 Policies and programmes grounded in international standards build a human rights culture •4 Assessing national capacity must include the capacity to realise human rights •5 Advocacy against discrimination and for equality upholds universality •6 Partnerships, participation and transparency fulfil human rights principles •7 UNDP's multi-sectoral mandate promotes the indivisibility of human rights •8 SHD places the human person at the centre of rights and development

3. Methodology for a Human Rights-Based Review in a UNDP Country Office

A human rights-based review would take 2 - 3 three weeks, depending on the complexity of the UNDP Country Programme and the range of partners involved. The steps set out below could be carried out by staff members themselves or shared with national or international consultants, depending on Office workloads and the in-house expertise available. The involvement of a consultant would contribute a neutral perspective and facilitation services.

a. Desk Review

At the start of the exercise, project documents, project progress reports, and other relevant materials (National Human Development Reports, situation analyses, etc) would be made available to the selected staff members and/or consultants for a desk review. The staff/consultant would also review the General Comments or recommendations of human rights treaty monitoring bodies relevant to the country context, as well as regional conventions, the national constitution, and pertinent national laws.

b. Initial Workshop

All programme staff would participate in a 3- to 5-hour workshop on human rights and development facilitated by the staff/consultant. This would provide an opportunity to check the staff's level of understanding of human rights, present the international human rights framework, address the national framework and key human rights issues in the country, provide an overview of progress at UNDP in incorporating human rights in development, and walk staff through the HRBA Working Guidelines.

c. Staff Interviews

Over 2 - 3 days, the staff/consultant would meet with staff members to discuss their projects, in individual or group discussions depending on how portfolios are assigned. Discussions at the meetings would be guided by the HRBA Checklist to glean further information about the country context and the UNDP programme, groups that remain excluded, assessment of stakeholder capacity, a sense of how human rights standards and principles have been incorporated into projects, and an idea of the results expected in terms of strengthened capacity to realise human rights.

d. Field trips:

Based on discussion with UNDP management and staff, consultants would examine two projects representative of the Country Programme (one at the upstream policy level and one at the downstream level) in much more detail, undertaking field trips as necessary and meeting with project personnel and local national partners.

e. Partner Interviews:

In addition, meetings with national partners in government as well as in civil society should be arranged to provide alternative perspectives on key development and human rights issues as well as UNDP's contribution in the country. To the extent possible, discussions with agency partners, particularly those in the UN Development Group, but also the World Bank and others,

would be useful, particularly if a privatisation programme or a Poverty Reduction Strategy process is underway.

f. Staff Reading:

During this time, programme staff would familiarize themselves, if they have not already done so, with the Universal Declaration of Human Rights, the six core treaties, relevant regional conventions, the country constitution, national legislation pertinent to their projects, and the principles set out in the UN Common Understanding. This would enable staff members to get a sense of the extent to which their projects incorporate human rights standards and principles, contributing to a society governed by the rule of law and a culture of human rights.

g. Preliminary Report:

The consultant/staff would write a preliminary report with their findings regarding the extent to which the overall programme and individual projects strengthen national capacity to realise human rights, drawing attention to ways to mainstream the HRBA into programme and project processes.

h. Closing Workshop and Follow-Up Meetings:

The consultant/staff would report back on findings to the Country Office team as a whole, in a learning exercise that brings independent perspectives on the programme and projects together with the perspectives of staff enriched by their background reading. Staff that wish to do so could schedule individual meetings for more detailed feedback and advice.

i. Programme, project redirection

Based on the review, Country Office management may wish to reorient or phase out some projects and/or to design new interventions.

4. HRBA Checklist for Programme Staff

1. Country Context and UNDP Programme

- 1 What are the 3 top priorities for human development in the country today?
- 2 What is the environment in the country for promoting human rights? (See A Overleaf)
- 3 Which rights have yet to be fulfilled for the population as a whole, and what are the structural causes for this? (B)
- 4 What treaty standards and treating monitoring body recommendations are relevant in this context? (C)
- 5 How does the UNDP Programme support the realisation of human rights?
- 6 Do programme staff have the capacity to integrate human rights in their work, and a sound grasp of the UN Charter, human rights instruments, and the country constitution?
- 7 How do other international partners support the realisation of human rights? How do partners coordinate their work? What gaps remain?

2. Excluded and Vulnerable Groups

- 1 Which groups are the most disadvantaged? How does UNDP define vulnerability and poverty in the country?
- 2 Are tools and indicators to identify excluded groups sufficiently disaggregated?
- 3 How does the overall Country Programme address exclusion and disadvantage? How do specific projects do so?
- 4 How do other partners do so? How do partners coordinate? What gaps remain?
- 5 Does the UNDP Country Office adequately reflect the diversity of the country?

3. Stakeholder Capacity

- 1 Who are the Country Programme or project stakeholders and how were they identified?
- 2 Which are duty bearers and what obligations are they supposed to meet? Do they have the capacity to meet obligations (including responsibility, authority, data, and resources)?
- 3 Which are claim holders and do they have the capacity to claim their rights (including ability to access information, organize, advocate policy change, and obtain redress)?

4. Country Programme and Project Process (Conduct)

- 1 Does project design and implementation incorporate human rights standards as set out in international and regional conventions? Does the Country Programme?
- 2 Does project design and implementation incorporate principles of universality, indivisibility, interdependence, equality, participation, and accountability (further spelled out in D overleaf)? Does the overall Country Programme?
- 3 Do both duty bearers and claim holders participate in project design, implementation, monitoring and evaluation? In the overall Country Programme preparation?

5. Country Programme and Project Outcome (Results)

- 1 How has the overall Country Programme built capacities to realise human rights in the country? Do these address the structural causes for non-realisation of human rights? Which human rights will be further realised?
- 2 How does the project build the capacities of duty bearers to meet obligations and claim holders to claim human rights? Which human rights will be further realised? How is this monitored and evaluated?
- 3 Do indicators capture perceptions on the enjoyment of human rights and other qualitative aspects, such as accountability of public authorities?

(A) Human Rights include

Right to life; Freedom of association, expression, assembly and movement; Right to health; Freedom from torture and cruel, inhuman or degrading treatment or punishment; Freedom from arbitrary arrest or detention; Right to a fair trial; Freedom from discrimination; Right to equal protection of the law; Freedom from arbitrary interference with privacy, family, home or correspondence; Right to asylum; Right to nationality; Freedom of thought, conscience and religion; Right to vote and take part in government; Right to adequate food, shelter, clothing; Right to work; Right to social security; Right to education; Right to scientific progress; Right to free exchange of information; Right to participate in cultural life; Right to development.

(B) Causal Analysis In causal analysis, practitioners attempt to define and isolate the immediate, underlying, and basic (or structural) causes of a problem so that they can better understand the impact of their interventions.

(C) The six core human rights treaties are:

- 1 International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- 2 International Covenant on Economic, Social and Cultural Rights (CESCR)
- 3 International Covenant on Civil and Political Rights (CCPR)
- 4 Convention on the Elimination of all forms of Discrimination against Women (CEDAW)
- 5 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- 6 Convention on the Rights of the Child (CRC)

Account should also be taken of regional human rights conventions. The six human rights treaty monitoring bodies are: The Committee on the Elimination of Racial Discrimination; The Human Rights Committee; The Committee on Economic, Social and Cultural Rights; The Committee against Torture; The Committee on the Elimination of Discrimination Against Women; The Committee on the Rights of the Child. In addition, special rapporteurs are appointed to deal with pressing violations of human rights (like poverty, violence against women, and others) and in countries in which violations are occurring.

(D) Human rights principles, extracted/summarized from The Human Rights Based Approach: Towards a Common Understanding Among the UN Agencies, 7 May 2003.

a) Universality and inalienability: All people everywhere in the world are entitled to human rights. They cannot be given up or taken away.

b) Indivisibility: Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.

c) Inter-dependence and Inter-relatedness. The realisation of one right often depends, wholly or in part, upon the realisation of others. For instance, realisation of the right to health may depend, in certain circumstances, on realisation of the right to education or of the right to information.

d) Equality and Non-discrimination: All human beings are entitled to their human rights without discrimination of any kind, on the grounds of race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.

e) Participation and Inclusion: Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realised.

f) Accountability and Rule of Law: States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

5. Applying the HRBA

a. The Common Country Assessment (CCA)

The CCA is intended to, among other things, contribute to national strategies for poverty reduction, sustainable development and economic growth; identify priorities for action in the UNDAF; and address the need for national capacity for analysis and priority-setting, including risk and vulnerability assessments with geographic and beneficiary targeting. A more recent revision of the CCA/UNDAF Guidelines advocates the application of a “causality tree analysis”, so that practitioners can identify the basic or structural causes for development problems as opposed to underlying and immediate causes, as well as which partner is targeting what set of causes. Applying the HRBA to the CCA by UN partners, including UNDP, could include:

i. Reviewing international human rights norms and standards. A review of norms and standards will help to identify the areas in which there has been progress towards realisation of human rights in the country concerned, as well as areas where rights may be being violated, with a view to assessment and analysis of these areas in the CCA. *Useful documents include:* core human rights conventions; comments and recommendations by the committees established to monitor the application of the conventions; reports by the government of the country concerned to the committees, as well as “shadow” reports by civil society; comments on these reports by the committees.

ii. Understanding human rights in the country context. A framework of analysis that pulls together civil, cultural, economic, political and social rights in the country context would help to identify the interdependence between these rights during the assessment and analysis phase. The aim would be to establish an understanding of the environment for human rights in the country and the structural causes for non-realisation of rights, and to prioritise actions for UN System support to progressive realisation. *Useful documents include:* Reports on the Millennium Development Goals, National human development reports, UNICEF situation analyses, and other reports by UN system partners dealing with population, health, nutrition, economic development.

iii. Assessing the Extent of Exclusion and Vulnerability Disaggregated indicators will identify excluded and vulnerable groups, and to make them the focus of programme priorities, all relevant indicators should be disaggregated, to the extent possible, by race, colour, sex, age, language, religion, national, ethnic, or social origin, property and disability and other status such as woman or child head of household. Where possible, indicators should be compiled and analysed separately for urban, and rural areas, and regions. Gender discrimination in particular is likely to cut across different socio-economic and cultural strata.

iv. Measuring subjective elements. To understand how people see their rights and the possibility of claiming them, it is important to measure public confidence in institutions of governance, including among vulnerable or marginalized groups

v. Identifying duty bearers and rights-holders and analyse their capacity. UN partners would seek to establish, in partnership and participation with national state and non-state actors,

- a. The specific actors or institutions responsible for performance. Who are the duty-bearers, and what, exactly, are their duties? Are these duty-bearers also rights-bearers? In other words, do they rely on others performing their duties in order to be able to, in

turn, deliver what they owe? Do they have the capacity to perform their duties?

- b. The rights-holders to whom responsibility is owed. Who are the rights-holders? What, specifically, is owed to them? Do they have the capacity to claim their rights? What mechanisms of delivery, accountability, and redress exist, and what mechanisms should be established?

vi. Establishing standards Baselines and indicators to be established should incorporate explicit standards and benchmarks against which to measure performance. Participation by both duty-bearers and claims-holders in this exercise is essential to establish standards that are meaningful in the country context.

Key Messages •1 Understand human rights in the specific country context •2 Understand the interdependence of human rights •3 Disaggregate indicators to identify causes of discrimination and to set programme priorities •4 Establish standards and benchmarks •5 Identify duty-bearers and rights-holders - and their capacity to perform their responsibilities and claim their rights •6 Identify mechanisms for accountability and redress

b. The UN Development Assistance Framework (UNDAF)

The UNDAF is the common strategic planning framework based on the findings of the CCA, incorporating the anticipated outcomes of UN system support to national development. It should, among other things, integrate gender equality and human rights concerns into UN programming, implementation, monitoring and evaluation. Successful strategies would, among other things: address interrelated causes; address rights and needs of the most vulnerable, excluded and disadvantaged, in particular the extreme poor; and integrate fundamental cross-cutting concerns, especially gender equality and respect for human rights.

Applying the HRBA by UN partners, including UNDP, in the UNDAF would involve:

- i. Selecting programme priorities The CCA will have identified those areas where rights are persistently unfulfilled or violated and where people experience greatest disadvantage. The CCA analysis would also have identified structural causes for non-realisation of rights. These should form part of UN system programme priorities in the UNDAF

- ii. Establishing standards The UNDAF should cite the specific human rights that the UN system will help to realise through its programmes in the country, so as to move rights from the level of general principles to programmatic activities, and so as to ensure that the UN system is helping to end discrimination and promoting equality.

- iii. Identifying duty-bearers The UNDAF should identify the state or non-state actors responsible for promoting rights over the programme period - as well as their capacity to meet their obligations and the constraints surrounding their ability to perform, and what support UN could help provide to strengthen capacity and address constraints. This would be a key result of the UNDAF.

- iv. Identifying claims-holders Designating beneficiaries as “rights” or “claims-holders” moves development processes towards accountability for results. Furthermore, claims-holders are not

just tolerated participants: they have the right to information as well as to review, design and implement programmes. A key question is whether claims-holders have the capacity to articulate and advocate for their rights as well as to participate in the programme process, and how the UN system should help strengthen that capacity. This would be a key result of the UNDAF.

v, Establishing mechanisms for redress The UNDAF should ensure the availability of accessible and effective means of redress.

<p><u>Key Messages</u> •1 Programme priorities based on areas of greatest disadvantage •2 Human rights to be promoted through the UNDAF •3 Duty bearers and their capacity needs and constraints •4 Claims-holders and their capacity to advocate claims and participate •5 Mechanisms for redress</p>

c. The UNDP Country Programme (CP)

Applying the HRBA to the different sections in the UNDP Country Programme Outline and Country Programme would involve:

i. Situation Analysis: The CCA provides the basis for the situation analysis. However, the UNDP Country Office should support additional data collection and analysis as necessary to identify chronic areas of neglect and possible retrogression of rights that should be targeted by programmes, as well as the structural causes for the non-realisation of rights - particularly those that are not being addressed by other partners - in order to situate the Country Programme accordingly. *Useful documents include*: National statistical surveys; National human development reports; national and international development reports; country reports to human rights committees, including shadow reports by civil society; comments and recommendations of human rights committees; reports by national human rights bodies or an Ombudsperson.

ii. Programme Priorities The UNDAF includes a statement of UNDP programme priorities.

- a. Either as preparation for the UNDAF or for the CP Outline, the Country Office, together with stakeholders (both duty bearers in government and rights holders in civil society) - would review the extent to which previous development interventions supported by UNDP have helped to fulfil human rights, identify missed opportunities and lessons learned, examine violations of rights that might have occurred, and identify retrogression of rights. If claims-holders cannot participate directly in these reviews, the Country Office may want to commission surveys.
- b. The areas of greatest disadvantage would be a key criterion to select new programme priorities or to re-confirm existing priorities; vulnerable or excluded groups that would not be addressed by the programme would be listed, together with the reasons why (e.g. whether other partners are doing so). The CP would also include an explanation of what areas in the programme target structural causes for non-realisation of rights and why, of the array of possible international partners, UNDP is uniquely positioned to do so.
- c. In the CP, the Country Office would include the results of its analysis of stakeholder capacity to realise human rights and spell out the national capacity that would be strengthened for duty bearers to meet their obligations and claims holders to claim their rights. The CP would also include a statement on what specific rights would be further realised and how.

iii. Programme Strategies

- a. This section should explain how human rights standards as set out in international and regional conventions and relevant national legislation have been incorporated into baselines and indicators.
- b. The section would also explain how principles of universality, indivisibility, interdependence, equality, participation, and accountability would be practised during the course of the programme.
- c. Strategies should ensure the availability of accessible and effective means of redress.

iv. Arrangements for Monitoring and Evaluation The detailed monitoring and evaluation plan the Country Office establishes within the first quarter of the CP cycle, includes arrangements for regular reporting, visits to validate progress, and use of participatory mechanisms. The Country

Office should ensure that rights-holders as well as duty bearers participate in these arrangements.

v. Annexed Results and Resources Framework

- a. The baseline established in Results and Resources Framework should incorporate human rights standards.
- b. The outcomes and outputs should state clearly the rights to be furthered as a result of UNDP support,
- c. The targets and indicators for both outcomes and outputs should be based on human rights standards and on data that is as widely disaggregated as possible.
- d. The state or non-state agencies described as responsible for results should be seen as duty bearers with obligations, while the groups benefiting from the programme should be seen as rights- or claims-holders.

<p>Key Messages •1 Analysis should highlight key areas of discrimination, particularly chronic areas, and identify the structural causes for non-realisation of rights •2 Programme priorities are based on understanding areas of greatest disadvantage and on the national capacity necessary to realise human rights, particularly national capacity to address structural causes for non-realisation •3 Programme strategies should incorporate principles of universality, indivisibility, inter-dependence, equality, participation, and accountability •4 Monitoring and evaluation arrangements should include stakeholders. •5 Outcomes and outputs should spell out the human rights to be further realised •6 Baselines should incorporate human rights standards while targets and indicators should be based on standards and data that is as disaggregated as possible</p>

d. UNDP Projects

The substantive sections of UNDP project documents are set out below. Applying the HRBA would involve:

I a: Situation Analysis This section should make reference to the CCA/UNDAF and the relevant outcome in the Country Programme, and briefly situate the proposed intervention in the context of the structural causes for non-realisation of rights, working the causal analysis through in the specific project area. A reference to the synergies between this and other ongoing or planned projects should be drawn out with particular reference to the structural causes for the non-realisation of rights.

The section should also explain how especially vulnerable or excluded groups will be targeted (and if not why not), how these were identified and whether data was sufficiently disaggregated.

The section should also make reference, as relevant to the project area, to the applicable standards and principles in international or regional conventions, articles of the constitution, and national laws, as well as to key findings from comments or recommendations of treaty bodies and national human rights bodies.

I b: Strategy This section would explain the findings of stakeholder analysis (obligations of duty bearers and capacity to meet obligations as well as capacity of rights-holders to claim rights), and how the project will strengthen national capacity to realise rights.

It would also set out the ways in which human rights principles will be incorporated into the project process. A brief description of how stakeholders have been involved in project design and how they will be involved in implementation would be included.

II Results Framework The human rights standards underpinning the outcomes and outputs would be explained, and the ways in which these have been used to establish the baseline, targets, and indicators. The expected results in terms of national capacity to realise human rights should be set out, as well as should the specific human rights to be promoted through this intervention.

III Management Arrangements This section would further spell the strategy for engaging duty bearers and claims holders in project implementation, monitoring and evaluation.

<p>Key Messages -0 The intervention should be situated in efforts to address structural causes and areas of greatest exclusion and vulnerability -1 Baselines, targets and indicators should be grounded in human rights standards -2 Project strategy should incorporate human rights principles -3 Project outcomes and outputs should clearly state how national capacity to realise human rights will be strengthened, and the human rights to be achieved -4 Stakeholder should participate in all stages of the project cycle</p>
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e. Strategic Results Framework

The SRF incorporates all Country Office outcomes and outputs, and is an opportunity to examine whether the total programme portfolio is strategically situated in the country context, including its potential to address the structural causes for non-realisation of human rights. An HRBA review of the SRF would provide a Country Office with an opportunity to see the synergies between projects in terms of planned results, and to reorient or phase out projects that do not address structural causes or vulnerable groups:

At a time of its choosing, the Country Office should review its SRF so as to ensure that the goals and statements of outcome, together with baselines, targets and indicators, clearly contribute to the progressive realisation of human rights. It should be noted that even though outcome statements are set at the beginning of the SRF period, a Country Office could in fact amend its SRF at any time, if it faces one of six circumstances described in the Guidance Note for 2001.

The Country Office would initiate a review of SRF goals and outcomes with participants including UNDP staff, representatives of government and civil society, rights-holders, and national as well as international human rights experts for each of the main SRF strategic areas of support. The purpose of the SRF review would be to:

- i. Enhance government/civil society/UNDP understanding of human rights standards and the content of rights as they have been taken up in specific areas of the SRF.
- ii. Look for opportunities where human rights can be strengthened, and possible negative impacts of existing projects.
- iii. Identify areas where human rights objectives are not clearly and measurably stated and where human rights principles have not been worked into processes.
- iv. Identify new areas for programming.
- v. Provide human rights experts with insights into the actual development process.

Participants would examine disaggregated data to identify groups excluded from development, and the reasons for exclusion. Persistent exclusion and chronic neglect - in spite of targeted programmes - is something that should be identified. Additional data needs should also be identified.

Questions to be asked include:

- Are baselines grounded in human rights standards?
- Do targets clearly state the specific rights to be achieved based on these standards?
- Are indicators sufficiently disaggregated?
- Whose rights are being promoted, disregarded, or violated?
- Are capacity gaps in terms of realizing human rights clearly understood?
- What capacity is being built so that duty bearers can meet their obligations?
- What capacity is being built so that rights holders can claim rights?
- Are mechanisms for participation, redress, and transparency working well?

Through discussion, participants would establish common understanding around the areas that must be strengthened, recast, or included to promote human rights. Specific projects may be expanded - or terminated - based on the SRF review, while new projects may be launched. Annex 2 expands on the above approach for two SRF areas.

Useful documents: SRF; project documents; project reports and evaluations; core human rights

conventions; observations and comments by human rights committees relevant to the areas under discussion; country reports to human rights committees and the comments by these committees; development and human rights by state and non-state actors; reports presented on follow-up to UN conferences; and, most recently, reports produced on progress towards the Millennium Development Goals.

Key Messages •1 UNDP can conduct a participatory human rights review of SRF outcomes at any time •2 Reviews show whose rights are being promoted, disregarded or violated so as to revise outcomes accordingly •3 Reviews can reveal whether mechanisms for participation, redress, and transparency are working well

f. Results-Oriented Annual Report, Selected Outcome Evaluations

Applying the HRBA to the ROAR and selected outcome evaluations would:

1. Make use of the opportunity of the annual review (“the centrepiece of performance monitoring and reporting”), which is intended to be a highly consultative process with stakeholders, to assess whether activities are contributing to the realisation of human rights, and to identify obstacles to such progress, including capacity gaps. Approaches similar to those spelled out in the proposed SRF Review could be used.
2. Take advantage of field visits for monitoring, reporting, and validation of project activities, which form the basis of annual project reports, to
 - a. Identify progress in fulfilment of human rights,
 - b. Pinpoint potential violations of rights or obstacles to fulfilment,
 - c. Check the mechanisms put in place for participation, redress, and transparency.
3. Use selected outcome evaluations to review the extent to which development efforts promote human rights, asking the kinds of questions set out in the discussion on SRF.

Key Messages -5 The ROAR annual review is an opportunity to assess progress towards human rights -6 Project annual reports can reveal the extent to which rights are promoted and the functioning of mechanisms for participation, redress, and transparency -7 Selected outcome evaluations are an important entry point to assess progress

Annex 1

Basic Terms and Concepts, Key Human Rights, Treaties

The Universal Declaration of Human Rights, adopted by the United Nations in 1948, defines human rights as being grounded in “the dignity and worth of the human person”. The Declaration spells out the basic rights that all human beings are entitled to by virtue of being human, so that we may live in “a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want”.

The Declaration of human rights is “the common standard of achievement for all peoples and all nations”. All human beings have human rights, which are therefore universal. And no human right is less or more important than another: they are indivisible and interdependent.

The Declaration states that rights “should be protected by the rule of law” so that people are not “compelled to have recourse, as a last resort, to rebellion against tyranny and oppression”. International laws were duly passed to protect human rights. The key Covenants on Economic, Social and Cultural Rights, and Civil and Political Rights were adopted in 1966

States party - states that sign and ratify international conventions - become accountable to their people (and to other states) for the achievement of the human rights set out in those conventions. States party submit regular reports to committees - “treaty bodies” - established to monitor progress towards fulfilment of these rights.

All UN member states have a responsibility to respect, protect, and fulfil human rights. At a minimum, states must prevent violations of human rights, thus ensuring that rights are respected and protected. States also bear the duty to use available resources to promote and fulfil human rights, it being understood that many economic and social rights cannot be fulfilled overnight and require “progressive realisation”.

The holder of a human right effectively holds a “claim”, and a corresponding duty bearer is responsible for fulfilling that claim. States are not the only “duty-bearers”:

Every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance - Universal Declaration

Some Key Human Rights

- 1 Right to life
- 2 Freedom of association, expression, assembly and movement
- 3 Right to health
- 4 Freedom from torture and cruel, inhuman or degrading treatment or punishment
- 5 Freedom from arbitrary arrest or detention
- 6 The right to a fair trial
- 7 Freedom from discrimination
- 8 Right to equal protection of the law
- 9 Freedom from arbitrary interference with privacy, family, home or correspondence
- 10 Right to asylum
- 11 Right to nationality
- 12 Freedom of thought, conscience and religion
- 13 Right to vote and take part in government
- 14 Right to adequate food, shelter, clothing
- 15 Right to work
- 16 Right to social security
- 17 Right to education
- 18 Right to scientific progress
- 19 Right to free exchange of information
- 20 Right to participate in cultural life
- 21 Right to development

Core Human Rights Treaties

Conventions enter into force when an agreed minimum number of countries sign and ratify them

- 7 International Convention on the Elimination of All Forms of Racial Discrimination, adopted in 1965, entered into force 4 January 1969 (CERD).
- 8 International Covenant on Economic, Social and Cultural Rights (CESCR), adopted in 1966, entered into force 3 January 1976
- 9 International Covenant on Civil and Political Rights (CCPR), adopted in 1966, entered into force 23 March 1976
- 10 Convention on the Elimination of all forms of Discrimination against Women (CEDAW), adopted in 1979, entered into force 3 September 1981
- 11 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984, entered into force on 26 June 1987.
- 12 Convention on the Rights of the Child (CRC), adopted in 1989, entered into force 2 September 1990

Human Rights Treaty Monitoring Bodies

- 1 The Committee on the Elimination of Racial Discrimination
- 2 The Human Rights Committee
- 3 The Committee on Economic, Social and Cultural Rights
- 4 The Committee against Torture
- 5 The Committee on the Elimination of Discrimination Against Women
- 6 The Committee on the Rights of the Child

Annex 2

Review of Selected SRF Areas

1. Creation of an enabling environment for Sustainable Human Development

b. Convene representatives of UNDP and UN partners, government, civil society, human rights experts, rights-holders, and others.

c. Examine disaggregated data to identify groups excluded from development, the reasons for exclusion, and the persistence of exclusion.

d. Examine the status of the country's human rights commitments:

Has it ratified key international conventions?

Has national legislation been revised in line with the international conventions ratified?

Are there reservations to conventions that could form the basis for advocacy work?

Sources of information include: reports submitted by countries to the human rights monitoring committees, shadow reports submitted by civil society organizations, comments or observations by the human rights treaty bodies.

e. Assess country capacity to respect and protect human rights.

How do legislators understand and formulate legislation?

How does the judiciary interpret and apply human rights principles?

What are the institutional mechanisms to bring human rights claims and to redress violations?

f. Analyse the macro-economic policy framework and the national budget in terms of the impact on poor and disadvantaged groups and on the environment.

How are resource allocations made?

Who participates in decisions?

How is the impact of policies assessed and decisions made to redirect policy?

Do poor and disadvantaged groups have the capacity to advocate their rights?

g. Forge common understanding of the key national policies and legislation impeding fulfilment of human rights, and identify appropriate areas for action or direction in the SRF.

2. Economic and social policies and strategies focused on the reduction of poverty

- a. Invite national or international experts in the human rights to shelter, health, education, the Special Rapporteur on Poverty, the Independent Expert on the Right to Development, members of the Economic and Social Rights Committee, and others.
- b. Examine the goal outcomes and outcome indicators based on well-disaggregated data to identify the specific reasons for discrimination and exclusion, rather than referring to “the poor” as a group.

Are resources being spent in a way that promotes the progressive realisation of human rights?

What specific human rights are being neglected and which specific groups of citizens hold these rights?

Whose economic and social rights are not being met - or, worse, are regressing?

Why and in what way are these groups being discriminated against, and why does this elude development efforts?

What policies and resource allocation decisions perpetuate discrimination?

What specific human rights will be progressively fulfilled through the outputs of the project or set of projects that organize the activities to achieve the stated outcomes?

Could the fulfilment of rights be overlooked or, worse, violated?

Is accountability for results by different partners well articulated?

Do baselines and targets clearly enable the measurement of the eventual changes in people’s lives?

- c. Examine the processes mentioned in the outcomes and outcome indicators.

How effective are mechanisms for participation and for redress in case of violations?

What is the capacity of people living in poverty or their organizations to participate?

What is the rigour with which participation is encouraged?

How is information made available, and is there real transparency around plans and activities?