

WORKING TOGETHER

The Human Rights Based Approach to Development Cooperation
Stockholm Workshop 16–19 October 2000

Part 1

Report of the NGO workshop
16–17 October

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I believe we can say that the ultimate aim of development is the stage where all human rights are guaranteed and enjoyed by all. To achieve this, we must work together to find ways of integrating human rights with development programming — ways of implementing, at all levels, a human rights-based approach to development — an approach based on the principles embodied in the various international instruments on human rights.

Statement by Mary Robinson
United Nations High Commissioner for Human Rights
5 February 2000

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Foreword

In October 2000 the Swedish Ministry for Foreign Affairs, the Swedish International Development Cooperation Agency (Sida) and the Swedish NGO Foundation for Human Rights convened a workshop on the human rights approach to development cooperation. The workshop was facilitated by André Frankovits and Patrick Earle of the Human Rights Council of Australia (HRCA).

Most of the bilateral and multilateral agencies and non-governmental organizations that were invited already have policies on the inter-relationship between human rights and development cooperation. However most of them are also grappling with what changes in practice flow from the increasing policy emphasis on human rights in general, and economic and social rights in particular.

The workshop, therefore, aimed to bring together donor organizations and NGOs to share experiences and lessons learnt in the process of mainstreaming human rights. Arising from these experiences and lessons, the workshop was designed to identify obstacles to and explore practical ways of implementing a human rights based approach.

Held over four days, the workshop was divided into three complementary sessions. The first day and a half was devoted to NGOs so that they could exchange experiences and ideas for applying the human rights approach to their own activities as well as to identify areas where greater cooperation with donors was possible and necessary. Following this, one afternoon was set aside for an interaction between NGOs and donors, focusing on recommendations arising from the NGO workshop. Finally, a day and half was allocated to donors' examination of the issues. This was followed by a panel discussion open

to other Ministry and Sida officials, NGOs and wider public participation.

Participants represented the diversity of organizations involved in development policy and practice – bilateral donors, multilateral donors, consultants representing donor agencies, Ministry of Foreign Affairs officials, international development NGOs supporting the work of grassroots NGOs, international advocacy NGOs, and grassroots development and human rights NGOs from North and South.

This report is an account of the NGO part of the workshop that took place on 16 and 17 October 2000 and includes some of the presentations and background papers available at the workshop. Papers presented and discussed during the workshop appear in the body of the report and those provided as background prior to the workshop are in the appendices. The report should be read in combination with the report of the donor part of the workshop held over the next two days. The report has been drafted by André Frankovits and Patrick Earle and does not necessarily reflect the views of the Swedish Government, the Swedish NGO Foundation for Human Rights or of the other participating organizations.

In accordance with one of the recommendations of the workshop, the report will be posted on the web sites of Sida, the Swedish NGO Foundation for Human Rights and HRCA and made available on other organizations' sites. The report will also be linked to the Global Human Rights and Development Forum web site. The hope is that the dissemination of the report will assist like-minded institutions – in the words of Sweden's policy for poverty reduction – with the task of 'mainstreaming human rights values in all cooperation programmes ... which is a qualitative prerequisite for success in the global fight against poverty'.

Executive Summary of NGO Workshop

The workshop rationale was based on the assumption that the human rights approach brings something new and different to existing development practice, that – in the words of many – it ‘adds value’ to existing approaches, and that there is growing programmatic experience in applying the approach, experience that could be usefully drawn on to establish some preliminary guidelines for donor agencies and to identify areas which need further elaboration and further experimentation.

NGOs welcomed the opportunity to participate in such a clearly focused discussion on aid policy and practice. Much of the focus of the workshop was on official donor agency policy and practice, although there was recognition that the human rights approach also has implications for NGO practice. While the range of NGO experiences and perspectives represented was diverse, there was a remarkable degree of unity on the value of the human rights approach and clarity on the changes in development practice it calls for from donors.

One of the major ‘added values’ of the human rights approach was identified as accountability for the realization of human rights. This includes the accountability, not only of recipient governments, but also that of bilateral and multilateral donors, private contractors and other development actors, including NGOs. One way of ensuring accountability is the establishment of complaints mechanisms such as aid and humanitarian ombudsmen. NGOs expressed concern that accountability in current policy and practice is often equated with and limited to issues of financial and other management by the recipient.

Participants gave considerable attention to the relationship between poverty and human rights.

There was agreement that looking at poverty through the human rights lens – as a denial of human rights – enables a richer understanding of the different dimensions of poverty and encourages a more comprehensive policy response to the structural causes of poverty.

Another added value was the common framework for assessing and guiding sustainable development provided by the established and accepted human rights standards. Some concern was expressed at the variety of interpretations of the human rights approach in development circles. While it was important to build on good practice and encourage initiatives on the ground, the need for clarity on the approach and leadership from senior levels was stressed. The value of using the human rights framework was seen in the potential for consistency and greater coordination between development actors but this depends, precisely, on clarity and common understanding of the approach.

For NGOs working on the ground in often difficult conditions there was a sense that the human rights approach could help provide a wider legitimacy to human rights and for those working and advocating for their realization. A policy dialogue around the need to realize economic, social and cultural rights can provide an entry point to discussing the sometimes more sensitive issues of civil and political rights. The emphasis of the human rights approach on participation as a human rights issue is seen by NGOs as another value of adopting the human rights approach.

For many NGOs the workshop was their first opportunity to focus on donor policy and practice and to engage positively on these issues with donor agencies. So one of their strongest calls was for continuing participation and partnership with donors

as they seek to implement the approach. Inherent in efforts to ensure meaningful participation was the active provision of information. The participants stressed that to participate in applying the human rights approach they needed adequate documentation and sufficient time to be able to examine relevant materials and that this should be an important responsibility of donors.

In particular, NGO participants felt that there was insufficient meaningful participation in programme design and the drafting of country strategies because of a lack of transparency of donor policy and practice. This was seen as especially the case with relation to multilateral agencies and presented obstacles to meaningful participation in multilateral forums.

Participants agreed that a human rights analysis was one essential component of the human rights based approach and that this should be based on the legal framework as codified in the international human rights instruments and principles. NGOs recommended that the General Comments and Concluding Observations of the Treaty Bodies and the reports of the UN Special Rapporteurs should be essential reference materials for any human rights analysis. They also stressed the need for cultural sensitivity and reference to a country's own human rights commitments in order to avoid perceptions of an imposition of foreign values.

It was seen to be important to build internal capacity on the human rights approach in donor agencies – whether government or international NGO – and this pointed to the need for the development of training programmes in each organization.

There was concern expressed that the poverty focus of agencies and poverty reduction strategies

were not linked to human rights. For example, the Poverty Reduction Strategy Papers (PRSP) of the World Bank did not take account of the human rights based approach and bilateral donor policy commitments to human rights were not reflected in the PRSP framework or process. The nature and extent of participation in the formulation of PRSPs was also called into question. Similarly, the lack of any formal process for the integration of human rights in the OECD's Development Assistance Committee's work was seen as a problem that had to be addressed as a matter of urgency.

Related to this was the need for greater coordination among donors, with civil society organizations, across ministries in donor countries and, importantly, with relation to the integration of human rights in the work of the international financial institutions and the emerging trade and investment regulatory bodies.

NGOs acknowledged that a development policy dialogue between partners based on shared commitments to human rights could be a highly sensitive issue and difficult for both donor and recipient government for a range of reasons. Some practical experiences on successful dialogues do exist – UNICEF's and Save the Children's programming on the rights of the child, CARE's advocacy in Kenya, the HURIST project, INFID's dialogue with the Indonesian government – and these should be drawn upon. NGOs also cited the experience of diplomacy and advocacy on civil and political rights – that persistence and consistency on the part of NGOs and governments had ensured that human rights was a legitimate focus for discussion.

If there was one common regret among workshop participants it was that there were not yet sufficient practical experiences to draw lessons from and that key

practical questions of implementation remain. NGO participants stressed the importance of documenting experiences of applying a human rights approach. Again, successful examples do exist but they have not been recorded. Other instances that in fact apply the human rights approach are not being identified as such.

There was broad agreement that ethical and legal considerations had to be accompanied by demonstrable practical outcomes if sceptical colleagues were to be convinced of the value of the human rights approach. Consequently there was a strong view that the Stockholm workshop should be seen as the first of an ongoing series of workshops and exchanges among like-minded government and non-government organizations. To this end participants identified complaints mechanisms to hold donor and recipient governments accountable, the links between human rights and poverty, and the responsibility of multilateral banks with relation to human rights as some of the issues that should be discussed at greater length in forthcoming workshops.

NGOs agreed that the workshop had been extremely useful as a first step in the promotion of the human rights approach to development cooperation and in clarifying the approach. It was hoped that this workshop was merely the start of a learning process to address common challenges and to seek common solutions.

Current State of Play – Overview by the Human Rights Council of Australia

There has been considerable progress in aid policies generally and policies on human rights and aid in particular in the past decade.

The general shift away from funding of major infrastructure projects toward sectoral programs with greater emphasis on health and education sectors, the more singular focus on poverty and the adoption of the international development targets agreed at major UN conferences in the 1990's are all positive from a human rights perspective. Perhaps the most significant shift has been within the UN.

The call of the Secretary General for human rights to be integrated into all the UN's work has had a real impact. Indicative of the shift is UNDP's Human Development Report 2000 which makes it plain that the human rights approach recognizes development as the process by which people realize their rights. There also appears to be a real commitment to taking a human rights approach to the formulation of the UN Development Assistance Frameworks (UNDAFs) in many countries – in Nepal, for example, the UNDAF is specifically based on the International Bill of Rights which identifies the issues of law, policy, resources and custom that need to be addressed to overcome the denial of the rights to food, shelter, social security and so on.

The emphasis of the High Commissioner for Human Rights on economic, social and cultural rights and her advocacy of a human rights approach has been influential. So has the adoption by UNICEF of the Convention on the Rights of the Child as its mission statement.

The 1998 UNDP policy document on integrating human rights in sustainable human development has led to a number of significant initiatives including the UNDP-OHCHR collaboration on the human rights strengthening project (HURIST).

The commitment of UN agencies to coordinate their efforts through the Common Country Assessment (CCA) and through the UNDAF process

is indicative of a wider commitment to coordination between agencies that is consistent with a human rights based approach. This is also evident in the World Bank's Comprehensive Development Framework (CDF) and the Poverty Reduction Strategy Papers (PRSP).

Official bilateral development agencies – particular among European donors – are also increasingly giving emphasis and prominence to human rights in their policy statements. Britain's DFID, for example, talks explicitly about its commitment to a human rights based approach to development. International donor NGOs also take principled stands on human rights.

The increasing focus on economic, social and cultural rights, and a greater emphasis on support for civil society and participation have become features of the policies of many bilateral and UN development agencies. Donors now make efforts to involve domestic and international NGOs and community based organizations substantively and to make country strategies and evaluations more publicly available. Funding for justice programs, for human rights NGOs, for national human rights institutions, and for human rights training for military and police forces has increased.

While there are individuals in all development agencies – including in international donor NGOs – committed to exploring the practical implications of a human rights based approach, it is hard to find examples of a human rights based approach that has been applied in practice or where the practical implications are reflected in agency papers or guidelines.

It is a common complaint – especially from NGOs – that participation is still more present in rhetoric than reality and that accountability is still

seen by donors principally as a financial management issue. Only the World Bank has an independent monitoring mechanism and its effective use also seems to depend on significant popular mobilization and external pressure.

So why has real change proved so elusive?

There have been attempts to outline the changes that would be needed in country programming by official development agencies, notably the UNICEF programming guidelines, the Human Rights Council's *The Rights Way to Development Manual* and the work of Rights and Humanity. There is a growing consensus among these and other organizations that a necessary first step for human rights programming is a participatory human rights analysis that measures the status of each human right against the state's obligation to respect, to protect and to fulfill each of the rights. Such an analysis makes it possible to set objectives aimed at the realization of each right. The analysis and objectives can take account of legislative measures, enforcement mechanisms, the prioritizing of resources at all levels and the meaningful participation of communities at each stage.

Sweden is as far as we know the only bilateral donor to produce its own agency guidelines on how to conduct such an analysis. This example is particularly valuable because the guidelines reflect the lessons from trying to apply the approach in difficult circumstances – the Swedish country program in Zimbabwe.

An increasing number of NGOs now focus and have expertise on economic and social rights and advocate the human rights approach. NGOs such as Foodfirst Information and Action Network (FIAN), Save the Children, Rights and Humanity, Center for Housing Rights and Evictions (COHRE), CARE International,

Minority Rights Group and grassroots organizations are refining the approach, devising training programmes and promoting meaningful participation in their own area of expertise and operations.

The human rights approach still leaves many questions and concerns unanswered. Perhaps most fundamentally there is still little empirical evidence to demonstrate that the approach will more effectively overcome poverty. This type of evidence does not come quickly and it can only come from implementation of the approach in piloted sectoral or country programs. Perhaps because much in the human rights approach (such as the emphasis on participation and better targeting of the most vulnerable) arguably reflects the evolution of best development practice, many of the remaining questions and concerns relate to changes at the practical programming level.

However, there is enough information available now on the nature of these changes to suggest that the key challenge for the implementation of a human rights approach to development is one of commitment by donors, a commitment to answer the outstanding questions and concerns in partnership with NGOs and community representatives. NGOs, north and south, can have an important role to play in translating donor policy into practice and centering discussion around the realization of human rights.

This leads to perhaps one of the most fundamental principles of the human rights approach – the principle of human solidarity that underpins the universality and interdependence of human rights. Calls for solidarity based on human rights carry special moral and political weight. These are calls that hold governments and others accountable to promises made.

Communities and NGOs concerned that the development aid coming to their country is not

reaching those most denied their human rights, or concerned that aid (or the conditions for aid) are having negative effects on their rights, are in a position to seek the solidarity of their partners in the donor countries to change these programmes and policies by basing themselves on the international human rights framework.

The openings for more coordinated and effective advocacy on human rights are there now in a way that they were not a few years ago because of the policies of donors with regard to the realization of human rights, to participation, to transparency and to accountability.

Communities and NGOs in countries receiving aid are too often unaware of donor policies and programmes, and the opportunities for influencing these. Increased familiarity with human rights – and economic, social and cultural rights in particular – can become an important tool of empowerment.

NGOs in donor countries are essential to the achievement of these objectives.

The Human Rights Approach and NGO Experiences

The diversity within the global NGO movement was reflected in the NGO sessions of the Stockholm workshop.

Participants were broadly representative of the various mandates of the NGOs working at the domestic and international level on human rights and development. These included ones with a focus on domestic human rights violations, domestic and international advocates of economic and social rights, applied policy research organizations, and

international development NGOs whose functions and activities closely resemble those of the official donors.

This diversity of experience considerably enriched the discussions. One of the interesting dynamics was between NGOs in the South and northern NGOs – the former often saw the latter as donors (rather than simply as partner NGOs) sharing much in common with official donors. It also seemed as if southern NGOs had little involvement or engagement with the policy and practices of the northern NGOs. Both seemed to find the exchange a very valuable experience.

The focus of the discussion was on the potential of the human rights approach to more effectively address NGO concerns, how different NGOs could apply the approach to their own work and how they thought that official donor agencies could apply the approach to their practices.

It was not surprising, therefore, that in a constructive spirit the participants reflected some critical perspectives on the practices of bilateral and multilateral donors. Most NGOs were, however, able to point to good and bad examples of donor practice and the sensitivities facing governmental agencies in raising human rights concerns were generally acknowledged. This constructive focus is reflected in the NGO recommendations.

Presentations from the Human Rights Council and FIAN provided a brief overview of the evolution of the human rights approach to development and an introduction to economic, social and cultural rights and their relevance to the process of development.

FIAN characterized the human rights approach among development NGOs as evolving from the lessons of long involvement of working with people – at first NGOs saw that people didn't have water and went in and dug them wells, then they realized it

would be better to teach people how to dig wells, now they had come to the conclusion they needed to work with partners to lobby government to guarantee access to clean water.

The human rights approach uses established and accepted human rights standards as a common framework for assessing and guiding sustainable development. Principles of universality, accountability and participation underpin government obligations to respect, protect and fulfill each right. The core content of these rights has been articulated by the UN treaty monitoring bodies in General Comments and in the UN Manual on Human Rights Reporting.

The Human Rights Council of Australia, taking its lead from the treaty monitoring bodies and from its experiences of working with the UN system in Nepal has tried to clarify the practical import of these principles. The principle of universality means that resources, action and advocacy should focus as a priority on those most deprived of their rights. The principle of participation (which is recognized as a right) means taking steps to facilitate participation including the provision of relevant information, guarantees of security, and meeting of costs. The principle of accountability means opening the door to full participation and providing avenues for challenging and seeking redress for decisions or actions negatively affecting rights. As stated in the Declaration on the Right to Development, people have the right 'to freely participate in development and in the fair distribution of its benefits' so that the principle of accountability implies cooperation in the fulfilment of human rights. These principles apply as much to donor governments as to recipient governments and thus have programmatic implications for both.

It is often argued by government officials and academics that the realization of economic, social and cultural rights implies an obligation to provide services for all immediately which is an impossibility and, hence, these rights are merely expressions of aspirations. In fact, the Committee on Economic, Social and Cultural Rights and other experts have made it clear that the realization of human rights is about enabling and ensuring *access* – except in those cases where people are unable to provide for themselves and who should therefore receive immediate priority support. The United States and some of its allies view economic and social rights as being vaguer and less precise in imposing obligations on state parties than civil and political rights. However the UN Treaty Bodies have clarified that the obligations to respect, protect and fulfill human rights are the same for all rights. Economic, social and cultural rights provide a framework condition for action by states on the road to development. Understanding the obligations of states for the realization of these rights enables the identification of indicators of state behaviour.

While the argument is increasingly made that globalization is taking away the possibility of holding governments responsible for the realization of economic, social and cultural rights, this is all too often an excuse for governments to do nothing. FIAN argues that this needs to be pointed out by donors – at least by those who have accepted the human rights approach to development cooperation.

Time and again participants in the workshop referred to the importance of stressing the principle of the indivisibility of all human rights and emphasized the link between development and economic, social rights and cultural rights – and that these should not be separated from civil and political

rights in the development dialogue. At the national level NGOs had the impression that human rights were seen as the “cherry on the development cake” – and very often the development cake was indigestible and at odds with the small human rights and democratization cherry.

NGO participants with expertise in economic and social rights were unanimous that awareness of the normative and core contents of economic, social and cultural rights is still very rudimentary among many donor agencies, even though they are an essential component of the human rights approach. This is a clear barrier to implementation of the approach in practice. Lack of knowledge and awareness of human rights is also clearly a problem beyond just official development agencies. NGOs, too, often do not take sufficient advantage of such opportunities as the examination of periodic reports by the UN Committee on Economic, Social and Cultural rights to ensure that governments’ human rights obligations influence or guide development decisions.

International development NGOs have found that this is just one of a number of problems encountered – that there are also genuine organizational difficulties associated with applying the approach. These can include an existing staff who either does not know how to do it or who because of training and background does not see its relevance to the practical issues of delivery or transfer of resources or technical expertise that have been the traditional focus of development assistance.

These issues were picked up more fully in presentations from Save the Children and CARE International. Both organizations have adopted the human rights approach and both have experienced similar obstacles and challenges to those facing official donors in implementing the approach.

Common concerns are how to internalize and gain acceptance of the approach among the staff and how to manage change with relation to local partners and governments. The changes required and the lessons learned by these two NGOs in dealing with these issues were seen as having considerable relevance to other NGOs and to official development agencies.

Save the Children is guided by the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Helpfully both of these instruments include economic, social and cultural rights and civil and political rights without making any distinction between them. However, while the instruments establish the basic principles for the human rights approach, they fall short of providing programmatic direction.

The shift to a human rights approach is a major undertaking for both organizations. In the case of CARE International, the decision to adopt the approach was taken at the management level in order to achieve a greater impact on poverty and social justice.

Echoing the concerns raised by staff in many official development agencies, the human rights approach has been variously perceived in development NGOs as implying a move away from neutrality and respect for local cultures, as a bureaucratic move to add yet another cross cutting sectoral issue, or as a mere change in terminology – a new ‘buzz word’. Even acceptance that change is entailed needs to be clarified for the staff of both NGOs. Staff in both organizations have tried a variety of strategies or techniques to address these concerns.

One is to try and clarify the nature of the changes required and the “added value” the approach will bring to the organization’s work for the poor and with its partners. These include the necessity to improve analysis to look at root causes of poverty and to address issues of discrimination and marginalization. The human rights framework has clear advantages in this respect. Another change has been an increased emphasis on advocacy through lobbying and opinion-building, a willingness to work with a wider range of partners and to explore issues of the agency’s accountability to its partners.

These changes have demanded new capacities and competencies within the organizations and from staff and has required shifting resources around and sometimes away from program work to research, studies and better monitoring.

CARE International’s experience has demonstrated that while it is essential to have senior management commitment to the approach, this will not win over the sceptics who need to be convinced of the benefits of the changes demanded of them. There is a need, therefore, to design structured bottom-up training programmes for field staff with easily understood guidelines that are based on evidence from real projects to bring the doubters on board.

Both organizations have had to face the dilemma of operating in an environment in which human rights principles may not be accepted by the authorities or where they are perceived as an imposition of ‘western values’. However, government hostility to human rights is not all pervasive and there are always entry points for dialogue and advocacy that need to be uncovered. Here again, sensitization and capacity building of staff is paramount in dealing with difficult partners. Finally, the expectations and understanding from the

organizations' supporters is an issue that needs to be addressed – it is harder to sell and show concrete results from advocacy and capacity building than from building wells and health clinics.

These issues were discussed in greater detail in small working groups (see below) before the workshop came back to listen to presentations on three country situations.

The three country-related examples at the workshop reflected situations in which the inadequacies of development efforts that relegated human rights to mere add-ons have had unfortunate outcomes and where demands for immediate results and lack of meaningful participation have had a negative impact.

The International NGO Forum on Indonesian Development (INFID) has since 1985 attempted to influence the practices of donors, initially with relation to the World Bank-hosted Inter-Governmental Group on Indonesia, and then with its replacement, the Consultative Group on Indonesia (CGI) created after Indonesia's rejection of aid conditionality imposed by the Netherlands following the Dili massacre. INFID has maintained a consistent emphasis on human rights in its advocacy on people's participation, poverty, land rights and women's rights.

INFID argues that donors ignored the human rights abuses occurring during Suharto's reign because of their strategic and economic interests. They based their policies on positive assessments from the multilateral banks and focused their activities on economic growth and infrastructure development, largely ignoring issues of corruption and cronyism, drafting their country strategies without broad consultation with emerging NGOs and civil society groups.

According to INFID since the economic crisis in 1997 and the consequent fall of the Suharto regime, donors have focused on economic recovery, social safety nets for the poor, good governance to control corruption and strengthening democracy. There is a renewed willingness to enable people's participation and to at least begin to address the promotion and protection of human rights.

However, INFID remains critical of both bilateral and multilateral donors because of the continuing basic focus of these strategies and because they are still resistant to involving civil society organizations in the drafting of their country strategies. If they had done this earlier they could have heeded the warning signs of imminent collapse. As it is, INFID has been invited as observer at the World Bank CGI meetings, but at the request of former INFID member and current Indonesian President Wahid rather than through donor advocacy. The remaining challenge is to be admitted as a full partner and to be allowed to inject economic and social rights into the discussion of poverty, and donors should be supporting this process. Human rights can thus become the framework which will bring donors together in a coordinated approach to development in partnership with civil society.

The Center for the Prevention, Treatment and Rehabilitation of Torture Victims and their Relatives that works on justice issues in Honduras is supported by the international donors. In Honduras the donor community rallied to assist the country following the devastation of Hurricane Mitch. However, decisions about the directions of reconstruction were made without adequate participation. This is mainly due to the reluctance of the Government to consult properly with civil society. In fact democracy has become even weaker after the hurricane with more demands on

resources by the poor and most disadvantaged being met with increasing repression by the Government. Decentralization, which is essential to ensure greater democracy has slowed and the economic policies promoted by the international community have resulted in an increase of foreign debt and fewer resources for social programmes at a time when these are needed more than ever.

The result of all this is that development cooperation had benefited the well-off most of all. The responsibility on donors therefore is to address the political dimension of development in order to effect real structural change. This requires donors to listen to the people and to strengthen and develop the partnership with civil society.

The 1997/98 El Niño that devastated much of Ecuador's coastline resulted in a very similar reaction from the donor community to that in Honduras after the hurricane. The Center for Economic and Social Rights has an office in Ecuador and, while it acknowledges the immediate rallying of the donor community to provide assistance, it is highly critical of the lack of foresight shown in the relief effort. Once again the action of donors tended to undermine rather than strengthen local capacity to play an active role in determining development. Assistance was funneled through undemocratic and unaccountable institutions, leading the way to the type of corruption that donors try so hard to combat. The focus was very much on rebuilding the large physical infrastructure of the country which meant that social infrastructure was to a large extent ignored.

Just as in Honduras, the opportunity to take a long-term view and address the inequalities in Ecuadorian society was allowed to pass. Instead of adopting a human rights approach based on the

principles of empowerment and accountability, the donor community chose to rebuild along the same underdeveloped lines that existed prior to the disaster. In both Honduras and Ecuador it was argued that had the response been based on recognition of rights and the importance of participation the emergency humanitarian response could have more easily been integrated into longer term sustainable development programming.

The point was also made that neither were sudden natural disasters as commonly perceived. El Niño in particular is a long term and increasingly understood weather pattern that could have been planned for, while the effect of Hurricane Mitch was so devastating because so many people had been made vulnerable by previous patterns of development.

Critical Appraisals of Donor Practice

Discussion of existing donor practice ran throughout the NGO workshop. Perceptions of donors reflected the different relationships of NGOs to donors.

NGOs at the domestic level in aid recipient countries often have a funding relationship with donors and most if not all had had positive experiences and enjoyed good relationships with particular donor agencies. At the same they remained critical of the overall relationship between their country and donor nations – in relation to trade, debt and aid.

International development NGOs (INDGOs) fall into two broad categories. Some such as NOVIB act as intermediaries between the governmental donors and their local partners in the South in the delivery of aid and as such are seen as donors in their own

right. Others, such as the major charitable organizations develop programmes and projects with their partners in developing countries. INGDOs see themselves as largely independent of government and operating in partnership with the poor and the representatives of the poor. While they receive an increasing proportion of funding from government they have often not participated in, or sought to affect their government's individual country strategies or indeed broader policies.

Finally, the policy research and advocacy organizations are perhaps by their nature more critical of policy and practice removed at one step as they are from implementation of programme and independent of government.

Appraisal of donor practice therefore ranged from the practical to the principle and from the local to the global.

Participants commented that official donor activity is not oriented towards structural changes in society and therefore inequities are bound to remain. Thus, when questions of the power relations between governments and citizens are involved, donors will support the status quo or at the very least stay neutral.

This neutrality is perceived as tantamount to supporting conditions where human rights are denied. One example mentioned was the case of bonded labourers in Nepal where the problem stems from the issue of land rights and the system of land ownership. Unless this is addressed, even when bonds are lifted and legislation is brought down to outlaw the practice – initiatives that donors support – labourers will return to bondage.

Again, in cases of civil conflict and humanitarian emergencies the focus of donors is on the provision of the immediate necessities for survival. Yet, very seldom is adequate thought given to structural issues

which may prevent recurrences in the future and contribute to real development.

The poverty reduction approach – increasingly popular among donors – can also have some unforeseen outcomes. For example, much has been made of the statistical fall in extreme poverty in Peru. Yet the statistics mask the reality that focusing on the poorest and most marginalized has meant that the economic and social rights of the lower middle class were undermined. While a human rights approach advocates a focus on the poorest and most marginalized, the principle of non-retrogression means that states must avoid winding back already realized social and economic rights. In Peru the level of extreme poverty has been reduced but poverty overall has increased.

Among aid professionals there seems to be a perception that poverty can be measured whereas it is more difficult to establish clear benchmarks for the realization of human rights. They see the poverty reduction approach as more practical and not – like the human rights approach – another fashionable theory, and thus have a tendency to leave the potential of the rights approach to address poverty unexplored.

The lack of mechanisms for donors to be held accountable by communities or individuals was also highlighted. Accountability is seen as a one-way agenda where increasing accountability to the donor agency is demanded, even if this takes a form that is more appropriate to the needs of the donor than to the needs of the communities.

Donor governments and politicians – accountable to their constituencies – require prompt results from the provision of development assistance. Political pressure in the donor country, the need to justify the programme and the practical bent of most

development professionals who are used to concrete and immediate outcomes resulting from their work, all dictate urgency in the production of visible and concrete development outcomes. By contrast, the realization of human rights and the processes required to ensure participation are time consuming and a long-term project.

For example, the Poverty Reduction Strategies Papers of the World Bank are supposed to involve consultation with civil society. However, in at least one case cited civil society organizations were given one day to read, discuss and comment on the PRSP. Concern was expressed that despite commitments to openness and transparency the World Bank's country assistance strategies were still confidential documents. It was acknowledged that the greatest opposition to these strategies being made public was often from recipient governments, but the policy commitments of donors to openness should count for something.

While there were positive and negative experiences of participation, the positive experiences tended to be at the local project level rather than at the sectoral or country strategy level. The existing focus of participation is too narrow.

Thus, even though donors profess a commitment to people's participation there are obstacles to this having any real meaning. One reason is that they feel obliged to deal with recipient governments that may not be favourable to participation and insist on negotiating through existing unrepresentative institutions. Another is that there is seldom time allowed for meaningful participation. It is unrealistic to imagine that a mission that is designed to establish a programme can consult with civil society in the time normally allowed for this. This is allied to the issue of who the dialogue partners are. Donors relate directly to recipient governments and it is with these

that agreements are negotiated. Donors also relate more closely to other donors and this creates problems in terms of information sharing with civil society organizations. There is thus an 'open' and a closed 'agenda' which is a hurdle for genuine people's participation.

Many development professionals still equate human rights with civil and political rights, particularly with respect to gross abuses of rights. This is seen all too often in a situation analysis that is narrowly confined to civil and political rights. This perception undermines the potential of aid to promote awareness and understanding of all human rights. It also contributes to perceptions of human rights being a very sensitive subject best left to diplomats, rather than aid professionals. Particularly so, as discussion of civil and political rights violations remains caught up in the negative conditionality debate. The potential of a dialogue on the fulfillment of human rights to provide an entry point to discuss issues of human rights violations remains largely unexplored.

That is not to say that the relevance of the violations approach to aid should be dismissed altogether. Documentation of violations of economic, social and cultural rights can help in identifying areas where aid can be focused and provide some direction to advocacy. It can also help clarify understanding of the nature of these rights. This is the role that a number of international NGOs have taken on and donors should draw on the expertise of these and assist them and their partners in the South. However, identifying these types of violations is difficult because those who suffer them do not have the same access to public attention as those elites who are mostly the targets of violations of civil and political rights. Donors could provide financial and moral support to

NGOs in their efforts to expose violations of economic and social rights and, in line with their efforts to develop civil society, contribute to capacity building among southern NGOs in this area. Donors could also use and pay greater reference to the existing monitoring systems for economic, social and cultural rights.

Working Groups

Two working group sessions during the workshop considered how NGOs can apply the human rights approach to their own work and how NGOs can encourage and assist donors with integrating human rights within their strategies and programmes.

The working groups noted that NGOs face many of the same challenges in implementing the approach as the official donor institutions. The issue of how to ensure that governments are held accountable for the realization of rights is a recurrent concern. Of great importance also is the need to consider accountability in the context of all the rights including economic, social and cultural rights.

NGOs should increase their capacity to document violations of economic, social and cultural rights. One way to do this is through cooperating on the formulation of shadow reports to the UN treaty bodies. If this is done in a genuinely participatory manner, the reports will assist in the setting of necessary human rights goals. There is also the need to consider the impact of development assistance on civil, cultural, economic, political and social rights. A situational analysis should take account of the impact of aid

on various sectors dis-aggregated according to gender and so on.

There is a need for advocacy on the human rights approach at the international level to focus on both northern NGOs and donors in order to gain support for the human rights approach in the South. Human rights language should be used in advocacy to strengthen the message NGOs are trying to convey.

The human rights approach should apply to NGOs' relationships with their partners as well as to their own staff. Therefore, development NGO – international as well as local – should also consciously behave democratically and accept that they are accountable to their partners and communities.

More generally, there is too little cooperation between human rights organizations and development organizations and greater effort should be devoted to working together. It is important to also be flexible when operationalizing the approach and to avoid too great reliance on the legal aspects of human rights. NGOs should be encouraged to find and promote examples of good practice.

There were numerous suggestions on how official donors could apply the human rights approach to programmes and strategies. Donors should integrate human rights explicitly in discussions of 'good governance' and other frameworks for aid coordination such as the UNDAFs and the World Bank's CDF. They should make greater efforts to include civil society organizations and promote NGOs as equal partners in decision making on aid strategies, and respond more to the needs of civil society and less to those of the donors themselves for example in timetabling of decisions and programs. This requires sharing information and knowledge.

Several NGOs proposed that NGOs and civil society organizations should be involved in establishing

criteria for aid decisions and in monitoring processes and more effort should go into building civil society capacity to engage in dialogue around rights.

One important need is for those donors who have adopted a human rights approach to development cooperation to open a dialogue with other donors who are reluctant to do so. This is important with respect to systematic advocacy in multilateral forums. Both should accept that they are accountable for the impact of their assistance and begin to establish appropriate complaints mechanisms to assess compliance with human rights standards.

It would be helpful if donors could develop a common understanding of the core elements of the human rights approach.

More work should be done by donors on integrating the human rights approach across policy and program areas to ensure that trade and other policies are not at odds with the human rights objectives of the aid program. There needs to be a consistency of approach from donors in bilateral and multilateral forums.

Dialogue with partner governments can encourage ratification of human rights treaties and as importantly engagement with the treaty monitoring processes. These processes can be used to encourage and facilitate greater dialogue between government and civil society on development priorities.

Exchanging Perspectives – Joint NGO-Donor Session

Following the NGO workshop, non-governmental organizations met in a joint session with representatives of bilateral and multilateral donors attending the workshop to consider some of the

recommendations from the NGO workshop (see table). Unfortunately, the time allocated to this session was somewhat limited, yet it generated a good exchange of views that raised some issues which were later discussed in the donor workshop. The recommendations were directed at donors but many were applicable as well to international development NGOs from developed countries.

It was acknowledged that in the process of globalization the private sector has become an important instrument for development and bilateral donors should not be seen as the only ones responsible for the realization of human rights – primary responsibility, of course, still rests with national governments. However, the capacity of governments to progressively realize rights is affected by the policies of others. For instance, the international financial institutions have been criticized for the way that privatization of state assets is equated to good governance and seen as best practice. In too many cases this leads to the state relinquishing the responsibility for the realization of human rights. In response to the criticism it is claimed that this is a matter of private negotiations and there is little opportunity to influence the process. NGOs pointed out that it is important, therefore, that the bilateral donors begin to influence these institutions to accept their responsibilities and to work to ensure appropriate accountability mechanisms.

The view was expressed by NGO participants that some of the European donors with strong commitments to human rights are not pulling their weight with the IMF to encourage an examination of the human rights impact of its policies and that some are actively opposing the evolution of international accountability mechanisms. While the World Bank has adopted a participatory approach to the formulation of its Poverty Reduction

Strategy Papers (PRSP) for the poorest countries, it has not integrated the human rights based approach nor is any reference made to human rights. It was suggested by NGOs from both north and south that in order to ensure more meaningful participation more time should be allowed for civil society input into the PRSPs. INFID in particular argued that on the basis of the Indonesian experience NGOs should be invited as full partners to the Bank-hosted donor Consultative Group meetings. NGOs were of the view that the bilateral donors have an important role to play in influencing the Bank to incorporate rights in its analyses and programmes, injecting their own human rights analyses in the preparation of the PRSPs. Indeed, the poverty reduction approach not only needs to take account of human rights, but has to make explicit that the denial of civil, cultural, economic, political and social rights is at the root of poverty.

NGOs argued that development agencies should explicitly be assisting partner governments in meeting their human rights obligations and in becoming accountable for their policies and practices. This assistance needs to include remedial action in case things go wrong and this should apply equally to donors themselves. In this context it is important that donor countries do not send mixed messages and thus there is a need to avoid the compartmentalization of human rights within an isolated section of government. Rather, the development policies of the donor government should impact across ministries and departments, for example, trade and finance ministries.

The importance of addressing economic social and cultural rights had come up repeatedly in the workshop and donors were encouraged to integrate these in their analyses. The reports of the UN treaty

bodies and accounts of the violations of human rights by civil society organizations should help guide country strategy and programme design. Unfortunately, there are many government officials who are not even aware of such sources of information and are ignorant of the bodies that generate them. UN representatives at the session pointed to the availability of this type of information on various websites while the UNDP routinely provides it to its resident coordinators. Nevertheless there is a need to build the capacity of bilateral donor staff with relation to the UN system and the normative and core content of rights.

To this end, appropriate human rights training was strongly endorsed by both donors and NGOs. The experiences of CARE International and Save the Children were particularly relevant in how to bring staff on board. The importance of a wide awareness and understanding of what the human rights based approach is – standards, obligations, accountability, root causes of poverty – can not be over-stressed. This depends on a strong direction from senior management but cannot be left to this alone. There is a need to emphasize the practical relevance of the approach while taking care not to deny the effectiveness of past approaches and emphasizing their continuity with the human rights based approach. Neither should the sensitivity of advocacy on human rights be underplayed.

The NGOs were in agreement with those donors who advocated an improvement in coordination of development efforts. To a certain extent this already happens with UN agencies through such mechanisms as the CCA and the UNDAFs. However, there is a need for greater exchange of experiences with human rights based approaches and sharing of human rights analyses among donors. While there are far too few

documented cases to take as models, there is a great deal of programming consistent with the human rights approach already happening in the field and the challenge is to adopt a 'bottoms up' approach to encourage and enthuse the higher ups. This is one way of convincingly demonstrating to the sceptics the value-added of the approach.

The question of meaningful participation engaged both donor and NGO participants. NGOs were somewhat critical of the way that civil society and non-governmental organizations were excluded from the decision making process. This certainly applied to the World Bank and the IMF but was also relevant to situational analyses and the drafting of donor country strategies.

A number of issues were raised by the donor representatives. Genuine and meaningful participation is perforce a time consuming exercise and sometimes there is simply not the time to conduct extensive consultation. As well, it is often the case that beneficiaries are not accustomed to taking part in such decision-making and do not have the capacity to do so. This presents a special challenge to donors who have the responsibility at the same time of building the capacity to participate while also getting on with the project. There is also the question of the representativeness of NGOs when some purport to speak for communities that they do not even represent.

There was general agreement that every effort should be made to achieve greater participation but that there were limits. For example, donors should strive to ensure the widest possible participation in the analytical work for the situational analyses in specific countries. However, a problem similar to donor coordination of country analyses arises here, namely how dependable is the information provided. There

are also constraints to participation in the drafting of country strategies which are, after all, the special preserves of the relevant donor with a concomitant political sensitivity.

One final point was stressed by NGO participants. They were complimentary of the initiative to organize the workshop and to be given the opportunity to interact with the official donor community. However, this should be seen as only the beginning of a process and should not be left as a one off event. There was a strong recommendation to continue to hold such exchanges and to elaborate on this preliminary dialogue. In the meantime the report of the workshop should be widely disseminated including by way of *Rights and Humanity's* Global Human Rights and Development Forum.

Recommendations from the NGO Workshop

The discussions in the NGO workshop reflected the wide variety of views and experiences present among the participants. The following recommendations – grouped as they are rather arbitrarily – reflect only inadequately the range of expertise present at the workshop and are distilled from the discussions and the presentations in the course of the workshop. It is striking how they resonate with those of the official donors.

Economic social and cultural rights

- ESC Rights should be an integral part of any human rights approach

- Donors should develop shared understanding of the normative content of human rights and of human rights obligations
- Violations of economic, social and cultural rights should guide programming
- Development actors should use the General Comments and Concluding Observations of all the UN human rights treaty bodies and the reports of the Special Rapporteurs
- Support for drafting of 'shadow' reports to the UN human rights treaty bodies

Collaboration with civil society

- Donors should promote inter-institutional learning between official agencies and development NGOs
- Donors should encourage networking on the human rights based approach between agencies and NGOs at the international, national and local level.
- Donors should work with NGOs and IGOs to facilitate permanent mechanisms for dialogue to encourage policy development and accountability

Coordination

- Donors with experience in human rights-based approaches should encourage other donors to open a dialogue on the approach
- More work needed to integrate human rights approach across ministries (e.g. finance, trade etc areas)

- Independent complaints and monitoring mechanisms within donor agencies (including 'aid ombudsmen' and 'humanitarian ombudsmen')
- Donors should promote the human rights-based approach in emerging frameworks for coordinating aid (CCA, UNDAF, CDF, PRSP)

Staff development

- Awareness-building within organization essential
- An understanding of the normative contents of rights and the obligations of states
- Initiating pilot projects as demonstration of value-added
- Convincing, not coercing skeptics
- Senior management support is critical

Programming implications

- Acceptance that HR advocacy can reflect different approaches
- Participation requires active provision of information – transparency
- The poverty reduction approach should be framed within the HR approach
- Civil society should be involved in the drafting of country strategies
- Integrate human rights and participation in dialogues on good governance
- Encourage ratifications and official engagement in treaty monitoring process

- Capacity building to enable civil society networks to become more inclusive, accountable and effective in negotiations
- Timetabling needs to respond more to civil society needs and less to donor programming timetable

Multilateral organizations

- Donors should facilitate the participation of civil society in Consultative Groups and other consultative processes hosted by the Bank
- Donors should advocate the integration of human rights in the Poverty Reduction Strategy Papers
- Donors should carry commitments to the rights into multilateral forums – EU/World Bank/IMF/WTO

Economic, Social and Cultural Rights and Development Cooperation

Michael Windfuhr, Executive Director, FoodFirst Information and Action Network (FIAN)

Introduction: The human rights approach to development: A necessary but new agenda

The human rights approach to development is increasingly talked about and is becoming a central element in development discourse. UNICEF uses rights language and increasingly a rights based approach since the adoption of the Convention on the Rights of the Child in 1989. The year 2000 Human Development Report is entirely focused on

the issue. More and more governments and non-governmental development organisations (NGDO) are starting to consider human rights as framework conditions for their work. But we are still far from a clear definition: what elements a rights approach can and should cover, what it means methodologically for development cooperation. FIAN can contribute some ideas and proposals to the search for a common understanding based on its own experiences as an international human rights organisation working for the implementation of the right to adequate food.

In recent years FIAN has repeatedly been asked to contribute to discussions on a human rights approach to development cooperation, focusing on economic, social and cultural rights (ESC-Rights). In 1997 we were asked by the Protestant development agencies in Germany to look through their project portfolio and to study if and how many of their projects were relevant from an ESC-rights perspective and to make proposals how to better integrate ESC-Rights into their work. In 1998 we presented the results of that work to the Ministry of Development Cooperation. Similar work was done in 1999, when FIAN was asked by the Böll-Foundation to write a concept paper on how ESC-Rights should and can guide land policies in Central America. In 1998 FIAN wrote a background paper on the “Role of international organisations in the implementation of the rights related to food and nutrition” for the second expert consultation on the right to adequate food as a human rights, organized by the FAO and the Office of the High Commissioner for Human Rights (OHCHR) as a follow-up to the world food summit.

A rights approach to development cooperation must include all categories of human rights. This paper is focusing only on ESC-Rights because of the

specific field of FIAN experiences and will concentrate on the challenges that arise from taking a rights approach to development cooperation with relation to ESC-Rights. Some challenges will be similar to civil and political (CP-Rights) such as requirements for access to justice or levels of obligations under each right. Other things will require a specific approach to ESC-Rights. For example, monitoring will be totally different for ESC-Rights since groups that are victim of violations differ and the required actions by states will involve other sectors or branches of government.

Beside the general misconceptions relating to ESC-Rights – that they are costly to implement, that implementation can only be done progressively and that they are therefore not rights at all but rather political objectives – one additional basic misunderstanding often comes up in discussions on how to integrate ESC-Rights into development cooperation, the concept that development cooperation automatically implements ESC-Rights because it is oriented to improve the health or food situation of groups of the population. However, a rights approach means foremost to talk about the relationship between a state and its citizens. The principal duty holder of all human rights is the state. The state has to comply with its obligations deriving from the rights contained in the human rights Covenants. Development cooperation can assist states in implementing their obligation. Moreover, the International Covenant on Economic, Social and Cultural Rights (ICESCR) also obligates states to international cooperation, meaning that states do not only have national but also international obligations.

Interlinkages between economic, social and cultural rights and development cooperation

Development cooperation in many donor countries was facing major changes at the beginning of the nineties. The end of the Cold War released development cooperation from any geopolitical constraints. Since then the trio of ‘good governance’, ‘democracy’ and ‘human rights’ has been the point of departure for the formulation of donor policies. All three parts of the trio describe how states should look. It is a programme for the definition of state action, for the description of measures the state should refrain from and of policies it should implement. In that programme human rights are an important part, because human rights give concrete rules and guidance for state action with relation to the people living on its territory. Nowadays donor policies in many countries follow this basic orientation. Nevertheless, they vary a lot, because ‘good governance’, ‘democracy’ and ‘human rights’ mean different things to different donors. The understanding of ‘good governance’ varies for example from a mere definition of absence of corruption or a very lean state to a description of a state that is responsible and accountable to its citizens. The understanding of ‘democracy’ varies from a pure focus on elections to a broader understanding as a participatory political system. ‘Human Rights’ are also differently defined as only civil and political rights on the one hand and as all five categories of civil, political but also economic, social and cultural rights on the other. Depending on the respective definitions, donor concepts vary on how they describe the obligations and objectives of states.

It is in this context that ESC-Rights have become so interesting. If 'human rights' are understood as they should be, as indivisible, interrelated and interconnected, all categories of human rights must be used to define the objects and the omissions for state action. ESC-Rights help to define the role of the state in economic and social policy making. This will be the biggest value added of a rights approach to development, in that it allows us to describe precisely what states should do and what type of action they shall refrain from. In policy dialogues, criteria can be used which are beyond individual donor's preferences. Moreover, in times of globalization it can be of great help if ESC-Rights give a direction on what issues or in what areas state action is still required.

The principal duty-holder of all human rights is the state. The state has to comply with its obligations deriving from the rights contained in the human rights Covenants. The full implementation of economic, social and cultural rights requires a state orienting its policies to comply with its human rights obligations. Human rights in general and ESC-Rights in particular oblige the state to respect, protect and fulfil these rights for all citizens. These three different levels of state obligations have been described by the Committee on ESC Rights (CESCR) in several General Comments. In General Comments No. 12, 13, 14 on the right to adequate food, education and health the CESCR has developed a standard interpretation of the different rights of the Covenant in (1) describing the content of the respective right, including a core content and (2) in clarifying the specific state obligations following the three levels 'respect', 'protect' and 'fulfil'. This has led to greater interpretative certainty. Many misconceptions and misinterpretations of ESC-rights have been the result of the historically unequal treatment (missing clear

definition, missing text book representation, missing references in case law etc.) of these rights compared to civil and political rights. I will now briefly introduce the definition and the state obligations concerning the right to adequate food as it is contained in General Comment No. 12.

Elements of a rights approach towards food and nutrition

In Article 11 (1) the states parties "recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". The human right to adequate food is therefore a distinct part of the right to an adequate standard of living. Hence the accessibility of adequate food should not interfere with the enjoyment of other human rights and other components which are necessary for an adequate standard of living, such as shelter and education. From Article 11 (2) thus derives the fundamental right of everyone to be free from hunger. In both parts of the article international cooperation is especially mentioned.

The content of the rights to food and nutrition can be described briefly as follows: The realisation of the right to adequate food requires the availability of food in a sustainable way for everybody, free from adverse substances and culturally acceptable, in a quantity and quality which will satisfy the nutritional and dietary needs of every individual. The ultimate objective of the right to adequate food is to achieve nutritional well-being. Nutritional well-being is dependent on parallel measures in the fields of education, health and care. In this broader sense, the

right to adequate food is to be understood as the right to adequate food and nutrition. Poverty is the major cause of food insecurity and missing access to adequate food and nutrition. Therefore, the availability of adequate food requires that every individual living alone or in community with others have access to productive resources, e.g. access to adequate land or natural resources like fish or the possibilities of gaining an income in ways consistent with human dignity.

The primary duty-holder under the right to adequate food is the state. States parties to the Covenant of ESC-rights have (1) to *respect* the right to adequate food under all circumstances for everyone under their jurisdiction. That means that states have to respect physical and economic access to adequate food or to a resource base appropriate for its acquisition. The obligation to respect requires also that the state must not take political or other measures destroying existing access by parts (specially vulnerable parts) of the populations to food or to a resource base like food producing resources. Secondly (2), the States parties have to *protect* everyone under their jurisdiction from having their access to food undermined by a third party. The obligation to protect includes the state's responsibility to ensure that private entities or individuals, including transnational corporations over which they exercise jurisdiction, do not deprive individuals of their access to adequate food. This involves the protection of the freedom to feed oneself and the use of resources to regulate other actors, through, *inter alia*, the adoption of legislation and administrative measures that protect the access to adequate food. It means also to guarantee that the food available is healthy and culturally acceptable. Protection against nutritional disinformation also belongs to this level of obligation.

Finally (3), whenever an individual or group is unable to enjoy the right to adequate food, states have the obligation to *fulfil* that right. This requires first that the States parties identify vulnerable populations within their jurisdiction. Secondly the states have to try their utmost by using the maximum of their available resources to ensure the long-term ability of people to realise this right for themselves. States are moreover under the obligation to immediately start with the resources available to guarantee ESC-rights. All States Parties to the Covenant on Economic, Social and Cultural Rights are under the obligation to take immediate steps to fulfil their obligations under the Covenant. The obligation to achieve progressively the full realisation of the right to adequate food (Art. 2, ICESCR) requires State Parties to move as expeditiously as possible towards its realisation (Limburg Principles). This obligation also applies to persons who are victims of natural or other disasters. Nevertheless, there will always be groups or individuals who cannot make use of possibilities to feed themselves. For this group the obligation to fulfil also means providing adequate food. Failure to perform any one of these three obligations constitutes a violation of human rights. Economic, social and cultural rights must be guaranteed without discrimination as to national or social origin, property, race, gender, language, religion, political or other opinion.

Even in the case where a state faces severe resource constraints, whether caused by a process of economic adjustment, economic recession or other factors, vulnerable persons are entitled to be protected through social programs directed to facilitate their access to adequate food and fulfil their nutritional needs. All states have the duty to satisfy a minimum core obligation, which means that everyone is, as a

minimum, free from hunger. Additionally governments should devise policies and programmes oriented to the full realisation of the right to adequate food. Priority should be given, as far as possible, to local and regional sources of food in planning food security policies, including under emergency conditions.

A rights approach for the work of development cooperation requires orienting development policies or programmes in a way that they become fully supportive of the requirements for the implementation of the right to adequate food in a double sense. First, development cooperation should guarantee that the majority of the resources invested in the food and nutrition field is directed towards the requirements mentioned above. Additionally, all programmes and policies should be developed in a way consistent with the standards deriving from the right to adequate food. On the second level a rights approach requires use of the resources available by supporting states to fully guarantee the right to adequate food. A rights approach also means development of a dialogue with states that are not complying with their obligations under the right to adequate food.

International cooperation in the text of the Covenant (*Articles 11.1, 11.2 and 2.1*) refers to both obligations that states parties have with respect to their international cooperation concerning the implementation of the right to adequate food in other countries and to the responsibilities and role international organizations have towards the full realization of the rights enshrined in the Covenant.

The role of development cooperation starts, when a state is not able to comply with its obligations, even if the reason for the non-compliance is grounded in external shocks (economic, climatic ones, etc.) or on internal problems caused by political, economic or

other developments. There are basically five roles development cooperation can take in supporting the implementation of the right to adequate food. The first three roles are linked to positive elements of support for the implementation of the right. The last two describe the responsibilities of development cooperation in minimizing possible negative outcomes of policies or on the ability of states to comply with their human rights obligations.

Positive and negative roles:

- (1) Development cooperation can help states which are resource poor and unable to guarantee the right to adequate food and the right to freedom from hunger for all its citizens, whether temporary, periodic or long term. The support can be in kind or in cash, as technical or financial support or as advisory service. The possibility of receiving support should not help states – even resource poor ones – to escape from their immediate obligations under the right to adequate food to use the maximum of available resources as expeditiously as possible.
- (2) Development cooperation can give legal, political or administrative advice to states which are not complying with their obligations under the right to adequate food, even if they could adopt adequate policies. The reasons for inadequate policies can be manifold such as influential lobby-groups, unwillingness to make necessary changes, missing knowledge about the possible impact of certain policies and programmes etc.
- (3) The third role lies in the active support or promotion of the right to adequate food. Development cooperation can promote actively the full implementation of that right by advising

states, by analysing and making known problems with the implementation of that right, by encouraging and supporting important actors inside governments but also inside the societies.

- (4) A fourth role would be that development cooperation has to ensure that donors' own policies and programmes do not limit states in implementing the right to adequate food. Development cooperation can create options as well as limiting choices of governments through conditionalities. In that sense development cooperation influences the policies available to governments and is under these circumstances therefore co-responsible for the possible problems in the implementation of the rights. The responsibility exists also with the governments' position and decisions in international organisations, such as the World Bank, that may influence country policies.
- (5) On a fifth level development cooperation should monitor donors' own government policies and programmes in other policy fields like trade and finance to guarantee that these do not contribute to violations of the right to adequate food in other countries.

International organisations have co-responsibilities in the implementation of ESC-Rights. There is so far little clarity about a precise description of what the Covenant demands of states in development cooperation. The CESCR is more and more precise in interpreting the provisions in a manner that defines development cooperation as a binding obligation. The CESCR is also encouraging states during state reporting procedures to highlight in which areas other effects or actors are severely limiting states abilities to

implement these rights. These are the first steps in getting a binding understanding on the content of the obligations to international cooperation contained in the Covenant.

The increasing interdependence and interrelatedness of national economies are increasing the sensitivity and vulnerability of every society to international trends and developments. These trends can even limit or diminish considerably the ability of states to deliver on national policies in a way that are conducive to the implementation of food and nutrition rights. On the other hand it is important that states do not misuse any globalisation rhetoric to distract from their own unwillingness to implement the rights at home by using the "maximum of the available resources" in Article 2 as an excuse.

It is of utmost importance for an adequate understanding of ESC-Rights to clarify the relationship between ESC-Rights and economic development. Any rights approach to ESC-Rights is confronted with some basic assumptions on the nature of the relation between economic development and the enjoyment of ESC-Rights which first have to be answered to create space for a better understanding of ESC-Rights.

- (1) The first is the traditional assumption that economic growth will in the long run help states to foster economic and social development, but as long as states are poor they need to have low social standards as a comparative advantage. While implementing policies is obviously always easier for wealthy than for poor states, the argument is still based on the trickle down myth, that economic growth will in the long run automatically lead to social development and the end of poverty. This is neither true at national nor at international levels. Growing income disparities

between and among nations have been a trend for a long period. To change that trend policy decisions are needed. As long as ESC-Rights are violated and people are hungry or without shelter, it is not only a mere moral issue of social justice but also a clear cut violation of human rights which requires governments to act. Moreover, talking about state obligations does not mean only talking about costly investments, it is first and foremost talking about respect and protection of peoples' existing access to food etc. Implementing ESC-Rights is not an issue of comparative advantages but of respect for human rights.

- (2) Very prominent is the second assumption that the implementation of ESC-Rights will always be costly and that like all policy decisions taken under conditions of scarcity, one has to make hard decisions on the use of scarce resources i.e. to judge which of the ESC-Rights have to come first because poor states do not have the resources to implement all rights at the same time. This argument has recently been promoted eloquently by Amartya Sen and has found its way into the Human Development Report 2000 (HDR) in the discussion of the rights approach to development. The use of this argument shows that only the obligation to fulfill rights found its way into the HDR with the limited understanding of ESC-Rights as implementable only progressively. This argument neglects the obligations under the ICESCR to protect rights by not forcibly evicting people, by not discriminating in the access to the health system for women or minorities and so on. These are not costly – they only require policy making based on a human rights framework.

- (3) The third of the economic development arguments is often used publicly by the USA as a rationale for its opposition to ESC-Rights. The argument is that the implementation of ESC-Rights requires good economic policies. If an enabling environment is created, the realization of ESC-Rights is seen as only a matter of time. Therefore according to the argument the implementation of ESC-Rights cannot be seen as a binding obligation because it would then limit the state's possibilities to choose the best policies for an enabling environment (e.g. the fastest growth). The argument neither recognizes the negative character of obligations linked to ESC-Rights nor that ESC-Rights are directly justiciable. In case of hunger and malnutrition, the states are obliged to immediately guarantee freedom from hunger. The General Comment on the right to adequate food points out that states have to prove that they have unsuccessfully sought to obtain international help if they are unable to implement the right to freedom from hunger immediately. Moreover, the central part of the argument is not convincing in claiming that ESC-rights prescribe specific policies limiting states' options to choose the best policies. ESC-Rights do not require specific policy measures or programmes. They only require checking the results of policies. If the number of violations of a certain ESC-Right is increasing, if the implementation is not progressive, if maximum available resources are used not to implement the rights, then other policies should be considered and used. Therefore ESC-Rights are also important for development cooperation, because they provide criteria to check the quality of government policies with respect to their development orientation. ESC-Rights as guidelines for development policies

The role that ESC-Rights can play in providing direction for development policies can be summarized in seven elements of a rights approach.

1. ESC-Rights set minimum standards for state behaviour, concerning rule of law, accountability of government actions etc. It is therefore a reference framework for a policy dialogue or for negotiation with a recipient country.
2. ESC-Rights are very relevant for specific groups that are vulnerable to violations or a neglect of their rights. Groups like indigenous communities, landless persons, the elderly are in some countries often victims of violations of the right to adequate food. A rights approach will start out by identifying the specific vulnerable groups with respect to the implementation of a specific ESC-Right.
3. A rights approach to ESC-Rights will make development cooperation sensitive to circumstances where certain actions will be critical in ending violations of a specific right. The implementation of the right to adequate food require in this respect a high sensitivity to issues of land tenure, security of access to land, land distribution and agrarian reform issues.
4. A rights approach needs as a precondition the right and the possibility of people concerned to complain and to hold their government accountable. Access to complaints procedures is essential for accountability. Also essential are the principles of participation and empowerment to enable people to enter into a dialogue with their government.
5. A rights approach can be supported through projects which are specifically designed to help

victim groups or broader groups of affected person. These include legal aid projects, for example, access to juridical or legal advisory services etc.

6. A rights approach can and should lead to additional activities in the field of education, training and building of knowledge networks both in developing countries and in the donor countries. A rights based approach can thus increase the legitimacy of development policy because development cooperation is than based on an internationally recognized and accepted framework of human rights.
7. A rights based approach will require complementary advocacy work to support the work of victims or other affected groups in holding their government accountable. It will also require holding ones own development policies and programmes accountable to ESC-Rights.

The seven areas require an integration of these elements into project work. This will have implications for the design, the planning, the specific issues or target groups of projects. A rights approach requires support for the interested actors in developing countries to hold their governments accountable.

An illustrative list of issues that should be integrated in the rights approach to the right to adequate food appears below. The implementation of the right to adequate food requires steps to be taken by all appropriate means, including in particular the adoption of legislative measures, supported by the necessary administrative capacity. Development cooperation has normally already taken a bunch of measures to promote food security at different levels. But very few measures are designed explicitly to

support the implementation of the rights to food and nutrition. The following list of means and measures which can help to better implement the right to adequate food focuses on those measures which could be explicitly linked to a rights approach.

The role of development cooperation in fostering the implementation of the right to adequate food can be described more precisely by following the different levels of state obligations. The FAO in its background paper in December 1997 presented a food security matrix which also follows the three levels of obligations. The FAO has used the food security matrix to assign its own policies and programmes to the different levels of obligations.

(A) Concerning the obligation to respect

Production-related

- Steps to ensure access to food producing resources require establishing and maintaining of land registries, respecting the usage of ancestral lands particularly by indigenous peoples, and preventing forced eviction or resettlement. Development cooperation can help to develop a national monitoring system, identify the most important regions and areas with problems of access to productive resources. If forced evictions have occurred, development cooperation can support states in relocating the affected group of the population and in paying for adequate rehabilitation.
- Change and innovation in farming systems must give due respect to traditional farming practices. Measures must be adopted to ensure sustainable patterns of production, preventing soil and water pollution and protecting the fertility of the soil,

the biodiversity of genetic resources and the climate. Development cooperation can support states in complying with these obligations.

- Access to productive resources should exist without discrimination and with the availability of work with remuneration which provides for a decent living for wage earners and their families. Women should have full and equal access to economic resources, including the right to inheritance and the ownership of land and other property, credit, natural resources and appropriate technology, if necessary guaranteed by legislative and administrative reforms. All these measures can be promoted by development cooperation.

Distribution-related

Development cooperation can become active both on the national as well as the international level. At the national level it can support, advice or recommend policies with objectives like:

- Ensuring that local food producers have access to markets for their products.
- Steps to ensure satisfactory access to food should include measures to respect and protect self-employment.
- The rights of vendors (like street vendors, hawkers, petty traders etc.) should be strengthened.
- Ensuring that tax-policies do not negatively affect people living at the subsistence level.

At the international level it can help document and challenge possible negative effects of trade embargos jeopardizing the vital food supply of other state's population.

Consumption-related

Steps to ensure adequate consumption of food should include measures to respect and promote traditional food (production) patterns. The role of development cooperation in respect to this objective can be major by giving technical (knowledge) and financial support.

(B) Concerning the obligation to protect

Production-related

The special tasks of development cooperation under the obligation to protect could be manifold

- Support or promotion of land registers, of minimum wage policies for workers and their families, of traditional farming, of the protection of the right to adequate food of future generation by helping to safeguard the conservation of soil, fertility, biodiversity of genetic resources etc.
- A very important part of the problems of the non-agricultural population are issues like the right to organize collectively and to join and establish trade unions. Development cooperation can help to create an atmosphere conducive to civil-society participation.
- In their own policies and programmes development cooperation should guarantee that no measures are implemented leading to resettlement without equivalent compensation.

Distribution-related

- Dumping of food products from other countries which undermine market opportunities for local producers must be prevented.

Consumption-related

Development cooperation should help states and guarantee that their own programmes and policies are pursued in a way to establish and implement legislation for food safety control and for the protection of consumers from nutritional disinformation and commercial fraud.

- Products included in international food aid programs must be nutritionally safe and culturally acceptable to the recipient population.

(C) Concerning the obligation to fulfill

Production-related

Development cooperation can help considerably to better the access to productive resources of groups currently having problems with this access or which are excluded:

- Agrarian reforms must provide vulnerable smallholders and landless peasants with access to land. Linked to agrarian reform are measures like offering credit facilities, marketing support etc. to producers.
- Support for economic activities creating self-employment of persons and families living in the informal sector.

Distribution-related

- Local food storage and distribution should be promoted and enhanced.
- The development of local and regional agro-industries stimulating the rural economy is an important step towards the realisation of the right to adequate food.

- Helping states and securing an end to corruption and commercial fraud.

Consumption-related

Development cooperation can support states and can guarantee that in their own policies the infrastructure for local food storage and distribution is functioning to allow rural and urban food systems to function effectively.

Development cooperation must never pressure a state or other international organizations to violate the human right to adequate food. Development cooperation should be accountable under the international provisions relevant to the human right to adequate food and should submit to similar standards of transparency, public control and freedom of information as individual states. People's access to adequate food must be respected and protected by development cooperation. Moreover, development cooperation should support states in protecting and fulfilling people's access to adequate food.

Development cooperation must guarantee that while negotiating international treaties, donors' own governments ensure that nothing in the treaties will override state obligations under the right to adequate food or more general ESC-Rights.

One of the biggest challenges to development cooperation in a strategy for a better implementation of the right to adequate food will be to create better co-ordination and coherence between the different programmes and policies promoted by the same government. Problems with coherence can occur on all levels, whether in macro economic policies or in regional or sectoral policies. Donor countries should investigate the option to establish complaint procedures, which would allow victims of their own

foreign economic policies in other countries (like in trade policies) to complain.

An important part in a strategy for a better implementation of the right to adequate food would be an active promotion of the rights approach. This include publications, regular documentation of violations of the right to adequate food, support to the respective monitoring bodies of the UN human rights system, support for new international legal instruments to strengthen the rights to food and nutrition. Economic, social and cultural rights all still facing neglect inside the UN-system and also outside. To promote the right to adequate food in the respective environments can help to change the understanding of that right considerably. National implementation (e.g. in terms of legislation) is of the utmost importance in strengthening the implementation of the right to adequate food. In this respect development cooperation can help states in developing adequate legislation and the respective administrative skills. International organizations can also widen the support to civil society groups which are working in favour of implementing the right to adequate food.

ESC-Rights and other actors

Globalization has brought problems with the realization of ESC-rights in general and the right to adequate food in particular when the state's ability to implement human rights is diminished. There are basically three processes which are contributing to a decline in states resources to implement ESC-Rights: (a) the development of a set of new international rules, regulations, policies and programmes, (b) the growing influence of policies of

other states on national development, (c) the growing importance of actors other than states, especially in the economic sphere. One loophole in the international protection of human rights is caused by the human rights system so far concentrating on the state as the principal duty holder under international law. If other actors become more important, new regulations will have to be found to bind their activities to the internationally recognized human rights standards.

The influence of new rules, policies and programmes can have two directions: they can be supportive for the realization of ESC-rights, but they can be at the same time of negative influence on states' capacity to guarantee ESC-rights. It was the Copenhagen Declaration and Plan of Action that specifically asked the international community to ensure that the social and economic impact of Structural Adjustment Programmes (SAPs) were minimized. Some endeavours have succeeded in minimizing the most negative impacts of those programmes but still the effects are often negative, whether in the overall amount of government money directed for social priority areas, or a too rapid approach to market liberalization, which can, for example, put small farmers at a very high risk of being forced out of production when they cannot compete with cheap imports. If no adequate support is given to the affected sectors of society by those changes, especially vulnerable groups of the society will be at much higher risks of poverty than before.

One has to also discuss possible negative outcomes on the enjoyment of human rights caused by external policy effects of another country. One example is the possible negative effects of EU agricultural trade policies on small

farmers' access to markets in African countries. The EU policies are based on the use of huge amount of export subsidies, putting small farmers in other countries at risk. The Committee on ESC-Rights has just started to discuss such policy impacts when discussing the human rights report of countries. So far violations of ESC-Rights as a transnational policy outcome has not been dealt with in the human rights system.

The importance of private actors is also increasing. They do have responsibilities under the Universal Declaration of Human Rights to respect human rights. Their new importance comes from their economic power, which may allow them to pressure governments to adopt standards or legislation more favourable for them and possibly hindering governments in implementing their human rights obligations. If governments are in a very competitive economic environment it may be difficult for them to strictly abide by their human rights obligations.

Most of the considerations presented in this paper are not new. The basic premise is that a rights approach is also needed for ESC-Rights. A rights approach needs to be taken carefully into consideration by each donor and has to be applied to the different programmes and policies implemented by the respective donor country. It is important not to confuse a rights approach to ESC-Rights with general economic development planning. The most important single argument in favour of a rights approach is that it changes the situation of the beneficiary or the beneficiary groups. These are no longer aid recipients but they are empowered to hold the responsible actors accountable to human rights standards. They thus become rights holders.

The Rights of the Child in Development Work

Eva Geidenmark, Save the Children Sweden (Rädda Barnen)

Introduction

Save the Children Sweden, (Rädda Barnen) was founded in 1919. We are a non-governmental organisation, independent of political party or religion. Our funds come from membership fees, donors, sponsors and the Swedish government. We have a programme in Sweden mainly focussing on awareness-raising. Through our European programme we support national NGOs in Eastern and Central Europe. The aim is to develop skills within national child rights organisations. Also, a great deal of work is presently being directed towards influencing the European Union to put the rights of the child on their agenda, particularly in the enlargement process of new countries.

At the international level, outside of Europe, Save the Children Sweden has nine regional offices and a number of national offices in four continents. We seek partnership with like-minded organisations and groups of individuals in order to build a global movement for the realisation of the rights of the child. Our membership in the International Save the Children Alliance, represented in more than a hundred countries around the world, is an important part of this strategy.

Our work is based on the UN Convention on the Rights of the Child (CRC), adopted by the United Nations in 1989 and ratified by 191 countries, all but the USA and Somalia. The CRC rests on four principles which forms an approach to the rights of the child that should guide our work. All children should enjoy their rights, no child should suffer *discrimination*. In all actions concerning children their *interests* should

be seen as important. The child has not only the right to *survive* but also to *develop*. And finally, the CRC states that the child has the right to *express her or his views* in all matters affecting her and him and to *be listened to*.

One of Rädda Barnen's tasks is to contribute to the development of a strong civil society which respects and values each child. The civil society has an important role to play as a watchdog for the implementation of the rights of the child and in assisting governments to meet their obligations. In our programme, there are interventions at all levels of society: grassroots level, local government level, national level, regional level and global level.

Key features of the approach of
Save the Children Sweden

The international programme of Save the Children Sweden is divided into three sub-programmes:

- Interpretation, dissemination, monitoring and training on the Convention on the Rights of the Child (CRC)
- Children in armed conflict and displacement and in emergency situations, for example refugee children, separated children and child soldiers
- Socially and economically especially vulnerable children, for example children in harmful labour, children in conflict with the law and children exposed to violence

Children with disabilities are mainstreamed into the above groups.

In relation to the first sub-programme "Interpretation, dissemination, monitoring and training on the CRC" one of its main objectives is to

ensure a child rights-approach in the international programme of Save the Children Sweden. One important tool in achieving this objective is child rights programming.

The principles underlying child rights programming, which in many aspects of course, are similar to those used in human rights programming, have been defined by Save the Children as being the following ones:

1. children are seen as holders of rights
2. the notion of duty bearers
3. the four principles of the CRC (see above)
4. the indivisibility of rights
5. the notion of non-conditionality

The work of Save the Children Sweden at any level of society should be based on an assessment of the situation of the rights of child made in relation to the above-mentioned principles. When making these assessments an important overall aspect is the cultural context and the understanding of traditions and other features that affect the way the rights of the child are interpreted and understood.

Furthermore, in order to be able to make our priorities, we have elaborated strategies for the sub-programmes on Children in armed conflict and displacement and in emergency situations and Socially and economically especially vulnerable children mentioned above. These two strategies are underpinned by a number of inter-linked operational principles which should characterize our interventions. Among these principles the following ones could be highlighted:

- child-focus
- community-based

- rights-based
- participatory
- gender-sensitive
- mainstreaming of the right of the child with disabilities

When we have made our priorities, our interventions are undertaken in the following areas:

- studies and reports
- support to practical projects (mainly through local NGOs)
- advocacy

At advocacy level, we favour a multisectoral approach as often various sectors in society are responsible for the non-fulfillment of the rights of the child. We also try to support and develop networks of local NGOs in order to gather knowledge and be able to make strong and concerted efforts.

What changes has the rights-approach entailed for Save the Children Sweden?

Save the Children Sweden is still in the process of changing from a mainly needs-based to a rights-based organisation. The changes that this shift of emphasis have entailed for Save the Children Sweden could be found at organisational level as well as when it comes to methods of work, design of projects, etc. Some of these changes are summarized below:

- thematic approach instead of only country focussed
- choice of partners

- role of Save the Children, from implementing own projects to supporting local NGOs
- emphasis on lobbying and opinion-building
- research and studies
- documentation and dissemination of experiences
- networking
- other target groups than children and parents
- becoming more political
- new capacities and competencies within the organisation
- new policies and procedures within the organisation

Debates and dilemmas

It would be incomplete to talk about a child rights-based approach without mentioning some of the debates and dilemmas that we have to face. One is “How can the Convention on the Rights of the Child be implemented in places where there is no functional legal system?” Another “How can the Convention on the Rights of the Child be implemented where the government capacity is very weak or almost non-existent?”. Or “Is there a contradiction between the idea of fixed universal human rights and the cultural attitudes to children?” “Are parents rights in conflict with the rights of the child?” “The Convention on the Rights of the Child is based on Western notions of childhood”.

Another set of dilemmas that we have to confront are those related to setting up realistic goals and measurable results that could be easily communicated to and understood by our members, donors and

sponsors. They want to see the impact on the child, which in many cases is difficult to measure when your activities are focussed on changes of legislation, policies and attitudes.

We try to constantly address questions like these when adopting a child-rights approach. The challenge is to find appropriate ways of working which take into account the complexities and specificities of the situation without diluting the spirit of the Convention on the Rights of the Child as laid down in the four general principles.

Rights-based Relief & Development Assistance: An Essay on What It Means for CARE

Andrew Jones, Program Advisor on Human Rights, CARE International

What is a rights approach for CARE?

CARE is committed to integrating a human rights-based approach in all our programming. Within CARE, such an approach has been defined as follows: “A rights-based approach deliberately and explicitly focuses on people achieving the minimum conditions for living with dignity. It does so by exposing the root causes of vulnerability and marginalization and expanding the range of responses. It empowers people to claim and exercise their rights and fulfill their responsibilities. A rights-based approach recognizes poor people as having inherent rights essential to livelihood security – rights that are validated by international standards and laws.”

From CARE’s perspective, some basic elements of a rights approach include the following:

1. Respecting and fostering the inherent dignity and worth of the human person. A rights approach is people-centered, recognizes the right of all people to be the primary architects of their own futures, and supports the full realization of human potential. It calls for the intended beneficiaries to play an active, lead role – to the maximum extent possible – throughout the program cycle. This means a renewed commitment to information sharing, consultation, and the accountability that comes from opening up to ongoing scrutiny, from taking the time to listen to the grievances, ideas, and aspirations of the people we serve.
2. Respecting and fostering the *equal* dignity and worth of all. A rights approach finds unacceptable and will challenge unequal opportunity, treatment, and access between different groups in a community or a society.
3. Raising awareness of human rights is prerequisite to their achievement. Rights-based programming realizes this and promotes rights education and dialogue. Moreover, it calls for building local capacities to engage all relevant actors in inclusive, participatory processes through which the rights of all will be respected, protected, and fulfilled. To facilitate such processes, a rights approach promotes decision-making structures – at all levels – which are transparent and accountable.
4. Appreciating that all rights impose duties, legally on States and morally on all of us. A rights approach holds all of us responsible for respecting, protecting, and fulfilling human rights. When rights are not respected, protected or fulfilled, a rights approach challenges duty-holders to live up to their obligations. With primary accountability falling on States, this implies

confronting a range of harmful policies and practices of government counterparts and donors.

5. Recognizing that injustices at all levels – i.e. failures to respect, protect, and fulfill human rights – are often at the roots of poor and displaced persons’ insecurity, social isolation, and underdevelopment. A rights approach calls for careful assessment of why rights are not being honored and consideration of how those responsible can be persuaded to take appropriate action.

What are the practical implications of embracing a rights approach?

The implications depend on how an organization integrates, in its operations, a commitment to human rights. It may be helpful to consider two approaches. The first could be termed a “*violations*” and the second a “*promotional*” approach. The former focuses on denouncing violations of human rights and on enforcement through legal remedies. The latter emphasizes positive ways to engage governments, important non-state actors, civil society organizations, and poor, marginalized communities themselves in the pursuit of rights through cooperation, education, dialogue and advocacy. While both of these approaches are necessary, CARE generally is adopting the latter, promotional approach. Some logical implications of this approach, in terms of program evolution, are likely to include the following:

At a general level, CARE would make explicit its commitment to respect, protect, promote, and fulfill human rights within an adapted set of principles guiding its programs worldwide. This suggests that we will hold ourselves accountable for the impact we have

both on people's achievement of their economic and social rights and on their enjoyment of other rights.

Operationally, CARE would ally itself increasingly with others in civil society to work, at all levels, toward shared understanding of rights and common rights-based relief and development goals. CARE and our allies would advocate increasingly for institutions, cultural and legal norms, policies, and practices that are transparent and socially responsible, and that respect, protect and fulfill the human rights of the people we serve. Even as CARE continues to value and practice neutrality between warring or political parties, genuine respect for local culture and, in general, collaboration with governing authorities, we would hold those responsible for rights abuses accountable by engaging them in dialogue and working steadfastly for positive change in their attitudes, policies, and practices.

At a more specific level, CARE would continue to refine program planning, assessment, design, monitoring, evaluation and reflection to incorporate a rights perspective. This may include more explicit, systematic emphasis on:

- Developing additional mechanisms and guidance for deepening community participation throughout the program cycle;
- Examining human rights conditions, structural and societal barriers to rights realization, and opportunities for addressing the gaps at the planning and program design phases;
- Measuring impact (in the sector(s) of focus and cross-sectorally) against rights-based standards;
- Further disaggregating data – by sex, age, geographic, ethnic or social origin, etc. – to diagnose and monitor degrees of marginalization and exclusion;

- Continuing to develop quantitative and qualitative indicators for measuring program impact related to empowerment, participation, and legal and policy reform.

How is CARE integrating a rights approach?

Although a topic of discussion for several years, CARE officially launched a human rights initiative in 1998. The initiative is intended to deepen organizational understanding, ownership, and application of a rights approach. Activities are organized under four strategic objectives: 1) Raise awareness and promote shared understanding of a rights approach as it applies to CARE's work; 2) Build staff capacity to apply a rights approach in the formulation, design, implementation, and evaluation of CARE's programs; 3) Ensure that CARE's principles, policies, and systems facilitate rights-based programming; and 4) Forge strategic alliances to promote mutual learning and further common objectives. For a recent update on activities underway and progress toward achieving these four objectives, please see the attached report.

INFID's Experience with Human Rights Advocacy and Bilateral Donors

Sugeng Bahagijo, International Non-government Forum on Indonesian Development

Introduction

As soon as Soeharto assumed power in the late 1960s, donors set up the Inter Governmental Group on

Indonesia which consisted of major industrial countries and was chaired by the Netherlands. The IGGI which met regularly to evaluate the economic progress of Indonesia and decide on further assistance and loans, was dissolved in 1992 due to Soeharto's anger over the Netherlands's criticism of the Dili massacre. It was replaced by the Consultative Group On Indonesia (CGI) chaired by the World Bank.

INFID (and then the INGI) was created in 1985 largely because Indonesia's growth was dependent on foreign support and the repressive political climate made it extremely difficult for Indonesian NGOs to directly influence the development policies of their government. Thus, an international forum like INFID was necessary to pressure and speak directly to the powers represented in IGGI, the World Bank and the IMF.

The dialogue and co-operation among NGOs inside as well as outside Indonesia converge in the INFID Conference and facilitates a platform for contact and dialogue with governments, multilateral development banks (MDBs) and other international institutions, such as the WTO, APEC and others.

INFID maintains a constant emphasis on human rights issues since these rights in the fullest sense – social, economic, cultural and political – are integral to participatory development. INFID has argued that a development model based on the denial of either civil or political rights or social, economic and cultural rights or both does not just violate international human rights standard, but is also a negation of the very concept of development. INFID identifies the issue of human rights, people's participation, poverty, land rights, labor rights, women, as the major issues that needs to be addressed, both by donors and the Government of Indonesia.

Indonesia and the donor community

For many of the officials donors Indonesia under Soeharto was an emerging market and an important trading partner. Indonesia was also a strategic ally in South East Asia and a target for democratization with the human rights agenda falling under democratization. Regardless of his dismal records on human rights, officials donors preferred not to confront Soeharto and his generals. The good motives and the interests of the donors need to be judged not on their policy statements or their rhetoric, but on actual practice. Had the donors put human rights above economic and business opportunities, Indonesian history would have been different.

The East Timor issue was the dominant human rights case that moved the donors to act and change their approach. Canada suspended its aid, the Netherlands strongly protested to Soeharto, the US stopped military relations, etc. The establishment of KomnasHam (the national commission on human rights) was a result of the Dili Massacre and initially was used as a foreign policy instrument to reduce criticism.

In 1994, there had been efforts by the Belgium government to include human rights criteria in its aid but the Belgium aid agreement was rejected by the Indonesian government as it contained these criteria. Belgium accepted this quietly.

Japan was the largest bilateral donor and trading partner. For more than 30 years its focus was on infrastructure projects or the economic sector – ports, roads, etc. In 1996, new areas in the social sector such poverty alleviation, public health, education was given another priority. Japan's ODA charter makes reference to human rights. But in

reality, it is difficult to see any concrete program in Indonesia.

The donors' approach (by Europe, North America and Australia) was mainly to give funding and assistance to key human rights and development NGOs working on human rights, legal aid, land rights, etc.

The position of bilateral donors was also affected or influenced by multilateral donors such as the World Bank. Until the crisis in 1997, the Bank continued to provide a good assessment of Indonesia's economy status and gave additional loans, despite gross and widespread violations of human rights. The Bank maintains that they fulfill economic and social rights through the poverty and development program. The Bank also sees civil and political rights as 'political' and outside their mandate.

Human rights concerns are sometime raised by certain donors (the US and EU for instance) during CGI meeting, but this has hardly stopped or changed anything. The Country Strategy focuses mostly on economy growth and infrastructure development. It is arrived at without broad consultation with NGOs and civil society groups. Human rights are only secondary concerns in the donors' Country Strategies. Including human rights issues is perceived as an unwarranted intervention and as risking the good relationship with Indonesia as was the case of the Netherlands in 1992.

The situation since the fall of Soeharto and the economic crisis

In the post Soeharto era, Indonesia has enjoyed the political freedom and civil liberties that had been denied for 32 years. But Indonesia is also plagued by much instability that originates from the remnants of

Soeharto Era: the dominant role of the military, past human rights violations, the KKN issue, the rise of separatism after three decades of centralization, etc.

At the same time, the effects of crisis have continued to be felt by the Indonesian people. Indonesia post crisis has 50% of households poor and near poor (the World Bank). 30% (of 200 million) children under 5 are malnourished, 40 million poor people, more than 15% unemployed, more than 2 million children will become "the lost generation" because of lack of food, lack of education (UNICEF report 1999). The huge debt burden (100% of GDP) of public debt (external and domestic) service has consumed significant government revenues and makes the government budget too small to protect the poor and the disadvantage.

During the short Habibie period (1998–1999), INFID opposed any CGI meetings on the ground that Habibie's is not a legitimate government. Donors continued to hold the meeting on the grounds that the meeting will benefit the new government in November 1999. INFID also exposed corruption cases (at least 53) of the Social Safety Net program (subsidized rice, micro credit, scholarship, school operational cost, etc) loaned by the World Bank that forced the World Bank and Government to improve the design and delivery system of the program.

After President Gus Dur came to power (November 1999), INFID was invited formally as observer to the CGI meeting in February 2000. President Gus Dur himself is a former INFID steering committee and advisory board member. In the last CGI meeting in Tokyo, INFID was invited as an observer. Indonesian and donors are pleased with Indonesia's transition to democracy: In February donors pledged 4,7 billion. In 2001, donors are planning to pledge around 4,8 billion.

Some observations:

After the crisis, the focus of all donors was on economic recovery and protection for the poor through social safety net programs, improved governance and strengthening democracy.

During Habibie's time, most donors were supporting the election process (civic education, election monitoring, etc).

The IMF and the World Bank played major role in macro and donor coordination.

Some of the donors consulted INFID in building their country strategy. Donors now put emphasis on governance (including military and corruption), poverty and support for key civil society groups.

Donors are fully aware of the need and urgency to include human rights. Donor also more articulate concerning human rights. Despite support and funding for Komnasham (the National Human Rights Commission) and other NGOs/ working on human rights, there has not been a systematic effort to incorporate human rights into the over all country strategy.

Lessons and insights

Because of their limited influence inside Indonesia, Indonesian NGOs and their partners outside Indonesia established INGI/INFID. Since then, INFID has been able to gain access and recognition from the donors (bilateral and multilateral) to hold them accountable.

Dialogue and communications with donors are important. But to convince donors to act positively on issues of concern is a challenge for INFID. INFID has used civil, political, economic and social rights as the basis for accountability as well as indicators of

development for both donors and the government of Indonesia. The ability to have access to governments and donors in industrialized countries – including to the World Bank – is in itself an achievement given the Indonesian context. INFID believes that this engagement needs to be maintained. But the challenge is how to make better and stronger arguments and to make donors and governments accountable for their policies.

In many case, INFID has not been able to convince these. But working through alliances with local, national and international, NGOs have strengthened their voice. As shown in the case of Kedung Ombo Dam advocacy, it is crucial to have northern allies to change donors' minds or to press the donors to take positive steps.

The setting of donors' country strategies must include participation and consultation by all stakeholders including the NGOs of the country. The quality and the quantity of aid and the motivation for aid should be based on internationally accepted norms. The ICCPR and IESCR provides the legal basis, which the donors and the recipient countries should uphold and implement. The dilemma between national ownership and the donors' agenda can be bridged or reconciled by using existing international human rights standards.

During the time before the economic crisis, multilateral donors had an overly optimistic and misleading picture of the Indonesian economy. The crisis provided the momentum for political change in Indonesia and a rethink of the national and global development model. Human rights based development and people-oriented development could be relevant starting point for the development community. Civil and political rights, and economic and social rights are very much the relevant instruments to promote

development and to combat poverty. The right to health, education, job and housing are all legitimate rights, not just legitimate needs.

Democracy and the basic freedoms – freedom of speech, assembly and association – are necessary for the people to participate in the development process. But it is imperative for genuine development that they be complemented with the realizations of economic and social rights.

Practical recommendations for donors

There are ways to improve the quality and quantity of aid, and especially to integrate human rights objectives. In the case of Indonesia, donors could set up human rights partnership programs in a coordinated effort by all donors to promote human rights – civil and political as well as economic and social rights. This program could be modeled on the partnership programs on governance – civil service reform, judiciary, anti corruption etc –initially funded from grants from the World Bank and UNDP.

Donor's country strategy should integrate and promote the realization and protection of economic and social rights as a legal basis to address poverty and inequality by:

- including civil, economic, political and social rights indicators in programs;
- budgeting for social spending, for example health and education;
- taking account of the impact of debt servicing on poverty, social spending and public investment.

Donors should consult civil society on the drafting of their country strategy and strengthen their own

capacity by appointing human rights officers in headquarters as well as in country offices.

Donors should support and strengthen the work of civil society and people's organizations in promoting land rights.

Donors should establish trust fund for human rights, initiate a public dialogue, research and advocacy on economic and social rights.

Human Rights and Humanitarian Emergencies

Juan Almeyda, Center for the Prevention, Treatment and Rehabilitation of Torture Victims and their Relatives

Purpose:

Our aim is to describe and explain briefly the Honduras situation before, during and after Hurricane Mitch and to consider the human rights situation and the relation between government, civil society and the international donors.

We will use the concept of the body as the organizing and conceptual structure that is a subject of change, transformation from inside and outside and is network of all its parts. A Body has both an essential nature and a history. With respect to the external environment it has relations of discontinuity and continuity.

Contents:

Description of Honduras, the Physical, Emotional, Mental, Economic, Political, Social, Ethical, International and Spiritual Bodies.

Description of Honduras:

We are situated in the heart of the Central America region with a geographical area of 112.492 square kilometers. There are six million inhabitants. The economy depends on agricultural exports. According to the World Bank, Honduras is the third poorest country in Latin America. Almost 80% of the population is poor. Before Hurricane Mitch, the indigenous and black communities had an illiteracy rate of about 70%, and more than 60% of the inhabitants had no access to health services and many of them had never been in contact with a medical doctor or a nurse.

In the historical sense, Honduras has been a country in a state of permanent emergency; Hurricane Mitch put the country in an intensive care unit. After this tragedy, there are three possibilities for Honduras: to die; to recover with impairment, disability and handicap; or to be born again and to meet the challenges of a new future of peace, justice and respect for human rights. We are struggling for the third alternative.

We cannot describe the human rights situation without considering the recent past and the present geopolitical role of Honduras in the Latin American region as well as the ecological destruction before and after Hurricane Mitch. As a geopolitical zone, Honduras is close to Cuba, Miami, Chiapas (México), Puerto Rico, Panama and Colombia. The country has frontiers with El Salvador, Guatemala and Nicaragua. There are two coasts, the Atlantic and the Pacific. From the Caribbean it is close to Colombia.

During the 80's, Honduras became a relevant US military base and a place for the operation of the counterrevolutionary forces of Nicaragua

(Contras). At the present time in spite of the peace process in Central America, Honduras is one of the most important U.S. military bases in Latin America. During and after the war in Central America, drug trafficking and arms smuggling have been important issues for this country. In the last 5 years, several US military maneuvers have taken place in Honduras.

The physical body:

This represents the organization and interaction of the populations (human, plants, animals and the environment). Social injustice reflects on the physical body. Before Hurricane Mitch the most undernourished and diseased people were the campesinos, the indigenous and the pobladores (poor neighborhoods). Among them the greater impact of poverty and violence has been on women and children.

Between 60 and 80% of the river basin has been deforested. The lumber companies, monoculture (banana, cane sugar, coffee and others) and the mining industry have also contributed to deforestation and the contamination of the environment with heavy metals cyanide and pesticides.

Poverty creates the condition of violence either reactive or proactive. Land reform has been absent. The hungry are induced to sell their bodies and their land (prostitution, children traffic and corruption).

Mitch's impact was not only due to the intensity of the Hurricane but also to the result of previous deterioration in ecological and political processes. Mitch killed more than 5,000 people and almost one million were left in need of relief. There was great

destruction of the basic infrastructure of the country (bridges, roads, banana, corn, beans, coffee plantations). The cost of the tragedy was 2 billion U. S dollars.

The economic body:

In 1998 (the year of Hurricane Mitch) Honduras' External Debt was 32% (363 million US dollars) of the national budget (1147 million US dollars). More than 47% of the population lived with an income of less than one dollar. The servicing of the External Debt represented double the amount invested in education, almost four times the amount required for health and more than 140 times the investment in culture.

For the year 1999, according to the World Bank and the Honduras Central Bank, the External Debt is over 4400 millions US dollars. After Hurricane Mitch, the economic policy of the Honduras Government was to increase External Debt; the reconstruction process is favoring the wealthiest people, with more exclusion of the poor and a great potential for the development of violent confrontations between social groups.

The emotional body:

Resentment, humiliation, anger, fear, panic, terror, insecurity, lack of self-esteem and lack of self-assertive behavior has been the pattern for the Hondurans due to poverty, repressive governments, militaristic policies and natural disasters (Hurricane Fifi, Tropical Storms and Hurricane Mitch).

Hondurans will only become more confident through partnerships, through face-to face actions and

solidarity, and through national and international cooperation with real participation of the people.

The mental body:

This is related to information, knowledge, communication, conscious decisions and will power. Because of the high rate of illiteracy and the limit of access of the poor to secondary or higher education, the Honduran people are not well informed. The history of the authoritarian system, militarism, cultural, economic and political dependency have contributed to the manipulative behaviors of the politicians that results in a less critical and participative society.

There is a poor communication between the government and civil society. Usually this is top down. The people are fearful about giving opinions on government policies.

Face-to-face communication with the grass roots is almost absent. The media is almost completely controlled by the traditional parties and the government. This situation makes it more difficult for the participation of civil society in the national reconstruction process after Hurricane Mitch.

There is no sharing in the decision making process on governmental policies which are imposed from above. The people are informed after the policies are decided. There is no transparency. Society has a lack of trust in politicians and in the government.

It is very common that the government calls civil society to a meeting only when there is some international pressure; but even under this conditions there is no true participation by civilian groups.

After Hurricane Mitch we have become a less “democratic” and participatory society. Social organization has become weaker with the exception of the indigenous, women and neighborhood groups who are the most demanding sectors.

The political body:

After the end of the cold war, Honduras underwent important changes due to civilian and international pressure: the transformation of the military police into a civilian police, abolition of the obligatory military service, the appointment of the Public Minister (Attorney-General), the Comisionado Nacional del los Derechos Humanos (Ombudsman), the National Institute of Women.

However the decentralization of the government and the role of the municipalities has taken a very low profile. The authoritarian and vertical model is still prevalent. The military budget is over 7% of the national budget.

After Hurricane Mitch, we have had an intensification of political activism, almost three years before the presidential elections. The political process has been in crisis, because the National Tribunal of Elections is planning to change the date of the elections and because there have been some questions about the nationality of the presidential candidates. Racism and chauvinism, and the manipulation of people have become the main issues. We are expecting a serious confrontation among the members of the traditional parties.

Indigenous demonstrations have been subject to military and police brutality during 1999. On September 8, 2000, more than one hundred

indigenous people (including children and women) were traumatized by the police and military forces. We presented the testimony to the Honduras Human Rights organizations, the Ombudsman, and the Attorney-General.

In the last five years more than 40 indigenous and black leaders have been killed with impunity. Other human rights abuse have occurred before and after Hurricane Mitch and there is particular concern about the extrajudicial executions of children and youngsters. Private security forces have increased in number, in such a way that they constitute a parallel army greater in number than the official armed forces. Paramilitary groups, and civilian armed groups have been organized with connections to the military.

The rate of killing and kidnapping has increased in the past six months without any explanations by the authorities. Officials from the police and armed forces have been accused of being involved in drug trafficking and the smuggling of arms.

One of the most important issues related to torture and organized violence is the policy related to ecology and land reform. In this the government has done poorly, because of the negative changes of the laws on the environment and it has done virtually nothing on land reform.

A few weeks after Hurricane Mitch, the Honduras Government made fundamental changes to the Mining Code in order to protect the interests of the mining companies from USA and Canada. In the last 4 years over 30% of the national territory has come under the control of this industry. Potential contamination with cyanide and heavy metals is growing and the Government has not shown any concern.

At the same time, the Honduras State follows neo-liberal policies that increase the External Debt, raise

the level of poverty and reduce the budget on social programs – education, health and the improvement of living conditions.

The Government has taken some positive measures such as allowing human rights organizations to train police on the prevention of torture and to work in prisons and police detention centers in order to prevent human rights abuses. Some police and militaries have been put in prison for human rights abuses. Members of human rights organizations have been able to join personnel from the Attorney-General in visits to police detention centers and prisons. There is more space for discussion on gender issues. However, we urgently need to develop a policy on gender, children and youngsters' rights.

The social body:

Honduras needs more decentralization of the government and coordination of local projects with national policies. True participation of the communities at the municipal level in the decision making process is vital for development at the local districts.

Civil society participation is essential for changing the policies of the state. Supporting NGO development programs, rather than paternalistic actions, is more positive for the democratization process.

The international body:

There is not doubt that international cooperation absent neocolonialism is essential for the growth of the underdeveloped countries. True partnership is necessary in order for us to respect each other.

We agree with the following observations in the statement of the Group “Follow up Post Stockholm” on the reconstruction of Honduras after Hurricane Mitch:

- “Reduce ecological and social vulnerability” by changing the present policies of the Honduran government on these matters.
- “Reconstruction and transformation with transparency and accountability” with participation of the people.
- “Consolidation of democracy” without torture, and an authoritarian and militaristic culture.
- Promotion of respect for human rights together with equality of gender, the rights of children and of ethnic groups.
- Coordination of the efforts of the donors, based on people's needs and the priorities established through true participation of civil society and the government.

In our personal experience before, during and after Hurricane Mitch we developed a true partnership with RCT-Danida on the prevention, treatment, and rehabilitation of the torture survivors, and also on the prevention of human rights abuse in prison, police detention centers and organized violence in the communities.

Trocaire gave strong support in Honduras in community development, ecological issues, a humanitarian program on health working in the areas of extreme poverty and promoting people's participation.

In addition support was received from Save the Children (UK) for poor children, community development and participation; from INTERSOS from Italy; and from several NGOs, individuals and

religious groups from the USA; the following countries also provided assistance: Spain, Germany, France, Sweden, Norway, Denmark, Switzerland, UK, Holland and Italy; and from the Americas: Cuba, USA, Canada, Mexico, Brazil, Colombia, Venezuela and other countries.

We acknowledge and express our gratitude to these organizations and countries for their solidarity in the tragedy of Hurricane Mitch.

The ethical body:

Transparency, sharing responsibility with civil society and international cooperation are essential for making progress on corruption and the exclusion of the poor.

The spiritual body:

Working with love together for a new society with justice, respect for human rights an end to torture, organized violence and destruction of the planet is our mission and a dream for a more democratic society without racism, war, sexism and poverty. Our final goal is to build a world with love, peace, justice and non-violence.

Note: The statements in this document are the responsibility of the author and not of any organization or persons that are mentioned in this paper.

References: Derechos Humanos: Dos años de realidades y retos (1998–1999) Comisionado Nacional delos Derechos Humanos.
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de Cooperación Internacional (ACI) Tegucigalpa. septiembre del 2000. Autores: Nelson A. Mejia, Ileana Morales, Claudia Erazo y Teresa Leiva. Hurricane Mitch and Human Rights in process by Juan Almandares year 2000

A Challenge to Donors: Accountability, Empowerment and Structural Change through Human Rights: The Case of El Niño in Ecuador

Chris Jochnick, Legal Director, Centro de Derechos Económicos y Sociales

Human rights and international cooperation

The debates within the development field and the human rights field share in common the question of structural change. There is a strong current within both the human rights and development assistance fields that accepts traditional economic, political and social arrangements as given and are reluctant to search below the surface for the deeper roots of human rights violations on the one hand and development problems on the other. Many human rights advocates believe that democracy and civil liberties can be guaranteed within a context of widespread inequality and marginalization and many within the development field seem to believe similarly that development assistance can be effectively employed without addressing these same structural issues.

Human rights serve two general ends: accountability and empowerment. A human rights approach to development assistance ought to incorporate the additional element of challenging structural inequities. Digging into the structural

problems underlying poverty and questioning the complicity of international cooperation in those larger issues, provides the basis of a human rights approach for donors.

Human rights is then both new and old — transformative and common — for development work. It is interesting to consider that apparent contradiction in terms of the three reactions from CARE folks that Andrew Jones mentioned yesterday — how two of the groups fell so far from one another. At one end were those who saw human rights as nothing new, just another “buzz phrase”; and at the other, were those convinced that human rights would bring a dramatic and threatening change to their development work. While human rights and development share such similar goals as participation and empowerment, the tools and approach of human rights is clearly something different.

Rights are insistent, provocative, and mobilizing and on that basis should not be confused with traditional development work. I once taught a graduate course on economic and social rights in Ecuador and half my students were high ranking military leaders. In Ecuador, the military is responsible for many development projects and the military officials would insist that they were already doing economic and social rights work. When I finally asked them on the last day what they would take away from the course – how would they use economic and social rights rhetoric and instruments, they seemed surprised and stated flatly (with rare assurance) that they couldn’t explicitly incorporate economic and social rights – that that would bring people out into the streets and threaten stability.

Where development and particularly relief work focus much attention on the provision of goods and accountability is often limited to questions of

efficiency, a human rights approach should look more to processes and priorities. That move is especially tough in the context of humanitarian crisis, where often there is little time or resources to think beyond the immediate need to save lives. On the other hand, crises may offer rare opportunities for the local society to reconsider and challenge some of the larger structural issues that perpetuate poverty and maldevelopment. At the same time that they are more challenging, crises may offer a silver lining of transformative possibilities.

A human rights framework for international cooperation

A human rights approach to development assistance would benefit greatly from human rights analyses of particular cases. The lack of a fully elaborated legal framework should not present an obstacle, rather the framework could follow from a practice of human rights investigations and reports.

Contrary to popular opinion, it is not only states that are burdened by legal human rights obligations. Donor governments and multilateral banks (among others) also have human rights obligations under international law, which provide a basis for elaborating a human rights framework for their actions (as private actors with generally less influence/resources, private donor human rights obligations are considerably weaker). The U.N. Charter, the International Covenant on Economic, Social and Cultural Rights and some of the recent U.N. Conference declarations (in addition to humanitarian law) all establish obligation for the international community (including both governments and multilateral bodies) to assist

developing countries and vulnerable populations and to ensure that rights are protected and promoted in the process.

From that starting point, a framework based on the traditional division of “respect”, “protect” and “fulfil” could be developed that would consider such issues as:

Respect. A “do no harm” standard might be considered the most basic human rights obligation. Such a standard ought to measure overall benefits against harm. Development projects backed by international assistance often bring negative impacts and some institutions, such as the World Bank, now require special studies designed to mitigate the impact of loans on the environment and indigenous populations. The obligation to *respect* human rights should also consider the impact of assistance on broader issues of corruption, inequality and increased debt burden as well as any “regressive” measures such as arbitrary cut-backs in assistance. Some work on developing a do no harm standard has been done by groups working in the field of humanitarian assistance

Protect. The duty to protect should consider planning and accountability mechanisms established by donors to ensure that their assistance and relations with a country promotes human rights. Donors should have human rights standards in place to plan and evaluate all assistance, as well as “complaint” mechanisms to encourage feedback from local NGOs and community representatives.

Promote. The obligation to promote human rights is always the toughest to define and is all the more complicated by the varying capacities and influence of particular donors. Donors should at least consider to what extent assistance:

- prioritizes vulnerable populations
- empowers beneficiaries
- promotes rights education
- strengthens rights advocates
- prioritizes sustainable development
- meets international assistance goals

A human rights study of international cooperation and El Niño

The three criteria of accountability, empowerment and structural inequities offer a complementary approach to evaluating donor assistance from a human rights perspective. I have based the study of the El Niño crisis on this latter approach, trying to evaluate to what extent international cooperation strengthened or undermined these three human rights principles. Given time limitations, I will only point to some of the key issues presented by this particular case. It is important to underscore that the case study is based on a cursory, largely unconfirmed and anecdotal review and is only aimed at illustrating this potential approach. I focus primarily on bilateral and multilateral donors and will generalize to make broad points at the risk of exaggerating negative practices. It may well be that some of these practices were unavoidable, but they at least merit some reflection/analysis.

The El Niño crisis in 1997/98 devastated Ecuador’s coastline and attracted much humanitarian assistance from international donors — bilateral, multilateral and private. Unfortunately, much of the assistance was squandered and little was directed towards new and more sustainable development. A human rights approach would have raised questions

about the aims and priorities of assistance as well as the mechanisms by which it was planned, delivered and monitored.

Ecuador is a small and struggling country of 12 million people. Its political system is weak and fragile with a great deal of clientalism/patronage and one of the highest levels of corruption in the world. It is the most highly indebted countries (per capita) in South America and one of the most stratified. The coastal population suffers high levels of poverty and illiteracy, and shrimp farms have stripped the coast of its natural environment (mangroves) and deprived communities of traditional forms of employment. The El Niño crisis in 1997/98 was aggravated by a simmering military conflict along Ecuador's border with Peru and complicated by national elections.

El Niño involves a warm water current that appears cyclically (two or three times a decade) along the Ecuadorian and Peruvian coastline, causing large amounts of rain and floods locally (and upsetting weather patterns around the world). The phenomenon has become increasingly pronounced in recent years, presumably tied to global warming, and the 1997/98 levels of rains were the highest in recent history. The rains and flooding in this case lasted over a year. The impacts in Ecuador were devastating:

- Close to 300 immediate deaths
- 2.3 million people with greater exposure to infectious diseases (including cholera and dengue)
- 900,000 workers affected
- \$. 5 billion in direct costs and \$2.5 billion in overall damages (as compared to a GDP of \$18 billion)

Ecuador received both bilateral and multilateral assistance for El Niño, most of it from multilateral agencies and the vast majority in loans.

International assistance had the following impacts:

Empower: Donor practices tended to undermine rather than strengthen local capacity to play an active role in development. Negative practices include:

- ignoring local groups and existing networks, sometimes in favor of private consultants
- providing little or no opportunity for the participation of local NGOs or community groups in planning or oversight
- working almost exclusively through ineffective and non-democratic government institutions
- feeding into and strengthening clientalist relations between communities and local leaders (especially pronounced in neighboring Peru under the Fujimori administration)
- failing to target vulnerable populations
- failing to ensure the decentralization of resources and planning
- failing to enforce conditions on loans (in the case of the World Bank) requiring civil society participation

Accountability: Donors failed to hold the government (and often themselves) accountable and contributed to a society-wide cynicism about government accountability. Negative practices included:

- failing to incorporate human rights obligations into planning or oversight of assistance
- failing to create or promote effective oversight of the government
- undertaking limited evaluations, primarily focused on financial criteria

- allowing/facilitating enormous corruption, with an estimated half of all assistance still unaccounted for
- allowing/facilitating misuse of funds, contributing to more arms purchases and highly questionable spending to save private banks

Challenging structural problems: Donors missed a real possibility to encourage greater reflection and facilitate more sustainable and participatory development processes. Assistance was overwhelming focused on rebuilding along the same underdeveloped and vulnerable lines that existed prior to El Niño. Negative practices included:

- limiting funds to preparation for future disasters rather than long-term prevention
- limiting funds to rehabilitation and compensation rather than reconstruction (along new lines)
- focusing on rebuilding large infrastructure such as roads, rather than taking a more integral approach to infrastructure and services
- failing to consider long term development issues, such as inequality, mono-industrial and destructive development models (e.g. Shrimp farming), and the external debt burden
- strengthening traditional corrupt, centralized and anti-democratic government structures by providing so much assistance with so little conditions/oversight
- allowing assistance to be channelled to elite and urban areas

These are only some of the negative practices. Of course, assistance was a mixed bag and some aid and

practices undoubtedly contributed positively to human rights (beyond basic needs). However, on the whole, humanitarian assistance, while helping some areas and populations in the short term, did much unnecessary harm to human rights understood in terms of empowerment, accountability and structural change.

Notwithstanding the devastation and human suffering caused by El Niño, the crisis provided a great opportunity to promote long term human rights in Ecuador. The inept and corrupt government response provided further impetus for reflection and mobilization, and did in fact lead to an indigenous uprising that succeeded in toppling the government (though little else). A human rights approach in this case would have identified and promoted ways in which donors could strengthen positive processes and avoid undermining the long-term human rights potential of civil society.

Appendix 1 – NGO Workshop Agenda

“The Human Rights Based Approach to Development Cooperation”, NGO meeting 16–17 October 2000 in Stockholm

October 16

Venue: Sveavägen 33, Sida's conference center

1:00 TO 1:30 PM

Introduction of participants

1:30 TO 2:30 PM

The human rights approach to development: Current state of play
André Frankovits (Human Rights Council of Australia)

2:30 TO 3:00 PM

Economic, social and cultural rights and development cooperation
Michael Windfuhr (FIAN International)

3:00 TO 3:30 PM

General discussion

3:30 TO 4:00 PM

Afternoon refreshments

4:00 TO 5:00 PM

Human rights programming by development NGOs
Eva Geidenmark (Swedish Save the Children)
Andrew Jones (Nairobi CARE human rights office)

5:00 TO 6:15 PM

Break into working groups – The groups will be asked to apply the information from the previous presentations to their own circumstances

6:15 TO 7:00 PM

Report back and discussion in plenary

7:00

Dinner together at the Thai Restaurant Sawadee, Olofsgatan 6

October 17

9:00 TO 9:30 AM

Human rights advocacy and bilateral donors, including questions and comments

Sugeng Bahagjo (INFID)

9:30 TO 10:00 AM

Human rights and humanitarian emergencies

Juan Alemendares (Center for Prevention, Treatment and Rehabilitation of Torture Victims)

Chris Jochnick (Center for Economic and Social Rights)

10:00 TO 10:30 AM

Participants' experiences of dealing with donors – in plenary

10:30 TO 11:00 AM

Morning refreshments

11:00 AM TO 12:15 PM

Break into working groups – How do we influence donors to apply the human rights approach to their programming?

12:15 PM TO 12:45 PM

Reports from working groups in plenary

12:45 TO 1:00 PM

Preparation for afternoon session

1:15 TO 2:30 PM

Lunch (attended by NGOs and donors)

Venue: Teaterbaren at the Culture House/Kulturhuset at Sergels Torg
NGO & donor discussion

Venue: Klara Konferenser, Vattugatan 6

2:45 TO 3:00 PM

Introduction of participants

3:00 TO 3:45 PM

Presentations of issues identified during previous days

3:45 TO 4:45 PM

Response from officials and general discussion

4:45 TO 5:00 PM

Coffee break

5:00 TO 6:15 PM

Where do we go from here together?

6:30 PM

Reception with NGOs, donors and invited guests from Sida, the Swedish Foreign Ministry and Swedish NGOs at Sheraton Hotel, Tegelbacken 6 (Hagasalongerna)

Appendix 2 – Report of Working Groups

Working group 1

Groups were briefed as follows:

‘After hearing from Save the Children and CARE International about their experiences of taking a human rights based approach to their work we would like to explore other ideas and suggestions for how a rights based approach can be applied by NGOs to their work and any changes this might require.

Each group is asked to come back with at least two specific recommendations for how NGO development organizations can apply the human rights approach to their work. The only criteria should be that the recommendations are practical and help clarify for development NGOs some steps that they can take or that can be shared with others.’

Report back to plenary

- Cooperation/links with human rights and development organizations – joint work
- Flexible approach to human rights operationalization – not always legal
- Local ownership of rights – accountability
- Ensure democratic & accountable relations with local partners & analyze and understand relation with donor and local government
- Demonstrate difference and value-added of HR approach; sharpen/strengthen message with rights language
- Consider impact of development assistance on full range of human rights; do situation/impact analysis of aid, disaggregating impacts on groups, gender etc.
- Advocacy at the international (& northern) level
- Increase capacity of documenting violations of economic, social and cultural rights
- Creating campaign which is
 - International
 - Inclusive
 - based on realities
- Always link economic, social and cultural rights to civil and political rights in critical examination of accountability of states
- Creation of shadow reports to treaty bodies ensuring participation and setting goals

Working group 2

‘There seems to be a need both to provide donors with

- some specific recommendations for how they can apply the human rights approach to their strategies and programs and
- some encouragement to apply policies on human rights to practice

The working groups are therefore asked to discuss what steps they would like donor agencies to take to demonstrate they are applying a human rights approach and how NGOs can most effectively encourage donors to take these steps.

Please *report back at least one recommendation* in relation to each issue.’

Report back to plenary

Advice

- provide a more precise framework for good governance including participation and human rights
- improve the quality of dialogue between donors and recipient countries
- use the rights based approach in emerging frameworks for coordinating aid

- donors should work with intermediaries to facilitate permanent mechanisms for dialogue – part of the purpose of this dialogue should be to assume better policy and accountability
- donors should promote civil society participation of NGOs as legitimate partners, particularly within their own countries

Encouragement

- find and promote examples of good practice or human rights approach to development
- involve human rights organizations in development planning (country strategy)
- improve NGO coordination on recipient countries to advocate key messages on human rights and development
- involve members of parliament in hearings and advice
- more open donors should encourage more reluctant donor to open dialogue
- human rights helps ensure that aid addresses issues from the bottom up, and that implementation is more effective

Advice

- aid allocation criteria macro economic, good governance, democracy need for community sector organizations involvement in establishing criteria and assessing performance
- capacity building to enable economic and social rights networks to become more inclusive, accountable and effective in negotiations (UN)
- timetabling – needs to respond to community sector needs, less to donor programming

Encouragement

- more work to integrate human rights approach across aid ministries – not a sub-sector
- need to ensure that rights approach carried over consistently to multilateral forums: the World Bank/IMF/WTO – their policies cannot violate human rights obligations
- greater accountability – complaints mechanisms/ ombudsman function to assess compliance with human rights standards

- dialogue with local government
- encourage ratification
- engage in treaty reporting process
- facilitate dialogue with community sector and people
- sharing experience & knowledge among donors and NGOs
- concept of human rights approach
- what difference it makes
- common understanding on core elements of rights approach
- empowerment and interdependence of rights
- accountability
- focus on structural causes or barrier
- obligation of donor: respect, protect, fulfil
- long term strategy
- Human rights plan of action in donors
- Tactical innovation in human rights work

- promote inter-institutional learning
- networking at all levels (among community sector and governmental actors)

Appendix 3 – NGO Profiles

CARE International

As a humanitarian organization, CARE promotes and protects the basic livelihoods of poor, oppressed, and displaced people – their rights to basic food, water, health, shelter, education, and participation. Reflecting increased organizational commitment to integrating the human rights approach in its relief and development work, CARE has hired a full-time Human Rights Coordinator to spearhead global implementation of its human rights strategy and plan. The coordinator reports to CARE USA's Senior Vice President for Programs and, as of July 1999, works out of CARE's regional office in Nairobi. The move to Nairobi facilitates staff training and piloting of a human rights approach and is intended to further ground the initiative in the field.

Center for Economic and Social Rights

CESR was established in 1993 to address a critical gap in human rights advocacy. One of the first organizations to challenge economic injustice as a violation of international human rights law, CESR believes that economic and social rights, can provide a universally accepted framework for strengthening social justice activism. CDES, the former Latin America Program of CESR, is now an independent Ecuadorian NGO with a regional-South America focus. Together, CESR and CDES have developed an effective strategy that combines research, advocacy, collaboration, and education. The overall aim of their work is to help mobilize people and to support their efforts to confront unjust economic and social policies. Among these activities, CESR and CDES research and make recommendations to development agencies on the promotion of economic and social rights.

Center for the Prevention, Treatment and Rehabilitation of Torture Victims and their Relatives

CPTRT efforts concentrate on the integral rehabilitation of victims of torture and institutional violence and their family members; prevention of torture through generating awareness and knowledge about torture and human rights violations among penal system employees, heads of prisoner organizations, police authorities, human rights defenders, health professionals and university students; local capacity development through interdisciplinary team efforts enhancing the capacity to perform activities in the area of treatment, prevention and project development. Services are offered to torture survivors as well as to family members of torture survivors, of individuals who have been politically assassinated, of disappeared persons, and of people who have been extrajudicially executed by the police. Training has been conducted for 100 professionals. CPTRT co-operates nationally with NGOs in the field of human rights as well as with professional and governmental organizations dealing with health education and imprisonment.

Center for Victims of Torture

The Center for Victims of Torture is the foremost torture treatment center in the United States for survivors of politically motivated torture and their families. Based in Minneapolis, with offices in St Paul, Washington, DC and Guinea, West Africa the Center's mission includes multi-disciplinary treatment, research, public policy and education. The Center works diligently through its advocacy—singularly and with other groups and organizations—to create a world without torture. The Center leads a national consortium of 20 torture treatment centers in the United States and is an internationally

recognized authority on the issue of the torture treatment movement. CVT is celebrating over fifteen years of Restoring the Dignity of the Human Spirit.

DITSHWANELO

DITSHWANELO, the Botswana Centre for Human Rights, was established in 1993. The Centre is an advocacy organisation that plays a key role in promotion and protection of human rights in the BOTSWANA society. The Centre seeks to affirm human dignity and equality irrespective of gender, ethnicity, religion, sexual orientation, social status, or political convictions. In pursuit of this mission, it seeks to educate, research, counsel, and mediate on issues of Human Rights, with specific reference to the marginalized and disempowered. However, due to its commitment to the indivisible nature of Human Rights, this mission extends to regional and international levels.

DITSHWANELO has a management structure centered on its Secretariat under which the following programmes function: Activism Programme, Information Programme, Research Programme, Paralegal Programme and a field Office in Kasane (Northern Botswana). In addition to the programmes DITSHWANELO Secretariat hosts the following networks: Southern African Human Rights NGO Network (SAHRINGON) Botswana Secretariat, Botswana network on HIV, ETHICS and LAW (for UNDP).

FIAN

The Food First Information and Action Network is headquartered in Germany with more than twenty sections and coordinations around the world. It promotes the fundamental human right to food that is enshrined in the International Covenant on

Economic, Social and Cultural Rights. FIAN intervenes into violations of the right to feed oneself, alerts the general public about such violations, provides training on the right to adequate food in international law. It has consultative status with the UN and with the regional human rights systems. It supports the work of the UN Committee on Economic, Social and Cultural Rights and advocates a human rights approach with bilateral and multilateral donor agencies.

Human Development Initiatives

HDI was established in 1996 to provide legal and psychosocial services to women and children, adolescents and children. It conducts training programmes, research, workshops on human rights and development issues. HDI has in particular been active in promoting and protecting the reproductive rights of widows and adolescents by providing them with empowerment information, counselling, free legal service, and life skills (i.e training in small and home cottage industries) for the several young widows, increasing in number due to the severe socio-economic situation of Nigeria. HDI's work with adolescents involves reproductive health safety information, HIV /AIDS education and prevention of violence against adolescents. Other activities include advocacy and lobbying for a children's law in line with the International Convention on the Rights of the Child.

INFID

The International Forum for Indonesian Development (INFID) was founded in 1985 by NOVIB and the Indonesian Legal Aid Foundation. It is an umbrella group of Indonesian and non-Indonesian NGOs whose original purpose was to

provide a forum for discussing human rights and supporting the burgeoning NGO movement inside Indonesia. It has lobbied on development issues at the Indonesian donors' forums (IGGI/CGI). INFID organizes conferences on such thematic issues as land rights, labour, people's participation, human rights, women, etc. After Soeharto's downfall, it has finally been invited by the Indonesian Government to attend the World Bank-hosted Consultative Group on Indonesia as an observer. After the crisis in 1997, INFID re-positioned itself and now focuses on issues such as debt, trade and the role of IMF and the World Bank.

Minority Rights Group

Minority Rights Group (MRG) is an international non-governmental organization working to secure rights for ethnic, religious and linguistic minorities worldwide, and to promote cooperation between communities. MRG researches and publishes reports and other information about minorities around the world; advocates for the rights of minorities at the United Nations, in Europe, with governments and elsewhere; and works with organizations and activists who share its aims to build alliances, discuss ideas, develop skills and further minority rights worldwide. MRG was founded over 25 years ago. Its international headquarters are based in London where it is legally registered both as a charity and limited company in the UK, with an international governing Council. MRG has consultative status with the UN (ECOSOC).

Novib

Novib was set up in 1956 as the Netherlands Organization for International Development Co-operation. The Novib Method involves working to

realize the structural, sustainable alleviation of poverty in Africa, Asia, Latin America and Eastern Europe through cooperation with over 800 partner organizations. These organizations may focus on areas as diverse as gender, integrated rural development, education, the environment, setting up small businesses and human rights. In a constant dialogue with her partners, Novib encourages the organizations to work on the direct alleviation of poverty, to link up with other actors in their societies and to raise matters before their own government. Novib has an active advocacy-agenda in the North, influencing policy decisions in favor of the world's poor. Thus Novib is at once a kind of NGO and a donor. For over 20 years Novib has been actively promoting the integration of human rights in development, from the belief that working on structural causes of poverty cannot be done in separation from work on the promotion and respect of human rights.

Rights and Humanity

Rights and Humanity, The International Movement for the Promotion and Realization of Human Rights and Responsibilities, has been working on elaborating a human rights approach to the eradication of poverty since 1986. In 1997 the organization was asked to write a discussion paper 'A human rights approach to development' in preparation for the UK Government's White Paper on International Development. This was eventually published in book form and has been influential in shaping the policies of international donors. It advocates the integration of human rights economic, social and cultural rights as well as civil and political rights into national laws and public policy and emphasizes local ownership of development efforts. Rights and Humanity is the

convenor of the Human Rights and Development Forum, a network of human rights organizations and development groups.

Save the Children

The work of the Save the Children Alliance is based on the Convention on the Rights of the Child. A recent shift to child rights programming has affected the way the organization works in changing from a needs-based to a rights-based approach. This has meant a move towards a more thematic approach rather than just a country focus, from implementing projects to supporting local NGOs and in targeting other groups than children and parents. In practice this shift of focus has resulted in an emphasis on lobbying and opinion-building and on the documentation and dissemination of experiences. The principles underpinning this change include seeing children as the holder of rights, the obligations relating to duty bearers, the indivisibility of rights and the notion of non-conditionality.

The Swedish NGO Foundation for Human Rights

The Swedish NGO Foundation for Human Rights was set up in 1991. It is governed by a Board of Directors representing its principals, the four Swedish NGOs: the Church of Sweden, Diakonia, the Swedish Red Cross, Swedish Save the Children. The work of the Foundation is intended to supplement both the activities of these principals and the programmes of the Swedish International Development Cooperation Agency, Sida, in the field of human rights and democracy. The Foundation is a politically and religiously independent non-profit foundation. It bases its activities on existing human rights law and emphasises that economic, civil, cultural, political and social rights are universal,

indivisible, interdependent and interrelated. The Foundation considers that knowledge of human rights is of vital importance for their implementation, emphasizing local and popular participation and support in this work. It aspires to gender balance between women and men in its programmes of international development cooperation.

Appendix 4 – From Policy to Action: Promoting the Implementation of a Human Rights Approach to Development, Rights and Humanity

Background

Rights and Humanity was established in 1986 to address the plight of people living in poverty and social isolation through the promotion and realization of human rights and responsibilities. We consider that, whether or not human rights are regarded as a separate policy area, they *must* be integrated into a wide range of national and international policies and action. For example, Rights and Humanity has played a particular role in the integration of human rights into a *multi-sectoral response to the HIV/AIDS pandemic*, into *good governance, health and cultural policies*, and into *international development co-operation*. We have also worked to promote a human rights approach to global economic governance

Rights and Humanity's strategy is to establish a culture of respect for human rights and dignity and to achieve human development. Its tactic is to encourage wide ownership of the human rights agenda. Rights and Humanity acts as a facilitator and consensus builder. It has been described as the "mortar between the bricks", linking different actors in concerted action. Rights and Humanity measures its success by the willingness of others to take up the agenda as their own, whether within the work of UN agencies, government policy or community response. Its discretion and ability to act behind the scenes – being prepared to stay invisible – is often critical to its ability to influence change and promote action for progress. The growing consensus surrounding a human

rights approach to development reflects recognition that the approach is not limited to promoting women's equality, children's rights or good governance, important though these are. Such an approach is also critical for instance in poverty elimination, and in the efforts to secure universal access to primary education, and health sector reform. It is increasingly being recognized that the approach is also pertinent in conflict prevention, emergency aid, and in ensuring peace and reconciliation with justice. Indeed, a human rights approach is pertinent in every aspect of human development.

The human rights approach to development is clearly a "work in progress" and needs constant evaluation and strengthening, drawing on the expertise and experience of UN agencies and other actors implementing such an approach.

Early obstacles

In attempting to implement a human rights approach to development in the 1980s Rights and Humanity faced a number of obstacles including:

- the lack of priority paid to economic, social and cultural rights
- the assumption that human rights work was limited to condemning violations rather than providing a positive framework for development policy and action
- the fact that human rights and development theories have emerged from distinct disciplines, resulting in the application of different criteria for establishing the cogency of theoretical models and for measuring their success. This has sometimes

impeded dialogue and comprehension between the two main professional groups involved, lawyers and development workers

- the perceived tension between the universality of human rights and cultural diversity and particularities

Part of the difficulty was found to lie in the tension between the essential role of monitoring human rights violations, on the one hand and the aim of promoting the realization of human rights as a basis for development, on the other. Whilst the former, quite rightly, leads to criticism and censure, experience of the promotion and realization of human rights in development indicates the need for an additional approach – one that is based on constructive engagement and respect

In constructing a human rights approach to development Rights and Humanity utilized some key slogans in an attempt to build a new paradigm. It sought to move the focus:

- from human wrongs to human rights
- from handouts to empowerment
- from charity to entitlements

Our human rights approach to development is simultaneously:

- a *tool for analysis* which focuses attention on global inequities and the inequalities and discrimination which underlie poverty and social isolation
- a *foundation* for a people-centered approach to development, based on a coherent framework of binding legal norms and accountability

- a *process* which is holistic, participatory, inclusive, and multi-sectoral, and
- an *outcome* – the empowerment of individuals to achieve their full potential, and the freedom to take up opportunities.

It complements existing theories and models of development, for example Amartya Sen's entitlements and capabilities theory. There is a natural complementarity between the entitlement/capabilities approach which looks at the *problem* from the *point of view of the poor* and a human rights approach to development which combines a *vision of what ought to be* with an *emphasis on choices for people* and *solutions* in terms of the *steps to be taken* to achieve human rights and thereby development.

Similar cross-fertilization of ideas between human rights and development can be seen in recent struggles for democracy and human rights within civil society in a number of countries, and in the good governance policies introduced into development co-operation during the 1980s. Convergence of agenda is also evident in the series of recent UN conferences that have specifically referred to the nexus between human rights and development.

In the context of integrating human rights into development, international human rights law provides the necessary foundation for the protection of the rights of individuals and a basis for enforcement and redress in the case of abuse. It also provides a framework for all those measures that must be in place to ensure that individuals enjoy their rights in practice. Such measures could be seen to include:

- the integration of international human rights norms into national law, and into public policy across a wide range of sectors;

- the promotion of the socio-cultural conditions which avoid negative stereotyping or discrimination on the grounds of sex, race or other status;
- the provision of education and training in human rights and responsibilities;
- the introduction of specific measures to ensure the realization of human rights and to empower individuals to know, seek and enjoy their rights;
- the creation of supportive national and international economic environments; and
- the establishment of the national and international legal and policy environments necessary to enable all individuals – women as well as men – to participate in, contribute to and enjoy economic, social, cultural and political development.

Rights and Humanity considers that that the human rights approach to development requires not just individual freedoms, but also supportive national and international environments. The achievement of human development requires individuals to enjoy the full ambit of their human rights, personal freedoms, opportunities and choices. This in turn requires a supportive national environment based on the rule of law, good governance, and the laws, policies, institutions, infrastructure and services necessary to support human development. At the international level an enabling environment requires debt relief and equity in aid, trade and lending. For Rights and Humanity, human rights norms and standards provide the framework for appropriate policies and action at all three levels, which together can be regarded as the human rights approach to development.

The lessons learnt

The experience gained by Rights and Humanity in promoting a human rights approach to poverty elimination, social cohesion and human development could be of assistance to donor agencies in the integration of human rights into development policies and programmes. It has learnt some key lessons since its establishment in 1986.

- *the importance of ownership of the human rights agenda* rooted in the values, faiths and cultures of a given society in order to ensure that human rights are not perceived as being imported values, or worse still, as part of a dominance by western concepts over traditional values
- the necessity for a *participatory, inclusive approach* – one which *respects diversity* and *encouraged partnerships based on mutual respect*
- the fact that the *agenda for the realization of human rights is an agenda for reform* which requires the support and involvement of many sectors of public service and society at large. Experience has indicated that unnecessary criticism could risk an entrenchment of views and is rarely conducive to progress. Rather, an understanding is required of the current obstacles to reform, so that an appropriate path can be mapped at a speed to suit the local conditions.
- the benefit of illustrating that *respect for human rights is an effective policy* across the various sectors of government
- the importance of identifying *an appropriate entry point*, linking a government's own development priorities with human rights concerns.

An example is seen in two successful entry points that have been used to promote respect for human rights in the response to HIV/AIDS. The recognition of the vulnerability of women to the risk of infection as a result of their disadvantaged legal, socio-economic, and cultural status provides an entry point to discuss with governments the urgency of ensuring equality between men and women, both in law and in practice. At the same time, the fact that respect for the privacy of blood donors has been found to be essential to encourage voluntary blood donations and the maintenance of the blood supply, provides an opportunity to call on ministries of health to strengthen respect for human rights in health care.

Two further lessons have been learnt by Rights and Humanity. In encouraging the integration of human rights into a wide range of public policy concerns, and into professional work and corporate activity, it has been found helpful to synthesize key human rights norms into a few simple concepts which people can readily understand. The key concepts of dignity, equality, non-discrimination, participation, autonomy, freedom, and solidarity are ones with which most people are easily able to identify. This has been found to encourage individuals to explore the relevance of human rights in the context of their own work and daily lives, whilst maintaining the strength and integrity of internationally adopted human rights norms.

Finally, the experience gained by Rights and Humanity through its development projects has led it to recognize that the integration of human rights into development programming needs to be supported by efforts to promote the wider enjoyment of human rights, as well as the establishment of enabling economic, political, social, cultural and legal environments at both the national and international levels.

Appendix 5 – Materials Available at the Workshop

The Swedish Ministry for Foreign Affairs

Africa on the Move – Revitalizing Swedish Policy

towards Africa for the 21st Century, 1997/98

Democracy and Human Rights in Sweden's

Development Cooperation, 1997/98

Human Rights in Swedish Foreign Policy, 1997/98

Our Future with Asia – A Swedish Asia Strategy for
2000 and beyond, 1998/9

Preventing Violent Conflict – A Swedish Action
Plan, 1999

Sweden's policy for poverty reduction, 2000

Sida

Country analysis of Zimbabwe, 2000

The Rights of the Child in Swedish Development
Cooperation, 2000

The Human Rights Council of Australia

The Rights Way to Development, Manual for A

Human Rights Approach to Development Assistance,
1998 *by André Frankovits and Patrick Earle*

The NGO Action Pack

UN-material

Background paper for HDR 2000; “Learning from
Those Who Act” by Nadia Hijab, 2000

Extract from the UN Manual on Human Rights
Reporting, 1997

General Comment 3 from the ICESCR Committee
on the nature of States parties obligations, 1990

General Comment 13 from the ICESCR Committee
on the right to education, 1999

The UN System and Human Rights, Guidelines and
Information for the Resident Coordinator System
(ACC), 2000

“Nepal UNDAF project”:

1. ToR for the Nepal “Towards UNDAF” position paper
2. “Towards UNDAF”, Draft Nepal UNDAF position paper, 2000
3. Lessons learnt from a Rights-Based UNDAF process and content in Nepal
4. UNDAF: Executive Summary

UNICEF; Human Rights for Children and Women.

How UNICEF helps make them a reality, 1999

A Human Rights Approach to UNICEF

Programming for Children and Women, What it is,
and some changes it will bring, 1998

United Nations High Commissioner for Human
Rights; Development and Rights: The Undeniable
Nexus, 2000

The Swedish NGO Foundation for Human Rights

Annual Report, 1997–98

Papers by participants;

NGO-part of the seminar:

Human Rights and Humanitarian Emergencies, *Juan
Almendares (CPTRT)*, 2000

INFID Experience Human Rights Advocacy and
Bilateral Donors, *Sugeng Bahagjo (INFID)*, 2000

Building a Culture of Rights (in NACLA Report on
the Americas, July/August 2000), *Eduardo Cáceres
(APRODEH – PERU)*

The importance of the Economic, Social and
Cultural Rights (ESCR) for the social legitimization of

the HR discourse, *Eduardo Cáceres (APRODEH – PERU)*

The integrity and interdependence of human rights, *Eduardo Cáceres (APRODEH – PERU)*

The Rights of the Child in Development Work, *Eva Geidenmark (Swedish Save the Children), 2000*

Promoting a Human Rights Approach in Development Cooperation, *Human Rights Council of Australia – Patrick Earle, 2000*

A Challenge to Donors: Accountability, Empowerment and Structural Change Through Human Rights- The Case of El Niño in Ecuador, *Chris Jochnick (Centro de Derechos Económicos y Sociales), 2000*

Progress Report on Integration of a Rights Approach in CARE's Programming, *Andrew Jones (CARE), 2000*

Rights-Based Relief & Development Assistance: An Essay on What It Means for CARE, *Andrew Jones (CARE), 2000*

From Policy to Action: Lessons Learnt from 14 years Experience Promoting the Implementation of a Human Rights Approach to Development, *Rights and Humanity, 2000*

The Establishment of a Global Forum for Information Exchange, Identification of Good Practice and Policy Development concerning A Human Rights Approach to Development, *Rights and Humanity, 2000*

Economic, Social and Cultural Rights and Development Cooperation, *Michael Windfuhr (FIAN), 2000*

Donor-part of the seminar:

Mainstreaming Human Rights in the United Nations Development Assistance Framework: The Case of Nepal, *Richard Bridle (UNICEF), 2000*

Operationalizing the Human Rights Approach to Development in UNICEF Nepal, *Richard Bridle (UNICEF) & Charulata Prasada (consultant with UNICEF Nepal April – October 2000)*

Promoting a Human Rights Approach in Development Cooperation (17-page-document), *André Frankovits (Human Rights Council of Australia), 2000*

Promoting a Human Rights Approach in Development Cooperation, State of the Art (4-page-document), *André Frankovits (Human Rights Council of Australia), 2000*

Summary Report: Preparing the Swedish Country Strategy for Zimbabwe from a Democracy and HR perspective, *Anton Johnston (Sida), 2000*

Promoting a Human Rights Approach in Development Cooperation. Case: HURIST in Yemen, 2000 (incl. Background material on HURIST and UNDP's Human Rights Policy), *Thord Palmund (UNDP)*

Mainstreaming human rights in SDC country programmes, Case study: Pakistan, *Swiss Agency for Development and Cooperation, 2000*

A Rights-Based Approach to Development, The ILO Experience, *Lee Sweptson (ILO), 2000*

Promoting a Human Rights Approach in Development Cooperation. Case: Capacity Building for Local Governance, South Africa, *Patrick van Weerelt (UNDP), 2000*

The Application of a Human Rights-Based Approach to Development Programming, What is the Added Value?, *Patrick van Weerelt (UNDP), 2000*

Copies of overhead- and power point presentations

Appendix 6 – List of Participants

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Appendix 7 – Abbreviations

		ICESCR	International Covenant on Economic, Social and Cultural Rights
APEC	Asia-Pacific Economic Commission	IGO	Inter-governmental Organizations
CDF	Comprehensive Development Framework	IMF	International Monetary Fund
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	INFID	International Forum for Indonesian Development
CESCR	Committee on Economic, Social and Cultural Rights	INGDO	International Non-government Development Organization
CGI	Consultative Group on Indonesia	MDB	Multilateral Development Banks
COHRE	Center for Housing Rights and Evictions	ODA	Official Development Assistance
CRC	Convention on the Rights of the Child	OECD	Organization for Economic Cooperation and Development
DFID	Department for International Development	OHCHR	Office of the High Commissioner for Human Rights
EU	European Union	PRSP	Poverty Reduction Strategy Paper
FAO	Food and Agriculture Organization of the United Nations	SAP	Structural Adjustment Programme
FIAN	FoodFirst Information and Action Network	UNDAF	United Nations Development Assistance Framework
GDP	Gross Domestic Product	UNDP	United Nations Development Programme
HRCA	Human Rights Council of Australia	UNICEF	United Nations Children's Fund
HURIST	Human Rights Strengthening Project	WTO	World Trade Organization
ICCPR	International Covenant on Civil and Political Rights		