

RIGHTS-BASED APPROACH ORIENTATION TRAINING MANUAL

Towards Mainstreaming HUMAN RIGHTS
in the Development and Governance Processes



Commission on Human Rights of the
Philippines



U.P. National College of Public
Administration and Governance



GOP UNDP Programmatic
Fostering Democratic Governance

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in the Development and Governance Processes**

National College of Public Administration and Governance
University of the Philippines Diliman

in cooperation with the

Commission on Human Rights of the Philippines (CHRP)
and the

United Nations Development Programme (Philippines)

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 FOREWORD

Traditionally, the concept of development was viewed from a purist perspective being anchored exclusively within the sphere of economics. Of late, the meaning of development has evolved through global persuasion to include not just economic growth, but other people-centered elements such as equitable distribution of resources, enhancement of people's capabilities and creation of greater access to opportunities and participation to unleash full human potentials and growth. In essence, this paradigm shift from an economic to a humanist acuity came about by situating the human rights of individuals at the center of development. Thus, was recognized the vital and fundamental link between human rights and sustainable development aptly denominated as the "rights-based approach (RBA)."

A rights-based approach is founded on the conviction that each and every human being, by virtue of being human, is a holder of rights. A right entails an obligation on the part of government to respect, promote, protect and fulfill it. The legal and normative character of rights and the associated governmental obligations are based on international human rights treaties and other standards, as well as on constitutional human rights provisions.

The Commission on Human Rights, as one of the Responsible Parties under the Justice Reforms and Human Rights Cluster, plays a pivotal role in the implementation of one of the Governance Portfolios on Fostering Democratic Governance. It firmly believes that failure of governance contributes to poverty, bureaucratic dysfunctions, policy weaknesses and deficiencies, inequities and imbalances in development. By imbuing the element of rights-based approach including accountability, empowerment, participation, non-discrimination and express linkage to human rights, the promise of a more effective, more sustainable, more rational and more genuine development process can be transformed into a reality for the Filipino nation.

In our vigorous pursuit to mainstream the rights-based approach in development and governance processes, we are introducing the RBA Orientation Training Manual as a self-help guide to trainers in teaching the principles and dynamics of this revolutionary approach. This material provides content areas and various techniques that can facilitate the programmatic application, implementation and enforcement of human rights standards to achieve genuine development and good governance.

Specifically, the Manual consists of five modules. Module 1 focuses on the historical context of human rights. Module 2 dwells on the normative content of human rights, particularly the concepts and principles, classification of human rights, nature and levels of State obligations, among others. Module 3 aims to develop better understanding and appreciation of the importance of human rights and the role of human rights in development, the different human rights approaches

as well as apply them in governance processes. Module 4 guides the participants in mainstreaming human rights in the three key areas of development planning; policy analysis and legislation; development programming; and monitoring and evaluation. The last module helps participants in formulating an action plan that will ensure the application of the rights-based approach to development in their respective work stations.

We hope this Manual will be of great help in the propagation of the promises of RBA. Its primary aim is to mold the minds and spirits of all key individuals who are duty-holders in development and governance to enable them to infuse human rights standards in all aspects of planning, policy formulation, legislation and development programming. Should this endeavor to install the rights-based approach to development and governance processes succeed, and succeed it must, the Philippines will once again demonstrate to the world that it can be an acknowledged leader in the realization of human rights for all.

Allow me to express my gratitude to all who have contributed to this Manual whether in content or as conduits of support and hearty enthusiasm. Finally, the Commission dedicates all the RBA efforts to the unsung heroes of the country who continue to toil and labor albeit confronted by a challenging reality, that ours is a struggling developing country. We hope this Manual and the work it hopefully inspires shall augur a better Philippines for all generations to come.


PURIFICACION C. VALERA QUISUMBING
Chairperson

PREFACE

In recent years, various orientation training programs on the Rights-Based Approach to Development (RBA) have been conducted for stakeholders at different levels. As part of the initiatives to implement the first cycle of the Governance Portfolio of the Government of the Philippines and the United Nations Development Programme (UNDP), the Commission on Human Rights (CHR) in collaboration with selected government organizations, civil society organizations, and UNDP developed training manuals that suit their institutional needs to advocate and mainstream RBA. The manuals focused on the application of the RBA either in development programming or in governance processes.

In an effort to enhance the promotion of RBA, the *Rights-Based Approach Orientation Training Manual: Towards Mainstreaming Human Rights in the Development and Governance Processes* was specifically developed for trainers to provide a common understanding of the essential concepts, principles, and approaches. In addition, the Training Manual aims to prepare stakeholders for advocating and conducting orientation seminars on RBA in their respective agencies and institutions and to equip them with the necessary competencies in complying with human rights standards. The Training Manual likewise informs the stakeholders in the preparation of action plans to mainstream RBA in carrying out their regular functions such as policymaking, planning, programming, implementation, monitoring and evaluation. Moreover, the Training Manual assists stakeholders in the development and implementation of reecho plan for orienting co-workers, superiors, and program implementors at different levels and sectors.

The National College of Public Administration and Governance (NCPAG) of the University of the Philippines (UP) in partnership with CHR endeavored to coordinate the painstaking efforts in developing the Manual, which will hopefully contribute in the overall efforts to promote broader and deeper understanding of RBA. It does not only seek to advance equality, justice, and freedom, but it also addresses power issues that are root causes of poverty and exploitation of human rights. The Training Manual is complemented with a compilation of articles on RBA (Sourcebook on Human Rights) and a Manual on the RBA Systems and Tools. The development of these manuals has further strengthened the ties and network of the concerned institutions.

UP-NCPAG is honored and privileged to have been part of this very important undertaking. UP-NCPAG is grateful to CHR and UNDP for their dedicated efforts to promote good governance particularly in the areas of human rights, justice, and legislative reforms.


ALEX B. BRILLANTES, PhD
Dean, UPNCPAG


JOEL V. MANGAHAS, PhD
CPED Director

Introduction

Guide to the Training Manual

Background and Rationale

The *Rights-Based Approach Orientation Training Manual: Towards Mainstreaming Human Rights in the Development and Governance Processes* introduces to you the background and rationale, objectives, content and coverage of this Manual. It also explains who are the target users and participants, duration of the training, methodology used, and the structure of each module. This will guide you as you navigate your way through the Manual.

The Philippines is a signatory to numerous human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). As party to these covenants and member of the United Nations, whose charter aims to promote international cooperation in the economic, social, cultural, educational and health fields, and assist in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion, the Philippines has State obligation to implement these provisions.

The Commission on Human Rights (CHR) is constitutionally mandated to establish a continuing program of research, education and information to enhance respect for the primacy of human rights and to monitor the Philippine Government's compliance with International Treaty obligations. As such, the CHR has taken steps towards the realization of these rights by mainstreaming them through the Rights-Based Approach. With the RBA, the CHR has envisioned to capacitate all government and non-government duty bearers and stakeholders to carry out their obligations to protect, promote, and fulfill human rights. Thus, this orientation manual was developed to mainstream human rights to development and governance through the Rights-Based Approach.

The CHR through funding support of the United Nations Development Programme (UNDP) initiated the standardization of

this Manual with the technical assistance provided by the National College of Public Administration and Governance, University of the Philippines (NCPAG-UP). In the last four years, various orientation seminars have been conducted on the RBA for national agencies including regional offices which echoed at the provincial, municipal and barangay levels and selected non-government organizations. These endeavors were part of the initiatives in mainstreaming human rights in the implementation of the Governance Portfolio of the Philippine Government and the UNDP.

Training Objectives

The training manual is generally designed to enable trainers of national government agencies, local government units and civil society organizations to appreciate the significance of the RBA to development and governance. Specifically, it aims to achieve the following:

1. Provide trainers with common understanding of human rights in relation to development and governance;
2. Enable trainers to demonstrate readiness to advocate and conduct orientation seminars on RBA in their agencies and institutions;
3. Equip the trainers with the necessary knowledge and skills in applying human rights norms and standards, and to be able to train their participants in the preparation of action plans to advocate RBA in policy making, planning and programming, implementation, and monitoring and evaluation in their respective workplaces; and
4. Assist the participants to develop a reecho plan and schedule to orient officials and program implementors at the national and local governments (provincial, municipal and barangay) and civil society managers and development workers.

Training Content and Coverage

There are three major components of this Training Manual: (a) the Basic Orientation Training Modules; (b) the Specialized Training Module; and (c) the Reecho Plan:

Basic Orientation Training Module is divided into the following modules, namely:

- Module 1. **Historical and Situational Context of Human Rights**
- ▶ Human Rights Situation in the Philippines
 - ▶ National and International Human Rights Laws
 - ▶ Role of the CHR on Integrating Human Rights in Development
 - ▶ NEDA-CHR-UNDP Framework
- Module 2. **Understanding Human Rights and Normative Content**
- ▶ Concepts and Principles of Human Rights
 - ▶ Classification of Human Rights: Concepts and Categories
 - ▶ Human Rights and State Obligations
 - ▶ Violations of Selected Human Rights
 - ▶ Human Rights Obligations and Accountabilities
- Module 3: **Rights-Based Approach to Development: Linking Human Rights to Development and Governance**
- ▶ How Essential are Human Rights to Man?
 - ▶ Human Rights and Development
 - ▶ What is the Rights-Based Approach to Development?
 - ▶ Linking Human Rights to Development through A Rights-Based Governance
 - ▶ Developing an Action Framework: The Rights-Based Approach
 - ▶ Assessment and Analysis from a Rights-Perspective
 - ▶ Monitoring and Evaluation from a Rights-Based Approach

The Specialized Training Module

Module 4: Training Module on Mainstreaming RBA in the Development and Governance Processes

- ▶ Human Rights and Development Planning
- ▶ Human Rights and Development Policy and Legislation
- ▶ Human Rights and Development Programming

Module 5: Reecho Plan and Schedule

Inventory of Supplementary Reading Materials

Inventory of Resource Speakers

Who are the Target Participants?

The orientation manual is intended for use of trainers of various national and local government institutions and civil society organizations in undertaking a series of orientation seminars on the RBA aimed at capacitating technical persons, managers, supervisors of national agencies, local governments and civil society on the RBA.

Suggested Duration of the Training and Time Schedule for Each Module

A four-day orientation is required to learn the basic concepts, principles of human rights, its normative content and the strategies necessary in designing a plan of action utilizing the RBA. A suggested number of hours for each module has been determined so as to provide you as the trainer ample ways in scheduling the activities per module depending on the availability of participants. For instance, the orientation can be scheduled once a week per module, or per module per day. Remember that these are just suggestions. You are at liberty to come up with your own schedule as long as you ensure completion of the training course so that the participants will develop a holistic perspective on the rights-based approach to development

The following schedule per module is suggested to enable you to pace the discussion for each topic:

1. Introduction	1 hour
Preliminary Activities	1 hour
2. Module 1	4 hours
3. Module 2	6 hours
4. Module 3	6 hours
5. Specialized Module	5 1/2 hours
6. Reecho Plan and Schedule	½ hour

Learning Methodology

A trainer shall be assigned to facilitate the training. Selected resource speakers shall be invited to lecture on the different topics of each module. Time allotment for each topic is suggested.

To facilitate the learning process, several reflective exercises and interactive learning activities are adopted such as reflections, brainstorming, and case study analyses and problem solving, and presentations, for participants to have a meaningful exchange of ideas and experiences. In order to assess learning outcomes, individual and group exercises are also adopted. Simple instructions on how to utilize these learning methodologies are indicated in each module to facilitate the execution of the training activities and to facilitate understanding of RBA and its application in the participants' workplace and in their everyday life.

Each participant will be provided with a journal (or a notebook) where the participant's daily reflections may be recorded at the end of each day. In the daily journal, participants are expected to reflect on the lessons of the day so these may reinforce the participants as they apply what they have learned in every module.

- a. What are the 2 most important lessons learned today?
- b. How can these lessons be transformed into action?
- c. What are the issues/concerns that might prevent the action from being realized?
- d. How may these issues/concerns be addressed?

Module Structure

Each module of the training manual has the following components:

- ▶ Introduction
- ▶ Objectives
- ▶ Module Content
- ▶ Activity/Exercises
- ▶ Checkpoint/Evaluation
- ▶ Summary
- ▶ Reflection exercises
- ▶ References

Please take note that the modules are so written and designed that they should be read in the order they are presented. Thus, you must finish Module 1 before you can proceed to Module 2 and so on.



Preliminary Activities

1. Getting-to-Know Exercise (30 minutes)

A Getting-to-know-you exercise is recommended in order to give the participants a chance to get to know each other (that is, if they are not familiar with one another yet). An example of a getting-to-know exercise is provided below.

Instructions:

Each participant finds a partner whom he/she has not met before or who is the least familiar to the participant. Participant must gather basic information about his/her partner (e.g., name, affiliation, nature of work) as well as other interesting facts (such as a characteristic trait or event that both have experienced, etc.).

Then, each participant will introduce his/her partner to everyone. This getting-to-know activity should take about half hour including giving instructions, and depending on the number of participants.

As the trainer, you are not constrained to use this exercise. In fact, you can modify it or adopt a getting-to-know exercise that is familiar to you.

2. Leveling of Expectations (20 minutes)

It will be significant to discuss here in detail the overall objectives of the training, as well as the expected outputs required of the participants and the outcomes upon the completion of the training on RBA. You have to reiterate that the participants are expected to design a reecho plan and schedule that will help them introduce and advocate the rights-based approach to their supervisors and colleagues when they return to work after the RBA training.

You may ask from the participants what they expect and what they hope to learn by the end of the training. How can they achieve the objectives as well as optimize their participation in order to apply the lessons in RBA in view of their roles and functions in the organization to which they belong, in pursuit of achieving a genuine and sustainable development geared toward improving the quality of life in the country.

Instructions: You may ask the participants to answer the following:

- ▶ What do I hope to learn from the training?
- ▶ How will I be able to achieve the objectives of the training?

Participants will go back to these expectations at the end of the training to determine their level of achievement. Let the participants think and write down their expectations in the notebook provided each participant.

You may ask two or three of the participants to share their thoughts.

2. A pre-assessment (10 minutes)

To determine the participants' level of awareness on the different human rights concepts and principles, a pre-assessment is necessary. Prior to the training proper, the participants are expected to have knowledge about human rights. Questions such as the ones listed below may be asked the participants just to get them started.

- a. What is your understanding of human rights?
- b. What are examples of human rights you are familiar with?
Can you name some them?
- c. Can you recall when any one of these human rights was violated?



MODULE 1

Historical and Situational Context of Human Rights

HISTORICAL AND SITUATIONAL CONTEXT OF HUMAN RIGHTS

Introduction



This module examines the prevailing human rights conditions in the country, and provides a framework to guide key national and local government officers and managers, and civil society workers to promote the human rights approach to development.

This module consists of four parts:

1. Human Rights Situation in the Philippines
2. National and International Human Rights Laws
3. Role of the CHR in Integrating Human Rights in Development
4. NEDA-CHR-UNDP Framework

Learning Objectives



When you complete this module, you should be able to:

1. Explain the situation of human rights in the country within which milieu national/local government officers and development workers undertake their tasks and responsibilities;
2. Demonstrate understanding of the human rights problems and concerns in seeking their effective solutions;
3. Discuss and explain important Constitutional provisions pertaining to human rights, and international treaties;
4. Demonstrate understanding of the role of the Commission on Human Rights and its efforts in integrating human rights to development efforts;
5. Illustrate a common understanding of the CHR-NEDA-UNDP Framework for the RTD Program of the

unequal distribution of development resources and assistance. Separatist movements have undermined territorial integrity. The Moro National Liberation Front (MNLF) achieved greater autonomy while its breakaway faction has been seeking a separate Bangsa Moro Republic. In the poverty stricken province of Sulu, other security threats exist like those of the Abu Sayyaf and other armed groups that are politically motivated. Armed conflict persists between the military and all these groups with innocent people, men, women and children and communities caught in crossfires between warring forces that bring about violations of human rights, destruction to private properties, loss of lives and deterioration of development gains and achievements in the affected areas.

The country has a national poverty incidence of 24.7 percent as indicated in the 2003 figures from the National Statistics and Census Board (NSCB). As further shown by statistics, poverty is widespread. Luzon has 22.8 percent, Visayas 30.2 percent and Mindanao, the country's poorest geographical area 39.2 percent. CARAGA and the Autonomous Region of Muslim Mindanao (ARMM) have the highest poverty incidence rate of 47.3 and 45.7 percent, respectively.

For as long as poverty is not substantially addressed, dissident forces would continue to be threats to internal peace and security. They thrive on the deprivation and discontentment of the people who are left with no options regarding their impoverishment.

This brings to fore the essentials of the Declaration on the Right to Development which hold high the "inalienable human rights by virtue of which every person and all peoples are entitled to participate in, contribute to, and enjoy economic, social and cultural and political development, in which all human rights and fundamental freedoms can be fully realized. The human person is the central subject of development."

There are also some pervading peace and human rights issues and concerns across the country as monitored by the CHR through its fifteen (15) Regional Offices:

A form of state repression is felt in the regions where the presence of the military, paramilitary, police and vigilante groups is strong. The military option has remained constantly in place since the Marcos regime until the Macapagal-Arroyo Administration, to suppress by force the armed revolutionary struggle waged in the

countryside by insurgents. This prevails despite claims that insurgency is a peace and order problem which is supposed to have been handed over to the Philippine National Police (PNP).

State of Human Rights at the Regional Level

In the Ilocos Region, the negative effect of development aggression brought about by the construction of one of the biggest dams in Brgy. San Roque, San Manuel, Pangasinan has left the residents without jobs. Due to the feeling of helplessness, some residents resorted to stealing and were shot dead by a security guard, while another was seriously wounded. Extreme poverty is the root cause of most human rights abuses committed in the region, according to some residents. In fact, this reality has driven some residents to join the NPAs.

Another perennial issue is the substandard physical conditions of the prison cells and the maltreatment/torture of prisoners in the country.

Also it was noted that prostitution is rampant particularly in the major cities of La Union, Pangasinan and Ilocos. This is caused by extreme poverty and lack of employment opportunities.

In the Cagayan Valley, the problem of illegal drugs is relatively low compared to other regions, but the provinces of Cagayan and Isabela are being utilized by drug lords as transshipment points due to their vast unguarded coastlines.

In Southern Tagalog, the military presence has been the object of protest principally by left-leaning groups. The insurgent movement, however, has on several occasions, displayed its capacity for disrupting the peace and order situation in the region exemplified by the abduction and eventual murder of a police chief of Quezon a few years back, the raid of a police station in Quezon, and the ambush of military troopers in Mindoro last year. The region is the base of the Banahaw Command of the New People's Army, the military arm of the National Democratic Front-Communist Party of the Philippines.

On top of this are equally serious human rights concerns: the rising incidence of cases involving children such as prostitution, incestuous rape, exploitation, children in armed conflict with the

law, child labor, abandonment, urban/rural poor and indigenous people; internal displacement of peoples due to the armed conflict between the government and the insurgents; domestic violence involving women and children; and abuse of authority by civil officials and persons in authority.

In Eastern Visayas, the renewal of the armed conflict between government troops and rebel groups gave rise to abuses such as murder, grave threats, arbitrary arrest and detention, and recruitment of children by organized armed groups. Also notable is the ambush and mutilation by NPAs of the bodies of dead soldiers. The fightings usually occur in far-flung areas. Renewal of conflict occurs when some army units are brought to Mindanao for the campaign against the MILF.

Human rights violation cases such as physical injuries, rape and other sex related abuses, maltreatment of prisoners, grave threats, arbitrary arrest/detention, and violation of R.A. 7438 are among the most number of occurrences reported.

Child abuse/exploitation, drug abuse, violence against women, non-recognition by drug companies of elderly's benefit under the Senior Citizens Act, lack of employment opportunities are among the human rights related issues prevalent in the region.

In Western Mindanao, troop deployment is heavy not only because of counterinsurgency operations against the NPA, but also for chasing after the Abu Sayyaf Group, the MILF and the MNLF guerrillas. This has made the peace conditions in the region even more critical.

The continuous crackdown operations conducted by the military against the members of the Abu Sayyaf have caused several incidents of illegal arrest and searches in the islands of Jolo, Basilan, Tawi-tawi and even in some barangays in Zamboanga City. Bombings, forced disappearances, illegal arrests, alleged torture, arbitrary detention, and battle encounters between the military and the members/supporters of the Abu Sayyaf and other rebel group elements have sown an atmosphere of fear in the area.

In this region, the prevailing human rights violation incidents are salvaging, harassment, illegal search and arrest, torture, disappearance, and displacement. These as a consequence, have

resulted in economic displacement and dislocation especially of the villagers. Salvaging is also prevalent in Zamboanga City particularly in the months of October to December 2002 where CHR recorded at least nine of this kind of human rights violations.

In Region 10, the prevailing peace and order condition in 2003 can be perceived as generally healthy although there have been sporadic occurrences of human rights violations mostly committed by police officers and the military who take glory in the possession of firearms and lord it over the civilians. It was repeatedly reported in Peace and Order Council meetings that some police and military officers share involvement in the region's criminal activities in the areas of graft and corruption and in the manipulation of cases. Investigation and prosecution cannot progress because of the dearth and fear of the witnesses.

The incidence of summary executions of the Batang Mindanao 29 (BM 29) are truly contemptible in a civilized society but have remained unabated because of the reluctance of witnesses and fear of reprisals, and because police and military officers have been implicated in the killings.

The discontent of certain sectors like the indigenous peoples brought by their failure to claim rights to their ancestral domains and some dissidents who want to secede from the government has resulted in increasing acts of terrorism, lawlessness and disorder.

These sectors remain unable to enjoy their rights to social security and the realization of their economic, social and cultural rights indispensable to their dignity and the free development of their persons.

Some regions are relatively peaceful. While there are a few crimes committed by ordinary violators, these are rare and suspects are usually arrested. To some, criminality does not pose a threat to their social and economic activities.

Human Rights and Development

Today, the biggest threat to human peace and security is not armed conflict but the everyday reality of poverty. Poverty is the denial of human rights and the eradication of poverty is the way towards the realization of the right to development. Development

is only realizable and sustainable when its objective is the realization of all human rights. This represents an acknowledgment that the human person is the subject of development and without a guarantee of rights, sustainable development is not achievable. Poverty alleviation and improvements in the quality of life require good governance at all levels. Government should deliberately and programmatically observe compliance with the standards on human rights to life, equality and non-discrimination, food, health, housing, education, work, social security, and reparation.

The intensive pursuit of globalization in Third World countries, like our own, caused a concatenation of human rights violations. Take the example of Mindanao as a whole island. It is part of a regional endeavor called the BIMP of Brunei, Indonesia, Malaysia and the Philippines. Mindanao is the area directly involved in the project. Mindanao is to be the food basket. But we know for a fact that it is becoming more of just a basket without food—for the ordinary people particularly the small farmers.

If we are to take the human rights framework in relation to food, we have to take into consideration the five key elements that make up the right to adequate food; adequate and nutritious, safe, culturally acceptable, accessible and sustainably produced.

There is the so-called environmental destruction caused by the multinational mining companies, the irreversible damage done to people's means of subsistence. Take the case of Sibutad, Zamboanga del Sur as an example of many other mining sites in the country. Laboratory results from the University of the Philippines Diliman showed definitely the high presence of mercury and lead in fishing waters; impoverishment and health risks of the fisherfolk obtain alongside bureaucratic disregard. Again a transgenerational consequence of human rights violation is very much present.

Globalization takes away national boundaries, with migration and our overseas workers. Usually, human rights do not follow suit—meaning, the state does not take responsibility for protecting them. We like their dollar remittances but not their unemployed presence.

The increase of impoverished people is faster than the trickle of benefits to alleviate, much less to eliminate poverty. There is need to unite and forge efforts at the barangay level to ensure the respect, protection and progressive realization of human rights.

We need to widen and enhance our human rights network and mechanism, like the Barangay Human Rights Action Center (BHRAC), but not only BHRAC. There is actually an untapped, unmaximized potential for massive education, documentation, monitoring and even lobbying for the passage of long needed laws or the justifiability of human rights (Excerpts from A.E. Ofreño, no date).



Activity 1

Before continuing, it may be useful to reflect on the following:

1. Do you think that what you just read is true particularly in your respective regions or provinces?

2. What one significant human right do you believe has not been enjoyed by the people in your area? Why do you think this is so?

Instructions:

Allow the participants to write their answers in the spaces provided. After they have answered the questions, set them aside for now. They will be going back to these questions toward the end of the module.

Give 10 minutes for this activity.

II. National and International Human Rights Laws

(Lecture approximately takes 50 minutes)



The following portion provides an overview of the national and international human rights laws applicable in the Philippines.

Overview

The basic component of human rights, the principle that no one should treat other people in a way that he or she would not want to be treated himself or herself, is found at every level of society around the world. Human rights are not only the instruments that exist at the international level. Every human right at the international level has a corresponding or similar right in every legal system, religion, culture and tradition.

The global community has, over more than fifty years, engaged in a continuing process of defining, describing and promoting concepts of human rights. Each new expression reflects more clearly and accurately what the human race as a whole expects for the treatment of each person, and for every society, in order to achieve the goals of peace, justice and social progress. The history of human rights is the history of defining the legal foundations of human dignity. They define and enshrine our humanity. International human rights are just a phase in this historical process. Their aim is to **internationalize** human rights and make them known to all people. It is not to replace domestic protection of individuals, but to make the protection of human rights more effective within national systems.

Human rights are indeed **legal rights**. However, human rights are rights not solely because they are recognized in legal instruments: **they are inherent to the very nature of the human person**. They exist to ensure human life remains human. Human Rights are "human" because they protect the special worth of all human beings, for instance, not being arbitrarily killed, not being tortured or enslaved, having sufficient food, not to die but grow healthy, being able to work to support one's family, being treated with justice. These rights are inherent to the person and belong equally to all human

beings regardless of their race, color, sex, language, political or other opinion, national or social origin, property, birth or other status.

International human rights law is relatively new. For the most part, it has developed after the United Nations was established at the end of the Second World War in 1945. All States joining the UN must accept its founding document, the UN Charter. The Charter includes the promotion and respect for human rights as a key purpose of the UN, and requires UN Member States to cooperate with the UN in this task. In its preamble, the Charter declares as a primary purpose of the United Nations: "Promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

The UN Charter does not provide a list of human rights. The first UN document to do so was the **Universal Declaration of Human Rights**, adopted by the UN General Assembly in 1948. The General Assembly is the UN body in which each Member State is represented and can vote. The Universal Declaration of Human Rights recognizes most human rights, including **civil and political rights**—such as the right to life, to free speech, to freedom of religion and to take part in government—and **economic and social rights** such as the right to work, to social security and to education.

Despite being a Declaration, and not a treaty, the Universal Declaration of Human Rights includes elements of "international customary law": that is, norms that are legally binding to all states, regardless of whether they are set out in treaties to which a State is a party. These norms are considered "basic principles" of international law, and they include the prohibition of:

- ▶ Slavery and the slave trade;
- ▶ Extrajudicial killing or causing the "disappearance" of individuals; torture or other cruel, inhuman or degrading treatment or punishment;
- ▶ Systematic racial discrimination (e.g. apartheid);
- ▶ Prolonged arbitrary detention;
- ▶ Genocide

After the Universal Declaration of Human Rights was adopted, the Member States of the UN began to work on drafting **international**

human rights treaties. The main UN human rights treaties are listed below. The date beside each indicates the year the treaty was adopted. The Philippines has ratified all of them:

- a. International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- b. International Covenant on Civil and Political Rights (1966)
- c. International Covenant on Economic, Social and Cultural Rights (1966)
- d. Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- e. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- f. Convention on the Rights of the Child (1989)
- g. International Convention on the Protection of the Rights of All Migrant Workers and members of their Families (1990)

When a state has ratified a treaty, it is obliged to adopt appropriate measures to ensure that the treaty is implemented at the national level. This can be done either through implementing legislation which corresponds to the subject matter dealt with in the treaty, or through making the treaty directly applicable in the domestic legal system. This is important to note because if the domestic legal system has implemented and made applicable international human rights law, then remedies can be sought through the domestic system. **It is under national systems where respect of the rule of law can be fully and effectively ensured.** In fact, weak international mechanisms to ensure such respect at the international level contribute to persistent poverty and conflict in the world – although partial improvements have been achieved over the past decades in the field of international justice, such as the creation of an international Criminal Court.

However, despite weak mechanisms of enforcement at the international level, the inclusion of human rights in the mandate of the United Nations by the UN Charter implicitly meant that **human rights are no longer within the domestic jurisdiction of States.**

The UN Declaration on the Right to Development

The UN Declaration on the Right to Development was adopted by the UN General Assembly in 1986, after years of strong advocacy from developing countries in the framework of the United Nations. But despite being a Declaration, its status is not completely settled as merely a UN standard and neither a treaty.

The right to development was recognized as a fundamental human right in the World Conference on Human Rights held in Vienna in 1993. But the real situation is complex: it embodies elements of binding international law (as the right to development embraces other fundamental human rights recognized by treaties), but opinions are divided between those who consider the Right to Development is not an international norm because it has not been formally ratified, and those who consider it as fundamental human right despite being established by a Declaration and not a treaty. The position of the international community at the 1993 Vienna Conference was later, although the Vienna Declaration and the Plan of Action are not legally-binding instruments.

The Right to Development was also integrated in the Millennium Declaration.

Sources of International Human Rights Law

Treaties and Standards

The terminology of UN human rights instruments is complex: we may find covenants, conventions, treaties, declarations, standards, rules, etc. However, there are only two main types of UN human rights instruments:

- (i) Treaties, also called conventions or covenants, which are formal legal texts to which states become party, and which create binding legal obligations; and
- (ii) UN standards, also called UN principles, rules or declarations, which are passed by resolutions of a UN body, usually the General Assembly. They are not treaties because states cannot become parties to them and in that sense they do not create binding legal obligations. But the rules they set out are often even more detailed than

those found in treaties. What is their status? They are authoritative standards which States should respect because:

- a. They are often negotiated over a period of many years, and all UN Member States can participate in this process; and
- b. They are usually adopted by consensus, meaning States did not object to rules they contain.

Today, a UN compilation of human rights instruments lists 95 conventions, treaties, declarations and resolutions setting human rights standards.

International Human Rights Treaties

The main human rights treaties have been listed above. Human rights treaties imply legal obligations binding to the State that has ratified them. The State becomes **legally accountable to the International community** for the implementation of the treaty. This accountability may be expressed through the UN General Assembly or the UN Security Council.

Human rights thus given the force of international law, give rise to entitlements, and increasingly carry greater weight in international and national policy dialogue. They retain their legal character even when some of these rights are not yet legislated. When becoming party to a human rights international treaty, the States are deemed to submit to a legal order in which they, for the common good, assume various obligations, in relation to other States, and towards all individuals within their jurisdiction.

In addition to UN "constitutional" or "charter-based" bodies, such as the General Assembly, there are other bodies of experts. Many of them are established by human rights treaties and thus called "treaty-bodies." Human rights treaties include specific supervisory procedures through specific Committees composed of experts of different nationalities appointed by State parties. Other than these, the ILO has a Committee of Experts on the Application of its Conventions and Recommendations. These bodies handle communications and reports from Governments and NGOs, and produce general and specific observations. Their observations often

guide the interpretation and understanding of treaties. Furthermore, these committees monitor the State's compliance with its obligations, and assist them by pointing out certain remedies that can be undertaken for a full realization of the rights under the specific Treaty, Covenant, etc.

1987 Constitutional Provisions

Sources of national human rights law are also found in the Constitution. **It is at the national level where respect for the rule of law can be fully and effectively ensured. The 1987 Philippine Constitution** is a major example of the protection of human rights at the national level.

On Relating to Human Rights

The Philippines' quest for human rights in the 20th century traces back to the era of tyrannical colonial rule. Jose Rizal, the leader of the Philippines' independence in 1898, defined the struggle against Spanish domination as a struggle for "greater justice, liberty, and the sacred rights of mankind."

After regaining its independence in 1946, efforts to establish a solid democracy in the country continued. The overthrow of a dictatorial regime in 1986 in the EDSA revolution opened a new era for Philippine society. The 1987 Constitution reads: "The State values the dignity of the human person and guarantees full respect for human rights." Section 10 defines the promotion of social justice in all phases of national development as one of the goals of the State. Furthermore, the 1987 Philippine Constitution explicitly recognizes a wide range of civil, political, economic, social and cultural rights.

To further the State's role in promoting social justice and human rights, the Constitution establishes that the Congress "shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequalities" (XIII.1).

On Relating to Human Rights and Development

The 1987 Constitution establishes a democratic State and recognizes that sovereignty resides in the people (II.1). Therefore the prime duty of the government is to serve and protect the people (II.4). The promotion of social justice in all phases of national development is one major goal of the state (Section 10). The Constitution recognizes the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making (XIII.16). Together with the adoption of a "Bill of Rights" and a detailed description of civil and political rights (security of person, freedom of expression, freedom of religion, due process of law, right to privacy, right to peaceful assembly, right to information, right to association, access to justice and legal aid) the Constitution refers explicitly to economic, social and cultural rights in a number of provisions. It establishes specific obligations for the State, such as:

- ▶ Afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all (XIII.3)
- ▶ Guarantee the rights of all workers to security of tenure, human conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights as may be provided by law (XIII.3)
- ▶ Establish policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all (II.9)
- ▶ Protect the rights of the family, including the right to a family living wage and income (XV.3)
- ▶ Protect the right of children to assistance, including proper care of nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation or other conditions prejudicial to their development (XV.3)

- ▶ Protect and promote the people's right to health (II.15)
- ▶ Protect and promote the people's right to a balanced and healthful ecology (II.16)
- ▶ Ensure free primary and secondary education to all and promote quality of education at all levels (XIV.1)
- ▶ Recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions (XIV.17)

A more comprehensive list of relevant constitutional provisions is provided in the Inventory of Reading List.



Activity 2

Make a brief assessment of the international and national laws by answering the following:

1. How are these laws and treaties helpful in providing the government direction in addressing violations of human rights?

2. What specific law do you think is the most significant in terms of recognizing human rights of the people and why?



Instructions

After answering these questions, instruct the participants to find a partner and share what they have with the partner. Did they have similar observations?

Activity takes about 10 minutes.

III. Role of the CHR in Integrating Human Rights in Development



(Lecture approximately takes 40 minutes)

CHR Creation

The primacy of human rights as a policy of the State is now enshrined in the 1987 Philippine Constitution. As a revolutionary feat in laying the foundation of a just, humane, and democratic Philippine society, this tenet is embodied in Article II, Section 11 of the 1987 Philippine Constitution provides: "The State values the dignity of every human person and guarantees full respect for human rights."

To give full effect to the intent and purpose of this State doctrine, the New Constitution created an independent body called the *Commission on Human Rights* as mandated under Article XIII, Section 17.

Shortly after the overwhelming ratification of the New Charter on February 2, 1987, President Corazon C. Aquino signed Executive Order No. 163 on May 5, 1987. This declared the effectivity of the creation of the Commission on Human Rights as provided for in the 1987 Constitution and provided also for the guidelines for the operation thereof and for other purposes.

1. CHR Powers and Functions

The following are the powers and functions of the CHR:

- a. Investigate on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- b. Adopt its operational guidelines and rules of procedures and cite for contempt for violations thereof in accordance with the Rules of Court;
- c. Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection;
- d. Exercise visitatorial power over jails, prisons or detention facilities;
- e. Establish a continuing program of research, education and information to enhance respect for the primacy of human rights;
- f. Recommend to Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights or their families;
- g. Monitor the Philippine Government's compliance with international treaty obligations on human rights;
- h. Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it all or under its authority;
- i. Request the assistance of any department, bureau, office or agency in the performance of its functions;

- j. Appoint its officers and employees in accordance with law; and
- k. Perform such duties and functions as may be provided by law.

2. CHR Vision and Mission

Vision. The CHR is committed to the primacy and sacredness of life through the protection and promotion of human rights. Toward this end, it engages to sustain efforts to achieve credible action in seeking justice, reorienting the agents of the State along human rights norms, advising the State in national policies and legislations on human rights and catalyzing closer partnership and collaboration with national and international human rights organizations.

The CHR affirms its role as the advocate of principles and standards and practices, molder of public consciousness, convenor and adviser of other organizations and interest groups, and direct services purveyor on human rights.

In the courageous and unwavering pursuit of its vision, CHR maintains its independence, preserves its integrity, develops its potentials, and performs its tasks in the spirit of justice, equality and freedom for all, especially the voiceless and powerless.

Mission. The CHR aims to provide timely, impartial, and objective investigation of human rights violations and assist victims and/or their families with legal services and other forms of assistance; conduct information, education, research and training programs for all sectors of society; and act as human rights expert in the country particularly in responding to issues of either national or special concerns affecting different sectors, interest groups and organizations by undertaking policy advocacy, information campaigns, networking and their agency referrals, mobilizations of People's Organization (POs), partnership with Non-Government Organizations (NGOs), strategic legal studies, education, research and sectoral training.

3. CHR Programs and Services

In pursuing its continuing mandates, the CHR undertakes two main programs:

- a. The Human Rights Protection Program undertakes the following tasks:
 - 1) Investigation and hearing of complaints of such human rights violations but not limited to the following:
 - ▶ Violation of rights of prisoners and/or detainees;
 - ▶ Torture, force, violence, threats, intimidation;
 - ▶ Violation of the right to a fair and public trial;
 - ▶ Summary execution and/or extrajudicial execution;
 - ▶ Transgression of the liberty of abode;
 - ▶ Unreasonable searches and seizures;
 - ▶ Violation of the rights of persons arrested, detained or under custodial investigation;
 - ▶ Violation of the right to peaceful assembly;
 - ▶ Involuntary servitude; and
 - ▶ Violation of freedom of religion

The CHR serves as a fact-finding body which, after establishing *prima facie* evidence, recommends the filing of cases with the proper court, administrative office or agency. After endorsing or filing, the CHR monitors the status of every case involving human rights violations.

- 2) Legal Aid and Counselling provides free legal assistance to victims of human rights violations.
- 3) Legal Research develops legal measures and studies for the advancement of human rights principles and standards.
- 4) Assistance to Human Rights Victims provides financial aid to victims of human rights violations and their families to help alleviate their sufferings and sustain their basic needs and subsistence requirements within a specific period.

- 5) Visitorial Services determines and monitors the legality and fairness of imprisonment or detention of any person.
 - 6) Child Rights Protection Services investigates human rights violations against children through the Child Rights Center.
 - 7) Special Prosecutory System provides legal assistance/services to children's cases.
- b. The Human Rights Promotion Program takes charge of the following activities:
- 1) Public Information
 - 2) Education and Research
 - 3) Technical Assistance, Research and Development
 - 4) Human Rights Resource Center
 - 5) Internship Program
 - 6) Investigative Monitoring
- c. Flagship Program and Projects are also undertaken not only to mainstream human rights in plan formulation but to bring CHR services closer to the people, such as the:
- 1) Barangay Human Rights Action Center (BHRAC)
 - 2) Philippine Human Rights Plan
 - 3) National Inter-agency Chamber of Human Rights (NIA-CHR)
 - 4) Human Rights Training Center (HRTC)

A more detailed discussion of the CHR mandates, programs and projects is provided in the Inventory of Reading List.



Activity 3

After reading the module, what new lessons have you gained regarding the role of the CHR?

1. What are the 3 important things that you learned as regards its mandate and functions, vision and mission and programs provided, etc.?

a. _____

b. _____

c. _____

2. Knowing these, will you (or your organization) seek assistance from CHR when one's human rights are violated in your work or family? Why?

Instructions:

Allow participants to write their answers in the spaces provided. After participants have written their answers, trainer asks 2-3 participants to volunteer and share the 3 important things they learned about the CHR with the other participants. Then trainer gives a brief summary regarding the group's insights.

Give 15 minutes for this activity.

IV. NEDA-CHR-UNDP Framework, 2002-2004

(Lecture approximately takes 50 minutes)



The United Nations defines *human development* as the expanding choices for all people in the society, wherein men and women, particularly the poor and the vulnerable, are at the center of the development process.

The following provides the human development situation in the Philippines:

1. Philippines ranks 77 out of 174 countries, as measured by the Human Development Index (HDI) using indicators as:
 - a. Longevity—as measured by the life expectancy at birth;
 - b. Educational attainment—as measured by a combination of adult literacy (2/3) and the combine 1st, 2nd and 3rd level gross enrolment ratio (1/3)
 - c. Standard of living—as measured by real GDP per capita in the US \$.
2. It has the 2nd highest mortality rate and underweight children.
3. It ranks 4th in the proportion of people using adequate health facilities.
4. It is 5th in proportion of people using improved water resources.
5. It ranks highest with respect to number of physicians per 100,000 population, comparatively higher than its neighbors in public health expenditures,
6. Philippines is lowest in percent population with access to essential drugs.
7. It has a 3.93 percent GDP per capital growth rate.

On the other hand, the Philippines is ahead in terms of level of adult literacy compared to its Asian neighbors:

1. The Philippines is performing fairly in education being 3rd out of the 6 ASEAN countries in terms of adult literacy rate and public education expenditures.
2. On gender equality, 94.9 percent female adults are literate, while 95.2 males are literate.

Human Rights and Human Development

It is important that we understand the direct link between human rights and human development in order to enable us to integrate these two concepts.

Human rights are the supreme, inherent and inalienable rights to life, to dignity and to self-development. It is the essence of these rights that makes man human while development is viewed as the process of realization of fundamental human rights and freedoms, as defined by the United Nations.

To expound on the relationship of human rights and development, let us fully understand the following conceptual framework:

1. Human rights should be at the center of peace, security and development programs.
2. All human rights—civil, political, economic, social and cultural—are comprehensive, universal and interdependent. They are the foundations that support human dignity, and any violations of human rights represent an attack on human dignity's very core.
3. Human rights are an intrinsic part of human dignity, and human development can be a means towards realizing these rights. A rights-based approach to development is the basis of equality and equity, both in the distribution of development gains and in the level of participation in the development process.

4. An increasing number of Member States have recognized the value of the rights-based perspective on development and should be encouraged to implement this approach at the national level.

The UN Declaration on the Right to Development: The General Framework on the Right to Development

The UN Declaration on the Right to Development is principally the framework of the Right to Development (RTD) Programme under the Governance Portfolio of the Government of the Philippines (GOP)-United Nations Development Programme (UNDP) - Country Cooperation Framework (CCF).

The Framework touches on development as a human right and specifies obligations for states and governments at the same time that it should provide a clear direction, purpose and meaning to all the Shell Programmes and portfolios under the GOP-UNDP-CCF.

GOP-UNDP Country Cooperation Framework

The GOP-UNDP Cooperation Framework has identified the following development portfolios as most pressing:

- a. poverty and empowerment of the poor;
- b. peace and development;
- c. good governance;
- d. environment sustainability.

Agenda on Good Governance

The agenda on good governance appear to be most critical as they focus on providing the enabling environment and national capacity for the other agenda.

The 9 development programs of the Governance Portfolio from 2002-2004 are composed of projects and project components that are aligned towards the achievement of outcomes as defined by the portfolio. These have since evolved into the Fostering Democratic Governance (FDG) portfolio with a broader and enhanced framework.

- **CIVIL SERVICE AND ECONOMIC MANAGEMENT** seeks to pursue enhanced capacities of oversight agencies and reforms in the bureaucracy through a changed management that

complements current efforts of the Presidential Committee on Effective Governance (PCEG) and other similar bodies. Capacities of civil society will likewise be developed for more active and meaningful participation in the delivery of public services and other governance processes.

- **JUDICIAL REFORM** provides assistance to the judiciary, other pillars of the justice system and civil society organizations to increase the legal security of the poor and the disadvantaged by improving their access to justice.

- **GLOBALIZATION AND CORPORATE CITIZENSHIP** seeks to improve stakeholder knowledge and understanding of globalization issues, and develop capacities to manage its impact. Similarly, capacity development, transparency and accountability in the private sector are addressed.

- **GOVERNANCE REVIEW** deals with strengthening the capacity of independent institutions to assess and analyze the quality of governance in the country, and the individual and collective performance of government, civil society and the private sector in advocating required reforms.

- **LEGISLATIVE REFORM** aims to strengthen the institutional capacities of the Senate, House of Representatives and the Legislative-Executive Development Advisory Council (LEDAC) towards enhanced legislation processes, and expand stakeholder participation through improved institutional arrangements and competencies of professional technical support for lawmakers.

- **ANTI-CORRUPTION** involves strengthening and sustaining institutional capacities of government agencies for transparent, accountable and efficient public services and oversight management of the public sector. It also supports strengthening civil society capacity to effectively engage government in enhancing institutional integrity and accountability.

- **DECENTRALIZATION AND LOCAL GOVERNANCE** focuses on strengthening the capacities of oversight agencies, local government units, academic institutions and civil society organizations in planning, fiscal administration, budgeting, policymaking and advocacy, performance monitoring and resource mobilization towards improved local governance.

• **ELECTORAL AND POLITICAL REFORMS** support efforts in strengthening the capacity of COMELEC and other government institutions to manage a transparent, accountable and participatory electoral process and political system, and civil society to push for broad-based participation and government accountability.

• **RIGHT TO DEVELOPMENT** directs efforts in the mainstreaming of gender and human rights in government policies and operations, as well as activities that strengthen civil society involvement in the mainstreaming process. It also addresses the role of media in promoting these rights as well as the state's obligation to fulfill them.

Management Arrangements

In the Governance Portfolio, the CHR is one of the responsible partners responsible for the implementation of justice reforms and human rights in which it has adopted an action framework of the Right to Development from the point of view of the CHR on the progressive convergence functions and areas of activity in the management of development using human rights criteria and standards.

The NEDA provides policy strategies and operational issues and facilitates the monitoring and evaluation of each Program's overall contribution to the achievement of the outcomes and outputs.

The UNDP provides support services to the Program in any of the following areas: a) identification and recruitment of Program personnel or outsourcing of services; b) identification and facilitation of training activities; c) procurement of goods and services; and d) access to global information systems.



Activity 4

1. Having described the NEDA-CHR-UNDP framework and the concept of human rights integrated to human development, cite one example of any program which your organization had provided or implemented?

2. Has human rights situation improved as a result of the delivery or provision of this? How?

3. Going back to Activity 1, which human right did you identify in Activity 1. Is it in your list in Item 2? If not, why do you think this was not prioritized or addressed?

4. Which office should have been responsible? What should be done to ensure that human rights are enjoyed by your constituents?

Instructions:

Trainer distributes the meta cards (colored paper or cartolina about the size of a coupon bond) to participants.



Trainor asks them to write their answers on these meta cards. Then let them stick these on the board (or wall) using masking tape.

Involve the whole group in classifying the answers according to topic and/or similarity in meaning and context. Ask 2 volunteers to facilitate in classifying the answers on the board. Allow everyone to participate.

Let them copy the results. They will get back to them when they formulate their action plan in the preceding part.

Give 25 minutes for this activity.

Please answer the following questions again. These questions will help assess your understanding of the lessons discussed in Module 1. Participants are given 2 minutes. True or false.

1. Violations of human rights in the country are predominantly observed in both the rural and urban areas. ____
2. The 1987 Constitution recognizes the right of the people to participate in decision making on social, political and economic concerns. ____
3. The role of the CHR includes those of an advocate, educator, monitor, capacity builder, among others, of principles, standards and practices of human rights. ____
4. Human development refers to providing choices for people most especially the marginalized and vulnerable sector so that they can realize their full potential. ____
5. Human rights are an intrinsic part of human dignity and human development can be a means towards realizing these rights.

Do you now have a better understanding of them as compared to when you answered the questions at the beginning of Module 1? _____
You can find the answers on page 42.

Summary

In this module we sought to explain the human rights in the context of our Philippine experience as well as the underlying national laws and international treaties that form the bases for assessing provisions and violations of human rights. The significance of understanding the national development agenda vis-a vis UNDP's goals is also highlighted to enhance our perspective in government's efforts to integrate human rights in development and governance programs.



Reflections

1. What are the two (2) most important lessons you learned today?
2. How can these lessons be transformed into action?

PLEASE WRITE YOUR REFLECTIONS IN YOUR JOURNAL.

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The Commission on Human Rights and The NEDA-CHR-UNDP Framework

"The Philippines into the 21st Century," The UP Anthology of Filipino Socio-political Thought since 1972, University of the Philippines Press, 1998

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Symonides, J. (ed.), "Human Rights: Concept and Standards," Ashgate, UNESCO, 2000



Answer to Checkpoint

Did you answer **TRUE** to all items? You got perfect points! However, do not worry if you did not. Try to do better in the next module.

MODULE 2

Understanding Human Rights and Normative Content

UNDERSTANDING HUMAN RIGHTS AND NORMATIVE CONTENT

Introduction



This module starts with a general discussion on the basic human rights concepts and principles as formulated by the United Nations and modified by human rights writers for clearer understanding and presentation.

These principles help you understand that human rights are legal concepts that define obligations and entitlements of human beings regardless of their economic, social, physical and cultural environment. The module also provides you with an overview of the characteristics and the different classifications and categories of human rights and their normative content. The nature and levels of state obligations are likewise examined to enhance your capacity to analyze some violations of selected rights and understand the significance of these human rights to development and good governance.

Module 2 covers the following concepts and a range of human rights from the perspective of state obligations and society's entitlements and responsibilities.

1. Concepts and Principles of Human Rights
2. Classification of Human Rights: Concepts and Categories
3. Human Rights and State Obligations
4. Violation of Selected Human Rights
5. Human Rights Obligations and Accountabilities



Learning Objectives

At the end of this module, you will be able to:

1. Differentiate the principles and concepts of human rights to understand why human rights make a man human;
2. Classify human rights according to source, recipient and aspect of life;
3. Relate the nature and levels of State obligations in respecting, protecting and fulfilling the rights of the people;
4. Identify some violations of selected human rights; and,
5. Examine the roles of different actors in the realization of human rights according to human rights obligations and accountabilities

I. Concepts and Principles of Human Rights

(Lecture approximately takes 25 minutes)



Definitions of Human Rights

Based on the convention and declaration documents, human rights were defined by the United Nations as rights which are inherent in nature and without which we can not live as human beings.

In the Philippine context, Commission on Human Rights defined it as the supreme, inherent and inalienable rights to life, dignity and to self-development. It is the essence of these rights that makes man (woman) human. In the words of the late Senator Jose W. Diokno, "human rights are more than legal concepts: they are the essence of man (woman). They are what make man (woman) human. That is why they are called human rights, deny them and you deny man's (woman's) humanity."

Principles and Concepts of Human Rights

► Principles and Concepts of Human Rights

What are these concepts and principles of human rights? These concepts and principles of human rights will be discussed in detail and concretized with actual experiences of peoples and current issues facing the society, especially post September 11, 2001.

► Universality of Human Rights

The words or terms "*All*" and "*Everyone*" used in the UDHR and other current human rights documents denote the principle of universality of all human rights. It is further underscored by the phrase "*without any discrimination*" (Art. 23, UDHR) or "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." (ART. 2, UDHR)

The principle of universality of human rights has been challenged in various parts of the world, including Asia. The concept of "cultural relativism" and "Asian values" was put forward by Asian government officials led by Lee Kuan Yew of Singapore when arguing for restricted rights which he said was necessary to push for economic growth (Parong, 1998:65). The discourse between universality and "cultural relativism" has for some time been relegated to the periphery especially when the financial crisis struck the Asian miracles.

The universality of human rights is under attack by the US-led war against terrorism, post September 11. "Neither the Constitution nor the laws of war confer a right to counsel to an enemy combatant to challenge the fact of his wartime detention." This was an argument presented by the U.S. government in court to justify detention without charges of an American accused of conspiring to detonate a bomb. As of October 18, 2002, Amnesty International reported that there were 625 detainees at Camp-X-ray in Guantanamo Bay, Cuba and many of them have not been charged and been denied access to counsel.

Human rights are inalienable, that is, no one's rights may be taken away other than in specific situations. The exercise of human rights may be limited or derogated (temporarily suspended) by States during state of emergency but limitations are exceptions rather than

the rule. There are rights which are non-derogable (Article 4, ICCPR) and they include: the right not to be arbitrarily deprived of life (Article 6, ICCPR), freedom from torture and ill-treatment (Article 7, ICCPR), freedom from slavery and servitude (Article 8, ICCPR), right not to be imprisoned for debt (Article 11, ICCPR), right against retroactive penalty (Article 15 ICCPR), right to recognition before the law (Article 16, ICCPR) and the right to freedom of thought, conscience and religion (Article 18, ICCPR).

▶ Indivisibility, interrelatedness and interdependence of human rights

The United States recognizes civil and political rights but it has not signed the Convention on Economic, Social and Cultural Rights. The principles of indivisibility, interrelatedness and interdependence of human rights are not congruent with recognition of some rights and rejection of others. The fulfillment or violation of one or the other rights affects some other rights either in their fulfillment or their violation. There are no hierarchies in human rights.

The whole document of the UDHR embodies these principles as it incorporates different kinds of rights such as freedom of speech and belief and freedom from fear and want. Articles 3-21 state the civil and political rights while Articles 22-27 speak of economic, social and cultural rights.

▶ International Human Rights Law

"The formal expression of inherent human rights is through international human rights law. A series of international human rights treaties and other instruments have emerged since 1945 conferring legal form on inherent human rights...International human rights law consists mainly of treaties and customs, as well as, inter alia, declarations, guidelines and principles." (Human Rights Handbook for UN Staff: 3)

The international human rights law serves as a basis of the legal obligations of states regarding human rights and thus also serves as the basis for justiciability of any of the human rights.

The Challenge

In our country and the world today, we experience or observe continuing human rights violations, by omission and/or commission, despite legal obligations of states. Individuals and peoples to play very significant roles in the continuing assertion, defense and promotion of human rights. Human rights NGOs and other organizations are essential for peoples to continually struggle such that all human rights for all will be realized.

Underlying Principles of Human Rights

Various writers have considered a number of principles that govern human rights. Some of them concentrate on human rights that guide development. In the previous session, a number of principles were discussed that do not only cover development but human rights in general perspective. In the following reading, additional interrelated principles are mentioned and some of those mentioned earlier are further elaborated.

(1) *Universality, Human Dignity and Indivisibility*

Human rights belong to everyone, everywhere. The equality concept expresses the notion of respect for the inherent dignity of all human beings. As specified in Article 1 of the Universal Declaration of Human Rights, it is the basis of human rights. "All human beings are born free and equal in dignity and rights." Dignity is permanent and constant; it is the same at all times and in all places; its essence transcends cultural nuances.

The principles of human rights are founded on the notion that each individual, regardless of age, culture, faith, ethnicity, race, gender, sexual orientation, language, disability or social class, deserves to be honored or esteemed.

All the rights have equal status as rights and it is necessary to look holistically at all aspects of human dignity: political, economic, social and cultural. Some rights cannot be classified as being more important than others: all human rights are equally important and equally essential to the respect for the dignity and worth of every person.

Human rights should be addressed as an indivisible body, including civil, political, social, economic, cultural, and collective rights.

The rights that individuals have cannot be taken away, surrendered and transferred.

(2) Interdependence and Interrelatedness

Human rights are so inextricably intertwined that the absence of one affects the presence of others. For example, if the right to health is affected, other rights, such as the right to work, are also affected. The right to political participation implies certain level of information and education, etc. Human rights concerns appear in all spheres of life -home, workplace and everywhere. Human rights violations are interconnected: loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.

(3) Accountability, Responsibility and Transparency

Human rights do not simply define needs of people, but also recognize people as active subjects and claim-holders, thus establishing the duties and obligations of those against whom a claim can be brought.

Human rights are not gifts bestowed at the pleasure of governments. Nor should governments withhold them or apply them to some people but not to others. When they do so, they must be held responsible.

Every individual has the responsibility to teach human rights, to respect human rights, and to challenge institutions and individuals that abuse them. Likewise, every organ of society, including corporations, non-governmental organizations, foundations, and educational institutions, also shares responsibility for the promotion and protection of human rights.

Transparency allows all persons to see openly into the activities of government, including decision making process, objectives and results. Secrecy in the activities of government undermines accountability and jeopardizes the exercise of human rights.

(4) People's Participation

The Declaration on the Right to Development states that " every person and all peoples are entitled to participate in, contribute to, and enjoy civil, economic, social, cultural and political development

in which all human rights and fundamental freedoms can be fully realized." Participation is involving people at all levels of decision-making process from planning to evaluation.

(5) Non-discriminatory, Equality and Equity

All persons are entitled to human rights. There can be no restrictions based on race, color, gender, language, age, religion, political or other opinion, social origin, property, birth or other status.

Non-discrimination is integral to the concept of equality. It ensures that no one is denied the protection of their human rights based on some external factors. Reference to some factors that contribute to discrimination contained in international human rights treaties include: race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The criteria identified in the treaties, however, are only examples, it does not mean that discrimination is allowed on other grounds.

This means that all persons should enjoy all human rights on an equal basis. Equality demands that women and men equally enjoy and exercise all fundamental rights and freedoms. Equality does not mean identical treatment in every instance. The principle of equality sometimes requires to take affirmative action in order to diminish or eliminate conditions that perpetuate discrimination. Such approach is considered "equity" which is also a fundamental human rights principle. Such action may involve granting for a time to the part of the population concerned certain preferential treatment. Equity is fairness, justice and impartiality in the guarantee of fundamental rights and freedom.

(6) Attention to Vulnerable Groups

Vulnerable groups are those who experience major obstacles in the realization of human rights. They are explicitly mentioned as a special target both in international human rights instruments and in the Philippine Constitution. Vulnerable groups are not limited to the poor. They may also include children and persons with HIV/AIDS and disabled persons who are non-poor as well as the most disadvantaged groups such as the indigenous peoples.

In the case of gender concerns, focusing only on those among the poor who are relatively less vulnerable (e.g. poor men) will

inevitably result in increasing inequalities of those who are relatively more vulnerable (e.g. poor women).

(7) Independence of the Judiciary

This is highlighted as a human rights principle on its own because of the crucial role of the judiciary in protecting, respecting and fulfilling all human rights. It should decide all matters with the law, and without any improper influence or pressure.

(8) Legislative Capacity and the Rule of Law

Human rights must be guaranteed by law. Hence, the capacity of the legislature to enact laws that aim to uphold the inherent dignity of every person, is important to the exercise, enjoyment and realization of all human rights.

All persons are equal before the law, and are entitled to equal protection. Without a sound legal framework, the same as without an independent and honest judiciary, economic and social development risks collapse.

You can refer to the inventory of Reading List for a more exhaustive discussion on human rights principles.



Activity 1.1

Defining Human Rights Concept

1. Brainstorm in groups of 4 or 5

▶ Everything you know about human rights concepts and how it is being applied in your work assignments.

▶ Make sure everybody has input into the brainstorming exercise.

▶ Share with the group



2. Resource person provides additional inputs on the concepts, its development, bases and content based on group outputs.

Activities 1.1 and 1.2 will be undertaken for 40 minutes for individual/group activity and 25 minutes for synthesis/integration of the group outputs vis-a-vis the lecture discussion and possible applications to work settings.



Activity 1.2

Human Rights Principles

1. The participants are divided into 4 groups.

▶ A piece of writing on human rights principles is provided to each group to ponder on your understanding and discuss its importance to planning, monitoring and evaluation of programs and activities. The following are the groups with the corresponding HR principles to discuss:

Group 1: Universality, Human Dignity, Indivisibility, Interdependence and Interrelatedness

Group 2: Accountability, Responsibility and Transparency

Group 3: People's Participation, Non-discriminatory, Equality, Equity and Attention to Vulnerable Groups

Group 4: Independence of the Judiciary and Legislative Capacity and the Rule of Law

▶ After mulling over the assigned HR principles, each participant shares reflections and discusses these with the group. Each one explains his/her insights by giving examples based on experiences at home, community and work environment.



▶ Outputs are summed up and presented to the larger group.

2. The resource person synthesizes the discussion through reflections of learning in this session on the concepts and human rights principles and the extent of application in work situations.

II. Classification of Human Rights: Concepts and Categories

(Lecture takes about 20 minutes)



Classification of Human Rights

Human Rights are classified according to the following:

1. Source

- a. *Natural Rights*: God-given rights, acknowledged by everybody to be morally good. They are unwritten but they prevail as norms of society.
- b. *Constitutional Rights*: those rights guaranteed by the Constitution
- c. *Statutory Rights*: those rights enacted by Congress.

2. Recipient

- a. *Individual Rights*: those rights accorded to individuals.
- b. *Collective Rights*: those rights of society that can be enjoyed only in company with others.

These are sometimes referred to as *Third Generation Rights*. These rights recognize that people have the right to live in a safe and healthy environment and that the groups have the right to development. Ex. Rights to Peace and Development.

3. Aspects of life

Civil Rights: those rights that the law enforces at the instance of individuals for the purpose of securing to them the enjoyment of happiness.

Political Rights: those rights which enable us to participate in running the affairs of the government, either directly or indirectly.

Civil and Political Rights are the rights of citizens to liberty and equality or sometimes referred to as *First Generation Rights*.

Examples:

- ▶ Right to life
- ▶ Freedom from torture or cruel, inhuman or degrading treatment or punishment
- ▶ Freedom from slavery
- ▶ Right to liberty and security of persons
- ▶ Freedom of movement
- ▶ Right to equality before the law
- ▶ Rights of accused persons
- ▶ Right against retroactive penal laws
- ▶ Right to recognition as a person before the laws
- ▶ Right to privacy
- ▶ Freedom of thought, conscience and religion
- ▶ Freedom of opinion and expression
- ▶ Right to international peace and security
- ▶ Right of peaceful assembly
- ▶ Freedom of association, family and marriage rights

Economic and Social Rights: those which the law confers upon the people to enable them to achieve social and economic development, thereby ensuring them their well-being, happiness and financial security like the right to property, education, promotion of social justice, etc.

Cultural Rights: those that ensure the well-being of the individual and foster preservation, enrichment and dynamic evolution of

national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.

Economic, Social and Cultural Rights are rights that concern the production, development and management of materials for the necessities of life. The right to preserve and develop one's cultural identity. Rights that give people social and economic security, sometimes referred to as *Second Generation Rights*.

Examples:

- ▶ Right to work
- ▶ Right to enjoy just and favorable conditions of work
- ▶ Right of trade unions
- ▶ Right to social security
- ▶ Marriage and family rights
- ▶ Right to adequate standard of living, right to health
- ▶ Right to education
- ▶ Rights to culture, arts and science

4. Derogation/Derogability:

Non-Derogable Rights or Absolute Rights: rights which can not be suspended or taken away even on extreme emergency.

Examples:

- ▶ Right to life
- ▶ Freedom from torture or cruel, inhuman or degrading treatment or punishment
- ▶ Freedom from slavery and slave trade, servitude or forced or compulsory labor
- ▶ Freedom from imprisonment on the ground of inability to fulfill a contractual obligation
- ▶ Right against ex post facto law
- ▶ Right to recognition everywhere as person before the law
- ▶ Freedom of thought, conscience and religion

Derogable Rights: rights which can be suspended or taken away, and may be limited depending on circumstances.

Example: Right to freely move may be limited through the imposition of curfew hours.

However, three (3) conditions should be present before a right can be limited, namely:

1. If it is publicly announced or legislated, or provided by law;
2. There is a state of emergency which requires the urgent preservation of the public moral, public safety and public good;
3. There must be a time limit. It must not exceed what is strictly necessary to achieve the purpose.

You can refer to the Inventory of Reading List for expanded explanation of the different classifications of human rights



Activity 2

Classification of Human Rights

1. In small groups, each group is assigned to discuss a particular class of human rights and give concrete examples based on experiences in workplace, community involvement and transaction with government and civil society.

Group 1: Sources and Recipients

Group 2: Civil and Political Rights

Group 3: Economic and Social Rights

Group 4: Cultural Rights

Group 5: Derogation

2. Present to the whole group the results of the discussion.
3. Resource person summarizes the discussions and relates these to the principles of human rights discussed earlier.

This activity will be undertaken for 40 minutes.

III. Human Rights and State Obligations

(Lecture approximately takes 25 minutes)



Nature, Level and Entitlements on Human Rights

Parong mentioned as part of the first reading material that in every human right, there is the trinity of legal state obligations, i.e., the State has the obligation to respect, protect and fulfill all human rights. The State is the duty holder while the human person is the rights holder or claim holder.

Some human rights advocates are still trapped with the myth that civil and political rights are said to be negative rights and the State has the obligation to respect while economic, social and cultural rights are positive rights thus the State has an obligation to fulfill. But, looking into the normative content of the human rights, the trinity of State obligations is true for all human rights.

The following are the nature and levels of State obligations:

Obligations of Conduct and of Result

- ▶ States must respect human rights limitations and constraints on their scope of action—Obligations of conduct.
- ▶ States are obliged to be active in their role as protector and provider—Obligation of result.

Obligations for States to Respect

- ▶ Requires the State to abstain from doing anything that violates the integrity of the individual or infringes on the individual's freedom.
- ▶ Forbids the State to act in any way that directly encroaches upon recognized rights and freedom
- ▶ In essence, a prohibition against State interference.
- ▶ Although it appears that respect-bound obligations are negative in character, these obligations carry with them positive aspects.
- ▶ Obligations to respect demand that the State accepts the corresponding duty to create and facilitate an economic, social and political environment conducive to the enjoyment, exercise and realization of human rights.
- ▶ Obligation to respect human rights is immediate.
- ▶ Respect-bound obligation is unconditional, meaning State must not destroy people's livelihood, people's personal security or health, people's homes, people's cultural identity, etc.

Obligations for States to Protect

- ▶ Compels the State to take steps to prohibit others from violating recognized rights and freedom;
- ▶ Binds the State from taking any measures that would erode the legal and practical status of human rights, and imposes upon States the duty to act to preclude further deprivation;
- ▶ Places sufficient legal and policy emphasis on the full realization of human rights through a series of active measures, including the guarantee of access to legal remedies for any infringement caused by a third party;
- ▶ Requires States to prevent violations of human rights by third parties, meaning states must not connive with any third party which destroys people's livelihood, people's personal security or health, people's homes, people's cultural identity, etc.

Obligations for States to Fulfill

- ▶ Two dimensions: obligation to fulfill (facilitate or promote) and obligation to fulfill (provide). The United Nations

Committee on Economic, Social and Cultural Rights, has noted that this obligation is not one that merely provides, but one that fulfills, so that the State is called upon as the ultimate provider of productive resources and, if necessary, goods and services.

- ▶ Obligation to fulfill (facilitate or promote) human rights requires the State to actively create conditions aimed at achieving full realization of human rights.
- ▶ Requires the state to take necessary measures to ensure that each individual has the opportunity to obtain the entitlements of human rights that cannot be secured by personal or individual efforts alone.
- ▶ Implies a long-term view, that requires financial inputs which cannot be provided by individuals, and that involves issues of public expenditures, state regulations of the economy, basic services, taxation, and related re-distributive measures.
- ▶ Requires more from States than mere legislation; it requires States to take measures that actually promote the realization of human rights.
- ▶ Requires States to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of human rights.
- ▶ When individuals or groups are unable to realize their rights by the means at their disposal, for reasons beyond their control, the State has the obligation to fulfill (provide) the right in question.

Obligations under Article 21, International Covenant on Economic, Social and Cultural Rights: Obligation to Take Steps to the Maximum of its Available Resources towards Achieving Progressively the Full Realization of Human Rights by all Appropriate Means.

The different obligations/steps to take in order to maximize available resources toward achieving the full realization of human rights by all appropriate means are enumerated in Article 21 of the International Covenant on Economic, Social and Cultural Rights, as follows:

- ▶ Not qualified or limited by other considerations.

- ▶ While full realization of human rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force.
- ▶ Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.
- ▶ The means to satisfy the obligation steps to take include, among others, the adoption of legislative measures, provision of judicial measures, administrative, financial, educational and social measures.
- ▶ The United Nations Committee on Economic, Social and Cultural Rights, stresses that "the understanding to take steps . . . by all appropriate means. . . neither requires nor precludes any particular form of government or economic system being used as the vehicle for the steps in question, provided only that it is democratic and that all human rights are thereby respected and reaffirms that the rights recognized in the Covenant are susceptible of realization within the context of a wide variety of economic and political systems.

By all Appropriate Means

All Appropriate Means are not limited to the adoption of legislative measures. In determining whether the State complies with its obligations or not, it is important to distinguish the *inability* from the *unwillingness* of a state to comply with its treaty obligations.

Three types of Individual Duties Under International Human Rights Law

1. Duties of individuals vested with authority to respect, protect and promote human rights.
2. Duties of individuals to act responsibly so as not to exceed the limits of right. Some rights are qualified. For example, free speech does not allow a person to slander or libel someone else. Right to equality cannot be pursued to the point where someone else suffers inequality. The legitimate

claims of minority/indigenous groups to special protection must be balanced against requirements of society.

3. General duties of individuals towards others and community are independent of any particular human rights claim. Duties are to community (not to state) and include:

- a) Exercise of rights responsibly;
- b) Strive for the promotion and observance of rights;
- c) Promote and protect appropriate political, social and economic order for development;
- d) Contribute, as appropriate, to social and international order in which rights and freedoms can be fully realized;
- e) Duties of parents in the upbringing and development of the child:

- ▶ duties of parents to provide for the child
- ▶ duties of parents to help child in exercise of his/her rights.

Please refer to the Inventory of Reading List for relevant materials explaining the nature and levels of State obligations.



Activity 3

Nature and Levels of State Obligations

1. Divide the group into four,
 - ▶ Three groups discuss the meaning and their understanding of one of the obligations (respect, protect and fulfill) by giving concrete examples.



- ▶ Another group discusses the "duties of individuals," and give examples
- ▶ Present to the whole group the results of your discussion.

2. The resource person synthesizes the group presentation.

This activity will be undertaken for 40 minutes for individual/group activity and 25 minutes for synthesis/integration of group outputs.

IV. Violations of Selected Human Rights

(Lecture approximately takes 25 minutes)



Selected Rights Violations

Parong mentioned that "a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party." Therefore, if there are a significant number of individuals deprived of essential foodstuffs or basic shelter or housing, then the State is failing to discharge its obligations under the Covenant.

Human rights violations as she stated occur when States fail to fulfill their obligations to respect, protect or fulfill human rights. In relation to economic, social and cultural rights, violations occur when States fail to satisfy "*minimum essential levels of the rights*" irrespective of the availability of resources in the country concerned. For all human rights, violations occur when a State withdraws or removes existing human rights protections or when there is discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status with

the aim or effect of nullifying the equal enjoyment of any human rights.

There is a growing recognition that non-state actors can violate human rights. A manual on human rights monitoring produced by the UN uses the phrase "human rights abuse" as a broader term than "human rights violations" to include violative conduct committed by non-State actors.

In accordance with international law, a failure to act in good faith to take steps towards the progressive realization of a human right amounts to violation of the right. It should be stressed that a State cannot justify non-compliance with minimum core obligations, which are non-derogable.

The table below presents the different violations of selected rights.

EDUCATION	<ul style="list-style-type: none"> ▶ Introduction of or failure to repeal legislation that discriminates against individuals or groups, on any of the prohibited grounds, in the field of education ▶ Failure to take measures to address de facto educational discrimination ▶ Use of curricula inconsistent with educational objectives ▶ Failure to maintain a transparent and effective system to monitor conformity with Article 12(1), International Covenant on Economic, Social and Cultural Rights ▶ Failure to introduce, as a matter of priority, primary education which is compulsory and available free to all ▶ Failure to take deliberate, concrete and targeted measures towards the progressive realization of secondary, higher and fundamental education ▶ Prohibition of private educational institutions
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EDUCATION	<ul style="list-style-type: none"> ▶ Failure to ensure that private educational institutions conform to minimum educational standards ▶ Denial of academic freedom of faculty and students ▶ Closure of educational institutions in times of political tension
FOOD	<ul style="list-style-type: none"> ▶ When State fails to ensure satisfaction of, at very least, minimum essential level required to be free from hunger ▶ Discrimination in access to food, and to means and entitlements for its procurement on the grounds of race, color, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights ▶ Violations can occur through direct action of States or other entities insufficiently regulated by States: <ul style="list-style-type: none"> ▲ Formal repeal or suspension of legislation necessary for continued enjoyment of right to food ▲ Denial of access to food to particular individuals or groups, whether discrimination is based on legislation or is proactive ▲ Prevention of access to humanitarian food aid in internal conflicts or other emergency situations ▲ Adoption of legislation or policies manifestly incompatible with pre-existing legal obligations relating to the right to food

FOOD	<ul style="list-style-type: none"> ▶ Failure to regulate activities of individuals or groups so as to prevent them from violating the right to food of others, or failure of a State to take into account in its international legal obligations the right to food when entering into agreements with other States or with international organizations
HEALTH	<ul style="list-style-type: none"> ▶ Acts of Commission – through direct action of States or other entities insufficiently regulated by States, including, among others: <ul style="list-style-type: none"> ▲ Adoption of any retrogressive measures incompatible with core obligation under right ▲ Formal repeal or suspension of legislation necessary for continued enjoyment of right ▲ Adoption of legislation or policies manifestly incompatible with pre-existing domestic or international legal obligations in relation to right ▶ Acts of Omission – through omission or failure of States to take necessary measures arising from legal obligations, including, among others: <ul style="list-style-type: none"> ▲ Failure to take appropriate steps towards full realization of the right to the highest attainable standard of physical and mental health <ul style="list-style-type: none"> ▲ Failure to have a national policy on occupational safety and health as well as occupational health services ▲ Failure to enforce relevant laws ▶ Violations of Obligation to Respect include, among others: <ul style="list-style-type: none"> ▲ Denial of access to health facilities, goods and services to particular individuals or groups as a result of de jure or de facto discrimination

HEALTH	<ul style="list-style-type: none"> ▲ Deliberate withholding or misrepresentation of information vital to health protection or treatment ▲ Suspension of legislation or adoption of laws or policies that interfere with the enjoyment of the right to health ▲ Failure to take into account legal obligations of the State regarding the right to health when entering into bilateral or multilateral agreements with other States, international organizations and other entities, such as multinational corporations ▶ Violations of Obligation to Protect include, among others: <ul style="list-style-type: none"> ▲ Failure to regulate activities of individuals, groups or corporations so as to prevent them from violating the right to health of others ▲ Failure to protect consumers and workers from practices detrimental to health ▲ Failure to discourage production, marketing and consumption of tobacco, narcotics and other harmful substances ▲ Failure to protect women against violence or to prosecute perpetrators ▲ Failure to discourage continued observance of harmful traditional medical or cultural practices ▲ Failure to enact or enforce laws to prevent the pollution of water, air and soil by extractive and manufacturing industries ▶ Violations of Obligation to Fulfill include, among others, <ul style="list-style-type: none"> ▲ Failure to adopt or implement a national health policy designed to ensure the right to health for all
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HEALTH	<ul style="list-style-type: none"> ▲ Insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to health, particularly by the vulnerable or marginalized ▲ Failure to monitor the realization of the right to health at the national level ▲ Failure to take measures to reduce inequitable distribution of health facilities, goods and services ▲ Failure to adopt a gender-sensitive approach to health ▲ Failure to reduce infant and maternal mortality
HOUSING	<ul style="list-style-type: none"> ▶ General decline in living and housing conditions, directly attributable to policy and legislative decisions by State, and in the absence of accompanying compensatory measures ▶ Forced eviction – permanent or temporary removal against the will of individuals, families and/or communities from the homes and/or land they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not apply to evictions carried out by force in accordance with law and in conformity with the provisions of the International Covenants on Human Rights ▶ Forced eviction and house demolition as punitive measures

WATER	<ul style="list-style-type: none"> ▶ Acts of Commission – through direct actions of States or other entities insufficiently regulated by States, including, among others: <ul style="list-style-type: none"> ▲ Adoption of retrogressive measures incompatible with the core obligations; formal repeal or suspension of legislation necessary for enjoyment of right ▲ Adoption of legislation or policies manifestly incompatible with pre-existing domestic or international legal obligations in relation to right ▶ Acts of Omission, including, among others: <ul style="list-style-type: none"> ▲ Failure to take appropriate steps towards full realization of right ▲ Failure to have a national policy on water ▲ Failure to enforce relevant laws ▶ Violations of Obligation to Respect follow from State's interference with right, and include, among others: <ul style="list-style-type: none"> ▲ Arbitrary or unjustified disconnection or exclusion from water services or facilities ▲ Discriminatory or unaffordable increases in the price of water ▲ Pollution and diminution of water resources affecting human health ▶ Violations of Obligation to Protect follow from failure of State to take all necessary measures to safeguard persons from infringements of right by third parties, and include, among others: <ul style="list-style-type: none"> ▲ Failure to enact or enforce laws to prevent the contamination and inequitable extraction of water
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- ▲ Failure to effectively regulate and control water services providers
- ▲ Failure to protect water distribution systems (e.g., piped networks and wells) from interference, damage and destruction
- ▶ Violations of Obligation to fulfill occur through failure of States to take all necessary steps to ensure realization of right, and include, among others:
 - ▲ Failure to adopt or implement national water policy designed to ensure right for everyone;
 - ▲ Insufficient expenditure or misallocation of public resources which results in non-enjoyment of right, particularly by the vulnerable or marginalized;
 - ▲ Failure to monitor realization of right at national level, for example by identifying right-to-water indicators and benchmarks;
 - ▲ Failure to take measures to reduce inequitable distribution of water facilities and services;
 - ▲ Failure to adopt mechanisms for emergency relief
 - ▲ Failure to ensure that minimum essential level of right is enjoyed by everyone; and
 - ▲ Failure to take into account its international legal obligations regarding right when entering into agreements with other States or international organizations.

In our country and the world today, we experience or observe continuing human rights violations, by omission and/or commission, despite legal obligations of States. Individuals and people play very significant roles in the continuing assertion, defense and promotion of human rights. Human rights NGOs and other organizations are essential for peoples to continually struggle such that all human rights for all are realized.



Activity 4

Violations of Selected Human Rights

1. Form four groups to tackle a particular violated right i.e.

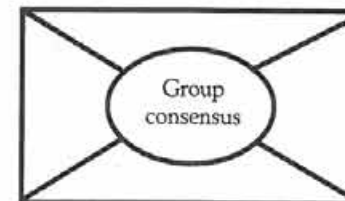
Group 1- Right to Education

Group 2- Right to Food

Group 3- Right to Housing

Group 4- Right to Water

- ▶ Each group will be given a placemat template for this activity



- ▶ Individually, identify three conditions or reasons why there are violations of particular human rights assigned to your group and write your answer in one border space of the placemat.

- ▶ As a group, agree on three common conditions or reasons for violation either by the State or by society and suggest program of action.



- ▶ Share with the whole group.
2. The resource person integrates the group discussions in order to have a better understanding of why the selected rights are being violated and what are the proposed actions to do as response to minimize violations.

This activity will be undertaken for 35 minutes.

V. Human Rights Obligations and Accountabilities

(Lecture approximately takes 25 minutes)



Roles in the Realization of Human Rights

A right claimed by one person must imply a corresponding duty for someone else to take, or not take a certain course of action. Human rights always imply human duties and responsibilities. Most of these duties (obligations) devolve upon the State. Non-State actors and individuals, and the international community also have responsibilities in relation to human rights.

Although there is particular stress on State accountability, we should bear in mind that States are not the only actors in the development process, as private sector, individuals and development institutions are also involved, and therefore their accountability is also needed for the realization of human dignity. Nevertheless, because the State plays a major and crucial role in the process of development, State capacities to comply with its obligations should be developed and reinforced with priority. The State is the main subject of responsibilities under international law. A rights-based approach examines State obligations at different levels.

There is a range of tasks and functions that have to be performed at national and international levels if human rights are to be effectively realized. There is, therefore, much scope for division of labor between governmental, non-governmental and international organizations, private sector and individuals. Most of the tasks and functions imply duties and obligations that need to be performed at the national level.

A rights-based approach requires a different conceptualization of the development process and the participants in it. In economic development the focus is on producers and consumers of goods and services, while in the basic needs perspective, there is stress on needs and appropriate (or charitable) responses.

In the human rights approach, the focus is on rights-holders and duty-bearers; that is, there is someone whose right is being affected (right-holder), and someone else who has the obligation to respond to that situation (duty-bearer). Refer to Figure 1.

Figure 1. Roles in the Realization of Human Rights



Source: Theis, Joachim, *Brief Introduction to Rights-Based Programming*, 2003.

Rights-Holders

In a conceptual sense, it is obvious who the rights holders are: all people, men and women and children regardless of any other consideration. In development analysis, human rights concerns are

identified in situations where it is some people's fundamental human rights that are being affected: these people are called rights-holders.

Rights do not exist in a vacuum, they involve corresponding obligations of the rights holders themselves. The responsibilities of rights-holders include respecting and defending the rights of others, seeking the well-being of all and supporting justice and equity for all. Although the rights of rights holders are not conditional on the performance of their duties, it is clear that every rights-holder is also a duty bearer in the human rights system.

Rights-holders need appropriate capacities to claim and exercise their rights fully and responsibly. One of the most important capacities for people to claim and exercise human rights (even when these are recognized by law), is when they know of such rights. Poor and disadvantaged people are often unaware of the rights that protect them, and therefore vulnerable to exploitation and abuse. Other important capacities include organizational capacities, information, capacity to articulate their claims, etc. Capacity gaps provide the entry points for supporting rights holders through the development process.

Duty-bearers

The duty bearers are those with responsibilities in the realization of rights. In the traditional or legal approach to human rights, the state is often assumed to be the sole duty bearer. The issue of who are the duty bearers is being debated with regard to both the extent of the duty of States for the human rights outside their boundaries and the duties of non-State actors who are not party to international conventions. In a rights-based approach, this issue is not so important since the concern is mainly with the responsibilities of all parties and partners to contribute in the realization of rights as a moral duty or social responsibility.

Many factors can influence duty bearers in fulfilling their responsibilities to rights holders like whether they have the necessary authority to make decisions, whether they have the capacity- human, social, informational, financial, material and the resources to do so. These factors provide the entry points for supporting duty bearers in the realization of human rights and human development.

The types of duty bearers included in stakeholders' analysis under a rights-based approach are:

1. Those who are immediately responsible for particular groups of rights holders. For example: parents for children, teachers for students, police for crime suspects, prison officers for prisoners, and so on.
2. Those institutions or organizations with immediate jurisdiction over the above duty-bearers, either as government agencies or as non-government agencies at the local or community level. For example: barangay officers, local government officers, community based organizations, non-government organizations with a local presence, and so on.
3. Those institutions or organizations at higher levels, either as government agencies or as non-governmental agencies. This category would group together all the remaining duty bearers in a particular country. For example: the various levels of local and regional governance, national institutions and organizations, private sector organizations (national or multinational), civil society organizations, donor agencies operating in the country (bilateral or multilateral).
4. Finally, there are also "external" duty bearers. These are countries, institutions and organizations with any direct involvement in the country at any point in time, but who are involved in the international economic, legal, military or trade systems that impact on the capacities of the other categories of duty bearers to meet their obligations. For example: the WTO, the IMF, the UN Security Council, the ASEAN, arms traders, terrorists and so on.





Activity 5

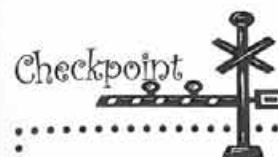
Human Rights Obligations and Accountabilities

1. In groups of four to six members, each group will tackle one sector (i.e., health, education, food and housing) and discuss the following:

- ▶ Identify the rights-holders and duty-bearers in the sector assigned to your group.
- ▶ Identify some predominant obligations and entitlements that you are aware of.
- ▶ Enumerate some of the rights violated.
- ▶ Present outputs to the whole group.

2. Resource person facilitates the discussion and clarifies the concepts introduced regarding roles in the realization of human rights and actors' obligations and entitlements and examples of human rights violated.

This activity will be undertaken for about 35 minutes.



To assess learnings, participants are asked to fill out the matrix below.

In groups of four, identify at least two situations/issues involving different rights and correspondingly identify the human rights involved in the issues identified, the duty holders, etc.

Situation/Issue	Rights Involved	Duty Holders		Nature and Levels of Obligations		
		Public	Private	Respect	Protect	Fulfill

Summary Points

- ▶ Human rights always imply recognition of every human's duties and responsibilities.
- ▶ A rights-based approach brings accountability to the core of the development process. There are rights-holders and duty bearers in specific situations. Duty-bearers include a range of actors, from individuals to private sector and the international community, although the State is the primary duty bearer of human rights obligations.
- ▶ Individuals can demand Government agencies to comply with their human rights obligations. Government agencies can also demand such compliance from other government agencies and from individuals.
- ▶ Accountability can be demanded by many complementary approaches: monitoring, reporting, public debate, greater

citizen participation in public service delivery, and justifiability in courts.

- ▶ The obligations of the State derived from the Constitution and the ratification of treaties, exist at different levels. The State should not directly violate the rights of its citizens (obligation to respect); it should protect its citizens from violations committed by others (obligation to protect), and it should facilitate and promote the full exercise of rights by its citizens, becoming a direct provider in exceptional circumstances (obligation to fulfill).
- ▶ States have the obligation to produce immediate results now, and also to achieve results over time (progressively). The progressive realization of rights is ensured to the maximum of the State's available resources and by all appropriate means.
- ▶ Non-compliance with State obligations is not necessarily a result of unwillingness, it may also be due to inability. Such inability should be proved, and development programs should focus on building the State's capacity to comply with its obligations to respect, promote and fulfill human rights.
- ▶ Although only States can be held accountable under international law, individuals have specific human rights obligations: they should respect the human rights of others, exercise their human rights responsibly, and fulfill their responsibilities towards the community.



Reflections

At the end of the module, the following pointers have to be pondered upon.

1. List summary of my learnings.
2. Learnings that I could adopt in my work station to attain the mission of my organization and realize the importance of human rights?
3. Issues that still remain unanswered or unclear or would like to explore/discuss further.
4. Suggested interventions to further enhance my learnings?

PLEASE WRITE YOUR REFLECTIONS IN YOUR JOURNAL

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MODULE 3

Rights-Based Approach to Development: Linking Human Rights to Development and Governance

THE RIGHTS-BASED APPROACH TO DEVELOPMENT: LINKING HUMAN RIGHTS TO DEVELOPMENT AND GOVERNANCE

Introduction

This module begins with the article by Jose W. Diokno which provides the context of human rights in the Philippines. This will be followed by a discussion on the link between human rights, development and governance, human rights approaches to development, and why it is important to integrate human rights in the development processes and governance.

Application exercises through case analysis will also be undertaken to have a holistic assessment of the development problems, the root causes of poverty and its interrelations to human rights concepts and principles of development. In order to develop an appropriate strategy, stakeholders analysis from a rights-based perspective, including the analysis of claim-holders and duty-bearers, will be done to enhance and strengthen the participation of stakeholders in the assessment and analysis of development problems. In addition, the importance of monitoring and evaluation in programming process from the rights-based perspective will be discussed.

To attain the objectives of Module 3, the following topics will be discussed:

1. How Essential are Human Rights to Man?
2. Human Rights and Development
3. What is the Rights-Based Approach to Development?
4. Linking Human Rights to Development through A Rights-Based Governance
5. Developing an Action Framework: The Rights-Based Approach to Development and Governance

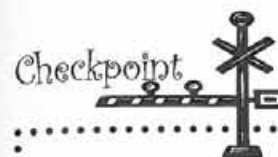
6. Assessment and Analysis from the a Rights-Based Perspective
7. Monitoring and Evaluation from the Rights-Based Approach



Learning Objectives

At the end of this Module, participants should be able to:

- a. Appreciate the importance of human rights and the role of human rights in development;
- b. Define the rights-based approach to development, discuss the link between human rights and development, and mainstream human rights in governance and development
- c. Understand the different human rights approaches to development;
- d. Identify value-added rights-based approach and its obstacles to implementation.
- e. Apply human rights concepts and principles to development in conducting a holistic assessment of development problems, identifying the root causes of poverty and interrelations among them; and
- f. Formulate rights-based outcomes and process indicators from the rights-based perspective.



You will draw from you own experiences in answering the questions below. Individually, please answer Agree or Disagree to the following: (5 minutes)

1. According to Diokno, human rights are more than just legal rights, they are the essence of man. ____
2. The human person is the principal actor, central subject, owner and beneficiary of development. ____
3. Development should be based on human rights principles which are essential conditions to facilitate the definite enjoyment of rights. ____
4. Development should respect the normative content of human rights. ____
5. Development should be coherent with the nature and levels of State's human rights obligations. ____
6. Traditional thinking has it that human rights and development were separate and independent from each other. ____
7. As the manager of development, linking human rights to development can be significantly achieved through good governance. ____

The exercise above will not be graded but you were asked to answer the pre-questions to give you an idea as to what will be discussed in Module 3.

I. How Essential are Human Rights to Man?

(Lecture approximately takes 20 minutes)



In Jose W. Diokno's article "Human Rights Make Man Human," he elaborated on the basic importance of human rights to men and how they can be made to live like humans by their government and men (society) themselves. Please read his article below.

No cause is more worthy than the cause of human rights. Human rights are more than legal concepts: they are the essence of man. They are what make man human. That is why they are called human rights: deny them and you deny man's humanity.

Almost everywhere human rights are extolled. Yet almost everywhere they are violated, and nowhere with less shame than in our country. Here, men in government, aided or abetted by foreign governments, international institutions and transitional corporations, debase the cause of human rights as they devalue our currency for ignoble purposes and with pernicious results. At times, they brazenly deny that anyone's rights have been or are being violated. When their denials begin to sound hollow even to themselves, they admit with feigned sorrow that some violations have taken place, yet quickly add that the violations do not reflect policy, but are "aberrations" caused by overzealousness in protecting national security or promoting economic development—as if Filipinos exist for the economy and the state, and not the reverse. Or they dismiss the cause of human rights with impatience, if not contempt, as an imposition of western culture alien to the Filipino soul—as if Filipinos were less human than the men and women of the West. Most often, they raise their right hand in solemn pledge to uphold human rights, but with their left hand create situations and bless policies and practices that trample upon these rights.

In truth, the distinguishing mark of government these days is not so much corruption or incompetence as a grim determination to displace the straightforward with the devious, and to smother thought with slogans. That government succeeds partially is due not only to its power over mass media but also to our ignorance: too many of us are not aware of our rights and of the ways we can enforce them. So it is especially urgent that we restore the cause of human rights to its pristine purity and respond to the call which the

United Nations has made upon "every individual and every organ of society... [to]... strive by teaching and education to promote respect for these rights and freedoms...and to secure their universal and effective recognition and observance."

Human rights are enumerated in five great international documents and two great national documents. Each of the seven great documents on human rights enumerates more than twenty human rights. Because so many are listed, many of us find it hard to grasp their scope. So let us start with the basics.

First. None of us asked to be born. And regardless of who our parents are and what they own, all of us are born equally naked and helpless, yet each with his own mind, his own will, and his own talents. Because of these facts, all of us have an equal right to life, and share the same inherent human dignity. The right to life is more than the right to live: it is the right to live in a manner that befits our common human dignity and enables us to bring our particular talents to full flower. So each of us individually has three basic rights: the right to life, the right to dignity, and the right to develop ourselves. These are traditionally known as the rights of man.

Second. Even if we may not know who our parents are, we are never born without parents, and never live outside society, a society with its own peculiar culture, history and resources. So besides our rights as persons, we have rights as society, rights which belong to each of us individually but which we can exercise only collectively as a people. They are analogous to the rights of man, and like the latter, compromise three basic rights: to survive, to self-determination, and to develop as a people.

Third. Once a society reaches a certain degree of complexity, as almost all societies have, society can act only through government. But government always remains only an agent of society; it never becomes society itself; it never becomes the people themselves. It is always and only an instrument of the people.

Moreover, since government is composed of men, each with his own interests and his own frailties, it usually happens—in fact, it happens all too often—that government doesn't seek the people's welfare: on the contrary, it oppresses the people. These facts lead to two conclusions. One is that when we speak of national security,

what we refer or should refer to is the security of the people not of the governors; and when we speak of economic development, what we are talking about or should be talking about is the improvement of the standard of living of all the people, not the enrichment of the governors. The other conclusion is that, since government is merely an agent of the people, people have the right to change both the men who run the government and the structure and system of government itself; and when the people cannot do so peacefully, they have the right, in the language of the preamble to the Universal Declaration of Human Rights, "to have recourse, as a last resort, to rebellion against tyranny and oppression."

All the rights of man and all the rights of the people stem from those three basic principles.

From man's first basic right—his right to life—spring our rights to health, to own property, to work, to form trade unions and to strike, to social security, to rest and leisure, to move about freely within our country and freely to leave and return to it, to marry, to establish a family and exercise the rights of parents.

Analogously, the right of the people as a people to survive is the source of our people's right to peace, to non-aggression, and to share in international trade, receiving a just price for our products and paying no more than is fair for the products of other countries.

Man's second basic right—his right to human dignity—is the source of our rights to recognition everywhere as a person, to honor and reputation, to freedom of thought, of conscience, of religion, of opinion and expression, and to seek, receive and impart information, to peaceful assembly with our fellows, to equal treatment before the laws, to privacy in our family, our home, our correspondence, to freedom from slavery, torture, and cruel, inhuman or degrading punishment, as well as from arbitrary arrest, detention or exile, to be presumed innocent of crime or wrong, to fair trial, and so forth.

The analogous right of the people to self-determination is the root of our people's rights to sovereign equality in international affairs and international organizations, to freedom from all forms of racial discrimination, to political independence and freedom from colonialism, neo-colonialism, alien domination and intervention in our national affairs, to sovereignty over our natural resources and over all economic activities, to control the activities of foreign

investors and transnational corporations and to nationalize and expropriate their assets, and freely to choose and change our political, social, cultural and economic systems.

Man's third basic right—his right to develop—is the source of our rights to an education, to share in the cultural life of our community, to form associations with our fellows, and to live in a national and international order that allows all of our rights to flower and be respected.

Similarly, the people's right to develop as a people implies the rights freely to choose the goals and means of development, to industrialize the economy, to implement social and economic reforms that ensure the participation of all the people in the process and benefits of development, to share in scientific and technological advances of the world, and as a former colony, to reparation and retribution for the exploitation to which we have been subjected.

No one has ever doubted that the rights of the people are all of a piece. Equally so are the rights of man. But for convenience, the rights of man have been divided into broad kinds: economic, social and cultural rights on the one hand, and civil and political rights on the other. This distinction has led to much argument about which kind should be given priority and whether one kind can be sacrificed for the other. My experience has convinced me that these arguments are silly. As a lawyer for small farmers, fishermen, workers, students and urban poor, many of whom have been detained, most of whom have been threatened with detention, a few of whom have been shot and wounded when they were peacefully exercising their rights of assembly, I have learned the painful reason that we cannot enjoy civil and political rights unless we enjoy economic, cultural and social rights, anymore than we can insure our economic, cultural and social rights, unless we can exercise our civil and political rights. True, a hungry man does not have much freedom of choice. But equally true when a well-fed man does not have freedom of choice, he cannot protect himself against going hungry.

A more useful distinction between economic and political rights is this: that some of man's individual rights are absolute, others are not. Rights which are absolute cannot be limited in any way under any circumstances, not even under the gravest of emergencies. Such are, for example, the rights to freedom of thought, of conscience, of

religion, to be everywhere recognized as a person, to be free from torture and from cruel, degrading and inhuman treatment, and of course, the right not to be deprived of life arbitrarily. Not only may these rights never be denied, but nothing justifies imposing any limitation on them.

On the other hand, other rights may be in fact limited to preserve social life. Such are, for example, the right to freedom of expression, freedom of assembly and freedom of association. To be valid, however, limitations placed on these rights must meet three conditions: first, they must be provided by law, not by executive whim; second, they must be necessary to preserve society, or protect public health, public morals, or similar rights of others; and third, they must not exceed what is strictly necessary to achieve their purpose.

These are the rights and some others—such as for instance, the right to be free from arbitrary detention and arrest and the right to a remedy for every violation of fundamental rights—may even be denied in times of grave emergency. But to justify such a denial the emergency must be so grave that it truly threatens the life of the nation; the existence of the emergency must be publicly proclaimed; and the denial may go no further than is strictly required by the exigencies of the situation (Excerpts from Jose W. Diokno: 1968).

Now, you have just learned more about the essence of human rights to man. Diokno, a strong advocate of human rights, gave a very clear and exhaustive discussion of the different basic human right principles and the levels by which these human rights are shared by society.

II. Human Rights and Development

(Lecture approximately takes 20 minutes)



Interpretations of Human Rights and Development

In earlier years, human rights and development were traditionally viewed as two separate and distinct fields, that each one operates under their respective frameworks, processes and approaches.

Development was always linked to classical economics and economic theories particularly by known economists like *Rostow* in his stages of growth which defined the various stages that economy must go through prior to attaining development. On the other hand, *Adam Smith*, believed in *laissez faire* or free market economy. In order to have a better system, the basic idea is that there should be less government interference or government must “let the economy run itself.” There was also *Ricardo’s* theory of land availability, that the cost of production in least productive land sets the price of goods and services in the economy. The *Malthusian theory* views that as the population grows, food production diminishes. Other economists also professed traditional economic thought such as the *Harrod Domar Model*, *Trickle down Theory*, etc.

Traditionally, development perspective was focused on: capacity of a national economy to generate and sustain an annual increase in GNP. GNP is the value of all final goods and services produced during a year by actors owned by a nation and it includes net income from abroad (OFW remittances and business) which are not included in the GDP. Basically, development takes place if the growth per capita takes into account the ability of a nation to expand its output at a rate faster than the growth of its population.

There is also the notion that based on the Declaration of the Right to Development, development is only a subset of the framework of human rights with economic, social, cultural and development processes as allies to fully realize human rights and freedoms.

But the real situation is that human rights is only a small subset of the bigger framework of development, this shows the lesser commitment to human rights by government.

In recent times, the view of development has changed. The modern perspective of development now takes into consideration the capacity of the national economy to generate and sustain an annual increase in GNP, accompanied by redistribution of wealth among the people. All the economic theories focused on the intangibles such as growth rates and certain factors of production. However, there was no reference to persons as the central subject and object of development.

In the Philippine Context, there are two separate spheres that overlap depicting the level of interconnection between human rights and development. The objective is to increase and widen the level of convergence of human rights with development through the mainstreaming of human rights into the governance processes that provide the entire enabling environment to realize development.

Escalating problems of poverty and inequity have brought about a growing clamor for an economy that is run by humans for humans. As a result, the fields of human rights and development were brought close together.

This development perspective was endorsed by the UN Secretary General Kofi Annan by launching the Agenda for Reform within the UN System which called for the strengthening of coordination among UN Agencies and the integration of human rights into the development work of the UN system. Annan believes that "human rights are an intrinsic part of human dignity and human development can be a means towards realizing these rights." Thus, a "rights-based approach to development is the basis of equality and equity, both in the distribution of development gains and in the level of participation in the development process."

What now is the challenge to human rights advocates and workers?

This is to look into areas of convergence and cooperation to widen interconnection between human rights and development.

A detailed discussion on human rights and development is presented in the next topic.



Activity 1

Individually, identify a specific development program/project that your organization is currently undertaking. What is it, who are targeted, and what particular human rights does it attempt to fulfill?

Program	Target	Human rights to be fulfilled
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Form a group of 4, share and compare what you have with your group. Do you have similar programs and targets?
Activity will take 15 minutes.

III. What is the Rights-Based Approach to Development?



(Lecture approximately takes 20 minutes)

The urgent need for a development approach that brings the human rights principles into the human development framework in one dimension gave it a holistic and sustainable quality and flavor. The rights-based approach, as it is referred to now, is the mainstreaming process to link human rights to development. It provides a conceptual framework for the process of human development that is normatively based on international human rights standards, norms, and principles and operationally directed to promoting and protecting human rights.

RBA	===	HR=====DEV'T
		MAINSTREAM

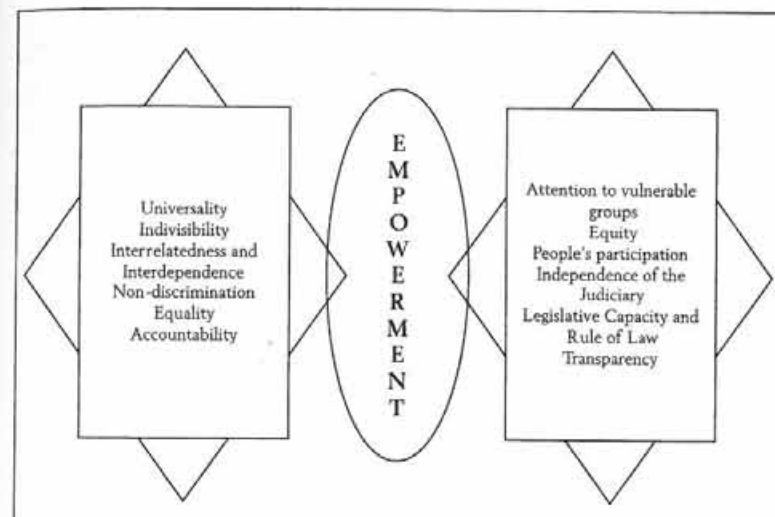
The basic elements of rights-based approach are:

- ▶ Express linkage to human rights by linking it to all government programs and projects.
- ▶ Empowerment, not charity or dole out is the name of the game.
- ▶ Active, free and meaningful participation, not mere formal or ceremonial contacts with beneficiaries.
- ▶ Non-discrimination and attention to vulnerable groups by disaggregating development data by race, religion, ethnicity, sex, etc., to identify them and provide basis for measuring their level of vulnerability.

A reading material that discusses the 14 Human Right principles that guide development is included in the Inventory of Supplementary Readings.

The illustration below shows how the basic elements are intertwined in the rights-based approach.

Figure 1. Human Rights Principles That Guide Development



Source: *Mainstreaming Human Rights to Development and Governance in Mindanao, 2004.*

Human rights principles are necessary conditions to enable the actual enjoyment of rights through the development process. Certain human rights principles applied in development, such as universality, indivisibility, equality and non-discrimination, and accountability, are inherent in the concept of human rights. Others, such as transparency, participation, independence of the judiciary and rule of law, refer to the notion of good or democratic governance. From the human development perspective, good governance is "good" in the sense that is "democratic" and promotes human rights. However, democracy is a process rather than a final destination; therefore the list of human rights principles related to good or democratic governance is not a closed list.

Good governance follows the rule of law and assures that corruption and abuse are minimized, and the views of the vulnerable and marginalized are taken into account. It is responsive to the present and future needs of the society. Good governance means

that both structures and processes within institutions are coherent with the public role that such institutions are mandated to perform. The true test of "good governance" is the degree to which it delivers on the premise of civil, political, economic, social and cultural rights.

On the basis of human persons as the central subjects and principal actors of development, a rights-based approach is guided by and geared towards an overarching principle of empowerment.

Human Rights principles should:

- a. Define development objectives;
- b. Guide the formulation of policies, laws, strategies and other appropriate measures in the administrative, budgetary, judicial, educational, political, social and other fields;
- c. Direct the establishment of corresponding benchmarks and indicators; and
- d. Be integrated within every state in the development process.

Human Rights Sphere

For us to be able to harmonize human rights with development, the following must be clearly understood.

1. Fourteen (14) HR principles which are the essential conditions to facilitate the definite enjoyment of rights. These principles were discussed in the previous module. You can read the full article included in the reading list.
2. Core human rights instruments which development sphere should recognize and apply, namely:
 - a. International Covenant on Economic Social and Cultural Rights—work, union, housing, education, etc.
 - b. International Covenant on Civil and Political Rights—life, freedom of thought, religion

- c. Convention on the Elimination of Racial Discrimination—economic, social, cultural, political rights
- d. Convention on the Elimination of Discrimination against Women
- e. Convention on the Rights of the Child
- f. Convention against Torture

3. Normative content of human rights which includes the specific standards protected by such right and its actual meaning. These were extensively explained in Module 2.
4. Nature and levels of State obligations which require a particular conduct now (immediately) and the attainment of certain results over time (progressive).
5. The primary State obligation which is that the State is under the obligation to take steps to maximize its available resources and by all appropriate means, with a view to achieving progressively the full realization of rights.

A common understanding of the principles of human rights and their nature and levels of state obligations to enjoy human rights sets the foundation for finding its relationship with the attainment of development.

Development Sphere

Development is a comprehensive economic, social, cultural and political process. Its object is the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of resulting benefits.

Hence, in viewing development, it is important to consider the following attributes so as to recognize where human rights can be integrated in the development sphere.

1. It is sustainable and holistic.
2. It involves economic, social, cultural, political, environmental and spiritual processes.
3. The concept evolved with the view that human is both active participant and beneficiaries of development with the notion that the human person is the center of development.
4. It significantly depends much for its success on good governance.

IV. Linking Human Rights to Development through A Rights-Based Governance



(Lecture approximately takes 25 minutes)

Governance is the exercise of economic, political and administrative authorities to manage the affairs of the state. It includes methods of distributing power and managing resources, formulating and implementing policies, institutions, processes and mechanisms for people to articulate their interests, exercise their rights and responsibilities as well as resolve conflicts. In order that good governance becomes responsive to the needs and aspirations of the people, the four elements of transparency, accountability, responsibility and participation must be present.

Why do we need good governance? As mentioned in Module 1, for as long as poverty persists, it will continue to threaten internal peace and security in the country. Thus, good governance plays a vital role as the "manager of development." The capacities of key stakeholders of governance are essential in addressing problems related to poverty such as hunger, poor housing, unemployment, poor access to quality education and health services, lack of social security, poor access to justice, poor access to productive assets, among others. These are the same problems being targeted by the Millennium Development Goals (MDGs) such as:

- a. Eradicate extreme poverty and hunger
- b. Achieve universal primary education
- c. Promote gender equality and empower women
- d. Reduce child mortality
- e. Improve maternal health

- f. Combat HIV/aids, malaria and other diseases
- g. Ensure environmental sustainability
- h. Develop a global partnership for development

The core purpose of governance from a rights perspective requires the participation of all sectors: government, civil society and private sector to come together to bring about human development in which human rights and basic freedoms are fully realized. However, capacitating key stakeholders is essential so that a people-centered environment is created for human development to evolve.

How are Governance Stakeholders Viewed in Rights-Based Approach?

Government Institutions in all the three branches of government are state duty holders who are guided by the principles of good governance in performing the State's obligations to respect, protect and fulfill human rights for human development.

Private sector consists of economic entities that are non-state duty holders regulated by government with enhanced corporate citizenship in terms of transparency, responsibility and accountability for the realization of human development particularly engaging in practices that are non-violative of human rights and fundamental freedoms.

Civil Society is composed of organizations that organize, mobilize and transform peoples' participation as claimholders of rights into a social force that provides check and balance on government powers and abuses in the context of full realization of human rights and human development.

Role of Governance in Rights-Based Approach

The role of governance in the administrative, political, and economic spheres is important as it facilitates the convergence of human rights and human development. Let us take a quick look at each aspect of governance.

Administrative governance provides the system of policy implementation in such areas as public sector restructuring, public-private sector partnership in service delivery, privatization,

outsourcing and contracting procedures, management information systems and decentralization of public services, and budget preparation, execution and monitoring.

Political governance, on the other hand, is the process of decisionmaking to formulate policy and legislation. It includes political processes such as election administration, human rights, legal and judicial reforms, strengthening of non-government organizations and community groups.

Lastly, **economic governance** involves decisionmaking processes that affect a country's economic activities and their relationship with other economies that are focused on improving governance particularly on macro economics and microeconomics, policy formulation, legal institutions and regulatory bodies, corporate governance, and institutional reforms and private sector development.

Thus, governance can be the entry point and facilitating force in the integration of human rights in human development.

What a Rights-Based Approach in Governance Seeks to Achieve?

The rights-based approach in governance aims to conscientize state dutyholders from government institutions on the Right to Development by applying human rights and gender frameworks, tools, norms, standards and practices in every aspect of governance activity such as:

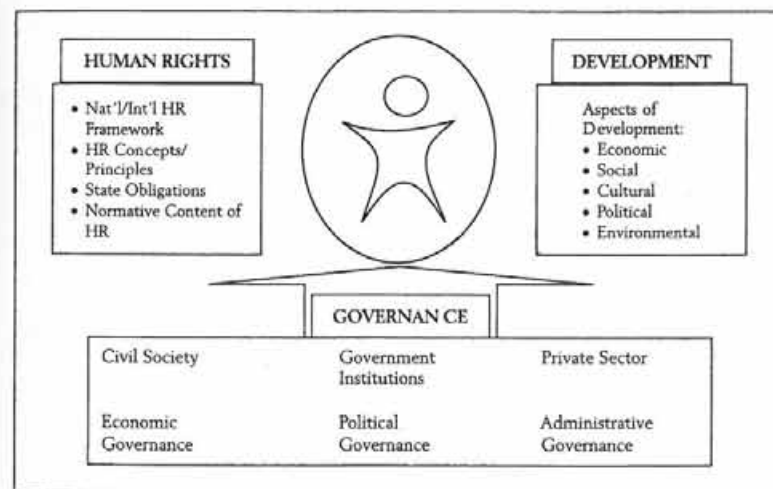
- ▶ Decisionmaking/regulation
- ▶ Policy making/legislation
- ▶ Development planning
- ▶ Justice system
- ▶ Program development and management
- ▶ Delivery of services
- ▶ Conduct of regular transactions
- ▶ Engaging peoples' participation, etc.

Also, the approach intends to get the attention and appreciation of non-state duty holders from the private sector to apply human rights standards in the performance of corporate social responsibility and in observing and complying with the rule of law in governance, such as:

- ▶ Human rights impact assessment of economic activities
- ▶ Rights-Based safety nets for globalization
- ▶ Observance of and compliance with labor rights, human rights, environment protection standards and good governance

For the claimholders of rights, the rights-based governance wants to have expanded choices and opportunities for all people and individuals in the fulfillment of their right to development. An illustration is provided below.

Figure 2. The Rights-Based Approach to Governance and Development



Source: *Mainstreaming Human Rights to Development and Governance in Mindanao, 2004.*

Some Pressing Governance Issues that Need to be Addressed

Administrative: deprivation of equal access to services and resources; graft and corruption; and disenfranchisement of the poor from meaningful participation.

Political: patronage politics, cronyism, and graft and corruption; poor and unequal access to justice; generally uneducated electorate; and inequality in policy and legislation.

Economic: inequality of opportunities between rich and poor; increasing poverty incidence; declining economic productivity resulting in unemployment and underemployment; graft and corruption; inefficiencies in revenue collection, prioritization of public expenditures; and deteriorating environment.



Activity 2

Using your development program/project in Activity 1, identify concerned dutyholders (government, civil society and private sector) and claimholders as well as their extent of participation.

Development project: _____

	Issues to address	Duty holders and mandates	Claimholders and their participation
Government			
Civil society			
Private sector			

Activity should take about 20 minutes.

Each group shares outputs with the whole group.

V. Developing an Action Framework: The Rights-Based Approach to Development



(Lecture approximately takes 40 minutes)

Attempts to make the connection between human rights and human development have been discussed earlier. Basically, integrating the concepts of human rights to the development process is a strategy that does not only enable the promotion of human rights but the mainstreaming of gender-responsiveness among dutyholders and right to information among the claim holders through the RBA.

As discussed in the previous modules, the focus of the RBA is the strengthening of the capacities of government institutions, civil society including NGOs and POs representing the disadvantaged and vulnerable sectors and private sector. The human rights approach to development means that it is people-centered, participatory, and environmentally sound. Importantly, it involves not just economic growth but equitable distribution, enhancement of people's capabilities, and widening of their choices.

The top priorities of the rights-based approach to development are poverty elimination, integration of women in the development process, self-reliance and self-determination of people and governments so that they have a say in their future, and protection of the rights of the indigenous peoples is considered.

Human rights and sustainable human development are inextricably linked, complementary and multidimensional. They are also interdependent and mutually reinforcing. The relationship of human rights and sustainable human development is two-fold.

- Human development can be viewed as an expansion of human freedoms. Human development is concerned with the fulfillment of basic human rights and fundamental freedoms.
- Human rights play an instrumental role in the process of development. They not only express goals to be achieved,

but also provide development workers with effective tools to be used in the eradication of poverty.

The concept of RBA is evolving as it has varied applications depending on the nature of activity and operations of government, civil society and private sector.

Mainstreaming Human Right in Governance and Development Process

What is to mainstream? It is to do the following:

1. Observance and application of human rights principles' programmatic application of normative content of every right relevant to governance operations and development planning; determination of appropriate measures for the performance of state obligations; to respect, protect and fulfill compliance with human rights standards; mapping out of entitlements and responsibilities of all sectors of civil society including non-government organizations and people's organizations, in addressing development issues.
2. Promoting and enhancing gender perspective in governance and development with special focus on the recognition of women's worth and equality with men, complemented with protection policies, legislating and advocating against gender bias in employment, education, family affairs, land rights, credit services and other entitlements, discrimination in pay and incentives, and violence and harassment; enhancing legal rights to increase level of women's capabilities and employment; better access to credit and other productive resources and increased political participation and representation.
3. Promoting the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of choice. Enhancement of the right and access to information

is a prerequisite to promoting transparency, accountability and effectiveness in governance and development processes especially in cases where information affects public interests.

How to Mainstream?

Essentially, the RBA integrates the norms, standards and principles of international human rights system into the plans, policies and processes of development and governance.

The objective of RBA to governance and development implies understanding development as the economic, social, cultural and political processes of working towards the universal realization of human rights and freedoms.

Different Human Rights Approaches to Development

There is no single human rights approach to development, but different human rights approaches towards different aspects of development have been adopted.

1. UN High Commissioner for Human Rights—Human Rights Approach to Liberalizing Trade in Agriculture

- ▶ Trade rules guarantee affirmative action for vulnerable individuals and groups (by giving adequate consideration of human rights)
- ▶ The conduct of human rights impact studies

2. The CHR-NEDA-UNDP Framework for RTD Shell Programme for Governance integrated human rights in all its programs and projects.

3. The Human Rights Council of Australia formulated a "Human Rights Approach to Development Assistance." The granting of foreign loans, foreign grants through the Overseas Development Assistance considers a human rights approach.

4. The International Human Rights Internship Program developed a rights-based approach towards budget analysis.

- ▶ Budget analysis from a HR perspective entails a line item analysis; and

- ▶ Reclassification of proposed expenditures by human right and function—taking into account the Normative Content of the rights in question and corresponding state obligations.

5. *The UN Country Team also gave emphasis on the Rights-Based Approach in Development Programming.*

What is the “Value Added” by Integrating Human Rights to Development:

What human rights bring to the development process is a new perspective that stresses the following:

1. Human rights transcend human needs, human aspirations, human ideals, and human goals. While human rights imply development goals, development goals do not necessarily imply human rights.
2. Human rights are the totality of freedom and entitlements which inherently belong to all human beings, regardless of race, creed, nationality, social status, gender, age, occupation, etc.
3. Human rights impose upon States fundamental obligations that require States to address procedural, policy and substantive implications of their development plans, policies, and processes.
4. Human rights are legally enforceable entitlements (that carry with them the force of law), that require States to consider all potential, unintended harm or threat that may result in a development policy, plan or programs.
5. Human rights set the norms, rules, limits and checks on State action and on actors by other non-State actors who often control the economic, social and political processes within societies.
6. Human rights address issues of power, inequity and discrimination—issues often left un- or under-addressed by

current development efforts. Human rights afford development planners, programmers and policy makers the opportunity to examine key aspects of power relations and institutions that shape people's lives.

7. Human rights are not only the ends but also the means to achieve a quality of life consistent with one's humanity and dignity—the ultimate purpose of development.
8. Human rights impose duties upon the community of persons in a society not upon the State.

Four (4) Types of individual duties:

There are several duties that each of us must remember, namely:

1. to exercise all rights responsibly
2. to strive to promote and observe human rights
3. to promote and protect the appropriate political, social and economic order for development, and
4. to contribute, as appropriate, to a social and international order in which all rights and freedoms can be realized.

These duties must be exercised by all, particularly those engaged in the development process.

Capacities for a rights-based approach may be built through training, advocacy, research, constituency building and other related strategies.

As suggested, the rights-based approach has direct application in the planning and programming processes of all institutions of government for economic, political, and administrative governance. As a tool, the critical convergence of the rights-based planning and programming with the various governance and development processes should be able to raise the level of accountability among government institutions in relation to the application of human rights standards, nature and levels of State obligations and rights

entitlements of the cross-section of the country's population that are embedded in the approach.



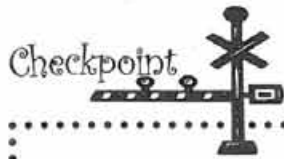
Activity 3

Participants belonging to similar organizations/LGUs will group together to undertake this activity.

Rights-based Mainstreaming Process in Project Identification

Stages	Mainstreaming process	
Situation analysis for project identification	Think of a possible issue/problem that your organization/local government is currently dealing with and which is along your mandate.	_____
	What is the cause of the problem?	_____
	What is the root cause of the problem? What are the related issues?	_____

Stages	Mainstreaming process	
	Who are affected? Their rights involved? Their entitlements? Extent or degree to which they are affected?	_____
	Past actions or initiatives taken to solve the problem? By government? By those affected? By civil society? By private sector?	_____
	Relevant international human rights treaties and domestic laws affected? Gaps in these treaties and laws?	_____



Checkpoint

Again, answer Agree or Disagree with the following items. (5 minutes)

1. According to Diokno, human rights are more than just legal rights, they are the essence of man. _____
2. The human person is the principal actor, central subject, owner and beneficiary of development. _____
3. Development should be based on human rights principles which are essential conditions to facilitate the definite enjoyment of rights. _____
4. Development should respect the normative content of human rights. _____
5. Development should be coherent with the nature and levels of state's human rights obligations. _____
6. Traditional thinking has it that human rights and development were separate and independent from each other. _____
7. The manager of development, linking human rights to development can be significantly achieved through good governance. _____

Do you think you answered correctly this time? You can find the answers in the next page.

Summary

This module provided an explanation of the significance of integrating the principles of human rights within the human development framework. It seems imperative to adopt the rights-based approach not only to cope with the backlog of compliance fully, not only to realize the people's basic human rights and fundamental freedoms but to fulfill their comprehensive, holistic and sustainable human development.

REFERENCES:

Primer on Human Rights in Development: Rights Based-Approaches, United Nations Office of the High Commission on Human Rights

Jose W. Diokno, Human Rights Make Man Human, Lecture delivered at a Convocation on Human Rights at Siliman University on its 80th Founder's Day, 31 August 1981, in A Nation for Our Children, Claretian Publications, Quezon City, 1987, pages 1-6.

Ma. Socorro I. Diokno, Training Manual on RBA, commissioned by the Office of the UN Resident Coordinator in the Philippines under Special Agreement No. DSSC-SSA 2002-002, April 2002.



Answer to Checkpoint

If you answered **Agree** to all items, Congratulations!!!
If not, it is not a reason to worry. You can improve on your performance in the next module.

VI. Assessment and Analysis from a Rights-Based Perspective



(This lecture takes approximately 20 minutes)

Adequate understanding of development problems is important to address and design effective strategies in order to address them.

Development has multiple dimensions: civil, political, economic, social and cultural. Overlooking essential components of a problem in the assessment stage may result not only in inadequate interventions but also in erroneous assumptions of risk. This may in turn lead to adverse consequences on disadvantaged groups, and to inefficient use of scarce development resources.

Because poverty is a question of disempowerment and denial of human rights, human rights concepts (normative content and human rights principles of development) provide useful tools in analyzing issues and identifying linkages among different dimensions of a problem, allowing for a clear understanding of strategic entry points.

It is important to analyze issues using a human rights lens which means being able to ask and answer specific questions on the development problem, especially the role of power relations in the production and reproduction of deprivation.

To get a holistic picture of the development problem and the interrelations among the root causes of problem, it is necessary to:

1. Identify who are those affected by the consequences of the problematic situation, and the different degrees of vulnerability among them. Issues such as age and gender can influence how people from the same group experience a particular problem in a different way (this is called "differential impact"). In order to achieve equality of opportunity, it is crucial to obtain a clear picture of existing inequalities and their impact on how development problems are experienced by people.
2. Identify the social, cultural, economic and political dimensions of the problem, and the interrelationships among them. Try to examine human rights issues by using human rights norms

and human rights principles and the interrelationships among them.

A major component in the assessment and analysis of development situations is the "stakeholders analysis." The identification of human rights issues is an effective guide in stakeholders analysis. The ultimate objective of stakeholders analysis is to identify their strengths and weaknesses for the realization of human rights.

1. Development interventions should be directed towards an impact on the human situation of disadvantaged groups. These groups are claim-holders with rights and entitlements. They experience certain strengths and weaknesses in their capacities to claim and exercise those rights.
2. Government agencies at all levels with the duty to respond to these claims are considered duty-holders. Duty-holders also experience strengths and weaknesses in their capacity to respond effectively.
3. Other stakeholders may have an influence on the capacities of both duty-holders and claim-holders.

A rights-based approach brings participation to the forefront of development strategies. In fact, in real development work, assessment and analysis of the development situation should be done with the full participation of stakeholders.

1. The rights of claim-holders include the right to participate in the analysis of their own situation. Participation is a mechanism for empowerment and by participating in the analysis of the problem, claim-holders are already benefiting positively from a development intervention.
2. Duty-holders have the right to participate in the analysis of the development situation, their participation is a crucial mechanism to develop their capacities to respond to human rights obligations.



Activity 4

Assessment and Analysis of Development Problem

1. Arrange participants in three groups and ask them to read the Case Study- Twilight of the Sea People. (Refer to Annex A)
2. Analyze the situation facing the Badjao people—an indigenous community in Southern Philippines—from a rights-perspective. Try not to get carried away by comprehensive and detailed discussions on specific issues.
3. Using the activity matrix diagram, identify only one major human rights concern and discuss it according to the following parameters:

▶ Human rights concerns (gender issues included)

Identification of relevant human rights problems being experienced by those groups (and sub-groups), including the specific elements (normative content) of the rights being affected (e.g. availability, affordability). What specific human rights concern(s) seem to be more strategic in affecting others in this particular situation?

Human rights principles that are weak or lacking and affecting the realization of such rights (e.g. transparency, accountability, etc.).

- ▶ Rights/Claim-holders - Identification of who are those most adversely affected in this situation, and whether there are particular groups of persons among them who are more vulnerable or more affected than others



on the grounds of age, gender, etc. (disaggregating profiles of persons being affected).

- ▶ Duty-bearers - Identification of who has the duty to respond to the main human rights concerns.
- ▶ Capacity Analysis - Identification of what are the capacities and vulnerabilities (strengths and weaknesses) of claim holders and duty-bearers for overcoming such human rights concerns.
- ▶ Underlying causes - Identification of causes affecting the capacities of: claim-holders to exercise and fulfill their rights, and duty bearers to comply with their obligations.
- ▶ Identification of levels (individual, community, policy, institutional—local, national) where action is required and specific results to be achieved at those levels.

4. Present to the group

Lecturer/Facilitator to synthesize for ten minutes the discussion using the guide questions.

This activity will be undertaken in about 1 hour and 10 minutes.

QUESTION GUIDE FOR FACILITATORS

The following are guide questions for facilitators to direct and manage discussion towards its desired results.



Identification of Human Rights Concerns

- a. What specific human rights of claim-holders are being affected? What specific elements of such rights? such as:
 - ▶ Do they have access to food supply?
 - ▶ Do they have access to education which is acceptable to them, without discrimination?
 - ▶ Are they protected equally and fairly by the law? How does the community participate politically?
 - ▶ Would women have different concerns, aside from or other than the concerns of men?
- b. Did women and men experience the situation differently?
- c. What specific human rights concern seem to be more influential in affecting other human rights concerns in this particular situation?
- d. What specific human rights principles are weak and affecting the rights of claim holders?

Identification of Rights-Holders

- a. Which group(s) have least access to resources/power? Do they face discrimination?
- b. Who are among those affected by the adverse consequences of this situation?
- c. Who among those affected, are the most vulnerable? Why?
- d. Did women and men experience the situation differently?

Identification of Duty-Bearers

- a. Who are the duty-bearers on each of the most influential human rights concerns identified above? Who has the



capacity to respond to such concern? Who has the obligation to respond?

- b. What are the specific duties of duty-bearers with regard to such concerns?
- c. What are the duties of claim-holders?

Capacity Analysis

- a. What strengths and capacities are available for rights-holders to claim and exercise such rights? such as:
 - ▶ What are the sources of income?
 - ▶ Do right-holders have capacity for self-reliance and mutual cooperation?
 - ▶ Do they have the right type of skills?
 - ▶ Are they organized?
 - ▶ Are they able to obtain support from other groups?
 - ▶ What are their practices for maintaining health?
 - ▶ Do they have effective and fair mechanisms of conflict-resolution?
- b. What weaknesses and vulnerabilities are rights-holders experiencing to claim and exercise such rights? such as:
 - ▶ Are they able to articulate their concerns to decision makers?
 - ▶ Are their sources of income being eroded?
 - ▶ Do rights-holders experience lack of confidence or energy, distrust, hostility, fear, lack of shared values?
 - ▶ Do they have the right type of skills?
 - ▶ Are they organized?
 - ▶ Are they able to get support from other groups?
 - ▶ Do they have effective and fair mechanisms of conflict-resolution? etc.



c. What strengths and capacities are available for duty-bearers to comply with their obligations to respect, protect and fulfill the rights of claim-holders more effectively?

- ▶ Do they have sufficient authority?
- ▶ Do they have adequate legal capacities?
- ▶ Do they have access to adequate economic and technical resources?
- ▶ Are they supported by other stakeholders?

d. What weaknesses and vulnerabilities prevent duty-bearers from complying with their obligations to respect, protect and fulfill the rights of claim-holders more effectively? such as:

- ▶ Are they aware of their obligations?
- ▶ Are they willing to comply?
- ▶ Do they have sufficient authority?
- ▶ Are they pressured by other stakeholders?
- ▶ Do they have adequate legal capacities?
- ▶ Do they have access to adequate economic and technical resources?,

Underlying Causes

What are the structures/ events/ actions attitudes or behaviors that cause/ reinforce such weaknesses and vulnerabilities?



Activity Matrix

Human Rights Concerns (a)	Weaknesses/Vulnerabilities (b)		Underlying Causes (c)	Levels of action and desired results (d)
	Rights-Holders	Duty-bearers		

- (a) including specific element of the right being affected – e.g. quality of health services;
- (b) right holders and duty bearers, specific weakness/vulnerability to comply with obligation
- (c) systems/events/actions/attitudes and behaviors causing/reinforcing such weaknesses and vulnerabilities
- (d) levels (individual, community, policy, institutional – local, national) where action is required and examples of specific results to be achieved at those levels

VII. Monitoring and Evaluation from a Rights-Based Approach

(This approximately takes 20 minutes)



Monitoring and evaluation is an inherent component of all the stages in the programming process. In fact, it is essential for effective program implementation and for the formulation of subsequent programs and projects. Stakeholders should assess their own problems and the progress, or lack of it, in achieving development objectives, in order to design strategies to improve their own situation.

However, the reality of development work tells us that there is no such thing as a program “cycle” i.e. monitoring and evaluation is not the major starting point in planning of projects and programs. Our tools for monitoring and evaluation usually tell us something about the completion of the project and of specific activities, rather than about development effectiveness (the extent to which an

institution or intervention has brought about targeted change in a country or in the lives of target groups).

Right-based monitoring and evaluation has important added value in measuring development effectiveness, and ensuring that a development program becomes empowering in itself. This is achieved through the use of "process indicators." A framework for rights-based monitoring is explained in the identification of human rights links between monitoring and other stages in the development process. Please refer to Box 1.

Box 1. Stages and Human Rights links to Monitoring and Evaluation

1. Assessment and Analysis

Effects of the problem on the most vulnerable

- ▶ What are the human rights concerns?
- ▶ Whose rights?
- ▶ To what extent?
- ▶ Who suffers most?

Root of the problem, factors that reinforce the problem and their effects

- ▶ What inabilities face the most vulnerable?
- ▶ What State obligations are not being complied? Why?
- ▶ Who is supposed to do so?

2. Objectives Setting

Desired changes in the lives of the affected people

- ▶ What improvement in the lives of the most vulnerable is desired?
- ▶ Who denies the desired change and how?
- ▶ Process and outcome indicators may be initially identified side by side with each objective. These indicators will be improved as specific strategies are determined.

3. Capacity Development Strategies

The "means" to attain the desired change in the lives of the affected people

- ▶ What is the most strategic way to attain the desired improvement in the lives of the most vulnerable?
- ▶ Who determines the "means" and how?
- ▶ How will the "means" develop the capacities of the most vulnerable to help themselves?
- ▶ What rights, principles and obligations are addressed in the process?

4. Implementation

Gathering data that will indicate levels of performance and success (process and outcomes)

Assessment of the data gathered:

- ▶ Appropriateness – Whether strategies are helping claim-holders enjoy rights and duty-holders exercise duties
- ▶ Adequacy – Whether interventions are enough to reduce or eliminate the obstacles to the enjoyment of rights; whether obligations are sufficiently complied with
- ▶ Efficiency – Whether compliance with obligations conforms with principles and normative content of concerned rights as shown in the timely delivery of services and rational use of resources

5. Monitoring

Content (Progress in achieving expected outputs)

Process

- ▶ How are claim-holders participating in data gathering and assessment?
- ▶ Are there popular feedback strategies?

- ▶ What adjustments need to be made, if any, to better attain the objectives?

6. Evaluation

Relevance

- ▶ Does the rationale of the program respond to the concerns and problems identified?

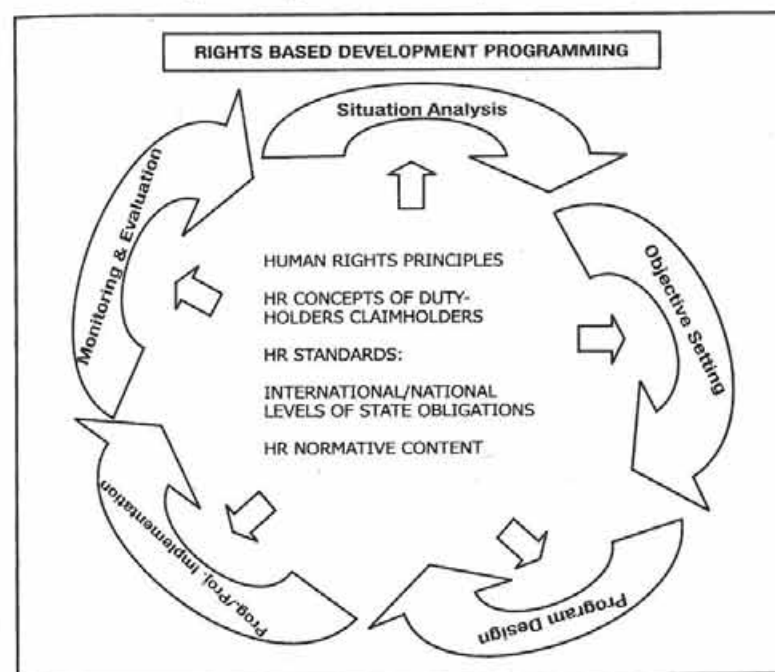
Opportunity

- ▶ Were the stakeholders given the resources (human and financial capital) necessary to achieve the objectives identified?

Utility

- ▶ Do the results achieved by the program respond to the concerns of stakeholders?
- ▶ What was the final impact on the capacity of stakeholders for the realization of rights?
- ▶ Was there an immediate impact on the situation of disadvantaged groups?
- ▶ Is the program effective among different types of stakeholders?
- ▶ How will the findings influence future action?

Figure 1. Rights Based Development Planning



Source: *Mainstreaming Human Rights to Development and Governance in Mindanao, 2004.*

Rights-based monitoring and evaluation assess both the process and the outputs of development programs, which in turn help in the identification of best practices for replication. Rights-based monitoring and evaluation are more effective than traditional approaches in assessing the following dimensions of development effectiveness:

- ▶ **Impact** – the overall effect of an intervention. Impact goes beyond the achievement of outputs and immediate objectives and tries to capture the social, economic, environmental, political, cultural and other developmental changes that have taken place as a consequence of the project or program. Because rights-based assessment and analysis give a clear picture of the interrelationships among different issues, impact assessment of development interventions is easier to define.

- ▶ Sustainability – the appropriateness of positive project results after the termination of the project. Rights-based strategies are usually empowering in themselves and therefore contribute to sustainability from the beginning of the program cycle.
- ▶ Contribution to capacity building – the extent to which a project enables target groups to be self-reliant and makes it possible for government institutions, the private sector, and civil society organizations to use positive experience with the project in addressing broader development issues.



Activity 5

Formulating Rights-Based Outcome and Process Indicators

1. Arrange the participants in three groups. Each group will be assigned to read a particular case study (cases on health, housing or education). Cases are attached in Annex B.
2. Each group will formulate/identify the following:
 - ▶ outcome that reflects an impact on the lives of target groups, on the basis of the main human rights concerns identified
 - ▶ outcome indicators that reflect (a) improvement in the lives of claim-holders based on the normative content; (b) improvement in duty-holders compliance with their obligations
 - ▶ process indicators on the basis of human rights principles (e.g. transparency, participation, attention to vulnerable groups)



3. Present the outputs to the whole group.
4. The lecturer/facilitator will synthesize the presentation based on his/her previous discussion on this topic and the example of results from the previous activity.

This activity will be undertaken for about 1 hour and 10 minutes.

GUIDE FOR FACILITATOR

Below is an example of a guide for formulating outcome and process indicators using one of the cases (Right to Housing)

Assumption:

Programs can be pursued at the national level

Targets:

Poor people in danger areas in highly urbanized communities (informal settlers) (i.e., "esteros", people living under bridges and next to railtracks)

Needs:

In city (not on-site)

Issues:

- ▶ Legal security of tenure
- ▶ Availability – safe drinking water, sanitation, refuse disposal, site drainage, emergency services
- ▶ Affordability
- ▶ Habitability – adequate space, privacy, safety
- ▶ Accessibility
- ▶ Location – employment options, health, schools, etc.

Obligations:

- ▶ No eviction without appropriate relocation
- ▶ No eviction without consultation
- ▶ No forcible demolition



- ▶ Adequate relocation
- ▶ Availability of affordable housing programs
- ▶ No discrimination in access to housing programs

Outcome:

Improved adequate housing of urban living in danger areas

Outcome Indicators**Claim-Holders:**

- ▶ Number of people evicted without force or violence
- ▶ Number of people evicted being relocated

- ▶ Distance from resettlement site to employment and education facilities (employment facilities to match resettlers' skills)
- ▶ Number of organized and functional urban poor groups (data must be disaggregated according to age and gender)
- ▶ Proportion of income allotted to housing

Duty holders: (Shelter agencies, NAPC, OP, PCUP, LGUs; PNP, DPWH, DSWD, DOH, TESDA, DOLE, PCFC, Judiciary, Congress)

- ▶ Passage of policies on eviction and resettlement consistent with human rights principles (PNP, DPWH, LGU, NHA—for financing)
- ▶ Number of illegal evictions reduced (notice, consultation, relocation)
- ▶ Number of houses with adequate facilities as compared to total number of families evicted
- ▶ Number of “returnees” to the danger areas
- ▶ Incremental increase in budget for housing

Process indicators (participation and empowerment)

- ▶ Claim-holders participating in consultation (e.g. designing relocation sites): number, profile
- ▶ Number of organized groups involved, percentage of women participants in those groups

**Activity 6**

1. Arrange the participants in four groups
 - ▶ Two groups will discuss added values of the rights-based approach to development and governance. Facilitator should emphasize to the group that RBAD views reality through a human rights lens. It builds on existing approaches and paradigms, rather than substituting them.
 - ▶ Two groups will reflect on what internal and external obstacles their organization(s) faces in implementing a rights-based approach.
2. Present the outputs to the whole group.

Summary

The last two topics of this module provide the importance and the elements to be considered in undertaking assessment and analysis of development issues and problems from a rights perspective as well as the stages and human rights links to monitoring and evaluation.



At the end of the module, the following pointers have to be pondered upon.

- ▶ Summary of my learnings and how I can adopt them in my work station.
- ▶ Are there issues that still remain unanswered or unclear or which I would like to explore/discuss further.
- ▶ What interventions are needed to further enhance my learnings?

REFERENCE:

U.N. Philippines, Rights-Based Approach to Development Programming Training Manual, July 2002.

Annex A

CASE STUDY: TWILIGHT OF THE SEA PEOPLE

In one of the houses on stilts along the shore of Teheman, beyond the mangrove trees in this coastal town in Mindanao, a mother is singing to her six-month old daughter. But the child is lulled to sleep, another listener is moved to tears.

Beautiful Hanang cries as she curls up on her colorful bridal mat. Her neighbour Furaydah's songs of lost love have brought on memories of Misdal, her husband, who left months ago to join the pirates and never returned. Just this afternoon, Hanang, all of 14, had an abortion. Although her eyes were filled with tears, she says it is all for the best, since she would have been unable to feed her fatherless baby.

"It would be a shame for her to have a child without a father," agrees Hanang's mother. "The child will just die because we will not be able to feed it. It would just be a problem for us later. We don't have any burial place to bury it."

Hanang, however, is unlikely to be the last in her community to make such a decision. For she is one of the Badjao, and for many years now, these once proud people have been taking steps that have broken their hearts and led them farther away from what they used to be self-reliant people of the sea.

In the past, the Badjao lived almost their entire lives on water. A peaceful people, they would simply float away on their houseboats whenever they felt threatened by groups encroaching on their territory or when adverse conditions impinged upon their community.

Today, after centuries of living and roaming the southern Philippine seas, only a few Badjao still live on their boats, most of them in parts of Tawi-tawi, Sulu and Zamboanga. Here on Basilan

and elsewhere, Badjao boat communities have coalesced into larger pole house villages, where their ways are slowly being taken over by those of the surrounding shore population, and where they now live in abject poverty. Perla de Castro, the Region IX Director of the National Commission on Indigenous Peoples, herself says, "It is quite clear that the Badjao are the most marginalized among all the indigenous people's communities."

It is not by choice that the Badjao have gone onshore. For decades now, they have been losing their traditional fishing grounds to both legal and illegal fishing vessels intruding into their territory. In more recent years, they have become the favorite prey of pirates roaming the seas. Unable to fish and fearing for their safety, the Badjao have been forced to abandon their traditional homes on boats for stilt houses where they thought they would be able to live in peace.

But on land, the Badjao have no real means of livelihood. This is why the first-and often, only-meal of the day comes as late as two in the afternoon, when the few men who have boats return with their catch. Desperate to feed their families, many of the tribe's members, male and female, have left for faraway cities to beg. A growing number of the women left behind are also opting to abort their unborn children rather than see their offspring die later of hunger or disease. In fact, many Badjao children now suffer from malnutrition, dysentery, malaria, tuberculosis and ulcer.

"We don't have food for the children anymore," says Dalpaki, a 35-year-old Badjao community leader who looks twice his age. "They are now dying or are even killed inside the womb of their mothers."

Indeed, even burying their dead has become a problem for these gentle people. Their traditional burial ground, a small island off the shore of Maluso, has been taken over by a Tausug community who fled from the poverty and the sporadic fighting between Moro rebels and government soldiers in the nearby province of Sulu. Says Dalpaki: "We have to dig up our ancestors to bury our dead. Sometimes we have to travel far to bring our beloved to some desolate island in the middle of the ocean for burial."

In a recent study, ... Prof. Aurora Roxas-Lim of the University of the Philippines Asian Center, says that the prejudices against the

Badjao often stem from the preconception that all nomadic people are by nature shiftless, rootless, irresponsible and unreliable.

Whatever the reason, it is obvious that the insults flung at the tribe hurt, and hurt deeply. Jainal, an 11-year old Badjao who is lucky enough to attend school, says, "My Muslim classmates despise the Badjao because, they say, we are ugly and we smell bad."

Estrelita Vicente, who headed a conference in Zamboanga City on the history and culture of the tribe, also says that discrimination against the Badjao is a result of them being "overwhelmingly outnumbered" by their Tausug and Samal neighbors. As Vicente sees it, the inferior status accorded to the Badjao may have led tribal members now living onshore to identify themselves to census takers as Tausug and Samal.

Some Badjao, especially those who have married Samal or other land dwellers, have also adopted modern practices, thereby making them less distinct from other people. Hadji Musa Malabong, a Badjao from Sitangkai who now works with the Department of Education, Culture and Sports, said that in the old days, the sound of the tribe's musical instruments such as the *tambul*, *kulintangan* and *agung* could be heard for miles during celebrations such as weddings. Today, the Badjao on land would rather hire bands or rent karaoke sets. They also rarely perform traditional dances, such as the *igal*, which the women used to do while at sea, on the boat. There is the radio to listen to, and beer to swill, instead.

Yet for all these attempts to be like land dwellers, the Badjao remain on the fringe of society. Observers say this is partly because of the tribe's own tendency to keep to itself. When it has something to sell, for instance, it does so not in the public market, but on the street, well away from other vendors.

Some social workers also say that the Badjao's distrust of outsiders is a hindrance to efforts to help the tribe "develop." Arnel Alcober, a Claretian missionary working with the Badjao in Teheman, says that when he first arrived here, he found himself sighing in frustration several times. Like many other indigenous peoples, the Badjao have no sense of birth dates. Most of them do not know their age and many do not even have names.

At first, while the children were at school, the Badjao parents were taught to read and write. But Alcober says he realized that this might not be the kind of education suited to the Badjao. He says, "The Badjao just want to survive." The need to learn how to read and write sometimes escapes their understanding.

He has since changed the approach of the adult literacy program, and the Badjao grown-ups are now being taught operational literacy. "Like how to compute numbers if they would want to run a sari-sari store, or to know if they're getting the right amount every time people buy their fish," explains Alcober. He reports that little by little, the Badjao are learning, adding, "To teach them is really a struggle but it is also a self-actualization which makes the best in people come out."

It is no secret, though, that what most Badjao want is to return to the sea. If they can no longer live there like before, then at least they want to be able to continue to live from its resources. To do that, many Badjao believe they will have to have motorized *banca*s that will enable them to fish further into the ocean.

Then again, a motorized *banca* is no guarantee that they will be able to bring their catch to shore, set aside some for their meals and sell the rest. After all, there are the pirates and the bigger boats to worry about even that far in the water, and anything can happen between the time a *banca* leaves the community and comes back.

Sabiya, Dalpaki's sister, recalls that at one point, she summoned enough courage to borrow P50,000 from a Tausug businessman, just so he could buy a motorized *banca*. For three years," she said, "we were not able to pay him a single centavo."

Dalpaki notes that almost all the Badjao in Teheman are indebted to the same Tausug businessman who has been charging high interest rates. "Even until we die, we will not be able to pay our debts," he says.

Dalpaki himself chose not to take out a loan from the businessman when things began to get really desperate for his family. Instead, he went to Manila, where he spent six months trying to sell pearls and corals. He boasts that he even went as far as Baguio and Ilocos. He says, though, that he had to pawn his wife's earrings and necklaces to pay for his fare to Luzon.

"It was hard to survive in Manila," says Dalpaki. "Some of us were forced to beg especially when we could not sell anything." But at least he was able to bring home P5,000, which he used to buy a second-hand motorized *banca* for fishing.

Asked what he would do if he encounters a pirate, Dalpaki's response is far from what one would expect of a member of a peace-loving tribe. He says, "Many Badjao have been killed because we don't have firearms. But if you give us guns, we are now willing to fight back."

That willingness to take up arms may have come about in part from watching even young Badjao beg for a living. At the ports of Zamboanga and Basilan, for example, hordes of naked Badjao children entice ship passengers to throw coins, which they try to catch as they dive deep into the waters. Some travelers perhaps see the youngsters as daring divers showing off their skills. But the Badjao themselves know these children are beggars at sea.

Yet, eight-year-old Anina doesn't seem to mind the work, or that her long hair has been sun-bleached after numerous dives almost every weekend. She says, "We usually get P10. On good days, when there are many commuters, we get P 40."

Fourteen-year-old Absari, meanwhile, has gone as far as Manila to join her grandmother and other Badjao in begging. For three months, she braved dark, cold nights sleeping on the pavement outside the Baclaran church. She says that if they were "lucky," they would get as much as P100 a day. They would buy some fish for dinner, and whatever was left they bet at card games with fellow Badjao beggars.

Academic Roxas-Lim urges that policy implications on how to deal with marginalized sectors should include the Badjao. "The plight of the Badjao can serve as the litmus test of how well our so-called democratic system and our national patrimony and the environment are faring," she argues in her study.

She observes that the Badjao's political participation is almost nil. And when they do participate in elections, they are either relegated to voting for predetermined candidates or caught in the crossfire of feuding political factions and political dynasties.

In this year's election, Sabiya confesses that they had "no choice" but to participate, "The Tausug businessman has already commissioned us to vote for certain politicians," she says. "We're afraid that if we do not heed his request, we will no longer be able to borrow money from him."

The Badjao are under no delusion that the polls will bring any change to their lives. Says Dalpaki: "It is better that we don't vote because we don't get anything from government anyway." He points out that in 1999, the Department of Social Welfare and Development (DSWD) turned over P120,000 to the local government of Maluso as development fund for the Badjao of Teheman. "But not a single centavo came to us," says Dalpaki. "For some strange reason, the money got lost along the way."

"People come to talk to us about our problems but nothing has happened," says his neighbor Marriam. "We still have no boats. Just listen to the song of Furaydah. If you will understand, you will know our story and you will not talk to us anymore."

But Furayda's singing is interrupted by the distant crack of a rifle. A child starts crying.

Marriam says to the visitors, "Don't worry. Go to sleep now. We will know tomorrow who it is this time. It's normal here. People get killed."

Her husband quickly admonishes her, "Hush, don't frighten them. They will still have to write our story."

Annex B

CASE A: RIGHT TO HEALTH

Three new cases of polio were detected in 2001 (Cagayan de Oro, Laguna and Cavite). The 3 children (aged 3, 8, and 14 months; two boys and one girl) developed a "mutant" poliovirus, vaccine-derived poliovirus (VDPV), from the Oral Polio Vaccine (OPV) they had received. It is possible for a child who has received OPV to develop VDPV if s/he is malnourished or if the vaccine received did not work as effectively as it should.

The Philippines is the 4th country in the world to have VDPV. Controlling entails only a large-scale mass vaccination campaign using OPV. Without OPV, children may be infected by "wild" poliovirus, which could lead to irreversible paralysis. Immunization stops the spread of "mutant" VDPV, which could even turn back into its "wild virulence." The Department of Health has scheduled mass immunization on February 2-8 and March 2-8, 2002.

REFERENCE:

Philippine Daily Inquirer dated 12 January 2002

Case B: RIGHT TO HOUSING

According to a World Bank publication, slum and squatter communities in the country have been estimated to contain 17 percent of the country's population and nearly 40 percent of the urban population. Many of the urban poor live in dangerous locations: along railway lines and canals, under bridges, along shorelines or banks or steep hills. Urban housing has become unaffordable particularly for the urban poor and land costs are too prohibitive. Security of tenure—a fundamental component of the right to housing—is unavailable for most of the urban poor, yet is critical to effectively address poverty reduction in urban areas.

REFERENCE:

World Bank, "A Strategy to Fight Poverty in the Philippines," March 1996, Chapter 3.

Data provided by the Urban Poor Associates point precisely to the lack of security of tenure among the poor in Metro Manila. For the first nine months of 2001, there were 27 incidents of demolitions in Metro Manila alone.¹ These occurred on government-owned property, while 5 incidents occurred on private lands. In 12 incidents, the affected families were relocated to other areas but in 15 incidents, the affected families were not provided with any relocation sites. There have also been 10 instances where the demolitions were accompanied by violence, committed largely against the affected families by goons, policemen, and the demolition team. On one occasion, policemen pointed their guns at the affected families.² On another, goons arrived in the middle of the night and shot at the community; one woman died and scores were injured...³

REFERENCES:

¹Demolition Monitor, January to June 2001; Demolition Monitor, July to September 2001

²March 13, 2001, involving 174 families on private land, at Letre Road, Tonsuya, Malabon, 95 families received Peso 15,000 each.

³August 20, 2001, involving 700 families on private land, at Area F, DBB, Cavite.

CASE C: RIGHT TO EDUCATION

As a result of the Asian Financial crisis, the greater proportion of household coming from the poorest domicile took their children out of school. Field studies conducted by Nebres (1997) revealed that more than half of the children who do not get to finish grade 6th actually drop out after the first or second grade—which means that at seven and eight years old, they are already condemned to a life of poverty.

A World Bank report claims that public elementary education is far from free. Families spend about 2% of total household expenditures on each child enrolled in a public elementary school. A fifth of this amount goes to miscellaneous fees and donations for the school's upkeep. These fees are particularly high in the Visayas.

Transportation accounts for about half of education expenses, and uniforms for about one fourth.

The report further claims that dropouts are mostly from poor families. About three-fourths of the dropouts belong to poor households. Two out of five Filipino children not in school are Mindanao residents. Boys tend to drop out more than girls. Of those children who drop out of elementary school, 60% do so in grades 4 and 5. Children drop out for health and economic reasons. Poor health (or disability) is the top reason for dropping out, followed by economic reasons, like the high cost of education, or the need for the child to work.

REFERENCES:

"Arsenio M. Balicasan, in *Philippine Review of Economics*, Vol. XXXVIII, No. 1, June 2001, pages 15-50.

Solita Collas-Monsod and Toby C. Monsod, in Balisacan and Fujisaki, "Growth, Poverty and Income Inequality in the Philippines," Tokyo 1998, pages 48-49.


World Bank report No. 22181-PH, "Philippines": Filipino Report Card on Pro-Poor Services," May 30, 2001.

MODULE 4

**Specialized Training Module
on Mainstreaming RBA
in the Development
and Governance Processes**

MAINSTREAMING RBA IN THE DEVELOPMENT AND GOVERNANCE PROCESSES

Introduction



The Specialized Training Module aims to guide the participants in mainstreaming human rights and applying the rights-based approach in the various development and governance processes in order to ensure that they are able to identify key issues and indicators for assessing human rights-centered development approach or rights-based approach in the four (4) key areas: (a) planning, (b) development analysis and legislation, (c) budgeting and programming, and (d) monitoring and evaluation in their respective workplaces.

The application of the rights-based approach to development can be viewed in two levels:

- a) macro and micro levels
- b) agency, sectoral, intrasectoral, multisectoral, national and local levels

The module is designed in a manner by which the participants will be introduced to some practical ways in integrating human rights. Specifically the following will be undertaken:

- 1) Human Rights and Development Planning
- 2) Human Rights and Development Policy and Legislation
- 3) Human Rights and Development Programming



Learning Objectives

At the end of the Module, the participants should be able to:

- 1) Enhance their capacities and skills to apply human rights in development planning, policy analysis and legislation, and programming processes, monitoring and evaluation using RBA methods and tools in order to achieve development goals of national agencies, local governments, and civil society organizations including the private sector;
- 2) Analyze and review existing development plans, policies, laws and ordinances in their workplace using the human rights-centered development approach;
- 3) Formulate a development programming design or plan for their respective agencies and local governments utilizing the rights-based approach and tools; and

I. Human Rights and Development Planning



(Lecture approximately takes 30 minutes)

Development planning is often viewed as the deliberate attempt by the State to coordinate national decision making over the long run and to influence, direct and control the level and growth of a nation's principal variables to achieve a predetermined set of development objectives.

Development planning covers all major aspects of the national economy (industry [mining and quarrying, manufacturing, construction, electricity, gas, water, etc.], agriculture, fishery, forestry, services [transportation, communication, and storage, trade, finance, private services, public services, exports, imports. etc.]).

It links the public and private sectors, and depends on a variety of factors, such as tax revenues, availability of foreign credit, private sector investment preference of the private sector to invest in one area or another, passage of enabling laws and government budgets, private response to business incentives, among others.

It results in an indicative plan of the situation of the country's economy in the future, forecasting indicative qualities.

The national development plan generally covers a period of five years and is called the medium term plan but it may incorporate long-term perspectives and may be supplemented by annual plans. For most states, development planning is a necessary condition for foreign aid.

Yet many national development plans fail, mainly because

- ▶ They are ambitious, containing too many objectives without considering whether these objectives compete or even conflict with each other;
- ▶ They are vague on specific policies for achieving the objectives;
- ▶ They are based on insufficient and unreliable data;
- ▶ They fail to consider unanticipated economic, political and social disturbances, both internal and external;
- ▶ They are implemented by state agencies that are wracked by institutional weaknesses; or
- ▶ They are not effectively implemented for lack of political will.

National development plans also fail because they are often left solely in the hands of the national government, with hardly any – or perhaps merely- token participation of the people. So in many cases, national development plans treat their population as beneficiaries of the state's largesse, rather than as persons with legitimate claims and entitlements.

These failures, it is submitted, may be averted if human rights were fully integrated into national development planning.

Human rights provide a rational and comprehensive framework that focuses on the human persons—and on improving the quality of their human life—by rigorously analyzing the social and political

processes that determine the likelihood of people's claims and entitlements being realized.

Human rights highlight the linkages between different areas, variables and factors that form the basis of development and that impact on the quality of human life in society.

Human rights mandate that resource mobilization and allocation are planned in a manner that enhances the dignity and humanity of people.

Human rights anticipate the effects of future events by realistically requiring the following:

- ▶ Respect human rights, that is, to refrain from adapting any national development plan that directly encroaches upon recognized rights and freedoms;
- ▶ Protect human rights that is, to take steps, in national development plan, to prohibit others from violating recognized rights and freedoms; and
- ▶ Fulfill human rights, that is, to ensure that its national development plan actively creates and facilitates an economic, social and political environment conducive to the enjoyment, exercise and realization of human rights.

Human rights mandate the analysis of strategy and correlation or strategy to detail in a manner that is consistent with the normative content of human rights. This means that all development strategies that are incorporated into a national development plan must take into full account the different elements that are required for the full enjoyment, exercise and realization of fundamental rights and freedoms. These may include such elements as accessibility, availability, cultural acceptability, and the like.

Human rights recognized that while legal systems define and enforce rights, administrative structures and social deliveries are often the primary institutions through which entitlements are delivered or withheld. In addition, the exercise and enjoyment of human rights depend upon a number of variables and factors subject

to state control. Human rights require that those factors and variables subject to state control be fully incorporated into a national development plan. These factors and variables are generally twofold:

- ▶ The general socio-economic condition of a society (quality of the environment, availability of and access to sanitation and safe water, health practices, quality, availability of and access to education, nutrition awareness and consciousness, housing availability, income distribution, family size, etc.); and
- ▶ The quality, efficiency, availability and distribution of state services.

Purchasing power is also central to the exercise of basic human rights. This implies that all national development plans should include such mechanisms, including a well-functioning and effective regulatory framework, that prevent those in the private sector from engaging in practices that adversely affect income, jobs and productivity, and lead to the erosion of the purchasing power of the domestic currency.

Land and agriculture are also central to human rights.

"Land rights and agrarian reform are often central to the realization of human rights. The fulfillment of various economic, social and cultural rights shows a direct relationship to land, such as the right to food, the right to housing, the right to an adequate standard of living, the right to culture, the rights of indigenous peoples and others."

All these and other factors and variables that impact on the enjoyment, exercise and realization of human rights should find expression in the state's national development plan.

In the process of formulating, adopting and implementing a national development plan, human rights require the full, active and genuine participation of the people, taking into full account their aspirations, needs, and rights. Thus, while the state may prepare, adopt and implement a national development plan, the plan is, in

reality, owned by the people. This, in return, may provide the impetus for the success of the national development plan.

Human rights also mandate that the process of national development planning be attended by such principles as state accountability, transparency, attention to vulnerable groups, equity, equality, non-discrimination, independence of the judiciary, legislative capacity, etc.

Finally, human rights centered development planning is an essential and integral part of development, the pivotal means of guiding and accelerating the enjoyment, exercise and realization of all human rights, particularly for those most vulnerable in society.

Human rights development planning integrates human rights principles, incorporates the normative content of human rights and prominently highlights the nature and levels of state obligations (excerpts from Maria Socorro I. Diokno, *Human Rights Centered Development*, 7 July 2002, pages 28-31).



Activity 1

Workshop 1. National/Local Planning:

Participants will explore the ways by which human rights may be applied to analyzing national or local development plans, with emphasis on devising a set of principles and safeguards that ensure that development strategies are implemented fairly, equally, effectively and without discrimination.

In this manner, the capacities of the participants (development planners and planning officers) are enhanced through this exercise. Participants will be in a better position to provide a human rights perspective in development planning.

In small groups, participants shall examine a government's development plan (national or local development plan), guided by the following questions:



1. What are the development goals of the Plan? Do they include the Millennium Development Goals? How?
2. What are the human rights positively affected by the Plan?
 - i. Does the Plan positively affect the rights of vulnerable groups (women, indigenous peoples, children particularly in armed conflict areas, etc) in the same way that it positively affects the rights of men and other favored groups?
 - ii. What is the normative content of each of the affected rights?
 - iii. Does the Plan address the normative content of each of the affected rights?
3. What are the human rights adversely affected by the Plan?
 - i. Does the Plan affect the rights of vulnerable groups (i.e., women, indigenous peoples, children, particularly in armed-conflict areas, etc.) in the same way that it adversely affects the rights of men and other favored groups?
 - ii. What is the normative content of each of the affected rights?
 - iii. Does the Plan address the normative content of each of the affected rights?
4. Does the Plan give special attention to the human rights of vulnerable groups (women, indigenous peoples, children particularly in armed conflict areas, etc)? How?
5. Does the Plan take into consideration the universality, indivisibility, interdependence and interrelatedness of human rights? How?
6. Who benefits from the Plan? Do women and other vulnerable groups (indigenous peoples, children particularly in armed conflict areas, etc) benefit from the Plan in the same manner that men and favored groups benefit from it? Does the Plan pay special attention to the most vulnerable groups in Philippine society?



7. Who does not benefit from the Plan? Does the Plan contain specific safeguards to mitigate against threats to the human rights of those who do not benefit from it? Do these specific safeguards take into consideration the special needs and requirements of women and other vulnerable groups?

8. Does the Plan highlight state accountability? How?

9. Does the Plan empower those it benefits? Does the Plan empower vulnerable groups (women, indigenous peoples, children particularly in armed conflict areas, etc) in the same way that it empowers men and other favored groups?

10. Does the Plan discriminate against any group or sector of society? How?

11. How does the Plan treat women, IPs children and men? Does the Plan address the special needs and requirements of these vulnerable groups? How?

12. What is the role of the judiciary, if any, in the Plan? Does the Plan enhance independence of the judiciary?

13. Does the Plan provide avenues for people's participation in its enforcement? Does the Plan provide for the participation of women and other vulnerable groups in the same manner that it provides for the participation of men and other favored groups? How?

14. Which government agencies or institutions are responsible for implementing the Plan?

15. Does the Plan comply with the principal obligation to take steps towards the progressive realization of human rights through the maximum use of available resources? What steps does the Plan envision? Do these steps affect women and other vulnerable groups in the same way that they affect men and other favored groups? Are these steps deliberate, concrete and targeted towards meeting the state's human rights obligations?

16. Does the Plan respect human rights? How does the Plan protect the rights of women and other vulnerable groups in the same way that it does the rights of men and other favored groups?



17. Does the Plan respect human rights? How? How does the Plan treat the private sector? Does the Plan protect the rights of women and other vulnerable groups in the same way that it does the rights of men and other favored groups?

18. Does the Plan provide for a regulatory framework? Does the regulatory framework apply to both women and men, and other vulnerable groups?

19. Does the Plan fulfill (**facilitate**) human rights? Does the Plan fulfill (**facilitate**) the rights of women and other vulnerable groups in the same way that it does the rights of men and other groups? What conditions does the Plan create or seek to create that would facilitate the enjoyment and realization of human rights, particularly of the most vulnerable? Would these conditions benefit women and other vulnerable groups in the same manner as they would benefit men and other favored groups?

20. Does the Plan fulfill (**promote**) human rights? Does the Plan fulfill (**promote**) the rights of women and vulnerable groups, in the same way that it does the rights of men and other favored groups?

21. Does the Plan fulfill (**provide**) human rights? Does the Plan fulfill (**provide**) the rights of women and other vulnerable in the same way that it does the rights of men and favored groups?

22. Could any aspects of the Plan be construed as a violation or a breach of state obligations? If so, which aspects are these and why do you construe them as violations or breaches of state obligations?

Participants shall then develop a set of principles and safeguards to ensure that the Plan is implemented fairly, equally, effectively and without discrimination.

Finally, the participants shall prepare an assessment of the Plan using the outline below:

- a. Brief Description of Plan
- b. Human Rights Affected by the Plan
- c. Coherence of the Plan with Human Rights Principles
- d. Coherence of the Plan with Normative Content of the Affected Rights



- e. Coherence of the Plan with Nature and Levels of State Obligations Arising from the Affected Rights
- f. Impact of the Plan on Women and Men and other Vulnerable Groups (indigenous peoples, children particularly in armed conflict areas, etc)
- g. Recommendations (Set of Principles and Safeguards to ensure that development strategies are implemented fairly, equally, effectively and without discrimination)

Each group shall present its outputs for not more than 10 minutes.

This activity takes approximately 1 hour and 15 minutes.

II. Human Rights and Development Policy and Legislation

(Lecture approximately takes 15 minutes)



A state's development policy provides the framework within which specific decisions relating to a country's development are made and implemented. Public policy establishes a definite course of action, reflecting a composite of decisions (not just one decision) and programs to achieve development goals. Policy substance determines methods of execution. Thus development policy is central to attaining a quality of human life that enables all persons to live decently and in dignity, fully enjoying and freely exercising all their rights and freedoms.

In theory, policies are written by the executive and find expression through enabling laws passed by the legislature. In practice, however, a network of decisionmakers, including those in the private sector, actually writes public policy. In most countries, partisan political and economic interests strongly influence the formulation and adoption of state policies. It is not clear what criteria or standards, if any, decisionmakers use to resolve contending partisan political and economic interests. What seems clear is that, because

these interests strongly influence the formulation and adoption of public policies, these same interest groups enjoy privileged access to the policy-making process.

State development policy generally indicates actions the state believes are desirable to attain a certain level of development. More often, a state's development policy limits itself to macroeconomic matters. Yet, public economic policies often tend to be *ad hoc* responses to recurring crises.

Because public policy directs the course of a country's development, the process and substance of development policy formulation, analysis and implementation must be shaped by human rights. State's human rights obligations require the state to adopt and implement policies geared towards the full realization of all human rights. The respect-bound obligation requires the state not only to refrain from any policy that would negate human rights but also to formulate policies that create and facilitate an economic, social and political environment conducive to the enjoyment, exercise and realization of all rights and freedoms. The protection-bound obligation requires the state to adopt and implement policies necessary to prevent other individuals or groups from violating the integrity, freedom of action, or rights of others. The fulfillment-bound obligation requires the state to pursue appropriate legislative, administrative, budgetary and other policies to facilitate the full enjoyment and exercise of fundamental freedoms and entitlements.

Guided by human rights, policy-makers move away from approaching development as an exercise of welfare towards approaching development as an empowering legitimate claim to which all persons particularly those most vulnerable, are entitled, by virtue of their inherent dignity. In addition, strengthening the human rights content of public policy creates stronger and more equitable public, civil, and community institutions, which in turn increases the capacity of the state and the people to prepare for and cope with unexpected shocks in the domestic and global community.

Human rights demand that contending interests that affect public development policy are resolved with equity, equality and non-discrimination. Human rights also require full access to the policy-making process, particularly by those most vulnerable and marginalized, discarding any privileged access that may be enjoyed

by certain interest groups in society. This means addressing such factors as class affiliation, control over resources, etc. that obstruct access to the policymaking process.

Human rights mandate that policy not be based on one specific context or framework (e.g., macroeconomic policy as the sole determinant of development policy) but instead should focus on the whole range of rights (civil, cultural, economic, political and social) that determine the quality of life in society. Human rights demand coherent, complementary and effective policy.



Activity 2

Workshop 2. Human Rights Centered Policy Analysis

In human rights centered development, policy analysts focus on four essential and interrelated factors:

1. The substantive content of the policy and its coherence with human rights principles, the normative content of human rights and the nature and levels of state obligations.
2. The policy making process in relation to human rights principles such as *people's participation, transparency, non-discrimination, equality and equity*, etc., and in relation to the power dimensions of the development process.
3. The manner by which policy is implemented in the context of the nature and levels of state obligations and human rights principles such as *accountability, attention to vulnerable groups, transparency, equity, people's participation, equality and non-discrimination*, etc.
4. The impact on the quality of human life in society and on the enjoyment, exercise and realization of fundamental rights and freedoms.



Analyzing development policy from a human rights perspective enables policy analysts to provide rational, well-grounded advice to policymakers in the public and private spheres, which, in turn, allows policymakers to adopt, reform, pursue and implement policies geared towards improving the quality of human life in society. It also ensures that the interests of those most vulnerable and marginalized in society will actually be addressed by policy makers, and that those most vulnerable and marginalized will also be involved in the process of their development.

Analyzing development policy means applying human rights principles to the substance of policy and the process of policy making, integrating the normative content of human rights, and highlighting state obligations.

In small groups, participants shall analyze an existing policy.

The following guidelines may facilitate policy analysis within the framework of human rights centered development. Policy analysts are reminded to ***ensure genuine people's participation and involvement***.

- ▶ When analyzing the *substance* of policy, determine whether the policy:
 - ▲ Diminishes or eliminates conditions that cause or perpetuate discrimination or *discriminates* against any persons, groups, sectors, or communities
 - ▲ Applies *equally* to women and men and other vulnerable groups
 - ▲ ***Enhances the power*** of people to act for and on their own behalf



- ▲ Creates conditions necessary for the full enjoyment, exercise and realization of all human rights, particularly by those most vulnerable and marginalized
- ▲ Prevents other actors from violating the integrity, freedom of action, or human rights of the people
- ▲ Is expressed as a law, an administrative or executive order or issuance, whether funds are allocated for the implementation of the policy, and whether these funds are reflected in the national budget
- ▲ The specific rights covered by the policy, and whether the policy addresses the normative content of these specific rights
- ▲ Takes into account the particular socioeconomic characteristics of those subject to the policy
- ▲ Guarantees the independence of the judiciary
- ▲ Effectively responds to present and future needs of all persons in society, particularly those most vulnerable and marginalized
- ▲ Minimizes and eradicates corruption and abuse at all levels of governance
- ▲ Includes mechanisms for monitoring the actual impact of policy, and how effective these mechanisms are
- ▲ Includes clearly defined control measures, and whether these measures actually ensure that the policy will be *fairly, impartially* and *strictly followed*, and *without discrimination of any kind*
- ▲ Includes safeguards to mitigate threats to human rights, and how effective these safeguards are



- ▶ When analyzing the policy making process, consider:
 - ▲ The nature and extent of people's participation
 - ▲ Whether women and other vulnerable groups were equally represented in the policy making process
 - ▲ Non-discrimination in the selection, participation and involvement of those most vulnerable in the policy making process
 - ▲ The nature and extent of access to the policy making process, particularly by those most vulnerable and marginalized
 - ▲ The accessibility, availability and effective functioning of genuine mechanisms that enable people to question policies
 - ▲ The nature of information disclosed to the public, the content and clarity of information disclosed, whether the information disclosed is easily understandable (e.g., technical information should be disclosed in forms and media that may be understood by non-technical persons) and the timeliness of disclosure
 - ▲ Whether all factors (e.g., class affiliation, control over resources, etc.) that obstruct access to the policy making process were effectively addressed
 - ▲ The role of politics and the power dimensions of the policy making process, and whether contending issues of different interest groups or power factions were resolved with *equity, equality* and *non-discrimination*
- ▶ When analyzing the way policy is being implemented, look into:



- ▲ The nature, level and effectiveness of state accountability
 - ▲ Whether the policy is implemented fairly, equitably, and without discrimination
 - ▲ Whether the policy pays close attention to vulnerable groups
 - ▲ Whether the policy is being implemented with the active and genuine participation of the people, particularly those most vulnerable and marginalized
 - ▲ The accessibility, effectiveness and availability of recourse mechanisms to question policy implementation
 - ▲ The nature and level of public transparency
 - ▲ Unintended or unanticipated harm or threats that may arise from the policy, while it is being implemented, whether the harm or threats are addressed and how, what corrective actions and/or safeguards are adopted to address the harm or threats
- ▶ When analyzing the impact of policy on the quality of human life in society and on the enjoyment, exercise and realization of fundamental rights and freedoms, focus on:
- ▲ The human rights situation and the level of enjoyment—or non-enjoyment—of human rights, threats to human rights and the efficacy of safeguards
 - ▲ The situation of vulnerable groups in society, and whether there have been any substantial and



meaningful changes in their situation before and after the policy was adopted and implemented

- ▲ Finally, policy analysts are advised to guard against committing the “seven deadly sins of policy analysts:”² channeled (being in a rut), distant, late, superficial, topical, capricious and apolitical.

This activity takes about 1 hour and 15 minutes.



Activity 3

Workshop 3: Human Rights and Legislation

This section explores the ways by which human rights may be used to analyze existing, proposed and pending legislation. Applying human rights to legislation would contribute towards strengthening the capacities of the national agencies and local governments in this manner. This exercise will enable the participants to better influence national and local legislators in the formulation and assessment of legislation by explaining why it is important to apply human rights to legislation; enhance their skills in reviewing existing, proposed and pending legislations and in applying human rights analysis to legislation.

In small groups, participants shall analyze an existing law, ordinance or pending bill by answering the following questions:

- a. What are the essential elements of the law, ordinance or pending bill? What does the bill provide?



- b. What is the effect of the law, ordinance?
- c. What are the human rights that are positively affected by the law, ordinance or pending bill's essential provisions?
 - i. Do these provisions positively affect the rights of women and other vulnerable groups in the same way that they positively affect the rights of men and other favored groups?
 - ii. What is the normative content of each of the affected rights?
 - iii. Does the law, ordinance or bill address the normative content of each of the affected rights?
- d. What are the human rights that are adversely affected by the law, ordinance, or bill's essential provisions?
 - i. Do these provisions adversely affect the rights of women and other vulnerable groups in the same way that they adversely affect the rights of men and other favored groups?
 - ii. What is the normative content of each of the affected rights?
 - iii. Does the law, ordinance or bill address the normative content of each of the affected rights?
- e. Does the law, ordinance or bill give special attention to the human rights of women and other vulnerable groups? How?



- f. Does the law, ordinance or bill take into consideration the universality, indivisibility, interdependence and interrelatedness of human rights? How?
- g. Who benefits from the law, ordinance or bill? Do women or vulnerable groups benefit from the law, ordinance or bill in the same manner that men benefit from it? Does it pay special attention to the vulnerable groups (women, IPs, children, etc.) in Philippine society?
- h. Who does not benefit from the law, ordinance or bill? Does it contain specific safeguards to mitigate against threats to the human rights of those who do not benefit from it? Do these specific safeguards take into consideration the special needs and requirements of women and other vulnerable groups?
- i. Does the law, ordinance or bill highlight state accountability? How?
- j. Does the law, ordinance or bill empower those it benefits? Does it empower women and other vulnerable groups in the same manner that it empowers men and other favored groups?
- k. Does the law, ordinance, or bill discriminate against any group or sector of society? How?
- l. How does the law, ordinance or bill treat women, other vulnerable groups and men? Does it address the special needs and requirements of women and other vulnerable groups? How?
- m. What is the role of the judiciary, if any, in the law, ordinance or bill? Does it enhance the independence of the judiciary?



- n. Does the law, ordinance or bill provide avenues for people's participation in its enforcement? Does it provide for the participation of women and other vulnerable groups in the same manner that it provides for the participation of men? How?
- o. Which government agencies or institutions are responsible for enforcing the law, ordinance or bill?
- p. Does the law, ordinance or bill comply with the principal state obligation to take steps towards the progressive realization of human rights through the maximum use of available resources? What steps does the law, ordinance or bill envision? Do these steps affect women and other vulnerable groups in the same way that they affect men? Are these steps deliberate, concrete and targeted towards meeting the state's human rights obligations?
- q. Does the law, ordinance or bill respect human rights? How? Does it respect the rights of women and other vulnerable groups in the same way that it does the rights of men and other favored groups?
- r. Does the law, ordinance or bill protect human rights? How does it treat the private sector? Does it protect the rights of women and other vulnerable groups in the same way that it does the rights of men?
- s. Does the law, ordinance or bill provide for a regulatory framework? Does the regulatory framework apply both to women, other vulnerable groups and men?
- t. Does the law, ordinance or bill fulfill (**facilitate**) human rights? Does it fulfill (**facilitate**) the rights of women and other vulnerable groups in the same way that it does the rights of men? What conditions does it create



- or seek to create that would facilitate the enjoyment and realization of human rights, particularly of the most vulnerable? Would these conditions benefit women and other vulnerable groups in the same manner as they would benefit men?
- u. Does the law, ordinance or bill fulfill (**promote**) human rights? Does it fulfill (**promote**) the rights of women and other vulnerable groups in the same way that it does the rights of men?
- v. Does the law, ordinance or bill fulfill (**provide**) human rights? Does it fulfill (**provide**) the rights of women and other vulnerable groups in the same way that it does the rights of men?
- w. Could any aspects of the law, ordinance or bill be construed as a violation or a breach of state obligations? If so, which aspects are these and why do you construe them as violations or breaches of state obligations?

Participants shall then develop an assessment report on the law, ordinance or proposed bill using the outline below:

1. Human Rights Affected by the Law, Ordinance or Proposed Bill
2. Coherence of the Law, Ordinance or Proposed Bill with Human Rights Principles
3. Coherence of the Law, Ordinance or Proposed Bill with the Normative Content of the Affected Rights
4. Coherence of the Law, Ordinance or Proposed Bill with the Nature and Levels of State Obligations arising from the Affected Rights

5. Impact of the Law, Ordinance or Proposed Bill on Women and Men (and other vulnerable groups such as IPs, children, etc.).
6. Recommendations (to amend provisions of the law, ordinance or proposed bill).

Each group shall present outputs for not more than 10 minutes.
 This activity takes about 1 hour and 15 minutes.

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Avelino P. Tendero, *Theory and Practice of Public Administration in the Philippines*, Fiscal Administration Foundation Inc. Publication No. 21, 2000.

Patrick Alain Azanza, Rodolfo V. Azanza, Rodolfo T. Azanza, Jr., and Rosario T. Azanza, *Economics, Society and Development*, National Book Store, 2001.

Hollis Chenery, Montek S. Ahluwalia, C.I.G. Bell, John H. Duloy, and Richard Jolly, *Redistribution with Growth*, Oxford University Press, 1974.

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III. Development Programming

(Lecture takes approximately 25 minutes)


To guide participants in the application of human rights, the following criteria and standards provide for designing a development programming plan. To effectively link human rights with the development issues, problems and concerns, it is crucial to observe human rights principles, the nature and level of state obligations, normative content of every right and define who are the duty holders and the claim holders in the development and governance processes using the rights-based approach.


This guide could also be used in any area of governance activity where RBA would be useful especially in project development and preparation of project proposals.

Table 1. Rights-Based Development Programming

Programming Phases	Human Rights Guide
Situation Analysis	<ul style="list-style-type: none"> ▶ Identification and gathering of stakeholders from concerned GOPs/NGOs, peoples organizations representing vulnerable or disadvantaged groups. ▶ Conduct of participatory identification and analysis of development issues or problems with identified stakeholders through assembly or representative forum. ▶ Engaging stakeholders in participatory analysis of the issues and problems linking them with specific rights involved: <ul style="list-style-type: none"> ▲ identification of vulnerable/disadvantaged groups affected by the problems/issues to include deliberations on how they are affected and the nature and extent to which they are adversely affected; ▲ further explanations on how women and men are affected; ▲ discussion with other stakeholders on the applicable standards or normative content, which have to be considered in appraising the issues and problems

	<ul style="list-style-type: none"> ▲ assessment of the issues and problems indicating the effects of each and every problem or issue to determine the root cause of the problem or convergent point; and ▲ deliberation on the interrelatedness of the problems/issues from the perspective of human rights in order to identify strategic problem for immediate prioritization. <p>▶ Further questions to be raised include:</p> <ul style="list-style-type: none"> ▲ whether the rights involved in the issue/problem are recognized by the state duty-holder and what government agencies should be made accountable or responsible ▲ what modes of participation should the NGOs or POs assume in addressing the issues and problems.
Objective Formulation	<p>▶ The desired changes in the quality of life of the affected vulnerable and disadvantaged groups should be the focus of objective formulation. These desired changes are expressed in terms of outcome objectives and process objectives.</p> <p>▶ Outcome objectives should reflect changes in the nature and content of specific right involved. Such outcomes should show indicators as to how men,</p>

	<p>women, and other vulnerable groups would be benefited as well.</p> <ul style="list-style-type: none"> ▶ For process objectives, the changes in the level of awareness, accountability, empowerment, and capacity building of the various stakeholders should be indicated. ▶ Indicators to measure the outcome and process objectives should always be linked with human rights principles and human rights normative content and the various conditions.
Program Designing	<ul style="list-style-type: none"> ▶ Designing of development program includes strategies, components, resources, program organization and activity plan to comprehensively address issues/problems and to achieve the objectives. The whole program design should ideally use human rights framework as criteria and standards. ▶ The program design should be in accordance with the normative content of the right involved, reflective of the application of the human rights principles and organized in such a way that participation of all concerned stakeholders is instituted in compliance with established human rights principles and standards. ▶ The programming of development targets should show progression of the attainment of the outcome and 

	<p>process objectives that are linked to human rights normative content and principles.</p> <ul style="list-style-type: none"> ▶ The organization should be participatory and should reflect division of responsibilities of the different stakeholders based on state obligations of the government and duty holders as well as purposive participation of the POs as the focus and center of all development programs.
Program Implementation	<ul style="list-style-type: none"> ▶ The implementation of a program is said to be rights-based when it is non-discriminatory meaning that all those who should benefit from the program have equal access to participate in, contribute to and benefit from the program. ▶ Human rights principles like accountability, transparency, empowerment, equity, etc. are observed in the manner of program implementation. ▶ The program as designed is implemented very close to the plan, targets and standards and not compromised and derailed causing undue or adverse effects on the groups/ sectors that should benefit.
Program Monitoring and Evaluation	<ul style="list-style-type: none"> ▶ Rights-based monitoring and evaluation require keeping track of progress of the program implementation in accordance with 

<p>Program Monitoring and Evaluation</p>	<p>the indicators established to gauge attainment of outcome and process objectives of the program, which again are based on human rights principles, normative content and other criteria and standards.</p> <ul style="list-style-type: none"> ▶ To sustain people or human centeredness of the program, it is best that indicators are also presented and discussed with the program participants. This should make them aware of the desired changes and outcomes that should be reached at the completion of the program. ▶ The program participants should be involved in the monitoring and evaluation of the program. ▶ The result of the monitoring and evaluation should indicate how far or near the accomplishments are in terms of the human rights criteria and standards used in the performance indicators.
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REFERENCE:

CHR Reengineering Projects on Rights-Based Approach, 2003.



Activity 4

In a small group, participants shall formulate a development programming plan that they must implement in their workstation. These measures must be taken into consideration in formulating the plan. (Refer to suggested matrix on page 173)

Situation Analysis

1. Choose a related issue on development and governance (the issue that you may identify may be derived from the development goals of your agency plan, or local development plan which your agency aims to achieve to address development issues, or any of the MDGs).
2. What human rights and entitlements are involved?
3. Which sector/group is affected and how?
4. Who are the duty holders/bearers?
5. Who are the right/claim holders?
6. Who are other stakeholders responsible for addressing the issue?

Objective Formulation

Formulate what process outcome objectives and outcome objectives are expected to be achieved through the rights-based approach.

Program Designing

What are the strategies (i.e., constituency building, community participation, advocacy), program organization and activity plan required to achieve objectives through rights-based approach.



Program Implementation

In ensuring a rights-based approach, mechanisms for identifying program beneficiaries should adopt non-discriminatory human rights principles in order for them to have equal access to participate, contribute and benefit from the program.

Program Monitoring and Evaluation

Develop mechanisms for tracking program's progress or gaps of implementation in accordance with the indicators established to assess/evaluate the outcome and process objectives set through rights-based approach.

After completing Workshop 4, each group shall present to the bigger group to elicit comments and suggestions.
This activity takes 1 hour and 15 minutes.



Suggested Matrix

Issue identified:

Phases	Measures for Development Programming
1. Situation Analysis:	<ul style="list-style-type: none"> ▶ Rights Involved and Entitlements ▶ Sector/ Group Affected and How? ▶ Duty Holders ▶ Right/Claim Holders ▶ Other Stakeholders Responsible
2. Objective Formulation:	<ul style="list-style-type: none"> ▶ Process indicators ▶ Outcome indicators
3. Program Designing:	<ul style="list-style-type: none"> ▶ Strategies ▶ Program organization ▶ Financial plan
4. Program Implementation	<ul style="list-style-type: none"> ▶ Targeting beneficiaries ensuring non-discrimination of possible beneficiaries (women, IPS, children, etc.) ▶ Involvement of stakeholders especially the marginalized or most vulnerable groups (women, IPs, children) in planning, implementation and M/E ▶ Interfacing of various duty bearers with claim holders
5. Program Monitoring and Evaluation	<ul style="list-style-type: none"> ▶ Outcome and process indicators ▶ Reporting tools and frequency ▶ Evaluation scheme and tools ▶ Involvement of project actors in M/E
6. Work and Financial Plan	

Summary

The participants are expected to apply the development programming plan when they go back to their respective agencies or units to enable them to integrate and implement the rights-based approach in their agency's development and governance processes.

To ensure that the action plan will be applied by the participants, the CHR monitors the extent of implementation of the rights-based approach in the different national agencies, local governments and civil society organizations.

REFERENCES:

Diokno, Maria Socorro I. Human Rights Centered Development, 7 July 2002, pages 12-13; 22-26; 28-31.

Meltsner, Arnold J. 7 *Deadly Sins of Policy Analysts* in Jay M. Shafritz and Albert C. Hyde, *Classics of Public Administration*, 4th Edition, Harcourt Brace College Publishers, 1997, p. 453.

Turk, Danilo as cited in Robert E. Robertson, "Measuring State Compliance with the Obligations to Devote the Maximum Available Resources to Realizing Economic, Social and Cultural Rights." Bert F. Lockwood, Jr. *Human Rights Quarterly*, Volume 16, Number 4. Baltimore, MD. November 1994. p. 699.

MODULE 5

Reecho Plan and Schedule

REECHO PLAN AND SCHEDULE

Introduction

This module aims for the participants to formulate a reecho plan and schedule to advocate the rights-based approach to officials and program implementors in their respective agencies at the national and local governments (provincial, municipal and barangay) and civil society organizations.

An expected outcome of this RBA Orientation Training is to enable the participants to conduct a reecho of the RBA training for their agencies or local government units.

Examples of tools are provided to help the participants develop their plans, assign responsibilities, and define time frame.

Learning Objectives

At the end of Module 5, the participants should be able to:

1. Discuss steps to take in formulating a reecho plan;
2. Identify resource requirements;
3. Assign tasks and responsibilities; and
4. Set time frame

Suggested Tools for Developing a Reecho Plan

Resource Requirements Matrix

Components/ Activities	Human resources/ man- hours	Facilities	Equipment	Materials	Special Skills
TNA					
Training Design/ Preparation					
Conduct of RBA Training Evaluation					

Responsibility Assignment Matrix

Components/ Activities	Lead Person	LGU Rep	NGA Rep	NGO Rep	Others
TNA					
Training Design/ Preparation					
Conduct of RBA Training Evaluation					

Time Frame

Components/ Activities	Start Date	End Date	Duration
TNA			
Training Design/ Preparation			
Conduct of RBA Training Evaluation			

Inventory of Supplementary Reading Materials

*Supplementary Reading Paper 1***THE COMMISSION ON HUMAN RIGHTS****An Independent Constitutional Office and
A National Human Rights Institution****The CHR: A Retrospect**

The primacy of human rights as a policy of the State is now enshrined in the 1987 Philippine Constitution. As a revolutionary feat in laying the foundation of a just, humane and democratic Philippine society, this tenet is embodied in Article II, Section 11 of the 1987 Philippine Constitution which provides: "The State values the dignity of every human person and guarantees full respect for human rights."

To give full effect to the intent and purpose of this State doctrine, the New Constitution created an independent body called the Commission on Human Rights as mandated under Article XIII, Section 17.

1. There is hereby created an independent Office called the Commission on Human Rights;
2. Until this Commission is constituted, the existing Presidential Committee on Human Rights (PCHR/E.O. No. 8, March 18, 1986) shall continue to exercise its present functions and powers.

Shortly after the overwhelming ratification of the New Charter on February 2, 1987, Her Excellency President Corazon C. Aquino signed *Executive Order No. 163 on May 5, 1987*. This declared the effectivity of the creation of the Commission on Human Rights as provided for in the 1987 Constitution and provided also for guidelines for the operation thereof and for other purposes. Under Executive Order No. 163 the Commission shall exercise the functions and powers of the Presidential Committee on Human Rights (PCHR) under Executive Order No. 8 (creating the PCHR) which are not inconsistent with the provisions of the 1987 Constitution.

The Congress shall give highest priority to the enactment of measures that protect and enhance the right of the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequalities by equitably diffusing wealth and political power for the common good. (Sec. 1, Art. XIII, Philippine Constitution)

Powers and Functions of the Commission on Human Rights

The Constitution of the Philippines provides in Sec. 17-19, Art. XIII, 1987 Philippine Constitution, the following:

Sec. 17

- (1) There is hereby created an independent office called the Commission on Human Rights (CHR).
- (2) The Commission shall be composed of a Chairman and four members who must be natural-born citizens of the Philippines and a majority of whom shall be members of the Bar. The term of office and other qualifications and disabilities of the Members of the Commission shall be provided by law.
- (3) Until this Commission is constituted, the existing Presidential Committee on Human Rights shall continue to exercise its present functions and powers.
- (4) The approved annual appropriations of the Commission shall be automatically and regularly released.

Sec. 18. The Commission on Human Rights shall have the following powers and functions:

- (1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- (2) Adopt its operational guidelines and rules and procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;
- (3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measure and legal aid services to the underprivileged whose human rights have been violated or need protection;
- (4) Exercise visitorial powers over jails, prisons, or detention facilities;
- (5) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights;
- (6) Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violators of human rights, or their families;

- (7) Monitor the Philippine government's compliance with international treaty on human rights;
- (8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- (9) Request the assistance of any department, bureau, office, or agency in the performance of its functions;
- (10) Appoint its officers and employees in accordance with law; and
- (11) Perform such other duties and functions as may be provided by law.

Sec. 19. The Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations.

Strategic Direction**Vision**

A Philippine Society where human development of every person is fully realized under a government that has political will and sustained commitment to the observance of human rights standards, norms and practices.

Mission

As an independent national human rights institution, the Commission on Human Rights of the Philippines seeks to carry out its constitutional mandates by:

1. Protecting and promoting the human rights of all
 - ▶ the people residing in the Philippines,
 - ▶ Filipinos residing abroad,
 - ▶ especially the underprivileged, and
 - ▶ disadvantaged sectors of society.
2. Engaging in sustained efforts with organizational integrity and competency
 - ▶ in seeking justice,
 - ▶ reorienting the agents of the state along human rights norms,
 - ▶ advising the state on national policies and standards,

- ▶ catalyzing effective and credible partnership, and
 - ▶ collaboration with national and international organizations
3. Advocating and monitoring government's compliance with its international treaty obligations on human rights. Energizing and engaging civil society participation.

Goal Statement: 2003–2008

The CHR shall, consistent with its core organization values, vigorously perform its direct service and oversight function towards observance of prescribed human rights standards in governance and empowerment of the vulnerable and disadvantaged groups by way of:

- ▶ Strengthened investigation of human rights values, monitoring of government compliance with treaty obligations and advocacy of legislative, judicial and administrative reforms.
- ▶ Institutionalized application of HR standards in governance and prioritization of sustained promotion and advocacy program.

Roles and Commitments

In Relation to Government

- ▶ External advisor and “prescriber” of human rights protection standards
- ▶ Independent monitor, evaluator and position advocate on human rights in relation to proposed and existing national/local laws and legislations, and government policies, programs, actions and performance.

In Relation to Civil Society (NGOs, Academe, other HR Organizations, General Public and Vulnerable Groups)

- ▶ Mobilizer, coordinator and/or contributor of resources for research and implementation programs on human rights.
- ▶ Synchronizer of HR programs to include those of the civil society thereby enhancing complementation, sharing and mutual reinforcement.
- ▶ Collaborator/Partner of human rights design and implementation.
- ▶ Advisor and Provider of human rights standards.

- ▶ Trainor of trainors for sustained promotion and advocacy program.
- ▶ Molder and Educator of the general public particularly the vulnerable groups on human rights norms, standards and practices.

In Relation to Human Rights Victims

- ▶ Mobilizer of civil society, protection services providers and provider of protection standards and guidelines.
- ▶ Provider of technical assistance to civil society service providers in improving their capacity to render protection services such as legal, investigation and financial assistance.
- ▶ Provider of financial assistance (when able) to civil society groups in their transactional protection activities.
- ▶ Provider of public information on human rights services and service provider to improve access particularly by vulnerable groups as well as monitor of non-discriminatory access of vulnerable groups to basic services.
- ▶ Provider of direct assistance to victims of human rights violation.

Core Organization Values

On the basis of its vision and mission statements, the Commission seeks to adhere to the following core values in the performance of all aspects of its mandate and work:

Independence and Pluralism, Participation, Equality, Accessibility, Accountability, Openness and Sincerity

Functions and Services

HR Protection Program

- ▶ Investigation and Forensic Services
- ▶ Investigative Monitoring Services
- ▶ Alternative Disputes Resolution (Conciliation and Mediation)
- ▶ Legal Services (to include Legal Aid and Counseling)
- ▶ Human Rights Assistance
- ▶ Visitorial Services

HR Promotion Program

- ▶ Education and Training
- ▶ HR Information and Public Advocacy
- ▶ HR Research and Development
- ▶ Compliance Monitoring of International HR Standards in Governance

HR Linkages Development and Strategic Planning

- ▶ Rights-based Planning in Governance
- ▶ HR Performance System in Governance
- ▶ Harnessing Competence in Government and of Non-State Actors for Good Human Rights Practices
- ▶ Executive Cooperation Program
- ▶ Legislative and Judicial Cooperation Program

Capacity Building

- ▶ HR Competency Building
- ▶ Information Systems Development

Core Programs

Right to Development Program- A system of developing and monitoring rights-based programs and measures across institutions aimed at creating enabling environment for poverty reduction linked with the nine (9) components of good governance as follows:

Electoral and Political Reforms, Right to Development, Judicial Reform, Anti-Corruption, Governance Review, Civil Service and Economic Management, Globalization and Corporate Citizenship, Decentralization and Local Governance

Barangay Human Rights Action Center (BHRAC)- A human rights community support program, in cooperation with the Local Government Units, at the grassroots level performing four (4) main functions:

Receiving and Monitoring of HR Complaints,
Education and Information Campaigns,
Coordination and Referral, and
Community Mobilization

HR Teaching Exemplars- The Commission on Human Rights in cooperation with the Department of Education developed a human rights education curriculum

for the elementary and secondary levels as well as an HR Education Facilitator's Manual for the Training of Teachers. The following modules compose the manual:

Program Engagement, Learning Process, Human Rights Violations, Why Teach Human Rights, Foundation of Human Rights, Human Rights Principles and Concepts, Children's Rights, Handling Disclosure of Child Abuse, Teachers as Human Rights Advocates, The Human Rights Teaching Exemplars, The Human Rights Education Facilitator's Manual, Learning Episodes, Visioning and Action Planning, Clearing House and Closure.

Child Rights Center- The Child Rights Center investigates human rights violations against children, initiates legal action, and monitors and reports all violations of the Convention on the Rights of the Child involving civil rights and freedoms, and special protection. The Center develops and implements awareness programs on children's rights; conducts studies in aid of legislation and for more effective ways to implement existing national and international laws and treaties.

Center for Women's Rights- The Women's Rights Program Center is a special unit that investigates human rights violations against women and initiates legal action or provides legal assistance in cases of discrimination, non-recognition of women's rights as human rights, multiple burdens, unequal access to land, violence against women, politics and governance, justice and peace and order, employment, health and education.

Asia Pacific Institute of Human Rights

The Asia Pacific Institute of Human Rights is envisioned to operate along four major functions and services, namely: information, training, research and publication which will be closely interphased with the CHRP programs and services along its mission and mandates.

As an **Information Center**, the Institute will serve as a repository of a comprehensive collection of human rights books and other information, education and communication (IEC) materials for use locally and internationally, particularly in the Asia Pacific region.

As a **Training Center**, the institute is conceived to be a "center of excellence" that provides in-service trainings, study grants, fellowship programs, conferences and short courses on human rights for human rights trainers along the following five priority areas:

Human Rights Investigation for Investigating Teams (lawyers and investigators, including medical), Training of Teachers on HR Teaching Exemplars, Training on the Rights-Based Approach and the Right to Development, Special Training Concerns for Vulnerable Sectors like Women, Children, Indigenous Peoples,

Capacity Development Program for continuing education and skills upgrading of Commissioners, managers, officers and staff of human rights institutions in the Asia Pacific region. Its unique feature will be an accreditation system under which trained personnel will be certified to be trainers for certain levels.

As a **Research Center**, the Institute will serve as the outlet of all research papers and studies of the CHRP. It will initiate research grants covering issues affecting the Asia Pacific region and will linkup with other human rights organizations for the conduct of studies to enrich the body of knowledge on human rights.

As a **Publication Unit** under the Office of the Chairperson, the institute will be involved in designing, packaging and producing all documents approved for publication emanating from the Chairperson, the Commissioners and the Commission en banc; to include research and study of new technologies and facilities in production and publication and design improvement standard for all CHRP publications.

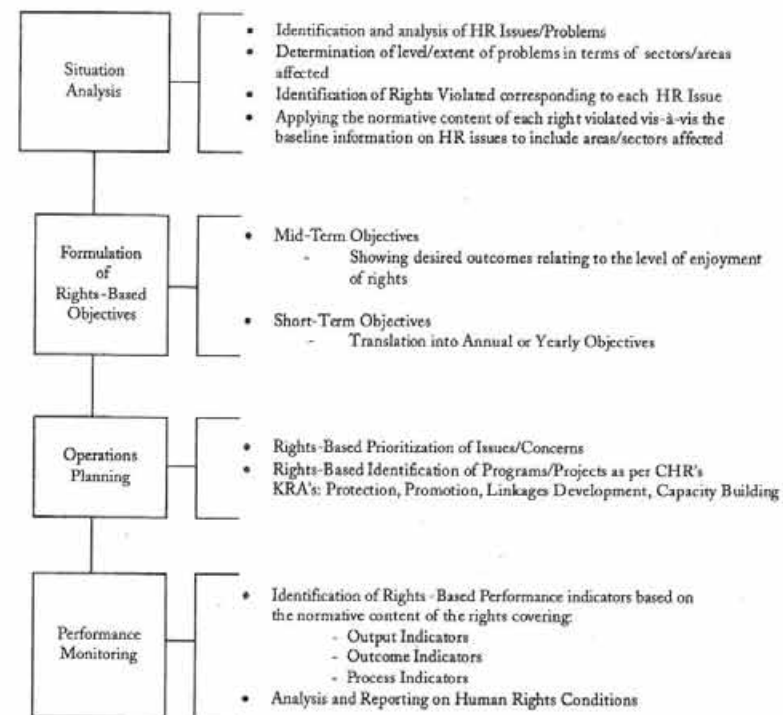
CHR Role in RBA Application

As the national human rights institution for the protection and promotion of human rights both under the Philippine Constitution and the United Nations System, the Commission on Human Rights is empowered to initiate and sustain application of the rights-based approach to governance to facilitate convergence of human rights and development using the following tools:

- ▶ Mainstreaming Human Rights Indicators in the Public Resource Management Sectors
- ▶ Mainstreaming Human Rights in National, Subnational Sectoral and Agency Levels
- ▶ Mainstreaming Human Rights in Budgeting Process at the National Level
- ▶ Mainstreaming Human Rights in Local Government Units Planning and Budgeting

RIGHTS-BASED OPERATIONS SYSTEM

Commission on Human Rights



Source: CHRP Flyer

*Supplementary Reading Paper 2***INTERNATIONAL COVENANT ON CIVIL AND
POLITICAL RIGHTS****Overview**

The International Covenant on Civil and Political Rights (ICCPR) was adopted in 1966 and came into force in 1976. As of November 2, 2003, 151 States had become parties to the Covenant (7 States are remaining signatories). The Covenant also contains two Optional Protocols.

Article 1 deals with the question of self-determination. Article 2 deals with the obligation of State parties to undertake necessary steps to respect and ensure to all individuals the rights recognized in the Covenant. The rights should be ensured to all individuals without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 3 deals with the obligation of ensuring the equal rights of men and women. Article 4 deals with derogation principles. Article 5 deals with the obligation not to misrepresent any of the articles of the Covenant in such a manner as to undermine the rights and freedoms recognized in the Covenant. Articles 6 to 27 deal with the following specific rights:

- ▶ The right to life (art.6)
- ▶ Prohibition against torture or cruel, inhuman or degrading treatment or punishment (art.7)
- ▶ Prohibition against slavery, slave trade, servitude and forced or compulsory labour (art. 8)
- ▶ Prohibition against arbitrary arrest or detention (art.9)
- ▶ Obligation to treat with humanity all persons deprived of their liberty (art. 10)
- ▶ Prohibition against imprisonment merely on the ground of inability to fulfill a contractual obligation (art.11)
- ▶ The right to freedom of movement and freedom to choose a residence (art.12)
- ▶ Limitations on the expulsion of aliens lawfully in the territory of a State party (art.13)
- ▶ Equality of all persons before the courts and tribunals and for guarantees for fair hearing in criminal and civil proceedings (art. 14)
- ▶ Prohibition against use of retroactive penal laws (art.15)
- ▶ Right of everyone to be recognized as a person before the law (art.16)
- ▶ Prohibition against arbitrary or unlawful interference with an individual's privacy, family, home or correspondence and of unlawful attacks on his

- honor and reputation (art.17).
- ▶ The rights to freedom of thought, conscience and religion (art.18)
- ▶ Freedom of opinion and expression (art.19)
- ▶ Prohibition by law of any propaganda for war and of any advocacy of national, racial or religious hatred (art.20)
- ▶ The right to peaceful assembly (art. 21)
- ▶ The right to freedom of association (art.22)
- ▶ The protection of the family (art.23)
- ▶ The rights of children (art.24)
- ▶ The right of every citizen to take part in the conduct of public affairs, to vote and to be elected, and access to public service in his country (art.25)
- ▶ Equality before the law and equal protection of the law (art. 26)
- ▶ Protection of the rights of ethnic, religious and linguistic minorities (art.27)

Monitoring Mechanism

Under the International Covenant on Civil and Political Rights, a Human Rights Committee has been established to monitor the compliance of rights recognized under the Covenant. The Human Rights Committee consists of eighteen independent experts who are elected from the State parties to the Covenant.

The responsibilities of the Committee are:

- a) consideration of reports submitted by State parties;
- b) the preparation of general comments; and
- c) examining of communications from individuals alleging violations of any of the rights contained in the Covenant, as provided by the first Optional Protocol to the Covenant.

The Committee decided in 1982 to prepare "General Comments" on the rights and provisions contained in the Covenant with a view to assisting State parties in fulfilling their reporting obligations and to provide greater interpretative clarity as to the intent, meaning and content of the Covenant. There have been 28 General comments since 1982; the last one being in 2000 on the equality of rights between men and women. The General comments can be found on the UN's web site (www.unhchr.ch). The Human Rights Committee adopted a new and revised General Comment on Article 2 (right to an effective remedy) under the Covenant during its session held from 15 March to 2 April 2004.

Provisions**Article 2: Obligations of State Parties**

Art. 2 deals with the obligation of state parties to undertake necessary steps to respect and ensure to all individuals the rights recognized in the Covenant.

The obligation under this article has two elements:

1. Obligation of State parties to undertake necessary steps to respect and ensure to all individuals the rights recognized in the Covenant.
2. The rights should be ensured to all individuals without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

As for implementation at the national level, the Human Rights Committee has concluded that the implementation does not depend solely on constitutional or legislative provisions. They may not be sufficient by themselves.

The Committee has held that it is not merely the question of respecting the rights but the State parties have an obligation to ensure the enjoyment of these rights to all the individuals under their jurisdiction.

The obligation of State parties under the Covenant also includes development of special remedies, especially judicial remedies, for situations in which a right or freedom recognized in the Covenant is being violated (art.2 (3)).

The obligation under article 2 is of both a negative and a positive nature. The State parties have an obligation to respect the free exercise of the rights and freedoms set forth in the Covenant. They also have an obligation to create favorable condition for the full enjoyment of all rights and freedoms by all individuals under the jurisdiction of the State party.

The Committee has stressed that individuals should know their rights under the Covenant. It is also important that all administrative and judicial authorities are aware of the obligations that the State party has assumed under the Covenant.

The Committee has also emphasized that the rights set forth in the Covenant apply to everyone, irrespective of his or her nationality or statelessness. Thus, they should guarantee the rights to all individuals whether they are citizen or aliens. However, some rights such as the right to political participation (art.25) are applicable only to citizens. On the other limitation on the expulsion of aliens lawfully in the territory of a State party (art.13) applies only to aliens. A State party may impose restrictions on the entry of aliens. However, once it allows an alien to enter its territory, a State party is obligated to respect all the rights enshrined in the Covenant.

Article 2 (1): Non-discrimination

Under article 2 (1), the rights enshrined in the Covenant should be ensured to all individuals without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The Committee has stated that the term "discrimination" as used in the Covenant should be understood to imply any distinction, exclusion, restriction or preference which has the purpose or effect of nullifying or impairing the enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

The non-discrimination clause should be discussed in conjunction with the right of equality before the law and equal protection of the law without any discrimination (Art.26). Article 26 only entitles all persons to equality before the law and equal protection of the law. It prohibits any discrimination under the law and guarantees to all persons equal and effective protection against discrimination. Both the principle of non-discrimination and of equality before the law constitute a basic and general principle relating to the protection of human rights.

The fundamental nature of the principle of non-discrimination is reflected in article 3 that obligates each State party to ensure the equal right of men and women in the enjoyment of the rights enshrined in the Covenant. Moreover, article 4 allows derogation of certain obligations by State parties during a public emergency, does not involve discrimination solely on the ground of race, color, sex, language, religion or social origin. Thus, a State party should protect the principle of non-discrimination even during a public emergency.

The Covenant also provides for State parties to prohibit, by law any advocacy of national, racial or religious hatred which is incitement to discrimination [art. 20 (2)].

The principle of non-discrimination and that of equality before the law and equal protection of the law are referred to in articles relating to particular categories of human rights. Article 14, paragraph 1, provides that all persons shall be equal before the courts and tribunals, and paragraph 3 of the same article provides that, in the determination of any criminal charge against him, everyone shall be entitled, in full equality, to the minimum guarantees. Similarly, article 25 provides distinctions mentioned in article 2.

State parties are obliged to undertake specific legislative, administrative or other measures to guarantee equality in the enjoyment of rights. The Committee has observed that the principle of equality sometimes requires State parties to take affirmative action in order to diminish or eliminate conditions that cause or help or perpetuate discrimination prohibited by the Covenant.

Article 3: Obligation to Ensure the Equal Rights of Men and Women

The article requires that State parties undertake affirmative action to ensure the equality of men and women. It addresses the importance of enabling women to enjoy civil and political rights.

According to the Committee, simply enacting laws cannot do it. Therefore, the Committee has sought information regarding the role of women in practice to find out what measures, besides purely legislative measures of protection, have been or are being taken to give effect to the precise and positive obligations under article 3. The Committee has recommended that State parties give special attention to review of laws or measures that inherently draw a distinction between men and women.

Article 4: Derogation of Rights at the Time of a Public Emergency

This article allows State parties to derogate a number of rights when a public emergency threatens the life of a nation. However, the article also specifies certain rights State parties should protect even during a public emergency.

No derogation is allowed regarding the following rights:

- ▶ The right to life (art.6)
- ▶ Prohibition against torture or cruel, inhuman or degrading treatment or punishment (art.7)
- ▶ No one shall be held in slavery; prohibition of slavery and slave trade; no one shall be held in servitude [art.8 (1) (2)]
- ▶ Prohibition against imprisonment merely on the ground of inability to fulfill a contractual obligation (art 11)
- ▶ Prohibition against use of retroactive penal laws (art. 15)
- ▶ Right of everyone to be recognized as a person before the law (art. 16)
- ▶ The rights to freedom of thought, conscience and religion (art. 18)

The Committee has stated that 'measures taken under article 4 are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened and that, in times of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogation can be made.'

Optional protocols

Under the first Optional Protocol to the International Covenant on Civil and Political Rights, the Human Rights Committee is authorized to receive complaints from individuals claiming to be victims of violations of rights contained in the Covenant. The Second Optional Protocol to the International Covenant on Civil and Political Rights aims at the abolition of the death penalty.

Source: Rights-Based Approach to Development and Governance Training Manual prepared by the Task Force Detainees of the Philippines (TFDP), 2004, pp. 51-55.

Supplementary Reading Paper 3

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Overview

The Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted by UN General Assembly on December 16, 1966 and entered into force on January 3, 1976. As of November 2, 2003, 148 States had become parties to the Covenant (6 States are remaining signatories).

Unlike civil and political rights, economic, social and cultural rights are often viewed with suspicion, caution and skepticism and at times even 'treated with an air of triviality.' In the human rights field, economic, social and cultural rights are most often accorded secondary status by governments and NGOs.

However, the economic, social and cultural rights are indivisible part of human rights. First, ESC rights have intrinsic value. They create the condition for enhancing a person's capability by eradicating deprivation. They expand the freedom to lead a life that we value. The potentialities of the human person may be expressed through civil and political rights but the unfolding of these potentialities requires adequate social and economic circumstances.

The concept of human dignity is the foundation for civil and political and economic, social and cultural rights. These rights can neither be given nor taken away. Human dignity is denied when civil and political rights and economic, social and cultural rights are not guaranteed. Two common elements mediate both sets of rights – security and equality. Security of the person includes socio-economic security and equality before law encompasses equality of opportunities.

The development of international human rights law has shown the indivisibility of the civil, political and economic, social and cultural rights. For example, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child incorporate protection of both sets of rights.

Violations of Economic, Social and Cultural Rights

The notion of violation applied vigorously to civil and political rights is normally not used regarding economic, social and cultural rights. The Committee on Economic, Social and Cultural Rights has developed the concept of 'minimum core obligations.' The Committee developed this concept mainly to refute the argument that lack of resources hinders fulfillment of obligations. The Committee has stated that every State has a minimum core obligation to satisfy minimum

essential levels of each of the rights of the Covenant. The Committee has clarified that a State party 'in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is prima facie, failing to discharge its obligations under the Covenant.'

Thus, it can be construed that failure to fulfill minimum core obligations will be a violation of the rights enshrined in the Covenant. However, the notion of violation of economic, social and cultural rights needs to be further developed. A group of distinguished experts in international law have developed principles known as the Limburg Principles. These principles provide some basic framework to develop the notion of violation of economic, social and cultural rights. According to the Limburg Principles, "Failure by a State party to comply with an obligation contained in the Covenant is, under international law, a violation of the Covenant."

In determining what amounts to a failure to comply, it must be borne in mind that the Covenant affords to a State party a margin of discretion in selecting the means for carrying out its objects, and that factors beyond its reasonable control may adversely affect its capacity to implement particular rights.

A state party will be in violation of the Covenant, inter alia, if:

- ▶ It fails to take a step which it is required to take by the Covenant;
- ▶ It fails to remove promptly obstacles which it is its duty to remove to permit the immediate fulfillment of a right;
- ▶ It fails to implement without delay a right which it is required by the Covenant to provide immediately;
- ▶ It willfully fails to meet a generally accepted international minimum standard of achievement, which is within its powers to meet;
- ▶ It applies a limitation to a right recognized in the Covenant other than in accordance with the Covenant;
- ▶ It deliberately retards or halts the progressive realization of a right, unless it is acting within a limitation permitted by the Covenant or it does so due to a lack of available resources or force majeure;
- ▶ It fails to submit reports as required under the Covenant.

Monitoring Mechanism

The Committee on Economic, Social and Cultural Rights was established in 1985 and consists of 18 members who are independent and serve in their personal capacity, not as representatives of Governments.

The primary function of the Committee is to monitor the implementation of the Covenant by State parties. Under articles 16 and 17 of the Covenant, State parties undertake to submit periodic reports to the Committee within two years of the entry into force of the Covenant for a particular State party, and thereafter once every five years outlining the legislative, judicial, policy and other measures

which they have taken to ensure the enjoyment of the rights contained in the Covenant. State parties are also requested to provide detailed data on the degree to which the rights are implemented and areas where particular difficulties have been faced in this respect.

The Committee has assisted the reporting process by providing State parties with a detailed 22-page set of reporting guidelines specifying the types of information the Committee requires in order to monitor compliance with the Covenant effectively (available at the UN's web site: www.unhchr.ch).

The Committee can also assist Governments in fulfilling their obligations under the Covenant by issuing specific legislative, policy and other suggestions and recommendations such that economic, social and cultural rights are more effectively secured.

The Committee decided in 1988 to prepare "General Comments" on the rights and provisions contained in the Covenant with a view to assisting State parties in fulfilling their reporting obligations and to provide greater interpretative clarity as to the intent, meaning and content of the Covenant. The General Comments, the most recent being General Comment No. 15 on the right to water, can be found on the UN's web site (www.unhchr.ch).

The Committee was the first treaty body to provide non-governmental organizations (NGOs) with the opportunity to submit written statements and make oral submissions dealing with issues relating to the enjoyment or non-enjoyment of the rights contained in the Covenant in specific countries.

Provisions

Articles 2(2) and 3: Non-discrimination

Article 2 (2) and Article 3 deal with the non-discrimination aspect. Article 2 (2) is similar to other instruments in stating that the rights should be enjoyed without discrimination on the grounds of 'race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

Article 3, on the other hand is more specific. It provides for the 'equal right of men and women to the enjoyment of rights...set forth in the Covenant.'

The concept of 'progressive realization' is not applicable to the non-discrimination clause and the obligation to ensure equal rights of men and women. The obligation is to ensure it immediately and not progressively.

The obligation to ensure the equal rights of men and women includes affirmative action to eliminate conditions that contribute to discrimination.

The Committee has followed the practice that discrimination is not restricted to those grounds identified under the Covenant but includes discrimination based on age, health status, or disability. The non-discriminatory clause of the Covenant covers discriminatory acts of both public authorities and private individuals.

Article 4: Limitations

Article 4 of the Covenant deals with the limitation clause. The ICESCR does not recognize any particular right to be non-derogable in the manner it is done under the ICCPR. However, Article 4 states that limitations imposed on the enjoyment of rights should be 'determined by law' and should be done solely for the purpose of 'promoting the general welfare in a democratic society.'

Article 2 (1): Obligation of States

Article 2 (1) of the Covenant deals with the obligation of State parties under the Covenant. According to the Committee on Economic, Social and Cultural Rights, 'Article 2 is of particular importance to a full understanding of the Covenant and must be seen as having a dynamic relationship with all of the other provisions of the Covenant. It describes the nature of the general legal obligations undertaken by State parties to the Covenant.'

Article 2 (1) of the Covenant states:

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

Thus, obligations of State parties are expressed through the use of terms 'undertakes to take steps,' 'to the maximum available resources,' 'achieving progressively the full realization,' and 'by all appropriate means including particularly the adoption of legislative measures.'

In contrast, these terms are not used in the civil and political rights covenant. The Article 2 (1) of the Covenant on Civil and Political Rights states: 'Each State Party to the present Covenant undertakes to respect and to ensure to all individuals...the rights recognized in the present Covenant....' It is normally argued that the Covenant on Economic, Social and Cultural Rights does not belong to the same genre as that of the civil and political rights. Hence, it is important to understand the meaning of terms used in Article 2 (1) of the ICESCR to comprehend the obligations under the Covenant.

Obligation of Conduct and Obligation of Result

The Committee on Economic, Social and Cultural Rights has made it clear that the obligations of State parties include both obligation of conduct and obligation of result. The International Law Commission has formulated these two categories and the Committee has referred to it to elaborate on the obligations of State parties under the Covenant.

Obligation of conduct means that a State has to undertake a specific step. For example, prohibiting forced labor is an act of conduct. Obligation of result means attaining a particular outcome through active implementation of policies and programs. However, conduct and result cannot be separated. The concept of obligation of conduct and result provides an effective tool for monitoring the implementation of economic, social and cultural rights. It also shows that realization of economic, social and cultural rights is a dynamic process involving both immediate and long-term intervention.

Meaning of 'Undertakes to Take Steps'

The use of the term 'Each State Party ... undertakes to take steps,' in Article 2 (1) of the ICESCR is normally construed as implying progressive implementation of the Covenant. However, it should be noted that a similar term is used in Article 2 (2) of the ICCPR and in Article 2 (1) of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Thus, the term cannot be construed to imply progressive implementation. In fact, the Committee on Economic, Social and Cultural Rights has clarified that, 'while the full realization of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.'

Meaning of 'By All Appropriate Means, Including Particularly the Adoption of Legislative Measures'

The Committee on Economic, Social and Cultural Rights has recognized that States must decide the appropriate means and it may depend on the right that is being implemented. However, the Committee has stated: 'State parties reports should indicate not only the measures that have been taken but also the basis on which they are considered to be the most "appropriate" under the circumstances.'

It is clear from the interpretation given by the Committee that the term 'all appropriate means' is linked to both conduct and result. A State party cannot avoid its obligations by merely saying that its policies are aimed at economic development and poverty or illiteracy will be eradicated eventually.

As for the term 'adoption of legislative measures,' the Committee has stated that it by no means exhausts the obligation of State parties. A mere existence of laws is not sufficient to prove that a State party is carrying out its obligation under the Covenant. For example, while considering the Canadian report, a member of the Committee commented that, 'When reports focused too narrowly on legal aspects, the suspicion naturally arose that there might be some gap between law and practice.'

In addition to laws, the Committee has also stressed the need for 'provision of judicial remedies with respect to rights which may, in accordance with the national legal system, be considered justifiable.'

Meaning of 'Achieving Progressively'

It is normally assumed that due to the resources required for the realization of economic, social and cultural rights, they are incapable of immediate implementation. On the other hand, the Committee has stated:

The fact that realization over time, or in other words progressively, is foreseen under the covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être*, of the Covenant that is to establish clear obligations for State parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal.

The Committee has made it clear that 'progressive realization' is not an escape clause. Such an interpretation provides activists an important conceptual perspective against the notion of 'gradualism' in economic policies. It means that ensuring social welfare is a gradual long-term process where the growth of the economy will percolate to everyone. However, most often growth becomes an end in itself whether it is socially desirable or not. The position of the Committee seems to be that the process of economic growth should be combined with the realization of human rights.

The Committee has also concluded that 'progressive realization' includes not only continuous improvement but also the obligation to ensure that there are no regressive developments. The Committee has stated that 'any deliberately retrogressive measures ... would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided in the covenant and in the context of the full use of the maximum of available resources.'

Meaning of 'To the Maximum of its Available Resources'

The notion that economic resources are essential for the implementation of economic, social and cultural rights has been the major justification for considering it secondary to civil and political rights. The Committee has acknowledged the importance of resources in fulfilling the rights but does not consider resource availability as an escape clause. For example, it has stated that 'in cases where significant numbers of people live in poverty and hunger, it is for the State to show that its failure to provide for the persons concerned was beyond its control.'

The Committee developed the idea of 'minimum core obligations' to refute the argument that 'lack of resource' hinders fulfillment of obligations. The Committee has observed that every State has a minimum core obligation to satisfy minimum essential levels of each of the rights of the Covenant. It has clarified that a State party 'in which a significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the, most basic forms of education is *prima facie*, failing to discharge its obligations under the Covenant.... In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.'

The Committee has made it clear that, 'even where the available resources are demonstrably inadequate, the obligation remains for a State party to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances.' In addition, the Committee has also stated that, 'even in times of severe resource constraints ... vulnerable members of society can and indeed, must be protected by the adoption of relatively low-cost targeted programs.'

Draft Optional Protocol

The Committee on Economic, Social and Cultural Rights, at its 15th session held in Geneva from 18 November to 6 December 1996, concluded its consideration of a draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights granting the right of individuals or groups to submit communications (complaints) concerning non-compliance with the Covenant. The elaboration of the draft optional protocol was recommended during the 1993 World Conference on Human Rights.

The report of the Committee on the subject (E/CN.4/1997/105) was submitted for consideration by the Commission on Human Rights at its 53rd session held in Geneva, from 17 March to 25 April 1997. The draft optional protocol has yet to be officially adopted by the relevant United National organizations. Comments could be sent to the Office of the High Commissioner for Human Rights in Geneva (webadmin.hchr@unog.ch).

Rights Under the Covenant

Art. 6	The Right to work
7	Just and favorable conditions of work
8	The right to form and join trade unions
9	The right to social security
10	Protection of the family
11	The right to an adequate standard of living (food, housing)
12	The right to health
13	The right to education

Source: *Rights-Based Approach to Development and Governance Training Manual prepared by the Task Force Detainees of the Philippines (TFDP), 2004, pp. 56-63.*

Supplementary Reading Paper 4

STATE OBLIGATIONS ON HUMAN RIGHTS

The nature of State parties; obligations (art. 2, para. 1, of the Covenant) General Comment No.3 (1990)

1. Article 2 is of particular importance to a full understanding of the Covenant and must be seen as having a dynamic relationship with all the other provisions of the Covenant. It describes the nature of the general legal obligations undertaken by State parties to the Covenant. Those obligations include both what may be termed (following the work of the International Law Commission) obligations of conduct and obligations of result. While great emphasis has sometimes been placed on the difference between the formulations used in this provision and that contained in the equivalent article 2 of the ICCPR, it is not always recognized that there are also significant similarities. In particular, while the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect. Of these, two are of particular importance in understanding the precise nature of State parties obligations. One of these, which is dealt with in a separate general comment, and which is to be considered by the Committee at its sixth session, is the "undertaking to guarantee" that relevant rights "will be exercised without discrimination...."
2. The other is the undertaking in article 2 (1) "to take steps," which in itself, is not qualified or limited by other considerations. The full meaning of the phrase can also be gauged by noting some of the different language versions. In English the undertaking is "to take steps", in French it is "to act" ("*s'engage a agir*") and in Spanish it is "to adopt measures" ("*a adoptar medidas*"). Thus while the full realization of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.
3. The means which should be used in order to satisfy the obligation to take steps are stated in article 2 (1) to be "all appropriate means, including particularly the adoption of legislative measures." The Committee recognizes that in many instances legislation is highly desirable and in some cases may even be indispensable. For example, it may be difficult to combat discrimination effectively in the absence of a sound legislative foundation for the necessary measures. In fields such as health, the protection of children and mothers, and

education, as well as in respect of the matters dealt with in articles 6 to 9, legislation may also be an indispensable element for many purposes.

4. The Committee notes that State parties have generally been conscientious in detailing at least some of the legislative measures that they have taken in this regard. It wishes to emphasize, however, that the adoption of legislative measures, as specifically foreseen by the Covenant, is by no means exhaustive of the obligations of State parties. Rather, the phrase "by all appropriate means" must be given its full and natural meaning. While each State party must decide for itself which means are the most appropriate under the circumstances with respect to each of the rights, the "appropriateness" of the means chosen will not always be self evident. It is desirable that, State parties reports should indicate not only the measures that have been taken but also the basis on which they are considered to be the most "appropriate" under the circumstances. However, the ultimate determination as to whether all appropriate measures have been taken remains one for the Committee to make.
5. Among the measures which might be considered appropriate, in addition to legislation, is the provision of judicial remedies with respect to rights which may, in accordance with the national legal system, be considered justifiable. The Committee notes, for example, that the enjoyment of the rights recognized, without discrimination, will often be appropriately promoted, in part, through the provision of judicial or other effective remedies. Indeed, those State parties which are also parties to the ICCPR are already obligated (by virtue of articles 2 [paras. 1 and 3], 3 and 26] of that Covenant to ensure that any person whose rights or freedoms (including the right to equality and non discrimination) recognized in that Covenant are violated, "shall have an effective remedy" (art. 2 (3) (a)). In addition, there are a number of other provisions in the International Covenant on Economic, Social and Cultural Rights, including articles 3, 7 (a)(i), 8, 10 (3), 13 (2)(a), (3) and (4) and 15 (3) which would seem to be capable of immediate application by judicial and other organs in many national legal systems. Any suggestion that the provisions indicated are inherently non self executing would seem to be difficult to sustain.
6. Where specific policies aimed directly at the realization of the rights recognized in the Covenant have been adopted in legislative form, the Committee would wish to be informed, *inter alia*, as to whether such laws create any right of action on behalf of individuals or groups who feel that their rights are not being fully realized. In cases where constitutional recognition has been accorded to specific economic, social and cultural rights, or where the provisions of the Covenant have been incorporated directly into national law, the Committee

would wish to receive information as to the extent to which these rights are considered to be justifiable (i.e. able to be invoked before the courts). The Committee would also wish to receive specific information as to any instances in which existing constitutional provisions relating to economic, social and cultural rights have been weakened or significantly changed.

7. Other measures which may also be considered "appropriate" for the purposes of article 2 (1) include, but are not limited to, administrative, financial, educational and social measures.
8. The Committee notes that the undertaking "to take steps... by all appropriate means including particularly the adoption of legislative measures" neither requires nor precludes any particular form of government or economic system being used as the vehicle for the steps in question, provided only that it is democratic and that all human rights are thereby respected. Thus, in terms of political and economic systems the Covenant is neutral and its principles cannot accurately be described as being predicated exclusively upon the need for, or the desirability of a socialist or a capitalist system, or a mixed, centrally planned, or *laissez faire* economy, or upon any other particular approach. In this regard, the Committee reaffirms that the rights recognized in the Covenant are susceptible of realization within the context of a wide variety of economic and political systems, provided only that the interdependence and indivisibility of the two sets of human rights, as affirmed *inter alia* in the preamble to the Covenant, are recognized and reflected in the system in question. The Committee also notes the relevance in this regard of other human rights and in particular the right to development.
9. The principal obligation of result reflected in article 2 (1) is to take steps "with a view to achieving progressively the full realization of the rights recognized" in the Covenant. The term "progressive realization" is often used to describe the intent of the phrase. The concept of progressive realization constitutes a recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. In this sense the obligation differs significantly from that contained in article 2 of the ICCPR which embodies an immediate obligation to respect and ensure all of the relevant rights. Nevertheless, the fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être*, of the Covenant which is to establish clear obligations

for State parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.

10. On the basis of the extensive experience gained by the Committee, as well as by the body that preceded it, over a period of more than a decade of examining State parties' reports, the Committee is of the view that a minimum core obligation to ensure the satisfaction, of at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its *raison d'être*. By the same token, it must be noted that any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned. Article 2 (1) obligates each State party to take the necessary steps, "to the maximum of its available resources." In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.
11. The Committee wishes to emphasize, however, that even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Moreover, the obligations to monitor the extent of the realization, or more especially of the non realization, of economic, social and cultural rights, and to devise strategies and programs for their promotion, are not in any way eliminated as a result of resource constraints. The Committee has already dealt with these issues in its general comment No.1 (1989).
12. Similarly, the Committee underlines the fact that even in times of severe resource constraints whether caused by a process of adjustment, of economic recession, or by other factors the vulnerable members of society can and indeed must be protected by the adoption of relatively low cost targeted programs. In support of this approach

the Committee takes note of the analysis prepared by UNICEF entitled "Adjustment with a human face: protecting the vulnerable and promoting growth,"¹ the analysis by UNDP in its Human Development Report 1990² and the analysis by the World Bank in the World Development Report 1990³.

13. A final element of article 2 (1), to which attention must be drawn, is that the undertaking given by all State parties is "to take steps, individually and through international assistance and cooperation, especially economic and technical...." The Committee notes that the phrase "to the maximum of its available resources" was intended by the drafters of the Covenant to refer to both the resources existing within the State and those available from the international community through international cooperation and assistance. Moreover, the essential role of such cooperation in facilitating the full realization of the relevant rights is further underlined by the specific provisions contained in articles 11, 15, 22 and 23. With respect to article 22 the Committee has already drawn attention, in general comment No. 2 (1990), to some of the opportunities and responsibilities that exist in relation to international cooperation. Article 23 also specifically identifies "the furnishing of technical assistance" as well as other activities, as being among the means of "international action for the achievement of the rights recognized...."
14. The Committee wishes to emphasize that in accordance with Articles 55 and 56 of the Charter of the United Nations, with well established principles of international law, and with the provisions of the Covenant itself, international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States. It is particularly incumbent upon those States which are in a position to assist others in this regard. The Committee notes in particular the importance of the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986 and the need for State parties to take full account of all of the principles recognized therein. It emphasizes that, in the absence of an active program of international assistance and cooperation on the part of all those States that are in a position to undertake one, the full realization of economic, social and cultural rights will remain an unfulfilled aspiration in many countries. In this respect, the Committee also recalls the terms of its general comment No. 2 (1990).

ENDNOTES

¹G.A. Cornia, R. Jolly and F. Steward eds., Oxford: Claredon Press, 1987.

²Oxford, Oxford University Press, 1990

³Oxford, Oxford University Press, 1990

The above information is a copy excerpted from the document entitled, "Compilation of General Comments and General Recommendations Adopted by The United Nations Treaty Bodies" dated April 26, 2001; <http://www.unhchr.ch>

Source: *Mainstreaming Human Rights in Development and Governance in Mindanao, 2004*

Supplementary Reading Paper 5

NORMATIVE CONTENT OF HUMAN RIGHTS

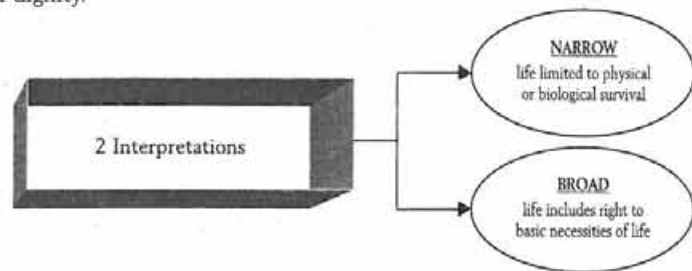
- ▶ The normative content of a particular right refers to *the specific standards* protected by such right of its actual meaning
- ▶ Human rights standards can be used as objective standards of human dignity in the development process
- ▶ These standards become important guides to be used in a dynamic process such as development because the normative content of human development rights includes guidance for "*immediate and progressive*" realization
- ▶ In short, normative content of human rights consists of:
 1. the freedoms and
 2. entitlements that specify the meaning of the right

RIGHT TO LIFE:

- ▶ The right to live in a manner consistent with our common humanity and dignity
- ▶ It includes the realization of the basic necessities of life (the right to food, to health and others)
- ▶ It involves:
 - ▲ Prohibition of arbitrary killings and homicide offenses
 - ▲ Adoption of positive measure:
 - ▼ Reduction of infant mortality
 - ▼ Increase of life expectancy
 - ▼ Elimination of malnutrition and epidemics
 - ▼ Protection from practices of female infanticides and burning of widows (India)
 - ▲ Non-derogable
 - ▲ Death penalty (limitation: Article 6 ICCPR)
 - ▼ To be imposed only upon most serious crimes
 - ▼ Shall not be reestablished in States which have abolished it

- ▼ Shall not be:
 - ▶ Imposed for crimes committed by persons under 18 years of age
 - ▶ Carried out on pregnant women.

Right to Life – Right to live in a manner consistent with our common humanity and dignity.



The Human Rights Committee in General Comment No. 6, Sixteenth Session 1982 adopts the broader interpretation of the right to life.

The right to life, under international law, begins at birth.

The right to life is absolute; no derogation is permitted even in times of national emergencies that threaten the life of the nation.

Right to Life in International Documents

- Article 3, Universal Declaration of Human Rights
- Article 6, International Covenant on Civic and Political Rights
- General Comment No. 6, Human Rights Committee (1982)
- Article 5b, Convention on the Elimination of All Forms of Racial Discrimination
- Article 6, Convention on the Rights of the Child

Equality – Right to enjoy and exercise all human rights on an equal basis and in their totality.

Equality does not mean identical treatment in every instance.⁶

The United Nations Human Rights Committee has said that equality “sometimes requires State parties to take affirmative action in order to diminish

⁶Article 6 of the International Covenant on Civil and Political Rights prohibits the death sentence from being imposed on persons below 18 years old, and from being carried out on pregnant women. Article 10(3) of the same Covenant, requires the segregation of youth offenders from adults. General Comment No. 18, Non-discrimination, adopted by the United Nations Human Rights Committee at its thirty-seventh session in 1989.

or eliminate conditions which cause or help to perpetuate discrimination prohibited by the covenant. For example, in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the state should take specific action to correct those conditions. Such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population. However, as long as such action is needed to correct discrimination in fact, it is a case of legitimate differentiation under the Covenant.”⁷

Right to Equality in International Documents

- Article 7, Universal Declaration of Human Rights
- Article 3, International Covenant on Economic, Social and Cultural Rights
- Article 3, International Covenant on Civic and Political Rights
- Article 8(1), Declaration on the Human Right to Development
- Article 5, Convention on the Elimination of All Forms of Racial Discrimination
- Article 9 and 15, Convention on the Elimination of All Forms of Discrimination against Women

Non-Discrimination – Right to enjoy and exercise all human rights without distinction of any kind, exclusion, restriction or preference.

Prohibited grounds of discrimination:

- ▶ race
- ▶ color
- ▶ gender
- ▶ language
- ▶ disability⁸
- ▶ age⁹
- ▶ religion
- ▶ political or other opinion
- ▶ national or social origin
- ▶ property
- ▶ birth
- ▶ other status

⁷Ibid.

⁸Committee on Economic, Social and Cultural Rights, General Comment No. 5, *Persons with Disabilities*, adopted at the Eleventh session in 1994 [E/1995/22].

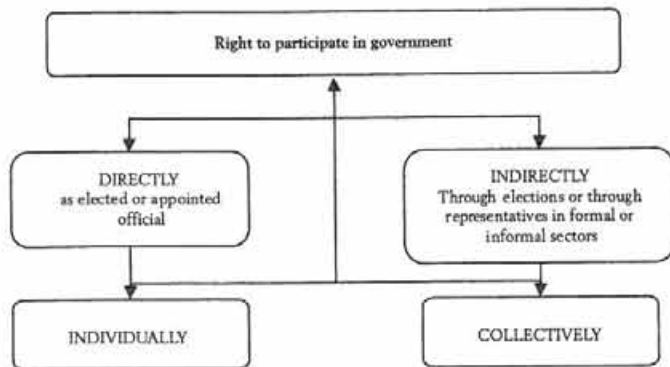
⁹Committee on Economic, Social and Cultural Rights, General Comment No. 6, *The Economic, Social and Cultural Rights of Older Persons*, adopted at the thirteenth session in 1995 [E/1996/22]

It must be stressed that the principle of non-discrimination, under human rights law, requires immediate action to protect the human rights of those most vulnerable, particularly those who do not benefit from a particular development plan, policy or program.

Right Against Non-Discrimination in International Documents

Article 7, Universal Declaration of Human Rights
 Article 2(2), International Covenant on Economic, Social and Cultural Rights
 Article 2(1) and 20(2), International Covenant on Civic and Political Rights
 Article 6(1), Declaration on the Right to Development
 Article 1, 3, and 4, Convention on the Elimination of All Forms of Racial Discrimination
 Article 1, 2, 4 and 7, Convention on the Elimination of All Forms of Discrimination against Women
 Article 2, Convention on the Rights of the Child

Right to Participate in Government – Right to freely, voluntarily, effectively and fully participate in government without sanction or threat.



Right to Participate in Government in International Documents

Article 21, Universal Declaration of Human Rights
 Article 5(c), Convention on the Elimination of All Forms of Racial Discrimination

Freedom of Opinion, Right of Peaceful Assembly and Association, Freedom of Movement.

Derogable rights

Freedom of Opinion and Expression in International Documents

Article 19, Universal Declaration of Human Rights
 Article 19, International Covenant on Civic and Political Rights
 Article 6(1), Declaration on the Right to Development
 Article 5(d)(viii), Convention on the Elimination of All Forms of Racial Discrimination
 Article 12 and 13, Convention on the Rights of the Child

Freedom of Movement in International Documents

Article 13, Universal Declaration of Human Rights
 Article 12, International Covenant on Civic and Political Rights

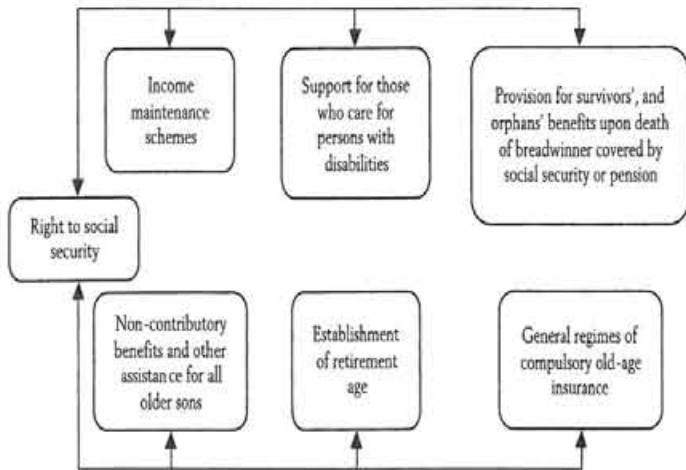
Right to Peaceful Assembly and Association in International Documents

Article 20, Universal Declaration of Human Rights
 Article 20 and 21, International Covenant on Civic and Political Rights
 Article 5(d)(ix), Convention on the Elimination of All Forms of Racial Discrimination
 Article 15, Convention on the Rights of the Child
 Right to Social Security – Right to coverage for all risks involved in the

Right to Equal Access To Public Service

- Article 21, Universal Declaration of Human Rights
- Article 8(1), Declaration on the Right to Development
- Article 11(c), Convention on the Elimination of All Forms of Discrimination against Women

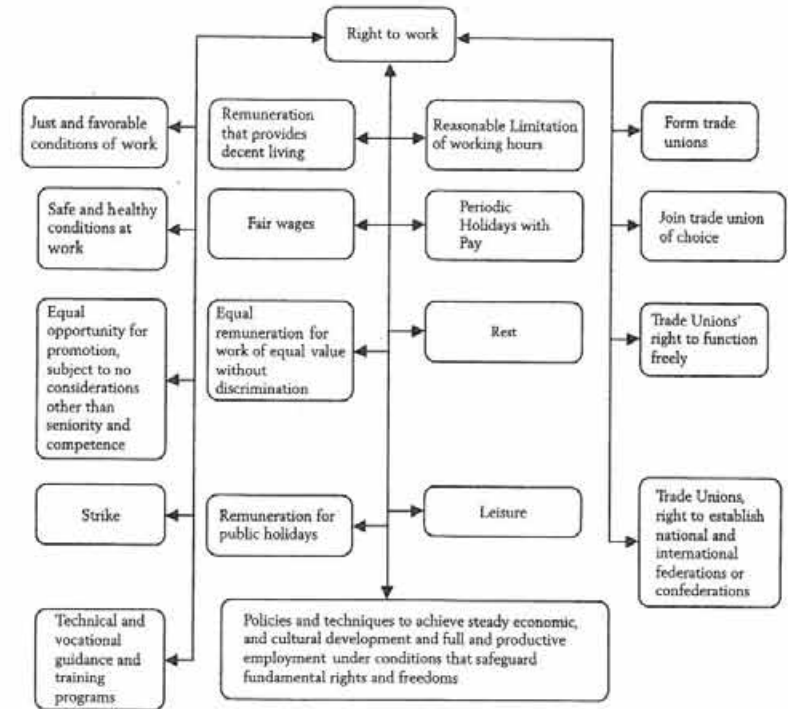
Right to Social Security – Right to coverage for all risks involved in the loss of the means of subsistence, for reasons beyond a person's control.



Right To Social Security

- Article 22, Universal Declaration of Human Rights
- Article 9, International Covenant on Economic, Social and Cultural Rights
- General Comment Nos. 5 and 6, Committee on Economic, Social and Cultural Rights (1994/1995)
- Article 8(1), Declaration on the Right to Development
- Article 11(e), Convention on the Elimination of All Forms of Discrimination against Women
- Article 2, Convention on the Rights of the Child

Right to Work – Right to opportunity to gain a living by work freely chosen or accepted.

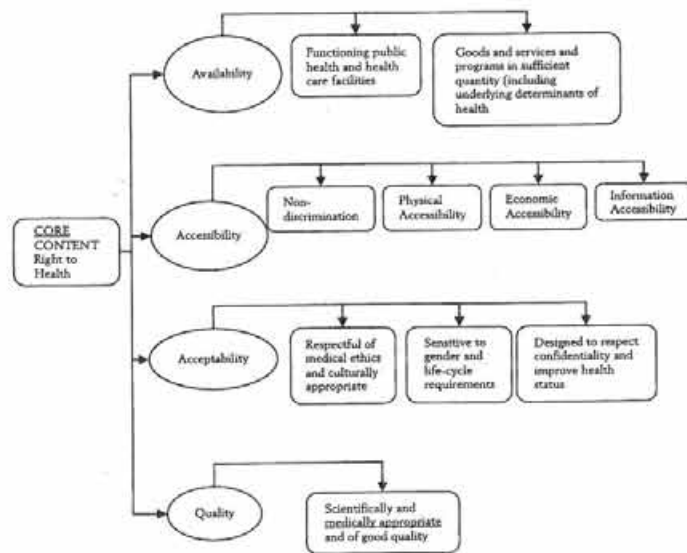
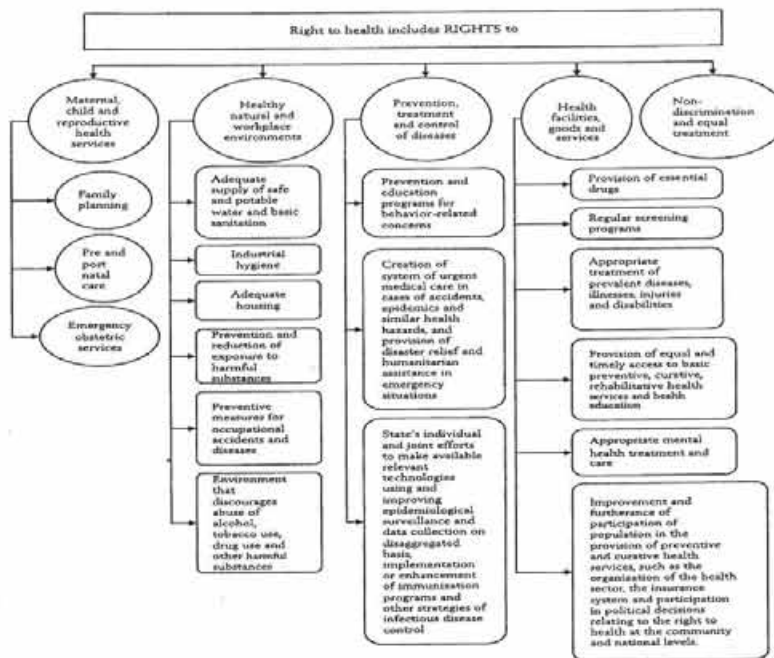
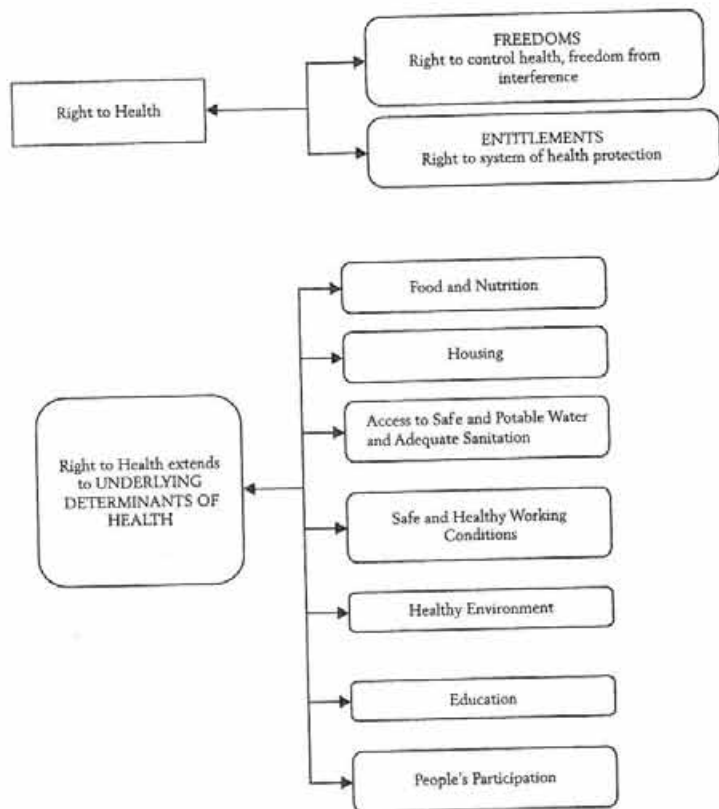


Right to Work

- Article 23, Universal Declaration of Human Rights
- Article 6, 7, 9, International Covenant on Economic, Social and Cultural Rights
- Article 8(1), Declaration on the Right to Development
- Article 5(e)(i)(ii), Convention on the Elimination of All Forms of Racial Discrimination
- Article 11, Convention on the Elimination of All Forms of Discrimination against Women
- Article 32, Convention on the Rights of the Child

Right to Highest Attainable Standard of Health – Right enjoyment of variety of facilities, goods, services and conditions necessary for realization of highest attainable standard of health.

Right to health not the same as right to be healthy



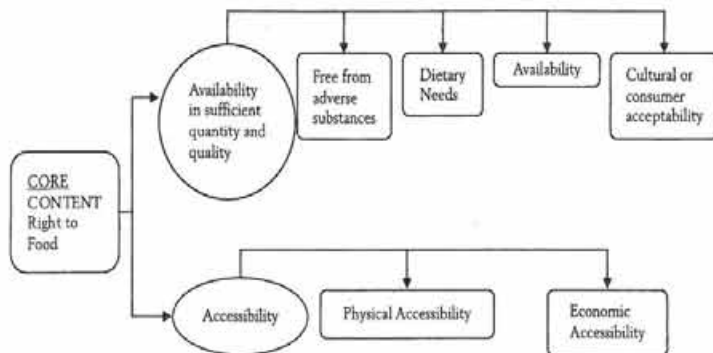
Right to Health

- Article 25, Universal Declaration of Human Rights
- Article 12, International Covenant on Economic, Social and Cultural Rights
- General Comment No. 14, Committee on Economic, Social and Cultural Rights (2000)
- Article 8, Declaration on the Right to Development
- Article 5(e)(iv), Convention on the Elimination of All Forms of Racial Discrimination
- Article 12, Convention on the Elimination of All Forms of Discrimination against Women
- Article 24, Convention on the Rights of the Child

Right to Adequate Food – Right of every man, woman, and child alone or in community with others, to have physical and economic access at all times to adequate food or means for its procurement.

The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger, even in times of natural or other disasters.

Food Adequacy is linked to sustainability, implying food accessible for both present and future generations; the precise meaning of adequacy is determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while sustainability incorporates long-term availability and accessibility.

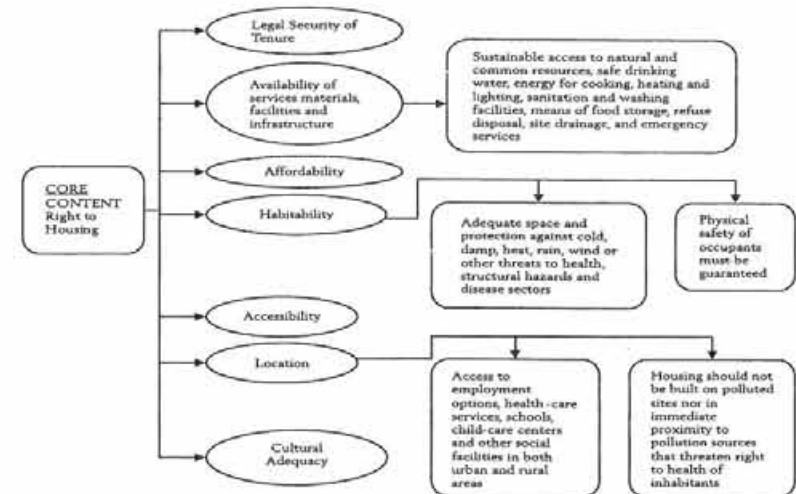


Right to Food

- Article 25, Universal Declaration of Human Rights
- Article 11, International Covenant on Economic, Social and Cultural Rights
- General Comment No. 12, Committee on Economic, Social and Cultural Rights (1999)
- Article 8, Declaration on the Right to Development

Right to Housing – Right to live somewhere in security, peace and dignity.

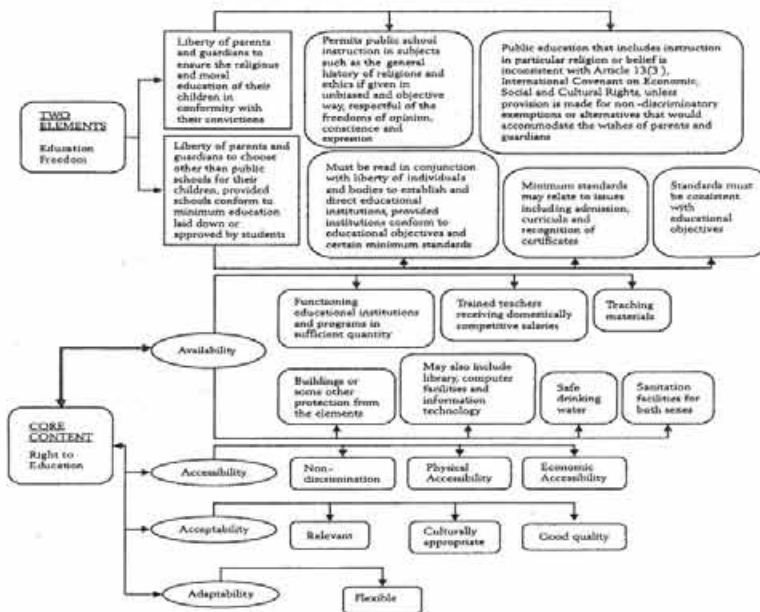
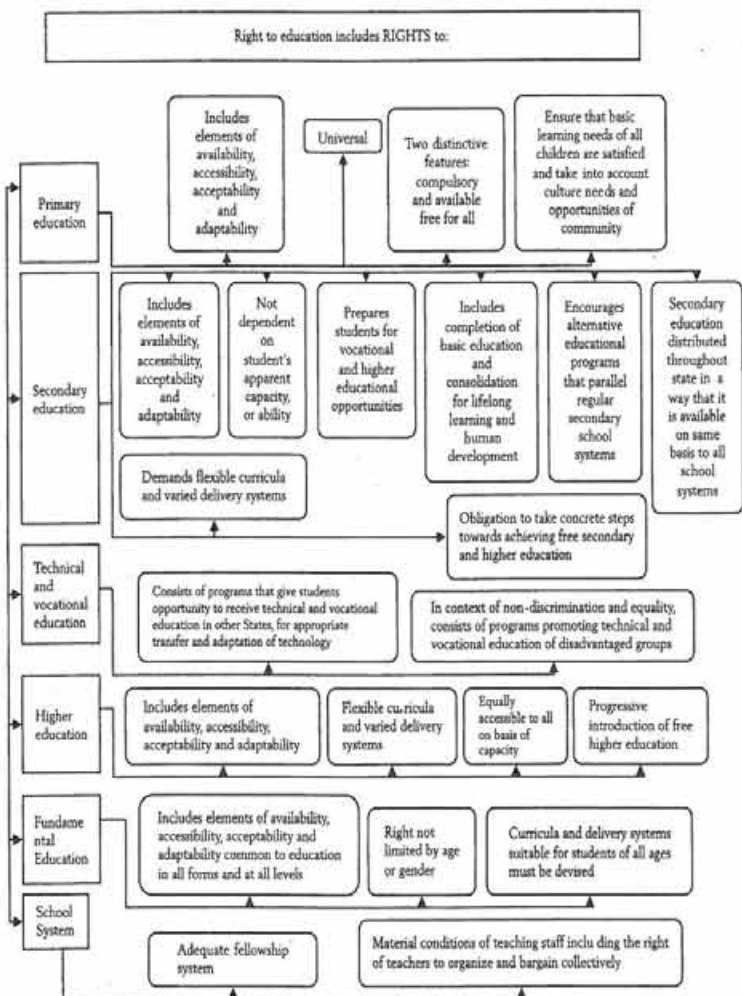
Right to housing integrally linked to other human rights and to fundamental human rights principles. The right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to housing.



Right to Housing

- Article 25, Universal Declaration of Human Rights
- Article 11, International Covenant on Economic, Social and Cultural Rights
- General Comment Nos. 4 and 7, Committee on Economic, Social and Cultural Rights (1991/1997)
- Article 8, Declaration on the Right to Development
- Article 5(e)(iii), Convention on the Elimination of All Forms of Racial Discrimination

Right to Education – Right to education that is directed to the full development of the human personality, enables all persons to participate effectively in a free society, promotes understanding among all ethnic groups, as well as nations and racial and religious groups and promotes gender equality and respect for the environment.



Special Topics of Broad Application Related to the Right to Education

Non-discrimination and equal treatment. Applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination; Adoption of temporary special measures intended to bring out *de facto* equality for men and women and for disadvantaged groups not a violation of the right to non-discrimination in education so long as:

- ▶ Such measures do not lead to the maintenance of unequal or separate standards for different groups, and
- ▶ Provided they are not continued after the objectives for which they were taken have been achieved.
- ▶ In some circumstances, separate educational systems or institutions for groups in article 2(2), International Covenant on Economic, Social and Cultural Rights, shall be deemed not to constitute a breach of the ICESR.
- ▶ Principle of non-discrimination extends to all persons of school age residing in the territory, including non-nationals, and irrespective of their legal status.
- ▶ Sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may

constitute discrimination under the International Covenant on Economic, Social and Cultural Rights.

- ▶ States must closely monitor education, including all relevant policies, institutions, programs, spending patterns and other practices, to identify and take measures to redress any *de facto* discrimination. Educational data must be disaggregated by prohibited grounds of discrimination.

Academic freedom and institutional autonomy. Right can only be enjoyed if accompanied by academic freedom of faculty and students; Members of academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes:

- ▶ liberty of individuals to express freely opinions about the institution or system in which they work;
- ▶ to fulfill their functions without discrimination or fear of repression by the State or by any other actor;
- ▶ to participate in professional or representative academic bodies
- ▶ to enjoy all internationally recognized right;
- ▶ Academic freedom carries with its duties, such as the duties:

- ▲ to respect the academic freedom of others
- ▲ to ensure the fair discussion of contrary views
- ▲ to treat all without discrimination on any of the prohibited grounds. Autonomy is that degree of self-governance necessary for effective decisionmaking by institutions of higher education in relation to their academic work, standards, management and related activities. Self-governance must be consistent with systems of public accountability, especially in respect of funding provided by State. Institutional arrangements should be fair, just and equitable, and as transparent and participatory as possible.

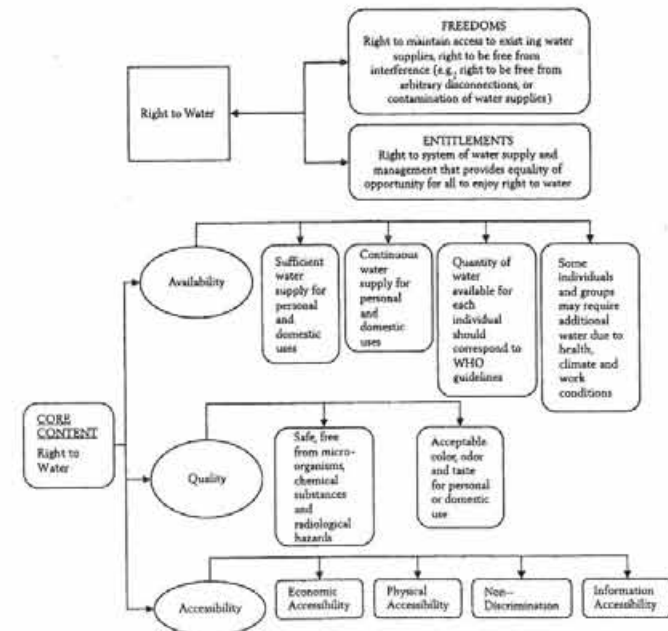
Discipline in schools. Corporal punishment is inconsistent with fundamental guiding human rights principle of dignity of the individual: public humiliation may also be inconsistent with human dignity; no form of discipline should breach other rights, such as the right to food; states are required to take measures to ensure that discipline which is inconsistent with the International Covenant on Economic, Social and Cultural Rights, does not occur in any public or private educational institution within its jurisdiction; initiatives that encourage schools to introduce positive, non-violent approaches to school discipline are welcome.

Right to Education

- Article 26, Universal Declaration of Human Rights
- Article 13, International Covenant on Economic, Social and Cultural Rights
- General Comment Nos. 11 and 13, Committee on Economic, Social and Cultural Rights (1999)
- Article 8(1), Declaration on the Right to Development
- Article 5(e)(v), Convention on the Elimination of All Forms of Racial Discrimination
- Article 10, Convention on the Elimination of All Forms of Discrimination against Women
- Articles 28 and 29, Convention on the Rights of the Child

Right to Water – Entitlement to sufficient, safe, acceptable, physically accessible and affordable water, water facilities and services for personal and domestic use.

Right to water is indispensable for a life in human dignity. It is a prerequisite for the realization of other human rights. It is closely linked to the right to the highest attainable standard of health and the right to adequate housing, adequate food, work and to take part in cultural life. It is also inextricably linked to other rights, primarily the right to life and human dignity.



Elements of right to water must be adequate for human dignity, life and health. Adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of realization of the right to water must be sustainable, ensuring that the right can be realized for present and future generations. Adequacy of water required for right to water may vary according to different conditions.

Special topics of broad application

Non-discrimination and equality. Discrimination of any kind prohibited. Paragraph 12 of General Comment No. 3 (1990) states that even in times of severe resource constraints, vulnerable members of society must be protected by the adoption of relatively low-cost targeted programs.

States are required to take steps to remove *de facto* discrimination on prohibited grounds where individuals and groups are deprived of means or entitlements necessary for achieving right to water. States should ensure that the allocation of water resources, and investments in water, facilitate access to water for all members of society. Inappropriate resource allocation can lead to discrimination that may not be overt.

States have special obligation to provide those who do not have sufficient means with the necessary water and water facilities and to prevent any discrimination on internationally prohibited grounds in the provision of water and water services.

Whereas the right to water applies to everyone, States should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees. In particular, States should take steps to ensure that:

- ▶ Women are not excluded from decisionmaking processes concerning water resources and entitlements; disproportionate burden women bear in collecting water should be alleviated;
- ▶ Children are not prevented from enjoying their human rights due to lack of adequate water in educational institutions and households or through burden of collecting water. Provision of adequate water to educational institutions currently without adequate drinking water should be addressed as a matter of urgency;
- ▶ Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should

have access to properly maintained water facilities. No household should be denied right to water on grounds of housing or land status;

- ▶ Indigenous peoples' access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control access to water;
- ▶ Nomadic and traveler communities have access to adequate water at traditional and designated halting sites;
- ▶ Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in camps or in urban and rural areas. Refugees and asylum-seekers should be granted right to water on the same conditions granted to nationals;
- ▶ Prisoners and detainees are provided with sufficient and safe water for daily individual requirements, taking note of requirements of international humanitarian law and United Nations Standard Minimum Rules for the Treatment of Prisoners;
- ▶ Groups facing difficulties with physical access to water, such as older persons, persons with disabilities, victims of natural disasters, persons living in disaster-prone areas, and those living in arid and semi-arid areas, or on small islands are provided safe and sufficient water.

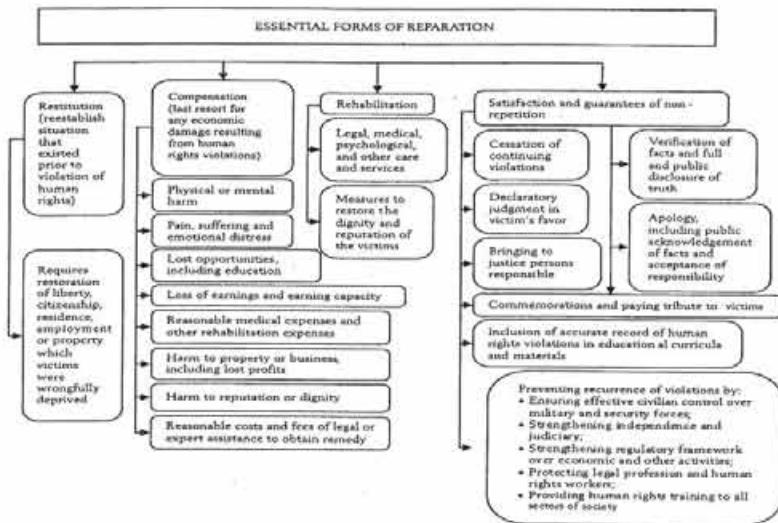
Right to Water

- Article 3 and 25, Universal Declaration of Human Rights
- Article 1(2), 11(1) and 12(1), International Covenant on Economic, Social and Cultural Rights
- General Comment No. 15, Committee on Economic, Social and Cultural Rights (2002)
- Article 6, International Covenant on Civil and Political Rights
- Article 14(2), Convention on the Elimination of All Forms of Discrimination against Women
- Article 24(2), Convention on the Rights of the Child

Right of Reparation – Right of individual to seek redress for a violation of human rights.

Every violation of human rights gives rise to the right of reparation for the victim. The obligation to ensure respect for human rights includes the duties to prevent violations, to investigate violations, to take appropriate action against the violators, and to afford remedies to victims.

Reparation for human rights violations has the purpose of relieving victims' suffering and affording justice to victims by removing or redressing, to the extent possible, the consequences of the wrongful acts, and by preventing and deterring violations.



Right of Reparation

- Article 8, Universal Declaration of Human Rights
- Article 2(3), International Covenant on Civil and Political Rights
- Article 5, Declaration on the Right to Development
- Article 6, Convention on the Elimination of All Forms of Racial Discrimination
- Article 2, Convention on the Elimination of All Forms of Discrimination against Women
- Article 4 and 39, Convention on the Rights of the Child

Source: Maria Socorro I. Diokno, *Human Rights Centered Development*, 7 July 2002, pages 132-148.

Supplementary Reading Paper 6

LEVELS OF STATE OBLIGATIONS RELATING TO SPECIFIC RIGHTS

Right to Education

A. General Legal Obligations

1. Immediate obligations: (a) guarantee that the right to education will be exercised without discrimination of any kind; (b) take steps towards the full realization of the right to education; such steps must be deliberate, concrete and targeted towards the full realization of the right to education.
2. Progressive Realization means that States have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of the right to education
3. Retrogressive measures in relation to the right to education, as well as other rights, not allowed.
4. Three levels of obligations:
 - ▶ Obligation to respect – avoid measures that hinder or prevent the enjoyment of the right to education
 - ▶ Obligation to protect – take measures that prevent third parties from interfering with enjoyment of the right to education
 - ▶ Obligation to fulfill (facilitate) – take positive measures that enable and assist individuals and communities to enjoy the right to education
 - ▶ Obligation to fulfill (provide) – to provide a right when an individual or group is unable, for reasons beyond their control, to realize the right themselves by the means at their disposal; the extent of this obligation subject to the International Covenant on Economic, Social and Cultural Rights
5. States have principal responsibility for direct provision of education in most circumstances. The parameters of the State's obligation to fulfill (provide) are not the same for all levels of education; the extent of the obligation is not uniform for all levels of education.

B. Specific Legal Obligations

1. Obligation to ensure that curricula, for all levels of educational system, are directed to objectives of education.
2. Obligation to establish and maintain a transparent and effective system that monitors whether or not education is, in fact, directed to educational objectives.

3. Obligations to respect, protect and fulfill each of the essential features (availability, accessibility, acceptability and adaptability) of the right to education. For example:
 - ▶ states must respect availability of education by not closing private schools;
 - ▶ protect the accessibility of education by ensuring that third parties, including parents and employers, do not stop girls from going to school;
 - ▶ fulfill (facilitate) the acceptability of education by taking positive measures to ensure that education is culturally appropriate for minorities;
 - ▶ fulfill (provide) the adaptability of education by designing and providing resources for curricula that reflect contemporary needs of students in a changing world; and
 - ▶ fulfill (provide) the adaptability of education by actively developing a system of schools, including building classrooms, delivering programs, providing teaching materials, training teachers and paying them domestically competitive salaries.
4. Obligation to prioritize the introduction of compulsory, free primary education, and immediate obligation.
5. Obligation to take steps towards the realization of secondary, higher and fundamental education for all; minimum obligation – adopt and implement a national educational strategy that includes provision of secondary, higher and fundamental education and mechanisms, such as indicators and benchmarks, by which progress can be monitored.
6. Obligation to ensure that an educational fellowship system is in place to assist disadvantaged groups.
7. Obligation to pursue actively the development of a system of schools at all levels.
8. Obligation to establish minimum educational standards.
9. Obligation to maintain transparent and effective system to monitor minimum educational standards.
10. Obligation to ensure that communities and families are not dependent on child labor.
11. Obligation to remove gender and other stereotyping which impede educational access of girls, women and other disadvantaged groups.
12. Obligation to ensure that their actions as members of international organizations, including international financial institutions, take due account of the right to education.

C. Minimum Core Obligations

1. Obligation to ensure the right of access to public educational institutions and programs on a non-discriminatory basis.
2. Obligation to ensure that education conforms to objectives of education.
3. Obligation to provide primary education for all.
4. Obligation to adopt and implement a national educational strategy that includes provisions for secondary, higher and fundamental education.
5. Obligation to ensure free choice of education without interference from the State or third parties, subject to conformity with minimum educational standards.

D. Obligation under Article 14, International Covenant on Economic, Social and Cultural Rights: Unequivocal obligation to draft and implement a plan of action for free and compulsory education; unavailability of resources not ground for non-compliance. When a State party is clearly lacking in the financial resources and/or expertise required to work out and adopt a detailed plan, the international community has clear obligation to assist.

1. *Compulsory* – neither parents, nor guardians, nor the State are entitled to treat as optional the decision on whether the child should have access to primary education.
2. *Free of Charge* – this requirement is unequivocal. Fees imposed by government, local authorities or the school, and other direct costs constitute disincentives to the enjoyment of the right and may jeopardize its realization; they are often highly regressive in effect. Indirect costs, such as compulsory levies on parents (sometimes portrayed as being voluntary, when in fact they are not), or the obligation to wear a relatively expensive school uniform can also fall into the same category.
3. *Adoption of a detailed plan* – required within two years from the International Covenant on Economic, Social and Cultural Rights' entry force for State concerned, or within two years of subsequent change in circumstances that have led to the non-observance of this obligation. The plan must cover all actions necessary in order to secure each of the requisite components parts of the right and must be sufficiently detailed so as to ensure the comprehensive realization of the right. Participation of all sections of society vital.
4. *Progressive realization* – plan of action must be aimed at progressive implementation of the right to compulsory primary education, free of charge. Plan must specifically set out a series of targeted implementation dates for each stage of the progressive implementation of the plan.

Right to Adequate Food

1. **Principal obligation:** Take steps to achieve progressively the full realization of the right to adequate food; every State is obliged to ensure for everyone access to the minimum essential food which is sufficient, nutritionally adequate and safe food, to ensure their freedom from hunger.
2. **Obligation to respect:** States may not take any measures that result in preventing access to adequate food.
3. **Obligation to protect:** States must take measures to ensure that enterprises or individuals do not deprive individuals of access to adequate food.
4. **Obligation to fulfill – (facilitate):** States must proactively engage in activities intended to strengthen people's access to and use of resources and means to ensure their livelihood, including food security.
5. **Obligation to fulfill (provide):** Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by means at their disposal, State must fulfill (provide) that right directly. This obligation also applies to victims of natural or other disasters.
6. **Obligation to adopt and implement a national food strategy,** derived from the normative content of the right to food and spelled out in relation to the levels and nature of State obligations. The national food strategy should address critical issues and measures in regard to all aspects of the food system, including production, processing, distribution, marketing and consumption of safe food, as well as parallel measures in the field of health, education, employment and social security. Care should be taken to ensure the most sustainable management and use of natural and other resources for food at the national, regional, local and household levels. The national food strategy should include corresponding food indicators and benchmarks.

Right to Health

- A. **Obligation to respect:** States must refrain from interfering directly or indirectly with the enjoyment of the right to health, including, among others:
1. Refrain from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services.
 2. Abstain from enforcing discriminatory practices as a State policy.
 3. Abstain from imposing discriminatory practices relating to women's health status and needs.

4. Refrain from prohibiting or impeding traditional preventive care, healing practices and medicines.
 5. Refrain from marketing unsafe drugs.
 6. Refrain from applying coercive medical treatments, unless on an exceptional basis for the treatment of mental illness or the prevention and control of communicable disease; such exceptional cases should be subject to specific and restrictive conditions, respecting best practices and applicable international standards.
 7. Refrain from limiting access to contraceptive and other means of maintaining sexual and reproductive health.
 8. Refrain from censoring, withholding or internationally misrepresenting health-related information, including sexual education and information.
 9. Refrain from preventing people's participation in health-related matters.
 10. Refrain from unlawfully polluting air, water and soil, e.g., through industrial waste from State-owned facilities.
 11. Refrain from using or testing nuclear, biological or chemical weapons if such testing results in the release of substances harmful to human health.
 12. Refrain from limiting access to health services as a punitive measure, e.g., during armed conflicts in violation of international humanitarian law.
- B. **Obligation to protect:** States must take measures to prevent third parties from interfering with the enjoyment of the right to health, including, among others:
1. Adopt legislation or take other measures ensuring equal access to health care and health-related services provided by third parties.
 2. Ensure that privatization of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services.
 3. Control the marketing of medical equipment and medicines by third parties.
 4. Ensure that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct.
 5. Ensure that harmful social or traditional practices do not interfere with access to pre- and post-natal care and family-planning.

6. Prevent third parties from coercing women to undergo traditional practices, e.g., female genital mutilation.
 7. Take measures to protect all vulnerable or marginalized groups of societies.
 8. Ensure that third parties do not limit people's access to health-related information and services.
- C. Obligation to fulfill:** States must adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to health, including, among others:
1. Give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation.
 2. Adopt a national health policy with a detailed plan for realizing the right to health.
 3. Ensure provision of health care, including immunization programs against major infectious disease.
 4. Ensure equal access to all underlying determinants of health.
 5. Public health infrastructures should provide for sexual and reproductive health services, including safe motherhood, particularly in rural areas.
 6. Ensure the appropriate training of doctors and other medical personnel, provision of sufficient number of hospitals, clinics and other health related facilities, and promotion and support of the establishment of institutions providing counseling and mental health services, with due regard to equitable distribution throughout the country.
 7. Provision of public, private or mixed health insurance system which is affordable for all.
 8. Promotion of medical research and health education and information campaigns.
 9. Adopt measures against environmental and occupational health hazards and against any other threats as demonstrated by epidemiological data.
 10. Formulate and adopt national bodies aimed at reducing and eliminating pollution of air, water and soil, including pollution by heavy metals such as lead from gasoline.
 11. Formulate, implement and periodically review a coherent national policy to minimize risk of occupational accidents and diseases and provide a coherent national policy on occupational safety and health services.

- D. **Obligation to fulfill (facilitate)** requires states to take positive measures that enable and assist individuals and communities to enjoy the right to health.
 - E. **Obligation to fulfill (provide)** a specific right when individuals or a group are unable, for reasons beyond their control to realize by themselves the right to health using the means at their disposal.
 - F. **Obligation to fulfill (promote)** requires States to undertake actions that create, maintain and restore the health of the population, including, among others:
 1. Foster recognition of factors favoring positive health results, e.g., research and provision of information.
 2. Ensure the health services culturally appropriate and that health care staff are trained to recognize and respond to specific needs of vulnerable or marginalized groups.
 3. Meet its obligation in the dissemination of appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services.
 4. Support people in making informed choices about their health.
- G. Core Obligations**
1. Ensure the right to access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable and marginalized groups.
 2. Ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone.
 3. Ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water.
 4. Provide essential drugs, as from time to time defined under WHO Action Program on Essential Drugs.
 5. Ensure equitable distribution of all health facilities, goods and services.
 6. Adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing health concerns of the whole population; the strategy and plan of action shall be devised and the processes shall include methods by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.

H. Obligations of comfortable priority

1. Ensure reproductive, maternal (pre- and post-natal) and child health care.
2. Provide immunization against major infectious disease occurring in the community.
3. Take measures to prevent, treat and control epidemic and endemic disease.
4. Provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them.
5. Provide appropriate training for health personnel, including education on health and human rights.

Right to Housing

- A. Obligation to take measures aimed at conferring legal security of tenure on persons and households currently lacking such protection, in genuine consultation with affected persons and groups.
- B. Obligation to ensure that the percentage of housing-related cost is, in general, commensurate with income levels.
- C. Obligation to establish housing subsidies for those unable to maintain affordable housing, as well as forms and levels of housing finance that adequately reflect housing needs.
- D. Obligation to protect tenants by appropriate means against unreasonable rent levels or rent increases.
- E. Obligation to take steps to ensure availability of natural and other building materials.
- F. Obligation to give due priority to those social groups living in unfavorable conditions by giving them particular legislation: policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others.
- G. Obligation to adopt a national housing strategy that defines the objectives for the development of shelter conditions, identifies resources available to meet these goals and the most effective way of using them, and sets out the responsibilities and time frame for the implementation of necessary measures. Such strategy should reflect extensive genuine consultation with and

participation by all affected including the homeless, the inadequately housed and their representatives.

- H. Obligation to take steps to ensure coordination between ministries and regional and local authorities to reconcile related policies (economics, agriculture, environment, energy, etc.)
- I. Obligation to undertake effective monitoring of housing situation; immediate obligation.
- J. Obligation to take measures that are sufficient to realize the right to housing for everyone in the shortest possible time in accordance with maximum of available resources; enabling strategies, combining with full commitment to obligations under the right to housing, are encouraged.
- K. State obligations in relation to forced evictions
 1. Obligation to respect – refrain from forced evictions and ensure that the law is enforced against its agents or third parties that carry out forced evictions.
 2. Obligation to adopt and implement legislation against forced eviction; legislation should include measures which:
 - a. Provide greatest possible security of tenure to occupiers of houses and land.
 - b. Conform to the International Covenant on Economic, Social and Cultural Rights.
 - c. Are designed to control strictly the circumstances under which evictions may be carried out.
 3. Obligation to ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies.
 4. Obligation to review relevant legislation and policies to ensure that they are compatible with obligations arising from right to housing and repeal or amend any legislation or policies that are inconsistent with requirements of the International Covenant on Economic, Social and Cultural Rights.
 5. Obligation of non-discrimination; obligation to ensure that, where evictions occur, appropriate measures are taken to ensure that no form of discrimination is involved.
 6. Obligation to ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with affected persons, with a view to avoiding, or at

least minimizing, the need to use force; legal remedies or procedures should be provided to those affected by eviction orders.

7. Obligation to ensure that individuals have the right to adequate compensation for any property, personal and real, that is affected.
8. Procedural protections in relation to forced evictions.
 - a. Opportunity for genuine consultation with those affected.
 - b. Adequate and reasonable notice for all persons prior to scheduled date of eviction.
 - c. Information on proposed evictions, and where applicable, on alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all affected.
 - d. Especially where groups of persons are involved, government officials of their representatives to be present during the eviction.
 - e. All persons carrying out evictions to be properly identified.
 - f. Evictions not to take place in particularly bad weather or at night unless affected persons consent.
 - g. Provisions of legal remedies.
 - h. Provision, where possible, of legal aid to persons in need to seek redress from courts.
9. Obligations to fulfill (provide) housing where evictions result in individuals rendered homeless or vulnerable to violations of other rights; includes adequate alternative housing, resettlement or access to productive land.

Right to Water

A. General Legal Obligations

1. Immediate obligation to guarantee that the right to water will be exercised without discrimination of any kind.
2. Immediate obligation to take steps towards the full realization of articles 11, paragraph 1, and 12; steps must be deliberate, concrete and targeted towards the full realization of the right to water.
3. Constant and continuing duty to move as expeditiously and effectively as possible towards the full realization of the right to water. Realization of the right should be feasible and practicable, since all State parties exercise control over a broad range of resources, including water, technology, financial resources and international assistance.
4. Retrogressive measures taken in relation to the right to water prohibited.

B. Specific Legal Obligations

1. Obligation to respect - refrain from interfering directly or indirectly with enjoyment of right to water. Includes:
 - a. Obligation to refrain from engaging in any practice or activity that denies or limits equal access to adequate water.
 - b. Obligation to refrain from arbitrarily interfering with customary or traditional arrangements for water allocation.
 - c. Obligation to refrain from unlawfully diminishing or polluting water, for example through waste from State-owned facilities or through use and testing of weapons.
 - d. Obligation to refrain from limiting access to, or destroying, water services and infrastructures as a punitive measure.
2. Obligation to protect - prevent third parties from interfering in any way with enjoyment of right to water. Includes:
 - a. Obligation to adopt necessary and effective legislative and other measures to restrain third parties from denying equal access to adequate water; polluting; and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.
 - b. Obligation to prevent third parties from compromising equal, affordable and physical access to sufficient, safe and acceptable water, where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties. Includes obligation to establish effective regulatory system, including independent monitoring, genuine public participation and imposition of penalties for non-compliance.
3. Obligation to fulfill - three dimensions: facilitate, promote and provide.
 - a. Obligation to facilitate requires State to take positive measures to assist individuals and communities to enjoy right to water.
 - b. Obligation to promote obliges State to take steps to ensure that there is appropriate education concerning hygienic use of water, protection of water sources and methods to minimize water wastage.
 - c. Obligation to fulfill (provide) right when individuals or groups are unable, for reasons beyond their control, to realize a right by themselves by means at their disposal.
4. Obligation to adopt necessary measures directed towards full realization of right to water. Includes:

- a. Obligation to accord sufficient recognition of right within national political and legal systems, preferably by way of legislative implementation.
 - b. Obligation to adopt national water strategy and plan of action to realize right.
 - c. Obligation to ensure that water is affordable for everyone.
 - d. Obligation to facilitate improved and sustainable access to water, particularly in rural and deprived urban areas.
5. Obligation to ensure that water is affordable requires States to adopt necessary measures, including:
- a. use of range of appropriate low-cost techniques and technologies;
 - b. appropriate pricing policies such as free or low-cost water;
 - c. income supplements; and
 - d. Any payment for water services based on principle of equity, ensuring services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with water expenses as compared to richer households.
6. Obligation to adopt comprehensive and integral strategies and programs to ensure sufficient and safe water for present and future generations, including:
- a. reducing depletion of water resources through unsustainable extraction, diversion and damming;
 - b. reducing and eliminating contamination of watersheds and water related ecosystems by substances such as radiation, harmful chemicals and human excreta;
 - c. monitoring water reserves;
 - d. ensuring that proposed developments do not interfere with access to adequate water;
 - e. assessing impacts of actions that may impinge upon water availability and natural ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of bio diversity;
 - f. Increasing efficient use of water by endusers;
 - g. reducing water wastage distribution;
 - h. response mechanisms for emerging situations; and
 - i. establishing competent institutions and appropriate institutional arrangements to carry out strategies and programs.
7. Obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account needs of women and children.

C. International Obligations

1. Obligation to respect enjoyment of right in other countries; to refrain from actions that interfere, directly or indirectly, with enjoyment of right to water in other countries; not to take any activities within a State party's jurisdiction that deprive another country of the ability to realize right to water for persons in its jurisdiction.
2. Obligation to refrain at all times from imposing embargoes or similar measures that prevent supply of water, as well as goods and services essential for securing right to water; water should never be used as an instrument of political and economic pressure.
3. Obligation to take steps to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries.
4. Depending on the availability of resources, obligation to facilitate realization of right to water in other countries, for example through the provision of water resources, financial and technical assistance, and necessary aid when required. In disaster relief and emergency assistance, including assistance to refugees and displaced persons, priority should be given to rights, including the provision of adequate water. International assistance should be provided in a manner consistent with Covenant and other human rights standards, and sustainable and culturally appropriate. It is special responsibility and interest of economically developed State Parties to assist poorer developing States.
5. Obligation to ensure that right to water is given due attention in international agreements; obligation to take steps to ensure that agreements do not adversely impact on right to water; agreements on trade liberalization should not curtail or inhibit a country's capacity to ensure the full realization of right to water.
6. Obligation that actions as member of international organizations shall take due account of right to water: obligation to take steps to ensure that right to water is taken into account in lending policies, credit agreements and other international measures.

D. Core Obligations

1. Obligation to ensure access to minimum essential amount of water, sufficient and safe for personal and domestic uses to prevent disease.
2. Obligation to ensure right of access to water and water facilities and services on non-discriminatory basis, especially for disadvantaged or marginalized groups.

3. Obligation to ensure physical access to water facilities or services that provide sufficient, safe and regular water; have a sufficient number of water outlets to avoid prohibitive waiting times, and at reasonable distance from household.
4. Obligation to ensure that personal security is not threatened when having to physically access water.
5. Obligation to ensure equitable distribution of all available water facilities and services.
6. Obligation to adopt and implement national water strategy and plan of action addressing the whole population; strategy and plan of action should be devised, and periodically reviewed on the basis of participatory and transparent process; should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; process by which strategy and plan of action are devised, and content shall give particular attention to all disadvantaged or marginalized groups.
7. Obligation to monitor extent of realization or non-realization of right to water.
8. Obligation to adopt relatively low-cost targeted water programs to protect vulnerable and marginalized groups.
9. Obligation to take measures to prevent, treat and control disease linked to water, in particular ensuring access to adequate sanitation.
10. Obligation to State parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfill core obligations.

E. Implementation at National Level

1. Obligation to use appropriate means recognizes that States have margin of discretion in assessing which measures are most suitable to meet specific circumstances. However, States must take whatever steps are necessary to ensure that everyone enjoys right to water as soon as possible. Any national measures designed to realize right to water should not interfere with enjoyment of other human rights.
2. Legislation Strategies and Policies
 - a. Review of existing legislation, strategies and policies to ensure compatibility with obligations arising from right to water.
 - b. Repeal, amendment or changes of existing legislation, strategies and policies if these are inconsistent with obligations.

- c. Adoption of national strategy or plan of action to realize right to water. Strategy must:
 - ▶ be based on human rights laws and principles;
 - ▶ cover all aspects of right to water and corresponding obligations;
 - ▶ define clear objectives;
 - ▶ set targets or goals to be achieved and timeframe for achievement;
 - ▶ formulate adequate policies and corresponding benchmarks and indicators;
 - ▶ establish institutional responsibility for the process;
 - ▶ identify resources available to attain the objectives, targets and goals;
 - ▶ allocate resources appropriately according to institutional responsibility;
 - ▶ establish accountability mechanisms to ensure implementation of strategy; and
 - ▶ when formulating and implementing right to water national strategies, States should avail of technical assistance and cooperation of the United Nations specialized agencies.
- d. Formulation and implementation of national water strategies and plans of action should respect principles of non-discrimination and people's participation. Right of individuals and groups to participate in decision-making processes that may affect exercise of right to water must be integral part of any policy, programs or strategy concerning water. Individuals and groups should be given full and equal access to information concerning water, water services and environment, held by public authorities or third parties.
- e. National water strategy and plan of action should also be based on principles of accountability, transparency and independence of judiciary, since good governance is essential to effective implementation of all human rights, including realization of right to water. In order to create favorable climate for realization of the right, States should take appropriate steps to ensure that the private business sector and civil society are aware of, and consider the importance of, the right to water in pursuing their activities.
- f. Adoption of framework legislation to operationalize right to water strategy. Such legislation should include:
 - ▶ targets or goals to be attained and timeframe for their achievement;
 - ▶ means by which the purpose could be achieved;

- ▶ intended collaboration with civil society, private sector and international organization;
 - ▶ institutional responsibility for the process;
 - ▶ national mechanisms for monitoring; and
 - ▶ remedies and recourse procedures.
- g. Steps should be taken to ensure sufficient coordination between national ministries, regional and local authorities in order to reconcile water-related policies, where implementation of right to water is delegated to regional or local authorities. State retains responsibility to comply with obligations and therefore should ensure that these authorities have at their disposal sufficient resources to maintain and extend necessary water services and facilities. States must further ensure that such authorities do not deny access to services on discriminatory basis.
- h. Obligation to monitor effectively the realization of right to water. In monitoring progress, States should identify factors and difficulties affecting implementation of their obligations.

F. Indicators and Benchmarks

1. Indicators should address different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by prohibitive grounds of discrimination, and cover all persons residing in State's territorial jurisdiction or under their control. States may obtain guidance on appropriate indicators from ongoing work of WHO, FAO, UN-Habitat, ILO, UNICEF, UNEP, UNDP and UN Commission on Human Rights.
2. Appropriate national benchmarks in relation to each indicator should be set. During periodic reporting procedure, Committee will engage in process of "scoping"—joint consideration by State party and Committee of indicators and national benchmarks which will then provide targets to be achieved during next reporting period. In the following five years, the State party will use its national benchmarks to help monitor its implementation of the right to water. Thereafter, in subsequent reporting process, State party and the Committee will consider whether or not benchmarks have been achieved, and reasons for any difficulties that may have been encountered. Further, when setting benchmarks and preparing their reports, State parties should utilize extensive information and advisory services of specialized agencies with regard to data collection and disaggregation.

G. Remedies and Accountability for persons or groups denied right to water; linked to right to access to effective judicial or other appropriate remedies at both national and international levels. All victims of violations of right to water are entitled to adequate reparation including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commission, and similar institutions should be permitted to address violation of the right.

1. Obligation to ensure that any action that interferes with an individual's right to water is performed in a manner warranted by law, compatible with the Covenant, and that comprises:
 - ▶ opportunity for genuine consultation with those affected;
 - ▶ timely and full disclosure of information on proposed measures;
 - ▶ reasonable notice of proposed actions;
 - ▶ legal recourse and remedies for those affected;
 - ▶ legal assistance for obtaining legal remedies; and
 - ▶ where such action is based on person's failure to pay for water, their capacity to pay must be taken into account. Under no circumstances shall an individual be deprived of minimum essential level of water.

2. Incorporation in domestic legal order of international instruments recognizing right to water can significantly enhance scope and effectiveness of remedial measures and should be encouraged in all cases. Incorporation enables courts to adjudicate violations of right to water, or at least core obligations, by direct reference to the Covenant.
3. Judges, adjudicators and members of legal profession should be encouraged by States to pay greater attention to violations of rights to water.
4. States should respect, protect, facilitate and promote work of human rights advocates and other members of civil society with a view to assisting vulnerable or marginalized groups in the realization of right to water.

H. Obligations of Actors other than States

1. United Nations agencies and other international organizations concerned with water (such as WHO, FAO, UNICEF, UNEP, UN-Habitat, ILO, UNDP, the International Fund for Agricultural Development), and International organizations concerned with trade (such as the World Trade Organization), should cooperate effectively with States in relation to implementation of right to water at national level.

2. International financial institutions, notably International Monetary Fund and World Bank, should take into account right to water in their lending policies, credit agreements, structural adjustment programs and other development projects, so that enjoyment of the right is promoted.
3. When examining reports of State parties and their ability to meet obligations to realize right to water, Committee will consider effects of assistance provided by all other actors. Incorporation of human rights laws and principles in programs and policies by international organizations will greatly influence implementation of right to water.
4. The role of International Federation of the Red Cross and Red Crescent Societies, International Committee of the Red Cross, Office of the United Nations High Commissioner for Refugees, WHO, UNICEF, and non-governmental organizations and other associations of particular importance in disaster relief and humanitarian assistance in times of emergencies has to be defined. Priority in provision of aid, distribution and management of water and water facilities should be given to most vulnerable or marginalized groups of the population.

Source: *Excerpts from: Maria Socorro I. Diokno, Human Rights Centered Development, 7 July 2002, pp. 149-175.*

Supplementary Reading Paper 7

BRIEF INTRODUCTION TO RIGHTS-BASED PROGRAMMING

Joachim Theis

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A rights-based approach to development promotes justice, equality and freedom and tackles the power issues that lie at the root of poverty and exploitation. To achieve this, a rights-based approach makes use of the standards, principles and methods of human rights, social activism and development.

Development is concerned with the distribution of resources and the access to services, such as health, education, social welfare, poverty alleviation and income generation. Social and political activism mobilizes people to demand the redistribution of power. Examples include the redistribution of wealth between rich and poor nations through debt relief or a change in trade rules, women demanding equal pay for equal work, workers demanding fair pay and benefits, or landless peasants demanding the distribution of farmland.

Main human rights treaties:

1948	Universal Declaration of Human Rights
1949	Geneva Conventions
1965	Convention on the Elimination of all Forms of Racial Discrimination
1966	Covenant on Civil and Political Rights
1966	Covenant on Economic, Social and Cultural Rights
1979	Convention on the Elimination of all Forms of Discrimination Against Women
1984	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
1989	Convention on the Rights of the Child

Human rights are enshrined in a set of internationally agreed legal and moral standards. Such universally agreed standards are largely absent in conventional development theory and practice.

Rights are universal. Human rights treaties establish the basic civil, political, economic, social and cultural entitlements and freedoms of every human being—anywhere in the world—at all times. Equality, non-discrimination and inclusion are fundamental human rights

Rights are inalienable. Every human being is entitled to the same human rights from birth. Human rights cannot be taken away or given up.

Rights come with responsibilities. Central to the idea of human rights is the relationship between right holder and duty bearer. States (and other duty bearers) are responsible for ensuring that the rights of all people are equally respected, protected and fulfilled. This does not mean that the State is responsible for providing everything. It does mean, however, that the State has an obligation to create the conditions that enable other bearers, such as parents, private sector, local organizations, donors, and international institutions, to fulfill their responsibilities. Right holders are responsible to respect and not to violate the rights of others.

States have the duty to respect, protect, fulfill rights:

Respecting rights means that State laws, policies, programs and practices must not violate rights. States must avoid interfering with people's pursuit of their rights, whether through torture or arbitrary arrest, illegal forced housing evictions, or the introduction of medical fees that make health care unaffordable for poor people.

Protecting rights means that States must prevent violations by others, and must provide affordable, accessible redress, for example, ensuring that employers comply with basic labor standards, preventing monopoly ownership of the media, or preventing parents from keeping their children out of school.

Fulfilling rights means that States must take positive actions to realize rights, for example; creating legislation that enshrines equal pay for equal work or increasing budgets to the poorest regions.

International donors have an obligation to ensure that their social and economic policies are based on and promote international human rights standards, such as free and compulsory education for all children. They are responsible for allocating adequate resources for health and education programs. They have an obligation to ensure that debt payments and economic restructuring do not force poorer countries to cut back on the provision of basic social services, and leave poor countries without the resources to provide education for all children. They also have an obligation to remove agricultural subsidies and trade barriers that deny poor countries access to rich country markets.

Participation is a fundamental human right. Every child, woman and man is entitled to demand her or his rights from duty bearers. The rights to information, expression and association are some of the instruments with which people can demand their rights.¹

Rights are indivisible and interdependent. Human rights include the whole range of civil, political, social, economic and cultural rights. Denying certain rights undermines other rights. For example, if the Government withholds information about the outbreak of an epidemic the people cannot protect themselves and are denied their right to health. States that do not provide protection from domestic violence undermine women's and children's right to health.

Changes needed to realize rights. Implementing human rights requires much more than ratifying an international treaty. It requires that States and other duty bearers:

- ▶ Change policies, laws and programs;
- ▶ Promote economic policies that enable rights;
- ▶ Ensure more effective enforcement of laws against rights violations;
- ▶ Allocate larger budgets and more resources for poor, marginalized and at-risk people;
- ▶ Change awareness, attitudes, behaviors, practices, norms and values;
- ▶ Improve the quality, relevance and responsiveness of institutions and services;
- ▶ Create opportunities for greater participation of right holders in decisions and in claiming their rights; and
- ▶ Gather better data about people and monitor the fulfillment of their rights.

Progressive realization. Human rights approach recognizes that the capacities and resources to fulfill rights are often limited in poor countries. The idea of progressive realization takes this into account and allows countries to make progress towards realizing rights based on their resources. This principle should not be abused, however. States have no excuse for violating freedoms of expression, information, protection from torture, discrimination, etc. Every State has options and makes decisions on how much to spend on health and education and how much on defense.

Rights-based programming holds people and institutions who are in power accountable to fulfill their responsibilities toward those with less power. It also supports right holders to demand their rights and to be involved in political, economic and social decisions in society. It aims to increase impact and strengthen

¹ There are a few exceptions to this rule, during a state of emergency the right to expression and information may be suspended. Prison inmates are denied the freedom of movement. However, states are obligated not to abuse these exceptions and may never be suspended.

sustainability by addressing root causes, bringing about policy and practice changes, working together with others towards common goals and by changing power relations.



Implications: A rights-based approach has a number of implications for programming:

Long-term goals with a clear focus on people and their rights. This requires analyzing problems, causing responsibilities at local, national and international levels.

Working together with other government and non-government agencies towards common rights-based goals;

Equity and non-discrimination: concentrating on the worst rights violations and on paying particular attention to the most marginalized people;

Accountability: Strengthening the accountability of duty bearers for human rights at all levels. This should be achieved through a combination of direct action, changes in laws and policies, changes in institutional rules and practices, and changing attitudes and behaviors; and

Participation: Supporting right holders (children, adults and civil society institutions) to demand their rights.

Rights-based goals differ from partial and time-bound development targets. They are 100% goals (or visions) that relate directly to the realization of human rights (e.g., 'Education for All'). A rights-based goal is only achieved when all people enjoy the right. Such goals provide a common focus for work of different organizations. Without such goals, there is no guarantee that program work will contribute towards realizing the intended right. Organizations have to prioritize their own mandate, expertise and skills.

Working together towards a common goal. Rights-based goals are linked to the realization of human rights. They are not based on what one organization is able to accomplish. To achieve such a broad, ambitious and long-term goal requires work at different levels, by different organizations forming alliances, and using a variety of approaches. It also means joint analysis, common strategies, and collaborations between organizations. In rights-based programming, institutions can no longer work in isolation from each other.

Concentrating on the worst rights violations and the most marginalized people is an essential part of a rights-based approach. Development programs often try to reach the largest number of people with their limited resources. As a result, those people who are hardest to reach are often overlooked and thereby excluded. A rights-based approach makes special efforts to identify those who are most marginalized to ensure that their rights are not forgotten. However, this does not mean that a rights-based development approach focuses exclusively on those groups who are most excluded in society.

Accountability and participation: The primary role of a rights-based development organization is to contribute to the fulfillment of human rights by identifying relevant duty bearers and getting them to meet their obligations, and by empowering poor and exploited people to claim their entitlements. Directly meeting needs and fulfilling rights helps people, but it does not necessarily strengthen the accountability of duty bearers. It also does not strengthen people's own ability to claim their rights. Where organizations provide services, this should be done in ways that strengthen the accountability of duty bearers and empower people.

Methods: Rights-based programming uses a wide range of methods to achieve concrete and sustainable results for people and their rights. This approach works to get duty bearers to fulfill their obligations, to support right holders to claim their rights, to fight discrimination and to strengthen equality and inclusion. The choice of appropriate action depends on the opportunities in a particular country, on the rights or issues that are being addressed, and on the organizations' mandate and expertise.

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Methods used in rights-based programming:

- ▶ Put pressure on decision makers to change policies, laws, programs and budget allocations.
- ▶ Mobilize people to demand changes in policies and resource allocations.
- ▶ Use the media to raise awareness and to report abuses of power and rights violations.
- ▶ Establish and monitor standards, rules and procedures. Create systems of incentives and sanctions to enforce these standards.
- ▶ Watchdog organizations and functions
- ▶ Audit the quality of government services.



- ▶ Monitor and report human rights violations
- ▶ Human rights education
- ▶ Use courts to achieve justice and equality.

For example, to combat child sexual abuse in Vietnam, an organization may advocate changes in legislation, use media to educate the public about sexual abuse, train social workers and law enforcement personnel in child protection methods, or establish mechanisms for listening to children in schools or orphanages. An agency working in Cambodia to eradicate poverty may support grassroots organizations to demand land rights for landless peasants, or support the Cambodian Government to lobby rich countries to remove trade barriers and open their markets to Cambodian goods.

Conventional approaches to realize human rights include human rights education, monitoring and reporting of human rights violations, sanctions, media campaigns, advocacy and lobbying, and using the court system to achieve justice and equality. Rights-based programming combines approaches from human rights, social activism and development.

Let me give some examples.

To give an example, a rights-based approach to health uses a combination of support and pressure to urge government departments to make basic health care accessible and affordable for all people in the country. It supports people and organizations to demand better health services from the government and from other duty bearers, to allocate the health budget in a way that benefits the poor rather than the rich, to make health services more patient-friendly, to make health insurance affordable for all people, to provide access to safe drinking water, or to control polluting industries. Far from creating dependency, such an approach empowers people to take action to claim what is their due, rather than passively accepting whatever the government is willing to give them. Adopting a rights based approach to development has implications for programming.

Example of rights-based programming: campaign to lower the costs of AIDS drugs. People with AIDS who live in rich countries are able to pay for the expensive drugs they need to prolong their lives. Most people in poor countries, however, cannot afford the medicines and are left to die.

In 2001 the international NGO Oxfam, together with other international and national NGOs, launched a global campaign to force the world's largest pharmaceutical companies to lower the costs of their AIDS drugs. To get their message across, Oxfam lobbied key decision makers in pharmaceutical companies and in governments, used the media, and organized public action. The organization combined these three approaches to mobilize public opinion to build pressure on decision makers to make the necessary changes. The campaign was very effective and created a lot of very negative publicity for the drug companies. Within a few

days the corporations lowered the prices for AIDS drugs sold in poor countries in order to avoid further negative publicity.

This example shows how rights-based organizations are developing new approaches and strategies at global, regional and national levels to force people in power to bring about changes that benefit poor and marginalized people.

Example: Auditing – Right to Information – Transparency – People's Hearings in Rajasthan, India

The second example comes from India. It focuses on the right to information. The *jan sunwai* or people's hearings local audit method was introduced in Rajasthan in 1994 by MKSS (Mazdoor Kisan Shakti Sangthan), a small community-based organization. This audit method involves research into suspected corruption in local development projects, especially employment-generation schemes targeted at poor people and communities. Information generated in this way is compared with information from local government offices about funds allocated and actually spent on local development projects. Villagers, particularly laborers, suppliers and contractors on local projects, are asked to verify whether they received the money due them, or whether construction took place as claimed. Discrepancies are noted and officials are asked to return missing sums. This process has now been institutionalized. A revision of the local government act in 2000 gives village assemblies the right to audit local spending, and to demand an investigation by District officials in cases where corruption has been discovered. (Bringing Citizen Voice and Client Focus into Service Delivery: 25)

Source: Joachim Theis, *Brief Introduction to Rights-Based Programming, Save the Children-Sweden, August 2003.*

Supplementary Reading Paper 8

PRIMER ON HUMAN RIGHTS IN DEVELOPMENT

What are rights in development?

"Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing." (*Vienna Declaration and Program of Action*)

Article 1 of the Charter of the United Nations identifies international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms as one of the purposes of the Organization.

Since the United Nations was founded, human rights have been at the center of its activities, also in the area of development.

In 1995, the *Copenhagen Declaration* reaffirmed the link between human rights and development by establishing a new consensus that places people at the center of concerns for sustainable development, and by pledging to eradicate poverty, to promote full and productive employment, and to foster social integration to achieve stable, safe and just societies for all.

Is development a right?

The right to development is a fundamental human right rooted in the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The Declaration on the Right to Development made the right explicit, stating that the right to development is an inalienable right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development.

In 1993, the World Conference on Human Rights affirmed the right to development by consensus.

What is development from a human rights perspective?

Development is people-centered, participatory and environmentally sound. It involves not just economic growth, but equitable distribution, enhancement of people's capabilities and widening of their choices. It gives top priority to poverty elimination, integration of women into the development process, self-reliance and self-determination of people and Governments, and protection of the rights of indigenous people.

The rights-based definition of development in Article 1 of the *Declaration on the Right to Development* sees it as a comprehensive economic, social, cultural and political process. Its object is the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the resulting benefits. The human rights approach to development is therefore integrated and multidisciplinary.

What is a rights-based approach to development?

A rights-based approach to development is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.

Essentially, a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development.

The norms and standards are those contained in the wealth of international treaties and declarations. The principles include equality and equity, accountability, empowerment and participation. A rights-based approach to development includes the following elements:

1. Express linkage to rights

The definition of the objectives of development in terms of particular rights – as legally enforceable entitlements – is an essential ingredient of human rights approaches, as is the creation of express normative links to international, regional and national human rights instruments.

Rights-based approaches are comprehensive in their consideration of the full range of indivisible, interdependent and interrelated rights: civil, cultural, economic, political and social. This calls for a development framework with sectors that mirror internationally guaranteed rights, thus covering, for example, health, education, housing, justice administration, personal security and political participation.

By definition, these approaches are incompatible with development policies, projects or activities that have the effect of violating rights, and they permit no "trade-offs" between development and rights.

2. Accountability

Rights-based approaches focus on raising levels of accountability in the development process by identifying claim-holders (and their entitlements) and corresponding duty-holders (and their obligations). In this regard, they look both at the positive obligations of duty-holders (to protect, promote and provide) and

at their negative obligations (to abstain from violations). They take into account the duties of the full range of relevant actors, including individuals, States, local organizations and authorities, private companies, aid donors and international institutions.

Such approaches also provide for the development and adequate laws, policies, institutions, administrative procedures and practices, and mechanisms of redress and accountability that can deliver on entitlements, respond to denial and violations, and ensure accountability. They call for the translation of universal standards into locally determined benchmarks for measuring required progress and enhancing accountability.

For all human rights, States must have both the political will and the means to ensure their realization, and they must put in place the necessary legislative, administrative, and institutional mechanisms required to achieve that aim.

Under the *International Covenant on Economic, Social and Cultural Rights*, States are required to take immediate steps for the progressive realization of the rights concerned, so that a failure to take necessary steps, or any retrogression, will flag a breach of the State's duties.

Under the *International Covenant on Civil and Political Rights*, States are bound to respect the rights concerned, to ensure respect for them and to take the necessary steps to put them into effect. Some rights claimed in some jurisdictions may not be justifiable before a court, but all rights must be enforceable.

While primary responsibility under the human rights system lies with individual States, the international community is also duty bound to provide effective international cooperation, inter alia in response to shortages of resources and capabilities in developing countries.

3. Empowerment

Rights-based approaches also give preference to strategies for empowerment over charitable responses. They focus on beneficiaries as the owners of rights and the directors of development, and emphasize the human persons as the center of the development process (directly, through their advocates and through organizations of civil society).

The goal is to give people the power, capacities, capabilities and access needed to change their own lives, improve their own communities and influence their own destinies.

4. Participation

Rights-based approaches require a high degree of participation, including from communities, civil society, minorities, indigenous peoples, women and others. According to the UN Declaration on the Right to Development, such participation

must be "active, free and meaningful" so that mere formal or "ceremonial" contacts with beneficiaries are not sufficient.

Rights-based approaches give due attention to issues of accessibility, including access to development processes, institutions, information and redress or complaint mechanisms. This also means situating development project mechanisms in proximity to partners and beneficiaries. Such approaches necessarily opt for process-based development methodologies and techniques, rather than externally conceived "quick fixes" and imported technical models.

5. Non-discrimination and attention to vulnerable groups

The human rights imperative of such approaches means that particular attention is given to discrimination, equality, equity and vulnerable groups. These groups include women, minorities, indigenous peoples and prisoners, but there is no universal checklist of who is most vulnerable in every given context. Rather, rights-based approaches require that such questions be answered locally: who is vulnerable here and now? Development data need to be disaggregated, as far as possible, by race, religion, ethnicity, language, sex and other categories of human rights concern.

An important aspect of rights-based approaches is the incorporation of express safeguards in development instruments to protect against threats to the rights and well-being of prisoners, minorities, migrants and other often domestically marginalized groups. Furthermore, all development decisions, policies and initiatives, while seeking to empower local participants, are also expressly required to guard against simply reinforcing existing power imbalances between, for example, women and men, landowners and peasants, and workers and employers.

Is there only one rights-based approach?

There is no single, universally agreed rights-based approach, although there may be emerging consensus on the basic constituent elements.

Today, OHCHR and its partners are working to define the operational implications of such approaches, and to explain their practical "added value" more clearly to development planners and professionals.

A host of United Nations programs, non-governmental organizations, national institutions and bilateral agencies are now cooperating and contributing to the development of rights-based approaches.

Are rights-based approaches new?

While it has recently received unprecedented attention, the idea of rights-based approaches is not a new concept. Many of its elements have been tried and tested for years. There is a growing catalogue of successful case studies registered by many countries and many programs.

The assistance program administered by OHCHR has been based on international human rights standards since 1955. The ILO has operated within a rights framework that predates the United Nations itself. UNICEF has been developing such approaches for several years. UNDP has long pioneered in people-centered approaches. Development NGOs like Oxfam, Care and others have also embraced rights-based approaches. Each has made an important contribution to the evolution of the concept and of related practice.

What are the main development concerns of indigenous peoples?

National development processes have often failed to include the free and meaningful participation of indigenous peoples. As a result, national development objectives and policies, as conceived by national-level officials and process, have not always been consistent with the views, wishes and interests of indigenous peoples affected by them.

Some have had a serious negative impact on indigenous communities, including displacement, loss of livelihood, destruction of local environments, damage to sacred sites and, from the perspective of indigenous peoples, an intrusive, unsustainable and unplanned influx of outsiders into traditional territories. Indigenous peoples are thus often wary of programs offered in the name of development.

While not opposed to development policies that bring improvements nationally and locally, indigenous peoples have consistently insisted that they be empowered to effect decisions that have an impact on their communities and rights.

Recognition of and respect for land and resources are fundamental to many indigenous belief systems. Experience has shown that conflicts arise when development projects take place without an understanding of, or respect for, indigenous peoples' strong spiritual attachment to and traditional association with their lands and territories.

Emerging international and State standards and practices are increasingly recognizing that indigenous peoples should have rights over their lands and development projects that affect them. Article 30 of the *draft United Nations Declaration on the rights of indigenous people's states that indigenous peoples have the right "to determine and develop priorities and strategies for the development or use of their lands, territories or other resources."*

Chapter 26 of Agenda 21 of the United Nations Conference on Environment and Development calls upon intergovernmental organizations to establish a process that empowers indigenous people and their communities through, inter alia, recognition of their lands, support for alternative environmentally sound means of production and arrangements to strengthen indigenous participation in the

national formulation of policies, laws and programs relating to resource management and development that may affect them.

Rights-based development processes will give due attention to the need to avoid paternalistic or externally conceived responses. They will recognize the need to ensure the full, free, active and meaningful participation of indigenous peoples in the planning, implementation and evaluation of development policies, projects and decisions, and will recognize the potential value of indigenous contributions to such processes. They will also respect indigenous peoples' rights over their land and resources, and will obtain the prior informed consent of indigenous peoples for projects on their lands. Finally, due regard will be given to the need to ensure that indigenous peoples enjoy equitable benefits from economic activities affecting them.

The United Nations began its first formal work on indigenous people in 1982 with the establishment of the *Working Group on Indigenous Populations*. Since then, a wide range of activities have been undertaken as part of the Organization's human rights program and by the United Nations system as a whole.

By *resolution 2001/57*, the Commission on Human Rights decided to appoint, for a three-year period, a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, with, inter alia, the functions of gathering and exchanging information and communications from all relevant sources and formulating recommendations and proposals to prevent and remedy violations of such human rights and fundamental freedoms.

How do rights-based approaches differ and what is the value added?

In her opening statement to the General Assembly Special Session on Social Development held in Geneva in June 2000, the High Commissioner pointed out that rights-based approaches bring the promise of more effective, more sustainable, more rational and more genuine development processes.

In particular, and among others, they offer:

Enhanced accountability by identifying specific duties of duty-bearers in the development process. In this way, development moves from the realm of charity to that of obligation, making it easier to monitor progress.

Higher levels of empowerment, ownership, and free, meaningful and active participation, by putting beneficiaries in charge of development. It is now widely recognized in development circles that local ownership and participation are fundamental to sustainable improvements.

Greater normative clarity and detail, provided by the international instruments and the authoritative interpretations of treaty bodies and human rights mechanisms, which list and define the content of development, including the requirements of, for example, health, education, housing and governance.

International standards in the form of treaties, declarations, guidelines and bodies of principles are public and readily accessible tools describing in remarkable detail the institutional and development requirements of the various guaranteed rights.

Easier consensus, increased transparency and less "political baggage" in the national development processes, as development objectives, indicators and plans can be based on the agreed and universal standards of the international human rights instruments rather than on imported foreign models, prescriptive solutions, partisan approaches or arbitrary policies.

A more complete and rational development framework, with development sectors mirroring the enumerated rights of the human rights framework. While some sectoral development matrices have focused exclusively on selected economic sectors, the more comprehensive human rights framework provides guidance on all areas of human development, including health, education, housing, personal security, justice administration and political participation.

Integrated safeguards against unintentional harm by development projects: There is no shortage of example of harm caused by development agreements, projects and activities that have taken inadequate account of human rights concerns. Rights-based approaches include measures of protection organically incorporated in development plans, policies and projects from the outset.

More effective and complete analysis: Traditional poverty analyses based their judgments on income and economic indicators alone. A human rights analysis reveals additional concerns of the poor themselves, including the phenomena of powerlessness and social exclusion. A more thorough analysis yields better responses and better results.

A more authoritative basis for advocacy and for claims resources, with international legal obligations and national commitments empowering development advocates in their quest to have, for example, basic social services given priority over military expenditure, or sounding the alarm when "progressive realization" of economic and social rights stalls, is reversed, or is compromised by conflicting trade or adjustment agreements.

What about the gender dimension of development?

Rights-based approaches to development emphasize non-discrimination, attention to vulnerability and empowerment. Women and girls are among the first victims of discrimination. They are the most vulnerable and the least empowered in many societies.

To protect women's rights, the international community has created specific standards. In 1979, the United Nations General Assembly adopted the *Convention on the Elimination of All Forms of Discrimination against Women*.

The Convention, which entered into force on 3 September 1981, establishes women's right to non-discrimination on the basis of sex and affirms equality in international law. It is monitored by the Committee on the Elimination of Discrimination against Women (CEDAW).

Recent world conferences, including Vienna (1993), Cairo (1994) and Beijing (1995), have confirmed the strong link between the gendered nature of violations of human rights and the advancement of women's rights.

The 1993 *Vienna Declaration and Program of Action* affirmed the human rights of women as an inalienable, integral and indivisible part of human rights and demanded that the equal status and human rights of women be integrated into the mainstream of United Nations system-wide activity.

Gender mainstreaming has been defined by the United Nations as the process of assessing the implications for women and men of any planned action, including legislation, policies and programs, in any area and at all levels (*ECOSOC Agreed Conclusions 1997/2*).

In 1998, the Economic and Social Council (ECOSOC) adopted resolution 1998/11 on mainstreaming a gender perspective into the policies and programs of the United Nations system, and decided to pay particular attention to what has been called the "feminization" of poverty, its causes and remedies. The Organization has now committed itself to integrating a gender perspective into all areas of United Nations work, including development.

In Resolution 2000/5 the Commission on Human Rights affirmed the need to apply a gender perspective in the implementation of the right to development, inter alia by ensuring that women play an active role in the development process. It emphasized that the empowerment of women and their full participation on the basis of equality in all spheres of society is fundamental for society.

At its fifty-fifth session, the Commission requested all human rights treaty bodies, special procedures and the Sub-Commission on the Promotion and Protection of Human Rights to adopt a systematic gender perspective when implementing their mandates (*E/CN.4/RES/1999/41*).

In accordance with this resolution, OHCHR is endeavoring to mainstream gender issues both within and outside the Office. Gender concerns will be reflected in the conceptualization, implementation and evaluation of human rights policies, strategic planning, and the setting of priorities and objectives (UN Office of the High Commission on Human Rights).

Sources: *Trainors' Training on Rights-Based Approach to Development, 2003 and Mainstreaming Human Rights in Development and Governance in Mindanao, 2004.*

*Supplementary Reading Paper 9***WHAT ARE THE HUMAN RIGHTS PRINCIPLES THAT GUIDE DEVELOPMENT****1. Accountability**

- ▶ Government must be answerable to those it governs.
- ▶ Government must be responsible for all its decisions and actions.

2. Attention to Vulnerable Groups

- ▶ Great importance must be given to the promotion and protection of the human rights of persons belonging to groups that have been rendered most vulnerable.
- ▶ States have an obligation to create and maintain adequate measures at the national level, in the fields of:

- ▲ Education
- ▲ Health
- ▲ Social Support
 - ▼ for the promotion of the rights of persons in vulnerable sectors and
 - ▼ to ensure their participation.

3. Empowerment

- ▶ Power to act for and on their own behalf to claim their rights.
- ▶ Emphasis on efforts of the people themselves to bring about the necessary changes towards the full realization of all human rights.

4. Equality

- ▶ All persons should enjoy all human rights on an equal basis, and in their totality.
- ▶ Equality demands women and men equally enjoy and exercise all fundamental rights and freedoms.
- ▶ Equality does not mean identical treatment in every instance.
- ▶ Equality sometimes requires State parties to take affirmative action in order to diminish or eliminate conditions that cause or help perpetuate discrimination.

- ▲ Such action may involve granting certain preferential treatment for a time to part of the population.

5. Equity

- ▶ In the guarantee of fundamental rights and freedoms, equity is:
 - ▲ Fairness
 - ▲ Justice
 - ▲ Impartiality

6. Good Governance

- ▶ Key attributes of good governance:
 - ▲ Transparency
 - ▲ Responsibility
 - ▲ Accountability
 - ▲ Participation
 - ▲ Responsiveness to the needs of the people
- ▶ Good governance linked to an enabling environment conducive to the enjoyment of human rights and promoting growth and sustainable human development.
- ▶ Eight Major Characteristics of Good governance:
 - ▲ Participatory
 - ▲ Consensus oriented
 - ▲ Accountable
 - ▲ Transparent
 - ▲ Responsive
 - ▲ Effective and Efficient
 - ▲ Equitable and inclusive
 - ▲ Follows the rule of law
- ▶ Good governance assures corruption and abuse are minimized.
- ▶ Good governance assures the views of the vulnerable and marginalized are taken into account.
- ▶ Good governance is responsive to the present and future needs of society.
- ▶ Good governance requires mediation of the different interests in society:
 - ▲ to reach a broad consensus of what is the best for the whole community;
 - ▲ how this can be achieved;
 - ▲ what is needed for development.

- ▶ Good governance implies that structures and processes of institutions are coherent with their public role.
- ▶ The true test of "good" governance is the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights.
- ▶ Key question: Are the institutions of governance effectively guaranteeing the rights to health, adequate housing, sufficient food, quality education, fair justice and personal security, etc.?

7. Independence of the Judiciary

- ▶ The judiciary is the final arbiter of all disputes that may arise from the exercise of human rights.
- ▶ Crucial roles of judiciary:
 - ▲ Protecting human rights
 - ▲ Respecting human rights
 - ▲ Fulfilling human rights
- ▶ Independence of the Judiciary should be guaranteed.
- ▶ The Judiciary should decide all matters before them with partiality:
 - ▲ on the basis of fact,
 - ▲ in accordance with law, and
 - ▲ without any improper influence or pressure.

8. Indivisibility

- ▶ "Human rights are so inextricably intertwined that the absence of one negates the presence of the others."
- ▶ "We cannot enjoy civil and political rights unless we enjoy economic, cultural and social rights, anymore than we can insure our economic, cultural and social rights, unless we can exercise our civil and political rights."

9. Interdependence and Interrelatedness

- ▶ Our enjoyment and exercise of a particular human right are dependent on our enjoyment or non-enjoyment of other human rights.
- ▶ Human rights are interlinked with one another.

10. Legislative Capacity

- ▶ Human rights standards must be guaranteed by law.
- ▶ The legislature must enact laws that aim always and only to uphold the inherent dignity of every person.
- ▶ A fair and just legal framework – coupled with the impartial and effective implementation of law is essential for the exercise and enjoyment of all human rights.
- ▶ Public policy that finds expression in law must be carefully scrutinized by the legislature to ensure its compatibility with human rights.
- ▶ A national budget that prioritizes public expenditures for the creation of conditions necessary for the exercise and enjoyment of human rights and that generates public revenues on the basis of equity and justice must be carefully reviewed by the legislature before enactment into law.

11. Non-discrimination

- ▶ All persons are entitled to human rights, without distinction of any kind, exclusion, restriction or preference based on:
 - ▲ race
 - ▲ color
 - ▲ gender
 - ▲ language
 - ▲ disability
 - ▲ age
 - ▲ religion
 - ▲ political or other opinion
 - ▲ national or social origin
 - ▲ property
 - ▲ birth
 - ▲ other status

12. People's Participation

- ▶ People directly or through their advocates, individually and or collectively through organizations, must participate in and direct the course of development aimed at strengthening their claims to and realization of – human rights.
- ▶ Participation is more than mere consulting the people.

13. Transparency

- ▶ Transparency allows all persons to see openly into all activities of government.

- ▶ Transparency involves full, free and public disclosure of all activities of the government.
- ▶ Transparency requires effective efforts to build public understanding of the objectives of the policy, the nature of responsibilities of public authority and the process of governance.
- ▶ Decisions taken by the government—and their enforcement—must be done in a manner that follows rules and regulations.
- ▶ Information must be freely available and directly accessible to those who will be affected by public decisions and enforcement.
- ▶ Enough information in easily understandable forms and on a timely basis must be provided.
- ▶ Creating effective transparency requires more than just making information available about policy objectives, policy responsibilities, policy decisions and performance results; transparency dictates a high standard of the quality of information disclosed in terms of content clarity, accessibility and data disclosed.
- ▶ Transparency involves access to important meetings and participation in such meetings, including providing input into government decisions and rule making at all levels of governance.

14. Universality

- ▶ Human rights belong to everyone, everywhere.
- ▶ Human rights are based on the inherent dignity of every person.

Source: Excerpts from Maria Socorro I. Diokno, Human Rights Centered Development, 7 July 2002, 125-131.

Supplementary Reading Paper 10

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Overview

'The Convention on the Elimination of all Forms of Discrimination Against Women' is perhaps best described as an international bill of rights for women as it sets out in detail both what is to be regarded as discrimination against women and the measures that have to be taken in order to eliminate this discrimination. Women's rights are conceptualized as human rights and a "non-discrimination" model is adopted, so that women's rights are seen to be violated if women are denied the same rights as men.'

The Convention was adopted by the General Assembly of the United Nations on 18 December 1979. It entered into force on 3 September 1981. As of November 2, 2003, 174 States have become parties to the Convention (1 State is a remaining signatory). The Convention has one Optional protocol.

The preamble recalls that the elimination of discrimination against women and the promotion of equality between women and men are central principles of the United Nations Charter and constitute binding obligation under it. It further states that discrimination against women violates the principles of equality and obstructs women's participation, on equal terms with men, in the political, social, economic and cultural life of their countries.

Monitoring Mechanism

Article 17 of the Convention on the Elimination of All Of Forms of Discrimination Against Women establishes the Committee on the Elimination of Discrimination against Women to oversee the implementation of its provisions. The Committee is composed of 23 experts and has since its inception, with only one exception, been considered entirely of women.

Under article 18 of the Convention, State parties are required to submit reports every four years to the Secretary-General of the United Nations on legislative, judicial and other measures that they have taken in accordance with the provisions of the Convention. These reports are for consideration by the Committee. The Committee has developed two sets of general guidelines for reporting in an effort to provide practical technical assistance to States parties.

Provisions

The provisions of the Convention are divided into six parts. The first four deal with substantive rights.

Part I

Articles 1-6 include the definition of discrimination against women. In addition, they also include legal, administrative and other measures that should be taken by State parties under the Convention.

Part II

Articles 7-9 contain obligations of States regarding the protection of women's rights in political and public life.

Part III

Articles 10-14 contain provisions regarding elimination of discrimination against women in the field of education, employment, health, and economic, social and cultural life. This part also includes obligation of States regarding special problems of rural women.

Part IV

Articles 15-16 contains provisions regarding affording equality of women with men before the law, in the exercise of their legal rights, and in marriage and family law.

Part V

Articles 17-22 deals with the establishment of a Committee on the Elimination of Discrimination Against Women to monitor the progress of the implementation of the Convention by state parties.

Part VI

Articles 23-30 deals with other procedural issues including provision for making reservation while ratifying or acceding to the Convention.

ARTICLE 1: Definition of Discrimination Against Women

Article 1 defines what constitutes "discrimination against women". The Convention defines discrimination against women broadly. Under the Convention "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of hampering the enjoyment by women of their human rights. The rights enshrined in the Convention applies to all women, irrespective of

their marital status. It prohibits discrimination in "political, economic, social, cultural, civil or any other" fields. More important, it covers discrimination in public and private ("or any other") actions. The Convention prohibits intentional and unintentional discrimination.

ARTICLE 2: Obligations of State Parties to the Convention

This article requires that State parties take appropriate constitutional, legal and administrative measures to guarantee equality. They also have an obligation to provide remedies and sanctions for public and private acts of discrimination to repeal discriminatory laws. The State parties must take measures to eliminate practices that either risks threatening or actually threatens the enjoyments of the rights contained in the Convention.

ARTICLE 3: Obligation to Take Measures for Ensuring Equality Between Men and Women

Article 3 provides for equality between men and women which is a precondition for women's full enjoyment of human rights. The obligations of State parties include development of appropriate program and measures to advance the status of women so that they can enjoy human rights on a basis of equality with men.

ARTICLE 4: Obligation to Take Positive Measures

Article 4 recognizes that State parties besides removing discriminatory practices should also take positive action to promote equality. Thus, it acknowledges that to ensure *de facto* equality, it may be necessary to take measures that discriminate in a positive way. The article also specifies that the adoption of special measures aiming at the protection of maternity shall not be considered discriminatory.

The Committee in its general recommendation no. 5, stated that, "State parties make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, economy, politics and employment".

ARTICLE 5: Obligation to Take Measures for Elimination of Prejudices and Stereotyping of Sex Roles

The purpose of article 5 is to ensure that State parties take steps to modify social and cultural patterns of conduct elimination of prejudices based on the inferiority or superiority of either of the sexes and stereotyping of sex roles.

Article 5(b) recognizes that maternity has a social function. It states that men and women have a common responsibility in the upbringing of their children. The interest of the child should be fundamental in all actions taken by parents.

The committee in its General Recommendation No. 3, stated that,

The Committee based on the reports submitted by State parties has stated that the reports show existence of varying degrees of stereotyped conceptions of women. The Committee has urged, 'all State parties effectively to adopt education and public information program, which will help eliminate prejudices and current practices that hinder the full operation of principle of the social equality of women.'

ARTICLE 6: Suppression of All Forms of Trafficking and Exploitation of Women

This article obligates State parties to take measures to suppress all forms of trafficking in women. It also is an action against those who profit from the exploitation of women, including the exploitation of girls.

The Committee in its General Recommendation No. 19 dealing with violence against women has stated that poverty and unemployment increase opportunities for trafficking in women. The Committee has also stated that, 'in addition to established forms of trafficking there are new forms of sexual exploitation, such as sex tourism, the recruitment of domestic labor from developing countries to work in developed countries, and organized marriages between women from developing countries and foreign nationals. These practices are incompatible with the equal enjoyment of rights by women and with respect for their 'rights and dignity'.

Optional Protocol

Under the Optional Protocol to the Convention, the Committee on the Elimination of Discrimination Against Women is authorized to receive complaints from individuals claiming to be victims of violations of rights contained in the Convention.

Note: Information from the Info-Packs on these instruments comes from Ravindran, D.J. *Human Rights Praxis: A Resource Book for Study, Action and Reflection*. Asian Forum for Human Rights and Development, Bangkok, Thailand, 1998.

Sources:

2004 IHRTTP Participants Manual.

Rights-Based Approach to Development and Governance Training Manual prepared by the Task Force Detainees of the Philippines (TFDP), 2004, pp. 64-67.

Inventory of Resource Persons

INVENTORY OF RESOURCE PERSONS

I. Commission on Human Rights

- ▶ As Human Rights Institution and Its Role in Integrating Human Rights in Development
- ▶ Its Role in the Promotion and Protection of Human Rights
- ▶ Its Role in the Teaching of Human Rights Education
- ▶ Its Vision/Mission, Programs and Services

Region	Name	Address	Contact Number
Central	Purificacion C. Valera - Quisumbing	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Quezon City	928-0848; 928-5655; 929-0102
Central	Eligio P. Mallari		926-1314 (TF)
Central	Jacqueline Mejia		928-7240; 927-5790
Central	Homero M. P. Rusiana		927-0172 ; 928-8610
Central	Karen G. Dumpit		927-4033
Central	Wilhelm D. Soriano		925-3883 (TF)
Central	Ellen G. Julian		927-6254; 925-3879
NCR	Carmelita B. Rosete		928-7098; 925-3881
NCR	Ronie Rosero		928-7098; 925-3881
NCR	Carlos S. Sabile		928-7098; 925-3881
NCR	Josefina N. Clemente		928-7098; 925-3881
NCR	Ardis C. Saquisame		928-7098; 925-3881
Reg. 4	Raul S. Chavez		CHRP-4 Kian Seng Bldg., A. Flores St., 400 San Pablo City
Reg. 4	Brigitte M. Hopinaldo		(049) 562-0230; 562-5415
Reg. 4	Edgar C. De Luna		(049) 562-0230; 562-5415

II. Human Rights

- ▶ Basic Human Rights

Region	Name	Address	Contact Number
Central	Jacqueline Mejia	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	928-7240 (TF); 927-5790
Central	Homero M.P. Rusiana		927-0172 ; 928-8610
Central	Nerissa Piamonte		925-3884; 927-2199
NCR	Max de Mesa	Task Force Detainees of the Philippines (TFDP) 45 Mary St., Quezon City	437-8054; 438-0202; 911-3643 F
Reg. 3	Jasmin Navarro-Regino	CHRP, 3/F Kehyeng Bldg., Dolores, San Fernando City, Pampanga	(045) 961-4830; 961-4475
Reg. 3	Remedios B. Valera		(045) 961-4830; 961-4475
Reg. 3	Flordeliza N. Dealagdon		(045) 961-4830; 961-4475
Reg. 3	Marcial S. Sadie, Jr.		(045) 961-4830; 961-4475
Reg. 3	Luzviminda M. Venasquez		(045) 961-4830; 961-4475
Reg. 4	Dorothy A Inandan		CHRP-4 Kian Seng Bldg., A. Flores St., 400 San Pablo City
Reg. 9	Brigitte M. Hopinaldo	CHRP-9, 3/F PVB Bldg., Gov. Lim Ave., Zamboanga City	(049) 562-0230; 562-5415
Reg. 9	Jose Manuel S. Marnauag		(062) 993-2869; 993-0735
Reg. 9	Raul S. Quiboyen		(062) 993-2869; 993-0735
Reg. 9	Dexter L. Ando		(062) 993-2869; 993-0735
Reg. 9	Armando F. Borromeo		(062) 993-2869; 993-0735
Reg. 9	Zenaida G. Sarmiento		(062) 993-2869; 993-0735
Reg. 9	Faida Aisha A. Calapardo		(062) 993-2869; 993-0735
Reg. 9	Maricel S. Bangayan		(062) 993-2869; 993-0735

▶ Civil and Political Rights (CPR)

Region	Name	Address	Contact Number
Central	Flora Atilano	Commission on Human Rights, SAAC Bldg., U.P. Complex,	928-0373 (TF); 926-0454
NCR	Carmelita B. Rosete	SAAC Bldg., U.P. Complex,	928-7098; 925-3881
NCR	Ronie Rosero	Commonwealth Avenue, Quezon City	928-7098; 925-3881
NCR	Gilbert D. Boiser	City	928-7098; 925-3881
NCR	Evelyn D. Battad	U.P. School of Labor & Industrial Relations-Free Legal Assistance Group (FLAG), Rm. 116, Alumni Center Annex, Magsaysay Ave. U.P. Campus, Diliman, Q.C.	920-5132
Reg. 7	Feilino Y. Dulzura, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 7	Leonor B. Gomez	Task Force Detainees of the Philippines (Association of Major Religious Superiors of the Philippines), Cebu City	
Reg. 10	Edwin G. P. Solis	CHRP-10, 2/F Ong's Bldg., Cor	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang	Yacapin/Roxas Sts., CDO City	(08822) 724-525

▶ Economic, Social and Cultural Rights (ESCR)

Region	Name	Address	Contact Number
Central	Flora Atilano	Commission on Human Rights, SAAC Bldg., U.P. Complex,	928-0373 (TF); 926-0454
NCR	Carmelita B. Rosete	SAAC Bldg., U.P. Complex,	928-7098; 925-3881
NCR	Ronie Rosero	Commonwealth Avenue, Quezon City	928-7098; 925-3881
NCR	Gilbert D. Boiser	City	928-7098; 925-3881
NCR	Ramon Fernan	Environmental Broadcast Circle	
	Edna Estefania Co	UP-NCPAG, Diliman, Quezon City	928-5411
NCR	Carlos P. Medina, Jr.	Ateneo de Manila University-Ateneo Human Rights Center, Rockwell Drive, Rockwell Center, Makati City	817-9706; 817-9701 to 68; 899-7691 to 96
Reg. 7	Alejandro P. Alonso, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 7	Leonor B. Gomez	Task Force Detainees of the Philippines (Association of Major Religious Superiors of the Philippines), Cebu City	
Reg. 10	Edwin G. P. Solis	CHRP-10, 2/Fr. Ong's Bldg., Cor	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang	Yacapin/Roxas Sts., CDO City	(08822) 724-525

▶ Foundations of Human Rights

Region	Name	Address	Contact Number
Central	Dominador N. Calamba II	Commission on Human Rights, SAAC Bldg., U.P. Complex,	927-0467 (TF)
Central	Ana Elzy E. Ofreneo	Commonwealth Avenue, Quezon City	928-4471; 925-3878; 927-6225
Central	George Chainani		928-2018; 925-3880
NCR	Carmelita B. Rosete		928-7098; 925-3881
NCR	Ronie Rosero		928-7098; 925-3881
NCR	Josefina N. Clemente		928-7098; 925-3881
NCR	Carlos P. Medina, Jr.	Ateneo de Manila University-Ateneo Human Rights Center, Rockwell Drive, Rockwell Center, Makati City	817-9706; 817-9701 to 68; 899-7691 to 96
Reg. 1	Anita Chauhan	CHRP-1, 2/F Francisco Ting Bldg., National Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608; 700-3607
Reg. 4	Raul S. Chavez	CHRP-4 Kian Seng Bldg., A. Flores St., 400 San Pablo City	(049) 562-0230; 562-5415
Reg. 7	Carmelito J. Hermosilla	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 7	Estela P. Vasquez	Task Force Detainees of the Philippines, Cebu City	
Reg. 10	Edwin German P. Solis	CHRP-10, 2/Fr. Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang		(08822) 724-525
Reg. 10	Anna Liza P. Estacion		(08822) 724-525
Reg. 10	Antonio R. Pagaran		(08822) 724-525
Reg. 10	Victorio O. Aleria, Jr		(08822) 724-525

▶ Human Rights Concepts and Principles

Region	Name	Address	Contact Number
Central	Ana Elzy E. Ofreneo	Commission on Human Rights, SAAC Bldg., U.P. Complex, Com- monwealth Avenue, Quezon City	928-4471; 925-3878; 927-6225
Reg. 1	Danilo T. Balino	CHRP 1, 2/F Francisco Ting Bldg., Nat'l Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608
Reg. 1	Benita D. Hernandez		(072) 700-3607
Reg. 1	Fatima F. Rocamora	University of Northern Philippines, Vigan, Ilocos Sur	(077) 722-7172; 722-7205
Reg. 1	Marivic C. Alimbuyuguen	Mariano Marcos State University, Batac, Ilocos Norte	(077) 792-3501
Reg. 3	Flordeliza N. Dealagdon	CHRP-3 3/F Kehyeng Bldg., Dolores, San Fernando City, Pamp.	(045) 961-4830; 961-4475
Reg. 5	Nelia B. Almonte	CHRP-5, 3/F ANST Bldg.,	(052) 820-5131
Reg. 5	Geneva J. Avila	Washington Drive, Legaspi City	(052) 820-5131
Reg. 5	Rosita B. Blasco		(052) 820-5131
Reg. 7	Carmelito J. Hermosilla	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 7	Estela P. Vasquez	Task Force Detainees of the Philippines, Cebu City	

▶ Human Rights Issues and Concerns

Region	Name	Address	Contact Number
NCR	Carmelita B. Rosete	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	928-7098; 925-3881

▶ Human Rights Situations in the Philippines

Region	Name	Address	Contact Number
Central	Dominador N. Calamba II	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	927-0467 (TF)
NCR	Max de Mesa	Task Force Detainees of the Philippines (TFDP) 45 Mary St., Q. C.	437-8054; 438-0202; 911-3643 F
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang		(08822) 724-525

▶ Human Rights Standards

Region	Name	Address	Contact Number
Reg. 7	Felino Y. Dulzura, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 7	Leonor B. Gomez	Task Force Detainees of the Philippines (Association of Major Religious Superiors of the Philippines), Cebu City	

▶ Normative Content of Human Rights

Region	Name	Address	Contact Number
Central	Ana Elzy E. Ofreneo	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	928-4471; 925-3878; 927-6225
NCR	Aurora Parong	Task Force Detainees of the Philippines (TFDP) 45 Mary St., Q. C.	437-8054; 438-0202; 911-3643 (F)
NCR	Evelyn D. Battad	U.P. School of Labor & Industrial Relations-Free Legal Assistance Group (FLAG), Rm. 116, Alumni Center Annex, Magsaysay Ave. U.P. Campus, Diliman, Q. C.	920-5132
Reg. 1	Anita Chauhan	CHRP-1, 2/F Francisco Ting Bldg., National Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608; 700-36-7
Reg. 3	Jasmin Navarro-Regino	CHRP-3, 3/F Kehyeng Bldg., Dolores, San Fernando City, Pampanga	(045) 961-4830; 961-4475
Reg. 3	Remedios B. Valera		(045) 961-4830; 961-4475
Reg. 3	Flordeliza N. Dealagdon		(045) 961-4830; 961-4475
Reg. 5	Pelagio P. Senar, Jr.	CHRP-5, 3/F ANST Bldg., Washington Drive, Legaspi City	(052) 820-5131
Reg. 5	Sylvia A. Severo		(052) 820-5131
Reg. 5	Amelia B. Espinas		(052) 820-5131
Reg. 7	Alejandro P. Alonso, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 10	Jerefe T. B. Bacang	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Edwin German P. Solis		(08822) 724-525
Reg. 10	Victorio O. Aleria, Jr.		(08822) 724-525

▶ Nature and Levels of State Obligations and Individual Obligations

Region	Name	Address	Contact Number
Central	Jacqueline V. Mejia	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	928-7240 (TF); 927-5790
Central	Ellen G. Julian		927-6254; 925-3879
NCR	Carlos P. Medina, Jr.	Ateneo de Manila University-Ateneo Human Rights Center, Rockwell Drive, Rockwell Center, Makati City	817-9706; 817-9701 to 68; 899-7691 to 96
Reg. 1	Anita Chauhan	CHRP-1, 2/F Francisco Ting Bldg., National Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608; 700-36-7
Reg. 1	Daniilo T. Balino		(072) 700-3608
Reg. 1	Fatima F. Rocamora	University of Northern Philippines, Vigan, Ilocos Sur	(077) 722-7172; 722-7205
Reg. 3	Jasmin Navarro-Regino	CHRP-3, 3/F Kehyeng Bldg., Dolores, San Fernando City, Pampanga	(045) 961-4830; 961-4475
Reg. 3	Flordeliza N. Dealagdon		(045) 961-4830; 961-4475
Reg. 4	Edgar C. De Luna	CHRP-4, Kian Seng Bldg., A. Flores St., 400 San Pablo City	(049) 562-0230; 562-5415
Reg. 4	Aileen E. Chua		(049) 562-0230; 562-5415
Reg. 5	Amelia B. Espinas	CHRP-5, 3/F ANST Bldg., Washington Drive, Legaspi City	(052) 820-5131
Reg. 5	Ma. Norilyn R. Garcia		(052) 820-5131
Reg. 5	Nelia B. Almonte		(052) 820-5131
Reg. 7	Alejandro P. Alonso, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 7	Carmelito J. Hermosilla		(032) 253-5403; 254-6921
Reg. 7	Estela P. Vasquez	Task Force Detainees of the Philippines, Cebu City	
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang		(08822) 724-525
Reg. 10	Anna Liza P. Estacion		(08822) 724-525
Reg. 10	Antonio R. Paragan		(08822) 724-525

▶ International/ Philippine Human Rights System

Region	Name	Address	Contact Number
Central	Jacqueline V. Mejia	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	928-7240 (TF); 927-5790
Central	Ana Elzy E. Ofreneo		928-4471; 925-3878; 927-6225
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang		(08822) 724-525
Reg. 10	Anna Liza P. Estacion		(08822) 724-525

III. Rights Based Approach (RBA)

- ▶ Applying Human Rights to Three Key Areas of Development:
Legislation, Policy and Planning/Programming

Region	Name	Address	Contact Number
NCR	Ma. Socorro I. Diokno	U.P. School of Labor & Industrial Relations-Free Legal Assistance Group (FLAG), Rm. 116, Alumni Center Annex, Magsaysay Ave. U.P. Campus, Diliman, Q.C.	920-5132
NCR	Lilibeth Juan	U.P. NCPAG, Diliman, Quezon City	926-1429
NCR	Clarisa Sia	City	920-1353
Reg. 1	Anita Chauhan	CHRP-1, 2/F Francisco Ting Bldg., National Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608; 700-36-7
Reg. 7	Felino Y. Dulzura, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921

- ▶ Development/Governance Framework

Region	Name	Address	Contact Number
Reg. 1	Daniilo T. Balino	CHRP-1, 2/F Francisco Ting Bldg., National Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608
Reg. 1	Benita D. Hernandez	City	(072) 700-3607
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Anna Liza P. Estacion	City	(08822) 724-525

- ▶ GOP-UNDP Country Cooperation Frameworks

Region	Name	Address	Contact Number
Central	Nerissa Piamonte	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	925-3884; 927-2199
Reg. 5	Amelia B. Espinas	CHRP-5, 3/F ANST Bldg., Washington Drive, Legaspi City	(052) 820-5131

- ▶ Human Rights Principles that Guide Development

Region	Name	Address	Contact Number
Central	Karen G. Dumpit	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	927-4033
NCR	Lilibeth Juan	U.P. NCPAG, Diliman, Quezon City	926-1429
NCR	Clarisa Sia	City	920-1353
Reg. 3	Remedios B. Valera	CHRP-3, 3/F Kehyeng Bldg., Dolores, San Fernando City, Pamp.	(0454) 961-4830; 961-4475
Reg. 4	Dorothy A Inandan	CHRP-4 Kian Seng Bldg., A. Flores St., 400 San Pablo City	(049) 562-0230; 562-5415
Reg. 5	Sylvia A. Severo	CHR-5, 3/F ANST Bldg., Washington Drive, Legaspi City	(052) 820-5131
Reg. 5	Amelia B. Espinas	City	(052) 820-5131
Reg. 5	Nelia B. Almonte	City	(052) 820-5131
Reg. 7	Felino Y. Dulzura, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang	City	(08822) 724-525
Reg. 10	Anna Liza P. Estacion	City	(08822) 724-525
Reg. 10	Antonio R. Paragan	City	(08822) 724-525

- ▶ Right to Development

Region	Name	Address	Contact Number
Central	Ana Elzy E. Ofreneo	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	928-4471; 925-3878; 927-6225
NCR	Lilibeth Juan	U.P. NCPAG, Diliman, Quezon City	926-1429
NCR	Clarisa Sia	City	920-1353
Reg. 7	Felino Y. Dulzura, Jr.	CHRP-7, Rosal Apartment, Llorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254-6921
Reg. 10	Edwin German P. Solis	CHRP-10, 2 / F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang	City	(08822) 724-525
Reg. 10	Anna Liza P. Estacion	City	(08822) 724-525
Reg. 10	Antonio R. Paragan	City	(08822) 724-525

- ▶ Rights Based Approach Application Tools and Systems

Region	Name	Address	Contact Number
Central	Nerissa Piamonte	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Q. C.	925-3884; 927-2199
NCR	Emalyn L. Sodusta	U.P. NCPAG, Diliman, Quezon City	920-1353
NCR	Celenia Jamig	City	920-1353
NCR	Mark Gamboa	City	920-1353
NCR	Lilibeth Juan	City	926-1429
NCR	Clarisa Sia	City	920-1353
Reg. 5	Nelia B. Almonte	CHR-5, 3/F ANST Bldg., Washington Drive, Leg. City	820-5131

- ▶ Rights Based Approach to Governance and Development

Region	Name	Address	Contact Number
NCR	Rosette Librea	GOP-UNDP- PMO	928-7087; 927-7331
NCR	Lilibeth Juna	U.P. NCPAG, Diliman, Quezon City	926-1429
NCR	Clarisa Sia	City	920-1353
Reg. 1	Anita Chauhan	2/F Francisco Ting Bldg., National Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608; 700-36-7
Reg. 5	Amelia B. Espinas	CHRP-5, 3/F ANST Bldg., Washington Drive, Leg City	(052) 820-5131
Reg. 7	Felino Y. Dulzura, Jr.	City	(032) 253-5403; 254-6921
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang	City	(08822) 724-525
Reg. 10	Anna Liza P. Estacion	City	(08822) 724-525
Reg. 10	Antonio R. Paragan	City	(08822) 724-525

▶ Rights Based Approach to Development (Human Rights)

Region	Name	Address	Contact Number
Central	Quitin B. Cueto III	Commission on Human Rights,	926-2542 (TF)
Central	Nerissa Piamonte	SAAC Bldg., U.P. Complex,	925-3884; 927-2199
Central	George Chainani	Commonwealth Avenue, Q. C.	928-2018; 925-3880
Central	Karen G. Dumpit		927-4033
NCR	Armando Paragat	Task Force Detainees of the Philip- pines (TFDP) 45 Mary St., Cubao Q. C.	0921-2277315
NCR	Evelyn D. Battad	U.P. School of Labor & Industrial Relations-Free Legal Assistance	920-532
NCR	Ma. Socorro I. Diokno	Group (FLAG), Rm. 116, Alumni Center Annex, Magsaysay Ave. U.P. Campus, Diliman, Q.C.	920-532
NCR	Juvy Lizette Gervacio	U.P. NCPAG, Diliman, Quezon City	920-1353
NCR	Eva Baylon		920-1353
Reg. 1	Anita Chauhan	CHRP-1, 2/F Francisco Ting Bldg., National Highway, Pagdalagan North, San Fernando, La Union	(072) 700-3608; 700-36-7
Reg. 3	Jasmin Navarro- Regino	CHR-P, 3/F Kehyeng Bldg., Dolores, San Fernando City, Pamp	(045) 961-4830; 961-4475
Reg. 4	Dorothy A Inandan	CHRP-4 Kian Seng Bldg., A. Flores St., 400 San Pablo City	(049) 562-0230; 562-5415
Reg. 4	Edgar C. De Luna		(049) 562-0230; 562-5415
Reg. 4	Aileen E. Chua		(049) 562-0230; 562-5415
Reg. 9	Cathy V. de la Rita	CHRP -9, 3/F PVB Bldg., Gov. Lim Ave., Zamboanga City	(062) 993-2869; 993-0735
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang		(08822) 724-525
Reg. 10	Anna Liza P. Estacion		(08822) 724-525
Reg. 10	Antonio R. Paragan		(08822) 724-525
Reg. 10	Herciarno T. Ranolo	Planning and Development Office, Malaybalay City	
Reg. 10	Salvador Almine	Municipal Planning and Development Office, Naawan, Misamis Oriental	
Reg. 10	Gittel D. Saquilabon	Sumpay Mindanao, Inc., Door 1, Jurut Apts., Doña Josefa, Celdran Avenue, Iligan City	
Reg. 10	Cathy V. de la Rita	NEDA-10, RDC Bldg., Capistrano- Echem Sts., Cagayan de Oro City	(08822) 726161; 723436
Reg. 10	Michael Cagulada	GROUP Foundation, 158 A Orochain Village, Zone 2 Carmen, Cagayan de Oro City	
Reg. 12	Rosalinda L. Anino- Tolosa	CHRP-12, SY Bldg., Leon Llido St., Lagao, Gen. Santos City	(083) 553-8887
Reg. 12	Jenuclin D. Ulangkaya Al-haj		(083) 553-8887
Reg. 12	Rizalyn C. Ismani		(083) 553-8887
Reg. 12	Noran D. Macog		(083) 553-8887

▶ Right to Food

Region	Name	Address	Contact Number
NCR	Max de Mesa	Task Force Detainees of the	437-8054; 438-0202; 911-3643F
NCR	Aurora Parong	Philippines (TFDP) 45 Mary St., Cubao, Q.C.	437-8054; 438-0202; 911-3643 F
NCR	Nymia Simbulan	PHILRIGHTS- 53-B Maliksi St., Brgy. Pinyahan, Quezon City	436-5686; 433-1714 (Fax)
NCR	Liza Vida	KAISAMPALAD Inc., Unit 204, Eagle Court Condominium, 26 Matalino St., Brgy. Central, Q.C.	921-7542; 413-6569; 920-3848

▶ Right to Health

Region	Name	Address	Contact Number
NCR	Nymia Simbulan	PHILRIGHTS- 53-B Maliksi St., Brgy. Pinyahan, Quezon City	436-5686; 433-1714 (Fax)
NCR	Mar Wynn C. Bello	Department of Health	711-6736
NCR	Jennifer S. Madamba	Medical Action Group (MAG) 45 Mary St., Cubao, Quezon City	439-1376 (Fax)

▶ Right to Water

Region	Name	Address	Contact Number
NCR	Nymia Simbulan	PHILRIGHTS- 53-B Maliksi St., Brgy. Pinyahan, Quezon City	436-5686; 433-1714 (Fax)

▶ Rights of Women/Gender and Development

Region	Name	Address	Contact Number
NCR	Carmelita B. Rosete	Commission on Human Rights, SAAC Bldg., U.P. Complex, Commonwealth Avenue, Quezon City	928-7098; 925-3881
NCR	Maia Clement Serrano		928-7098; 925-3881
NCR	Ma. Asuncion Maravilla		925-3886
NCR	Liezel Parajas		925-3886
NCR	Aurora Javate-de Dios	Women and Gender Institute- International Women's Human Rights Program	435-9229; 580-5400 to 29 local 3589
NCR	Annie A. Serrano	Miriam College, Katipnan Road, Diliman Quezon City	
Reg. 3	Remedios B. Valera	CHR-P, 3/F Kehyeng Bldg., Dolores, San Fernando City,	(045) 961-4830; 961- 4475
Reg. 3	Flordeliza N. Dealagdon	Pampanga	(045) 961-4830; 961- 4475
Reg. 3	Vicky Vega	City Government of Angeles, Pulong Maragal, Angeles City	
Reg. 4	Aileen E. Chua	CHRP-4 Kian Seng Bldg., A. Flores St., 400 San Pablo City	(049) 562-0230; 562- 5415
Reg. 7	Felino Y. Dulzura, Jr.	CHRP-7, Rosal Apartment, Lorente & Rosal Sts., Capitol Site 600, Cebu City	(032) 253-5403; 254- 6921
Reg. 7	Leonor B. Gomez	Task Force Detainees of the Philippines (Association of Major Religious Superiors of the Philippines), Cebu City	
Reg. 10	Dina Anitan	PILIPINA CDO Chapter CDO	
Reg. 10	Cynthia B. Rosales	Presidential Commission on Urban Poor (PCUP), City Tourism Hall, City Hall, Cagayan de Oro	(08822) 728393

▶ Child Right

Region	Name	Address	Contact Number
Central	Brenda Canapi	Commission on Human Rights, SAAC Bldg., U.P. Compl ex, Commonwealth Avenue, Quezon City	925-3886
Central	Ma. Margarita Ardivilla		
Reg. 10	Richardson T.Cua	NEDA-10, RDC Bldg., Capistrano - Echem Sts., Cagayan de Oro City	(08822) 726161; 723-436
Reg. 10	Cynthia B. Rosales	Presidential Commission on Urban Poor (PCUP) City Tourism Hall, City Hall, Cagayan de Oro City	(08822) 728-393

▶ Rights of Persons with Disabilities

Region	Name	Address	Contact Number
Reg. 10	Dr. Enrique Ampo	Handicapped's Anchor in Christ, Inc. (HAND)	

▶ Older Persons' Rights

Region	Name	Address	Contact Number
Reg. 10	Virgie Mayol Cardona	DSWD - 10, Upper Balulang, Carmen, CDO City	(08822) 858-6333

▶ RBA-MDG

Region	Name	Address	Contact Number
Reg. 9	Jose Manuel S. Mamaug	CHRP -9, 3 /F PVB Bldg., Gov. Lim Ave, Zamboanga City	(062) 993-2869; 993-0735
Reg. 9	Raul S. Quiboyen		(062) 993-2869; 993-0735
Reg. 9	Dexter L. Ando		(062) 993-2869; 993-0735
Reg. 9	Armando F. Borromeo		(062) 993-2869; 993-0735
Reg. 9	Zenaida G. Sarmiento		(062) 993-2869; 993-0735
Reg. 9	Ederlinda Fernandez	Western Mindanao State University, College of Public Administration and Development, Normal Road, San Jose, Baliwasan, Zamboanga City	
Reg. 9	Ding Camba	NEDA, RT Lim Blvd, Zamboanga City	
Reg. 10	Edwin German P. Solis	CHRP-10, 2/F Ong's Bldg., Cor Yacapin/Roxas Sts., Cagayan de Oro City	(08822) 724-525
Reg. 10	Jerefe T. B. Bacang		(08822) 724-525
Reg. 10	Anna Liza P. Estacion		(08822) 724-525
Reg. 10	Antonio R. Paragan		(08822) 724-525

▶ MDG Localization

Region	Name	Address	Contact Number
Reg. 9	Quirino M. Libunao	DILG-IX, Zamboanga Convention Center Pasonanca, Zamboanga City	
Reg. 9	Pedro G. Cuevas	DILG, City Hall, Pettit Barracks, Zamboanga City	

▶ MDG

Region	Name	Address	Contact Number
Reg. 9	Ofelio R. Mendoza	Western Mindanao State University College of Public Administration & Development, Normal Road, San Jose, Baliwasan, Zam. City	
Reg. 9	Grace Rebollos		
Reg. 9	Erdulfo B. Fernando	Universidad de Zamboanga Master of Public Administration Studies, Zamboanga City	
Reg. 9	Grace Carreon	NEDA, RT Lim Blvd, Zamboanga City	
Reg. 9	Eleanor Reyes		

General References

Majority of the materials used for writing the Orientation Training Manual were derived from five training modules put together by the United Nations Philippines, Commission on Human Rights and Task Force Detainees of the Philippines, namely;

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- 2004 Mainstreaming Human Rights in Development and Governance in Mindanao, Apo View Hotel, Davao City, May-June.
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- 2004 Rights-Based Approach to Development and Governance

Theis, Joachim

- 2003 Brief Introduction to Rights-Based Programming, Save the Children-Sweden, August.

United Nations

- 2002 Rights-Based Approach to Development Programmig: Training Manual, July.

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RIGHTS-BASED APPROACH

