

HANDBOOK

# APPLYING A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT AND HUMANITARIAN PROGRAMMING

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*Cover photo:* An out-of-school girl who enrolled in a nine-month outreach training organized by People in Need under the GEC-funded Aarambha UKAid project in Nepal. © Sajana Shrestha.

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## ABBREVIATIONS AND ACRONYMS

<b>ACHPR</b>	African Charter on Human and Peoples' Rights
<b>ACHR</b>	American Convention on Human Rights
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CAT</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CHS</b>	Core Humanitarian Standards
<b>CPED</b>	Convention for the Protection of All Persons from Enforced Disappearance
<b>CRC</b>	Convention on the Rights of the Child
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CSO</b>	Civil society organization
<b>DAC</b>	Development Assistance Committee
<b>ECHR</b>	European Convention on Human Rights
<b>EU</b>	European Union
<b>GESI</b>	Gender Equality and Social Inclusion
<b>HRBA</b>	Human Rights-Based Approach
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>ICRMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>IFU</b>	Institutional Fundraising Unit
<b>IGO</b>	Intergovernmental Organizations
<b>ILO</b>	International Labour Organization
<b>INGO</b>	International Non-Governmental Organization
<b>IOM</b>	International Organization for Migration
<b>MEAL</b>	Monitoring, Evaluation, Accountability and Learning
<b>MoH</b>	Ministry of Health
<b>NGO</b>	Non-Governmental Organization
<b>NHRI</b>	National Human Rights Institution
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>PIN</b>	People in Need
<b>RDD</b>	Relief and Development Department
<b>SDG(s)</b>	Sustainable Development Goal(s)
<b>SR</b>	Special Rapporteur
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNFPA</b>	United Nations Population Fund
<b>UPR</b>	Universal Periodic Review
<b>WHO</b>	World Health Organization

## INTRODUCTION

People in Need (PIN), in its “About Us” published online, claims human dignity and freedoms as its fundamental values protected by the Universal Declaration of Human Rights. The 2022-2026 strategy of the organization’s Relief and Development Department (RDD) reiterates human rights as one of the organization’s foundational values.

The Universal Declaration of Human Rights (UDHR), since 1948, has been a cornerstone of the global “fundamental values.” It has paved the way for the codification of human rights, solidifying their mentioning in the Charter of the United Nations (UN) – the organization’s founding document.<sup>1</sup> In addition to civil and political freedoms, the Declaration nurtures economic, social and cultural rights, such as the rights to healthcare, education, employment and shelters – sectors often referred to as “development” and “humanitarian” assistance.

In other words, what the development and humanitarian sectors traditionally considered “basic needs” are in fact “human rights.” Unfulfilments of a basic need are very often violations of multiple human rights. Lack of access to safe housing at the time of natural disaster may constitute violations of the internationally protected rights to adequate standard of living, to social security, and to access to information. This conceptual shift has led to a change in determining outputs of development and humanitarian assistance: from the satisfaction of needs, to the realization of rights. This encapsulates the Human Rights-Based Approach (HRBA) to development and humanitarian programming.

The Handbook on Applying a Human Rights-Based Approach to Development and Humanitarian Programming (hereinafter the “Handbook”) responds to the increasing calls for a comprehensive integration of human rights in RDD’s programmes from both within People in Need, and from the global aid community.<sup>2</sup> The Handbook aims to guide RDD staff members of country programmes, their senior and regional management, as well as fundraising specialists, through the concept of HRBA. The Handbook refers to “programmes” or “programming” in a broad term. It encompasses both country programmes and their strategies, their projects individually and altogether, and of both development and humanitarian characteristics. Applying a HRBA in the context of humanitarian assistance, for its security-related particularities, is unpacked further in Chapter III.

The Handbook will answer the following key questions:

- What is a HRBA?
- What does it entail?
- How is a HRBA applied in practice?
- How can a HRBA be applied in RDD’s work pillars, including Emergency Response and Recovery; Climate Resilience; and Civil Society and Inclusive Governance?

The Handbook includes real-life examples identified by the author and other RDD technical advisors. The Handbook draws inspiration from a variety of sources published online by UN agencies, international organizations, donors and international non-governmental organizations (INGOs), especially the UN Development Programme (UNDP), the International Organization for Migration (IOM), the UN Population Fund (UNFPA), the European Commission, USAID, ActionAid, and Welthungerhilfe. It echoes existing policies and commitments within PIN, including those on Gender Equality and Social Inclusion, Core Humanitarian Standards, and inclusive governance.

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1 Its Preamble reads the United Nations is determined to “reaffirm faith in fundamental human rights, in the dignity and worth of the human person” and to “promote social progress and better standards of life in larger freedom.”

2 PIN RDD 2022-2026 Strategy reads: “Where the context allows it and it enables us to achieve impact, PIN (RDD) will apply the Human Rights-Based Approach to inform and empower people as rights-holders to advocate for respect, protection and fulfilment of their human rights.”

# I. HUMAN RIGHTS-BASED APPROACH – DEFINITION, COMPONENTS AND PRINCIPLES

## 1. What is a Human Rights-Based Approach?

Human Rights-Based Approach (HRBA), as its name suggests, is fundamentally a way of using human rights principles and standards in everyday work of development and humanitarian assistance.<sup>3</sup> The approach calls for a *conscious* and *systematic* incorporation of human rights in all aspects of programming.

HRBA is anchored in the understanding that in any society or country context, there exists a set of human rights codified at national or sub-national levels to which people are entitled. These rights – for example, the right to housing – may be neglected due to domestic political reasons, because governments lack the technical or financial capacities to deliver on their human rights commitments, or there are no mechanisms for people to understand and effectively exercise their human rights.

For these considerations, HRBA is premised on the idea that sustainable development and humanitarian solutions should go beyond meeting people’s needs, but creating systems in which governments are *willing* and *able* to respond to their constituents’ human rights claims.

The term “human rights” is understood concretely according to international human rights law, instead of as an abstract concept. By using the language of international law, a HRBA seeks to achieve legality, clarity and consistency in its implementation. Below are some of the human rights most commonly targeted in development and humanitarian programmes **[For a more extensive list of human rights protected under international law, check Annex II]**

Work	Participation in cultural life	Non-discrimination	Peaceful assembly and association
Trade unions	Minority culture	Life	Freedom of expression
Education	Protection and assistance of children	Equal protection before law	Freedom of religion
Freedom from hunger	Health	Privacy	Participation in decision making
Adequate standard of living	Education	Freedom of movement	Access to information

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<sup>3</sup> Until these days there has not been a unified and absolute definition of HRBA, and aid organizations – depending on their programming priorities – have formed their own interpretations of HRBA. To recognize this gap, the Handbook refers to the concept as a HRBA, instead of *the* HRBA. This wording enables PIN’s own methodology of HRBA application that does not only learn from global practices, but also considers its unique organizational structure and diverse portfolio in both development and humanitarian programming.

## **“Human Rights-Based Approach” or “Rights-Based Approach”?**

Organizations interested in integrating human rights into their programmes either call it the HUMAN Rights-Based Approach or just Rights-Based Approach. While in most cases the two terms are used interchangeably, they primarily differ on the extent to which the approach relies on international human rights law.<sup>4</sup> The author proposes the consistent use of the term “Human Rights-Based Approach” for its continued relevance as seen in many of the most recent UN, EU and NGO guidelines on HRBA. It will also avoid confusion with other rights-related issues that HRBA does not directly address, such as intellectual property rights.

## **2. What does a Human Rights-Based Approach consist of?**

Although the necessity of instilling human rights in aid programmes has existed for decades, it was not until 2003 that the UN issued the [UN Common Understanding](#) on Human Rights-Based Approach that guides development actions across different UN agencies. This document is until today widely considered by international organizations and development NGOs as instrumental in applying a HRBA to development and humanitarian programming. The document covers three elements that characterize a HRBA. These three elements indicate the Sources, the Main Actors, and the Principles of a HRBA. They also explain how a HRBA looks at the objectives, outcomes, and processes of development and humanitarian programmes.

### **2.1. Sources of a HRBA**

***“All programmes of development cooperation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.” – UN Common Understanding on HRBA.***

The first element of a HRBA requires that development and humanitarian assistance should aim to promote the realization of one or several human rights. Incidental or *ad-hoc* contribution to some human rights is not necessarily considered as applying a HRBA. What sets HRBA apart from other human rights-related methodologies, such as human rights mainstreaming, is the explicit and direct integration of international human rights standards and principles as the basis for assistance programming. Because a HRBA is normatively based on international human rights law, it is essential to have a basic understanding of human rights law and the UN human rights system.

Even though the regime of international human rights law is extensive, constantly revolving and may be overwhelming to people with little background in law, in any case, it is instrumental to look at the state’s commitments under the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). In some other cases, it is useful to also consider other international human rights treaties, including those that concern vulnerable groups such as women, children, or people with disabilities. It is strategically productive to consider national legal frameworks – most importantly the constitutions – and regional human rights treaties, especially in countries where discussing about human rights is deemed sensitive. This can enhance the legitimacy and local acceptability of a HRBA. **[Check Annex I and II for a larger coverage of international, regional and domestic human rights frameworks]**

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<sup>4</sup> USAID argues that the Rights-Based Approach framework allows development programmes to analyze domestic constitutions and legislation as well as international law. IOM considers the Rights-Based Approach to cover also other areas of international law, including international humanitarian law, international refugee law and transnational criminal law.

**PIN's project in Cambodia** responded to the impact of COVID-19 on the urban poor population in the capital city of Phnom Penh. The project addressed the target communities' lacking COVID-19 preparedness, as well as the prevalence of gender-based violence and over-indebtedness worsened by the pandemic. The project worked with local civil society organizations, trade unions, and community representatives. It provided target communities with trainings on financial literacy, social mobilization and mechanisms to prevent gender-based violence.

Under a HRBA framework, the project considered the impact of the pandemic on Phnom Penh's urban poor communities as a human rights issue. By implementing the project, PIN contributed to the protection of Cambodian people's right to health, to adequate standard of living, to freedom from violence, and labour rights. The project was in line with Cambodia's human rights commitments under the ICCPR, the ICESCR, as well as its National Master Plan to mitigate health, social and economic impacts of the pandemic.

The example shows that PIN's actions to address the COVID-19 impact can empower people and communities most affected and vulnerable to the pandemic in Phnom Penh by raising awareness of their rights, and of existing mechanisms to request social protection.



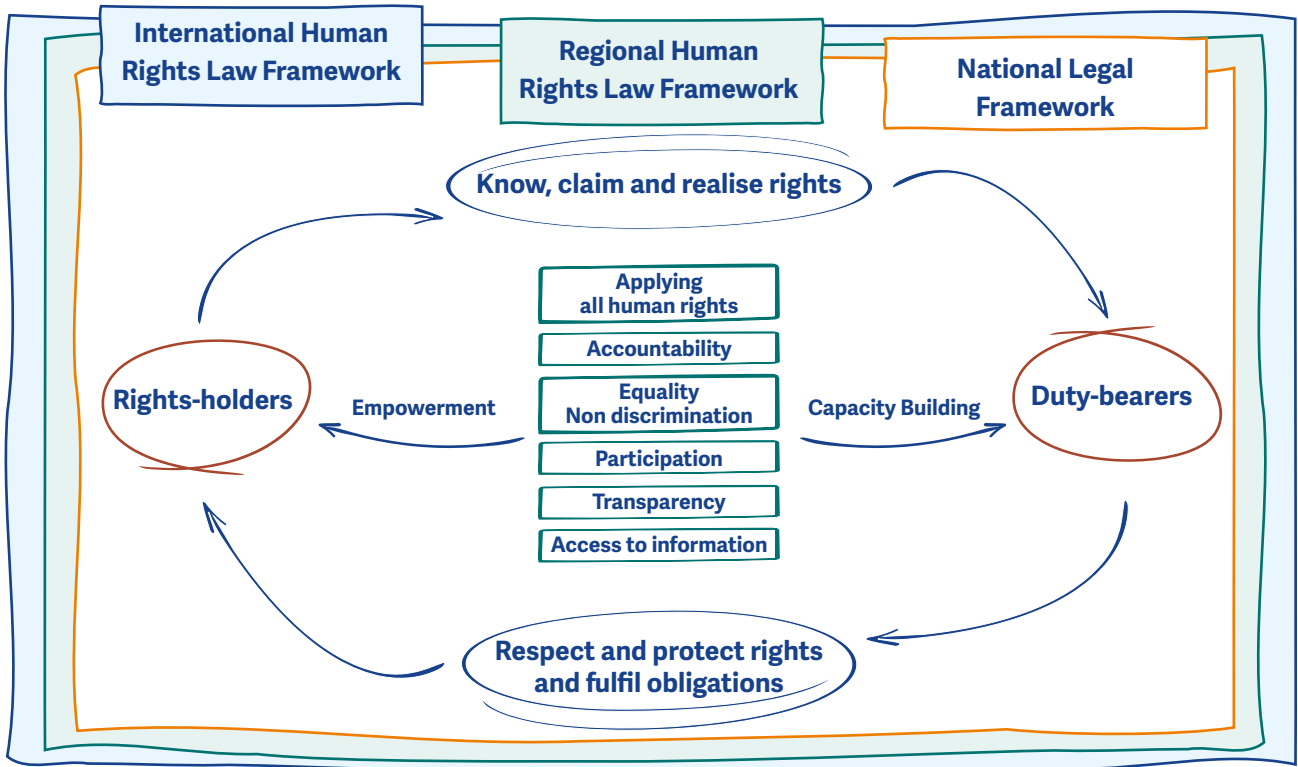
Tuk Tuk drivers waiting for customers in Phnom Penh, Cambodia.



## 2.2. Main actors of a HRBA

***“Development cooperation contributes to the development of the capacities of ‘duty-bearers’ to meet their obligations and/or of ‘rights-holders’ to claim their rights” – UN Common Understanding on HRBA.***

The UN Common Understanding on HRBA identifies “duty-bearers” and “rights-holders” as primary targets of development and humanitarian programmes. As its outcomes, a HRBA focuses on developing capacities of rights-holders to be aware of, and then empowered to claim and enjoy their human rights. At the same time, it assists principally states and non-state actors with correlative obligations as duty-bearers to respect, protect and fulfil human rights.



What a HRBA framework looks like

(Adapted from Swiss Agency for Development and Cooperation, 2019)

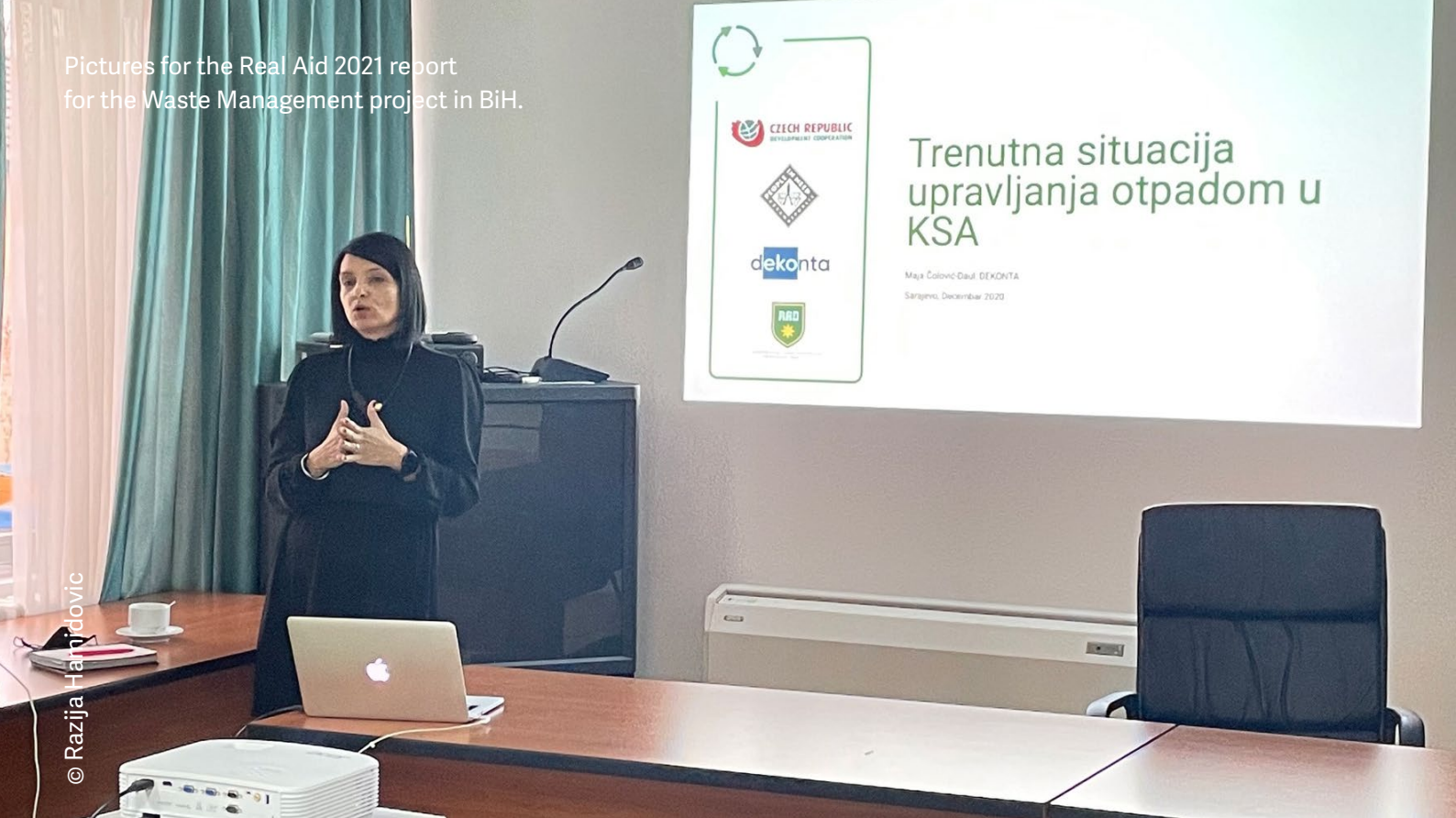
**Rights-holders** include all human beings, not only citizens, individually and in certain contexts as groups.<sup>5</sup>

Rights-holders can be people or groups that are systematically discriminated or particularly vulnerable to human rights violations. They include women and girls, children, the elderly, persons with disabilities, and people belonging to racial, ethnic or linguistic minority. In most contexts, rights-holders either form groups to claim their own rights, or are represented by another entity. These entities and groups can be human rights defenders, independent media, civil society organizations (CSOs), faith and community-based organizations. These representative groups enjoy the same rights and protection as they are enjoyed as individual rights-holders.

A HRBA addresses rights-holders not as passive recipients of aid, but rather as owners of the services they have the right to claim. A HRBA seeks to inform and empower rights-holders to advocate for respect, protection and fulfilment of their human rights. Some of the most common activities in development and humanitarian programmes that typically target rights-holders are:

- Organizing public awareness-raising campaigns
- Organizing human rights education activities

<sup>5</sup> Such as in the right to self-determination.



- Conducting media promotion of relevant legal instruments
- Organizing capacity building activities for civil society actors and community members
- Developing and strengthening civil society networks and consortiums
- Providing technical assistance in developing and maintaining a communication channel between community members, civil society and government bodies

**Duty-bearers** are primarily states and their official authorities at all levels.<sup>6</sup> The state is the ultimate duty-bearer as it ratifies international human rights treaties. By voluntarily ratifying international human rights treaties, states bind themselves with the duty to *respect, protect* and *fulfil* human rights for all human beings within their territories and subject to their jurisdictions. **[Check Annex I for more information about the state's human rights obligations under international law]**

A HRBA addresses duty-bearers with the understanding that they may not fully protect human rights due to their lack of technical or financial capacities to materialize their commitments, or the will to do so. As such, a HRBA believes that foreign assistance should not be only about meeting people's needs, but also creating systems in which governments are *willing* and *able* to guarantee human rights.

Some of the most common activities that typically target duty-bearers are:

- Advocacy
- Holding policy consultative meetings with relevant government bodies
- Supporting government bodies to conduct research to identify gaps in public service delivery
- Organizing capacity building activities for national and local government officials
- Providing technical assistance in developing and maintaining a communication channel between community members, civil society and government bodies

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<sup>6</sup> In recent years international human rights law has evolved to include other entities as duty-bearers. The EU as a regional organization ratified the Convention on the Rights of Persons with Disabilities (CRPD) in 2010, making it a duty-bearer to implement the treaty. In situations of conflict where the state struggles to exercise its authority, others actors who exercise de facto authority such as intergovernmental organizations, transnational corporations or non-state armed groups may be held responsible as duty-bearers. Private sector is also increasingly subject to human rights standards and obligations, including the [UN Guiding Principles on Business and Human Rights](#)

**PIN’s project in Bosnia and Herzegovina (BiH)** titled “Improving Citizens’ Health, Comfort and Financial Well-Being” aimed to improve local government practices in four municipalities of the country, focusing on sustainable development, waste management and district heating system.

Under the HRBA framework, the project could contribute to advancing the human right to adequate standard of living as part of the ICESCR that BiH has ratified. At the same time, it had the potential to expand the people’s right to participate in public affairs, and to freedom of expression.

While engaging local governments as entities with the duty to fulfil such rights, the project could also engage local communities and representative civil society to inform them about the project and elevate their confidence as rights-holders so that they can oversee the local governments’ practices even after the project phases out.

**2.3. Principles of a HRBA**

***“Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process”***  
 – UN Common Understanding on HRBA.

The UN Common Understanding on HRBA lists out four principles: “Applying all rights” principle; Non-discrimination and Equality; Participation and Inclusion; Accountability and Rule of Law.<sup>7</sup> Human rights principles guide all development and humanitarian programming across all sectors, and in all phases of the process.

Three of the HRBA principles are closely related to PIN’s existing policies and practices, meaning that a majority of PIN’s existing standards can be easily framed from a HRBA lens.

HRBA Principle	Connection with PIN policies/practices
“Applying all rights”	Unique to HRBA as overarching principle
Non-discrimination and Equality	PIN Gender Equality and Social Inclusion (GESI) Policy
Participation and Inclusion	<a href="#">Core Humanitarian Standards</a>
Accountability and Rule of Law	RDD Good Governance Strategy 2017-2021

The most unique, and overarching, principle of a HRBA is “Applying all rights.” The principle emphasizes that human rights are universal and inalienable for all human beings. They are indivisible, interconnected, and equally valid. The denial or neglect of one right invariably affects the full enjoyment of other rights. On the other hand, the realization of one right may, in whole or in parts, depend on the realization of other rights. This principle is the closest to the “do no harm” and “do maximum good” principles which are familiar within the development and humanitarian sectors.

For example, when a project attempts to advance the right to work and employment, it can only be effective and sustainable if it also considers the situation of the right to education, to social security, to health, and to

<sup>7</sup> The 2021 EU Toolbox on HRBA 2021 identifies access to information and transparency as a separate HRBA principle. According to its definition, this separate principle requires development and humanitarian programmes to be transparent and make information about their own actions accessible to the public.

peaceful association in the country. It does not mean that the programme should focus on all human rights, or it has to solve all human rights issues at once, but rather it should address the linkage and interdependence of all the human rights at stake. This is useful in ensuring that the programme understands root causes of the issue it wishes to address, and that the promotion of one human right does not happen at the expense of others.

### 3. Distinguishing HRBA from other concepts

#### 3.1. HRBA, needs-based and charity approaches

By entering the mandatory realm of international human rights law, a HRBA progresses traditional development and humanitarian programmes beyond the “charity” model or the “needs-based” framework still in use. A HRBA speaks the language of “assistance is provided because the community has the *right* to such service,” instead of simply saying “because the community *needs* it” or “because it *feels right* to do so.”

The table below<sup>8</sup> illustrates key differences between a HRBA, charity-based and needs-based frameworks. A graph produced by USAID exemplifies these differences. Even though the global trend in foreign aid has shifted remarkably towards HRBA and the charity model has become outdated, *HRBA application does not necessarily mean an absolute abandonment of the needs-based framework*. The needs-based framework is still largely relevant, especially in emergency contexts. However, the benefits of applying a HRBA, directly or indirectly, incentivize programmes to make their best efforts to do so even in the most challenging country contexts. At the very core of a HRBA, it has the unique strength to remove the power imbalance between foreign aid actors and the people that they support caused by the former’s possible unconscious saviourism.<sup>9</sup> Foreign aid actors, in HRBA terms, are no longer merely seen as donors, but also as facilitators and advocates for human rights protection in the countries they work in.

Charity Model	Needs-Based Framework	Human Rights-Based Approach
Focuses on input, not outcome	Focuses on input and outcome	Focuses on process and outcome
Emphasizes on increasing charity	Emphasizes on meeting needs	Emphasizes on realizing rights
Recognizes moral responsibility of the rich towards the poor	Recognizes needs as valid claims	Recognizes individual and group rights as claims toward legal and moral duty-bearers
Individuals are seen as victims	Individuals are objects of development and humanitarian interventions	Individuals and groups are empowered to claim their rights
Civic participation and consultation are neglected	Civic participation and consultation as a means	Civic participation and consultation as a means and a goal
Focuses on manifestation of problems	Focuses on immediate causes of problems	Focuses on structural causes and their manifestations
Focuses on social context with no emphasis on policy	Focuses on social context with little emphasis on policy	Focuses on social, economic, cultural, civil and political context, and is policy-oriented

<sup>8</sup> Adapted from UNFPA (2010) and Kocevski, F. & Atanasova, M. *et al* (2019)

<sup>9</sup> Menashy, F. & Zakharia, Z. (2022)

Examples	Health	Water/Sanitation	Education	Agriculture
<b>Charity Model</b>	 Providing medical equipment for supplies	 Digging wells or building latrines	 Building school and providing textbooks	 Supplying farm groups with seeds and fertilizers
<b>Needs-based framework</b>	 Establishing or streamlining data management systems	 Promoting behavior change related to sanitation and hygiene	 Expanding and upgrading in-service teacher training and providing direct training	 Providing farm groups with technical assistance in agriculture production
<b>Right-based approach</b>	 Supporting the ministry of health to remove barriers to health care that disproportionately affect marginalized groups	 Generating citizen demand for sanitation services in line with their constitutional rights to clean water and proper sanitation	 Organizing parents to push for greater investment in basic education and services	 Developing the capacity of farm groups to negotiate with duty-bearers to ensure non-discriminatory access to resources, such as agricultural land, water, seeds, and fertilizers

Source: Pact & USAID's Center for Excellence on Democracy, Human Rights, and Governance (2018)

*The example on health focuses on building capacity of the ministry of health as duty-bearers. The examples on water/sanitation and education focus on building capacity and raising awareness about human rights and constitutional rights of rights-holders. The last example on agriculture focuses on facilitating the rights-claiming processes between both duty-bearers and rights-holders.*

### 3.2. HRBA and Gender Equality and Social Inclusion

HRBA and Gender Equality and Social Inclusion (GESI) Mainstreaming are complementary, mutually reinforcing, and can be undertaken in parallel without duplication.<sup>10</sup> GESI mainstreaming calls for integration of a gender and social inclusion perspective in all stages of programming and implementation of development and humanitarian assistance, with the ultimate goal of achieving equality. HRBA considers equality and non-discrimination both as a highly elaborate area of human rights protected by the legally binding ICCPR, ICESCR, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), among others; and as one of its principles as abovementioned.

GESI mainstreaming and HRBA have much in common. Both rely on an analytical framework for the design of assistance programmes: for the former, the different situation experienced and roles played by different demographic groups in a given society; and for the latter, a normative framework based on rights entitlements and obligations. Both call attention to the impact of foreign assistance on the welfare of specific groups, as well as to the importance of empowerment and participation in decision-making. Both apply to all stages of programming (design, implementation, monitoring and evaluation) and to all types of action towards rights-holders, duty-bearers or both. Finally, both GESI mainstreaming and HRBA require their systematic and mindful integration to existing activities, as distinct from developing new and additional activities.<sup>11</sup>

<sup>10</sup> OHCHR (2006)

<sup>11</sup> Ibid.

### 3.3. HRBA and UN Sustainable Development Goals

HRBA acknowledges the interlinkage between human rights and sustainable development. While the UN Sustainable Development Goals (SDGs) are often referenced in development programmes, it should be highlighted that the SDGs agenda is grounded on the Universal Declaration of Human Rights and international human rights treaties, and is guided with full respect for international human rights law.<sup>12</sup> It has been discovered that over 90% of SDG targets are embedded in international human rights treaties,<sup>13</sup> implying that they are not merely aspirational goals but in fact contain legal obligations. The UN Office of the High Commissioner for Human Rights (OHCHR) has compiled [a table](#) that illustrates the human rights dimensions of each SDG. SDGs, in many aspects, are “[soft law](#)” within the regime of human rights.

Simultaneous references to both SDGs and international human rights law offer additional legitimacy and local acceptability to a HRBA, especially in country contexts where the language of “hard law,” i.e. legal obligations and sanctions, is generally resisted. The Danish Institute for Human Rights has developed a useful tool called [the SDG-Human Rights Data Explorer](#) that links international human rights commitments and the SDGs. The tool provides country-specific data which supports programmes in incorporating both SDGs and human rights observations and recommendations in designing their actions.

## 4. Misconceptions about HRBA

HRBA is not a panacea to all the world’s challenges. Nor is it the answer to everything, and it certainly has its limitations, including – and most prominently – lack of quantitative data that proves its effectiveness across all development and humanitarian programmes worldwide. However, there are a few profound misconceptions about HRBA that are often raised and that can be debunked as below.

### **HRBA is just a “repackaging” of other tools without having any added values to programmes**

HRBA indeed originates from the development sector’s extensive history which started with the conventional charity and service-based model, and then the needs-based framework. However, HRBA is particularly instrumental as an analytical tool when assessing needs for development and humanitarian assistance. HRBA helps address not merely the symptoms of, but also underlying causes of the issues – all regarded as apparent human rights violations, which leads to more sustainable impacts. It helps programmes create a multiplier effect on the enjoyment of human rights that can go beyond its original intentions. For instance, a project that addresses climate change from a HRBA lens may not only help people claim a cleaner and more sustainable environment, but also promote a culture where people can actively and effectively share and impart information of public interest such as that on air pollution.

In country contexts where the human rights language is welcomed, accepted or at least tolerated, HRBA reminds local governments of their legal responsibilities to respect, protect and fulfil human rights. This recall of legal obligations creates incentives for more effective and meaningful collaboration between them, development and humanitarian programmes, their constituents and civil society. At the very heart of HRBA, it empowers the people that it aims to support, and equalizes the power imbalance between them and government bodies. This equity subsequently fosters local ownership and sustainability.

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12 Paragraph 10, Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1 pronounces: “The new [SDGs] Agenda is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights treaties [...] It is informed by other instruments such as the Declaration on the Right to Development.”

13 Universal Rights Group (2017)

According to NGOs and academic findings, these areas of work and programming can particularly benefit from HRBA:<sup>14</sup>

- Equal access to basic needs and essential services such as education, water, sanitation, social protection and safety net benefit payment schemes;
- Public awareness raising and human rights education;
- Promotion of access to information of public interest;
- Social mobilization and collective actions to address inequality;
- Active citizenship and inclusive participation;
- Dialogues between the state, community groups and civil society;
- Policy development and legislative reforms;
- Supporting countries in transition.

### **HRBA is too difficult and demands a lot of work, and HRBA adds burden to an already complex list of mainstreaming agendas**

This is a very common concern. All programming methods have their own challenges. HRBA, in fact, is interlinked with other mainstreaming tools, and programme personnel can apply a HRBA without extensive knowledge about international human rights law. Applying a HRBA to programming should not involve an entirely new way of programming. It simply entails consciously and systematically paying attention to human rights in all aspects of programme work.

### **Human rights are Western and alien to many cultures, and thus HRBA cannot be applied in many regions of the world**

As already explained, human rights are universal, and all governments in the world have ratified at least one major human rights treaty. In addition, human rights are protected by regional human rights instruments and mechanisms, including those in Latin America, Africa, and Asia. States further codify their human rights commitments in their constitutions, as well as in other national and sub-national legislations.

### **HRBA is not possible and welcomed by more conservative governments or societies**

Although some conservative governments may not embrace certain human rights, especially civil and political rights, there are still ways in which development and humanitarian programmes can gain their support for a HRBA. Among other methods, programmes may combine the application of a HRBA with the implementation of SDGs, or they may choose to customize or “tweak” the human rights language in their design. **[Check Annex X]**

### **HRBA politicizes development and humanitarian assistance**

HRBA is not limited to only political rights. According to international human rights standards, all human rights are equally important and equally protected under international law, regardless of its civil, political, social, economic or cultural nature. Certain human rights should not, and cannot, be neglected in exchange of development or humanitarian access. Even if a development or humanitarian programme appears to be more of a social or economic nature, it cannot be sustainable without sound consideration of civil and political dimensions of the human rights it aims to protect.

### **HRBA overemphasizes rights over needs**

HRBA recognizes the fulfilment of human needs as human rights in itself. In fact, the process of assessing local needs – from a HRBA perspective – is that of analysing local capacity gaps on both sides of rights-holders and duty-bearers. Moreover, protection of human rights is a precondition to ensure that target groups substantially and sustainably benefit from development and humanitarian assistance.

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14 Welthungerhilfe (2016) and Broberg, M. & Sano, H. (2018)

## II. TRANSLATING A HRBA INTO PRACTICE

Country programmes are encouraged to consider applying a HRBA in designing their programmes, as well as for all their projects. As the Handbook advises, a HRBA can be applied to various degrees in different country contexts, including those with political systems not in favour of explicit human rights discussions. A HRBA should be **fully** applied during the stage of situation assessment and analysis, while the **contextual “tweaks”** can take place in the phases of planning and design of programmes or projects, their implementation, and their monitoring and evaluation.

### 1. Situation analysis and assessment

As described, applying a HRBA requires a sound analysis of human rights situation at the national and/or local levels both in law and in practice. It requires a substantial understanding of the country context, including the states’ relevant international human rights commitments, their translation into national policies and their enforcement in reality. Moreover, as a HRBA puts emphasis on capacity building of rights-holders and duty-bearers, it requires a comprehensive identification of capacity gaps on both sides. The stage of analysis and assessment can be broken down into four steps:

- Legal and policy analysis
- Stakeholder analysis focusing on rights-holders and duty-bearers
- Risk assessment
- Setting priorities

#### 1.1. Legal and policy analysis

Effective HRBA programming always begins with as a robust initial assessment of human rights situation as possible. The objective of this analysis is to identify discrimination, structural barriers and root causes for human rights violations, non-compliances or shortcomings. A thorough human rights-based context analysis either confirms or rejects the necessity and feasibility of a programme or project idea. It helps determine which human right(s) the programme should focus on, in what areas and for what groups of the population. It helps ensure that the most important challenges and causes for human rights violations and discrimination are identified and can thus be addressed – or at least taken into careful consideration.

This analysis consists of two parts: an analysis of human rights situation in practice, and an analysis of the domestic legal and policy frameworks and commitments.

##### 1.1.1. Human rights situation in practice

Development and humanitarian programmes at their design and strategic development stage should extensively analyse their countries’ human rights situation through a diversity of sources.<sup>15</sup> At the project level, this analysis can be done intensively in relevant human rights areas. For example, a project to address food insecurity, in its context analysis, should study the most recent reports made by the UN Committee on Economic, Social and Cultural Rights, the Special Rapporteur on the right to food, as well as by credible international human rights organizations such as [Amnesty International](#) or [Human Rights Watch](#), and local civil society organizations. **[Check Annex III for more detailed instructions]**

At the programme level, the analysis on practical protection of human rights in a country context should answer the following key questions. **[Check Annex III for more detailed instructions]**

- What [UN human rights treaties](#) has the country ratified?
- What have [international human rights treaty bodies](#) commented on the country’s human rights situation in their most recent reports?

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<sup>15</sup> This context analysis complements tools developed by PIN Institutional Fundraising Unit and the PIN MEAL Advisor that assist country programmes in project proposal development. HRBA-specific indicators and questions are included in the Quality Standards Checklist for Proposal Development, and the Quality Standards Checklist for Assessments.



- What have the [UN Special Rapporteurs](#) commented on the country's human rights situation in their most recent reports?
- What do independent civil society reports have to say about the country's human rights situation?
- What are major human rights issues that have been repeatedly stressed on by these reports?
- What are the groups most vulnerable to these human rights violations?
- Can your programme do anything about these violations, directly or indirectly?

### **A PIN country programme's analysis on voting rights as part of a project proposal addressing the issue**

In its preparation for a project to advance people's voting rights in the upcoming local elections, a PIN country programme conducted an analysis on the country's status of the right to vote. As the programme focuses on supporting women, youth, and people with disabilities, the analysis concentrated on these groups' enjoyment of the right to vote. The analysis identified that:

The country has ratified the ICCPR, CEDAW and ICERD – international human rights treaties most relevant to the human rights issue and groups that the project targeted. This confirms that there is an international legal framework that can facilitate the project's design and implementation from a HRBA perspective.

Many recent UN sources mentioned women's underrepresentation in politics as the most prominent issue related to the right to participate in public affairs. The UN recommended raising awareness among the general public about the importance of women's participation in politics.

Regional and international NGO sources cite concerns related to media biases and unequal uses of public resources among political parties before the previous elections, and the lack of transparency in the conduct of the National Election Commission. They indicate worrying trends in the threats against civil society actors.

Based on this analysis and its current capacity, the project identified the approach for its intervention. It will work with local civil society organizations to raise public awareness about the local elections and their right to vote. It will also work with local journalists to improve credibility of election reporting. Local civil society actors will be trained about the country's human rights commitments under the ICCPR and CEDAW regarding the right to vote. It will facilitate the connection between civil society and the regional human rights commission to further monitor the election. Concerns related to threats against civil society are addressed in the project's risk assessment and mitigation plan.

### **1.1.2. Domestic legal and policy frameworks and commitments**

The second part of the legal and policy analysis looks at existing instruments and mechanisms through which human rights can be protected at the national and local level. The aim of this analysis is to map national commitments, laws, policies and strategies; and to assess their practical implementation by the country. It offers a framework for accountability and sets the boundaries within which the programme or project should take place. In addition, it also identifies opportunities and leverages that can be used in the local context to advance human rights protection.

The analysis should answer the following questions:

- Is the human rights issue(s) that your programme addresses protected by the country's constitution?
- What recommendations during relevant UN human rights reviews, such as the Universal Periodic Review (UPR), has the country accepted and rejected?<sup>16</sup> **[Check Annex I for more information about the UPR]**

<sup>16</sup> UPR human rights recommendations that a state has accepted are actually its commitment to implement them domestically. You can find this information through a non-profit initiative called UPR-Info: <https://upr-info-database.uwazi.io/en/> that collects data on recommendations and voluntary pledges made under the UPR.

- What are domestic legislations and policies relevant to the human rights issue(s)? Are they considered by independent civil society as consistent with national commitments and international standards?
- Provided that a legal and policy framework and commitments to protect the human rights issue(s) exist, what prevents them from being fully effective?
- Especially in emergency and humanitarian contexts, what human rights has the country temporarily suspended or restricted the exercise of (i.e. “derogated”)? Are these reservations justified and which groups of the population are most vulnerable to violations of the restricted rights?

**[Check Annex IV and V for examples of conducting a domestic legal and policy analysis]**

**Continue with a PIN’s example:**

In analysing the country’s human rights situation related to the right to vote, the programme identified that the country’s constitution protects the right to participate in public life, to stand for office, to vote, and to form political associations and political parties. The country has a National Human Rights Institution [See Annex VIII] vested with the responsibility to monitor and investigate human rights violations.

In consultation with local partners, the programme found out that the government has recently adopted its first and long-awaited human rights strategy. Also recently, a senior government official launched the country’s first training on human rights for teachers as part of the human rights strategy.

In relation to the elections, the country has an Electoral Law under which a National Election Commission has been formally established. However, there have been concerns about its lack of impartiality.

These domestic legal and policy infrastructures suggest what kind of activities and engagement can be pursued within the project.

Based on this analysis and its current capacity, the programme specified the project activities. Its education and awareness raising activities will highlight domestic laws in order to strengthen their legitimacy and relevance, and to avoid unintended backlash from the government authorities. They will cite the newly adopted human rights strategy that supposedly supports human rights education in schools. It will train civil society actors on the Electoral Law, and after the elections, the National Election Commission will receive recommendations for improvements in the country’s electoral system. Concerns related to the Commission’s lack of independence are carefully addressed in the project’s risk assessment and mitigation plan.

## **1.2. Stakeholder analysis**

After identifying one or a few human rights issues to be addressed, programmes proceed with identifying stakeholders for the development or humanitarian actions, most importantly the “rights-holders” and the corresponding “duty-bearers.” It is then followed by a *capacity gap analysis* of both rights-holders and duty-bearers.

### **1.2.1. Rights-holders and duty-bearers**

Identification of rights-holders and duty-bearers is specific to each country programme and project. **In any case, always start with identifying the rights-holders.** An individual or a group of individuals can be a rights-holder or a duty-bearer, depending on the role in which they act. Depending on the country programme’s priority and capacity, it can target one or multiple groups of rights-holders and/or duty-bearers.

- *Rights-holders*: affected individuals and groups who have entitlements and claims regarding their human rights. Their representatives, most typically civil society or community groups, are also considered rights-holders.
- *Duty-bearers*: primarily governments, state institutions and human rights bodies like National Human

Rights Institutions (NHRI) or ombudspersons [Check Annex VIII], bear the obligations to *respect, protect and fulfil* human rights [Check Annex I].

- Other actors such as international organizations, CSOs, academia, and the private sector.

### 1.2.2. Capacity gap analysis

The identification of key stakeholders and their roles is followed by an assessment of their capacities (“**capacity gap analysis**”). This analysis is instrumental to understand the reasons why states have failed to fulfil their human rights obligations. Is it a matter of political will, lack of funding, technical skills, institutional resistance or cultural constraints? At the same time, attention should be given to define the obstacles that individuals and groups face in attaining information of their legitimate interest, in claiming their human rights, and in accessing basic services and decision-making processes.

The table below lists out questions that can help country programmes analyse capacities of rights-holders and duty-bearers. The questions addressing rights-holders seek to help programmes understand why they have not been able to claim or enjoy their human rights effectively, if at all. The questions addressing duty-bearers help clarify why they have not been able to deliver on their human rights commitments effectively, if at all.<sup>17</sup> [Check Annex VI and VII for examples of tools to conduct a stakeholder analysis from a HRBA perspective]

Guiding questions for capacity gap analysis <sup>18</sup>	
Rights-holders	Duty-bearers
<ul style="list-style-type: none"> <li>▪ Do the rights-holders know that they are entitled to the human rights that the programme/project addresses?</li> <li>▪ Do they know about specific laws or policies that might benefit their human rights?</li> <li>▪ Do they know how to claim their rights, and how to advocate and mobilize for them?</li> <li>▪ Are there specific channels of participation available and accessible to them, including for the most marginalized and underrepresented groups?</li> <li>▪ Do they have the ability to affect decision-making processes to their advantage?</li> <li>▪ Do they have the motivation, commitment, skills and leadership to claim their human rights?</li> </ul>	<ul style="list-style-type: none"> <li>▪ Do the duty-bearers know that they have an obligation to respect, protect and fulfil human rights that the programme/project addresses?</li> <li>▪ Do they understand the human rights issues and their duties at stake?</li> <li>▪ Do they have the resources (financial, technical, or personnel) to fulfil their obligations?</li> <li>▪ Do they have the authority, motivation, commitment and leadership to fulfil their obligations?</li> <li>▪ Are the legal, policy and institutional frameworks, including mechanisms for human rights accountability, available and accessible?</li> <li>▪ Are these mechanisms in line with international human rights standards?</li> </ul>
<ul style="list-style-type: none"> <li>▪ If most of the answers to the above questions are “YES,” then how effective is the rights-claiming process in practice?</li> <li>▪ If it is not effective, then why?</li> <li>▪ Does the process ensure the principles of equality and non-discrimination, participation and inclusion?</li> </ul>	

17 This analysis can be conducted alongside the stakeholder analysis as part of all RDD programmes and projects. RDD International Fundraising Unit (IFU) has developed tools to assist country programmes in this essential task. Roles of stakeholders as either rights-holders, duty-bearers, or others can be defined according to their involvement, influence and power. Check stakeholder analysis template available at IFU.

18 Adapted from UNFPA & Harvard School of Public Health (2010) and Ussar M. (2011)

## Child's rights as an exception

Article 18 of the Convention on the Rights of the Child (CRC) identifies parents and other legal guardians of children as the "primary" duty-bearers. In addressing child's rights issues such as education, programmes should identify parents as the **first-line** duty-bearers who have the obligation to respect their children's rights. At the same time, they act as rights-holders as they can make human rights claims on their children's behalf.

The **second-line** duty-bearers would be teachers and schools, then public administrations at the district, provincial and ministerial levels. The state is the **ultimate** duty-bearer as it has ratified the CRC.

By perceiving children as rights-holders, development and humanitarian programmes acknowledge and strengthen children's voice and agency as active participants in the design and implementation of the activities that benefit them. At the same time, by identifying parents as one of the duty-bearers, programmes can urge parents to foster their children's access to education, especially for girls and children with disabilities whose education is traditionally neglected.

The table below shows an example for a simplified capacity gap analysis on the right to education of children with disabilities.

Capacity Gap Analysis		
<b>Rights-holders</b> Children with disabilities	<b>Claim:</b> Access to quality education on equal basis with others	<b>Capacity Gap:</b> Limited channels for children with disabilities to voice complaints
<b>Duty-bearers/Rights-holders (1)</b> Parents and other legal guardians of children with disabilities	<b>Obligations:</b> Allow their children to receive quality education without discrimination	<b>Capacity Gap:</b> Lack of knowledge and confidence to engage schools and local authorities
<b>Duty-bearer (2)</b> Teachers and Local School Administrations	<b>Obligation:</b> Ensure accessible classrooms and teacher attendance	<b>Capacity Gap:</b> Low management and planning capacity
<b>Duty-bearer (3)</b> Provincial Education Direction	<b>Obligation:</b> Ensure implementation of inclusive education policy	<b>Capacity Gap:</b> Lack of clear standards and audit processes
<b>Duty-bearer (4)</b> Ministry of Education	<b>Obligation:</b> Allocate budget to implement inclusive education policy, including teachers training	<b>Capacity Gap:</b> Low expertise and leadership in inclusive education

### 1.3. Risk analysis and assessment

HRBA-integrated risk analysis and assessment follows the dual principle of "Applying all rights" and "Do no harm." They emphasize that any programme and project, in its good intention to support a group of rights-holders or human rights issues, should not adversely affect other groups or other human rights concerns. This precaution is particularly important not only in fragile and conflict-affected states, but also in countries where the situation of human rights, especially civic space, is reportedly alarming.

In addition to PIN's extensive scope of policies related to risk management for country programmes,<sup>19</sup> there are two HRBA-specific risk factors:

**First**, in many country contexts, discussion of human rights contains significant risks for the parties involved. There are countries where advocating for women's rights, LGBTQI+ rights, or land rights remains a taboo. In some others, talking about human rights even in vague terms leads to reprisals against those who dare speak up. Development and humanitarian programmes should use their judgement and knowledge about the local context, in consultation with local informants, to identify and mitigate these risks. Well-known human rights organizations such as [Protection International](#) and [Frontline Defenders](#) have developed various tools to help civil society actors identify and mitigate security risks, including physical, digital and psychosocial security.

**Second**, from a HRBA perspective, corruption is considered a prominent risk that may hijack foreign aid, and also constitutes [a human rights violation](#). Feeding into a corrupt system or individuals can thus be perceived as negligence, or at worst, complicity in human rights violations. For programmes and projects that target mainly duty-bearers – i.e. state institutions, it is essential to address the potential risk of corruption in the country context. Sources such as [Transparency International](#) offer important insights in that respect. Risk-mitigating measures may include stronger reporting and monitoring mechanisms, provision of procurement guidelines, informational transparency, or more effective civil society oversight.

When a risk is identified, it does not mean that the intervention has to be avoided. In many cases, risks can be mitigated by "tweaking" the HRBA language in the programme or project's design [[Check Annex X](#)].

#### **Continue with a PIN's example:**

The context analysis shows that the right to vote is a sensitive topic in the country context where the ruling party has disproportionate power over other political parties. The National Election Commission is neither independent nor impartial as they are led by the ruling party. In addition to social, environmental and economic risks, other HRBA-focused risks are:

- Interference by political parties during project activities
- Limited interest from local authorities to engage with PIN and civil society
- National Election Commission does not provide accreditation to target CSOs and does not allow them to participate in election monitoring
- Civil society's fear of intimidation and harassment

To mitigate these risks, PIN will ensure that representatives of all parties contesting the elections are engaged in the project's public activities so that they will not impede the right to free and fair elections. All awareness raising, education and advocacy activities will reference existing domestic laws, policies and strategies to mitigate backlashes from local authorities and strengthen their cooperation. PIN will also link the supported CSOs with regional and international election observers to mitigate their risk of being attacked for their monitoring of the election. PIN will secure regular communication with the National Election Commission to ensure effective collaboration and transparency.

#### **1.4. Setting priorities**

After the context analysis and consideration of the resources available – expertise, personnel, financial, time, local contacts, and the added values of their actions – programmes should determine the priorities for their actions.

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<sup>19</sup> PIN has a variety of policies and guidelines that instruct RDD country programmes to avoid or mitigate unintended consequences of their interventions. These include the "Do no harm" policy, PIN Environmental Policy, RDD Policy on Collaboration with Private Sector, PIN Quality Standard Checklist on conflict sensitivity, and PIN Policy on Humanitarian Access and Engagement with Non-state Armed Groups and De-facto Authorities.

Some criteria for selecting human rights priority area(s) and group(s) for the programme or project include:

- Issues of concern identified by human rights treaty or charter bodies at the international or regional level, the national human rights institution, or CSOs;
- PIN's own findings and track record related to the specified human right(s);
- Gaps concerning the implementation of national legislation in relation to the specified human right(s);
- Opportunities to work with partners concerned with the specified human right(s), including the state.

It is not expected of programmes to resolve **all** human rights issues in a country, neither to target **both** rights-holders and duty-bearers at **all** levels. However, actions should always ultimately be pivoted to rights-holders and should aim to have as large a human rights impact as possible, considering the interdependence of human rights. In practice, it means that programmes and projects that only work with or benefit state actors may not be considered as incorporating a HRBA. **[Annex IX]** covers a list of activities that if incorporated, programmes and projects are more likely to follow a HRBA and produce human rights-related outputs.

## 2. Planning and design

After identifying the priority human rights area(s), sectors and groups where resources of the programmes should target, the next step is to plan and design the programme and/or project. Normally referred to as the intervention logic development, the process from a HRBA perspective should reflect relevant human rights, and where applicable, SDGs commitments in its objectives and outcomes. Depending on the country context, these objectives can directly or indirectly, explicitly or implicitly, consider human rights. **[Check Annex X for detailed instructions]** The table below offers a simplified minimum quality standard checklist in designing a programme or project that applies a HRBA and thus can potentially produce human rights-related outcomes.

### Checklist for HRBA application – Does the project ...

- ... reflect the problem(s) identified by the community members in the situation analysis (including the most vulnerable)?
- ... address the root causes of the problem(s)?
- ... refer to human rights standards or principles in relation to the identified problem(s)?
- ... specify the desired change for both rights-holders and duty-bearers?
- ... have a GESI dimension?
- ... specify which rights-holders and duty-bearers will participate in the project?<sup>20</sup>

## 3. Implementation

Applying a HRBA in the implementation stage means, once again, ensuring that the human rights principles and standards, as described in **1.2.3**, are consistently respected. This requires a close monitoring of the overall human rights development of the country context ("Applying all rights"), constant engagement with both rights-holders and duty-bearers without discrimination (Inclusion, Participation, Non-Discrimination and Equality), and consistent promotion of unfettered access to information and transparency (Accountability). Development and humanitarian programmes should stay receptive and accessible for feedback and complaints coming from both rights-holders and duty-bearers who the programmes have affected, positively or negatively, directly or indirectly.

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<sup>20</sup> Kirkemann-Boesen, J. & Martin, T. (2007), p. 25 in Welthungerhilfe (2016).

## 4. Monitoring and Evaluation

An effective and successful monitoring and evaluation framework that applies a HRBA follows a robust assessment of the local human rights context and a sound result matrix that integrates human rights indicators. **[Check Annex XI for detailed instructions]**

The monitoring and evaluation process should comply with HRBA principles, including Participation and Inclusion; Equality and Non-discrimination; Accountability, Transparency, and Rule of Law. These principles are accompanied by an overarching principle of Privacy as a human rights concern.

### *Participation and Inclusion*

In order to achieve an accurate overview of a programme or project, its result, impact, and how human rights principles have been incorporated, it is essential for programmes to gather information from various stakeholders. It is equally important that the consultation is not disproportionately skewed towards duty-bearers or rights-holders, as the evaluation process may serve as an opportunity to strengthen human rights accountability. If, for example, the project has mainly held consultations with the government but not with NGOs, CSOs, or a broad enough range of individuals or groups affected by the project, the HRBA principle of participation may not be fully applied.<sup>21</sup>

Moreover, all stakeholders involved in the monitoring and evaluation should have access to the monitoring and evaluation findings, and be able to use them for their own interests. Marginalized groups participating in the process should be empowered not only in understanding the data collection processes, but also in using the resulting data.<sup>22</sup>

### *Equality and Non-discrimination*

The monitoring and evaluation process should detect forms of discriminatory practices that may occur during the implementation of the programme or project. It should be designed to detect or measure discrimination against particular groups, through inclusive participation. This also means the collection of data disaggregated by grounds of discrimination recognized in international human rights law. These include sex, age, ethnicity, disability, religion, income, sexual orientation and gender identity.<sup>23</sup>

### *Accountability, Transparency, and Rule of Law*

The monitoring and evaluation process should enhance accountability of the duty-bearers. Appropriately collected, and anonymized where needed, data should be proactively made available to the academia, CSOs and other stakeholders to facilitate the development and maintenance of local accountability systems. The publication of relevant and disaggregated data can aid accountability by supporting CSOs in formulating their human rights claims, for example, by contributing evidence to their submissions to the UN human rights monitoring mechanisms.

Transparency of the monitoring and evaluation process, as well as its methodology and findings, is fundamental for the exercises of the right to access to information and freedom of expression. The “return of data” as findings from the monitoring and evaluation process should be delivered in culturally appropriate ways to be genuinely meaningful for the population groups of interest.<sup>24</sup>

### *Privacy*

Stemming from the principle of “do no harm,” the monitoring and evaluation process must ensure safety and security of groups and individuals involved. They should be able to participate in the process without

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21 IOM (2015)

22 OHCHR (2018)

23 Ibid. Also check GESI policy.

24 OHCHR (2018)

fear of violence and other forms of hostility, sometimes inflicted by their own families or communities. This is one of the most often neglected aspects in the programme or project evaluation, and is of particular importance for people belonging to systematically marginalized and discriminated groups.

In respect of their right to privacy, populations of interest should be self-defining. Individuals participating in the monitoring and evaluation process should have the option to disclose or withhold information about themselves. While findings of the process should be made transparent and accessible, it should not be published in a manner that permits exposure of individual data subjects and thus compromises their privacy. Data that relates to personal characteristics, and particularly sensitive personal characteristics (including but not limited to ethnicity, sexual orientation, gender identity, health status, and political standpoint) should be handled only with the express consent of the individuals concerned.





### III. APPLYING HRBA IN RDD STRATEGIC PILLARS

#### Pillar I: Emergency response and recovery

Human rights violations run particularly rampant in the context of humanitarian crises. Some of the most atrocious, pervasive and acute human rights abuses, including war crimes and crimes against humanity, occur in the time of humanitarian crisis and conflict. In terms of social and economic rights, humanitarian crises obstruct delivery of essential services: 50% of children who are denied an education live in conflict-affected countries.<sup>25</sup>

While some human rights may be derogated in times of a humanitarian crisis,<sup>26</sup> international human rights law stays in effect. Together with international humanitarian law constituted by [the Geneva Conventions](#) and customary rules, international human rights law underscores the primary responsibility of states to guarantee protection of civilians, and facilitates humanitarian assistance.

However, especially in the context of armed conflicts, states are often *unwilling* or *unable* to assure protection of human rights – i.e. to perform as duty-bearers. In these situations, the governing structures and institutions become critically weak or stop functioning. The constantly unfolding events of the conflict make it difficult for humanitarian actors to identify or approach *de facto* duty-bearers. In worst cases, the states themselves are perpetrators of human rights atrocities and intentionally causing blockade to humanitarian aid delivery.

Against this backdrop, humanitarian actors working in the field face various challenges. They are confronted with restricted access and protection threats, and the human rights situation is not adequately monitored and information cannot always be independently verified. The dilemma emerges when humanitarian actors feel their moral responsibility to speak up and engage in advocacy, including denunciations of the duty-bearers for serious human rights violations, but on the other hand need to secure access to affected populations.

The application of a HRBA in humanitarian and emergency response has three implications:

#### ***Building on the needs-based approach***

Application of a HRBA does not contradict humanitarian assistance, and vice versa, as see in the table below. There have been concerns that a HRBA may conflict with the principle of neutrality, impartiality and independence in humanitarian assistance which obliges humanitarian actors to not “take sides in hostilities or engage at any time in controversies of a political, racial, religious, or ideological nature”.<sup>27</sup> However, it can be argued that a HRBA, by relying on its international (and domestic) legal standards, actually helps strengthen evidence-based humanitarian assistance. At the same time, adopting a HRBA does not always mean raising your voices on “sensitive” issues in delicate situations. Implicit application of a HRBA may be a more appropriate in these situations [[See Annex X for detailed instructions](#)].

Viewing humanitarian assistance from a HRBA perspective does not mean abandoning the needs-based approach. In essence, a HRBA sees immediate needs such as food, water, sanitation, shelter, health, and education as basic human rights. As explained in the previous chapters, this conceptual shift enables a conscious adjustment in humanitarian assistance that entitles the affected communities and people to voice, agency, dignity, and rights. In practice, this includes actions that facilitate trust-building and relationship

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25 UNESCO (2013)

26 According to Article 4 of the ICCPR, the right to life, to freedom from torture and slavery, from prison due to debt, the right to be recognized as a person before the law, and freedom of religion are non-derogable. That means even in times of humanitarian crises, these rights must still be protected.

27 IFRC (Accessed on July 26 2022). [Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief](#).

management with local and community-based actors, and promotes self-help capacities, resilience and awareness of rights of the people.<sup>28</sup> Even in the most politically challenging environments, humanitarian actors still have the potential to nurture democratic values.

<b>IFRC Code of Conduct in Disaster Relief</b>	<b>Corresponding HRBA Principles</b>
"Aid is given regardless of the race, creed or nationality of the recipients and without adverse distinction of any kind"	Equality and Non-discrimination
"Aid will not be used to further a particular political or religious standpoint. We shall endeavour not to act as instruments of government foreign policy"	Interconnectedness of human rights ("Applying all rights")
"Ways shall be found to involve programme beneficiaries in the management of relief aid"	Participation and Inclusion
"We hold ourselves accountable to both those we seek to assist and to those from whom we accept resources"	Accountability
"In our information, publicity and advertising activities, we shall recognize disaster victims as dignified human beings, not hopeless objects"	Transparency and Access to information Accountability Inalienability of human rights ("Applying all rights")

<b>Core Humanitarian Standards</b>	<b>Corresponding HRBA Principles</b>
"Humanitarian response strengthens local capacities and avoids negative effects"	Capacity strengthening for rights-holders and duty-bearers
"Humanitarian response is based on communication, participation and feedback"	Participation and Inclusion
"Complaints are welcomed and addressed."	Transparency and Access to information Accountability

With this determination, humanitarian actors have developed their own sets of principles and steps that guide the application of a HRBA in humanitarian assistance. ActionAid, for example, as shown in the diagram below has developed a 4-pronged structure of actions through which a HRBA can be effectively integrated in humanitarian assistance. The recommended steps do not need to be implemented sequentially, but can happen in parallel.

In addition, it is regardless crucial to consider the role of the state and other duty-bearers in the implementation of humanitarian assistance with a view that they shall assume responsibility for it in the long-term. This concern is particularly relevant for aid-dependent states where NGOs have been filling in the gap of humanitarian assistance for an extended period of time and thus not seeing the need to provide services themselves.

<sup>28</sup> Welthungerhilfe (2016)



Source: [Emergency preparedness and response handbook – Saving lives and protecting rights](#) (ActionAid)

### ***Taking a share of accountability***

In the context of emergency crises, especially in conflict or weak and failed states, it becomes extremely difficult, if not virtually impossible, to engage state institutions as duty-bearers in upholding human rights. For this reason, a number of humanitarian actors have started transferring the temporary role of duty-bearers to multilateral agencies, such as the UN, and humanitarian agencies such as the Red Cross, as well as international NGOs. Although this concept bears little legal foundation, it is an appealing alternative for humanitarian actors who self-identify as “moral” duty-bearers.<sup>29</sup> In practice, it imposes that humanitarian actors should be held (themselves) accountable to the communities they work with, responsible and transparent about every phase of the implementation of their commitments made to the people they support. They should also be accountable to their supporters, donors and governments, and the international human rights law system. PIN has embraced this approach in the 2019 RDD Emergency Manual, which unequivocally pronounces its “active commitment to use power responsibly by taking account of, giving account to, and being held to account by the people we serve.”<sup>30</sup>

The duties vested in humanitarian actors are specified as both needs-based and human rights-based: humanitarian actions have the duty to assist and to attend to the emergency needs of communities; as well as the duty to protect and respect a full range of human rights in humanitarian crises.<sup>31</sup> In practice, humanitarian actors can fulfil these duties through organizing social audits, community reviews and people’s hearings.<sup>32</sup> These mechanisms “aim to support communities to empower themselves to ask questions and challenge

29 Welthungerhilfe (2016)

30 People in Need (2019)

31 Carol C. Ngang (2015) in Welthungerhilfe (2016)

32 ActionAid (accessed on July 26 2022)

the typical 'donor/recipient' mindset, facilitating a shift in a person's view of her/himself as a beneficiary/recipient of aid to that of a person with a right to assistance and active agency in the process of their recovery."<sup>33</sup> ActionAid's experience shows that by going through such processes with the organization, assisted communities can gain the confidence and skills necessary to demand accountability from the real and lawful duty-bearers. At the same time, complaint mechanisms that respect anonymity and confidentiality where and when necessary help flag and sanction occurrences of rights-abusing behaviours committed by humanitarian actors, including corruption, violations of women's rights, child's rights and those of ethnic minorities.

### ***Not giving up on human rights advocacy***

As discussed in other chapters [[also check Annex X](#)], risks involving advocating for human rights protection in the framework of emergency assistance should not deter humanitarian actors completely from doing so. One option for humanitarian actors to protect human rights in their best capacity is coordination with international organizations like the UN, and forming alliance with other INGOs for collective advocacy without being "singled out" by the state. For instance, PIN has participated in NGO coalition-based advocacy in the cases of [Syria](#), [Ethiopia](#), and [Myanmar](#) for the protection of civilians and civilian infrastructures.

Another option that is unique to PIN's RDD is collaboration with PIN's [Human Rights Department](#). The department implements activities that advocate for human rights protection, as well as support independent civil society actors in countries in Eastern Europe and Central Asia, Latin America, Middle East and North Africa, and Southeast Asia. Even in countries that it is not currently active, it maintains close partnerships with regional human rights networks and has access to advocacy and human rights protection mechanisms all over the world. Human Rights Department represents PIN in the [Lifeline Consortium](#), which responds to threats against civic space through its provision of resiliency and advocacy grants for independent CSOs. The department tends to adopt a low-profile approach in its advocacy and protection work. Due to various methodological differences and precautions in the programming of RDD and the Human Rights Department, it is imperative that PIN humanitarian programmes consult their senior management for a careful risk assessment before pursuing such collaboration.

### **PIN Syria protecting children's right to education in emergency**

The humanitarian consequences of the conflict in Syria are wide-ranging and profound. More than a decade since the onset of the conflict, a major part of crucial civilian infrastructures in Syria, including schools, remains in despair or unrestored after sustaining extensive damage. The COVID-19 global pandemic has exacerbated Syrian children's school dropout rate, and access to education in general.

The devastating impact of the war on education and wellbeing of Syrian girls and boys can be acutely felt in Northwest Syria (NWS) and Northeast Syria (NES) where PIN is currently providing humanitarian aid. The differing political structures of the two regions, and thus their varying institutional frameworks for education have created a critical gap in the accessibility, content, and security of the education that children in the two regions receive. In both NWS and NES, the complex structure of local governments, including the Syrian Interim Government and the Syrian Salvation Government in NWS, and the Autonomous Administration of North and East Syria (AANES) in NES – has made it extremely difficult for international aid actors to effectively apply international human rights law that contains human rights obligations of UN member states. Instead, principles of international humanitarian assistance – on which PIN Code of Conduct in education assistance in emergency is premised – prevail as to urge local governments for sustained, independent, and non-discriminatory humanitarian access.

PIN's needs assessment before designing a project to address these issues highlighted that the combination of displacement, lack of learning spaces, economic hardship and protection concerns

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33 Ibid.

remain as major obstacles for the fulfilment of the right to education for children in both NWS and NES. This required a holistic intervention design. The process included regular community-based consultations with the local authorities, teachers and parents living in the target camps during which information on project objectives, modalities, assistance delivery and outputs, beneficiary selection criteria, as well as the Community Feedback and Response Mechanism (CFRM) was disseminated.

A child-centred approach has been applied throughout the project. PIN's trainings for teachers and school staff contain an emphasis on child protection, wellbeing and inclusion. In NWS, parents and caregivers, together with school staff and other community members, are involved in PIN-supported education committees which monitor and contribute to their own children's development in the supported temporary learning centres. The component of social cohesion in curriculum taught at these learning centres has helped strengthen solidary and local acceptance among the target communities.

In order to strengthen its own accountability to the supported children and their parents, PIN established a child-friendly complaint response mechanism and promoted it with child-friendly posters, and the installation of feedback boxes in schools. The children played an active role in the design of the complaint mechanism itself, with their views gathered on various aspects to make it more accessible and effective. Their confidentiality, safety and security are thoroughly respected during any investigation into the reported wrongdoings, including those related to sexual abuse, harassment and exploitation, fraud and corruption.



Children in the Atareb town, West Aleppo, Syria, supported by People in Need

## Pillar II: Climate Resilience

The interlinkage between climate change and human rights had been implied in various international development strategies and guidelines, including the UN SDGs. However, it was not until 2021 that the connection was explicitly pronounced in the language of international human rights law. In 2021, the UN Human Rights Council passed a resolution (resolution 48/13) that recognizes access to a healthy and sustainable environment as a universal right. It recognizes that climate change threatens the effective enjoyment of a range of human rights, including the right to life, water and sanitation, food, health, housing, culture and development.<sup>34</sup> Moreover, it disproportionately affects indigenous peoples, women, children, people with disabilities, and migrants and internally displaced persons.<sup>35</sup>

By reconceptualizing climate change as a human rights issue, the international development and humanitarian sectors redirect climate change and natural disaster prevention and adaptation as human rights obligations borne by states. States then have a human rights duty “to prevent the foreseeable adverse effects of climate change and ensure that those affected by it, particularly those in vulnerable situations, have access to effective remedies and means of adaptation to enjoy lives of human dignity.”<sup>36</sup>

The application of HRBA in climate resilience programming has three implications:

### ***Climate resilience advocacy from needs to rights***

According to PIN RDD 2022-2026 strategy, country programmes should provide internal funding for climate change vulnerability assessments and develop a climate justice advocacy agenda that amplifies voices from the communities they work with to advocate for investments in climate change adaptation and resilience. The HRBA framework for situation analysis and assessment enables programmes to look at climate change in a nexus of human rights issues, ranging from the right to participate in public affairs, the right to share and impart information, to peaceful assembly and association, and to equality before the law and effective remedies. Especially in connection with PIN’s current climate resilience programming, the HRBA framework urges government stakeholders to ensure resilient access to water, food, housing and shelter, and social security for communities vulnerable to climate change – all as human rights issues. This approach helps programmes scrutinize into the root causes and structural challenges of climate change and disaster management, including the lacking implementation of environmental protection and climate change response policies, and explore new partnerships for advocacy.

Climate resilience is an area where it is practically easier to highlight human rights obligations borne by private sector due to their overwhelming stakes in causing climate change – i.e. violating human rights. The 2021 UN Human Rights Council resolution reiterates the [UN Guiding Principles on Business and Human Rights](#) which underscores the responsibility of all business enterprises to respect human rights. Together with the SDGs, these “soft laws” give effective grounds for programmes to engage businesses to get involved in climate resilience interventions. Advocacy for climate resilience can now be reinforced by referencing human rights obligations.

### ***Climate resilience as an avenue for freedom of speech, information and access to justice***

Climate resilience programming can serve as a vessel for stronger human rights protection. While many development or humanitarian programmes may shy away from openly and explicitly calling for the protection of human rights, especially those of civil and political nature, climate change is so far still considered as a less sensitive thematic area thanks to the global embrace of the SDGs and the [Paris Agreement](#). The UN Human Rights Council noted that more than 155 UN member states have recognized some form of the right to

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34 OHCHR (2021)

35 Ibid.

36 OHCHR (accessed on July 25 2022). [OHCHR and climate change](#).

a healthy environment in international agreements or their national constitutions, legislation or policies.<sup>37</sup>

For this reason, and minding the HRBA principle of “Applying all rights,” where and when possible, programmes should take the opportunity to advance the enjoyment of human rights, especially the rights to seek, receive and impart information, to participate effectively in the conduct of government and public affairs and in environmental decision-making, and to an effective remedy.<sup>38</sup> To this end, programmes should ensure that information related to the supported climate resilience actions are made available and accessible to the public; the design and implementation of the supported climate actions is consulted, participated and monitored by independent media and civil society without discrimination; and most ambitiously, the supported climate actions lead to the state’s development of effective measures for people and communities most affected by and vulnerable to climate change to receive adequate and timely assistance. The assistance may include sustainable water and food security, alternative livelihood investments, and access to social safety net payments. In some cases, country programmes may identify opportunities to strengthen national mechanisms for affected people and communities to receive judicial remedies and financial reparations.

### ***Participation of environmental civil society***

Environmental civil society, also known as environmental defenders or environmental human rights defenders, refers to “individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna”.<sup>39</sup> This inclusive category of actors is identified by what they do, rather than who they are. They may work as journalists, activists or lawyers who oppose and expose environmental destruction or land grabbing; they are often ordinary people living in remote villages, forests or mountains, who may not even be aware that they are acting as environmental human rights defenders – or simply that title bears no meaning to them. In many other cases, they are indigenous leaders or community members who defend their traditional lands. They may form institutions and function as NGOs, or operate only temporarily for the specific local environmental issues.

Environmental defenders often find themselves on the forefront of the struggle against climate change and environmental degradation, and most of the time in the opposition to state and non-state interests. In many country contexts, they have been depicted as “anti-development” or “unpatriotic” and subjected to harassment, detention and violence, including assassination.<sup>40</sup> Indigenous communities and ethnic and racial minorities are particularly vulnerable due to their direct connection to the exploited natural resources, and their constrained access to justice.

Climate resilience programming using a HRBA should regard environmental defenders as crucial partners of their actions. Capacity building and security-strengthening efforts by development or humanitarian programmes should reach the most disadvantaged and marginalized environmental actors, including indigenous communities and ethnic and racial minorities. They should be given membership in networks, consortiums and coalitions for climate actions. Even in country contexts where overt partnerships with environmental civil society contain severe security and operational risks, these actors should not be isolated, neglected or ignored. Programmes should in their best capacity identify measures for safe, effective and constructive consultation and communication with environmental defenders in the design and implementation of their actions.

## **Pillar III: Civil Society and Inclusive Governance**

The concept of inclusive governance is both a goal and a means of human rights protection. To foster inclusive governance means for the people to exercise a variety of human rights, from the right to equality and

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37 United Nations Human Rights Council (2021). Resolution A/HRC/48/L.23/Rev.1

38 Ibid.

39 UN Environment Programme (accessed on July 25 2022). [Who are environmental defenders?](#)

40 Various sources as cited in Michel, F. (2016)

freedom from discrimination, to the right to participate in public affairs, to free expression, and peaceful association and assembly. In the same token, inclusive governance enhances the protection and promotion of all human rights.

Conversely, a HRBA considers abuse of power, corruption and weak civil society participation – what good governance programming addresses – as human rights violations themselves.<sup>41</sup> Through effectively applying a HRBA, programmes help enhance not only people’s exercise of their right to participate in public affairs, but also the promotion of state accountability and rule of law.

PIN RDD 2022-2026 strategy puts civil society at the centre of its efforts to advance inclusive governance. It commits to empowering civil society actors, promoting youth engagement, and participatory planning for social inclusion. This gives confidence that in country contexts where this pillar can be successfully implemented, a HRBA can be applied as well.

The application of a HRBA in civil society and inclusive governance programming has three implications:

### ***Assessing civic space for truly meaningful participation***

Civil society encompasses a variety of structures. They can be individuals, or form organizations. As organizations, they can operate as community service providers, women’s organisations, academia, faith-based associations, youth organisations, coalition entities and grassroots organisations, and non-profit media. They can be officially registered, or not. They can be local, national, regional or international. Regardless, civil society is only beneficial to development and humanitarian programmes when they are truly independent and truly representative of the people’s interests. As known in many country contexts, individuals or organizations that resemble civil society are actually connected to or promote interests of the state or private sector, and thus not entirely independent. For their affiliations, they enjoy greater visibility and access to resources. In unfamiliar country contexts, it may be tempting or convenient for programmes to pick the “low-hanging fruit” by working with this category of actors. However, this approach will not only divert development and humanitarian assistance from those who need it the most, but also hinders genuine and effective civic participation.

To identify truly independent civil society to work with, it is instrumental for programmes to consult local communities, as well as regionally or internationally recognized sources. CIVICUS, an international alliance dedicated to strengthening citizen actions and civil society throughout the world, has developed a [Monitor](#) to track and rate the conditions for civic space in 196 countries in the world. It offers insight into the level of precautions needed when programmes pursue civil society collaboration, especially in countries categorized as closed or repressed civic space.

### ***Perceiving inclusive governance as human rights***

Inclusive governance is not feasible if a cluster of human rights are not protected. These include the right to freedom of opinion and expression, to peaceful assembly and association, and the right to participate in public affairs, together with the principle of non-discrimination. Therefore, while aspiring to support local civil society under this pillar, where and when possible, programmes should promote a conducive environment for civil society to grow.<sup>42</sup> In practice, this includes efforts to cultivate a resilient, adaptive and diverse local civil society ecosystem with skills to navigate domestic legal and practical challenges, and to engage government authorities for effective advocacy and participatory decision-making in a manner that recognizes and respects civil society as an indispensable part of local development.

As reflected in the PIN RDD 2022-2026 Strategy, inclusive governance of public services is a key pathway to empower civil society and support governments to become more accountable and responsive to the citizens whose human rights they have a duty to protect, promote and fulfil. The planning, development and monitoring of these public services, including education, water, sanitation, nutrition and other social

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41 OHCHR (2013)

42 OHCHR (2016)



services, should be transparent, participatory and accessible for accountability and anti-corruption oversight. Where and when possible, programmes should emphasize these standards in connection with relevant human rights policy and commitments that governments have made nationally and internationally.

### **Security for civil society actors**

HRBA pays close attention to the protection of civil society actors and the threats that civil society work entails. In challenging political environments, civil society faces defamation, harassment, physical and judicial attacks. Even in contexts where civil society is not targeted by the state, groups working on social and environmental justice are often subjected to violence perpetrated by non-state actors.

It is therefore critical for programmes to address security threats faced by civil society actors that programmes work with. While it may be out of the programmes' control to influence the local power structure or culture, it is within their control – and even responsibility – to ensure that their civil society partnerships are safe and will not lead to reprisals. Under a HRBA, security risk assessments and mitigation plans should be part of any engagement by the programmes with civil society actors. These protective and preventive measures may include organization of trainings on physical and digital security, provision of mental health and psychosocial support for civil society partners, strengthened engagement between civil society and the law enforcement, and promotion of civil society collaboration with regional and international human rights mechanisms.

#### **PIN Zambia pursuing both good governance and human rights protection**

A concrete good governance project in Zambia aimed to contribute to enhanced capacity and engagement of communities and civil society in seeking accountability for development and poverty reduction. To reach this objective, the project provided target CSOs with trainings on policy engagement, social accountability, land governance, gender and advocacy. It also targeted local authorities to improve their understanding of local CSOs' and populations' needs.

The project analysed the situation of civil society participation from a human rights perspective. The issue to be addressed was seen as apparent shortcomings in the protection of the right to participate in public affairs, the right to access to information, and the right to adequate standard of living. By building capacities of local CSOs and facilitating effective and meaningful communication between them as rights-holders and the local authorities as duty-bearers, the project helped empower CSOs to claim human rights on behalf of their communities while exercising their democratic freedoms.

The example shows that with conscious regards to human rights promotion in the project design, the project could produce both good governance and explicit human rights outcomes.

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