

# A USER-FRIENDLY GUIDE /TOOLKIT FOR APPLYING THE HUMAN RIGHTS-BASED FRAMEWORK.

Source:

Toolkit: A Human Rights Based Approach. A User-friendly guide from UN Staff in Viet Nam for UN staff in Viet Nam (UNCT/Viet Nam/ 2009)

## Document 1

### Explanation of a Human Rights Based Approach (HRBA) <sup>1</sup>

#### 1. What in Brief does a Human Rights-Based Approach to Programming mean?

- A human rights-based approach to programming (HRBAP) is an approach that gives equal attention to what should be done and to how it should be done. A HRBA often aims at achieving the same goals as current development approaches do (e.g. the MDGs), but puts equal attention to the process chosen to achieve these goals, as the very achievement of the goals themselves.

#### 2. What does the Adoption and Use of a HRBA mean for My Project?

- First, prepare a Situation Analysis of the causes of the problem; identify the key actors who either are hurt by the problem or part of the causes of the problem;
- Second, look at which human rights conventions and domestic laws apply to your project;
- Third, identify the most important right-duty relationships among the key actors. Decide who has the role of right-holder and who has the role of duty-bearer<sup>2</sup>. For each relationship, list the major valid claims of the right-holder and the key duties of the duty-bearer (Pattern Analysis);
- Fourth, for each relationship identify the most important capacity gaps<sup>3</sup> of the right-holder to be able to claim the right; and the most important capacity gaps for the duty-bearer to meet the duty (Capacity Gap Analysis);
- Finally, you are now ready to identify for each relationship and each right-holder and duty-bearer the most effective and efficient actions or interventions to reduce or close the capacity gaps;
- You should make sure that throughout the whole project cycle you involve all relevant partners, you do not discriminate, and you hold them accountable.<sup>4</sup>

This sounds like work – Do we really have to do it? Is the HRBA relevant for you in your country?

Yes indeed. And here is why:

- Human Rights are a key pillar of the United Nations and anything you choose to do, and each stage of the process of doing it, must be based on human rights standards and principles;
- The Universal Declaration of Human Rights is today accepted international customary law, i.e. all countries in the world have accepted its norms;
- The Mainstreaming the HRBA, gender, cultural diversity and ethnicity are part of what the plans in your country should be;

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<sup>1</sup> Without being simplistic we tried to make it simple. So in many cases we are using easy examples acknowledging that HRBA is an evolving area, that there are many approaches and that applying HRBA principles are still a work in progress.

<sup>2</sup> See Terminology Sheet and Fact Sheet on Human Rights and HRBA at the end for explanation of all HRBA Principles.

<sup>3</sup> See Document 2b.

<sup>4</sup> See Terminology Sheet and Fact Sheet on Human Rights and HRBA for explanation of all HRBA Principles.

- A HRBA makes us focus on the entitlements of excluded and most-at-risk groups – this is central to understanding power relationships, development and human rights. Focusing on human rights means that our work becomes more sustainable and long term as ultimately when people can realize their rights we have also achieved our goal.

Key Message: These commitments make it your duty as well as your job

Tip: So what exactly do I need to do?

We tried to make it easy for you.  
Follow the 4 steps in Document 1b – The HRBA and The Basic Project Cycle

## Guidelines on a Human Rights Based Approach (HRBA): Integrating a HRBA into your projects

### The HRBA and the Basic Project Cycle: The Four steps<sup>5</sup>

Using a Project Example: Ethnic Minorities and Reproductive Health Care in “Anywhere” Province<sup>6</sup>

#### Step 1: The HRBA in Problem Identification/Situation Analysis

Tip: This is the step where you identify a development problem which you hope to address through a project, here is where you:

- examine human rights covenants and conventions to find out which economic, social, cultural, civil, and political human rights are relevant
- ask what is happening to whom, where, and why

Example: Have the rights of certain groups been violated, neglected or ignored? What are the reasons behind this? Who has a duty to do something about this situation (to respect, protect and fulfill these rights)?

<b>Step 1: Problem Identification/Situation Analysis <i>without</i> HRBA</b>	<b>Step 1: Problem Identification/Situation Analysis <i>with</i> HRBA</b>
<p><b>What is happening to whom?</b></p> <ul style="list-style-type: none"> <li>• What is the problem and which are the key manifestations of the problem?</li> <li>• Ethnic Minorities in “Anywhere” Province have a <u>need</u> for improved quality and access to reproductive health care and facilities, because there is a lack of facilities, knowledge and capacity amongst other factors to providing and understanding reproductive health care issues.</li> </ul>	<p><b>What is happening to whom?</b></p> <ul style="list-style-type: none"> <li>• Ethnic Minorities in “Anywhere” Province have a <b><i>right</i></b> to.....</li> <li>• In addition to the non-realization of several human rights, including the rights to health, also some specific minorities rights are not realized. This includes – their right to health, with many being unable to access affordable, quality health services. This is despite these entitlements guaranteed in domestic laws, the Constitution and International Human Rights Conventions ratified by your country. Provisions for health care for ethnic minorities are also set out in national plans and other policy provisions.</li> </ul>
<p><b>Why is this happening?</b></p> <ul style="list-style-type: none"> <li>• Which are the key immediate, underlying and basic/structural causes of this problem in “Anywhere” Province?</li> <li>• This is one of the poorest provinces in the country and transport infrastructure is bad as well as it being an extremely mountainous region. There are X ethnic minorities. Literacy levels are low. Customs and habits within some ethnic communities adversely affect improved rural health care and access to services.</li> <li>• There is lack of access and provision of</li> </ul>	<p><b>Why is this happening?</b></p> <ul style="list-style-type: none"> <li>• <i>Same as on the left</i></li>   <li>• <i>Same as on the left</i></li> </ul>

<sup>5</sup> Without being simplistic we tried to make it simple. So in many cases we are using easy examples acknowledging that HRBA is an evolving area, that there are many approaches and that applying HRBA principles are still a work in progress.

<sup>6</sup> This is just an example and you are able to use this tool also for any other project.

<p>quality reproductive health care for women and ethnic minorities because of poverty and living in remote areas in the province.</p>	
<p><b>Which are the key actors in causing or being affected by this problem?</b></p> <ul style="list-style-type: none"> <li>• Who are the ‘stake-holders’?</li> <li>• These include: <ul style="list-style-type: none"> <li>- The Ministry of Health</li> <li>- The Department of Health and Health Officials in “Anywhere”</li> <li>- The local political authorities</li> <li>- Local Mass Organizations, Women’s organizations, etc.</li> <li>- Minorities</li> <li>- Women</li> <li>- Young people</li> <li>- Migrants</li> </ul> </li> </ul>	<p><b>Which are the key actors in causing or being affected by this problem?</b></p> <ul style="list-style-type: none"> <li>• Who are the likely right-holders and duty-bearers?</li> </ul> <p><u>Right-Holders</u></p> <ul style="list-style-type: none"> <li>- Minorities</li> <li>- Women</li> <li>- Young people</li> <li>- Migrants</li> </ul> <p>These are people who often suffer from discrimination, inequality and exclusion for a variety of reasons, including residency exclusion, lack of information in specific minority languages, literacy levels amongst other things, in relation to health care access &amp; services.</p> <p><u>Duty-Bearers</u></p> <ul style="list-style-type: none"> <li>-The Ministry of Health</li> <li>- The Department of Health and Health Officials in “Anywhere” <ul style="list-style-type: none"> <li>- The local political authorities</li> <li>- Local Mass Organizations, Women’s organizations, etc.</li> </ul> </li> </ul> <p>These are people who are required to work to <i>respect, protect and fulfill</i> the legal entitlements set out in the Constitution, domestic legal documents and international human rights treaties.</p>
<p><b>Why are those who have a right (right-holders) not able to claim their rights?</b></p> <ul style="list-style-type: none"> <li>• This question is not asked in a Situation Analysis without HRBAP.</li> </ul>	<p><b>Why are those who have a right (right-holders) not able to claim their rights?</b></p> <ul style="list-style-type: none"> <li>• Most of the right-holders are not aware of their human rights (a knowledge and communication capacity gap).</li> <li>• Most of the right-holders belong to groups who have low or no education, live in poverty and would not have the courage to claim their rights (an authority capacity gap).</li> </ul>
<p><b>Why can those who have a duty (duty-bearers) to address the problem not take care of it?</b></p> <ul style="list-style-type: none"> <li>• Lessons learnt from previous projects show that there is a lack of knowledge about Reproductive Health among Ministry staff.</li> <li>• There is a lack of implementation capacity and knowledge on behalf of the Government on the issue of Reproductive Health. The Government lacks capacity to implement sufficient services and needs assistance to reach its obligations under domestic law.</li> <li>• There are inadequate facilities to deal with issues around Reproductive Health.</li> </ul>	<p><b>Why can those who have a duty (duty-bearers) to address the problem not take care of it?</b></p> <ul style="list-style-type: none"> <li>• <i>Same as on the left but also:...</i>Many staff need assistance in understanding and living up to obligations under relevant domestic laws and policies, national plans, constitutional obligations and human rights treaties (knowledge and communication capacity gaps).</li> <li>• <i>Same as on the left but also:...</i>The Government (<i>duty-bearer</i>) lacks capacity to implement sufficient services and needs assistance to reach its obligations <i>under domestic and international human rights law</i> (a human and economic resources capacity gap).</li> <li>• <i>Same as on left</i> (a resource capacity gap)</li> </ul>

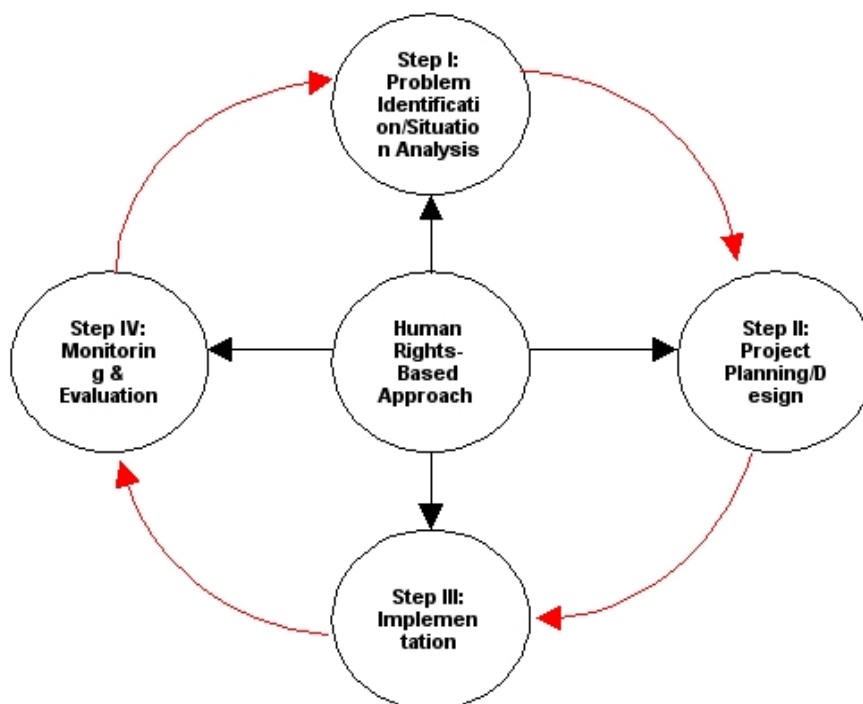
<p><b>Which relevant legislation exists to address the problem? Which national plans exist?</b></p> <p><b>Domestic Policy</b></p> <ul style="list-style-type: none"> <li>• The Population Strategy in your country</li> <li>• The National Strategy on Reproductive Health care in your country.</li> <li>• The Safe Motherhood Plan</li> <li>• The National Family Planning Strategy</li> <li>• The National Strategy on HIV/AIDS Prevention and Control.</li> </ul> <p><b>Local Authority Plans</b></p> <ul style="list-style-type: none"> <li>• Plans for a developed economy Plans to implement the Population Strategy Plan to Implement the National Reproductive Health Strategy</li> </ul>	<p><b>Which relevant legislation exists to address the problem? Which national plans exist? Which relevant international law exists to address the problem?</b><sup>7</sup> <i>Complement the list on the left with:</i></p> <p><b>The Constitution</b> Articles X, Y, Z (as pertinent)</p> <p><b>Domestic Law</b></p> <ul style="list-style-type: none"> <li>• Law on Gender Equality ?</li> <li>• Law on Domestic Violence ? Other?</li> </ul> <p><b>International Human Rights Law</b></p> <ul style="list-style-type: none"> <li>• International Covenant on Civil and Political Rights (ICCPR)</li> <li>• International Covenant on Economic, Social and Cultural Rights (ICESCR)</li> <li>• Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)</li> <li>• Convention on the Rights of the Child</li> </ul>
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Tip: Have a look at the treaties sheet at the end; it shows you how to link a specific development, economic, social, cultural, civil and political issues to relevant articles in human rights conventions.

Try a similar template for your project - this way it's easy

**Step 2: The HRBA in designing/planning a project**

Tip: This is the step where you try to find solutions to the problems you have listed in step 1



<sup>7</sup> These documents need to be *READ* and *UNDERSTOOD* by you.

Step 2: Project Planning & Design <i>without</i> HRBA	Step 2: Project Planning & Design <i>with</i> HRBA
<p><b>Whom are we involving in the planning?</b></p> <ul style="list-style-type: none"> <li>• Department of Health, DOH.</li> <li>• Committee for Population and Family Planning.</li> <li>• Backstopping partners: Relevant hospitals, UNFPA.</li> <li>• Project Managers.</li> <li>• Managers and Health workers who provide services and have never been trained on national standards.</li> </ul>	<p><b>Whom are we involving in the planning? (Right-holders and duty-bearers)</b>  <i>Same as left but also:</i></p> <ul style="list-style-type: none"> <li>• Managers and Health workers (<i>duty-bearers &amp; rights-holders</i>) who provide services and have never been trained on national standards, <i>domestic and international human rights legal provisions.</i></li> <li>• <i>Ethnic Minority Women (rights-holders) even where mountainous terrain makes it difficult to do.</i></li> </ul>
<p><b>What have Treaty Bodies said should be done about the problem in step 1?</b></p> <ul style="list-style-type: none"> <li>• Not included in the project planning and design.</li> </ul>	<p><b>What have Treaty Bodies said should be done about the problem in step 1?</b>  Observations of the <i>CEDAW Treaty Body</i> make recommendations to the Government. These include:<sup>8</sup></p> <ul style="list-style-type: none"> <li>• special attention being given to needs of women living in remote areas;</li> <li>• ethnic minorities having equal access to health care;</li> <li>• participation in decision making processes at all levels;</li> <li>• State parties using innovative methods to improve information and awareness on International Conventions, Law on Gender Equality;</li> <li>• Making sure disaggregated data and trends on rural and ethnic minority women and on the impact of measures taken and results achieved in the implementation of policies and programmes for women and girls exists.</li> </ul>
<p><b>What are we going to do?</b>  <b>Long Term Objective:</b>  Improve the standard of living for people in “Anywhere” through; improving the standards of RH care; improving the implementation of policies and other programmes in relation to development and population.</p> <p><b>Objective 1:</b> Strengthened capacity of “Anywhere” Province in providing and utilizing data and information on population, reproductive health, family planning and gender.</p> <p><b>Objective 2:</b> Increase availability of high-quality, gender-sensitive reproductive health information and services, including family planning and sexual health.</p>	<p><b>What are we going to do?</b></p> <ul style="list-style-type: none"> <li>• <b>What can be done to reduce or close the capacity gaps (identified in Step 1) of right-holders to claim their rights and of duty-bearers to meet their duties?</b></li> </ul> <p><u>Right-holders</u></p> <ul style="list-style-type: none"> <li>- Launch an information ‘campaign’ about the right to reproductive health services</li> <li>- Increase the availability of high-quality, gender-sensitive reproductive health information services, including family planning and sexual health</li> <li>- Improve the standard of living (poverty reduction)</li> </ul> <p><u>Duty-bearers</u></p> <ul style="list-style-type: none"> <li>- Training of Ministry staff about reproductive health</li> <li>- Training of health staff in “Anywhere” Province in</li> </ul>

<sup>8</sup> Concluding Observations of the Committee on the Elimination of Discrimination Against Women, Viet Nam, U.N. Doc. CEDAW/C.VNM/CO/6 (2007), 37<sup>th</sup> Session, 15 January – 2<sup>nd</sup> February 2007. Paragraphs 9, 17, 24, 25 and in particular para. 28 & 29.

providing and utilizing data and information on population, reproductive health, family planning and gender;  
 - Improve the knowledge about international human rights law and the meaning of your country's ratification of international treaties;  
 - Increase the economic implementation capacity of rural health services in "Anywhere" Province.

### Step 3: The HRBA in Project Implementation

Tip: This is the step where you put in motion all of the things you planned to do in step 2

Step 3: Project Implementation <i>without</i> HRBA	Step 3: Project Implementation <i>with</i> HRBA
<p><b>Whom are we involving in the implementation?</b></p> <ul style="list-style-type: none"> <li>Managers and Health workers who provide services and have never been trained on national standards</li> <li>Department of Health, DOH.</li> <li>Committee on Population and Family Planning</li> <li>Backstopping partners: Relevant hospitals, UNFPA.</li> </ul>	<p><b>Whom are we involving in the implementation?</b>  <i>Same as on left...</i></p> <ul style="list-style-type: none"> <li>Managers and Health workers (<i>duty-bearers &amp; rights-holders</i>) who provide services and have never been trained on national standards <i>domestic and international human rights legal provisions</i>.</li> <li><i>Ethnic Minority Women (rights-holders) participation, even if mountainous access is difficult.</i></li> </ul>
<p><b>Implementing Strategy:</b>  <b>Group Activity 1:</b> Strengthen the technical capacity of partners in usage and dissemination of age and sex disaggregated data in planning and policy making at national and provincial levels.</p> <p><b>Group Activity 2:</b> Improve quality of RH service delivery at all levels in selected areas through improving capacity at central level in technical assistance and supervision of grassroots levels; and improved capacity of grassroots health system in RH service delivery in compliance with the National Standards and Guidelines for Reproductive Health Care Services.</p>	<p><b>Implementing Strategy:</b>  <b>Group Activity 1 :</b> Strengthen the capacity of <b>duty-bearers</b> (partners) ditto...<i>in compliance with International Human Rights Standards and General Recommendations made by Treaty Monitoring Bodies to your country on issues relating to health, discrimination and women's rights with particular reference to ethnic minorities (para. 29 of the Concluding Observations of the Committee of CEDAW).</i></p> <p><b>Group Activity 2:</b> <i>Same as on left...and same inclusions as above.</i></p>
<p><b>How are we going to do this?</b>  <b>Group Activity 1:</b>        By supporting a rapid needs assessment on the training on national standards and guidelines for reproductive health care services.</p> <p><b>Group Activity 2:</b>        Training on Behavior Change Communication BCC skills on RH, sexual health, use of medical equipment and equipment support.</p>	<p><b>How are we going to do this?</b>  <b>Group Activity 1:</b>  <i>Same as left...as well as international standards.</i></p> <p><b>Group Activity 2:</b>        This includes participation in decisions and training by both medical staff to be trained and ethnic minority women to enable both parties to understand their rights and responsibilities under the relevant guidelines and laws. This also assists in capacity building for duty-bearers to enable them to respect, protect and fulfill specific rights on reproductive health for rights-holders.</p>

#### Step 4: The HRBA in Monitoring and Evaluation

Tip: This is the step where you try to assess whether people’s lives have improved as a result of your project

**Note:** Monitoring and evaluation is a difficult step in the HRBA as human rights impacts often cannot be measured within the lifetime of a project. **Indicators** are one way of assessing the use of a human rights-based approach as they can be used to measure **output**<sup>9</sup>**outcome**<sup>10</sup>, **impact**<sup>11 12</sup>, and **process**<sup>13</sup>

Step 4: Monitoring & Evaluation <i>without</i> HRBA	Step 4: Monitoring and Evaluation <i>with</i> HRBA
<p><b>Output Indicator</b> - (Goods, services and deliverables produced to develop the capacity of stake-holders).</p> <p><b>Group Activity 1.</b> Supporting a rapid needs assessment on the training on national standards and guidelines for reproductive health care services.</p> <p><b>Group Activity 2:</b> Training on BCC skills on RH, sexual health, use of medical equipment and equipment support.</p>	<p><b>Output Indicator</b> - (Goods, services and deliverables produced to develop the capacity of duty-bearers and rights-holders).</p> <p><i>Same as left...as well as international standards.</i></p> <p><b>Group Activity 2:</b> <i>Same as left...</i>This includes participation in decisions and training by both medical staff to be trained and ethnic minority women to enable both parties to understand their rights and responsibilities under the relevant guidelines and laws. This also assists in capacity building for duty-bearers to enable them to respect, protect and fulfill specific rights on reproductive health for rights-holders.</p>
<p><b>Outcome Indicator</b> - (Legal, Policy and behavior change leading to a better performance of stake-holders)).</p>	<p><b>Outcome Indicator</b> - (Legal, Policy and behavior change leading to a better performance of rights-holders to claim their rights and duty-bearers to meet their obligations).</p>
<p><b>Objective 1:</b> Behavior change leading to better and increased provision, use and understanding of sex and age disaggregated data and information on population, reproductive health, and family planning.</p>	<p><b>Objective 1:</b> Behavior change leading to better and increased provision, use and understanding of sex and age disaggregated data, <b>including ethnicity, gender and rights</b>, in national policies and local guidelines and/or programmes of action on population and reproductive health issues <i>following the National Standards and Guidelines for Reproductive Health Care Services and in compliance with International Human Rights Standards and General Recommendations made</i></p>

<sup>9</sup> **Output indicators:** measure the activities used in developing the capacities of duty-bearers and rights holders.

<sup>10</sup> **Outcome Indicators:** measure the legal, policy, institutional and behavioral changes leading to better performance of rights-holders to claim their rights and/or duty-bearers to meet their obligations.

<sup>11</sup> **Impact Indicators:** measures sustained, positive changes in the life, dignity and wellbeing of individuals. This can be hard as the change may occur after the project has ended. This should be taken into consideration.

<sup>12</sup> Draft Guidance Note on Indicators for Human-Rights Based Approaches to Programming, 2008, Oslo Governance Centre (note with author).

<sup>13</sup> **Process Indicators:** assist in measuring ways in which the project process is participatory, empowering, non-discriminatory contributing to the human rights-based approaches principles. This is of central importance in Viet Nam where laws and policies are difficult to work with and use in projects. HRBA principles become strong project tools for advocacy, empowerment and accountability.

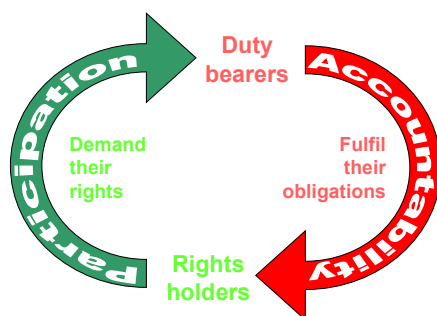
	<i>by Treaty Monitoring Bodies to your country as well as Constitutional and domestic law.</i>
<p><b>Impact Indicator</b> - (Activities for change in life, dignity and wellbeing of rights-holders (both individual and group)).</p> <ul style="list-style-type: none"> <li>• Increased % of service delivery points offering more than three modern methods of contraception, including condoms.</li> <li>• Increased % of service delivery points offering appropriate diagnosis, treatment and counseling for RTI's following the national standards and guidelines for reproductive health care services.</li> <li>• Increased % of emergency obstetrics care facilities complying with steps to treat major obstetric complications as identified in the national standards and guidelines for reproductive health care services.</li> </ul>	<p><b>Impact Indicator</b> - (The degree to which capacities have been built such that claim-holders can claim their rights and duty-bearers meet their duties, leading to a change in life, dignity and wellbeing of rights-holders (both individual and group)).</p> <p><i>Same as left...including ethnic minority women been consulted about the preferred contraception method.</i></p> <p><i>Same as left...including training methodology included health care staff as well as ethnic minority participation on health care consideration. As well as being in compliance with International Human Rights Standards and General Recommendations made by Treaty Monitoring Bodies to your country as well as Constitutional and domestic law.</i></p> <p><i>Same as left and includes same as above.</i></p>
<p><b>Process Indicator</b> - (Project processes which are participatory, inclusive and transparent, especially for vulnerable groups).</p> <ul style="list-style-type: none"> <li>• Authorities ensure the effective involvement of developing community interest and participation in relation to the development of this project in the provinces.</li> <li>• Minority group participation in projects activities in rural and remote areas.</li> <li>• Strengthening of monitoring and evaluation of the project at both province and district levels.</li> <li>• Coordinate power sources in the local community to avoid duplication.</li> </ul>	<p><b>Process Indicator</b> - (Output, Outcome and Impact are consecutive steps towards a 'final outcome' or result; all these steps are achieved through a <i>process</i>).</p> <p><i>Same as left...but including all human rights principles: Equality and Non-Discrimination, Participation and Inclusion, Accountability and the Rule of Law. In addition equal emphasis is given to monitor the process as to monitoring output/outcome/impact.</i></p>

## Fact Sheet on Human Rights and a Human Rights Based Approach

### What are rights?

A right is a relationship between one individual (or a group of individuals) who has a valid claim and another individual (or group of individuals) who has correlative duties or obligations. The first individual enters into the role of a right-holder (or the subject of the right) and the second individual enters into the role of a duty-bearer (or the object of the right). There are moral rights, contractual rights, and legal rights and there are human rights.

It is very important to understand that claim-holders and duty-bearers are roles, into which individuals (or groups of individuals) may enter. This means that the same individual may be both a claim-holder and a duty-bearer at the same time but in relation to different individuals.



### What are human rights?

- Are rights based on both morality and legality; the first because they reflect universal moral codes; the latter because they are codified in international human rights law;
- Are universal moral codes that belong to all human beings regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status;
- Are universal legal guarantees of a civil, political, economic, social and cultural nature, protecting individuals, and to some extent groups, against actions, and omissions that interfere with fundamental freedoms, entitlements and human dignity;
- Are inalienable, indivisible, interdependent and interrelated, reflecting specific human rights principles that can be found in international human rights treaties, regional instruments and domestic law.<sup>14</sup>

### Human Rights Treaties (Covenants and Conventions)

Currently there are nine key international human rights covenants and conventions and out of these your country so far has ratified X of them. This means these five are legally binding on your country (!) and secure specific rights and obligations for Vietnamese citizens.<sup>15</sup>

Title of Treaty or Convention	Signed	Ratified Vietnam by
International Covenant on Civil and Political Rights (ICCPR)		date
International Covenant on Economic, Social and Cultural Rights (ICESCR)		Date

<sup>14</sup> See Terminology Sheet in Pack for definitions on human rights.

<sup>15</sup> There are many others that are relevant to specific organizations or are part of bi-lateral agreements, and they are for your own research. Note that as well as the key instruments your country also has to ratify the Optional Protocol to the Covenant on Civil and Political Rights; Optional Protocol on the Rights of the Child on the Involvement of Children in Armed Conflict; Optional Protocol on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; Convention on the Prevention and Punishment of the Crime of Genocide.

Convention on the Elimination of All Forms of Racial Discrimination (ICERD)		Date
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)		Date
Convention on the Rights of the Child (CRC)		Date
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)		Ratified yet?
Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CRMW)		Ratified yet?
Convention on the Rights of Persons with Disabilities (CRPD)		Ratified yet?

### Human Rights Standards and Human Rights Principles

Human Rights Standards represent the minimum acceptable level of a desirable outcome, for example universal primary education, universal access to basic health services, social protection, and all MDGs. Donors often call these results.

Human Rights Principles specify moral criteria for an acceptable process. They are universality, indivisibility, interrelatedness, interdependency (fundamental human rights principles), and equality and non-discrimination, participation and inclusion, accountability and rule of law (human rights principles).

### Human Rights Principles

**Principle 1: *Universality and inalienability:*** All people are born with human rights that cannot be voluntarily given up or forcible taken away from them. Article 1 of the UDHR, 'All human beings are born free and equal in dignity and in rights'.

**Principle 2: *Indivisibility:*** There is no hierarchy among human rights. Civil, political, social, economic and cultural rights are necessary for the dignity of every human being.

**Principle 3: *Interdependence and interrelatedness:*** The realization of one right, often depends on acknowledging and realizing other rights. This can help contribute to a long term human rights goal in projects and programmes.

**Principle 4: *Non-discrimination & Equality:*** All individuals are equal as human beings by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind such as race, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies. Discrimination and inequality are often cross-cutting themes on divergent rights, e.g. migrant women workers living with HIV from ethnic minority groups.

**Principle 5: *Participation & Inclusion:*** Requires full participation of stakeholders including *duty-bearers* and *rights-holders*. Every person and all peoples are entitled to active, free and meaningful participation, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realized.

**Principle 6: *Accountability & the Rule of Law:*** Duty-bearers are accountable for the observance of human rights for rights-holders. Duty-bearers may be accountable in a variety of ways, through budget allocation, through building capacity to work on realizing specific rights, as well as through rule of law and court mechanisms.

## A Human Rights-Based Approach to Development

In a Human Rights-Based Approach, human rights standards define benchmarks for desirable outcomes, while human rights principles represent conditions for the process. The Millennium Development goals are typical examples of such desirable outcomes. Most people see the achievement of these goals as the required results. Process criteria include all human rights principles. They all specify a required minimum conduct. A Human Rights-Based Approach requires equal attention to outcome and process.

## **What is a Human Rights Based Approach to Development and to Development Programming (HRBAP)?**

### **Development**

Development requires the satisfaction of at least two conditions: the achievement of a desirable outcome and the establishment of an adequate process to achieve and sustain that outcome. Most of the health, education, and nutrition etc. goals reflected in the MDGs, for example, represent specific, desirable outcomes. Effective human development also demands a high-quality process to achieve such outcomes. Participation, local ownership, empowerment, and sustainability are essential characteristics of a high-quality process in achieving human development goals.

### **Pattern of Rights**

Children, for example, have a valid claim (right) against their parents to be provided with adequate food. The parents are therefore the first line duty-bearers. Often, however, the parents cannot meet their duties because they do not have access to cultivable land, salaries or other resources required for providing food for their children. In other words they cannot meet the duty to their children because as claim-holders some of the rights they have against, for example, the government have not been realized. This shows how the government (the state) becomes the ultimate or final duty-bearer. This is important because it is the state that has ratified the covenants and conventions and is legally bound to meet the obligations.

In this perspective claim-duty relationships in society are linked and form a pattern of human rights. The identification and analysis of such patterns form the core of a Human Rights-Based Approach to Programming. The identification of duty-bearers and a determination of the extent of their accountability are crucial to a human rights-based approach to programming.

The HRBAP methodology consists of 5 consecutive steps:

#### **Step 1: Causality Analysis**

Once a consensus has been reached that a particular problem exists and needs to be addressed, the causes of the problem should be identified. The Causality Analysis should be undertaken by those actors who are likely to enter into the roles of claim-holding and duty-bearing in the required improvement process.

The result of the Causality Analysis will be the identification of the causes of the non-realization a specific human right a specific context, together with a list of candidate claim-holders and duty-bearers.

#### **Step 2: Pattern Analysis**

The next step is to identify the most important claim-holder/duty-bearer relationships in the particular community or society that has been chosen. This analysis is called Role or Pattern Analysis. First, key actors, i.e. those who are likely to enter the roles of claim-holders and duty-bearers in relation to a specific right, should be identified. This will come from the Causality Analysis. It is important to realize that the same individual or group of individuals often may enter into the roles of both claim-holders and duty-bearers. The Pattern Analysis should be undertaken by representatives of the key claim-holders and duty-bearers. Further, each claim/duty (i.e. human right) relationship must be recognized as a right in a covenant or convention, ratified by the country.

#### **Step 3: Capacity Gap Analysis**

After the key claim-duty relationships for a specific right have been identified, the next step is to analyse why the right is not realized. A basic assumption underlying the approach proposed here is that rights are not realized because claim-holders lack the capacity to claim

the right, and/or duty-bearers lack the capacity to meet their duties. The analysis of capacity gaps is called Capacity Gap Analysis.

Capacity is here defined in a broader sense, including the following five components: **(1) Responsibility/motivation/commitment/leadership** refers to the acknowledgement by an individual that he/she *should* do something about a specific problem. It means acceptance and internalisation of a duty, and is often justified in legal or moral terms, **(2) Authority** refers to the legitimacy of an action; when an individual or group feels or knows that they *may* take action, that it is permissible to take action. Laws, formal and informal norms and rules, tradition, and culture largely determine what is or is not permissible. The structure of authority in a society reflects its power relations, **(3) Access and Control of Resources**. If an individual accepts that he/she *should* do something and *may* do it, it may still be impossible to act because the person lacks resources. Capacity must therefore also mean that the person in a position to act, or *can*, act. The resources available to individuals, households, organisations, and society as a whole may generally be classified into the following three types, human resources, economic resources and organisational resources, **(4) Capability for Rational Decision-making and Learning**. Rational decision-making requires evidence-based assessment and a logical analysis of the causes of a problem. Actions should be based on decisions informed by the analysis. After action has been taken, a re-assessment of the result and impact will lead to improved analysis and better action in the next round. Such interactive learning-by-doing (Triple A) relies heavily on the capability to communicate, and **(5) Communication Capability**. The capability to communicate and to access information and communication systems is crucial for individuals and groups of individuals in their efforts to claim their rights or meet their duties. Communication is also important in “connecting” various key actors in the social fabric into functional networks able to address critical development issues.

#### Step 4: Identification of Candidate Actions

*Candidate actions* are those actions that are likely to contribute to reduce or close the capacity gaps of claim-holders and duty-bearers. Such actions should aim at increasing responsibility, authority, resources, and decision-making and communication capabilities of claim-holders and duty-bearers.

#### Step 5: Programme Design

The priority actions should be clustered into specific projects and an objective be defined. Projects should be clustered into programmes with clear objectives. This is the reverse of most current programming practices, which disaggregate programmes into projects, and projects into activities. Activities can be clustered, or aggregated, according to the level of society in which claim-holders and duty-bearers operate. At each level some activities will aim at developing capacities of individuals as claim-holders, while others will aim at developing capacities of individuals as duty-bearers. Some activities will do both—sometimes even in relation to more than one right.

**The Right Linkages - Linking your project goal to rights**

<b>Thematic Area of the project</b>	<b>Connecting Rights - Key International Human Rights issues connected to the Thematic Area of RH.</b>	<b>Relevant Treaties and Conventions</b>	<b>Treaty Monitoring Bodies - Concluding Observations and General Recommendations</b>
Project Goal – further the realization of the Right to (Reproductive) Health	<p>The Right to Life, Liberty and Security</p> <p>The Right to Health, Reproductive Health, and Family Planning</p> <p>The Right to Decide Number and Spacing of Children</p> <p>The Right to Consent to Marriage and Equality in Law.</p> <p>The Right to Privacy</p> <p>The Right to be Free From Discrimination on Specified Grounds</p> <p>The Right to be Free from Practices that Harm Women and Girls</p> <p>The Right to Not be Subjected to Torture or Other Cruel, or Degrading Treatment or Punishment</p> <p>The Right to be Free from Sexual Violence</p> <p>The Right to Enjoy Scientific Progress and to Consent to Experimentation<sup>16</sup></p>	<p>Art. 3 UDHR, Art.6.1 &amp; 9.1 ICCPR, Art. 6.1 &amp; 6.2 CRC.</p> <p>Art. 10.2, 12.1, 12.2 IESCR, Art. 10 (h) 12.1, 12.2 &amp; 14.2 CEDAW, Art. 24.1 &amp; 24.2 CRC, Art. 5, ICERD.</p> <p>Art. 16.1 CEDAW.</p> <p>Art. 16.1 &amp; 16.2 UDHR, Art. 10.1 ICESCR, Art. 23.2, 23.3 &amp; 23.4 ICCPR, Art. 16.1 &amp; 16.2 CEDAW</p> <p>Art. 17.1 &amp; 17.2 ICCPR, Art. 16.1 &amp; 16.2 CRC</p> <p>Art. 2 UDHR, Art. 2.2 ICESCR, Art. 2.1 ICCPR, Art. 1, 3 &amp; 11.2 CEDAW, Art. 1, 2.1, 2.2 &amp; 5 CRC.</p> <p>Art. 2(f) &amp; 5(a) CEDAW.</p> <p>Art. 5 UDHR, Art. 7 ICCPR, Art. 1 CAT, Art. 37 CRC.</p> <p>Art. 5(a) &amp; (6) CEDAW, Art. 19.1 &amp; 34 ICRC, Art. 7.1 Rome Statute of the ICC.</p> <p>Art 15.1 ICESCR, Art. 7 ICCPR.</p>	<p>Para. 25 Concluding Observations CEDAW Committee. General Recommendation 24</p> <p>Para. 27 Concluding Observations CEDAW Committee. General Recommendation 21.</p> <p>Para. 12 &amp; 13 Concluding Observations CEDAW Committee.</p>

Abbreviations:

**CAT**  
**CEDAW**

International Convention against Torture  
Convention on the Elimination of all forms of Discrimination against Women

<sup>16</sup> [www.reproductiverights.org](http://www.reproductiverights.org)

<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>CRC</b>	Convention on the Rights of the Child
<b>ICERD</b>	International Convention on Elimination of all forms of Racial Discrimination
<b>UDHR</b>	Universal Declaration on Human Rights

Further Explanation:

**GR** – General Recommendations: Issued by the Committee for CEDAW, on specific provisions of the Convention, and on the relationship between the Convention and cross-cutting themes.

**CO** – Concluding Observations: These are comments made by each Treaty Monitoring Body on the report issued by your country as State Party to the Treaty.

Use this chart for your own project:

<b>Thematic Area of the project</b>	<b>Connecting Rights - Key International Human Rights connected to the Thematic Area</b>	<b>Human Rights Instruments which refer to the particular aspect on reproductive rights.</b>	<b>Treaty Monitoring Bodies - General Comments and Recommendations</b>

**Your HRBA Checklist:**

This specifically takes into account very focused human rights analysis in each step of the project cycle, other project cycle analysis of course remains the same

<b>Simple Checklist for a HRBA Project Cycle</b>	<b>Yes</b>	<b>No</b>
<b>Step 1: Situation Analysis</b>		
1. Have you identified the problem you plan to address and identified the key immediate, underlying and basic causes?		
2. Have given due attention to issues of power relationships, discrimination, inequality, ethnicity, age, gender etc?		
3. Have you identified the actors who are likely to enter into the roles of right-holders and duty-bearers?		
4. Have you identified the most important human right relationships between pairs of right-holders and duty-bearers; and identified the set of claims that can be made by right-holders (against the duty-bearers) and the set of correlative duties of the duty-bearers?		
5. Have you reviewed the extent to which these rights relationships are reflected in human rights obligations from your country's Constitution, domestic laws, and international human rights laws ratified by your country?		
6. Have you identified the most important capacity gaps of the right-holders that constrain them from claiming their rights; and the most important capacity gaps of the duty-bearers to meet their obligations?		
<b>Step 2: Project Design and Planning</b>		
7. Have you identified and involved the key actors (right-holders and duty -bearers) in the planning of the project?		
8. Have you identified what the Treaty Monitoring Bodies have said would be done about the problem(s) identified in Step 1?		
9. Have you identified what the project is going to do in response to what the Treaty Monitoring Bodies have said?		
10. Have you identified what interventions/activities are required to close the most important capacity gaps of the right-holders to be able to claim their rights?		
11. Have you identified what interventions/activities are required to close the most important capacity gaps of the duty-bearers to be able to meet their duties?		
<b>Step 3: Project Implementation</b>		
12. Have you outlined the implementation strategy in compliance with International Human Rights Standards and General Recommendations made by Treaty Monitoring Bodies?		
13. Have you identified which <i>duty-bearers</i> and <i>rights-holders</i> you are involving in the implementation?		
14. Have you carefully considered the obligation to adhere to all human rights principles during each step of the implementation ( <b>quality of the process</b> )?		
15. Have you identified the specific obligations the <i>duty-bearers</i> should undertake to <i>respect, protect and fulfill</i> the human rights for <i>rights-holders</i> ?		
16. Will the project design and implementation strategy contribute to the empowerment and capacity of rights-holders to claim their rights (e.g. ability to access information, organize, advocate policy change and get access to justice etc)?		
<b>Step 4: Project Monitoring and Evaluation</b>		

17. Can you measure the goods, services and deliverables produced to develop the capacity of <i>duty-bearers</i> and <i>rights-holders</i> ? ( <b>Output Indicator</b> )		
18. Can you measure the legal, policy, institutional and behavioral changes leading to a better performance of <i>rights-holders</i> to claim their rights and <i>duty-bearers</i> to meet their obligations? ( <b>Outcome Indicator</b> )		
19. Can you measure sustained, positive changes in the life, dignity and wellbeing of rights-holders (both individual and groups)? ( <b>Impact Indicator</b> )		
20. Can you measure the ways in which the project/programme processes meeting the human rights principles, including participation, inclusion, and transparency, especially for vulnerable groups? ( <b>Process Indicator</b> ).		

## Key Terminology on Human Rights and HRBA

<b>Accountability &amp; Rule of Law</b>	Using a HRBA requires identifying <i>who</i> are the <i>rights-holders</i> (the people claiming their rights) and who are the correlative <i>duty-bearers</i> . This identifies the duty-bearers answerable for the observance of human rights for rights-holders. Duty-bearers are accountable through budget allocation, through building capacity to work on realizing specific rights, as well as through rule of law and court mechanisms.
<b>Civil &amp; Political Rights</b>	Rights relating to participation in public life, such as right to life, liberty and security; equality before the law; freedom of thought, conscience and religion; freedom of speech; freedom from torture; juvenile justice; and right to vote and be elected.
<b>Concluding Observations</b>	United Nations human rights treaties stipulate that States Parties submit periodic reports to the respective treaty monitoring bodies (or 'committees') on the implementation of their ratified treaty obligations. The treaty body issues a set of 'concluding observations', containing its assessment of the State's record and makes recommendations for further implementation of the rights in question.
<b>Constitution</b>	The system of fundamental laws and principles that prescribes the nature, functions, and limits of a government or another institution.
<b>Duty-Bearer</b>	Duty-bearer is the specific role into which an individual, a group or an institution enters as a result of the existence of right-holders (individual, group or institution) who have <i>valid claims</i> against the duty-bearers by creating correlative duties of the duty-bearers. <i>The state</i> is often the ultimate duty-bearer.
<b>Economic, Social &amp; Cultural Rights</b>	Amongst other things the right to health, food, education, and adequate housing, the right to preserve and develop one's cultural identity.
<b>Fulfill Rights</b>	<b>Fulfill (Facilitate)</b> - requires the duty-bearers to adopt appropriate legislative, administrative, budgetary, judicial, promotional, and other measures towards the full realization of the right; <b>Fulfill (Provide)</b> - requires the duty-bearers to directly provide assistance or services for the realization of the right.
<b>General Comments/Recommendation</b>	The UN Human Rights Council issues documents known as General Comments or General Recommendations, which provide guidelines for States Parties on the interpretation of specific aspects of the human rights treaty of concern to the particular committee. Available at <a href="http://www.ohchr.ch">www.ohchr.ch</a>
<b>Human Rights</b>	The rights that everyone has just by virtue of the fact they are a human being.
<b>Human Rights-Based Approach (HRBA)</b>	In a Human Rights-Based Approach to Development, human rights <i>standards</i> define benchmarks for desirable outcomes, while human rights <i>principles</i> represent conditions for the process. Process criteria include all human rights principles. They all specify a required minimum <i>conduct</i> . A Human Rights-Based Approach requires equal attention to outcome and process.
<b>Human Rights Obligations</b>	All governments are obligated to guarantee international human rights law. Most because they have ratified certain treaties. States that have not are still obligated to respect general principles of international <i>customary</i> law e.g. the right not to be held in slavery or servitude.
<b>Human Rights Principles</b>	Human rights principles guide programming in all phases of the programming process, including assessment and analysis,

	planning and design, implementation and monitoring and evaluation. These principles represent criteria for an acceptable <i>process</i> in a HRBA to Development. They include equality and non-discrimination, participation and inclusion, accountability and the rule of law.
<b>Human Rights Standards</b>	Human rights standards guide all development cooperation and programming in all sectors and in all phases of the programming process. These standards represent desirable <i>outcomes</i> in a HRBA to Development, e.g. universal basic education, access to health services, social protection, absence of torture, etc.
<b>Indivisibility</b>	There is no <i>a priori</i> hierarchy among human rights, all rights are necessary for the dignity of every human being.
<b>Interdependency &amp; Interrelatedness</b>	The realization of one right, often depends on acknowledging and realization of some other rights. This helps contribute to a long term human rights goal in projects and programmes.
<b>Equality and Non-Discrimination</b>	<p>All persons within a society enjoy equal access to the available goods and services that are necessary to fulfill basic human needs. There is an important difference between ‘<u>equality of opportunity</u>’ and ‘<u>equality of result</u>.’</p> <p>All individuals are equal as human beings...All human beings are entitled to their human rights without discrimination...such as race, religion, political or other opinion...disability, property, birth or other status as explained by the human rights treaty bodies;</p> <p>Non-discrimination applies to all state policies and practices, including healthcare, education, access to services, travel regulations etc.</p>
<b>Participation and Inclusion</b>	Every person is entitled to active, free and meaningful participation, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realized. A HRBA to Development requires full participation of key <i>duty-bearers</i> and <i>rights-holders</i> .
<b>Progressive Realization</b>	There is an obligation to “move as expeditiously and effectively” as possible towards that goal with minimum core obligations to ensure the minimum essential levels of each of the rights, including health, education, housing etc.
<b>Ratified</b>	A country officially decides that it wants to become a State Party to a treaty. It then "ratifies" the treaty.
<b>Rights-Holder</b>	When a country has ratified a UN Treaty, all individuals or groups of individuals in that country whose rights are enshrined in the treaty enter into the roles of <i>right-holders</i> with valid claims against others, who have correlative duties, i.e. these enter into the roles of <i>duty-bearers</i> .
<b>Treaty</b>	An agreement under international law agreed between mostly states and international organizations. (UN Covenants and Conventions are treaties)
<b>Treaty Monitoring Body</b>	A committee of experts mandated by the UN to oversee and monitor the implementation of a specific treaty (covenant or convention).
<b>Universal &amp; Inalienable</b>	A HRBA is grounded and guided by the fact that all people are born with human rights that cannot be voluntarily given up or forcible taken away, Article 1 of the UDHR, ‘All human beings are born free and equal in dignity and in rights’.

**Universal Declaration of Human Rights**

Adopted by the UN General Assembly on December 10, 1948, and has increasingly been recognized as *international customary law* and all UN member states have agreed to adopt the principles and standards in the UDHR.

## Document 6

### **Selected reference**

#### ***Online Training & Web Link:***

- United Nations System Staff College, E-learning Toolkit on Common Country Programming Processes, Module 5, Human Rights-Based Approach.  
[http://www.unssc.org/web/news/new\\_detail.asp?idNew=50](http://www.unssc.org/web/news/new_detail.asp?idNew=50)