

## **A HUMAN RIGHTS-BASED APPROACH TO PROGRAMMING (HRBAP)**

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### **1. Introduction**

Up until the early 1990s there was very limited contact and exchange between people working with human development and people working with human rights. The development people focused on effective and goal-oriented transfer of resources and increased social well-being. The aim was to meet peoples' basic needs in a sustainable and sustained manner. They worked primarily in the area of social and economic development. People working with human rights, on the other hand, worked on strengthening international human rights norms and institutions and protecting recognized human rights. Most of them focused on civil and political rights and targeted governments.<sup>1</sup>

Two trends in the 1990s contributed to a gradual convergence of the two approaches<sup>2</sup>:

- 1) Developing countries increasingly demanded international assistance as an entitlement. Development assistance was increasingly seen as a right rather than an instrument of solidarity.
- 2) Developed countries increasingly demanded good governance and democratization of developing countries as a condition for assistance.

The Vienna Declaration<sup>3</sup> states that, "...development exists within a human rights framework...Development should rightly be seen as an integral part of human rights". In other words, human development is a necessary, but not sufficient condition for human rights realization.

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<sup>1</sup> Paul J. Nelson and Ellen Dorsay, *At the Nexus of Human Rights and Development: New Methods and Strategies of Global NGOs*, World Development 31 (2003) pp. 2013-2026

<sup>2</sup> Hans-Otto Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and human Development*, Human Rights Quarterly 22 (2000) 734-752

<sup>3</sup> Vienna Declaration and Programme of Action (para. 25-26). Adopted by the World Conference on Human Rights, 25 June 1992. UN doc. A/CONF.157/23

The Social Summit in Copenhagen<sup>4</sup> states that human rights are an “integral element of the development agenda”. The rule of law, access to justice etc. are necessary conditions for human development. In other words, the realization of human rights is a necessary, but not sufficient condition for human development.

A similar convergence took place between Human Rights groups and Human Development groups. This was very much a result of Human Rights NGOs becoming increasingly interested in social, economic and cultural rights (for example Amnesty International and Human Rights Watch). At the same time the Development NGOs became more interested in the links between development and the protection of civil and political rights. The cooperation between the two types of NGOs has increased tremendously during the last decade. Most of them are now struggling to operationalize a human right-based approach to programming or a human development approach to human rights. On a larger scale some of the “New Social Movements” (e.g. Women’s movement, the Green movement and the Indigenous Peoples movement) combine Human Development and Human Rights.<sup>5</sup>

In spite of the fact that human rights constitute the very foundation of the United Nations, through the UN Charter and Universal Declaration of Human Rights, the organization did not take a lead in promoting human rights during the first 40 years of its existence. The major reason for this was the very different positions held by member states during the Cold War. After the end of the Cold War, a dramatic change took place. The fact that this change took place so immediately after the end of the Cold War was, to a large extent, a result of the commitment and work of UN Secretary-General Kofi Annan.

In 1997 the Secretary-General of the UN launched a programme of UN reform with a clear emphasis on human rights. In a statement to the Commission on Human Rights two years later he explained<sup>6</sup>:

“As the Secretary-General of the United Nations I have made human rights a priority in every programme the United Nations launches and in every mission we embark on. I have done so because the promotion and defense of human rights is at the heart of every aspect of our work and every article of our Charter”

In September 2000 the largest-ever number of heads of state and government gathered at a summit in New York, which ended successfully with the adoption of the **Millennium Declaration**.<sup>7 8</sup> The Millennium Declaration is a powerful document outlining the

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<sup>4</sup> United Nations, “World Summit for Social Development: The Copenhagen Declaration and Programme of Action”, New York. 1993

<sup>5</sup> Neil Stammers, *Social Movements and the Social Construction of human Rights*, Human rights Quarterly 21 (1999) 980-1008

<sup>6</sup> Secretary General to the Commission on Human Rights: I have made human rights a priority in every United Nations programme, 7 April 1999

<sup>7</sup> General Assembly Resolution 55/2, *United Nations Millennium Declaration*, 18 September 2000

<sup>8</sup> General Assembly Resolution 55/162, *Follow-up to the outcome of the Millennium summit*, 18 September 2000

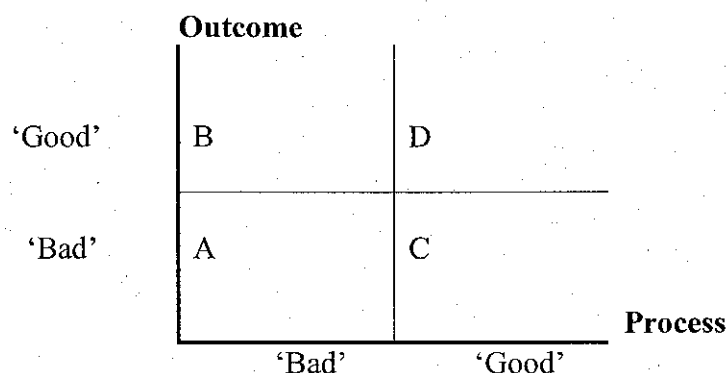
crucial aspect of a desirable future world. Unfortunately most organizations have reduced the Millennium Declaration to the two (out of 30) paragraphs identifying a set of Millennium Development Goals (MDGs). This is very problematic, because the MDGs must be seen in the broader context of the Declaration. And the broader context includes the fundamental role of human rights. The respect for all internationally recognized human rights and fundamental freedoms, including the right to development, forms the normative basis for the Declaration.

## 2. A Human Rights-Based Approach to Programming

### 2.1 A Definition of Human Rights

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 goals set at the World Summit for Children or the Millennium Declaration, for example, represent specific, desirable outcomes. Effective human development demands a high-quality process to achieve such outcomes. Participation, local ownership, empowerment, and sustainability are essential characteristics of a high-quality process. In a HRBAP the required process qualities are set by human rights principles.

Level of outcome and quality of process define a two-dimensional space for social action, as illustrated below.



**Figure 1: Outcome and Process**

Most development starts at A, and the ideal, final stage is D. Unfortunately, many development programmes move into one of the two areas represented by B or C. The former represents a good outcome at the expense of, for example, sustainability (an aspect of a good process), and is as ineffective as C - a good process without a significant outcome. Some Unicef supported immunisation programmes in the 1990s had rapidly

moved into B but proven unsustainable, while some NGO supported community-oriented programmes had moved into C but proven impossible to move to scale.

While monitoring of the achievement of human development outcomes has improved considerably during the past ten years, far less progress has been achieved in monitoring the quality of *processes*—largely because “good process” has seldom been defined.

Human rights **standards** define benchmarks for desirable outcomes, while human rights **principles** represent conditions for the process. There is some confusion about the difference between “standards” and “principles”. Basically a “human rights standard” defines the minimum acceptable level of an outcome or results, while a “human rights principle” specifies the criteria for an acceptable process to achieve an outcome (minimum level of conduct, values). A list of the most important human rights principles has been proposed by UNDP<sup>10</sup> as shown below:

- **Universality and Indivisibility**
- **Equality and Non-Discrimination**
- **Participation and Inclusion**
- **Accountability and Rule of Law**

A Human Rights Approach requires equal attention to outcome and process. This has been particularly emphasized in the discussion on the Right to Development<sup>11</sup> An easy way to define human rights would be to say that human rights are those entitlements codified in human rights covenants and conventions. Such a definition however is too dogmatic and not very useful for a HRBAP. It would also miss the point that human rights are human constructs, which means that new rights will be constructed, gradually codified in conventions and accepted by ratification.

The relationship between rights holders and duty bearers also constitutes a core component of a Human Rights Approach, but most scholars in the area of international human rights law only recognise obligations on the part of the state. There is a need to extend the claim-duty relationships to include all relevant subjects and objects at sub-national, community, and household levels. It is interesting to note that the Preambles of both the ICCPR and the ICSECR support such an interpretation, stating:

“Realising that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognised in the present Covenant” (UN, 1976).

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<sup>9</sup> U. Jonsson, *Success Factors in Community-based Nutrition-oriented Programmes and Projects in Malnutrition in South Asia*. UNICEF Regional Office in South Asia (ROSA). Publication No.5, 1997.

<sup>10</sup> UNDP, *Poverty Reduction and Human Rights*, New York, March 2003

<sup>11</sup> A. Sengupta, *The Human Rights to Development*, Paper presented at the Nobel Symposium, Oslo, 13-15 October 2003.

Similarly, Article 29 of the Universal Declaration on Human Rights states that human rights are not limited to the relations between citizens and the state.<sup>12</sup>

Claim-holders and duty-bearers are not 'labels' on specific individuals, but **roles in which individuals may enter**. It is important to recognise that most individuals enter into the roles of both claim-holder and duty-bearer at the same time, but in relation to actors at different levels of society. A teacher, for example, has a duty to children to provide good quality teaching but at the same time a claim against the Government to receive a salary.

It is equally important to realise that an individual very often can not meet his/her duties, because he/she has some of his/her own rights violated. Parents, for example, have a duty to provide food for their children, but may fail to do so due to lack of a job or cultivable land. In such cases parents cannot be held accountable for not providing food for their children.

This system of claim – duty relationships is called the **Pattern of Rights**. This Pattern must be understood in a HRBAP.

## 2.2 Towards A Common Understanding

Many UN agencies have made serious efforts to operationalize a HRBAP. UNDP and Unicef have been in the forefront. The work of a UN informal working group has been active during the last few years. A meeting was arranged in Princeton in 2002<sup>13</sup> and in Stamford in 2003.<sup>14</sup> At the Stamford Meeting an agreement was reached by most participating agencies on a Common Understanding of a HRBAP, which contains the following three principles:

1. All programmes of development co-operation, policies and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other human rights instruments.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.

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<sup>12</sup> International Council on Human Rights Policy, *Taking Duties Seriously: Individual Duties in International Human Rights Law – A Commentary*, 1999

<sup>13</sup> UNDP, *Recommendations of Inter-Agency Workshop on Implementing a Human Rights Approach in the Context of the UN Reform*, Princeton, NJ, January 24-26, 2001

<sup>14</sup> UNDP, *Report from the Second Inter-Agency Workshop on Implementing a Human Rights-Based Approach in the Context of UN Reform*, Stamford, USA, 5-7 May 2003

3. Development cooperation contributes to the development of capacities of 'duty-bearers' to meet their obligations and/or of 'right-holders' to claim their rights.

Based on these three principles the Meeting agreed on the following unique and specific characteristics for a Programme adopting HRBAP:

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

During the development of HRBAP (both in theory and practise) it became increasingly clear that the number of "good programming practises" from years of learning, become obligatory in HRBAP, and no longer optional<sup>15</sup>

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<sup>15</sup> At the Stamford Meeting the following "good programming practices" were identified:

- People are recognised as key actors in their own development, rather than as passive recipients of commodities and services.
- Participation is both a means and a goal.
- Strategies are empowering, not dis-empowering.
- Both outcomes and processes are monitored and evaluated.
- Analysis includes all stakeholders.
- Programmes focus on marginalised, disadvantaged, and excluded groups.
- The development process is locally owned.
- Programmes aim to reduce poverty.
- Top-down *and* bottom-up approaches are used in synergy.
- Situation analysis is used to identify immediate, underlying, and basic causes of development problems.
- Measurable goals and targets are important in programming.
- Strategic partnerships are developed and sustained.

It is important, however, to recognize that the application of 'good programming practises' does not by itself constitute a HRBAP. They are necessary, but not sufficient conditions.

### 2.3 Implications of the Common Understanding for Programming.

Internal reviews and country case studies of the adoption and use of a human rights-based approach to programming in Unicef country programmes of cooperation have clearly shown that there have been a wide variety of interpretations of the meaning of HRBAP. The situation almost reflects the philosophy of anarchy: that 'anything goes'. Many country offices refer to one or several of the following in reporting on the adoption of HRBAP: (1) CRC and CEDAW are explicitly recognized as the foundation for the Unicef Country Programme of Cooperation, (2) goals and objectives are formulated in human rights language, (3) human rights principles are explicitly referred to as guiding planning and implementation, (4) support to the development of human rights institutions, and (5) advocacy and information about human rights. None of these, however, would qualify for HRBAP according to the criteria proposed by the Stamford Meeting and endorsed by the UNDG Programme Group.

Similarly in other agencies there is a plethora of concepts that are very seldom explained, including 'Human Rights Approach to Development', 'Rights Based Approach to Development', 'Programming in a Human Rights Perspective', 'CRC/CEDAW Programming', and 'Programming through a Human Rights Lens'. This confusion is to a large extent a result of different understanding of the relationships between human rights and (human) development. There is therefore a need to be more clear about criteria that must be met in order to qualify for a HRBAP. The Common Understanding provides such criteria.

The first criterion in the Common Understanding requires that **all programmes should contribute to the realization of human rights**. That is a necessary, but not sufficient condition because there are many programmes and projects that contribute to the realization of human rights standards. Most Unicef supported programmes and projects in the past have contributed to the realization of children's and women's rights by achieving desirable and human rights relevant outcomes. Currently many Unicef supported programmes and projects define the objectives in human rights language, while the actual programming is done as usual.

The second criterion, that **human rights standards and principles should guide all programming in all sectors and all phases of the programming process**, is very often adopted in rather vague forms. The ambiguity of the term 'guide' has resulted in a number of different interpretations, as mentioned earlier. The simple fact is that programming can not just be guided by standards and principles, because these are not precise enough to concretely inform the operations of programming. This can be

achieved by recognizing that human rights standards determine the Outcome and human rights principles define the conditions of the Process.

The third criterion specifies the meaning of 'guiding'. It states that **programming should contribute to the development of capacities of claim-holders to claim their rights and of duty-bearers to meet their duties.**

In conclusion, each of the three conditions is necessary, but not sufficient in isolation. Sufficiency requires that all three conditions are met at the same time.

### **3. A Method for the Application of HRBAP**

Based on the first two unique characteristics of HRBAP (see 2.2) a method has been developed on how to apply a HRBAP in practice. The method has been adopted by Unicef and is being applied in a large number of Country Programmes of Cooperation. The method consists of five consecutive steps logically linked and with some new tools to manage information.

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

Once awareness exists, the first step is to identify the immediate, underlying and basic causes of the problem. Without a reasonable consensus on causality, there is not likely to be consensus on solutions. Identification and analysis of the causes of a problem is facilitated by the use of an explicit conceptual framework.<sup>16</sup>

Causality analysis is a typical tool used in most development approaches. As desirable outcomes from a human development perspective are often the same as those sought in a human rights perspective, the problems identified are likely to reflect human rights violations (disease, malnutrition, lack of basic education, exploitation, discrimination, etc). This is an example of a situation in which human development analysis assists and adds value to human rights analysis. The causality analysis will result in *a list of rights that are either being violated or at risk of being violated*, together with the major causes of these violations and the key actors involved..

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

Pattern Analysis aims at identifying key claim/duty relationships in a particular societal context. 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 be based on the

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<sup>16</sup> U. Jonsson, *An approach to assess and analyse the health and nutrition situation of children in the perspective of the Convention on the Rights of the Child*, The Int. Journal of Children's Rights, 5: 367-381, 1997.



Causality Analysis. It is important to realize that the same individual or group of individuals often may enter the roles of both claim-holder and duty-bearer. A teacher may have a duty to parents to provide good teaching, but may at the same time have a claim against the government to receive a salary. It is also important to note that a claim-holder's claim is always equivalent to the bearer of the correlative duty. Parents' claim on teachers to provide good teaching is equivalent to teachers' duty to do the same. Teachers, however do not just have duties to parents; they may also have valid claims on parents, for example that parents bring girls to school. This is illustrated in the matrix below, which includes examples of claim/duty relationships in relation to the right to basic education.

<b>Claim Holders / Duty-Bearers</b>	<b>Children</b>	<b>Parents</b>	<b>Teachers</b>	<b>District</b>	<b>National Government</b>
<b>Parents</b>	Allow girls to go to school		Allow time for home-work	Assist in construction of class-rooms	
<b>Teachers</b>	Provide good quality teaching	Establish Parent Teachers Associations		Participate in training workshops	Follow established curricula
<b>District</b>	Stop all recruitment of child labourers	Provide material for class-room construction	Re-train teachers		Use funds correctly
<b>National Government</b>	Legislate free and compulsory basic education	Policy on exemption from school fees for poor parents	Ensure adequate salaries for teachers	Allocate adequate funds for education	

Most often the key claim/duty relationships cluster around the diagonal of the matrix, i.e. the parents/teachers, teachers/district and district/national government relationships, reflecting a bottom-up 'chain' of claims at lower level create claims at higher levels. In reverse, a top-down 'chain' reflects the fact that higher level duties create duties at lower levels.

### 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 Analysis.

Capacity is defined in a broader sense, including the following five components:

- **Responsibility/motivation/commitment/leadership**

This 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.

- **Authority**

This 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.

- **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 is 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: (1) *Human Resources*, (2) *Economic Resources* and (3) *Organisational Resources*.

- **Communication Capability**

The capability to communicate and to access information and communication systems is crucial for individuals and group 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.

- **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 relies heavily on the capability to communicate<sup>17</sup>

Each dual claim/duty relationship generates four lists of capacity gaps. An example is illustrated below (capacity gaps of teachers to meet their duties to parents):

<b>CAPACITY GAPS OF TEACHERS TO MEET THEIR DUTIES TO PARENTS</b>	
<b>Responsibility</b>	Do not feel that PTAs are of any importance. Teachers know what is best for the school
<b>Authority</b>	Establishment of a PTA requires approval from the District authorities
<b>Resources</b>	Lack of funds to make PTA meetings attractive for participants
<b>Decision-making Capability</b>	Do not feel that the views of parents are useful for the management of the school
<b>Communication</b>	Do not speak the local language well.

#### **Step 4: Identification of Candidate Actions**

Causality Analysis results in the identification of a set of rights that are being violated or at risk of being violated. Role/Pattern Analysis identifies key claim-holder/duty-bearer relationships for each specific right. Capacity Analysis defines the capacity gaps of claim-holders to claim their rights and of duty-bearers to meet their duties. A

<sup>17</sup> U. Jonsson, *Nutrition and the United Nations Convention on the Right of the Child*, Innocenti Occasional Papers, CRS 5, November 1993

programmatic response aimed at the realisation of rights must contribute to narrowing, or closing, these capacity gaps.

*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. The Candidate Actions to close the capacity gaps of teachers to be able to meet their duties is illustrated in **Table 4**. A similar Table is required to show the candidate action for closing the capacity gaps of teachers to claim their own rights.

An example of candidate actions based on the previous analysis of capacity gaps of teachers to meet their duties to parents is shown below:

<b>CANDIDATE ACTIONS TO CLOSE THE CAPACITY GAPS OF TEACHERS TO MEET THEIR DUTIES TO PARENTS</b>	
<b>Responsibility</b>	Launch a campaign among teachers about the importance of PTAs
<b>Authority</b>	Convince the District authorities that teachers may decide on PTAs
<b>Resources</b>	Use community funds for providing tea at every PTA meeting
<b>Decision-making Capability</b>	Arrange meetings between teachers, parents and children to discuss the management of the school
<b>Communication</b>	Provide training of teachers in the local language

### **Step 5. Programme Design**

The priority actions or activities selected should be aggregated into projects and programmes. 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. For example, development of teachers' communication skills will strengthen teachers both to meet their duties to children and to claim their rights in relation to the Ministry of Education.

The selection of priority activities and the division of labour among UN agencies should take place within the UN Development Assistance Framework and the ongoing preparation of Poverty Reduction Strategies. A clear division of labour for supporting the government should be agreed upon, including UN agencies, bilateral agencies, and NGOs.

#### **4. Practical Experiences with the Adoption of HRBAP**

In January 1996, Unicef Executive Board adopted a first-ever Mission Statement, in which the human rights of children and women, as enshrined in the CRC and CEDAW, were recognized as the foundation of Unicef's cooperation. In April 1998 Unicef issued an Executive Directive to all field-offices, *Guidelines for Human Rights-Based Programming Approach*<sup>18</sup>, in order to reorient country level programming towards HRBAP.

The principles contained in the Common Understanding (May 2003) had been promoted in Unicef Eastern and Southern Africa region since 1998<sup>19</sup>. It was therefore possible to evaluate some of Unicef Country Programmes of Cooperation already in 2003. The experience from Mozambique and Uganda will be briefly discussed, followed by some findings in a recent global review on the adoption of HRBAP in Unicef in the field.

##### **Mozambique**

An external evaluation of the Mozambique Programme (2002-2004) was undertaken in 2004 to 'identify lessons learned about both successes and constraints in the process of applying HRBAP' in the implementation of the cross-cutting HIV/AIDS Programme.<sup>20</sup>

The evaluation found that the preparation of the programme had met all four unique criteria defined in the Common Understanding. The adoption had significantly changed the design and strategies in the Country Programme. A strategic focus was given to capacity development, particularly of communities. The design of the programme was influenced by strong participation of children and young people. In a survey, about 60 % of right-holders were satisfied with their involvement in the causality analysis, although many of them admitted that they lacked basic knowledge about human rights. Most right-holders also thought that they had developed their capacity to claim their rights. There

<sup>18</sup> Unicef, *Guidelines for Human Rights-Based Programming Approach*, Executive Directive CF/EXD/1998-04. 21 April 1998.

<sup>19</sup> During 1998-2000 a number of draft proposals and guidelines on a Human Right Approach to Programming/Community Capacity Development were prepared by the UNICEF Regional Office for Eastern and Southern Africa (ESARO)

<sup>20</sup> J. Hausermann, *Mid Term Evaluation of the Application to the HRBAP in the HIV/AIDS Priority of the Mozambique Country Programme of Cooperation, Government of Mozambique and UNICEF, 2002-2006*. Final Report September 2004

was a strong agreement that HRBAP had developed capacities at all levels of society to respect, protect and fulfil rights.

The adoption of HRBAP had meant that most 'good programming principles' had been adopted, including the recognition of poor people as key actors in their own development, focus on empowerment, local ownership, reducing disparities, and more clear accountabilities. Insufficient attention, however, had been given to gender analysis and the economic and socio-cultural causes of HIV infection.

An interesting finding was that most participants agreed that Unicef project staff should be accountable to right-holders. This is, indeed, a significant change from past practises.

A common complaint among duty-bearers was that they wanted to know more about their own rights in order to be able to claim these rights and as a result be more capable to meet their duties as duty-bearers. This reflects a serious problem in the Programme, where right-holders and duty-bearers are 'labels' of certain people, rather than roles in which most people may enter.

In conclusion, the Mozambique Programme successfully adopted HRBAP, but much more training is required, together with better monitoring of the process.

## **Uganda**

The adoption of HRBAP in the Uganda Country Programme of Cooperation (2001-2005) was reviewed as a part of their mid-term review<sup>21</sup> in 2002. Similarly to Mozambique, the adoption of HRBAP required significant changes in programme content and practises.

The use of HRBAP had increased the ability to address exclusion and disparities. For example, 80% immunization coverage, praised just a few years ago, was no longer acceptable. The 20% excluded must be reached. Children and young people participated much more than before at both strategic and operational levels. Adult people started to recognize their roles as duty-bearers and appreciated the contributions of young people to the Programme.

HRBAP led to a district focussed approach, aiming at the development of capacities of duty-bearers, development of partnerships and strengthening communities to address issues that affected them. The programme had been successful in the few areas selected for implementation, but it had been difficult to expand the Programme due to resource constraints (both economic and human resources).

Throughout the implementation a deliberate effort had been made to both address outcome and process. The Early Childhood Project had been most successful in finding the right balance.

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<sup>21</sup> Mid-Term Review Report of the Uganda Country Programme. Unicef. 2003

Similarly to the case of Mozambique, it was found that most duty-bearers were not aware of their own rights and did not have sufficient capacity to claim their rights. Again, a more complete pattern analysis would have avoided this problem.

District Implementation Teams play a crucial role in rural development in Uganda. A major challenge for successful implementation is the fact that the strength of the team depends on a few individuals. Poor delegation and weak supervision by district heads of departments are additional challenges that must be overcome in order to expand the adoption of HRBAP to larger areas of the country.

## **Global Review**

In 2004 an organization-wide review was made to find out the experiences with the adoption of HRBAP in Unicef.<sup>22</sup> It was found that about 20% had used HRBAP to guide programme implementation and that about the same percentage of staff had understood the approach. The adoption of HRBAP, however, is very uneven among the regions, with countries in the Latin America and Eastern and Southern Africa regions representing more than 70% of those countries that had adopted HRBAP.

The review concluded that much more training is required, both of Unicef staff and partners. A special effort should be made to engage UN Country Teams to promote HRBAP in the preparation of the CCA/UNDAF and PRSPs. There is also a need for more clear guidance from Headquarters.

## **5. Conclusions**

There is an emerging consensus that HRBAP has significant advantages compared to basic needs and human development approaches to programming. The most important ones are summarized below:

1. Increased accountability as a result of explicitly defined claim/duty relationships. This is different from 'entitlements', which does not identify any specific duty-bearer. A duty is also different from a promise or an interest.
2. HRBAP makes most 'good programming practise' obligatory, and not just optional. Human rights-based programmes are therefore good even measured by traditional development criteria.
3. HRBAP offers better protection of people who are poor by ruling out trade-offs that are harmful to them. The most common trade-offs promoted in development work are: (1) *The needs trade-off*: relatively high levels of poverty should be accepted in order to maximize investment and future economic growth, (2) *The equality trade-off*: initially economic growth will create in-equalities that should be accepted, and (3) *The*

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<sup>22</sup> A. Raphael, *HRBAP Progress review 2003. Implementation of Human Rights Approach to Programming in UNICEF Country Offices (1998-2003)*. Unicef HQ 2004

*liberty trade-off*: civil and political rights must be temporarily suspended in order to allow for economic growth.<sup>23</sup>

4. HRBAP gives more attention to exclusion, discrimination, disparities and injustice. It therefore gives more attention to legal and institutional reform, with emphasis on basic causes. HRBAP promotes the Rule of Law.

5. When applying HRBAP, access to justice means the people's ability to seek and obtain remedy for grievances, through formal and informal justice mechanisms, and in conformity with basic human rights principles and standards. Currently access to justice is most of the time limited to people's ability to use public and private justice services. In HRBAP justice is seen as a social process, not just a legal one.

6. A Human Rights Approach protects people better from power exertion and can be used to challenge power. HRBAP stimulates social movements and mobilizes civil society.

7. In a Human Rights Approach to Development, development assistance can no longer be based on charity or solidarity only; it will be a result of national and international obligations (including Unicef).

United Nations has an obligation to respect, protect, facilitate and fulfil human rights in all development and humanitarian work. There is therefore a need for an operational Human Rights-Based Approach to Programming (HRBAP). United Nations agencies have moved fast in the process of agreeing on criteria for a HRBAP, manifested in the Stamford Inter-agency Consultation's recommendation 'Towards a Common Understanding', endorsed by the undg Programme Group.

There is, however, a significant gap between agreements at the undg agencies' HQ levels and the reality at the country level. Very few agencies, and in very few countries, have mainstreamed human rights in their work. Therefore, training of UN Country Teams should be a top priority for all undg agencies.

The current UN Reform promotes a stronger cooperation among UN agencies. HRBAP is new to all UN agencies and could therefore become an effective catalyst in the efforts to move towards a real UN team-approach, including joint programming.

Finally, the current strong focus on the achievement of the MDGs must be balanced with a greater attention to the overall implementation of the Millennium Declaration, which provides the context in which the MDGs should be addressed.

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<sup>23</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, p. 164-165