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A Human Rights Based Approach to Environment and climate change

Purpose and Framework

The purpose of this brief is to provide guidance to staff on how to apply a human rights based approach (HRBA) when assessing, planning and monitoring initiatives related to environment and climate. Applying a HRBA, will make these efforts more effective in ensuring that the interests of poor and marginalised women, men and children (right-holders) are prioritised and that people of power (duty-bearers) are identified and held accountable.

In Sweden the interpretation of a HRBA has been elaborated in the [Policy for Global Development \(PGD\)](#) and the government's [Aid Policy Framework](#) (section 3.2.2.). The Aid Policy Framework also presents six objectives; one of them is “*a better environment, limited climate impact and greater resilience to environmental impact, climate change and natural disasters*”. Applying a human rights based approach entails:

- Assessing how the initiative will further the realisation of human rights as laid down in the UN Human Rights Conventions and how to ensure that it will do no harm to the livelihood strategies of the poor.
- Planning and monitoring how the values and principles underpinning these UN Conventions (non-discrimination, participation, accountability and transparency) are applied in the programme design and processes
- Empowering men, women, girls and boys (with hope, assertiveness, knowledge, skills, tools, communication channels, legal mechanisms, etc.) to enable them to address their situation and claim their rights individually and collectively
- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations

The United Nations has established a website called the ‘Practitioners Portal on HRBA’ – www.hrbaportal.org – which brings together a number of HRBA development interventions from different countries and sectors with the aim of mainstreaming information and understanding about HRBA. The website has a number of HRBA development intervention examples and research studies from areas including disability rights, health, the environment, poverty and education.

Environment and climate change in a context

The Swedish government puts environment and climate change among the top priorities within all its development cooperation.

Natural capital like natural resources, ecosystems, ecosystem services and climate is the basis for human existence and activity. People living in poverty are often directly dependent on natural resources and biodiversity such as forests, land and water. At the same time, groups that are already vulnerable suffer particularly from environmental degradation, exploitation, climate change and natural or man-made disaster risks. Changes in the environment and the climate have the greatest impact on the people living in poverty, people whose resilience to such changes is very weak.

The concept of environment includes a range of issues related to the environment such as air, water, land, climate, natural resources, natural flow, flora, fauna, cultural heritage, people, and the interaction between them and the social, political and economic factors in the society as well as the physical capital for instance infrastructure that mankind has created. Therefore, environmental issues can also address issues such as hygiene, health, food security, urban development, waste management, land tenure and access rights, indigenous and people's rights. At an ecosystem level, environment includes vulnerability to natural disasters such as flooding and cyclones, and measures for adaptation and resilience to climate change.

Social and economic development is crucial in a sustainable development context, especially in combating poverty, but the growth needs to be sustainable. Therefore green growth can be seen as a means to achieve a sustainable economy that provides a better quality of life for all within the ecological limits of the planet. That means taking into account different factors such as environmental impact, climate change, disaster risk and the loss of biodiversity as well as equal distribution of resources.

In many of Sida's partner countries, climate change and depletion of ecosystems is already evident, which has largely affected people's health and their ability to support themselves and for instance their basic rights.

The Swedish objectives for environment and climate change

Weak institutions, ineffective environmental legislation, unclear accountability, poor transparency and a lack of public access and participation further exacerbate the situation. The absence of these has led to the undermining of important ecosystem services and an inability to guarantee access to important natural resources and biological diversity.

In the Aid Policy Framework the objective for environment and climate change has five result areas to address these challenges, all of them with clear linkages to human rights and HRBA:

1. **Greater resilience to environmental impact, climate change and natural disasters, and a reduced environment and climate impact.** Natural capital like natural resources, ecosystems, ecosystem services and climate is the basis for human existence and activity. People living in poverty are often directly dependent on natural resources and biodiversity such as forests, land and water. At the same time, groups that are already vulnerable suffer particularly from environmental degradation, exploitation, climate change and natural or man-made disaster risks. Changes in the environment and the climate have the greatest impact on the people living in poverty, people whose resilience to such changes is very weak. A HRBA focus on solutions that benefit and empower the most vulnerable people.

2. ***Strengthened institutional capacity in environmental management and environmental institutions*** – Weak institutions, ineffective environmental legislation, unclear accountability, poor transparency and a lack of public access and participation further exacerbate the situation. The absence of these has led to the undermining of important ecosystem services and an inability to guarantee access to important natural resources and biological diversity. A HRBA entails supporting/demanding of authorities to establish legal frameworks and monitoring mechanisms to protect the people from human rights violations due to environmental degradation and empowering women, men and children concerned to seek information and take action to influence development and protect their rights.
3. ***Sustainable management of ecosystems and sustainable use of ecosystem services*** – Sustainable management and use of ecosystems prevents short term depletion of natural resources by people in power. A HRBA identifies the duty bearers and supports them to take responsibility for an appropriate legal and policy framework.
4. ***Increased access to sustainable energy sources*** – Equitable access to energy is a key non-discrimination issue. Access to energy is a pre-condition for economic growth and basic social services. A HRBA can help to determine what sorts of energy solutions are needed to realise poor or marginal communities' rights to clean, safe and affordable energy and their rights to health, education and water e.g. technical solutions chosen, structure and levels of tariffs and connection fees, subsidising systems for health and education services etc.
5. ***Sustainable urban development*** – Access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water has been established as part of adequate standard of living. A HRBA assists planners to design cities that are accessible and can provide an adequate standard of living to all – in the long term. It uses universal design principles to ensure that shelter, housing, sanitation and water are accessible to all regardless of age, disability, gender, social or economic situation.

Why adopt a HRBA to environment and climate change programming

The principle advantages of adopting a human rights-based approach include:

- *The inter-dependence of human rights and environmental sustainable development.* Human rights and environmental sustainable development are mutually reinforcing. Access to environmental protection is essential to the realisation of basic human rights, including the rights to food, health and even life itself. So too a human rights framework that ensures transparency and empowers citizens to contribute to the management of natural resources will help to achieve environmental goals.
- *A framework for addressing conflicting rights and interests.* A human rights-based approach establishes processes and mechanisms to bring conflicting interest and rights, for example the rights claims of present generations for livelihood security versus the inter-generation claims for environment protection, into the open and seeks to resolve them with accessible redress as necessary where rights are violated.
- *More effective and sustainable programmes.* Experience shows that development programmes are more likely to achieve their objectives when individuals are included as active participants rather than passive recipients. Programmes are more likely to meet local preferences and needs, use local knowledge and technology, and match local capabilities to sustain the projects. As informed citizens and genuine stakeholders, individuals feel committed to maintaining the programme and to protecting their environment.

- *An integrated approach:* Analysing environment and natural resource use issues through the human rights lens allows for a better understanding of how laws, social norms, traditional practices, and institutional actions positively or negatively affect these issues. This leads to more focused strategic interventions, which address the structural causes behind environment-related problems.
- *Attention to the poor and marginalised.* Poor and vulnerable groups often suffer disproportionately from environmental degradation and unjust access to natural resources such as water or land. A human rights- based approach ensures that such inequalities are highlighted in programme design.
- *Preventing “elite” capture of programmes.* With its emphasis on broad-based participation and programming that builds the capacity of poor and marginalised groups to claim and exercise their rights, a human rights- based approach prevents elites from capturing both the benefits and process of programming where environmental issues are at stake.
- *Enhances results-oriented management.* Human rights principles and standards helps to clarify and achieve goals while contributing directly to feedback and monitoring systems. A programme based on human rights design is more likely to provide early warning of problems and strengthen the accountability of all actors as well as promote sustainability.

Human rights systems and standards related to environment and climate

International level

The Universal Declaration of Human Rights (1948) does not include sustainable development or environmental rights as a human right or as a prerequisite to fulfil the human rights. However, environmental aspects are understood as being implicit in these treaties. Fundamental rights such as the right to the highest attainable standard of health - enshrined in the Covenant on Economic, Social and Cultural Rights (1966) - and the right to life - enshrined in the Covenant on Civil and Political Rights (1966) - depend on a sustainable, clean and healthy environment. The Human Rights Committee, established under the Covenant on Civil and Political Rights, has referred to environment issues in its concluding observations, notably with the General Comment on the Right to Adequate Food and the General Comment the Right to Adequate Housing.

More recently drafted international human rights instruments do specifically mention the value of the environment in their systems of protection. These include:

- The Convention on the Rights of the Child (1989); and
- The ILO Convention No.169 concerning Indigenous and Tribal Peoples (1989)

The United Nations Human Rights Council recognised the threat of climate change in its [resolution 7/23](#), “Human rights and climate change” (28 March 2008), expressing concern that climate change “poses an immediate and far-reaching threat to people and communities around the world”.

Through Resolution 64/2921, in 2010 the United Nations General Assembly explicitly recognised the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential to the realisation of all human rights. It thereby confirmed the growing consensus that the environment is directly tied to human well-being and to the realisation of human rights.

The most comprehensive international statement on environmental rights to date is the 1994 Draft Declaration of Principles on Human Rights and the Environment, appended to the Report of the UN Special Rapporteur on Human Rights and the Environment.

The principles set out in the Draft Declaration reflect and build upon the rights found in both national and international law. Although this instrument is non-legally binding, national courts have used the Draft Declaration as a basis for decisions on environmental matters.

Regional level

At a regional level, both the European and Inter-American human rights systems have recognised environmental rights in their decisions. Moreover, two regional legal instruments for the protection of human rights contain specific provisions on the right to the environment:

- The African Charter of Human and People's Rights, (1981), which proclaims that "all peoples shall have the right to a general satisfactory environment favourable to their development" (Article 24); and
- The Additional Protocol to the American Convention on Human Rights, (1988), which stipulates that "*everyone shall have the right to live in a healthy environment and to have access to basic public services*" (Article 11).

National level

More importantly, human rights to natural resources and environmental protection have been recognised in national laws, constitutions, and policies. Presently over 100 constitutions throughout the world guarantee a right to a sustainable, clean and healthy environment, impose a duty on states to prevent environmental harm, or mention the protection of the environment or natural resources. Moreover, some of this legal provision provides individuals or groups with the right to file legal action to protect the environment or fight against for example pollution.

Soft and hard law

In the years since the 1994 Draft Declaration on Human Rights and Environment Principles, human rights- based approaches to environmental protection have increased in number and prevalence at the national and local level, supported in large part through programmes to implement Agenda 21 and Principle 10 of the 1992 Rio Declaration on Environment and Development. Principle 10 states that: "*Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided*".

Agenda 21 is the Programme of Action adopted to implement Principle 10. It has 21 Chapters dealing with all aspects of sustainable development including social and economic dimensions (combating poverty and promoting human health), conservation and resource management, major groups (e.g. women, indigenous people, business and unions), and means of implementation (e.g. aid, public awareness, education).

In international law, Agenda 21 and the Rio Declaration fall into the category of 'soft law': they are not directly enforceable in courts and tribunals. Yet although they lack legal status, there is a strong expectation that their provisions will be respected and followed by the international community. Furthermore, they reflect emerging principles of international human rights and environmental law.

One of the first 'hard law' texts to explicitly link environment rights and human rights and to recognise the rights of future generations to the environment is the regional UN/ECE Aarhus Convention. The Aarhus Convention goes to the heart of the relationship between people and governments. The Convention is not only an environmental agreement; it is also a Convention about government accountability, transparency and responsiveness. Although the Aarhus Convention is a regional instrument, between States members of the Economic Commission for Europe (ECE countries), its global significance is widely recognised. The Convention entered into force on 30 October 2001 and is open to accession by non-ECE countries, (as yet no non-ECE country has signed it).

In conclusion, it is noted that there are a highly significant number of legal instruments and voluntary agreements that deal with environment related human rights. Apart from, in some cases, the lack of political will among some states to address environmental challenges, the lack of capacity of governments (duty-bearers) to fulfil their obligations as outlined in the existing instruments the lack of capacity of the concerned women, men, girls and boys (right-holders) to claim and exercise these rights are the main obstacles to the realisation of environment-related human rights.

Applying a HRBA to environment and climate change programming

Sida staff is required to ensure that each development intervention supported is in line with Swedish policies for development cooperation. As part of this assessment questions are asked regarding its contribution towards poverty reduction, democracy and human rights/do no harm, gender equality and environmental/climate consequences. Questions are also asked about the way the development intervention will address accountability, transparency, participation and non-discrimination (the four HRBA guiding principles) in performance and processes.

The questions below may guide staff to further improve the preparation, assessment and monitoring of initiatives and ensure that human rights are enhanced, respected and protected both in programme design and processes. First there are questions related to human rights instruments (L) and to empowerment and capacity development (E), followed by specific questions related to the four human rights principles of non-discrimination (N), transparency (T), participation (P) and accountability (A).

Links to human rights treaties and agreements (L)

As described above, there are a number of binding and voluntary international agreements and standards related to environment and climate change. Ensuring that these are informing and guiding initiatives supported is an important part of a HRBA. Key issues to monitor and analyse are:

- Are international human rights agreements and standards used as a reference to justify and design the initiative?
- Are underlying obstacles to fulfilment of these international agreements and standards described and addressed by the initiative?
- Have the formal commitments to the human rights agreements described above been made a precondition for Swedish support to the various parties and sub-contractors?
- Are there measures to ensure that stakeholders are aware of relevant international and national environmental policies and documents?
- How will these international and national commitments be monitored and what will be done if there are gaps in compliance?
- Is there an analysis of the risks and opportunities related to human rights and environmental consequences – both positive and negative?



Mussel collectors benefit from mangrove forest on Asia's shores, which also mitigates the effects of typhoons. A protective and responsible use of ecosystems such as mangroves will reduce the long-term threats to coastal ecosystems and increase local people's ability to live in and from these coastal communities. Sweden supports the program Mangroves for the Future (MFF). Photo: Knud Falk/Sida

Empowerment and capacity development (E)

Empowerment is first about strengthening the organisations that provide voice, demand accountability and ensure protection for vulnerable people. Overcoming exclusion is about addressing power differentials, enhancing knowledge among the women, men, girls and boys affected (of for example planned investments and their consequences, of emerging environmental risks and of means for protection and risk reduction) and facilitating collective action. Empowerment is also about supporting duty bearers to develop policy frameworks that a) create an enabling environment for civil society organisations and b) ensure that private sector actors understand and respect international agreements and national laws that demand that investments are. Key issues to monitor and analyse in assessing support to initiatives:

- To what extent does the initiative contribute to capacity development of affected populations to develop necessary skills for dialogue, negotiation and organisation?
- Have measures been taken to develop the capacities of environmentally vulnerable populations to articulate their demands for protection and services that enable them to maintain and develop their livelihoods and health?
- To what extent does the initiative develop capacities of local community based organisations?
- Are strategies included to enable participants to deliver and manage natural resources or energy services themselves?
- To what extent does the initiative develop capacities of authorities, investors and businesses to monitor and adhere to legal and voluntary human rights instruments?

- Is there support to capacity development of associations representing farmers, fishers and groups engaged in natural resource management, and has analysis been made of who is included and excluded from these groups (in relation to gender, ethnicity, etc.)?
- Have capacities been developed among duty bearers (often together with private sector actors) to assess and mitigate the environmental risks?
- Are environmental considerations incorporated in schools' waste management, use of water and energy, positioning of windows, construction technology, including resilience to environmental hazards and climate change, in order to increase sustainability and cost effectiveness?

Non –discrimination (N)

All women, men, girls and boys are entitled without any discrimination to equal access to ecosystem services and natural resources and resilience for a standard of living adequate for their health and well-being. Discrimination may be expressed in law (explicit discrimination) and hence be part of official policy; such as lack of land rights; or it may be found in practice and behaviour (implicit discrimination); such as where a remote group cannot access water services because drinking wells provided by the state are too far away. Key questions are:

- Are vulnerable groups specifically identified and targeted?
- Is there a proper analysis of the consequences of the initiative for these women, men, girls and boys?
- Is there a plan for their inclusion and benefit including disaggregated data and indicators?
- Are tariffs and fees adjusted to accommodate also poor and marginalised groups?
- Are land and property rights addressed to ensure that women, minorities and poor people are protected or fairly compensated?
- Are the livelihoods supported resilient to risks related to climate and market volatility and uncertainty, and thereby relevant for vulnerable populations that cannot afford to shoulder uncertain risks?

Transparency (T)

All people have the right to obtain information in an accessible and timely manner e.g. about pollution levels, water quality, environmental health risks, exploitation plans, land use plans, disaster preparedness plans. Granting sufficient and accessible information to affected women and men in planning and policy making processes is of key importance to their ability to influence and monitor developments. Important also, taking into account local traditions, survival strategies and indigenous people's dependence on natural resources, and ensuring that separate views are documented. Essential as well is to take into account, poor people's access to natural resources and that a long term sustainable development can be promoted, to avoid future opposition and conflicts.

Key questions are:

- Are the plans and goals of the initiative made public and explicit in an accessible manner to all stakeholders concerned, including the most marginalised groups?
- Will affected women, men, girls and boys receive sufficient, timely and accessible information, including separate views on the plans, and will they be able to take part in and influence the process?

- Will the access to information regarding the local risk situation be improved and will early warning systems be developed so that vulnerable people's ability to protect themselves and quickly recover after disasters is strengthened?
- Does the initiative contribute to capacities and commitments for greater transparency in policies and practice affecting land and natural resource tenure, particularly in new forms of land acquisitions and concessions?

Participation (P)

Everyone has a right to freely participate in decision making that affects them and their environment. People of power have an obligation to offer meaningful participation and consultations to people affected. Everyone has the right to organise and hold opinions without any interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Promoting participation is essential for the outcome of projects and programmes. It is stated in international treaties that women, men, girls and boys have a right to participate in decision-making that affects them. Social and cultural roles that are prescribed women and men have impact on their possibilities of choices, economic independence, and access to natural resources, access to land tenure, access to clean and safe water, and decisiveness on housing, education and livelihood.



Nile Basin Initiative at the inauguration of an irrigation project in Lukhuna, Uganda. The project is part of the Swedish support to the Nile initiative and around 500 people take advantage of it by production of profitable crops. Photo: MariaVink/Sida

Key questions are:

- Are fair and effective platforms for public-private dialogue in place, and do they give space to representatives of women and men with less power and status?
- Are measures taken to include and enhance capacity of those with less knowledge and power so that they can participate meaningfully in the consultative processes? E.g. do all stakeholders have sufficient and accessible information on the issues being addressed; are they invited to truly participatory processes? Are barriers removed e.g. no expensive travelling, not during busy seasons, not inaccessible for women or persons with disabilities?
- Are stakeholders actively engaged at all stages of the programming process?
- Do initiatives make space for vulnerable people to take actions of their own choosing to manage perceived risks? This is especially important in 'transformative' efforts that encourage profound changes in livelihood systems in response to climate change or market upheavals?

Accountability (A)

The state has an obligation to respect, fulfil and protect the rights of its population. It entails a functional regulatory system for environmental/climate issues, concrete plans for disaster risk reduction and response, rule of law and a justice system that provides legal aid to poor and marginalised people and their organisations, functional and accessible complaints mechanisms. Emphasising the accountability of all actors whose actions impacts the environment and natural resources, both state and non-state actors, is a central element of the human rights-based approach. Asserting human rights without supporting effective and precise frameworks to hold duty bearers accountable will be of little practical use.

Strengthening the governance of natural resource management and securing natural resources tenure, also taking rights of local people, women and men, ethnic minorities, nomadic or other marginalised groups into account, can minimise corruption, have positive effects on conflict management and be a key step towards alleviate tensions in the society, and consolidating peace in post-conflict societies.

Key questions are:

- Does the initiative contribute to ensuring that public and private sector actors have systems in place to monitor and disclose social and environmental impacts according to national and international standards?
- Do monitoring and evaluation arrangements involve civil society organisations representing the concerned population?
- Are there consequences (legal, financial or moral) for non-compliance to human rights objectives and principles?
- Has the initiative established accessible and effective mechanisms for redress and complaints?
- Does the initiative facilitate access to networks, organisations and other sources of information that may assist duty bearers to enhance their accountability and rights holders to claim their rights?

Useful links and references

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