

November 2014

A Human Rights Based Approach to Democratic governance

Purpose and framework

The purpose of this brief is to provide guidance to Sida staff country teams on how to apply a HRBA to democratic governance programs – which includes democracy, human rights and public administration. As this sector is very wide, the advice in this brief is of a general character.

Most donors have developed methods and guidelines for practical application of HRBA. In Sweden the interpretation of a HRBA has been elaborated in the [Policy for Global Development](#) and the government's [Aid Policy Framework](#) (section 3.2.2.). 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 it will ensure to do no harm.
- 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
- Planning and monitoring how the values and principles underpinning these UN Conventions are applied in the initiative and its processes; non-discrimination, participation, accountability and transparency.
- Developing capacities of those who have power and formal obligations to protect, respect and fulfil human rights obligations and/or
- 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

The United Nations has established a website called the 'Practitioners Portal on HRBA' — www.hrbaportal.org — which brings together a number of HRBA projects from different countries and sectors with the aim of mainstreaming information and understanding about HRBA. Although the information is aimed at United Nations practitioners, the website has a number of HRBA project examples and research studies from areas including disability rights, health, the environment, poverty and education.

Useful resources on human rights and democratic governance are

- [Transparency International](#)
- [Sida help desk on anti-corruption](#) and [World Bank anti-corruption site](#)
- [Open budget reports](#)

Applying a HRBA to democratic governance initiatives

Empowerment and capacity development (E)

Democratic governance includes democracy, human rights, and public administration, which are intrinsically related. Democratic governance is about the use of power and how state institutions and citizens relate to each other to make change happen. In its efforts to assist governments to become more democratic and respectful of human rights Sida needs to combine measures to a) support duty bearers to fulfil their obligations and b) empower rights holders to claim their rights.

In order to claim their rights men/boys, women/girls (rights holders) must	In order to fulfil their obligations government representatives (duty bearers) must
<ol style="list-style-type: none">1. Be empowered and know their rights2. Have opportunities and tools to express their claims3. Be able to take action against violations and to make complaints to a mandated body	<ol style="list-style-type: none">1. Understand and accept his/her responsibility to promote and protect the rights of all citizens without discrimination2. Be afforded the authority to carry out his/her obligations.3. Have the capacity e.g. the access and control over financial, human and institutional resources required to carry out his/her obligations

The role of both individuals and organised groups is crucial to strengthen and monitor the relationship between those in power and those claiming their rights; therefore the civil society organisations have a particular place, along with an active Parliament and a free media, in a system categorised of democratic governance. Sida support measures must be based on an analysis of these interlinked aspects and differ depending on the context and national challenges.

Linking to Human Rights instruments and policy (L)

Legislation, policies, planning and budgets are the most important steering processes and instruments of governments in trying to promote human rights. In many countries, lack of popular support of new laws/policies, absence of a functional, formal justice system and/or lack of budget allocations to finance reforms hinder enforcement. All these aspects (attitudes, rule of law and budgets) are crucial. The budget process is a powerful steering instrument. Therefore, improving transparency, accountability, participation and non-discrimination in budget systems and processes is of key importance. As decentralisation trends are increasing in most countries – in most cases bringing decision-making authority closer to people - it is necessary to work both on national and sub-national (e.g. regional, district and commune) levels of government.

Transparency (T)

Through a combination of dialogue and support measures, Sida/donors could support governments to develop understanding among decision-makers and civil servants at different levels, of the gains of being transparent in policy decisions, plans and budgets. Possible indicators of commitment to transparency could be:

- Existing and updated information on community/city and/or provincial level on policy decisions, budget, council meeting agendas and readiness and efficiency to provide information to the public

- Special measures for information accessibility for people with disabilities, language minority groups, children and illiterate population groups, especially women of all ages
- Public disclosure of parliamentary votes and parliamentary debates
- An enabling legislation according to e.g. AU Convention article 9
- Publicising public expenditure per sector and district
- Public disclosure of the actions taken to fight corruption, including in the financial systems and the judicial institutions
- Accessible and understandable information on how the justice system works and how the structures of decentralised power function

In on-going or post-conflict contexts special attention needs to be paid to the risk of exclusion of e.g. ethnic, religious or political groups. These groups may be excluded from their right to information, and security measures may limit the transparency of government systems and services.

Considering how disempowering corruption is to a rights-based policy implementation, special attention needs to be paid to this aspect. Sida/donors could support government to:

- work to increase awareness among public officials and actors in the private sector of the social costs of corruption in general and for already discriminated groups in particular
- promote public discussion on corruption reform and facilitate dialogue between actors from government, civil society and private sector
- continue to develop public expenditure tracking studies, which include specific analyses of how money and programmes reach women, children, marginalised and people living in poverty.
- enable civil society organisations, parliamentary groups, and the media to exercise control of the implementation of anti-corruption policies

Read more on [Sida help desk on anti-corruption](#) and [World Bank anti-corruption site](#).

Accountability (A)

The credibility of democratic governance depends on the effectiveness of the government's response to people's political, social and economic demands. Sida/donors could in their dialogue with governments promote the setting up of performance control mechanisms at all levels of the administration. Systems for rewards and sanctions must be in place. When private sector actors are subcontracted by the government to provide services or develop systems or infrastructure, governments must clearly stipulate in contracts that the human rights responsibilities are also subcontracted. Governments should set concrete human rights indicators and develop its capacity to monitor performance and ensure compliance, both at central and local government level.

Each sector has its special needs but some general recommendations include:

- establish indicators on access to justice and resource allocation for legal aid to marginalised groups
- set up [monitoring mechanism on public expenditures](#) from a gender, children and disability perspective (e.g. disaggregated data for public spending in different sectors, etc.)
- set up monitoring mechanisms to supervise performance of financial management that enable budget tracking, involving the participation of local councils, civil society and media actors
- establish indicators of women's influence and participation in the justice system and public financial management

- set up monitoring mechanisms to track governments ratification and domestication of international and regional human rights instruments, including measures taken by governments to report on progress to human rights mechanisms and to disseminate information on citizens' human rights.

Sida/donors could also provide support to parliamentary groups, media and civil society organisations in their role of watch-dogs. Possible indicators:

- Conducive political/legislative environment for civil society and media (including ICT) to fulfil its role as watchdog
- Open forum debates between state actors, civil society and parliamentary groups at local and national levels
- Increased demand from media and civil society of government reports, disaggregated statistics and public information and documents (and increased supply by governments)

Sida/donors could also consider supporting the establishment and capacity development of various complaints mechanisms such as parliamentarian "issue" groups, Human Rights Commissions, and free legal aid agencies.



Elections in Zambia. In the elections in 2015 Sweden contributed election observers and more than 4.9 million used to educate election officials and functionaries. Photo: Electoral Institute for Southern Africa (EISA)

Participation (P)

Decentralisation of political power and democratic institutions has the potential to strengthen participation and the possibility of citizens to hold their elected and bureaucratic representatives accountable. In dialogue with governments Sida/donors could continue supporting decentralisation and consider making funds available for capacity building of politicians and civil servants at local government level, and for development of participatory mechanisms, within the decentralisation process – e.g.:

- Raised awareness of human rights and their relation to accessibility, transparency and performance of public services, emphasising that politicians are accountable to their constituencies, and civil servants are accountable to the citizens and their elected politicians

- Introduction of public hearings, and establishment of consultative bodies between local government and civil society organisations
- Setting up of systems and routines that enable transparency and follow-up of performance in relation to assigned functions, service delivery and participatory processes
- How to handle increased demands on accountability, such as answering inquiries from citizens, members of the parliaments and the media,
- Assisting civil society to develop capacity and membership at district levels and especially abilities for holding duty bearers accountable.

Sida/donors could consider supporting civil society organisations to:

- give voice and power to people living in poverty and marginalised groups
- address rights violations by supporting, advising or servicing victims (human rights defenders)
- monitor/evaluate government performance and
- serve as a school in democratic culture.



Vietnam has developed a strong LGBT movement and the law on same-sex marriage is being reviewed by the National Assembly. Sweden supports activists and organisations of Lesbian, Gay, Bisexual, Transsexual and Intersexual (LGBTI) persons in many partner countries .Photo: ISEE

Non-discrimination (N)

In order to hold duty bearers accountable, civil society organisations must

- Have a **legitimate mandate** to speak on behalf of a certain group of rights holders
- Have a **clear vision** about their role, their objectives and their strategies to achieve these objectives
- Have **communication skills** and **knowledge** on both subject and procedures to be able to influence duty bearers and monitor their performance
- Have the **financial and managerial capacity** to sustain and develop their operations in a transparent and inclusive manner

Promotion of democracy and human rights must depart from issues at heart of members of poor and marginalised individuals and groups (e.g. women, persons with disabilities, ethnic minorities, children, LGBT persons). It requires that these individuals and groups (rights holders) can meet, share experiences, form a vision, and take concrete actions to address their issues. It also requires accommodating legislative and budgetary conditions. Democracy pre-assumes that equality of all citizens is embedded in policy and practice. Discriminatory attitudes towards children, women, persons with disabilities, people living with HIV/AIDS, Lesbian, Gay, Bisexual, Transsexual and Intersexual (LGBTI) persons or simply poor people lead to exclusion from their rights.

Sida/donors could, depending on the context, in the dialogue with governments, include requirements of

- Freedom of association and special openness to the organisation of discriminated groups of rights holders
- Mechanisms for meaningful popular participation in democratic processes
- Direct and concrete actions to increase women's influence and participation in the debate, and development of institutions and organisation for democratic governance
- Special measures to ensure the inclusion of discriminated groups in services, information and dialogue by acknowledging the special needs of persons who have limitations in mobility, reading, language, seeing, hearing or understanding
- Establishment of a complaint mechanism or ombudsman function for marginalised groups, staffed by people from their own group
- Free legal aid services to bring cases to court
- Challenging prejudice through exposure of respected role models that disprove of and challenge existing harmful/discriminating norms and practices

Sida could consider giving special attention to the support of capacity development of organisations representing marginalised groups. Apart from support, invitations of these groups to social, cultural and professional events and networks can be very helpful and create an arena for advocacy and awareness raising. Indicators of success of such civil society empowerment could be:

- legitimacy and ability to give a voice to ethnical minorities, women's movement, children and youth organisations, disability organisations and LGBT-groups
- ability to address immediate rights violations of these groups
- ability to monitor government in terms of development and implementation of legislation, policy and budgets,
- the existence of shadow reports on International and Regional Human Rights Instruments

Useful links and references

The United Nations 'Practitioners Portal on HRBA' : www.hrbaportal.org

UN Treaty Bodies, General Comments: <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

For resources on governance performance: www.moibrahimfoundation.org, www.afrobarometer.org or the Global Integrity Index (GII) www.globalintegrity.org.

UN Human Rights Office (OHCHR) online database with jurisprudence from the UN treaty bodies: <http://juris.ohchr.org>

For indicators on gender-sensitive governance see BRIDGE (2009) 'Gender and Governance', Cutting Edge Pack, Brighton http://www.bridge.ids.ac.uk/reports_gend_CEP.html#Governance

Academy of Democracy has tools for analysis and dialogue on democracy <http://democracy.se/index.php?lang=english>

An overview of Human Rights instruments and their status per country can be found on www.claiminghumanrights.org

To read more on budget transparency and indexes <http://www.internationalbudget.org/> and <http://www.openbudgetindex.org/>

[Sida help desk on anti-corruption](#) and [World Bank anti-corruption site](#).

The Global Portal on Anti-Corruption for Development: Information and knowledge specialised on anti-corruption for sustainable development. Link with Human Rights <http://www.anti-corruption.org/index.php/en/themes/human-rights-transparency-accountability/human-rights>

UN Special Rapporteur on the Independence of Judges and Lawyers <http://www2.ohchr.org/english/issues/judiciary/index.htm>

International Council on Human Rights Policy, Local Perspectives: Foreign Aid to the Justice Sector <http://www.ichrp.org/en/projects/104>

International Council on Human Rights Policy, Local Government: Links with Human Rights <http://www.ichrp.org/en/projects/116> and International Council on Human Rights Policy, Local Government: Delivering Public Services <http://www.ichrp.org/en/projects/124>

German development Agency HRBA fact sheets: A Human Rights Based approach to democracy, civil society and public administration. http://www.bmz.de/en/publications/topics/human_rights/BMZ_Information_Brochure_7_2010e.pdf