

Experiences in Applying Human Rights Based Approaches UNSSC, May 2010

Background: To strengthen the learning material on Human Rights Based Approaches to Development (HRBA) created by the Action 2 Global Programme, the UNSSC has documented examples of HRBA initiatives from around the world. This forms part of a UNDG inter-agency initiative to update the HRBA material used to support UN Country Teams and their partners apply a HRBA. The aim of collecting these examples is to present a picture of what a HRBA looks like and implies in practice. The examples also highlight common challenges faced and innovative strategies developed by UN staff in taking forward a HRBA.

Methodology: A call for experiences, with an application form, was sent out on the UN Human Rights Policy network - HuriTALK and Coordination Practice Network (CPN) in February 2009. Nine applications were received. Eight of these applications were selected and the focal points interviewed by phone. Following the interviews, seven of the experiences were documented¹. The draft articles were shared with the focal points and their inputs included in the final draft.

The views expressed in these 'HRBA Experiences' are those of the UN staff involved in the initiative. They do not represent the official views of the UN agencies or the UNSSC. Nor do they replace the information and guidance of the UN Common Learning Package of the HRBA.

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¹ The Ecuador UNFPA example came from the 2009 Publication: UNFPA at Work: 6 Case Studies.

1. Tunisia: Using a HRBA to Refine UNDAF Results in a Middle Income Country

Interview: Aida Robbana, Coordination Officer, UNCT, Tunisia

Context

In 2006 the Tunisia UNCT carried out rights based Common Country Analysis (CCA) for the first time. This resulted in a 54 page report that analysed treaties ratified gaps in laws and gaps in implementing laws. It included a 17 page human rights indicator matrix. While it was a solid report, the government did not accept it. The UNCT concluded that the government had misunderstood why the UNCT had applied a human rights lens to the analysis. The UNCT realised that the government needed to be sensitised on HRBA before the UNCT could move forward with it. The UNCT decided to carry out a HRBA training for the government and UN staff. The objective was to explain to them what a HRBA was and the value it brought to development programming.

Strategy

In 2007, the UNCT organised a training of trainers (ToT) for their staff and national counterparts. The UNCT took the opportunity of having the UNSSC organise training for West African UN francophone staff in Tunisia; organising their national ToT back to back with the regional training. 25 UN staff and Tunisian government counterparts were invited. Government invitations were targeted at the people that worked in the ministries of planning and development; those directly responsible for programming. The training workshops were not on HRBA alone, but HRBA and Results Based Management (RBM). Linking the two proved a useful strategy to emphasise that a HRBA is not only a matter of human rights. It is also about achieving better results.

Impact

Following the training, the UNCT worked towards applying a HRBA to its UNDAF. In doing so, they found that its major contribution was underlining the development gaps that remained in the country; namely the disparities within it. The primary marginalised groups that they identified were the young, certain groups of women, people living with HIV/AIDS and the poor. This helped clarify to the UNCT where they should focus. As a result, all the UNDAF Outcomes specifically address marginalised groups. UNDAF Outcome 2, for example, is on youth and adolescents, and the need for them to participate in development.

This time around, the UNDAF was agreed to by the government. The training had achieved its objective: developing understanding among the government that a HRBA can help them identify and address development challenges. Contrary to what the government had thought previously, a

HRBA was not about “naming and shaming”. It was about developing better and more targeted programmes.

Another indirect, and less quantifiable, impact of the training was its “eye opening” effect. During the “Power Walk” exercise, when the Director General of Health became a woman living with AIDS, it made him ask himself “what am I doing in relation to this problem?” Getting participants to reflect on these questions sowed the seeds for a change in how development was perceived. Government ministries are now beginning to use the HRBA terminology (right holders and duty bearers) in their work.

Challenges

One of the main challenges was participation. There was resistance to having civil society and marginalised groups participate, along with the government, in the CCA/UNDAF process. This limited the participatory nature of the process.

Lessons Learned

- It is important not to come in ‘from above’ with a HRBA. It should first be introduced to national counterparts with training and explanations on why it is being used. In a country where human rights are a sensitive issue ensuring that there is an understanding on what a HRBA is, and what it is not, is crucial.
- Linking the HRBA with RBM is a useful way to emphasise that a HRBA leads to better results. Utilising a HRBA is not about “naming and shaming”.
- Significant efforts should be made to ensure participation of government, marginalised groups and non-governmental organisations (NGOs). This ensures greater ownership by all actors of the UNDAF process.
- Need to go beyond training: The next step is to assure the institutionalisation of the HRBA process and its mainstreaming in National Plans.

Resources used

- Action 2/UNSSC, HRBA training tools, Arabic:
[http://www.unssc.org/web1/programmes/rcs/cca_undaf_training_material/teamrcs/show.asp?folder=HRBA / RBM&sfolder1=Arabic&sfolder2=&sfolder3=&sfolder4=](http://www.unssc.org/web1/programmes/rcs/cca_undaf_training_material/teamrcs/show.asp?folder=HRBA/RBM&sfolder1=Arabic&sfolder2=&sfolder3=&sfolder4=)
- Tunisia UNDAF 2007-2011:
<http://www.undg.org/docs/7201/UNDAF%20Tunisia.pdf>

2. Ecuador: Applying a HRBA to the UNDAF

Interview: Guillermo Fernandez, Human Rights Advisor, UNCT; Esther Almeida, National Human Rights Officer, OHCHR

Context

In 2008 Ecuador began the process of developing its UNDAF for 2010-14. With leadership from the Resident Coordinator, the Ecuador UNCT was strongly committed to applying a HRBA to the UNDAF process. Not only to fulfill official UNDG requirements, but to achieve better results.

The previous UNDAF had been criticised for its weakness as a programming tool. This time around, the UNDAF had to become the basis for the UN's work in Ecuador.

UN staff capacity on HRBA varied. Generally it was weak. Developing these capacities and providing mechanisms to support the UNCT in applying a HRBA to the UNDAF, was crucial.

Strategies

1. Providing Training and Support Mechanisms

- Training:

A series of HRBA training workshops were given to UN Staff, beginning in 2007. The first few were provided by colleagues from other UNCTs with expertise in HRBA. Once the Human Rights Advisor and the Coordination Specialist had attended the UNSSC HRBA/RBM course in Turin, they took responsibility for the workshops. Prior to the training workshops, most UN staff had little knowledge of human rights. They perceived a HRBA as being a legal and complex concept. The added value of which was unclear. They thought that applying a HRBA would involve reading a mass of human rights treaties, resolutions and reports.

To overcome these obstacles, an effort was made to ensure that the HRBA workshops and tools were "user friendly". Human rights concepts and norms were broken down into accessible themes and language. A series of "summaries", in a matrix format, were developed. These covered the human rights standards that were the most related to the UNDAF, such as the right to health, livelihoods, food, education, access to justice, social security, integrity, freedom to expression and migrant workers. The "summaries" of 15 rights or themes provided an overview of how human rights standards linked to the national context and the international human rights framework. In a few pages, UN staff had all the information they needed.

- Support Mechanisms:

Accompanying the staff beyond the training workshops was:

- An UNDAF technical reference group, responsible for checking whether HRBA, gender and inter-cultural issues were applied;

- The Human Rights Advisor to the UNCT. The Human Rights Advisor was part of the technical reference group. A key part of his mandate is to provide HRBA technical advice and support throughout the UNDAF process.

2. Aligning the UNDAF with the National Development Plan:

The UNCT ensured that the National Development Plan (NDP) was taken into account when developing the UNDAF. The NDP was elaborated through a national participatory process. It took careful consideration of the human rights situation. And it received technical assistance from a number of UN agencies. The UNCT decided to take the strategies and objectives of the NDP as the framework for the UNDAF. This generated greater interest from the Government in the UNDAF.

Impact

1. A Rights Based UNDAF

The Ecuador UNCT made a tremendous effort to successfully apply a HRBA to the UNDAF. While it did not lead to radical changes in the UNDAF, it did lead to thinking and approaching the issues from a human rights perspective. For the first time, furthering human rights is an explicit objective. Given the complexity of a HRBA, it is normal that more experience is needed to develop a truly rights based UNDAF.

2. UNDAF: a Relevant Tool for the UNCTs work

While it is too early to talk about the impact of the UNDAF, preliminary results can be seen. Namely, national counterparts are fully engaged. Previously the government had provided little input to the UNDAF process. Nor had it shown any interest in it. This time round, by aligning the UNDAF with the National Development Plan, strong Government commitment has been achieved. Their priorities are reflected in it. This should ensure that the UNDAF is the guiding tool for the UNCTs work over the next 5 years. The Government is also better placed to demand accountability from the UN for achieving the goals set out in the UNDAF. In doing so, a HRBA, "has changed the rules of the game".

Challenges

1. Absence of the CCA

The main challenge in applying a HRBA to the UNDAF was the absence of a CCA. Even though the national analysis that was used was useful, the opportunity for doing a "joint" analysis using HRBA tools was lost. This made it hard to apply a HRBA from the beginning; in analysing the problems. Many of the elements that went into the UNDAF were not well understood by the UN staff. Without having a clear understanding of where the problems emerged from, developing UNDAF priorities, results and indicators was difficult.

2. Indicators

The most challenging stage of applying a HRBA to the UNDAF came at the Monitoring & Evaluation (M&E) stage. It was hard to abide by the UNDAF

guidelines on indicators, in particular abiding to only a few indicators for each result. The process was exacerbated by the absence of a CCA and the lack of a baseline. Without clarity on what the problem was, it was hard to identify what the indicators should be. Nor were the staff used to measuring quantitative and qualitative aspects of rights.

Lessons Learned

1. The UNDAF process should be “complete”. While it is possible to use national analyses instead of the CCA, the process may be weakened without it. The CCA can help you assess the situation from a human rights lens.
2. To apply a HRBA to the UNDAF, UNCT and partners need their capacities developed. Ideally this support should be provided by someone within the country. Having an expert at the disposition of the UNCT who can provide technical advice throughout, is extremely helpful.
3. There is a need to find a simple way of applying a HRBA to the UNDAF. Not all of the UNCT can be made into experts. Ideally each UN agency in the UNCT should have a HRBA focal point with good expertise and training. All staff should have basic HRBA awareness and easy access to the human rights standards relevant to their work.
4. Having examples from other countries that have gone through similar processes is useful. The UNCT in Ecuador was fortunate to have strong support from experts working in the OHCHR Regional Office, who provided them with such examples.
5. Leadership of the Resident Coordinator (RC) is crucial. Specifically to confirm at the highest level, that human rights are at the core of the UN and the UNCT's mandate. The RC should lead the CCA-UNDAF process at the political level. While a technical reference group should take the lead at the technical level.

Resources

- Summaries of Human Rights Themes:
 - Right to Food (Derecho a la Alimentacion);
http://hrbaportal.org/ft/UNSSC_HRBA/DERECHO%20A%20LA%20ALIMENTACION.doc;
 - Right to Education (Derecho a la Educacion);
http://hrbaportal.org/ft/UNSSC_HRBA/DERECHO%20A%20LA%20EDUCACION.doc.
 - Right to Health (Derecho a la Salud);
http://hrbaportal.org/ft/UNSSC_HRBA/DERECHO%20A%20LA%20SALUD.doc;
 - Right to Social Security (Derecho a la Vivienda Adecuada);
http://hrbaportal.org/ft/UNSSC_HRBA/DERECHO%20A%20LA%20VIVIENDA%20ADECUADA.doc
- Ecuador UNDAF 2010-2014: <http://www.undg.org/docs/11172/UNDAF-Ecuador-2010-2014-color.pdf>

3. Kenya: Applying a HRBA to Peace Building and Conflict Management

Project Name: Strengthening National Capacities for Peace Building and Conflict Management (2005- Present).

Interview: Erastus Etheke, UNDP Kenya.

Context

Internally there are a lot of challenges to peace in Kenya. Marginalisation is at the root of many of them. The northern part of Kenya, pastoralist communities, women and youth are some of the regions and groups most marginalised.

Until the late 90s a lot of development work targeting these groups was done by civil society. Conflict and violence in the regions that they worked greatly hampered their efforts. This included armed violence perpetrated by youth and gender based violence. Development actors started to carry out projects that would help build social cohesion between communities; bringing small communities together to promote dialogue and peaceful coexistence. They also supported mediation and alternative forms of justice, including traditional justice mechanisms. This helped make up for the weak formal rule of law and justice structures in the country.

The NGOs soon realised that the government needed to play a role in these initiatives. Until then, the peace efforts in Kenya had been mainly driven by donors and development actors. The Government had not seen "peace" or "conflict management" as part of its business. In 2005, with the help of UNDP, the NGOs developed a programme to bring the government on board.

Since then UNDP has been working on peace building and conflict prevention projects. Many of the NGOs and national institutions that UNDP began working with, such as the Kenyan Human Rights Commission, Oxfam GB, PeaceNet and Action Aid were strongly rights based. Working with them, pushed UNDP to improve the design of its projects; in particular, to be more participatory and inclusive of specific groups. They pushed UNDP to work not only with the government, but also to partner with local communities. Ensuring that the capacities of both duty bearers and right holders for building peace and managing conflict was developed.

Strategy

1. Reaching out to the communities: building on local knowledge and practices

Traditionally, UNDP had focused its capacity development efforts for crisis prevention and governance at the national level; working with central government and institutions. However, to go further and support communities most affected by conflict, such as internally displaced people (IDPs) and pastoralist communities, it was necessary to specifically reach out

to those communities. To listen to their voices and hear about their practices and knowledge for addressing conflict and development needs. Unless it did so, the development programmes would fail to positively impact those groups most affected.

UNDP organised consultations with communities, NGOs and the government. Discussing with them how they normally resolved conflicts and developed the project documents based on these insights. As the communities lacked skills in some areas, training workshops were also carried out in the communities; for example on peace building techniques. This helped strengthen the communities' ability to express themselves, formulate solutions and own the project process. Local peace committees and administrative authorities were also trained in these techniques. This ensured that together with the community they could support peace building efforts.

Efforts were made to check who was participating and who was being left out of the consultations. UNDP found that often when they went to the communities, the "peace committee" was made up of elderly men only. UNDP tried to emphasise the importance of having a representative group. One way of doing so was raising their awareness of human rights, HIV/AIDS and gender issues.

2. Self-Realisation

The most effective way was "facilitating" self-realisation. Role plays were organized and designed in such a way as to make them question their own practices. When put into a group of "old men", they realised that other groups were needed to help them with their work: they needed a young person to run to the other community; and a woman to welcome members of the community with drinks of water and milk (which symbolises peace). Once the role plays were over, they themselves would suggest that the community composition had to change.

Mixing men and women in the regional training workshops organised proved to be another way of facilitating this realisation. In one workshop, there were 2 women out of the 32 participants. One woman was extremely articulate and soon became the leader of the group. The elderly men were impressed by her. In front of the Regional Commissioner, they said that when they returned home, they would make sure their "mamas" were part of their group.

Impact

1. A natural conflict sensitive approach:

At the programming level a HRBA makes work easier. Specifically, it helps to stay clear of the pitfalls of doing things the "normal way" and exacerbating conflict. Peace is about human rights. It is about addressing the underlying issues that cause violence, particularly marginalisation and discriminatory practices. A HRBA helps identify and address these issues. It also helped ensure that all groups are included in programme planning. This allows a "conflict sensitive approach" to emerge naturally.

2. **Translating programme principles into policy:** While the programme is still in its early stages, small milestones have been achieved:
 - 50 local community-based district peace committees have been set up and are engaged in promoting reconciliation and social cohesion locally.
 - After training 600 government officials, these officials play a greater role in promoting community security and cohesion in their regions and communities.
 - The National Policy on Peace Building and Conflict Management has been formulated with the participation of a wide range of stakeholders; including women and pastoralist communities. It addresses cross-cutting issues of conflict, such as human rights, gender, youth empowerment and HIV/AIDs. This draft policy has been widely disseminated and supported.
 - The policy also reflects other HRBA principles; the importance of consulting with communities and their leaders when disarming communities of illicit small arms and light weapons; the importance of providing mechanisms for amnesty and accountability within the human rights framework.

Lessons Learned

1. **Donors:** Donors impose short deadlines in which to spend money. Yet abiding by the principles of a HRBA takes time. Programme Officers need to find ways to negotiate these deadlines. They also need to be firm and patient with applying a HRBA. Donors will understand it pays off in the end.
2. **Conducive environment:** In Kenya there is a dynamic civil society and a government supportive of HRBA principles. For example, the national steering committee for conflict management and peace building includes government, NGOs and development partners in its work.
3. **Patience and Passion:** You need patience to get it right. Outreach to the communities and participatory processes take time and constant follow up. It also requires resources, especially to reach the most remote locations, where infrastructure and roads are poor. However, these are the people that most need help. For some it could seem easier to give up on reaching them. Instead relying on their own assumptions and knowledge of what is best for them. "And that is when we get it all wrong! HRBA gives us the platform and the tools to redeem ourselves".

4. Afghanistan: Introducing More Participatory Development Planning through a HRBA

Name of project: “Sub-National Development Planning: HRBA in Neglected Provinces”

Interviewee: Kirsten Young, OHCHR, UNAMA, with contribution from Najeeburahman Manalai OHCHR/UNAMA, Georgina Mendoza Solorio, UNAMA and Katarina Kuai, Action 2 consultant for the project.

Context

The HRBA project in the central highlands of Afghanistan was designed to address the 'top down' nature of development planning; particularly at the sub-national level. It also aimed to draw attention to districts that were often neglected by donors. The project focused on two provinces: Bamyan and Dai Kundi, the latter being one of the poorest provinces in the country. Both provinces are designated as “grade 3”; meaning they are the lowest priority for resource allocation.

Many considered the sub-national consultations that supported the design of the Afghanistan National Development Strategy (ANDS) to be unsatisfactory. The process was rushed and heavily donor-driven. Although the national government was engaged, provincial and local level stakeholders were largely excluded. This raised questions as to the transparency and inclusiveness of the process. While the ANDS has been complemented by provincial level development plans (PDPs), most PDPs are lengthy wish-lists for construction projects. As a result, the plans are neither strategic nor reflective of the communities' needs.

Moreover, in the ANDS, human rights concerns, such as quality of services, participation, non-discrimination and accountability are hardly mentioned. At the sub-national level, these concerns are almost absent from PLPs. For example, for the education sector, a typical project is the construction of a school building. No reference is made to why it was decided to have it in that location; who will be teaching in the school; how the school will be maintained; what teaching tools and materials are needed; and how they will be supplied. There was also little accountability on how the sums were to be spent.

In 2009, to improve its development planning process, the Dai Kundi authorities, with the support of UNAMA, reviewed its PDP. The review offered an opportunity for OHCHR and UN partners to work with Dai Kundi's provincial departments, the Afghanistan Independent Human Rights Commission (AIHRC) and local NGOs. The aim was to learn how a rights based perspective could be integrated into the plans and through doing so, obtain a more participatory planning process. The objective was also to achieve outcomes that better reflected human rights standards.

Strategy

To address the problem of inequitable development aid across provinces, Afghanistan's UNDAF (2010-2013) prioritises the most neglected provinces. Once a province is chosen, UN agencies develop a "provincial package" and jointly roll out a programme in line with the province's priorities. Dai Kundi was selected as the first province under this approach. Taking advantage of this opportunity, OHCHR decided to support the prioritising and planning process through a HRBA. This fell in line with the UNDAF's commitment to HRBA. A second strategic objective of applying a HRBA was to promote a multi-sectoral approach to development assistance. Often sectors, such as the social protection sector, get left behind. This is due to the weak capacity of the institutions and staff. These sectors are also not priority areas for those in power. The HRBA which emphasises the reinforcing and interdependent nature of human rights had the potential to draw out the links between sectors. Through its emphasis on rights, it could also bring out the importance of addressing areas that have been left out.

Three workshops were carried out with provincial authorities and NGOs. They targeted people working in the following sectors: health, education and social protection. The design was based on a prior capacity analysis of the participants. Using UN Treaty Body jurisprudence on the right to health, education and social security, awareness was raised on the entitlements that these rights conveyed; the standards that they enshrine; and how these rights can be incorporated into development planning outcomes.

Impact

One major result was that the first discussion among provincial authorities on a HRBA in development planning was triggered. The participants, who were members of the sector working groups responsible for revising and monitoring the PDP, had little knowledge or understanding of the PDP's content. Despite their membership, they were not aware that the sector working groups had terms of reference. These included ensuring that the development process was transparent and participatory with respect to the concerned communities. With this understanding, they were encouraged to make more demands of the authorities. They also realised that they were not at the mercy of development actors' 'good will' to serve this remote province. National authorities had an obligation to support them in meeting the rights of the people in the province.

The workshop participants were very receptive to the training programme. It led them to question the status of existing national/sub-national relationships regarding sub-national priorities. For example, why had the government 'magically' delivered election boxes to the province, but not school books promised two years ago? The training also led them to analyse development issues in a more comprehensive way. In addressing gender based violence they realised that not only were protection systems and support services for women needed, awareness raising and economic opportunities for women were essential.

Challenges

- Incentives: Participants questioned the utility of working hard to improve planning when doing so would not necessarily lead to more funds or support. In addition, the participants were not motivated as the funding process is handled in Kabul, where they have little influence.
- Accountability: In Afghanistan it is common for NGOs and the military to be involved in public service delivery. Local authorities have no regulatory or monitoring power over these actors. As a result, identifying where accountability lies and who is the “right holder” is a challenge.
- Long term behaviour change: One of the heads of a line department was resistant to the concept of inclusive development. He felt that by including more stakeholders in a design process, it would create more work. This attitude combined with the view that good planning will not necessarily lead to more funds, calls for long term strategies. It will take time to develop capacities and change attitudes.
- Lack of disaggregated data to identify which groups were the most marginalised in the provinces.

Lessons Learned

1. Bringing Development and Governance Actors together. It is important to work hand in hand with the UN's governance and development pillars in the province. Unless both pillars are brought into the project, silos will develop. With different arms of the UN consistently reinforcing the same message, efforts to develop capacities and change attitudes will be more effective.
2. Long Term Capacity Development of Local Authorities: Provincial authorities are beholden to central government with little power to make demands of them. Empowerment strategies are needed to help them make claims on the central authorities; particularly when they fail to provide the resources and support they need to ensure their constituencies better enjoy their rights.

Resources used

- HRBA training tools (adapted):
http://www.unssc.org/web1/programmes/rcs/cca_undaf_training_material/teamrcs/show.asp?folder=HRBA / RBM;
- UN jurisprudence on the right to education, health and social security:
<http://www.escri-net.org/>; www.ohchr.org;
http://hrbaportal.org/?page_id=3182&mod=standards
- OHCHR indicator study (useful to help guide discussion):
<http://www2.ohchr.org/english/bodies/icm-mc/docs/HRI.MC.2008.3EN.pdf>

5. Ecuador: The Importance of Human Rights Standards and Redress Mechanisms for Implementing Laws

Name of Project: *UNFPA Ecuador, Supporting the Implementation of the Free Maternity Law*

Information provided by *Silvia Vega, UNFPA Consultant, and the 2009 UNFPA publication “UNFPA at Work: Six Case Studies”.*

Context

In 1998 Ecuador passed the Free Maternity Law. This guarantees the right to free, high-quality care for pregnant women during pregnancy, birth and the post-partum period. It applies to all women in the country and children between 0-5 years.

Despite the existence of the law, many women were **not** benefiting from the maternity services that they were entitled to; indigenous and rural women in particular.

Strategy and Impact

The law establishes the creation of User Committees. These committees, whose members are elected by their communities, monitor public health facilities' compliance with the Law. They also educate providers and community members about what the Law encompasses. With the help of UNFPA, the government decided to support these User Committees.

The committees were trained on human rights principles and standards and the methodology of HRBA. The Committees were then able to start educating and encouraging women to claim their rights under the law. They also acted as a mechanism to which citizens could bring cases of abuse, discrimination and negligence of service. Through the forums they organised, they helped identify the priorities and needs of the community.

As results of their actions, the Committees helped ensure that the law was implemented. They obtained the provision of free maternity health services in the regions where they worked; the good treatment of women in hospitals; and better awareness among women of their rights under the law.

Moreover one major issue that was preventing women from seeking health services was cultural practices. For indigenous women (one third of the Ecuadorian population), the medical system's child birth practices clashed with their traditional customs. They felt that hospital practices violated their privacy. And did not allow them to give birth in their traditional way- kneeling. Hospital staff also do not speak their language.

General Comment 14 on the right to health calls for all health facilitates to be “respectful of medical ethics and culturally appropriate”. Guided by this General Comment, the User Committees and other actors advocated for more culturally sensitive pregnancy services. After negotiation with the service

providers, 'vertical pregnancy rooms' that allow women to remain upright during birth have been built. Information about the Free Maternity Law is also being distributed in indigenous language.

Lessons Learned

1. Human rights will not be exercised without mechanisms in place to implement the laws in which they are enshrined. The User Committees helped render the Free Maternity Law effectual.
2. Bringing right-holders and duty-bearers together can develop a better understanding among both groups on how the law is perceived. It can also help identify the obstacles that prevent it from being implemented.
3. Abiding by human rights standards can help ensure that social and economic services are appropriate to different cultures

Reference

- UNFPA at Work: Six Case Studies: http://hrbaportal.org/wp-content/files/1265319362_8_1_1_1_resfile.pdf, UNFPA, Harvard School of Public Health
- For further information on this case study and UNFPA's HRBA work, please contact: melo@unfpa.org

6. Bosnia & Herzegovina and Tajikistan: Analysing the Water and Sanitation Situation through a HRBA lens

Project name: UNDP HRBA to Improving Water Governance Regional Programming in Europe and CIS

Interviewee: Katy Norman, Consultant, UNDP Energy and Environment Group

Context

In the CIS region, water and sanitation conditions are in a terrible state. Water infrastructure and governance are particularly bad. Efforts to address this problem have largely focused on infrastructure. This has had little result. Not much has changed in 10-20 years. Clearly, a different approach was needed. A HRBA, with its focus on governance issues, was seen as an approach that could have a wider and more sustainable impact. The UNDP Europe and CIS Regional Centre decided to try and incorporate a HRBA into its water governance projects in the region. The hope was that by doing so, people's access to safe potable water and sanitation would be improved. This 'HRBA experience' focuses on the experience of Bosnia and Herzegovina (BiH) and Tajikistan.

Strategy

The human rights principles of non-discrimination and equality guided the situational analysis of water and sanitation in both countries. This helped to

identify the specific groups that were marginalised in regards to access to water. In BiH these groups included displaced people, Roma, minority returnees, school children and people with disabilities. In Tajikistan it concerned primarily individuals in rural communities, schools and medical institutions. These are the main groups that UNDP water projects needed to target.

Accountability and the rule of law was another guiding principle of the analysis. Abiding by this principle led to discussions with national Ombudsmen on the accountability structures for water and sanitation issues. This helped the team identify major capacity gaps in accountability systems. In both Bosnia & Herzegovina and Tajikistan, the judiciary lacks the capacity to deal with water and sanitation issues; people do not know that they have a right to redress when prevented from accessing these services; they do not know how to file a claim; and there is no access to information on water plans and policies. Moreover national laws on water at times do not meet international standards. When the laws are there, they rarely enforced. If people's taps are turned off, or if schools lack adequate sanitation facilities, people simply accept the situation.

To address this gap, one strategy the project plans to implement is awareness raising campaigns in both countries. The aim is to raise awareness that sufficient and affordable safe water is a right; that people have a right to redress when that right is unmet or violated; and that with the right to water come responsibilities, i.e. responsibly managing and conserving water.

Challenges

The main challenge the project has faced is financing. Donors appear reluctant to fund HRBA programmes. The concept of a HRBA is still seen as new with little evidence of impact. It is also a sensitive concept. Some donors find it too political. To address this challenge, the project had to emphasise the projects goal of "improving governance" and access to water, rather than realising the "right" to water.

However, the local communities and authorities with whom the project is working have been enthusiastic about a HRBA. They think it offers a way for water and sanitation development projects to finally reach their objectives. The focus on accountability and capacity development of right holders are elements that are particularly popular. People feel they will finally be able to hold authorities to account over their commitments for water and sanitation. With a focus on "rights" and "obligations" they think it will likely result in a stronger commitment by their governments.

Lessons Learned

The project is only at the implementation stage. Talking about impact is premature. However, the experience of using a HRBA at the analysis stage has provided a few important lessons:

1. A HRBA provides a more comprehensive view of the situation. It takes the analysis beyond a focus on technical issues, to also address issues of accountability and governance.
2. Involving non-traditional partners for water and sanitation development programmes, such as Ombudsmen, human rights ministries and human rights NGOs can bring in a new perspective to the analysis. Their knowledge of the judicial framework and the areas and groups most marginalised in regards to water access has proved very useful.
3. A pragmatic approach to applying a HRBA is needed. Not all human rights principles need to or can be promoted to the same extent in all situations. In one context, there may be a need to focus more on accountability and less on non-discrimination. In another, participation may be the key issue and accountability not as relevant. The HRBA framework should be adapted to the specific context in which it is being applied.
4. Both citizens' rights *and responsibilities* in relation to water should be recognised and emphasised in HRBA projects, i.e. with the right to sustainable access to safe potable water comes the responsibility to manage water carefully.

Resources used

- COHRE et. al, (2007). *Manual on the Right to Water and Sanitation: A tool to assist policy makers and practitioners develop strategies for implementing the human right to water and sanitation*. COHRE, Switzerland.
- GTZ, (2009). *The Human Right to Water and Sanitation: Translating Theory into Practice*. GTZ, Germany.
- UNDP, (2006). *Applying a Human Rights-Based Approach to Development Cooperation and Programming: A UNDP Capacity Development Resource*. UNDP, New York.
- UNDP National Human Development Reports: Republic of Tajikistan and (2003) "Tapping the Potential: Improving water management in Tajikistan. National Human Development Report 2003"; Bosnia and Herzegovina (2007) "Social Inclusion in Bosnia and Herzegovina".
- UNECE and OHCHR websites for the status of ratification of relevant international conventions and agreements:
<http://www.unece.org/Welcome.htm>;
<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

7. UNCT Vietnam: Applying a HRBA to HIV Programming

Project: Mainstreaming HRBA into the work of the Joint UN Team on HIV and Vietnam

Interviewees: Anne-Claire Guichard, Carmen Gonzales (UNAIDS), Louise Nylin (UN Coordination Specialist).

Background

In Vietnam HIV is seen largely as a social and health issue. Not one of rights. Yet, as the Joint UN Team on HIV was becoming increasingly aware, human rights are extremely relevant. In particular for addressing the stigma and discrimination faced by people living with HIV (PLHIV). The Joint UN Team realised that they needed to strengthen their HRBA skills. This would enable them to address the human rights and legal issues in their work. As a first step a legal analysis was needed. The analysis would review how human rights are reflected in the six main areas of HIV law and policy; including access to education, work and access to treatment and testing. As a second step, they decided to organise a HRBA workshop for the UN Joint Team on HIV.

Strategies

To develop the capacity of the Joint UN Team to apply a HRBA to their work, two steps were taken:

1. **A Legal Review:** The review looked at how international human rights norms had been included in national laws relevant to HIV. It also analysed the recommendations from treaty bodies that had a bearing on HIV; such as the recommendations from the Committee for the Convention on the Elimination of Discrimination against Women (CEDAW) and the Committee for the Convention on the Rights of the Child (CRC). The analysis also incorporated the recommendations from Vietnam's 2009 Universal Periodic Review (UPR). This included a recommendation to respond to discrimination against PLHIV.
2. **HRBA Workshop:** Following the review, a HRBA training was carried out for the UN Joint Team on HIV. The training was provided with the support of OHCHR and UNAIDS. The aim of the training was to: improve their understanding of Vietnam's international and national human rights commitments and their links to the HIV situation; to strengthen the capacity of the team to apply a HRBA to their work; and to develop a strategy to do so. An example of the causality analyses work carried out in the workshop, can be found [here](#).

Impact

While the project is only at the analysis and planning stage, preliminary results have emerged.

1. **Basing the UN's work in the government's commitments:** The analysis helped the Joint UN Team base their initiatives in the government's national and international commitments; including the right to health

as defined in the International Convention on Economic, Social and Cultural Rights. It also underlined what the UN's role should be in this area: to support the government in implementing its commitments.

2. **Identifying gaps in laws and discriminatory practices:** The analysis also helped underline the discriminatory practices and punitive laws that needed to be addressed; including the Ordinance on Prostitution Prevention and Control. In doing so, the analysis helped identify priority areas for the UN's work on HIV. One of the 3 priorities for the Team's 2010 Action Plan is the "removal and amendment of punitive law and policies and practices, as well as stigma and discrimination against PLHIV". The capacity gap analysis that was carried out in the HRBA training, also helped identify the solutions for addressing these issues.
3. **Integrating a HRBA into the government plans:** The training brought greater understanding of the relevance of human rights for HIV programming. Following the training, the Joint UN Team recommended that a HRBA perspective be integrated into the governments work plans for 2010. This recommendation was presented to national partners in December 2009 and approved. HRBA is now mainstreamed into the Joint UN Team on HIV's work plan. It will also be part of Vietnam's national HIV plan

Challenges and Lessons Learned

1. **Demystifying HRBA:** In a context where human rights are a sensitive issue, clarifying what a HRBA is about, was a crucial first step. The HRBA training proved a useful strategy for developing this understanding.
2. **Legal analysis:** The legal analysis takes time and requires technical expertise. This should be planned for ahead of time.
3. **Basing HRBA training on the country context:** Key to the success of the HRBA training was that it was based on the Vietnam context. Participants greatly appreciated this. They particularly appreciated that they were asked to highlight the issues that were most important to them; including discrimination in schools and access to treatment in closed settings. Group work was then based on these issues.

Resources

- Example of Causality Analysis and human rights identification for education from UNCT Vietnam's HRBA Workshop: http://hrbaportal.org/ft/UNSSC_HRBA/UNCT%20Vietnam-%20HIVEducation%20example.doc
- OHCHR, UNAIDS and UNSSC: HRBA/RBM Training- HIV Theme: http://www.unssc.org/web1/programmes/rcs/cca_undaf_training_material/teamrcs/show.asp?folder=HIV%20Module&sfolder1=&sfolder2=&sfolder3=&sfolder4
- OHCHR and UNAIDS: International Guidelines on HIV and Human Rights: http://data.unaids.org/Publications/IRC-pub07/jc1252-internguidelines_en.pdf

- UNDG: The Human Rights Based Approach to Development Cooperation. A Common Understanding Among UN Agencies: http://www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf
- UNAIDS Policy Brief: Briefing: Greater involvement of people living with HIV: <http://www.unaids.org/en/PolicyAndPractice/GIPA/default.asp>
- Programming HIV/AIDS, A Human Rights Based Approach:
- UNCT Vietnam: Toolkit: A Human Rights Based Approach: <http://hrbaportal.org/wp-content/files/1265751171vnhrbafinaltoolkit.doc>

8. Liberia: Applying a HRBA to the Country's Poverty Reduction Strategy

Name of Project: Applying a HRBA to the country's Poverty Reduction Strategy (PRS) (2009-2012)

Interviewees: James Monibah, Rule of Law Programme Associate, UNDP and Thomas Kaydor, UN Coordination Analyst, Integrated Office of the DSRSG/Resident Coordinator.

Context

Two HRBA initiatives were carried out in Liberia. One targeted UN staff and focused on its primary programming tool- the UNDAF. The other targeted national actors and focused on the main national development tool- the PRSP. The objective of the first initiative was to strengthen the rights based element of the 2008-2012UNDAF. The objective of the second was to strengthen the accountability, ownership and participatory nature of the PRS.

Strategy

For both initiatives, the first steps were to train UN staff and government officials on applying a HRBA to national development frameworks. The HRBA/PRSP trainings focused on strengthening the capacities of national actors- both government and non-government- to monitor and evaluate the PRS from a human rights based perspective.

HRBA/PRS project: The reason behind focusing on the PRS was that this was a new and widely used document in Liberia. It was the main development tool of the country. In addition, while efforts had been made to draft the PRS in a consultative way, there were gaps in these consultations; particularly at sub-national level. A HRBA could redress these gaps.

As the PRS had already been drafted, the UN decided to focus on the M&E stage of the PRS. Working with a consortium of NGOs, a [questionnaire](#) was developed. It would gather the views of the people in three regions of Liberia on how the PRS has been implemented; these three regions cover fifteen counties. The questionnaire specifically addresses issues of participation,

inclusion, accessibility, accountability and the rule of law. The results from this questionnaire, together with the reports of the NGO consortium, will be fed into the mid term review of the PRS. The NGO reports contain information on how PRS projects have been implemented. They are developed following consultation between the NGOs and the community. These reports, which contain the views of the community, give the communities a proactive role in holding the duty bearers accountable.

Impact

The project is at the first stages of implementation. Its aim is to strengthen national capacities to implement the PRS in accordance with human rights standards and principles; particularly participation, non-discrimination and accountability. And in doing so, strengthen nation wide ownership of the PRS.

Lessons Learned

1. Developing Awareness on HRBA and using practical examples in trainings: At first the government was resistant to using a HRBA. They feared that by identifying human rights challenges and capacity gaps, a HRBA would undermine their performance. However, it was explained to them that a rights based analysis would help the government deliver in a more effective way. In doing so, a HRBA would support the government's mandate rather than undermine it. Some of these issues were self-explanatory. After the presentations, participants were immediately aware of the rationale behind using a HRBA. Practical examples with specific reference to Liberia were particularly helpful in dispelling misconceptions around human rights issues. The training workshops also made the government aware that a HRBA would increase citizens' awareness of their rights and responsibilities. For example, the state is not solely responsible for the huge amount of illiterate people in Liberia. Educating children is also the responsibility of parents and communities.
2. Supporting National Partners: National partners can be very strategic in promoting rights. Human rights NGOs specifically. They have the capacity to reach communities through radio and other means. They are also able to advocate on human rights issues in a way that the UN is not. Yet they often lack the resources to do so. Developing partnerships with these organisations is a way that the UN can support human rights without being seen as undermining the government. It can also widen the impact of human rights projects; in particular for developing a human rights culture within the country.

Resources used

- HRBA training tools (adapted):
[http://www.unssc.org/web1/programmes/rcs/cca_undaf_training_material/teamrcs/show.asp?folder=HRBA / RBM](http://www.unssc.org/web1/programmes/rcs/cca_undaf_training_material/teamrcs/show.asp?folder=HRBA / RBM;);
- [Participation, transparency and accountability questionnaire – PRS Tracking Network](#)

- Revised Liberia UNDAF 208-2012:
http://hrbaportal.org/ft/UNSSC_HRBA/UNDAF%20revised%20results%20framework%20April%202010.pdf

End Note on the HRBA Experiences

- For all training resources on **HRBA** (in Arabic, French, English and Spanish) please visit the UNSSC HRBA/RBM Resource website:
http://www.unssc.org/web1/programmes/rcs/cca_undaf_training_material/teamrcs/show.asp?folder=HRBA/RBM&sfolder1=&sfolder2=&sfolder3=&sfolder4=
- For all **HRBA resources and publications**, please visit the UN Practitioner's Portal on HRBA : www.hrbaportal.org