

Form filled in by:		Archive code:	Program ID nr:	
Date:				
Mandate	Appraisal	Appropriation	Review	Completion
Programme goal and objectives:				
Target Group(s) Focussed:				
<b>HUMAN RIGHTS IMPACT</b>				
Degree of impact :		Score	Follow up	
POSITIVE IMPACT		PI		
NO CHANGE		NC		
NEGATIVE IMPACT		NI		
NO INFORMATION AVAILABLE		N.A.		
1. What is the programmes assumed/actual impact on equality and non-discrimination?		AWARENESS		
2. Has the population directly affected been informed about the programme ?				
3. Does the programme respect/has the programme respected everyone's right to seek, and impart information relevant to its implementation ?				
4. Does the programme respect/has the programme respected the right to express views freely in the preparation and implementation of the programme ?		EMPOWERMENT		
5. Does the programme promote/has the programme promoted participation in decision making of groups affected?				
6. Does the programme uphold/has the programme upheld the right to organise ?				
7. Does the programme respect/has the programme respected the right to just and favourable conditions of work?				
8. Does the programme affect/has the programme affected the fulfillment of the right to an adequate standard of living for target groups and other people affected, including access to adequate food and continuous improvement of living conditions?				
9. Does the programme affect/has the programme affected the opportunity of people for self provision in terms of income generating activities ?				
10. Does the programme address the right to compensation for those negatively affected ?				
Need for follow-up: yes/no	Additional/Supplementary information needed	Limited study needed (to be defined in dialogue with partner)	Full Scale analysis needed (to be defined in dialogue with partner)	
Type of Data:				
Comments:				

# Handbook in Human Rights Assessment

## *State Obligations Awareness & Empowerment*

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# Preface

Notes

The international system of human rights provides normative standards for development. These standards are based on respect for the inherent dignity and worth of every human being and aim at securing freedom from fear and want, and to protect the mental and physical integrity of the human being. Human rights are universal and inalienable and essential to the well-being of every man, woman and child.

Human rights and development are interdependent and mutually reinforcing. Securing human rights helps protect people from impoverishment and enables them to develop in accordance with their equal rights and dignity. Full enjoyment of human rights not only sustains the development of individuals, but also encourages the initiative required for further economic and social progress.

The major goal of Norwegian development co-operation is to contribute to the improvement of economic, social, and political conditions in developing countries with particular emphasis on poverty alleviation. Moreover, the Norwegian Parliament has singled out the promotion of human rights as one among several target areas within this field of activity. Priority is given to enhancing the rights of women, children, the disabled and indigenous people.

The Government's Plan of Action on Human Rights launched in December 1999 states that *«peace, democracy and respect for human rights are fundamental conditions for sustainable development. Consequently, these components must be built into development co-operation both globally and with each partner country»*. NORAD's strategy 2000–2005 outlines that; *«human rights are essential components of the development co-operation effort and that human rights treaties shall serve as a common denominator for the dialogue between Norway and its partner countries.»* In this way the two documents introduces a rights based approach to development.

To implement this policy, issues related to human rights are addressed in policy dialogue with partner countries. Emphasis is placed on the need to consolidate legal framework by means of reform of domestic legislation and adherence to international human rights treaties. Furthermore, support is provided to initiatives which main aim is to enhance and promote human rights,

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such as ombudsman institutions, independent judiciary, free media, democratic elections etc. Finally, efforts are made to mainstream human rights into other programme areas. The latter is the approach to be further elaborated in this handbook.

In this context mainstreaming implies that the manner in which development co-operation is carried out pay due regard to respecting and promoting human rights. A cornerstone in this approach is the *active free and meaningful participation* of the beneficiaries as lined out in the UN Declaration on the Right to Development of 1986. So far, we have gained only little operational experience with this approach. The handbook therefore aims at providing the user with a practical tool for enhancing the human rights profile of development programmes.

NORAD's Technical Department would welcome any comment, advice or suggestion which could contribute at improving the modality in future editions.

### 1.1 Purpose and scope of the handbook

According to Norwegian policy, human rights should form an integral part of all development co-operation. This implies that human rights issues should be emphasised at all stages of co-operation. Human rights provide a benchmark and a framework for policy dialogue relating to country strategies and programmes, as well as in planning and implementation of programmes.

In this handbook the main focus is placed on the programme level. But it can also be used as a tool for a more thorough understanding of the concept of international human rights law and its role and function in development co-operation as such. Although the respect and promotion of human rights are important goals in themselves, the active protection and implementation of international human rights imply that development co-operation addresses a critical dimension of human society and human development, and hence contributes to better development.

The handbook has mainly been written with NORAD's programme officers, embassy personnel and external technical advisers in mind, but could also prove useful for programme officers and managers in partner institutions, NGOs, private enterprises etc. Based on the principle of recipient responsibility, the partner country is responsible for planning, implementing and monitoring programmes supported by Norway. Consequently, NORAD's role is to approve programme proposals and review progress, not to participate in programme formulation and implementation.

The handbook aims at assisting NORAD staff in addressing relevant human rights concerns by means of a form which records potential, planned and/or likely positive or negative effects of the programme under review. A dam construction scheme may, for instance, have serious impact on the right to food (by access to land) and adequate housing for people living in the vicinity. In some cases a programme may have *multiple* effects, both positive *and* negative, direct *and* indirect. Thus the form should assist the case-worker in identifying and documenting various types of effects and make a general assessment of the overall human rights impact that a programme may have.

The purpose of a human rights assessment in the preparatory phase of the programme cycle is to identify and describe any *likely* positive or negative effects on the enjoyment of human rights. During implementation, a mid-term review may identify a lack of, or an *actual* human rights impact. If required at any stage, measures should be taken to ensure that human rights are being respected and enhanced.

This is not a manual on how to conduct a full-scale human rights impact analysis, rather it is a guide that will assist the user to identify the need for such analysis. The handbook does, however, provide guidelines in the event NORAD requests a more thorough human rights analysis.<sup>1</sup> Upon request, NORAD may provide financial support to ensure that adequate pre-studies, appraisals, and monitoring of on-going activities are carried out.

This handbook is a supplement to the *Manual for Programme Cycle Management*. Other handbooks published by NORAD cover:

- Economic and Financial Assessment
- Environmental Assessment
- Institutional Sustainability Assessment
- Gender and Empowerment Assessment

The Norwegian Foreign Service Institute offers training courses in human rights and the practical use of the handbook.

### 1.2 A word of caution

No tool is better than the hand that performs the task. A handbook supplements common sense and practical experience; it does not replace it. A human rights assessment should draw on the skills and experience of the personnel throughout the various stages of the process. Knowledge about local environments and national policies and politics is essential when conducting a human rights assessment. It should be kept in mind that human rights cover complex

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(The form presented on page 22)

<sup>1</sup> In the Preparatory Phase of the programme cycle this would take form of a Programme Appraisal. In the Follow-up Phase it would take the form of a Mid-term Review, or possibly Formative Process Research.

# Chapter 2

## CONCEPTS AND APPROACH

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relationships between individuals or groups of individuals and the State. The assessment model presented in this handbook does not therefore pretend to be exhaustive or authoritative. First and foremost, it aims at guiding the user towards greater awareness about key human rights principles in development co-operation.

The handbook refers to a number of legal and technical terms and concepts. In order to connect these with the more operational aspects of development co-operation they have been put into an analytical framework. This framework aims at providing guidance in the application of the handbook.

In the following chapter we will present the most important terminology and methodology of the Human Rights Assessment model.

Notes

### 2.1 Concepts

#### 2.1.1 Human rights – legal instruments and State obligations

An individual has human rights simply because he/she is a human being. The beneficiary of rights is the individual, or, in some cases, groups of individuals, for instance indigenous groups. The obligation to respect, protect and implement human rights rests with State authorities. International human rights law, therefore, deals first and foremost with the protection of individuals and groups against violations of rights conducted by governments.

The sources of international human rights norms are, in addition to customary law, found in two types of documents: *declarations* and *treaties* (synonymous with «convention» or the solemn term «covenant»). *Declarations* are «acts of political intent» with no legal standing. The authority and status of declarations stem from their political support and legitimacy. The most important human rights declaration is the *Universal Declaration of Human Rights*, which in spite of being a declaration, has become widely recognised as a foundational and authoritative interpretation of the term «human rights protection». <sup>2</sup> The *Universal Declaration* was prepared by the UN Human Rights Commission between 1946 and 1948, and adopted by the UN General Assembly 10 December 1948.

Later, the UN Human Rights Commission drafted two basic human rights treaties; the *International Covenant on Economic, Social and Cultural Rights* (CESCR), and the *International Covenant on Civil and Political Rights* (CCPR), both of 1966. These Covenants contain an elaboration of the rights included in the Universal Declaration, as well as provisions for adherence by member States of the UN. They also prescribe reporting and monitoring procedures that States are obliged to comply with. The human rights provisions of the UN Charter, the *Universal Declaration* and the two main *UN Covenants* are generally referred to as the International Bill of Human Rights. <sup>3</sup> These instruments are supplemented by a number of more specific conventions, declarations, and recommendations adopted over the past fifty years by the UN and by regional inter-governmental bodies.

<sup>2</sup> Cf. the UN Charter, article 1, paragraph 3.

<sup>3</sup> The Optional Protocol (on the individual complaint procedure) of the Covenant on Civil and Political Rights (adopted by the UN General Assembly in 1989) is often included in the International Bill of Human Rights. The two covenants entered into force in 1976, ten years after their adoption by the General Assembly.

The most important of these are 4:

#### *International instruments*

Convention on the Prevention and Punishment of the Crime of Genocide (1948)

Convention on the Elimination of All Forms of Racial Discrimination (1966)

Convention on the Elimination of All Forms of Discrimination Against Women (1979)

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

Convention on the Rights of the Child (1989)

#### *Regional instruments*

European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

(Adopted by the Council of Europe)

Inter-American Convention on Human Rights (1969), with Additional Protocol on economic, social and cultural rights (1988), adopted by the Organisation of American States

African Charter on Human and People's Rights, adopted by the Organisation of African Unity (1981)

As treaties under international law, the Covenants and other human rights treaties create legally binding obligations for the State that has ratified the instrument (the State Party). Ratification of international treaties does also create relationships between the respective States: issues relating to respect for the rights guaranteed are matters of legitimate international observation, and do not only operate within the purview of domestic jurisdiction.

The basic obligations that State Parties assume by ratifying the two major UN Covenants are set forth in common Article 2, paragraph 2. This article contains a common non-discrimination clause, requiring that the rights enlisted by the respective treaties<sup>5</sup> shall be recognised «without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status».

4 Appendices 2-6 chart the ratification of these documents.

5 For a listing of the rights please refer the respective instruments or the text boxes at page 8-9

Article 2, paragraph 1, of the Covenant on Economic, Social and Cultural Rights establishes a link between international development co-operation and the implementation of international human rights treaties:

The article urges the State Party to undertake “steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of available resources, with the view to achieving progressively the full realization of the rights recognized by the present Covenant with all appropriate means, including particularly the adoption of legislative measures”

The ratification of the Covenants implies that the State Party assumes *immediate* obligations. For some rights, however, there is room for implementation over a period of time. The Covenant on Civil and Political Rights imposes, without exception, immediate obligations to «respect» and «ensure» the rights proclaimed, and to take the required action to bring about result (obligation of result). The Covenant on Economic, Social and Cultural Rights, on the other hand, obliges the State to undertake steps with a view to achieve *progressively* the full realisation of the rights recognised by the Covenant.

The term «progressively» does not fully exclude obligations of immediate effect: While *full realisation* of the respective rights realistically may be achieved progressively, steps towards that goal must be taken when the Covenant has become legally binding on the States. For instance, steps should be taken to adopt legislation and to formulate policies for the gradual realisation of the rights concerned.

There is also an immediate obligation on the State Party to ensure, at the very least, *minimum levels* of each of the rights of the Covenant, that is, as much as realistically can be achieved at a given time within the resources of the State in question<sup>6</sup>. Upon ratification, State Parties may make reservations to articles or parts of articles in a treaty. Reservations that Norwegian partner countries have made to major human rights documents are available on the web sites listed in Appendix 2. (For further elaboration of the terms «ratification» and «reservation» please refer para 3.1.)

For human rights to become effective, States must ratify the relevant treaties, and citizens must be empowered

6 Cf. General Comment No. 3 (1990) of the UN Committee on Economic, Social and Cultural Rights.

to make claims to have their rights respected, protected and fulfilled. This implies that the citizens (that is, the rights-holders) are aware of their rights. Awareness is a precondition for empowerment in terms of making justified human rights claims.

The key factors in the Human Rights Assessment model are the obligations of State Parties to: respect, protect and/or fulfil human rights.

This requires that people's *awareness* of their rights is ensured, and, accordingly, that the right-holder is *empowered* to claim his or her rights.

### 2.1.2 The main categories of human rights, indivisibility and derogation <sup>7</sup>

Human rights are often divided into different categories. The two main *UN Covenants* distinguish between civil and political rights at the one hand and economic, social and cultural rights on the other. In spite of this or any other classification, the international human rights community stresses that all human rights are universal, indivisible and interrelated.

#### ***Economic, social, and cultural rights***

*The UN Covenant on Economic, Social and Cultural Rights* recognizes *inter alia* the following rights:

- the right to work;
- the right to the enjoyment of just and favourable conditions of work;
- the right to form and join trade unions;
- the right to social security, including social insurance;
- the right to the protection of the family;
- the right to an adequate standard of living;
- the right to the enjoyment of the highest attainable standard of physical and mental health;
- the right of everyone to education;
- – and the right to take part in cultural life

<sup>7</sup> Derogation means in this context that a temporary exemption is made from a specific provision of a treaty or other legal document. Derogation under the Covenant on Civil and Political Rights can only be made in times of "public emergency, which threatens the life of the nation". It requires that the procedure prescribed by Article 4 is followed.

#### ***Civil and political rights***

*The UN Covenant on Civil and Political Rights* recognises the following rights:

- the rights to life;
- freedom from torture or cruel, inhuman or degrading treatment or punishment;
- freedom from slavery;
- freedom from arbitrary arrest and detention; the right to humane and respectful treatment of persons lawfully deprived of their liberty;
- freedom of movement and liberty to choose one's place of residence for everyone lawfully within the territory of a State;
- freedom to leave any country, and to enter one's own country;
- equality before the courts and tribunals;
- equal protection of the law;
- the right to be recognised as a person before the law;
- freedom from arbitrary and unlawful interference into one's privacy, family, home or correspondence, or unlawful attacks on one's honour and reputation;
- freedom of thought; conscience and religion;
- the right to hold opinions without interference;
- freedom of expression, including the freedom to seek, receive and impart information;
- the right of peaceful assembly, freedom of association, including the right to form and join trade unions;
- the right to marry and found a family with free and full consent of the intending spouses;
- the right to take part in the conduct of public affairs, directly or through freely chosen representatives;
- the right of minorities to enjoy their own culture, profess and practice their own religion, or to use their own language

The indivisibility of rights implies that no right is more fundamental than others. There is one exception to this rule. Although all human rights are universal and applicable to every human person at all times, State Parties may, according to article 4 (paragraph 2) of the Covenant on Civil and Political Rights, take measures that derogate from their obligations in times of public emergency «which threatens the life of the nation». However, *no derogation can be made* from the following articles of the Covenant on Civil and Political Rights:

**article 6:** nobody shall be arbitrarily deprived of his/her life with a provision regulating the use of death penalty in countries where it has not been abolished;

**article 7:** freedom from torture, or cruel, inhuman or degrading treatment or punishment;

**article 8:** paragraphs 1 and 2: freedom from slavery and slave trade in all forms, including servitude, and forced or compulsory labour. Compulsory labour does not include some sorts of work or service for people under detention, military service or service required by law for conscientious objectors, or service in cases of emergency or calamity;

**article 11:** freedom from being imprisoned merely on the ground of being unable to fulfil a contractual obligation;

**article 15:** freedom from being held guilty of any criminal offence of any act or act of omission which did not constitute a criminal offence at the time the act was conducted;

**article 16:** the right to be recognised as a person before the law; and

**article 18:** the right to freedom of thought, conscience and religion.

These rights are *non-derogable*, which means that States are obliged to respect, protect and fulfil them at all times under any social, economic or political conditions.

### 2.1.3 How do economic, social and cultural rights fit in?

A common understanding of economic, social and cultural rights suggests that they should be provided by the State, and that they are expensive and generally lead to overloading public budgets. This interpretation, however, is too narrow and simplistic.

Instead it should be emphasised that the individual is expected, whenever possible through his or her own efforts, to ensure the satisfaction of human needs, individually or in association with others. In other words, in fulfilling economic social and cultural rights, the individual plays a role as an *active subject* of development. This approach is reflected in article 6 (1) of the Covenant on Economic, Social and Cultural Rights, which stresses that «a State party shall recognise and safeguard the *opportunity* of everyone to gain his or her living».

To be an active subject of development requires that the person controls resources that can be used, such as capital, labour, and knowledge. In predominantly agrarian

societies, this often includes access to land (legally secured by land tenure), or the shared right to use communal land.

Frequently, the assurance of economic and social rights may take place within the household, or some form of wider kinship alliances (in particular indigenous groups).

**Obligation to respect.** According to the interpretation referred to above, State obligations imply *respecting* the resources of the individual, and his or her freedom to use these resources alone or in association with others, with the purpose of satisfying his or her needs, and the needs of dependants.

A state obligation to respect may for instance be undertaken by means of legal action to secure land-rights of indigenous groups, or land tenure of smallholders whose title is uncertain.

**Obligation to protect.** At a second level, the State has an obligation to *protect* the interests of individuals (or specific groups) when their capacity and possibilities of self-provision are threatened by other actors. If a multi-national company is dumping hazardous waste that destroys the environment and undermines the physical preconditions for self-provision (for instance, food production), or if economic power and dominance is used to enforce a particular political opinion and behaviour (for instance, a land owner restricting the political activity of employees), the State has an obligation to interfere to protect the rights of its citizens.

The State's role as a protector of rights includes protecting resources for individual, household or group self-provision. It does not necessarily imply expensive reforms or other costly provisions. The obligation may, for instance, take the form of legislation to protect access to land by requiring that only the tiller of the land can hold ownership.

**Obligation to fulfil.** Finally, State obligation may imply the duty to assist or *fulfil* human rights. This type of obligation may take different forms varying from *weak to strong provision* of goods and resources. «Weak provision» may imply that the State takes measure to improve production of food. According to Article 11, paragraph 2a of the CESCR, the State has an obligation to: «*develop or reform agrarian systems in such a way as to achieve the most efficient*



*development and utilisation of natural resources». State obligations to assist or fulfil, may also consist of direct provision of goods and resources in order to secure basic needs (strong provisions).*

***Freedom from hunger – strong provision***

«Strong provision» may, for instance, consist of delivery of food or other resources to prevent hunger (freedom from hunger, Article 11 of CESCR). This may be done indirectly by provision of resources (such as money and access to state land), or by direct provision (handout of food, clothing and shelter). Typically, «strong provisions» are required in situations of unemployment, during sudden crises or disasters (natural or man-made), and for marginalized groups such as unemployed or disabled people.

In general terms, respect, protection and fulfilment of economic, social, and cultural rights require that the individual is in a position to ensure rights through his or her own effort and the use of one's own resources. This calls for rights awareness and rights empowerment.

## 2.2 Human Rights Assessment

### 2.2.1 State obligations, awareness and empowerment

In Chapter three a form for Human Rights Assessment (HRA) is presented. The form has been elaborated on the basis of an analytical model which addresses whether and to what extent a programme

- is consistent with the human rights treaty obligations of the partner country;
- strengthens human rights awareness within the target population and/or other persons/groups affected by the programme;
- empowers target groups, or groups otherwise affected by a programme, to enjoy their internationally recognised human rights.

The first task of a HRA is to ensure that the State's human rights obligations under any relevant treaty have been identified and that the assumed human rights impact of the programme proposal has been assessed. In this regard, particular emphasis should be put on equality and non-discrimination.

The second task is to assess how the programme actually affects rights and freedoms of the population in terms of *awareness* and *empowerment*. The aim is to ensure that programmes are planned and implemented in ways that enable people affected to express and claim their rights. The

HRA serves as a tool for assessing to what extent population groups that are directly affected by programmes have the option to articulate their interests and opinions. This implies that the programme is made publicly known (cf. the right to access information). Other key rights and freedoms pertaining to the choice and opportunity of being involved are the political right and opportunity to take part in the conduct of public affairs; freedom of association; and the right of peaceful assembly.

By ensuring that the right to access information and freedom of expression are guaranteed, people affected shall have the opportunity to be listened to, and to ensure that their complaints are dealt with in a democratic manner. The degree of popular involvement and participation reflects the programme's success in promoting awareness and enhancing empowerment: *Rights awareness* implies that the individual knows his or her basic rights, and that he or she is able to comprehend how these rights are affected by development programmes.<sup>8</sup>

*Rights empowerment* implies that people have the capacity and resources to claim their rights effectively. For instance, in the case of a road construction scheme, people must be able to express their views and concerns (i.e. about the land used for the road), and be assured that their views are heard, plans revised, or, alternatively, that compensation for loss of land is offered. In other words, empowerment implies that people are able to influence public decisions. Ideally, empowerment gives:

- power to influence public decisions
- power to make decisions
- power to express interests
- power to raise issues for public debate
- power to negotiate on values and interests
- power to influence tradition and customs

### 2.2.2 The participatory development approach

The ultimate purpose of human rights promotion through development co-operation is to assist the recipient country in implementing its treaty obligations. This implies assisting in nurturing good governance and democratic practices in public institutions, promoting an independent judiciary and supporting a vibrant civil society conducive to human rights norms and standards.

A Human Rights Assessment focuses on the involvement of people in national and local decision-making, and in the implementation of development programmes. The approach reflects the principle of participatory development.

<sup>8</sup> In many social contexts, the "individual" should be broadly defined to include family, extended family and close kin.

# Chapter 3

## HOW TO ASSESS HUMAN RIGHTS IMPACT

Notes

In this approach, democratic institutions provide arenas for conflict resolution and effective decision-making. Democratic institutions may be modern representative bodies or traditional decision-making bodies. In many contexts rights awareness may be a new concept that will require competence-building. Civic education, therefore, is an important component of the participatory development model.

Notes

In this chapter we aim at providing a tool for assessment of potential or actual human rights impact. The main purpose is to assist the case-worker in deciding whether further steps should be taken to safeguard and promote human rights in the preparation and implementation phases. Note that the questions in the two forms below are divided into categories corresponding to the three main components of the HRA model as presented in chapter 2.2.1, namely state obligations (3.1) and awareness and empowerment (3.2).

The questions relating to Current State Obligations (3.1) are mainly relevant in the preparatory phase. They serve as a reference point and provide an overview of the legal framework within which development co-operation is carried out. This form should therefore be completed once for every partner country, and updating is only required when a new instrument is ratified or a new report is filed. When filling in the form, appendices number 2 to 5 could serve as a useful tool. Please note that only a selection of the most important human rights treaties are presented.

On the other hand, the questions referring to impact on State obligations (3.2) should be addressed at the various stages of any development programme. To guide the application the form is followed by a set of explanatory comments to each question contained (refer para 3.5). Finally, it is recommended that the statistical information relating to the OECD DAC's Policy Marker and Sector Code is processed in the PTA <sup>9</sup>, at the same time as the HRA is conducted, as the two exercises could prove to be of mutual benefit.

### 3.1 Current State obligations

<i>Treaties</i>	<i>Ratification yes/no</i>	<i>Reservations yes/no</i>	<i>Last report submitted (year)</i>
• UN Covenant on Civil and Political Rights			
• UN Covenant on Economic, Social and Cultural Rights			
• Convention on the Elimination of All Forms of Discrimination against Women			
• International Convention on the Elimination of All Forms of Racial Discrimination			
• Convention on the Rights of the Child			
• African Charter			
• OAS Convention, with Additional Protocol (on economic, social and cultural rights)			

<sup>9</sup> The PTA is NORAD's computer program for management of the more substantial components of development co-operation.

**Ratification:** This is a constitutional process by which a country's parliament confirms a government's action of signing a treaty. Subsequently, the government submits the instrument of ratification to the depository authority<sup>10</sup>, and becomes legally bound by the agreement. Moreover, ratification implies an obligation to report on the measures undertaken to implement the provisions enshrined in the treaty. A state may also become party to a treaty without prior signature, namely through accession. This is a common approach adopted by states which have not taken part in the preparatory work with the treaty. However, the choice between ratification and accession has no impact on the legal obligations undertaken. For the sake of simplicity, ratification is therefore used throughout the handbook as a common term for the two procedures.

**Reservation:** If a state intends to exclude or modify the application of certain provisions of a treaty or wishes to ensure a certain interpretation of a provision, it may make a reservation or submit an interpretative declaration to such effect. These declarations may differ from the interpretations of the treaty's monitoring body<sup>11</sup>. Reservations have always constituted a serious problem for the effective operation of human rights law. Currently, the UN aims at reducing the number of reservations to international treaties. According to Article 19 of the Vienna Convention, a reservation that is *incompatible with the object and purpose of the treaty*, is not acceptable. Moreover, some treaties do explicitly prohibit reservations on particular provisions.

Although reservations pose certain limits to the legal obligations of States, partners in development co-operation should not on that basis immediately refrain from promoting the rights enlisted in the relevant provisions. It is emphasised that development programmes may serve as an important tool in enhancing the respect for rights which have not yet been officially recognised.

<sup>10</sup> In the UN this is the Secretary General.

<sup>11</sup> This practice is governed by international law, in particular by the UN Convention on the Law of Treaties of 1969 (the Vienna Convention, articles 2, and 19(23)).

**Submitting reports:** All treaties listed in the table contain provisions regarding the duty of State Parties to submit reports on its practices and performances relating to implementation. The treaty will normally specify how often a State should submit reports. The task of the treaty body is to study the material presented and draw up comments to State Parties. In the case of the UN treaty bodies, reporting is also required to the relevant organ of the UN. The quality of State reports may vary. Some lack credibility, while others are more reliable and reflect serious attempts to comply with the reporting requirement. In any case the reports reflect the views of the respective governments. In an increasing number of countries human rights NGOs produce alternative reports aimed at counterbalancing the official versions. State reports are available on the web site of the UN's High Commissioner for Human Rights, cf. web addresses in Appendix 2.

### 3.2 Impact on State Obligations

Form filled in by:		Archive code:	Program ID nr:	
Date:				
Mandate	Appraisal	Appropriation	Review	Completion
Programme goal and objectives:				
Target Group(s) Focussed:				
HUMAN RIGHTS IMPACT				
Degree of impact :		Score	Follow up	
POSITIVE IMPACT		PI		
NO CHANGE		NC		
NEGATIVE IMPACT		NI		
NO INFORMATION AVAILABLE		N.A.		
1. What is the programmes assumed/actual impact on equality and non-discrimination?		AWARENESS		
2. Has the population directly affected been informed about the programme ?				
3. Does the programme respect/has the programme respected everyone's right to seek, and impart information relevant to its implementation ?				
4. Does the programme respect/has the programme respected the right to express views freely in the preparation and implementation of the programme ?		EMPOWERMENT		
5. Does the programme promote/has the programme promoted participation in decision making of groups affected?				
6. Does the programme uphold/has the programme upheld the right to organise ?				
7. Does the programme respect/has the programme respected the right to just and favourable conditions of work?				
8. Does the programme affect/has the programme affected the fulfillment of the right to an adequate standard of living for target groups and other people affected, including access to adequate food and continuous improvement of living conditions?				
9. Does the programme affect/has the programme affected the opportunity of people for self provision in terms of income generating activities ?				
10. Does the programme address the right to compensation for those negatively affected ?				
Need for follow-up: yes/no	Additional/Supplementary information needed	Limited study needed (to be defined in dialogue with partner)	Full Scale analysis needed (to be defined in dialogue with partner)	
Type of Data:				
Comments:				

### 3.3 The content of the assessment

The HRA does not aim at producing a detailed impact analysis. Rather it may facilitate a general assessment of likely positive or negative effects on the different human rights categories, or alternatively information suggesting whether further follow up is required.

Assessing human rights fulfilment, or alternatively, violations, varies between categories of rights and individual rights. Some violations are easy to define and measure. For instance, the classification of torture and ill-treatment of prisoners is well defined, and basic norms have been established by judgements (case law) in the European Human Rights Court and decisions by the UN Human Right Committee. In other cases, the definition of a «violation» may be less clear-cut, and lacking in guidance from authoritative organs. However, through the use of the form, the programme officer will hopefully develop the capacity and skills to make sound judgements about likely positive or negative effects, and to identify such effects at the later stages of the programme cycle.

Human rights enhancement often requires institutional reform, or change of attitudes, traditions or customs. Therefore measuring human rights advancement often implies that social, cultural and political processes are being reviewed. In some cases this may require *Formative Process Research* in order to observe and assess changes.

Throughout the form it is referred to groups that are affected by the programme. These can normally be divided into the following three categories;

- beneficiaries, or the group directly targeted, (for instance, people in villages who may benefit from a nearby road construction programme);
- people who are directly involved (e.g. those employed by the programme);
- people who are affected in other ways, either positively or negatively, for instance, peasants whose land is being occupied and used for road construction).

In accordance with the objective of poverty alleviation in Norwegian development co-operation, it is important to evaluate how a programme might empower poor sections of a community. For a village of smallholders a road construction scheme may for instance have serious consequences (in terms of land eviction and hence economic marginalisation and exclusion). On the other hand, it may also enable access to markets for their

products. In such cases the programme officer may suggest specific measures in order to minimise negative and maximise positive effects. In other cases, the programme might be rejected because the negative effects by far outweigh the positive.

### 3.4 The score system

The score system presented in the form is taken from the PTA, but has been slightly modified to fit better into this particular context. The score is meant as a tool for estimating the potential human rights payoff of programmes in the preparatory phase, and/or actual human rights payoff in the follow-up phase. In the first case the score is applied to assess programme plans, and as such the assessment relates to *expected results*. In the latter, the assessment aims at ascertaining whether or not the programme has had any actual human rights effects.

Thus, the task at hand is to check whether human rights objectives, as outlined in what is known as an Agreed Programme Summary, are followed up during implementation. If no effects are identified in cases where they were expected, or if negative payoffs occur, adjustments to the programme will be required. Finally, the score provides a tool for assessing the need for an end review, including a human rights impact analysis.

The score values are as follows:

- Positive impact – pi
- No change – nc
- No information available – n. a.
- Negative impact – ni

As can be seen, the values range from positive impact (pi) to negative impact (ni) and reflect four degrees of impact, including the alternative no information available. The «no change» (nc) option may indicate that further information is needed, that the programme design is not completed, or that a change in human rights may not occur at this particular phase. The (nc) score can also be used if the question is considered to be irrelevant. A «no information» (n.a.) score should alert the programme officer to the need of more information, and hence, for a follow-up.

The scores used in the form are suggestive and tentative in the same way as the PTA scores. Their main function is to rouse attention and awareness to trends and tendencies as regards human rights impact. The scores represent a non-metric ordinal scale with increasing orders, but with no exact ranking. Some questions, however, may only require a nominal level score, as in cases where values are mutually exclusive («yes/no»). In these cases pi (positive impact) should be used for a «yes» score, and ni (negative impact) for a «no».

A (pi) score applies to programmes that result in a recorded increase in human rights awareness and a better capacity of people to claim legal redress in cases where they feel that their rights have been curtailed. A (pi) score implies that the level of human rights awareness is likely to have increased. It is, nonetheless, often difficult to determine whether awareness also implies «empowerment». A rough indicator may be an increasing willingness and capacity of people to get involved, for instance through presenting proposals, making petitions, organising protest marches, etc.

If data on the human rights impact of a programme is not available, relevant information should be collected, and the reliability of the information assessed. If it proves impossible to establish whether a programme is likely to enhance human rights, or has led to improvement of human rights, the value of the score should be (n.a.) A high total score in the «no information available» column may suggest that additional studies or a full-fledged analysis of human rights effects is required.

The «follow-up» column in the form is relevant when there is a significant negative impact, or when information on the subject is missing. In such cases, the need for more information is indicated by an «x». In the section below, an aggregated assessment of the need for follow-up studies is indicated, and an indication given as to the type of study required. It is worth underlining that this section is applicable throughout the programme cycle, and not only at the initial stage.

In some cases, rights awareness and empowerment are not natural components of development programmes. This is for instance the case with generally budgetary support or debt reduction. As a general rule, however, a low score in terms of human rights impact requires a new dialogue between the co-operating partners, and/or collection of additional information.

### 3.5 How to read and assess the questions in the form

HRA is a tool for assessing how a programme affects human rights, people's awareness about their rights and whether or not it empowers people to claim their rights. The selection of «impact factors» has been made according to these strategic dimensions of a rights-based approach to development. Each question in the form, should be assessed individually, and a score indicated. Below follows a brief guideline to each of the questions presented.

#### 1. What is the program's assumed/actual impact on equality and non-discrimination?

The non-discrimination clause is a fundamental value in the international human rights system. It figures in all major treaties and it imposes immediate obligations on the State parties. Equality in rights and non-discrimination are principal qualities in a democratic society. Discrimination means «unjustified unequal treatment of equal cases».

*Unjustified* in this regard means that difference in treatment is not made in order to promote the position of a weak or neglected group («affirmative action»).

Discrimination in output of development programmes would typically be: unequal access to service delivery for women and men (gender bias); discrimination of indigenous peoples and minorities; neglect of disabled people, etc. In many cases, discrimination is the result of structural conditions in the society or within institutions (e.g., the caste system, cultural or religious traditions and practices). In other cases, it may be the result of political decisions, power struggles, or a policy of favouritism.

If it is discrimination is an unlikely consequence of the programme, or if the programme is likely to reduce the level of discrimination in a particular field, for instance by targeting groups that have been socially and economically excluded and marginalized, the correct score should be *positive impact* (pi). If direct or indirect discrimination on the basis of «race, colour, sex, language religion, political or other opinion, national or social origin, property, birth or other status» (article 2 (1) of the Covenant on Civil and Political Rights) of any kind is likely to occur, or occurs in the process of implementation, the correct score should be *negative impact* (ni).

It is, of course, rare that an individual development programme is able to eliminate structural discrimination within society, or even within a small sector. The existence of discriminatory practices and customs (or laws and regulations) may, moreover, not be sufficient reason for not initiating a programme. However, through dialogue with partners, and by design and implementation, discrimination and non-discrimination should be put on the agenda and openly addressed.

#### 2. Has the population directly affected been informed about the programme?

«Directly affected». Apart from the beneficiaries and others directly affected, the term refers to the population located in geographical areas where a programme is being implemented. It is assumed that a programme may affect the living conditions of people living in relative proximity to programme sites, not only those of the target group.

Article 19 (2) of the Covenant on Civil and Political Rights entails the right to receive information, or to have information about public matters made publicly available.

The scope of the State obligation to make information about public policies available to the public is not clearly defined by international law. Nonetheless, an increasing number of States introduce progressive statutory provisions to provide information, particularly in cases of public administration. Imparting information about a development programme is necessary if people are to have a real opportunity of influencing its implementation. Moreover this is a requisite for democratic participation.

It is, however, possible to introduce restrictions on this right, as long as they are provided for by law, and hence, are enacted by parliament.<sup>12</sup> Restrictions must be necessary in a «democratic society».<sup>13</sup>

If people are being informed as part of the preparation of a development programme, it is assumed that they may have a fair opportunity to influence its implementation. In such cases, the correct score is positive impact (pi). If no information is provided, people's awareness of outcomes, and their possibility to influence policies and decisions, is at stake. In such cases the score should be negative impact (ni).

<sup>12</sup> In some legal systems an unwritten principle of common law would serve the same purpose, if it has sufficient clarity.

<sup>13</sup> This includes restrictions that are necessary "a. for respect of the rights or reputations of others; b. for the protection of national security or of public order, or of public health or morals". Propaganda of war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence will also fall under the restriction clause (Covenant on Civil and Political Rights, article 19 [3]).

**3. Does the programme respect/has the programme respected everyone's right to seek and impart information relevant to its implementation?**

The freedom to seek and impart information and ideas «of all kinds» is another component of article 19 (2) of the CCPR. It implies that the individual should be protected against interference by the State in attempting to keep him or herself informed through generally accessible information.

The freedom to actively seek and impart information goes beyond a «passive» reception of information. This right concerns all generally accessible information, but it is subject to the same principle restrictions as referred to above (question 2). In securing the freedom, the position and freedom of the press is of particular importance, but the right also protects the work and operation of organisations and individuals, even if their activities are strongly opposed to the Government or other public authorities.

If people, the media and organisations are being able to seek and disseminate information about a proposed programme (expected or other likely effects) without restrictions in contradiction to the principles of article 19, the correct score is positive impact (pi). If unlawful (e.g., politically motivated) restrictions are put in place for mass media, organisations and other private parties (individuals or groups), the freedom to seek and impart information may be at risk, and the right score is negative impact (ni).

**4. Does the programme respect/has the programme respected the right to express views freely in the preparation and implementation phases?**

Freedom to express views freely is a third aspect of article 19, (2). It implies that; «everyone is entitled to hold opinions without discrimination or interference, and to freely share these opinions with others either orally, in writing or in print or through any other media of choice»

The article's reference to «information and ideas of all kinds» implies that the freedom of expression entails the right to hold opinions and share one's views on a broad set of subjects. The basic idea behind Article 19 is to enhance the individual's possibility of participating and to be a free subject in society.

If the affected population has been given the option of expressing its views on the programme, for instance through elected representatives, the correct score would be positive impact (pi). If the programme document contains

no provision for sharing information with potential beneficiaries, people are likely to be deprived of their opportunity to influence decisions, and, unless something else is documented, the correct score would be negative impact (ni)

**5. Does the programme promote/has the programme promoted participation in decision-making of groups affected?**

The right to participate «in the conduct of public affairs» is a basic democratic right which is set out in Article 25 of the Covenant on Civil and Political Rights and several other international and regional instruments. The right stipulates that, every citizen is entitled, without «unreasonable restrictions», to take part in the conduct of public affairs «directly or through freely elected representatives». Representatives shall be elected through periodic and free elections, «guaranteeing the free expression of the will of the electors» by universal and equal suffrage. The right also entails equal right to enter into public service.

While representation is well established as a backbone of representative democracy, the meaning of «direct participation» is not equally clear. The Covenant does not describe any special provision or form of direct participation. In the International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) reference is made to «public referenda» (article 7 paragraph a) as an option of «plebiscitary» («direct») political participation. The term «or» (cf. «directly or through freely chosen representatives») implies that the State has an obligation to provide for either of these types of participation.

The UN Declaration on the Right to Development sets forth that States have a duty to formulate appropriate national development policies based upon the *active, free and meaningful participation of the beneficiaries*. Although without legal standing, the declaration may still serve an important purpose in supplementing the legal framework relating to the design and implementation of development programs, and as such contribute at more participatory and process-oriented approaches.

Yet, the right to participate is only one among several political rights and freedoms, others being freedom of opinion, expression, information, media, assembly and association. These basic rights with regard to communication of values, preferences and interests, shall

protect the right and opportunity to form opinion in public or private, and to share one's opinions. In other words, the right to participate is not limited to elected bodies, but may take other forms in accordance with the rights and freedoms enlistered in article 7 a of (CEDAW).

The promotion of participation in decision-making shall enhance people's option of expressing their views. The term «promote» means that the programme is made known to representatives of the people affected by the programme, and that individuals are given the opportunity to influence decisions based on knowledge about the programme.

If the programme actively promotes participation by the groups of people that are affected, the score should be *positive impact* (pi). If people are not involved, the score should be *negative impact* (ni).

#### **6. Does the programme uphold/has the programme upheld the right to organise?**

The right to organise or the «freedom of association with others», is covered by article 22 of the Covenant on Civil and Political Rights. The right is also described in ILO Convention No. 87 concerning Freedom of Association and the Right to Organise. The right is closely related to the right to peaceful assembly, cf. article 21 of the Covenant. The right to associate with others is situated in the intersection between civil and political rights. As a civil right it protects the individual from interference from the State. As a political right it is essential for the functioning of democracy because values, preferences and interests can only be pursued effectively in community with others.

Freedom of association implies that the individual has a subjective right to found associations with others or to join existing associations. It also includes the right to pursue the common interests of its members through peaceful means. The state, on the other hand, has the duty to provide a legal framework for the foundation of associations as legal entities, and to protect associations from interference by others. Membership must be voluntary.

The term obstacles to the freedom of association refers to the presence of any economic, social or institutional obstacle to the effective enjoyment of the freedom. Examples are administrative hindrances or delays in registration of organisations, obstacles concerning physical location, effective operation, etc.

If the right to organise is generally respected, the

correct score should be positive *impact* (pi). A general assessment, however, should be open to correction by information collected or received during preparation/ implementation of the programme. If groups are complaining about encroachments on their freedom of association, this may imply a negative human rights impact, and the score should be (ni). Complaints expressed by existing organisations, moreover, may be a positive sign of empowerment and might imply a positive score on the question.

#### **7. Does the programme respect/has the programme respected the right to just and favourable conditions of work?**

The term just and favourable conditions of work refers to article 7 of the International Covenant on Economic, Social and Cultural Rights. In development co-operation this right is most relevant in relation to staff employed by operational partners, including sub-contractors. The right implies, in particular, remuneration which provides all workers with fair wages and equal pay for work of equal value, a decent standard of living for the workers and their families, safe and healthy conditions of work, rest, leisure and reasonable limitations of working hours including periodic holidays with pay, as well as remuneration for public holidays.

If a specific reference to this right has been included in the programme document, the score shall be *positive impact* (pi). If the right has not been explicitly referred to, the right score shall be *no information* (n.a.) and further information may be requested. In the follow-up phase, the correct score may alternate among the four options available, according to the conclusion of the mid-term review.

#### **8. Does the programme affect/ has the programme affected the fulfilment of the right to an adequate standard of living for target groups and other people affected, including access to adequate food and a continuous improvement of living conditions?**

A main objective of development co-operation is to contribute to the elimination of poverty and to improve the overall standard of living. This corresponds with the provisions of article 11 of the International Covenant on Economic, Social and Cultural Rights. The article declares «the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and the continuous improvement of living conditions». Article 11(2) stresses that State Parties, in



«recognising the fundamental right of everyone to be free from hunger», shall take measures individually and through international co-operation to improve methods of production, conservation and distribution to secure this right, and to ensure «an equitable distribution of world food supplies in relation to need».

The human right to adequate food and nutrition implies that everyone shall have access to adequate food of a kind commonly available, and hence, culturally acceptable. The food should cover overall nutritional needs in terms of energy and be safe and of good quality. The human rights approach implies that people are entitled to adequate food as well as the protection of basic facilities for self-provision.

In a human rights approach to development the «continuous improvement of living conditions» is a fundamental right on its own, but it also represents an important condition for empowerment. The right indicates that policies, including development co-operation, must be designed to gradually improve living conditions. Although «improvement in living conditions» may be difficult to measure, the HRA nonetheless requires an assessment of whether or not this has been included as a principal or significant objective of the programme.

If access to food and/or the continuous improvement of standard of living is a principal or important objective of the programme, the score shall be *positive impact* (pi). This is of course also the case where the program has proved successful in this regard. If these standards are not applicable, the correct score should be *no change* (nc). If the programme is assumed to have a negative impact, or if a mid-term review establishes a negative impact, the score is *negative impact* (ni).

**9. Does the programme affect/has the programme affected the opportunity of people for self-provision in terms of income generating activities?**

The notion of self-provision in terms of income-generating activities refers to people's opportunities to make a living »by work freely chosen or accepted« by the individual (article 6 of the International Covenant on Economic Social and Cultural Rights). As pointed out in Chapter 2, the implementation of economic rights relies to a large extent on the efforts undertaken by the individual to ensure satisfaction of personal needs.

A key component of this approach is that everyone should have the opportunity to gain his/her living (and the living of one's family), by freely chosen work. Income-generating activities may imply employment in terms of salary earning, or access to the means of production for self-provision, for instance access to land or other food-producing facilities.

A programme may affect income-generating activities negatively if it deprives people of their resources and opportunities to provide for themselves. An example would be people who are deprived of their land due to a dam construction or other development programme. On the other hand, the implementation of a programme may lead to job opportunities and income-generating activities as a planned outcome, or as an unexpected effect.

The creation of income-generating opportunities gives a score of *positive impact* (pi). If the programme does not intend to produce an income-generating activity, the correct score is *no change* (nc). If the programme deprives people of their opportunity for self-provision in terms of income-generating activity, the correct score should be *negative impact* (ni).

**10. Does the programme address the right to compensation for those negatively affected by its implementation?**

State parties to international human rights treaties are obliged to compensate all victims of human rights violations by restitution, compensation, rehabilitation and satisfaction or guarantees of non-repetition. Such indemnity is referred to in general terms in article 8 of the Universal Declaration, and article 2 paragraph 3 of the Covenant on Civil and Political Rights. It is also referred to in paragraphs 22–23 in the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights.<sup>14</sup> This implies that any person who is a victim of human rights violations, for instance through deprivation of the opportunity to gain a living by freely chosen income-generating activity, should have access to effective judicial or other appropriate remedies at both national and international levels.

The UN Committee on Economic, Social and Cultural Rights has urged international agencies to avoid involvement in programmes that imply «the use of forced labour, promote or reinforce discrimination against individuals or groups contrary to the provisions of the

<sup>14</sup> Adopted by a panel of international human rights experts in January 1997. The guidelines are not legally binding and hence not enforceable in any state. However, they represent a high degree of operational authority in the international human rights discourse. Cf. Human Rights Quarterly, Vol.20, No.3,1998.

Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation (General Comment no. 2, paragraph 6). Hence, compensation for victims of human rights breaches forms part of the international human rights machinery, as well as the human rights approach to development co-operation.

If the programme refers to the need to offer compensation in cases in which people are being deprived of their opportunity for self-provision, or more explicitly in cases in which human rights violations may occur, the correct score shall be *positive impact* (pi). This score implies that compensation will be considered if the programme has serious and negative effects on human rights. If the principle has not been explicitly referred to, *no information available* (n.a.) is the correct score. If compensation has not been granted in cases which seem to qualify for such redress, the correct score should be *negative impact* (ni).

## Chapter 4

### WHEN TO ASSESS HUMAN RIGHTS IMPACT

#### 4.1 Government-to-government programmes

To support decisions affecting the implementation of a programme, a human rights assessment shall be performed at the various stages of the programme cycle. The partner country is responsible for programme planning and implementation, including feasibility studies and impact assessment relating to human rights. The tasks to be undertaken by NORAD's programme officer at the various stages are summarised in the Table below.

##### *HRA and the Programme Cycle*

<i>Stage of the Programme Cycle</i>	<i>Responsibility of the NORAD officer</i>
1. Pre-appraisal/ Mandate for dialogue	<ul style="list-style-type: none"> <li>Undertake initial screening of programmes and determine requests for partner country's human rights documentation</li> </ul>
2. Appraisal	<ul style="list-style-type: none"> <li>Ascertain that appropriate information has been provided in the Draft Programme Document</li> <li>Assess the programme's potential human rights impact</li> <li>Prepare draft programme summary, including possible references to human rights</li> </ul>
3. Appropriation	<ul style="list-style-type: none"> <li>Summarise results from the Appraisal in the Appropriation Document and Agreement (Draft Programme Summary)</li> <li>Emphasise human rights aspects</li> </ul>
4. Agreement	<ul style="list-style-type: none"> <li>Agree with partner country on key conditions and indicators regarding the human rights aspects of the programme (Agreed Programme Summary)</li> </ul>
5. Follow-up	<ul style="list-style-type: none"> <li>Check that the conditions regarding human rights, which are laid down in the Agreed Programme Summary, are followed up during the implementation period</li> <li>Make human rights assessment of reports presented</li> <li>Ascertain that relevant human rights analyses are included in reviews and evaluations</li> </ul>
6. Completion	<ul style="list-style-type: none"> <li>Assess the need for an end review in order to analyse human rights impact at the end of the programme.</li> </ul>

According to stages 1 to 4 of the Programme Cycle, NORAD's role is to ascertain that the partner provides the necessary information or analyses, and to use this information in making decisions about the programme. NORAD's programme officer is required to:

- assess what kind of information/analyses needs to be requested;
- assess to what extent the required level of information/analyses has been provided in the Programme Document;
- identify possible shortcomings and request the appropriate follow-up;
- assess the information and recommend decisions to be made by NORAD regarding funding of the programme;
- assess which components and indicators from the pre-analysis that should
- be included in the Agreed Programme Summary as well as in the dialogue and assessment during the implementation and closing phases.

The information provided here should be considered supplementary to information contained in *NORAD's Manual for Programme and Project Cycle Management*.

#### 4.2 Programmes promoted by NGOs and private enterprises

Programmes presented by NGOs and private enterprises are also subject to requirements with regard to human rights assessments. NORAD requires that an application from a partner institution makes reference to the human rights components of the programme. In doing so, the partner could apply the HRA model of this handbook. In cases where a comprehensive human rights assessment is needed, NORAD may provide financial support to the partner for the undertaking of such assessment. Moreover, NORAD requires that partners within the private sector comply with the standards set forth in the main ILO treaties.

# Appendix 1

## *The Universal Declaration of Human Rights*

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948 on December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicise the text of the Declaration and «to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories.»

### PREAMBLE (omitted here)

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

## Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

## Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## Article 11.

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission, which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

## Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

## Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

## Article 14.

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

## Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## Article 16.

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

## Article 17.

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

## Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

## Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

## Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

## Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## Article 23.

- (1) has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

## Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## Article 25.

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## Article 26.

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

## Article 27.

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

## Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.

## Appendix 2

### Article 29.

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

### Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

### Relevant web sites

<http://www.unhchr.ch/html/intlinst.htm> for the full text of United Nations treaties in selected subject areas. In most of these texts (before the Preamble) *the status of ratification* is inserted as a link. The *status* includes an update on reservations made by the ratifying states.

<http://unhchr.ch/tbs/doc.nsf> for information relating to state reporting to the different treaty bodies as well as the status of ratification both by country and by treaty.

<http://www.un.org/rights/> for general information on UN and human rights.

<http://www.ilo.org/public/english/index.htm> for updated information on the ILO Conventions and their ratification .

<http://www.oas.org/en/prog/juridico/english/treasub.html> for a complete list of OAS treaties and their ratification.

<http://www.rapide-pana.com/dem/oau/oau..freed.htm> for the text of the African Charter.

Notes

## Appendix 3

Notes

**Table of Ratification: United Nations Human Rights Instruments<sup>15</sup>**

	1	2	3	4	5	6	7	8	9	10	11
Angola	X		X		X			X	X	X	X
Bangladesh						X		X	X		
Botswana						X		X	X	X	X
Costa Rica	X		X		X	X	X	X	X	X	X
Eritrea								X	X		
Ethiopia	X				X	X	X	X	X	X	X
Guatemala	X				X	X	X	X	X	X	X
Honduras	X				X		X	X	X	X	X
India	X				X	X		X			
Malawi	X		X		X	X	X	X	X	X	X
Mali	X				X	X		X	X	X	X
Mozambique	X			X		X			X	X	X
Namibia	X		X	X	X	X	X	X	X	X	
Nepal	X		X		X	X	X	X	X		
Nicaragua	X				X	X		X	X	X	X
Norway	X	X	X	X	X	X	X	X	X	X	X
Pakistan						X		X	X		
South Africa						X		X	X	X	X
Sri Lanka	X	X	X		X	X	X	X	X		
Tanzania	X			X	X	X	X	X	X		
Uganda	X		X		X	X	X	X	X	X	X
Vietnam	X				X	X		X	X		
Zambia	X		X		X	X		X	X	X	X
Zimbabwe	X	X			X	X		X	X	X	X

X = Ratification

1. International Covenant on Civil and Political Rights
2. Declaration under Article 41 (Inter-State Communications)
3. Optional Protocol (Individual Communications)
4. Second Optional Protocol (Abolition of the Death Penalty)
5. International Covenant on Economic, Social and Cultural Rights
6. International Convention on the Elimination of all Forms of Racial Discrimination
7. Convention against Torture and other Cruel, Inhuman and Degrading Treatment and Punishment
8. Convention on the Elimination of All Forms of Discrimination against Women
9. International Convention on the Rights of the Child
10. Convention relating to the Status of Refugees
11. Protocol relating to the Status of Refugees

<sup>15</sup> Only countries of relevance for Norwegian development co-operation are listed.

## Appendix 4

**Table of Ratification: ILO Conventions**

	1	2	3	4	5	6
Angola		X	X	X	X	
BangladeshX	X		X	X		
Botswana	X	X	X	X	X	
Costa Rica	X	X	X	X	X	X
Eritrea						
Ethiopia	X	X			X	
Guatemala	X	X	X	X	X	X
Honduras	X	X	X	X	X	
India			X		X	X
Malawi		X	X		X	
Mali	X	X	X	X	X	X
Mozambique	X	X	X	X	X	
Namibia	X	X				
Nepal		X	X		X	
Nicaragua	X	X	X	X	X	X
Norway	X	X	X	X	X	X
Pakistan	X	X		X	X	
South Africa				X	X	
Sri Lanka	X	X	X			
Tanzania						
Uganda		X		X		
Vietnam			X		X	
Zambia	X	X	X	X	X	X
Zimbabwe			X			

X=Ratification

1. Convention No. 87 - Freedom of Association and Protection of the Right to Organize
2. Convention No. 98 – Right to Organize and Collective Bargaining
3. Convention No. 100 – Equal Remuneration
4. Convention No. 105 – Abolition of Forced Labor
5. Convention No. 111 – Discrimination (Employment and Occupation)
6. Convention No. 141 – Rural Worker's Organizations

