

CONCORD policy paper on the human rights-based approach to development May 2012

Background

In 2009, CONCORD's General Assembly agreed on a strategy for the confederation for the 2009-2015 period which stated that human rights and gender equality will underpin all our advocacy work. The strategy mandates CONCORD members to ***"Agree an understanding of Human Rights Based Approaches and their application to CONCORD's work, ensure that our policy frameworks and internal policies and practices are based on this, and influence EU institutions to reflect HRBA in their policies and practices"***¹ as well as ***"Integrate our common understanding of gender equality into all aspects of our internal and external work, establish processes for ensuring continued development of CONCORD's practice, and influence EU institutions to reflect gender equality in their policies and practices."***²

In 2010, the CONCORD Human Rights based approach (HRBA) Task Force organised four workshops with four of the more established working groups within CONCORD: the AidWatch annual meeting, the Policy Coherence for Development (PCD) working group, the development education working group (DEEEP), and the CSO Development Effectiveness working group.

This policy paper on HRBA within CONCORD takes its mandate from CONCORD's above-mentioned strategy, and bases its content and recommendations on the workshops held in 2010 and the input of the members of the HRBA Task Force, as well as in consultation with the Gender working group.

This paper aims to

- outline a common understanding among CONCORD members regarding what the HRBA is,
- explore and make recommendations regarding how CONCORD can better integrate the HRBA and its various components in its external communications,
- clearly position gender equality and women's empowerment as integral and complementary to the HRBA,
- explore and make recommendations on how CONCORD can better integrate the HRBA into its ways of working, including how Working Groups operate.

¹ 2.1.1 of the CONCORD strategic framework for 2009-2015, see http://www.concordeurope.org/Files/media/0_internetdocumentsENG/2_About_CONCORD/3_Objetives_Principles_and_Priorities/CONCORD-Strategic-Plan-2009-2015---final-EN---approved-GAjune09.doc

² Idem.

The Human Rights Based Approach to Development

A rights-based approach to development builds on the premise that all human beings have inalienable rights which cannot be taken away from them. A rights-based development policy is guided by the values, norms and principles of the universally recognized and codified human rights. Human rights entail an obligation on the part of the duty-bearers to respect, protect and fulfil them. These rights are set out in international human rights law, much of which is directly binding on states who have signed up and ratified the relevant conventions. Human rights are by nature universal (they apply to everyone) and interdependent (an individual human right is often dependent of the fulfilment of other rights in order to be fulfilled itself). They guarantee that every human is legally protected to live free from want, fear and discrimination. They cover not just the civil and political rights (e.g. the rights to vote and not to be tortured or unjustly imprisoned) but equally importantly, economic, social and cultural rights (e.g. the rights to work and to an adequate standard of living) and third generation rights (e.g. collective rights, rights to economic and social development, right to self-determination, right to a healthy environment, right to natural resources, right to intergenerational equity and sustainability).

Human rights and development are in many ways two sides of the same coin. Human rights are both a means of achieving development, and a development goal in itself.

A rights based approach is more than simply a legalistic approach to development, but demands a change in the way development is “done”. A rights-based approach creates a framework for a more inclusive, participatory way of doing development, enabling and empowering those not enjoying their rights to claim them and highlighting the accountability of governments and other development actors to fulfil obligations and responsibilities towards their citizens.

Taking a rights based approach underpins the following premises:

- **rights are universal:** creating the need to focus on issues of cultural and social diversity and on the poorest, most vulnerable and thus most marginalised people,
- **rights are interdependent:** creating the need to take a holistic approach,
- **the holders of rights are subjects:** creating the need for a participatory approach,
- **rights imply an obligation on the part of someone else to safeguard those rights:** creating the importance of holding duty bearers (i.e. states, national authorities, transnational corporations and others) accountable for protecting and promoting rights.

It requires an approach that:

- sees people as full human beings and not just as ‘beneficiaries’, ‘parents’, ‘consumers’, ‘patients’, ‘students’, ‘victims’, ‘clients’, etc. This implies a multi-sectoral analysis coupled with a focused prioritised response;
- applies an inclusive and participatory approach to all work whereby all citizens may actively participate in the lives of their communities;
- pays close attention to the responsibilities and obligations of governments and others in realising human rights;
- supports and challenges governments and other duty-bearers to respect, protect, and fulfil human rights and develop policy dialogue based on the international human rights standards;
- uses human rights standards as universally recognized basis for development practice
- expresses programme and policy objectives in human rights terms;

- monitors and evaluates the human rights outcomes of our work, including policy processes.

HRBA principles

The HRBA to development demands us to radically change the way in which we understand and do our “development business”. The rights to e.g. food, land, education, health etc. as enjoyed by everyone should be considered as just that: rights, rather than charity. Using the HRBA to development is therefore essential in our ways of working and in our communications. The HRBA is also a way to address power imbalances within societies through its emphasis on democracy, participation, gender equality, empowerment and non-discrimination at all levels.

A HRBA is based on the following five principles:

- explicit use of Human Rights legal framework – systematic orientation towards human rights standards and legal text in all CONCORD communications,
- ensure non-discrimination and equality meaning the freedom from all forms of discrimination regarding birth, gender, decent, religion, race, abilities,
- accountability and transparency of all actions in a language that is comprehensible and accessible for all stakeholders,
- ensure active and effective participation and empowerment by all stakeholders throughout the planning, implementation and monitoring phases,
- gender equality and Women’s rights . The eradication of poverty and injustice will simply not be possible without securing equality and rights for women.

The centrality of gender equality

CONCORD sees gender equality and women’s rights as having an integral and central role in the Human Rights Based Approach. CONCORD believes that gender discrimination, must be removed *before* rights can be achieved and poverty can be ended. If we fail to specifically address women’s human rights our poverty eradication efforts for women, but also for men and the wider community will be ineffective, at best, and harmful, at worst. The centrality of gender equality and women’s rights is not promoted at the expense of the rights of other groups, (such as e.g. children, disabled persons or LGBT or minority rights), rather it is highlighted as a cross-cutting issue which affects also all other rights.

For this reason, the following steps need to be integrated in the CONCORD work:

- consult with women right’s organizations and involve them in monitoring results and suggesting changes to achieve results that are gender sensitive,
- involve gender experts (from organisations or from think tanks) to comment on the drafts of your ToRs or identification stage of the project,
- undertake gender impact assessments of projects/programs based on gender sensitive indicators,
- work on gender sensitive and participatory baselines,
- ensure gender sensitive evaluation of advocacy activities – using gender indicators – using the results for further advocacy messages,
- include women’s rights questions in ToRs for research and women’s rights, gender equality and women empowerment objectives on any research/project,
- contract consultants that have gender equality and women’s rights expertise.

Integrating HRBA into CONCORD's external communication

All CONCORD working and governance structures (including the secretariat, board and working groups and task forces) should adhere to HRBA principles to development in policy and advocacy work and other external communications and media work. This includes making appropriate use and reference to the international human rights legal framework. Human Rights treaties cover a wide range of areas that are relevant to development work. The two core treaties are:

- International Covenant on Civil and Political Rights³
- International Covenant on Economic, Social and Cultural Rights⁴

as well as the other seven core human rights treaties:

- Convention on the Elimination on All Forms of Discrimination Against Women⁵
- Convention on the Rights of the Child⁶
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁷
- Convention on the rights of People with Disabilities⁸
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁹
- International Convention on the Elimination of All Forms of Racial Discrimination¹⁰
- International Convention for the Protection of All Persons from Enforced Disappearance¹¹

More information on these and other international human rights treaties and instruments can be found here: <http://www2.ohchr.org/english/law/index.htm#core>.

Integrating HRBA into CONCORD's ways of working

The principles of the HRBA should be integrated into the operations of all CONCORD working structures. This means that working methods should be

- **accountable and transparent** to the whole of CONCORD, and preferably to rights holder and donors as well;
- working methods should **empower** the members of each working group and, if possible, also be empowering for rights holders;
- working methods should be **non-discriminatory**. Checklist: How can non-English speakers be better involved in the WG's work? Is the WG equally accessible to all regardless of gender, sexuality, race and religion? Is the WG equally accessible to all regardless of whether or not you have a physical or mental disability?;

³ <http://www2.ohchr.org/english/law/ccpr.htm>

⁴ <http://www2.ohchr.org/english/law/cescr.htm>

⁵ <http://www2.ohchr.org/english/law/cedaw.htm>

⁶ <http://www2.ohchr.org/english/law/crc.htm>

⁷ <http://www2.ohchr.org/english/law/cat.htm>

⁸ <http://www.un.org/disabilities/convention/conventionfull.shtml>

⁹ <http://www2.ohchr.org/english/law/cmw.htm>

¹⁰ <http://www2.ohchr.org/english/law/cerd.htm>

¹¹ <http://www2.ohchr.org/english/law/disappearance-convention.htm>

- meaningful **participation** should be encouraged, including participation of rights-holders and southern partners in decision-making processes and strategy building.

Recommendations to all CONCORD working and governance structures, the secretariat and other functions:

- all members of CONCORD working structures should be aware of CONCORD's principles and commitment to HRBA;
- the HRBA and human rights messaging should be an integral part of all external communications, including reports, briefings, press releases, online communications, speeches and presentations;
- working structures should ensure that there are no power imbalances with the working structures. Small and large NGOs, networks and national platforms should have equal access to decision-making within the structures. Linguistic or other physical abilities should not be used in any discriminatory way;
- working structures should ensure that women and men have equal access to the group and decision-making within the group;
- ToR for CONCORD publications and statements should ensure that the HRBA principles are referenced for the work of external consultants/researchers, in communications from CONCORD Secretariat or by any working structure on behalf of CONCORD;
- whenever needed, advice from independent HRBA experts should be sought;
- CONCORD should, where possible and appropriate, advocate for governments and regional institutions to take a HRBA to development. Opportunities for this will arise both at EU level and member state level;
- policy outcomes should, where possible and appropriate be evaluated on the basis of how they have achieved the promotion and protection of specific human rights.

Ideally provided that extra resources are put in place either by CONCORD or by CONCORD members:

- each working structure should integrate the HRBA in its Terms of References. This could include stating that *"this Working Group will work in accordance with the HRBA to development, including ensuring maximum transparency, democracy and participation including women participation."*;
- each working structure should fully integrate the HRBA principles in its ways of working;
- each working structure should have one focal member in charge of HRBA issues. While this person should not be the only person in the working structure using the HRBA, s/he will be responsible for making sure that internal working methods and external advocacy messages are using the HRBA and human rights law as appropriate. This person would also be the structure's contact person for the HRBA Task Force;
- each working structure should discuss how it uses the HRBA at its main annual meeting;
- each working structure should do an audit of how it applies HRBA internally ideally in two years;
- CONCORD should seek ways to build the capacity of all working structures to understand and follow a HRBA on a continuous basis.

Annex 1

Working Group checklist (draft)

1. Do we use human rights standards as indicators when evaluating our policy success?
2. Do we base our policy focus on a human rights analysis of the problems we work on?
3. Do we analyse political and legal situation from a gender perspective? Do we integrate gender analysis into the terms of reference for our publications and other work contracted to consultants and fixed-term contracts?
4. Do we make explicit use of human rights laws in our publications?
5. Do we make explicit use of human rights law in our press/media/communications work?
6. Is the HRBA integrated in the ToRs of the group?
7. Is the HRBA integrated into the ToRs for our publications and other work contracted to consultants and fixed-term contracts?
8. Do we have a focal person responsible for the HRBA in our group?
9. Have we carried out or plan to carry out a HRBA audit internally within a two year period?
10. Is our WG equally accessible to all regardless of gender, sexuality, race and religion? Is our WG equally accessible to all regardless of whether or not you have a physical or mental disability?