

SECTION ONE

SITUATIONAL ANALYSIS

1. HUMAN RIGHTS IS A PRACTICAL FRAMEWORK FOR ANALYSIS

Initiating development policies based on a human rights approach requires a situational analysis which will enable development actors – the state, donors, sectors in civil society – to collaborate to make appropriate choices and to establish development priorities. As we elaborate throughout this document the processes must be participatory in nature.

Donors always need to make difficult choices about where and how to allocate scarce resources. These choices will be made easier if in the course of the analysis the now generally accepted government obligations to ‘respect’, ‘protect’ and ‘fulfil’ human rights are kept firmly in mind. Thus any analysis will attempt to measure to what degree the government in a nominated recipient country addresses these obligations and what assistance can be provided to assist this process.

The analysis will vary from country to country but there should be some standard procedures in all cases. The process for the analysis should in the broad include the following considerations:

- the level of commitment to international human rights standards
- the local legislative framework
- the administrative framework.

Accordingly, some preliminary questions in determining the general human rights situation in a country would include

- Are the rights respected in the country’s constitution, in written, customary or common law and in official government policies and pronouncements? Conversely, are particular rights limited or contravened by particular legislation, official policy or practice?
- Can individuals and communities rely on the protection of their rights by the state and its organs when these are violated or placed at risk by the actions of third parties, including by state agents and officials acting outside their authority? Are there means of redress that are open and accessible to all?
- Are government social and economic development policies based on the realization of human rights either directly or through enabling individuals and communities to realize their rights? Are the obstacles to the fulfillment of human rights addressed meaningfully in government policy and action?

These lead to some more specific questions which will add to the human rights picture of the country under consideration:

- Is there discrimination in government policies?
- Is there or has there been discrimination in legislation or practice that needs to be addressed through legislation or policy (including affirmative action)?
- Is the legislative and administrative framework of government accessible to all?
- What is the extent and nature of participation in the processes and benefits of development by different sections of the community?
- Are there processes by which government and administration can be held accountable and problems addressed?
- What impediments are there to the enjoyment of rights already recognized?
- What monitoring systems are there to ensure rights are being respected and progressively realized?

The information to answer these questions can be found from sources both inside and outside the country concerned. Information is available from the recipient government's existing legislation, public statements, bureaucratic and administrative guidelines and so on. Internationally, information may be extracted from UN agencies, from country reports to treaty bodies, and from international organizations. In the context of economic, social and cultural rights, sociological and economic data may be widely accessible within and outside the country.

The human rights and development experts within the donor agency will be skilled at tracking down the required information. To assist the process some important web sites and postal addresses have been listed in Appendix B at the end of this Manual.

Information on and from the following areas can assist in developing the baseline data from which it is possible to measure progressive realization of economic and social rights.

- national perceptions on rights - including local, ethnic and socio-economic variations, the right of children, women
- legislation - including conformity with international rules on the treatment of prisoners, protection for the rights of freedom of speech
- qualitative and quantitative data on population as a whole and disaggregated by region, gender and ethnicity
- government policies, programs and services for vulnerable or disadvantaged groups: women, children, minorities, people living with AIDS, disabled

- economic and social factors affecting the realization of rights especially for vulnerable or disadvantaged groups
- employment or unemployment situation including breakdown by region, age group, gender, ethnicity, disability
- family structures and the position of women including variations
- education system - including position of minorities
- health system
- participation - measures to achieve participation in all levels of decision making
- the effects external factors such as Structural Adjustment Programs on the delivery of services and the position of vulnerable groups in particular
- the results of decentralization - on participation, accountability for service delivery and traditional cultural practices.

2. COMMITMENT TO INTERNATIONAL HUMAN RIGHTS STANDARDS

Awareness of the steps that a government has taken to accept and abide by the international human rights framework can assist the better targeting of development assistance as well as contributing to baseline indicators for the realization of rights.

2.1 Ratification of and reservations to international instruments

Information sources:

The United Nation Office of the High Commissioner for Human Rights website and Amnesty International's Annual Report provide tables listing government signatories and ratifications of human rights instruments.

International cooperation can contribute to overcoming obstacles to ratification such as legislative conflict or lack of expertise, or lack of resources to meet reporting obligations.

2.2 Conformity with monitoring and reporting obligations

Information sources:

A major review of a country's compliance with the Covenants is required within 3 to 5 years of their ratification and governments are asked to produce periodic reports thereafter. The UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights in their own report to UNCHR annually list which country reports are overdue.

The Committees issue observations and general comments which elaborate on the Articles of the Covenants and make recommendations to the state parties on steps needed for individual governments to better meet their obligations. Some of these recommendations will provide guidance for international donors.

2.3 Restrictions on the impact of international instruments on domestic legal practice through reservations, interpretations or declarations, or lack of domestic legislation

Information sources:

This information is available from the UN treaty monitoring bodies, in the reports submitted by governments to these bodies and from domestic human rights institutions and organizations. At the time of ratification Governments can list reservations – while some of these are technical in nature, many indicate areas where legislation falls short of international norms or for which the state party to the instrument refuses to account to the international community. Lists of reservations are available from the Office of the High Commissioner's website on the internet.

Failure to translate international obligations into domestic law can sometimes be due simply to lack of drafting expertise or lack of awareness by the legal fraternity. This is an area where development assistance has been very active.

2.4 Derogation in public emergencies from obligations to maintain human rights standards

Information sources:

This information is available from the UN treaty monitoring bodies, from the UNHCR and from international monitoring organizations such as refugee and human rights organizations.

2.5 Cooperation with international monitoring

Information sources:

Donors often operate in countries whose human rights regime is being monitored by UN-appointed thematic or country rapporteurs and working groups. These produce regular reports with numerous recommendations that can help in setting programs and priorities. Such reports are available directly from the UN.

In each of these cases additional information may be sought from independent government-appointed authorities such as national human rights institutions and ombudsmen.

2.6 National planning

Most countries formulate periodic national development plans either annually or for longer terms. These plans are valuable indicators of recipient government priorities and practice, including the extent and nature of participation in the setting of development objectives.

They can also be valuable collations of important and relevant social and economic data.

In addition, at conferences such as the Beijing World Conference on Women, the Copenhagen Summit on Social Development, the Rio Earth Summit and the Vienna Human Rights Conference governments have committed themselves to specific goals and to the formulation of National Action Plans by which their progress towards these goals can be measured.

Steps taken by governments to follow-up on action plans arising from these world conferences are also informative in assessing their commitments to the international human rights framework. For example there is an agreement for each country to formulate a human rights education action plan: if such a plan exists it can be used by donors as a guideline for supporting human rights education programs.

These plans are valuable sources of raw data and of government commitments toward realizing rights.

2.7 National human rights institutions

Information sources:

UN Office of the High Commissioner for Human Rights; Asia Pacific Forum of National Human Rights Institutions

The UN is encouraging states to establish their own national institutions for the promotion and protection of human rights. There is an international standard, the Paris Principles, for these institutions.

3. THE LEGISLATIVE FRAMEWORK

Domestic legislation in recipient countries provides valuable information to donors as to where priorities in terms of the realization of rights might be set. A list of national legislation to be considered would include:

3.1 Human rights laws

- any constitutional or statutory bill of rights
- national human rights institutions
- judicial review of administrative action
- freedom of information
- judicial independence

3.2 Employment

- health and safety issues - including workplace inspection
- dismissal laws
- minimum ages for work

- discrimination in employment
- maternity/paternity leave
- freedom of association, including trade union activity
- legislation governing prostitution
- legislation governing the informal economy

3.3 Family life

- the position of women
- the position, protection and participation of children
- marriage and divorce laws
- social security and welfare systems
- registration of births and deaths
- citizenship
- inheritance laws

3.4 Education

- provision for free education to what age
- provision for minorities

3.5 Housing

- homelessness - responsibility of state authorities for providing housing
- tenancy and property rights
- minimum standards

4. THE ADMINISTRATIVE FRAMEWORK

This area is probably the most difficult to analyze. First, there is the matter of access to procedures and services. If obstacles do exist to such access, it is important to know the nature and extent of appeal systems in place to address these. However, the information about these issues may not be readily available. It is also hard to measure the degree of awareness of human rights within the bureaucracy, not only at the national level but also at the local level. Much of this type of information will only be obtainable from non-government sources and from sectors of the society most affected by the lack of human rights consciousness in the administration of services.

The challenges presented to those researching an administration's relationship to human rights norms cover the non-legislated practices applying to such areas as access, conditions in the workplace, quality control (for example, the nutritional value of food, water quality), the regulation of service providers, grievance procedures and the provision of compensation.

Consequent questions that arise in the preparation of a thorough situational analysis will then include:

- What administrative regulations are in place to meet international standards relating to each right?
- What systems exist to monitor whether these regulations are adhered to?
- When irregularities do occur, is there a process of appeal and provision for compensation?
- Are there procedures in place to guarantee due process and natural justice?
- What processes exist for people to influence decision-making within the bureaucracy at the local level?
- Are there effective systems to correct and redress past human rights violations including discrimination?

Questions arise also about rights awareness and rights compliance within the administrative system itself:

- Is the bureaucracy trained to know and respect human rights and not to discriminate against women, minority groups, others?
- What processes exist to combat corruption in the public service?
- Have all citizens equal access to employment in the public service?
- What rules and guidelines exist to prevent discrimination in career opportunities within the bureaucracy for certain sectors of society?

Finally, legislated norms must also be measured against administrative practice. The consideration of the legislative framework enables identification of these norms.

- What systems exist to monitor whether these laws are adhered to?
- When irregularities occur, is there a process of review and remedy, including provision of compensation and punishment of violation?

5. STATISTICAL INFORMATION

No situational analysis can be complete without statistical information. This must be incorporated in the baseline data as complementary indicators for the realization of rights. As in any statistical analysis, every effort must be made to generate comparative data over time to monitor change, both positive and negative. Data should also enable comparisons between different parts of the population based on gender, ethnicity, age, socio-economic situation and any other relevant status.

All countries collect information on the economic and social situation generally and on particular sectors of society, to inform their legislative, policy and planning approaches. This information is to be found in many places:

Population and census departments

- life expectancy, mortality and morbidity
- infant mortality rate, patterns of illness

Department of Health

- information on deaths and illnesses, patterns of immunization
- statistics on nutrition
- statistics on accidents/injuries at work
- information on distribution and provision of health care

Department of Education

- school enrolment, attendance and drop-out rates including seasonal differences and differences by region.
- relevance of curriculum including to minorities
- the hidden costs of education (uniforms, equipment and non-core activities), including accessibility

Department of employment/labour

- information on sources of employment – employment, unemployment and underemployment figures,
- major industries' industrial accidents/injuries etc
- participation of women in the workforce
- information on the informal sector
- child labour statistics
- trade union membership, coverage and activity

Justice Department

- deaths and injuries in custody
- prosecutions and detention for vagrancy and prostitution
- patterns of crime and punishment
- prison conditions including complaint statistics

Social Security Department

- numbers and distribution of people receiving different types of social assistance
- number of children in care by type of care

National human rights institutions

These institutions, where they are established, will have data on and analysis of a wide range of human rights situations within their countries. Their complaint handling work also enables the collation of statistics on the extent and nature of violations that come to the attention of the institutions.

NGOs

The importance of NGOs in the evolution of civil society, in monitoring human rights and in development work has been recognized internationally. Domestic NGOs are an invaluable source of information in that they can provide a counterbalance to what may be an incomplete picture of local conditions available from official sources. Professional and sectoral interest (e.g. trades unions) organizations will also be a repository of data whether in specific publications or through their reporting processes.

- information from NGOs including annual reports, thematic or specific issue-related documentation, data collected by or made available by NGOs, and material published on the Internet.

6. ANALYSIS ON THE REALIZATION OF EACH RIGHT

As pointed out throughout this document, to produce a rights-based situational analysis it is not sufficient to address the research only in broad terms. Rather each right should be looked at separately in order to flesh out the information and to provide the in-depth data required for thorough analysis. This analysis will start from a general picture to enable priorities to be established based upon which a more detailed examination can lead to targeted programming.

What follows is a sketch of the rights extracted principally from the Universal Declaration of Human Rights with domestic and international information sources that ought to be consulted in drafting a situational analysis. Reference is made wherever possible to other international human rights instruments that may elaborate on each right.

Slavery (UDHR Article 4)

Traditional forms of slavery have been outlawed in most countries. However in many areas the bonded labour of children and some labour practices equate to slavery. The challenge for governments is to ensure that slavery is eradicated in practice as well as in law.

Information sources:

- | | |
|----------------|--------------------------------------------------------------------------------------|
| International: | reports observations and general comments under ICESCR, ICCPR, CEDAW, CRoC, ILO |
| Domestic: | children's and women's rights NGOs, trade unions, national human rights institutions |

Torture, or cruel, inhuman and degrading treatment or punishment (UDHR Article 5; ICCPR Article 7; CAT)

Torture too is outlawed in most countries but it is still widely practiced. These practices may arise out of ignorance of alternatives, the acceptance of evidence by the judiciary of evidence extracted by torture, and acquiescence by the community. They can also arise from malice, ideological conviction and psychological deviation. Ill-educated and unsupervised personnel are most often implicated in the practice. Senior officers, however, may condone or even encourage these practices.

Information sources:

International: reports, observations and general comments under CAT, ICCPR; report of the Special Rapporteur on Torture; international human rights NGOs (AI, HRW, OMCT)

Domestic: Government legislation; human rights NGOs; police reports; legal aid organizations; court reports; national human rights institutions

Recognition and equality before the law (UDHR Article 6; ICCPR Articles 2 and 26)

Asylum seekers and refugees, immigrants and ethnic and religious minorities often face different standards of legal protection. In some developing countries gender discrimination prevents women's access to the legal process. There is a need to address legislative and cultural obstacles to legal protection for all.

Information sources:

International: UNHCR; UNDP; MRG; reports, observations and general comments under ICCPR, CERD and CEDAW

Domestic: legislation; penal codes; legal aid organizations; women's and ethnic rights NGOs; lawyers' groups; national human rights institutions

Judicial review and appeal (UDHR Article 8, ICCPR Articles 9 and 14)

Many donors have incorporated assistance to judicial reform in their programs. However, in many countries it is almost impossible for certain sectors of society to mount appeals against administrative or judicial decisions. This is an area that has been neglected by many legal reform programs.

Information sources:

International: reports, observations and general comments under ICCPR, ICESCR, CERD and CEDAW; reports of international legal organizations (ICJ, International Bar Association)

Domestic: legislation; penal codes; legal aid organizations; women's and ethnic rights NGOs; lawyers' groups; national human rights institutions

Arbitrary and unlawful arrest, detention or exile (UDHR Article 9; ICCPR Article 9)

Violations of UDHR Article 9 are most usually highlighted by reference to the ICCPR in spite of the fact that abuses are often directly linked to struggles over the realization of economic and social rights and against discrimination. Attention needs to be paid to rules and regulations governing police, security, custodial, and armed forces personnel. The training of these and of legal professionals should go hand in hand with human rights education programs targeting community groups.

Information sources:

International: ICCPR reports, observations and general comments; reports of UN Thematic and Special Rapporteurs; UNCHR resolutions; UNHCR; international human rights organizations (AI, HRW); international solidarity organizations

Domestic: legislation; penal codes; legal aid organizations; women's and ethnic rights NGOs; lawyers' groups; human rights NGOs; national human rights institutions

Asylum (UDHR Article 14, ICCPR Article 13, Refugee Convention)

Donor agencies seldom are involved in discussions over refugees except those dealing with humanitarian emergencies. With the appropriate human rights objectives in place resources can be made available to assist in the protection of those forced to leave their country for fear of persecution.

Information source:

International: UNHCR, international human rights organization reports (AI, ICJ, HRW, Médecins sans Frontières)

Domestic: legislation, government policy statements; census information; legal aid groups; lawyers groups; penal code; refugee support groups; religious organizations

Nationality (UDHR Article 15)

The question of nationality arises in the context of minorities, migrant workers and refugees where some or all of these groups are discriminated against in terms of the right to a nationality. Most states have laws governing nationality. The aim of providing assistance is not to change

these laws except in so far as they are discriminatory but rather to work towards overcoming barriers to nationality for certain groups.

Information source:

International: UNHCR, international indigenous advocacy organizations (MRG, IWGIA, Survival International)

Domestic: government policies and reports; NGOs; refugee and indigenous groups

Property (UDHR Article 17)

In a number of countries discrimination against women owning or disposing of property is endemic. This applies as well to religious and ethnic minorities owning property either individually or communally.

Information source:

International: reports, observations and general comments under CERD, CEDAW and ICESCR; international human rights organizations (COHRE); indigenous advocacy organizations (MRG, IWGIA)

Domestic: legislation controlling land ownership; women's organizations; indigenous and minority groups; community organizations; lawyers organizations

Assembly (UDHR Article 20, ICCPR Article 21)

Violations of the right of assembly are often brought about by the undermining of economic, social and cultural rights and the resulting attempts of community groups to protest against this. This is a clear instance of the indivisibility of rights. The right of assembly is one that often generates a great deal of heat in any policy dialogue between donor and recipient governments when the former calls for respect for the right.

Information source:

International: reports, general observations and comments under ICCPR, ICESCR; international human rights organizations (AI, HRW, ICJ)

Domestic: government policy on assembly; legislation; human rights NGOs; legal defence bodies; criminal codes; national human rights institutions

Association (UDHR Article 20, ICCPR Article 22, ICESCR Article 8, ILO 1948)

The right to association is not limited simply to trade union-related activities. In many cases obstacles are in place to prevent registration of NGOs and other community-based organizations.

With regard to trade union rights donors often refer the issue to the ILO process instead of assisting the realization of the right to association.

Information source:

- International: ILO reports; reports, observations and general comments under ICCPR and ICESCR; ICFTU
- Domestic: Domestic human rights organizations; trade unions; government policy documents; legislation governing association; national human rights institutions

The will of the people (UDHR Article 21; ICCPR Article 25)

The right in Article 21 is usually addressed within the term >good governance= in donor programs most of which now have specific guidelines to address this. The term covers a wide range of concepts ranging from accountability to transparency and combating corruption. It is argued that good governance avoids the over-prescriptive and adversarial implications of human rights terminology. While this may make things easier for diplomats, it skirts the question about the obligations of governments under the international human rights framework. UDHR Article 21 lays the groundwork for providing support to civil society organizations endeavouring to achieve good governance.

Information source:

- International: IPU, international human rights organizations, Transparency International
- Domestic: civic organizations; political parties; electoral authorities; chambers of commerce; business organizations

Work (UDHR Article 23, ICESCR Article 6, ILO Conventions)

In many developing countries considerable economic advantage is gained from a low wage regime and governments in these countries often put restrictions on those rights which might affect the minimum standards of workers. Not infrequently campaigns to defend these rights also lead to the violations of civil and political rights. Some governments' accusations that international calls for better wages and conditions for workers are a form of protectionism for the better-paid workers of the developed world may be justified. However this does not excuse government actions to restrict the rights guaranteed by the International Bill of Rights and the ILO Conventions.

Information sources:

- International: ILO, ICFTU, ISS, UNDP reports, reports observations and general comments under CEDAW, ICESCR

Domestic: National Development Plan, national employment policy, domestic trade unions

Social security (UDHR Article 22, 25; ICESCR Article 9)

Almost universally there are those within society whose economic, social and cultural rights cannot be realized in the short term for lack of resources and economic development. The entitlement to a social safety net implies the setting of appropriate priorities and a focus on the provision of services that are lacking to disadvantaged groups - the disabled, ethnic minorities, widows, the elderly, children, etc.

Information sources:

International: reports, observations and general comments under ICESCR, CEDAW, CRoC; UNDP; ISS; ICSW

Domestic: National Development Plan, national employment policy, trade unions, community based organizations

Protection of the family (UDHR Article 16; ICESCR Article 10; ICCPR Article 23; CRoC; CEDAW)

This right is closely interlinked with the right to social security and the right to the enjoyment of just and favourable conditions of work. The issue of discrimination is key to the protection of the family. Donors have identified the issue of 'gender in development' as a major objective thus recognizing a rights dimension to the problem, but it is essential to situate discrimination firmly within the international regime for the protection of the rights of women and children.

(i) Women

Information sources:

International: report, observations and general comments under ICCPR, ICESCR and CEDAW; international human rights organizations (AI, HRW)

Domestic: government social policies; religious organizations; community based organizations; women's NGOs; trade unions

(ii) Children

Information sources:

International: reports, observations and general comments under ICCPR, ICESCR and CRoC; UNICEF; international children's rights organizations (DCI, SCF)

Domestic: Government social policies; religious organizations; community based organizations; women's NGOs; trade unions

Right to adequate food (UDHR Article 25, ICESCR Article 11)

The right to food is linked to other rights such as the right to adequate housing, the right to work and the right to property. The right to feed oneself is dependent on the conditions under which people have access to land and to work. The provision of social security also plays a role in implementing the right to food in specific circumstances. In the context of development assistance the objective of realizing the right to food needs to encompass broader concerns than agricultural technology and needs to concentrate on addressing poverty, hunger and malnutrition.

Information sources

International: reports, comments and general observation under ICESCR; UNDP; FAO; WFP

Domestic: Departments of Rural Development reports and policies; farmers and peasants' organizations; health reports (disaggregated if available); community based organizations, development NGOs

Right to adequate housing (UDHR Article 25; ICESCR Article 11; CERD Article 5, CEDAW Article 14.2; CRoC Article 27.3)

The UN Centre for Human Rights (now the Office of the High Commissioner for Human Rights) has produced an extensive briefing paper on the realization of the right to adequate housing which can provide guidelines for the setting of donor objectives in pursuit of this right.

Information sources:

International: reports, observations and general comments under ICESCR, CERD, CEDAW and CRoC; UNDP; UNCHS; COHRE

Domestic: disaggregated statistical information (census figures if available); provincial and local government; government policy statements; urban planning programs; domestic NGOs; homeless people's organizations; women's and children's rights organizations

Right to highest attainable health (UDHR Article 25, ICESCR Article 12; CEDAW; CRoC)

The right to health is closely associated with the right to adequate housing and the right to a healthy work environment. The realization of this right often calls for increased resources and better management of resources as suggested in the Manual on Human Rights Reporting. The donor objective of assisting in the realization of this right includes assistance with reviewing government priorities.

Information sources:

- International: reports, observations and general comments under ICECSR, CEDAW and CRoC; WHO; UNDP; UNFPA; UNICEF
- Domestic: government department of health reports and statistics; doctors' organizations; children's rights organizations; women's rights organizations; provincial and local government reports, census statistics (if available)

Right to education (UDHR Article 26; ICESCR Article 13; CRoC Article 21)

It is not sufficient for donors to treat support for higher education (including student exchanges) as contributing to the right to education. The issue in question is access and discrimination, particularly in the primary education system which has been identified as the crucial factor in development. Donor objectives should focus first and foremost on how to realize free and compulsory education for all children and on those who are most disadvantaged through lack of resources, political will or community attitude or culture.

Information sources:

- International: reports, observations and general comments under ICESCR, CRoC, CERD, CEDAW; UNICEF; UNDP; ILO; ECPAT; international NGOs (DCI, SCF)
- Domestic: teachers' organizations; parents and citizens groups (if organized); government departments responsible for education; community-based organizations; women's rights NGOs; groups working for the protection of children; police reports; indigenous groups; academics

7. COORDINATION OF INFORMATION

The amount of information outlined in the foregoing presents a daunting prospect if it needed to be collated on a regular basis by each and every donor. This points to the urgent need for better collaboration among donors and with recipient governments in pooling relevant information.

Meetings among donors working on specific countries and through such forums as the DAC occur frequently. However there is no regularized process by which the type of data described above is collected and shared and too often there is a sense of competition among donors – including multi-lateral donors - leading to unnecessary duplication of time and resources. As well the need for information places corresponding burdensome demands on recipient governments and communities.

Yet there are some mechanisms already available that might ease the burden and that lend themselves to a human rights approach.

7.1 National human rights action plans

One of the new initiatives arising from the UN Second World Conference on Human Rights held in Vienna in 1993 was a proposal for states to draw up national action plans on human rights. These would be voluntary, acknowledge national particularities and be presented to the Commission on Human Rights on a regular basis. The Australian Government drew up its own National Action Plan and tabled it at the 1994 session of the Commission and outlined current policy, challenges ahead and proposed national action for each right in the International Covenants. The concept of national action plans has since been incorporated into the program outcomes of other UN Conferences, notably at the Copenhagen World Summit for Social Development and the Beijing World Conference on the Rights of Women. In each case the proposed plan would be voluntary.

For each right in the Covenants a National Action Plan provides a summary of:

- the status of each right
- challenges for the further implementation of each right
- proposed national action to meet the challenges.

The Australian National Human Rights Action Plan can provide a model for conducting a country analysis within a human rights framework, incorporating as it does economic, social and cultural rights as well as civil and political rights.

Drawing on the experiences of the few states that have drawn up such plans we can say that their effectiveness and credibility depend on a number of factors:

- the degree of participation by various sectors in society
- the degree of involvement of all affected government departments
- accurate and disaggregated data
- willingness to present an honest account of the state of human rights.

The same holds true, however, of country reports to UN human rights treaty committees.

Donors undertaking a human rights situational analysis will find that a realistic human rights action plan would provide a great deal of information that would enable the setting of plans and goals for development assistance.

The human rights record of the donor government in this context is critical – including in those cases where it is proposed to provide assistance to draft a human rights action plan. The donor must demonstrate its own commitment by being able to produce either its own human rights action plan or its periodic reports to the Treaty Bodies, all of which reflect a genuine participatory process.

The Office of the High Commissioner for Human Rights is intent on promoting the formulation of nation action plans. Donors in countries with expertise in the area could offer their services both to the Office and to the recipient governments for this purpose.

7.2 The UN system

A number of UN organs collect masses of information that would enable a human rights based situational analysis. Some of this is already used by donors on a regular basis in the design of country programs.

The economic information available from the World Bank and the IMF forms an intrinsic part of country profiles in Ministries of Foreign Affairs and donor agencies. Seldom is this put together with human rights country profiles available from other UN sources. Unfortunately, the UN's systems for the collection of human rights information require reform and this reform is still a long way off. The proposal to accept amalgamated country reports under the treaty bodies is still quite contentious and unlikely to be resolved in the near future.

There are, however, accessible sources of valuable collated information from within the UN system. The Office of the High Commissioner of Human Rights is currently establishing a searchable data base of human rights information¹. The potential of this tool for the establishment of human rights objectives is an exciting one. When considered alongside the data available from sources such as the United Nations Development Program and UNICEF this type of material may in some cases meet most of the criteria for a human rights situational analysis. With most of the information available electronically, the burden of data collation is far lighter than in the past.

7.3 Donor consortiums

Representatives of bilateral donors meet on a regular basis at various forums. In-country there are informal meetings of agency officials to discuss common ground and to exchange views about matters of mutual concern. The UNDP at times also organizes regional meetings that are attended by most donors. The Development Assistance Committee of the OECD hosts various forums on a regular basis to explore areas of mutual interest. Finally, a number of consultative groups meet regularly with recipient government representatives through the good offices of the World Bank.

All these meetings should provide an opportunity of exchanging the type of data that is critical to a proper human rights situational analysis of recipient countries. While there is some resistance to the incorporation of human rights information in these discussions, there is no reason why individual donor agencies could not table the information they have compiled as a gesture towards international cooperation. The argument that recipient governments would resent this type of information being made available is unsustainable given the changes taking place in the development community and the increasing focus on economic, social and cultural rights.

Once again, in line with a genuine participatory approach, recipient governments should have the right to be an active participant in these discussions. This process can be categorized as the first step in the human rights policy dialogue in the following Section.

¹ This can be accessed at <www.unchr.org>

8. KEY REFERENCE DOCUMENTS²

8.1 UN Committees

Individual countries that are party to the two human rights Covenants and to the four human rights conventions are required to submit regular reports on their progress toward the realization of rights. The reports are compiled according to guidelines established by the UN and the respective committees. The latter issue commentaries on the reports which can be valuable sources of direction for development priorities. NGOs can have input into the official report and an opportunity to prepare alternative reports.

- ICESCR - This Committee collects and comments on the periodic reports of governments often accompanied by NGO reports or responses. Its General Comments on different articles of the ICESCR elaborate on their meaning.
- ICCPR - This Committee also receives country reports and has issued a number of General Comments to elaborate and clarify the meaning of different articles. It also accepts and expresses its view on individual complaints from countries that have ratified the First Optional Protocol.
- CRoC - This Committee receives country reports and issues General Comments. It has done considerable work in establishing indicators for the realization of the rights contained in the Convention.
- CEDAW - This Committee receives country reports and issues comments. Like other Committees it can also refer to and cite information from other sources and CEDAW has used data from the Compendium of Statistics and Indicators on the Situation of Women prepared by the Statistical Office of the Department of International Economic and Social Affairs.
- CERD - This Committee receives country reports and issues suggestions and recommendations. It also receives and considers communications from individuals and groups of individuals.
- CAT - In addition to receiving country reports, the Committee may decide to hold an inquiry and request a visit to the country of concern. It also receives individual and group communications.

8.2 UN Programs

- UNICEF - Compiles situation analyses of children, as well as of women and children in acutely vulnerable circumstances. UNICEF has been particularly active on the implementation of the Convention on the Rights of the Child.

² See Appendix B

- UNDP - The UNDP's annual reports provide a statistical overview of a number of important measures of economic development (the human development index) and, more recently, of poverty (the human poverty index)³.

8.3 UN Specialized Agencies

- UNESCO - Issues reports on education, leisure and culture.
- ILO - Publishes reports on labour standards and legislation, and economic data. The International Labour Organization receives regular country reports and produces specialist information on worker's rights.
- WHO - Statistics on health (for example, Mother and Child Health, Tropical Disease Research and Substance Abuse). In 1989 the World Health Organization issued its second global report on monitoring progress in implementing strategies for health.

8.4 Office of the High Commissioner for Human Rights

- OHCHR - The Office of the High Commissioner has an extensive Internet website found at <http://www.unchr.org>.
- CHR - Each year CHR receives the reports of working groups, country and theme rapporteurs and other experts dealing with a range of countries and issues. These reports are available from the Office.
- Manual - The Manual on Human Rights Reporting contains guidelines to governments on the preparation of reports under six major international human rights instruments.
- NGOs - An increasing number of NGOs - in particular those working on indigenous, women's and children's rights - have been gathering information and looking at indicators. NGOs frequently submit alternate reports to the UN in response to the official submissions or provide critiques of the official commentary. These reports are available from the OHCHR.

While it is necessary to look at individual rights and indicators of their realization it is also helpful to look at the institutional framework and the extent to which institutions are rights-aware and rights-committed.

³ The UNDP's annual Human Development Index and Human Poverty Index provide a statistical overview of a number of important measures of economic development and more recently of poverty. While at one time the former suffered from a lack of disaggregation of information this is being progressively addressed in more recent indexes. There are still improvements needed in breaking down information according to regional and other variations and disparities. As well, figures are often outcome focused rather than policy focused – changes in the infant mortality rate will be documented but not whether this change is a result of government policies or of development programs or other factors.