

SECTION TWO

GOAL AND STANDARD SETTING

Sweden's development cooperation is based on international human rights conventions.

The result of Sweden's development efforts will ultimately be measured by the extent to which living conditions improve and people have a say in shaping their lives. This in turn is linked to respect for and implementation of human rights. Sweden will promote democratization and respect for human rights with reference to the relevant international agreements, in particular the following six UN conventions: the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the Convention on the Elimination of all Forms of Discrimination against Women, and the Convention on the Rights of the Child.¹

The Rights Way to Development: A human rights approach to development assistance, noted that many if not all donors have formulated clear policies on human rights and that they have increasingly focused on poverty as the main objective for their development assistance. In more recent times some donors have taken a lead from the work of UN organs such as the Commission on Human Rights, the Office of the High Commissioner for Human Rights and UN program agencies such as UNDP and UNICEF and have placed the realization of rights at the centre of their development objectives. The Swedish White Paper quoted above is an enlightened example of this general trend in that it recognizes that the protection of human rights means focussing assistance first and foremost on those whose rights are threatened or denied.

This Section outlines the kinds of steps that donors should take for the identification of the goals for their assistance programs and some standards that should be met in any human rights approach. It deals in some detail with the nature of a policy dialogue which is based on human rights, and which aims to address the obligations and responsibilities of the stakeholders in the development process.

1. HUMAN RIGHTS OBJECTIVES

When people talk about human rights within the development context they tend to generalize, often reducing "human rights" to civil and political rights. Development *practitioners* on the other hand depend on clear definitions and specific detail to deliver product. While it is important to have broad policy statements on human rights such as the one at the head of this Section, there is also a need to approach each right with a clear understanding of the obligations

¹ 'White Paper on Democracy and Human Rights in Development Cooperation', presented to the Swedish Parliament, March 1998

and responsibilities it entails and of the way it is or is not ‘respected’, ‘protected’ and ‘fulfilled’ in order to identify obstacles and to provide the tools by which policies and programs can overcome these obstacles.

By virtue of their international citizenship and to ensure sustainable human development for their peoples, governments in recipient countries have accepted responsibility for the realization of human rights. This should be built into their own development policies and practices. Those people who are left behind by the development process and those who are discriminated against should be able to expect that their governments strive to outlaw discrimination and to ensure justice and equity and equal access to basic services to meet basic needs. Development assistance should help address these expectations, especially as a matter of priority for those whose rights are denied, and thus contribute to sustainable poverty reduction.

The non-comprehensive list below represents some of the rights needed to be realized for the equitable provision of basic services to meet basic needs on the road to poverty eradication. Such a list is the core body of objectives that must feature in all donor programs. It is the starting point from which more detailed priorities can be formulated and from which time-governed goals can be established.

In this context it is important to note that the UN Committee on Economic, Social and Cultural Rights and other human rights experts have stated that most situations call for immediate action on human rights even though some objectives may take longer to achieve. The first ten in the list below should be considered short to mid-term objectives, most of which require almost immediate initial action.

1.1 Short to medium-term objectives

1. Primary health care

- medical service accessible to all
- medical attention in the event of sickness
- access to clean water and sanitation
- safe and healthy waste disposal
- immunization
- dissemination of health information
- nutrition
 - guarantee of minimum food intake
 - ability to provide food for oneself
 - access to culturally appropriate food
 - information on adequate diet
 - food control and inspection

2. Primary education

- teacher training
- establishment of community schools
- non-formal education facilities
- access to education by women and girls and by indigenous and tribal children
 - location of schools
 - training of female and indigenous and tribal teachers

appropriate curricula
flexible schedules
social mobilization

3. End to discrimination

legislative

ethnic origin
gender
class or sector
sexual orientation
national origin

administrative

access to public service
information available to all
access to appeal process

cultural

social mobilization
community education and development

4. Law reform

legal service accessible to all
alleviation of backlog of cases
re/drafting of penal codes
support for legal aid
availability of lawyers
acceptance of community-based conflict resolution

5. Penal reform

minimum standards for prisoners
prison conditions
administrative oversight
minimum standards for custodial staff
working conditions

6. Political participation

universal and equal suffrage
free voting procedures
freedom of expression
freedom of peaceful assembly
freedom of association
access to political information
access to the political process by women
access to the political process by minorities
freedom of the press

7. Provision for redress and compensation

in case of a human rights violation
in case of a miscarriage of justice

in cases of breaches of international law
as a result of development policies

8. Special provisions of services to the poor
secondary and tertiary education
access to justice
access to employment
access to traditional lands
9. Establishment of national human rights institutions
human rights commissions according to the 'Paris principles'
ombudsmen
legal aid services
10. End of formal discrimination against ethnic groups
citizenship
right to education in own language
right to own land
affirmative action

1.2 Longer-term objectives

Action on the above can have an immediate effect as well as lead to the progressive realization of the specific right. Resource constraints may mean that some of the objectives are not achieved in the short to medium-term but the longer-term objectives must always remain part of donor strategies. These longer-term strategies will serve to achieve some of the following objectives:

1. Equal services available to all
primary health care
primary, secondary, tertiary education
2. Accountability of judicial institutions
appeal process
independent judiciary
3. Accountability of the bureaucracy
to the elected representatives
to the public
4. Full employment
5. Social security
for the unemployed
for the disabled
for the aged
for widows
6. Adequate housing, clothing, food and water

1.3 Good governance and democracy

A special focus in many donor programs is on good governance and democratization. This usually takes as its starting point the need to emphasize civil and political rights which are often seen as the key to the achievement of democracy. For example a recent policy paper prepared for the OECD's Development Assistance Committee has tried to sketch a list of what the paper calls 'interventions' that have been used by donors to promote human rights within their programs. It is clear that in this context 'human rights' is seen as equivalent to civil and political rights and the main headings below reflect a terminology not actually based on the international human rights framework. This reservation aside, this list sketches some concrete actions arising from some important human rights objectives.

Strengthening civil society

- improving services provided by the organizations of civil society, for example humanitarian and legal support for political prisoners and their families, support for street children, women and marginalized groups;
- strengthening the advocacy role of the organizations of civil society and their capacity for independent social, political and economic analysis;
- promoting democratic decision-making in the community;
- strengthening the role of independent media.

Strengthening the judicial system

- improving the functioning of the judicial system, in particular the independence of the judiciary and the fight against corruption;
- widening access to the judicial system;
- establishing alternative mechanisms for resolving disputes.

Strengthening the legislative system

- improving the functioning of democratic institutions such as the legislature and legislative committees;
- supporting special law reforms, for example in relation to land rights, gender equality and labour conditions.

Strengthening the executive system

- supporting governments in developing procedures for financial transparency and accountability and to build the capacity to audit institutions;
- developing tertiary education programs in areas such as human rights law;
- improving the functioning of police and prison systems.

Supporting transition processes

- supporting evolving democratic institutions;
- supporting electoral processes;
- assisting the demobilization of ex-combatants²

The formulation of human rights objectives, however, requires a more detailed approach and involves asking some specific questions for each right, in each case to answer 'how can development assistance contribute?'. These questions include

- What steps must be taken by authorities to respect each right?

²Walter Stolz, 'Donor Experiences in Support of Human Rights - Some Lessons'; Monograph, Netherlands Ministry of Foreign Affairs, June 1996, p 23.

- What action is necessary to protect people from human rights breaches?
- What policies need to be adopted by the recipient government within its resource constraints to guarantee at least minimum services for each objective?
- What priority choice must be made in the allocation of such resources?
- What level of participation is needed in assisting the design of appropriate programs?

One virtue of the DAC list is that it is not overly specific about the institutional systems to be strengthened. The imposition by donors of Western-style democracy flies in the face of the Vienna Declaration's call for each country to follow its own political path according to culture and national specificity. Just as there is no single road to development, so there is no single road to democracy. Genuine participation – a process towards greater democracy - can be realized in differing political systems.

For donors interested in the promotion of good governance and democratization one crucial challenge is to ensure meaningful participation at each stage - from the formulation of goals and standards, in the situational country analysis, in the design of the country strategy and country program, through to the implementation, the monitoring and the evaluation stages. Section Five provides details of how to achieve this but it is important to stress again and again the need to **involve people in decisions that affect their fundamental human rights**. Only in this way can the objective of achieving democracy be addressed.

2. SECTORAL PROGRAM OBJECTIVES

Many donors define 'sector' as a set of activities that can be identified by nature of policies that apply to it, established institutions and budgetary allocation. So, for example, education and agriculture fall within sectoral programs. In the human rights approach this use of the term sector should be related to the specific right in the international human rights framework. Thus education should be seen as it relates to Article 26 of the UDHR and agriculture will be linked to the right to food, health and work. This Manual deals with sectoral programs from a more thematic perspective and defines sectors as human communities facing common circumstances.

Particular sectors in civil society often face adverse discrimination or disadvantage and therefore require special protection or assistance to realize their rights and to redress past practices. A human rights approach to development will demand that the realization of rights of these sectors be seen as the first priority for assistance.

This has been acknowledged by most governments through their involvement with international organizations such as the International Labour Organization and support for international instruments such as the UN Convention on the Rights of the Child (CRoC), the Convention on the Elimination of Racial Discrimination (CERD) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

The need for special programs and expertise has also been recognized by many development agencies. This recognition is reflected in the standard incorporation into programs of what have

been termed ‘cross cutting issues’ such as Women in Development. Increasingly in recent years international policies relating to women and children have adopted a human rights framework. The Program of Action arising from the Fourth World Conference on Women, the almost universal ratification of the Convention on the Rights of the Child and the organizational changes in UNICEF all bear witness to this trend.

The Rights Way to Development argues forcefully that human rights is not merely another cross-cutting issue but that each sectoral interest should be addressed within a human rights framework. Accordingly, sectoral objectives should be consistently formulated within that framework.

Within a development program it is therefore important that particular expertise must be developed in relation to the realization of the rights of people in these sectors. Within the context of the human rights framework this expertise should guide the situational analysis and contribute to the formulation of the country strategy and program and to the implementation and evaluation of projects and program.

2.1 Women

The Beijing Declaration and Platform for Action from the Fourth World Conference on Women has committed governments to action. The approach adopted at Beijing has the same fundamental policy implications for the traditional development agency approach to women’s development needs as it does for recipient governments. It has also created new opportunities for international cooperation through development assistance.

In the words of the UNDP,

... while securing the rule and enforcement of the law is crucial, so too is adopting measures that enable people to exercise their rights under the law. ... promoting women’s rights means not only changing and enforcing legal codes on gender equality and property rights, but also increasing women’s access to paralegal services and local land and property registration services. ... From a human rights perspective, UNDP’s sustainable human development efforts must work to eliminate discrimination against women ...³

The objectives of the government to which a donor program can usefully contribute will thus include

- reform of the legal system as it relates to women
- outlawing overt policies and covert practices that discriminate against women in employment, education, family affairs, land rights, credit services and social security
- compensation for the effects of past discrimination
- guarantees that women are aware of their rights and of the obligation of the state to respect, to protect and promote these rights.

³ *Integrating Human Rights with Sustainable Human Development: A UNDP policy document*, January 1998. (See Appendix A)

A thorough knowledge of the international human rights instruments that affect women most directly is essential for donor agency personnel. Experience in the implementation of WID programs is not in itself sufficient for the purpose of achieving these objectives.

The rights of women

The Thailand-based Foundation for Women received support from the Netherlands Minister for Cooperation for a 'Research Action Project in Trafficking Women in Thailand' in collaboration with Leiden University.

The outcomes of the research were formulated in terms of the articles of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the recommendations to the government of Thailand were based on its international obligations. "To implement the project, there was a preliminary program emphasizing local women's participation and initiatives to find effective and sustainable solutions to their own problems." (Recommendations: To combat international traffic in women' FOW August 1995)

2.2 Children

The United Nations Children's Fund has adopted the Convention on the Rights of the Child as its guiding document and this is now reflected in its mission statement. In advocating for the adoption of the Convention on the Rights of the Child UNICEF has transformed itself from an agency dedicated to improving the welfare of children to an agency working with children and others to realize the rights of children. It has been attempting to implement the Convention programmatically and to work with donors in this endeavour.

The CRoC is the most widely ratified of the human rights instruments. It is the one which, together with CEDAW, addresses economic, social and cultural rights as well as civil and political rights in a single document. The general acceptance of the Convention makes it easier to integrate human rights in the policy dialogue when addressing support for programs targeting children. This opens the door to a wider application of the human rights approach.

That approach requires a broader understanding of the overall human rights situation and a willingness to address it. It is problematic for example to look at children's health without regard to overall health or housing policies. This is why a human rights situational analysis (see Section One) is so important in determining appropriate programming.

Following the example of UNICEF, governments can apply the Convention on the Rights of the Child in formulating appropriate human rights objectives. Donors should use national plans of action on children's rights to establish their program priorities. One critical source document for the establishment of human rights objectives in the children's sector is *Implementing the Convention of the Rights of the Child: Resource Mobilization in Low-Income Countries*.⁴

⁴ James R. Himes, Ed., Martinus Nijhoff Publishers, 1995

The rights of children

"The experience of the Convention on the Rights of the Child demonstrates that human rights can be development objectives and that dialogue with governments on even sensitive rights issues is possible." (Dr Kamalinne Pinit Puvadol of Child Rights AsiaNet on the experience of Thailand's first report to the UN Committee on the Rights of the Child)

The organization Child Rights AsiaNet is supported by a number of bilateral donors. It was involved in the drafting of Thailand's report to the CROC Committee.

This was a participatory process involving NGOs, children, community representatives and government officials. The official National Youth Bureau established a committee on the Rights Of Children consisting of government officials and NGOs to oversee and coordinate the process.

Despite there being considerable government sensitivities in acknowledging the scale of particular problems it has proved possible to agree to suggested solutions. For example the number of children working as prostitutes was disputed. NGOs estimated 600,000 children while the Government claimed a figure of 20,000. So a separate committee was established to resolve the issue.

AsiaNet emphasizes the importance of the Convention's reporting system which looks at laws, policies, government programs and allocation of resources (budgets). The final report suggested that the Thai government needed to take action in a number of areas - including the lifting of reservations to the Convention and legislative change. Many of the recommendations for action could be seen as development objectives. The reporting process has also spread a greater awareness of the rights of children throughout the Thai community.

A number of the recommendations in the report to the Committee on the Rights of the Child regarding changes to legislation have been implemented, including with respect to the right to education. One example is the recognition in the new Thai Constitution of a child's right to education. Previously in traditional Thai culture children's education has been regarded as a parental responsibility rather than a children's right. In line with the recommendations of the Thai report, the number of years of compulsory schooling has been increased and some government reservations (not all) to CROC are being removed.

2.3 People living with HIV/AIDS

People living with AIDS face particular human rights problems. Representatives from affected communities and their advocates will be able to provide a major input in the analysis of the situation and in the identification and implementation of programs. The temptation for donors must be overcome to deal with the issue as simply a technical one for the health professionals

and to address the most pressing human rights issue, discrimination. This will entail considerable research to produce an accurate situational analysis.

In most developing countries the major challenge is to identify the extent of the problem associated with people living with HIV/AIDS not only from a statistical perspective but by plotting the extent and nature of discrimination. Thus one major objective must be the establishment of adequate monitoring of the incidence of the disease and of community and official responses to it.

This will need to involve not only the participation of medical and legal professionals but that of the victims and of those NGOs working with and for them. Other objectives would include

- judicial reform
- financial assistance for HIV/AIDS support groups
- sex education
- human rights education.

2.4 Workers

The International Labour Organization Conventions together with the articles of the ICESCR provide a thorough basis for the establishment of human rights objectives in this sectoral program. However it is often not sufficient to address the realization of workers' rights simply through legislative reform. In many developing countries regulatory mechanisms are lacking either because of lack of resources or of will on the part of the authorities. The rights of workers are most at risk in the private sector where the authorities are most reluctant to act.

Donors should at the very least consider the labour laws and practices applying in their own countries as benchmarks for the realization of worker's rights in the recipient country. However, objectives for the achievement of standards in the recipient country should be based on those outlined in international standards. This will of course be resisted on economic grounds in many instances but this is where the human rights approach is most appropriate. It demands that the rights of the marginalized and disadvantaged be of priority concern.

The policy dialogue becomes important here. This dialogue should encompass the objective of ensuring that administrative practices and regulatory mechanisms are in line with international human rights norms in the same manner as the legislative framework relating to workers' rights.⁵

2.5 The environment

Governments have become more sensitive to the impact of environmental degradation on the development process. The environmental impacts of development projects and the struggles

⁵ Trade and foreign investment policies have a major impact on workers' rights. A coordinated approach among donor governments is required to ensure that these rights are protected. This approach needs to take account of the practices of the private sector and to work towards acceptance of human rights obligations by multi-lateral trade forums such as the WTO and the proposed Multilateral Agreement on Investment.

about them can lead to the violation of both civil and political rights, and of economic and social rights. There is therefore a close link between environmentally responsible development projects and the realization of human rights.

Yet many donors deal with the two separately and there is often little contact between those agencies promoting sustainable environmental practices and those promoting human rights. This applies equally to the different arms of the donor agency and to agencies of the governments in recipient countries. The issue is complicated further when the interests of advocates of environmental sustainability conflict with those of human rights defenders. Therefore,

- donors' environmental initiatives must take into account the human rights of those affected by environmental programs and
- the design of such programs must involve the participation of human rights advocates in recipient countries.

3. POLICY DIALOGUE

A close and open dialogue with recipient countries on economic, social, professional; and political questions is an integral part of Danish development co-operation.

This dialogue will also include questions on the advancement of human rights and popular participation in the development process. Continued violation of human rights and lack of interest within program countries to enter into a dialogue on these issues will be reflected in the extent and character of Danish development assistance.⁶

3.1 Nature of the rights-based dialogue

The relationship between donor and recipient governments involves continuous dialogue. In the past, however, there have been objections from many quarters to basing this dialogue on the international human rights framework on the grounds that the recipient government would not countenance this. As is argued in *The Rights Way to Development*, the exclusive focus on civil and political rights, the imposition or threat of negative conditionality and lack of consistency provide an explanation for such reactions from governments in developing countries.

Yet many donors and recipients have in fact used human rights as a basis for their policy dialogues in the context of the rights of women - particularly after the Beijing Conference on women - and much of the discussion of the sexual exploitation and trafficking of children and child labour is anchored in the Convention on the Rights of the Child.

⁶"A Developing World: Strategy for Danish Development Policy towards the Year 2000" Ministry of Foreign Affairs, Copenhagen, 1994, pp. 9-10. It is important to note that in this formulation there is a recognition of the linkage between Denmark's foreign policy and its development assistance policy. However it once again divides 'economic, social, professional and political questions' from the advancement of human rights and popular participation, demonstrating the commonplace lack of understanding among donors of the economic, social and cultural rights dimensions of development cooperation.

Just as the fulfillment of rights may entail a progressive process, a single policy dialogue is unlikely to bring about immediate and complete change. A rights based policy dialogue entails persistence, patience and the willingness to work with the recipient government to bring about the end of abuses as well as to take a long-term perspective. Such an approach flows directly from the primary objectives outlined above. A rights-based policy dialogue engages the recipient and the donor government in discussions at all available and appropriate forums. These stem from the donor's human rights policy and from a common commitment to the achievement of human rights objectives. Opportunities that will arise include,

- ministerial level meetings
- 'high level' meetings
- seminars, conferences and roundtables
- written materials
- program design discussions
- selection of project funding.

The argument is often put forward that it is the recipient government that decides the priorities for any development assistance. This sometimes disingenuous claim is undermined when one considers the power imbalance between donor and recipient: the donor has the resources, the recipient gratefully accepts the offered help. The donor's own policies dictates the amount and the kind of assistance proffered. The process in reaching agreement on the nature and direction of the country program is one of negotiation leading to the acceptance of responsibilities on both sides.

A dialogue on the human rights approach to development assistance differs in a number of ways from the existing discussions of country programs with recipient governments and in the process of drafting memorandums of understanding (MOUs).

- It brings consistency to development policies by making explicit a common commitment to the human rights framework and contextualizes the donor's expectations within that framework.
- It provides legitimacy to the dialogue process by a call for a measure of meaningful participation.
- It clarifies donor and recipient human rights-based priorities for the development assistance program.

3.2 Participation

The participation of individuals, communities and their representatives is now recognized as critical to successful development outcomes. Recognition of human rights also demands recognition of the right to participate in the process of development.

A rights approach to development assistance involves participation of the recipients, both governments and people, from the outset - that is to say from country analysis through the subsequent policy dialogue, the program and project design and implementation stages and at the evaluation stage.

This participation is important as a practical recognition of the right of stakeholders to take part in decisions affecting them, as a process of establishing the relationships between donor and recipient and as a contribution toward strengthening what has been termed civil society.

- Participation should be a clearly articulated principle in the initial policy dialogue between donor and recipient governments.
- Resources should, be earmarked by the donor to assist this participation.

3.3 Conditionality

Linking human rights and development assistance has been discredited in the eyes of some developing countries because of the arbitrary and selective manner that negative conditionality has been applied. This is dealt with in *The Rights Way to Development* where it is pointed out that conditionality has a place if used responsibly and based on the principle enunciated in Article 2.1 of the International Covenant on Economic, Social and Cultural Rights, namely a stress on international *assistance and cooperation*.

It is important therefore that donor policies on conditionality

- are explicit
- are transparent
- clearly state the grounds on which negative conditionality might be invoked⁷.

This will enable recipient governments to have a recourse to international law if development assistance is suspended or curtailed arbitrarily.

It is also important for the legitimacy of this aspect of the dialogue that the process for establishing these conditions be a participatory one. The imposition of negative conditionalities often affects those whose rights are supposedly being protected, with limited impact on the recipient governments and a refusal by these governments to change their practices or policies⁸. A minimum involvement of the stakeholders will assist in establishing equitable criteria for the imposition of negative conditionalities by donors.

3.4 The contract

The general agreements on development that are signed by donor and recipient governments seldom provide much detail of the contract between them, focusing rather on some technical conditions for the delivery of the program. To advance the human rights objectives agreed to by the two parties through a process of negotiation, such agreements must incorporate rights language and the memorandums of understanding must reflect these objectives.

⁷The Belgian Government has attempted to outline such conditions in its policy on development assistance. However the formulation 'suspend all cooperation with a recipient government only in cases of outbursts of massive and grave violations human rights' is not specific enough to avoid accusations of lack of consistency.

⁸ An often cited example is the denial of the economic and social rights of the Iraqi people through the use of international sanctions and embargoes.

From a standard-setting point of view the process of negotiation should ensure that these documents include certain baseline statements of commitments to the human rights approach. These would include,

- the human rights policies of the donor and the recipient,
- the specific human rights objectives of the country program
- a clear and detailed statement on the donor government's position on conditionality listing conditions under which development assistance will be suspended or withdrawn
- the process for meaningful participation at each stage including such mechanisms as the In-Country Representative Team and other conflict-resolution and complaints procedures.

There may well be resistance from some to the inclusion of these considerations in official agreements between donor and recipient governments. The acceptance of this approach will be facilitated by consistency within and among donor agencies.

4. POLICY DIALOGUE COORDINATION

The impact of a policy dialogue can be seriously affected by a number of factors including the position of other donors. Hence there is a need for a coordinated approach among the many players in the development assistance field, not only to emphasize the rights approach but also to ensure consistency and non-selectivity.

The human rights policy dialogue among donors needs to be a continuing process. The efforts to ensure that this takes place must also be an integral part of the policy dialogue. Many multilateral forums are available for such dialogues and provide the opportunity for consultation with other donors.

4.1 Coordination among donors

While dialogue between donors is a regular practice, there are nevertheless recurrent instances of duplication and even competition among donors. Some of this stems from the foreign and economic policy imperatives of the donor governments. It is not unusual for NGOs in recipient countries and sometimes even for recipient governments to exploit this competition and to play donors off against each other.

Using the human rights approach means that donors focus on a rights outcome which can assist in a better division of priorities and foster common strategies while enabling them to support programs in which they have the greatest expertise.

- Every effort should be made to ensure a standardized human rights approach to development assistance among donor governments.

- The approach must be based on the commitment to achieve the realization of all the rights in the International Bill of Rights and other human rights instruments.
- A standardized approach must not be dependent on consensus among donors.

The Canada-Sri Lanka Program

The Canadian agency CIDA in 1989 acted on the advice of the local diplomatic post in Sri Lanka following the breakout of ethnic conflict and elected to redirect its aid from massive infrastructure programs towards human rights.

Human rights became a priority area in Canada's Sri Lanka policy. The program was run essentially from the post which implemented the now primary priority in the dialogue between the Canadian and Sri Lankan governments.

The High Commission developed high-level contacts with local human rights groups and the academic community and relied on information for its human rights analysis on such international inter-governmental and non-governmental organizations as Amnesty International and the UNHCR.

The policy dialogue revealed differing views within the administration and it was decided to cut support for a major multilateral program on the grounds that it favoured the policies of one of the parties. Reflecting the human rights focus in the program, Canadian delegations to the World Bank aid consortiums convinced other donors to consider human rights (although they failed to persuade donors to coordinate their program activities), leading to increased pressure on the Sri Lankan government.

Those involved in the program have stressed the importance of transparency of the human rights approach in winning the cooperation of the Sri Lankan government.

4.2 Coordination at multi-lateral forums

Aid consortiums are an intrinsic part of the policy dialogues with recipient governments. As such they should be used to set the priorities for development assistance in terms of the realization of economic, social, cultural, civil and political rights. The threat of suspension of activity has not often been a feature of the dialogue in aid consortiums but where it has the threat has always been based on violations of civil and political rights. An equal emphasis on economic and social rights (and not simply economic development) will do a lot to calm the anxieties of recipient governments understandably resistant to imposed conditions based on civil and political rights.

- Donors and recipients should promote policy dialogue based on the international human rights framework in multilateral forums.

4.3 Policy integration

Coordination among departments of each donor government is also necessary to demonstrate the donor government's commitment to human rights. All too often a donor agency speaks a differing language from that of the ministry for foreign affairs and that of the trade arm of government. While each of these should act upon a common agenda, at the very minimum they should all be aware of the government's development assistance policy and take care not to undermine it in parallel dialogues.

Officials from foreign ministries, particularly officials with in-depth country and human rights knowledge, need to be involved in the process of developing country strategies and committed to pursuing the agreed objectives.

- All government departments dealing with countries receiving official development assistance must be aware of the government's human rights approach and must contribute to its implementation.

Policy coordination - Canada-El Salvador

The Canadian agency CIDA was involved in a bilateral program on human rights and democratic development with El Salvador during and following the civil war. Facing some domestic and international criticism, CIDA conducted a 'lessons learned' analysis that was the basis of an internal review within the agency.

The diplomatic post including locally engaged staff were involved in dialogue with the El Salvador government. However the review found that this was not necessarily focused directly on projects and the conditions for their implementation. For example support for cooperatives was undermined by the land titling policy of the government and the private sector model of economic development. While the participation of various sectors was sought, this was not seen as an important feature of policy dialogue with the government.

Hence the lesson that '...dialogue with governments at the policy level can be an important, even essential complement to program activities. Without policy change, project level results can be lost or undercut.'

The review also recommended that policy dialogues should extend to other donors.

It noted the importance of policy coordination and the need for cooperation between ministries of foreign affairs and development cooperation. Analysis showed that international donors were in fact substituting for the state in the provision of basic services such as health care. While this is understandable in a conflict and post-conflict situation where the necessary infrastructure is lacking, the review emphasized the need for a dialogue with the government early in the process to ensure sustainability after the assistance has ended.

4.4 Policy consistency

4.4.1 Within the donor agency

All parts of a donor agency must support and contribute to the human rights objectives. This requires a thorough understanding of human rights among all staff. The rights approach requires a commitment at the highest level of the agency to train and recruit staff with human rights expertise.

- As part of this process there should be capacity within the donor agency to
 - oversee the development of human rights expertise across the agency
 - coordinate agency communication and liaison with the mechanisms established by the UN and regional IGOs to monitor and report on human rights
 - monitor developments in international human rights standards and mechanisms and to incorporate these into the agency's training and practices as appropriate.

The responsibility for this should reside at the highest level of the agency (Director General level or equivalent) so as to underline the importance and significance placed on this facility. This does not mean that human rights are to be isolated at that level. On the contrary, training in human rights should be a consistent part of the staff development program throughout the agency.

Agency staff developing country strategies and programs need to have knowledge and expertise on the human rights situation in that country. They also need to be able to consult with other relevant sections within the donor agency, including those with specialist knowledge of women's and children's rights or other sectors identified in the country analysis.

Donor agency officials with particular human rights expertise in these areas should as much as is practicable be involved in the policy dialogue and objective setting with recipient government officials and other stakeholders.

In addition, agency staff with particular expertise in participatory planning should be consulted to ensure that the measures taken to gain the participation of all stakeholders are appropriate.

4.4.2 Outside the Donor Agency

a) Donor country

The rights approach makes it imperative that development assistance be a component of a broader government commitment to pursue the realization of human rights. It is therefore important that individual country strategies for development assistance are consistent with the human rights objectives of the ministry of foreign affairs and the donor agency.

There is considerable expertise among human rights experts and NGOs outside the donor agency and the foreign affairs department. To ensure accountability and transparency and to gain from

wider experience that may exist, NGOs should be formally invited to participate - and where appropriate be assisted to do so.

b) United Nations or regional organizations

Where the country concerned is a party to the ICCPR or the ICESCR, recommendations for action made by the treaty monitoring committees in response to reports submitted should be given particular weight when considering the focus and objectives of the country strategy and program. In appropriate circumstances the committees could be consulted directly.

Where the country concerned has been the subject of resolutions or Statements from the Chair in the Commission on Human Rights or the focus of reports by any of the UN Human Rights Treaty Bodies or Special Country Rapporteurs or Representatives, the country strategy and program should refer specifically to consultations with and recommendations from these mechanisms.

4.4.3 Recipient country

Following on from the country analysis, recipient government officials, independent experts, community representatives and other stakeholders should continue to be involved in the strategy building process. Continuing involvement of some participants may have its own benefits in terms of building capacity, expertise and thereby contributing to the development of civil society, but it is also important for reaffirming the donor agency's commitment to genuine and broad participation.

It is possible that in such a participatory process differences and disagreements may arise, for example between recipient government officials and national level NGOs, between a national NGO and a CBO, or between developers and CBOs.

There should be an agreed process for arbitration and resolution agreed in advance to resolve continuing differences over specific objectives or priorities. (Mechanisms for addressing these issues are outlined in Section Three and Four.)

This process needs to be based on

- the need and shared commitment to achieve human rights outcomes
- recognition of the rights of individuals and communities to determine their own development
- individuals and communities having and being informed of opportunities to appeal for independent reviews of decisions they believe will have an adverse effect on their human rights
- the provision of compensation and other appropriate forms of redress for individuals and communities adversely affected by development projects that proceed in accordance to the above principles.

5. NATIONAL HUMAN RIGHTS PLANNING

The importance of human rights planning is stressed throughout this document. The preparation of national plans of action aimed at the progressive realization of economic, social, cultural, political and civil rights is a high priority for the technical services and support branches of the Office of the High Commissioner for Human Rights.

Where governments are parties to the UN human rights instruments, national action plans on human rights will assist in the formulation of country reports to the treaty bodies, just as country reports can be used in the drafting of plans.

Most governments have planning bodies either as separate departments or as statutory authorities and the drafting of development plans is a feature of most countries. These plans focus almost exclusively on economic development and ignore human rights planning. Nevertheless, some of the plans do take into account of human rights priorities and can be drawn upon for human rights action plans. The ideal will of course always be a complete integration of both types of plans.

- Donors should use the human rights policy dialogue to encourage recipient governments to draft national plans of action on human rights.

It is appropriate here to emphasize once again that donor government will need to establish their credentials in human rights planning. Donor governments have more resources than recipient governments and so should lead by developing their own national action plans without delay. They will have no credibility in encouraging developing countries to adopt action plans if they fail to do so themselves. This applies equally to reports to the human rights treaty bodies.

5.1 Action plans

The concept of national human rights action plans was proposed at the Vienna Second World Conference on Human Rights and 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.

Many countries have little expertise in drafting their country reports under human rights treaties or their national action plans on human rights, or at least have not yet developed the skills to involve popular participation in the process of their production.

To assist recipient countries to draft a national human rights action plan donors should

- provide financial and technical support for the gathering of data
- provide support for community participation in the drafting process
- provide assistance for the administrative aspects of the drafting process (inter-departmental consultations, research and analysis etc)

Formulating human rights action plans requires a longer-term perspective. Here the challenge to governments is greatest. It requires at least five basic steps:

- establishing goals for a measurable time ahead (five-year plan, decade)
- formulating principal strategies and programs for achieving the goals within the allotted time
- defining and allocating the institutional responsibilities for achieving the goals
- assessing the costs of and financing each goal
- setting of indicators of success.

Donors can offer their expertise to encourage a rights-based formulation of plans which can help the design of development assistance programs. For example a proactive approach might involve:

- in the course of dialogue with the recipient government, discussing the national plan
- if there is none, offering to provide technical and financial support for drafting a plan
- finally, offering to fund specific aspects of the action plan.

The form of this assistance might include

- promoting the proposal at intergovernmental forums
- exchanges between officials responsible for planning
- offers of technical assistance
- training programs
- support for and involvement in conferences with
 - communities groups
 - academic experts
 - development NGOs.

5.2 Reporting to the treaty bodies

Donors can also draw on their experience in the drafting of reports to the UN human rights Committees to assist recipient governments both in terms of knowledge and in the provision of resources to facilitate the process of participation. Indeed, donors can also provide assistance in drafting the reports.

The on-going policy dialogue provides opportunities to offer assistance where this is required, particularly when a government has only recently become a party to the international instrument.

To enable the preparation of country reports to human rights committees donors can provide

- technical expertise
- training
- support for attendance of responsible administrative staff at committee sessions.