

MODULE FIVE

Rights-Based Emergency Work
Analysis and Practice

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Introduction to the module

Over the last decade the notion of human rights has become a key component of development theory and practice. Central to this process is the idea that poverty is *a violation of human rights*.¹ Similarly, human rights perspectives have been incorporated into other disciplines, such as international relations or, more recently, humanitarian aid.

In module two we examined, from the angle of its values and principles, the formulation of a new humanitarianism based on the idea of rights. Built upon the foundations – conceptual, ethical and legal – laid down by the previous sections, **module five** intends to provide you with a basic introduction to the core subject of this learning programme: **rights-based emergency work**. We will cover the major issues and current debates concerning the application of a rights-based paradigm in emergency practice, with a particular focus on the area of analysis.

The module has a practical ‘vocation’. In fact, it is designed with a view to being implemented incorporating a relevant field visit.

Learning objectives

- The participants will be able to relate relevant human rights and humanitarian law and principles to emergency practice, incorporating a rights-based perspective to their analysis
- The participants will enhance their understanding of the nature, practical application and implications of a rights-based approach in the context of emergency work
- The participants will be able to identify examples of rights-based emergency work through which they can promote and protect human rights

Guidance notes:

Rights-based ‘approaches’ are without doubt one of the topics of the day. We all know that these approaches have to do with the promotion and protection of human rights. Yet many are still trying to come to terms with their meaning and implications for our work. This module lays no claim to having an answer to such questions.

Our aim is more modest: to give the participants the opportunity to identify a number of key issues and debates related to the formulation and application of rights-based approaches in emergencies. Of course, we will start by discussing the meaning and characteristics of our buzzword: *rights-based approach*

But we would like to go beyond theory. As we argued in our introductory chapter, we are trying to build learning for, and through, action. This is why the central part of module five is a field visit: a practical experience in which the participants may engage actively in the process of assessment and analysis of real situations of emergency. But please do not feel discouraged if you cannot afford a real field visit. We have already run exercises based on virtual-reality field visits and case studies with positive results.

The important thing is to make sure that the participants go to the ‘field’ equipped with their conceptual gear, their ethical compass, their legal tools, and a pair of *rights-based glasses*.

I. A rights-based approach to emergencies

Setting the scene²

"We will seek lasting solutions to poverty through the establishment and enforcement of rights that entitle poor and marginalised people to a fair share of society's resources. We will work alongside poor and marginalised communities to enhance their control over productive and social resources, their command over development interventions, and their ability to defend their interests. This approach recognises the active role of poor and marginalised people, while emphasising the responsibilities of state and society towards them.

We support the contemporary understanding of the Universal Declaration of Human Rights, which recognises the interdependence of social and economic rights on the one hand and civil and political rights on the other".³

With these words, ActionAid's current strategy describes its evolving approach, under which the promotion of basic rights becomes a primary focus of all its work. In line with it, AA's current *Emergency Strategy* adopts a 'rights-based approach', recognising that

In emergencies, especially in conflicts, the peoples' rights are routinely denied. In fact, systematic denial of rights is recognised as a key factor in the emergence of conflict"

But

What is a rights-based approach?
 Does it offer us any added value in comparison with previous approaches?
 If so, how can we apply a rights based approach?
 What are the main implications of such a move?
 What dangers, dilemmas and challenges may we face?

In modules one and two we noted the process of 'revitalisation' of the idea of human rights over the last decade or so. 'Rights talk' has become the prevailing discourse of the post-Cold War era. *"Today increasingly more people couch their demands in 'rights' terms: politicians and diplomats, academics and journalists, minorities and majorities, humanitarians' and 'developmentalists'".⁴*

In the field of development and emergency practice, more and more agencies are formally committing themselves to the adoption of 'rights-based approaches'. United Nations agencies, individual governments (e.g. British Government) and a great deal of non-governmental organizations (e.g. Oxfam, ActionAid, HelpAge International) now share the manifest intention to mainstream human rights throughout their policy and practice.



We also explored in module two some of the implications of adopting a rights-based approach to emergencies. Our discussion, at that point, focused on the moral and ethical foundations upon which the new rights-based humanitarianism is built.

Module five encourages us to take a closer look to the nature and repercussions of rights-based emergency work. The module has three main sections.

Section one provides a general panorama of the main features of a rights-based approach in the context of emergencies. It also suggests a number of areas in which it can be applied in practice.

Section two outlines the central attributes of a rights-based analysis, and presents two mini-case studies based on ActionAid's rights-based work. The section also incorporates some comments on the integration of rights and vulnerability analysis in the context of emergencies.

Section three will give us the opportunity to identify some more specific examples of rights-based emergency work.

Guidance notes

Our learning journey is reaching its crucial stage. We have already sailed across the treacherous seas of political, moral and legal theory. Now the time has come for rights-based action...

But perhaps it would be advisable to find out the strengths of our crew. Many of them may have lots of experience in emergency work, and perhaps in the field human rights practice. Let us work in groups and share our experiences and views around the work we do in our agencies. Is it rights-based? How do we define rights-based approaches? Any examples of rights-based work?

Using the participants' ideas and experiences, the facilitator may give a short presentation setting the scene (see below *what is a rights-based approach? what added value...?*)

What is a Rights-Based Approach?

Even at the risk of being censured as ‘tautological’, I would define a rights-based approach as an *approach* based on *rights*. The question is *what is an approach? And what is a right?*

The meaning of the term approach

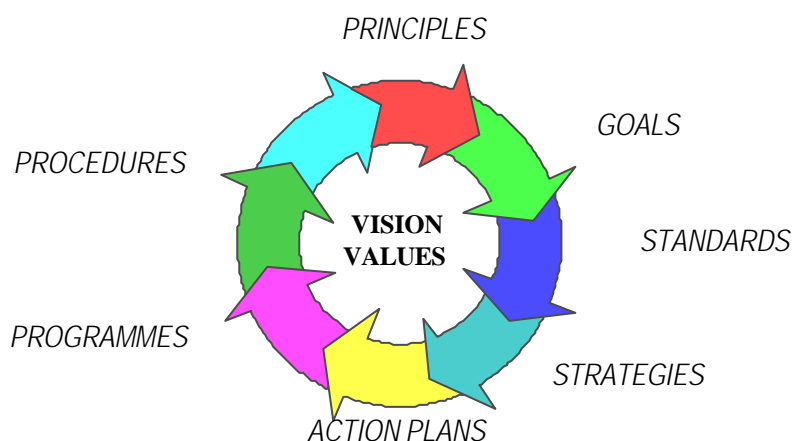
The term ‘approach’ may have different meanings. As a verb, it conveys a sense of *direction*, of movement. To approach is to move towards, to make steps towards something or someone. It also suggests a sense of *advancement* and *progress* (we come nearer to our objectives). As a noun, the concept incorporates new meanings beyond the idea of a mere movement. An approach may entail certain methods, tactics and strategies. It is also about *how* we move, how we proceed. It says something about our perspective, our ‘way’, and also about our attitude.

Diagram 5.1 – Meanings of the term ‘approach’.⁵

To move towards	Method	Style
To make steps towards	Tactic	Way
To advance	Line of attack	Attitude
To proceed	Strategy	Mode
To come near (nearer) to	Methodology	Perspective
		Paradigm

In the field of development and emergency work, we use several expressions as interchangeable: *approach*, *way*, *mode*, *perspective* and *paradigm*. Generally speaking, they refer to

- a [more or less coherent] body of principles, goals, standards, strategies, action plans, programmes, and procedures which respond to a particular vision, to particular values and interests.



⁵ By saying the same thing more than once in a different way without making one's meaning clearer.



It can be argued that to affirm that our approach, mode, way or perspective is **rights-based** means that *our principles, goals, standards, strategies, action plans, programmes and procedures are based on the notion of rights*. Ultimately, the realisation of rights becomes a central component of our vision and values.

So what are rights? Which rights? Whose rights?

At this point, I assume that those of you, who joined me five modules ago, are in a position to help me answer these questions. Any volunteer?

Yet a point remains unclear, I am afraid. When talking about rights-based approaches, are we referring to human rights, or just rights? Some, like ActionAid and HelpAge International, talk about 'rights-based' approaches. Others, like Hausermann (1998) and the Human Rights Council of Australia (1998) talk explicitly of human rights-based approaches. Others use both terms indistinctly (e.g. UNICEF). Yet, it seems that all really mean human rights.

In the previous modules we discussed different definitions of rights, human rights, and also women's rights. We identified their specific sources, nature and basic features.

In this regard, I have argued somewhere else⁶ for a broad understanding of the meaning of rights in the context of our current approaches to emergencies. Certainly those human rights and fundamental freedoms contained in international, regional and national legal systems must remain our keystone. They are our essential benchmark, but should not become a straitjacket. There is a tendency to focus on those rights as articulated in legal instruments, and understood just as claims held by individuals against States. In my opinion, a rights-based approach, by focusing on the way in which social relations are defined within a particular community, demands a wider definition of rights (see below *Get your rights-based glasses... 4. Scanning & broadening our view of rights*).

* * * * *

In the absence of an agreed definition, recent attempts to characterise a rights-based approach have centred on providing a basic framework for analysis and discussion. Accordingly, in the context of emergencies, a rights-based approach is based upon two main considerations:

1. Firstly, access to victims is not an end in itself.⁷ The ultimate objective of any emergency intervention should be the **realisation of the human rights** of those affected by conflict and disasters.
2. Secondly, a rights-based approach rests, to a large extent, on its **legal foundation**, whose rudiments cover a wide range of moral and legal principles, norms, institutions and procedures at the local, national and international levels (see modules one to four).

What added value does a rights-based approach offer over previous approaches to emergencies?

We believe that a rights-based approach offers a highly valuable framework for policy and practice in the context of emergencies, since:

- ❑ It provides a **sound legal and moral basis** for addressing the complex questions that we face in our emergency work. Human rights and humanitarian standards constitute a consistent platform upon which to build a common project. A project which embodies the core values of dignity, equality and humanity; and which is legitimised by a comprehensive legal system almost universally accepted, at least formally.
- ❑ A rights-based approach offers us a **comprehensive and coherent analytical framework** for more effective planning, implementation, and evaluation of emergency programmes. It also strengthens the links between programming and advocacy work (see below: *Rights-based analysis in practice*)
- ❑ In terms of **accountability**, such a framework helps clarify the roles and responsibilities of the different actors involved in humanitarian crises. In addition, it brings into play the international machinery of human rights accountability as developed within the UN system and subsequently complemented by national systems and the already mentioned self-regulatory codes and standards.
- ❑ It also provides objective criteria for **co-operation** and **co-ordination**, based on common language, common goals and strategies, and often a common vision.
- ❑ By focus on the systemic denial of human rights underlying humanitarian crises, it encourages the development of **long-term and sustainable solutions**.
- ❑ "It promotes **self-reliance and dignity** of the people suffering denial and violation of rights, instead of reducing them to passive recipients of services or goods".⁸

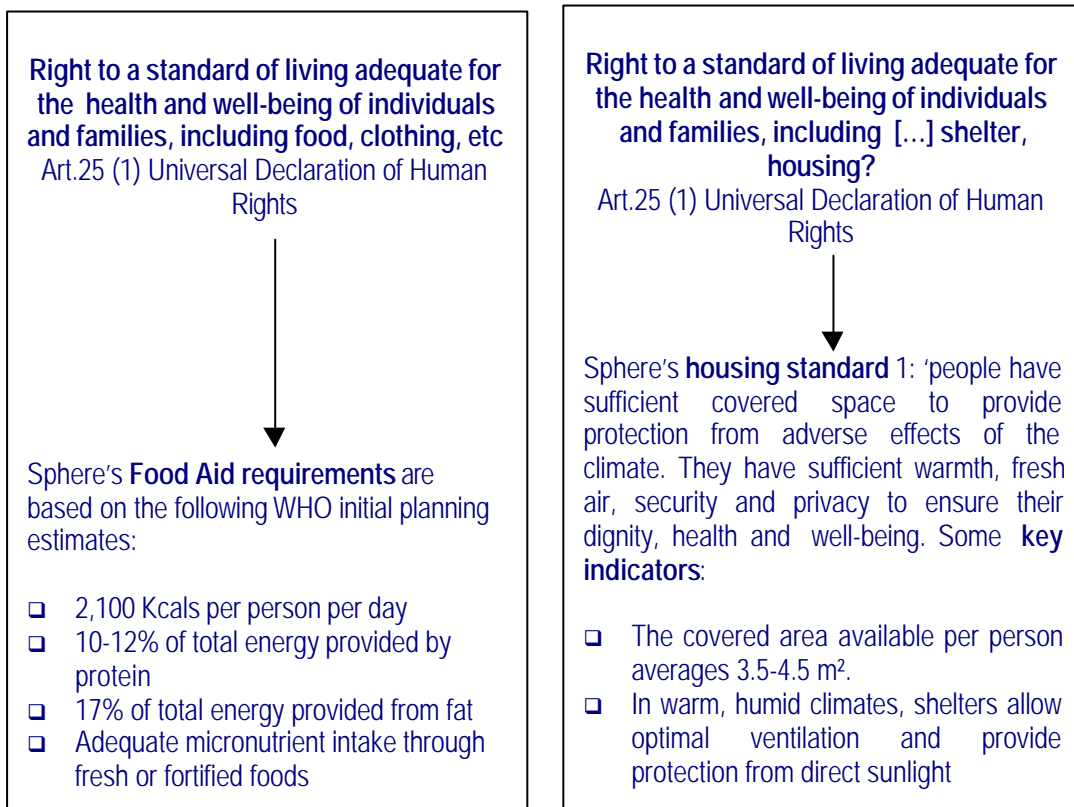
Applying a rights-based approach

Despite the impressive body of human rights laws and standards in place (modules three and four), a key challenge remains: *how to translate all these norms, principles and standards into effective operational instruments and tools*. In this regard, a rights-based approach to emergencies may play an



important role in this process of operationalisation, while contributing to disentangle some of the complexities and contradictions underlying humanitarian disasters. A number of practical guidelines can be suggested:

- The current international legal framework applicable to humanitarian crises provides an effective tool for the development of **operational principles and standards**. They can be adapted to the specific context in which they are to be implemented. The Sphere Project's Humanitarian Charter and Minimum Standards provide a remarkable example of *this 'process of specification'*. For instance:



- By addressing the structural inequities underlying conflict, violence and natural disasters, a rights-based analysis advances **the integration of emergencies and development practice**. ActionAid India's *Super Cyclone Social Reconstruction Project* in Orissa is an example of such a comprehensive approach. This project includes basic relief and protection initiatives, with long-term strategies for rehabilitation and reconstruction, such as institution building at different levels and livelihood promotion.



El Salvador (2-2-2001). Does this type of temporary shelter guarantee an adequate standard of living for the health of individuals and families?

Photo: Luis Morago



- Rights-based humanitarian interventions should address the critical issues of *protection and vulnerability* reduction in relation to the most disadvantaged individuals and groups. Particularly the adoption of a rights-based approach forces us to address the dramatic **denial of women's and children's rights in the context of emergencies**. As we discussed in module four, the deliberate use of rape and sexual violence as a weapon of combat and humiliation has become a common practice in contemporary conflict (e.g. Bosnia, Rwanda and Sierra Leone).

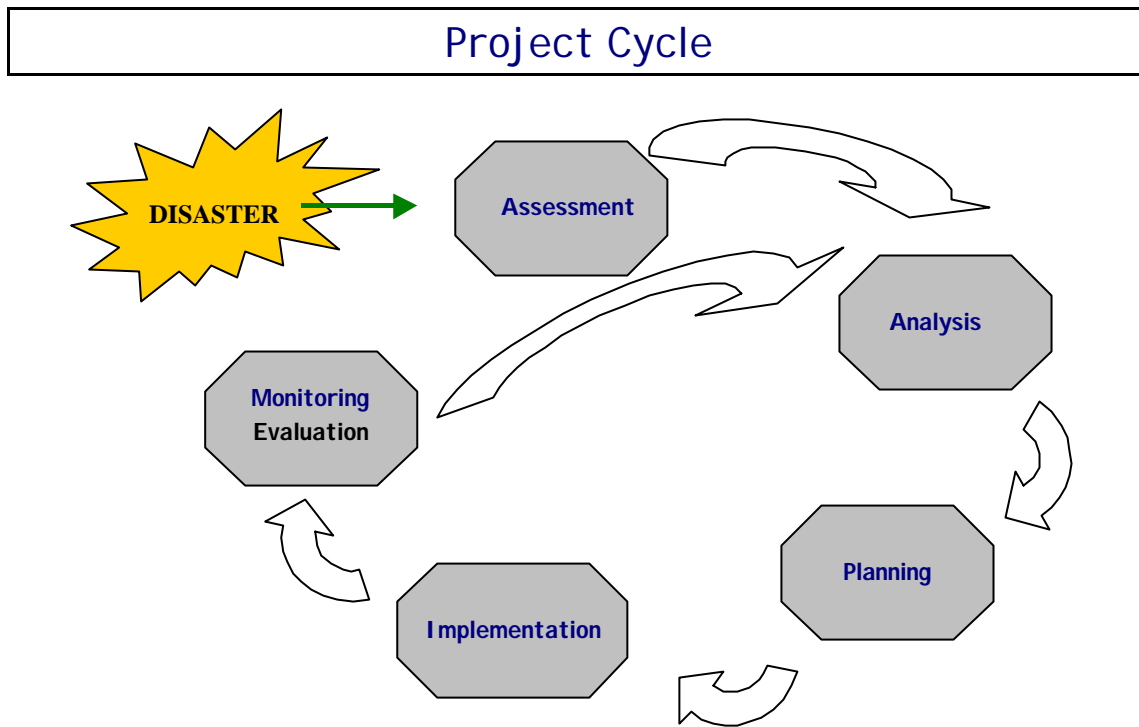
In addition, women refugees have usually been excluded from food distribution mechanisms in refugee camps. This circumstance often leads women to take up prostitution as the only way of gaining access to food aid. An equally shameful reality relates to the widespread abuse of children's rights in conflict (e.g. abduction and recruitment of child soldiers).

- Increasingly humanitarian agencies play a critical role as witnesses of suffering, violence and gross violations of human rights. In this respect, some agencies have already enlarged their range of 'humanitarian' activities, including human rights **monitoring and reporting** (e.g. Médecins Sans Frontières - MSF). These new roles demand a clear understanding and knowledge of issues such as: *which human rights information is relevant, what methods of information gathering and management are to be used, and what channels of information are the most effective*.

- Increased knowledge and understanding of human rights and humanitarian principles, norms, procedures and institutions will make possible more confident and better informed decisions concerning the utilisation, development and consolidation of effective **accountability mechanisms**. In Orissa, for instance, ActionAid India has developed a *social audit* component as part of its strategies.

Social audit involves the community in the management, monitoring and evaluation of the reconstruction process (e.g. scrutiny of accounts and operations). Including communities in this way ensures transparency and accountability, while promoting trust and credibility.

- In addition, a rights-based approach endorses a whole range of complementary activities, such as the promotion of legal and policy reform, assistance to communities, partners and governmental departments to strengthen human rights institutional frameworks, provision of legal assistance, and support of relevant educational and training initiatives.
- A rights-based approach may be effectively applied throughout the **emergency management cycle**. Planning, emergency preparedness and needs assessments will address the promotion and protection of human rights. Each stage will envisage the impact of humanitarian action/inaction on the human rights of those whom are supposed to benefit from it. Equally, human rights standards provide a coherent set of indicators for monitoring and evaluation in emergencies.



Source: Adapted from The Sphere Project's Training Modules (Module 3)

In the introduction to the module, we said that our particular focus was going to be the area of analysis. Our next section invites us to look at the world wearing a pair of rights-based glasses

Guidance notes

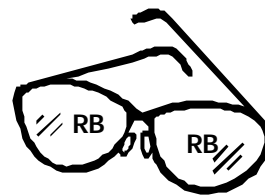
We have already set the scene, and gathered some ideas about the definition and application of a rights-based approach in emergencies. Section II offers us a flexible framework for the exercise of analysis we are just about to carry out (see below and appendix M5).

II. “Get your rights-based glasses”: rights-based analysis as a practical tool⁹

A rights-based approach asks us to look at the world through a certain lens: a lens that focuses on human beings as they enjoy, or are deprived of, their basic rights and freedoms. In this sense, it draws our attention to the systematic denial and violation of human rights, which often lie beneath poverty, conflict and natural disasters.

It seems, however, that the resulting field of vision still appears to us somehow unclear, blurred. Not surprisingly, many practitioners have already expressed the need “to get a clearer picture” of rights-based theory and practice. In other words, the **need for a better analysis on rights issues**.

Perhaps what we need in order to improve our vision is a pair of **rights-based glasses**. Building on current analytical frameworks (e.g. empowerment approach and vulnerability analysis), these spectacles would have the following properties:



1. *Shifting the focus & widening the field of vision*

By shifting the focus of the analysis towards the structural causes of poverty and humanitarian crises, *the rights-based glasses turn our attention to the societal arrangements of a particular human community*. Hence the emphasis is placed on the **position** of individuals and groups within society, rather than exclusively on their *situation*. The ensuing analysis will address some fundamental questions:

- ❑ *who defines the nature and scope of the relations both within the group and between members and non-members of the group?*
- ❑ *what are the formal and informal instruments of regulation of such relationships (including social, political, economic, legal and cultural mechanisms)?*
- ❑ *what are the existing patterns and causes of inequality, exclusion and vulnerability?*
- ❑ *who are the winners and losers resulting from the interplay of such patterns and causes?*
- ❑ *to what extent do those patterns reflect the values, principles and norms proclaimed in the wider legal system applicable in that society?*

Since virtually each human society organises itself around the basic notions of rights and obligations, our rights-based glasses widens our field of vision *reconciling analyses of power, governance and rights*. The fact is that emergencies, especially armed conflicts, may lead to the collapse of those institutions which form the social fabric of the affected communities. But crises can also bring opportunities. As the case studies below show, emergencies often expose existing patterns of oppression and injustice, creating space for change and reform. A rights-based analysis will take both challenges and opportunities into consideration.



2. *Dissolving differences & revealing linkages*

A rights-based analysis advances **the integration of emergencies and development practice**. At the level of principles, the rights-based glasses act *dissolving* the traditional differences between humanitarianism and development. As Slim¹⁰ argues, *both are concerned with saving life, both are short and long-term, and both are political in the proper sense of being concerned with the use and abuse of power in human relations*. Essentially, humanitarianism and development share a fundamental belief in human dignity and in the essential equality of human beings.

In practical terms, a focus on rights reveals further linkages between emergency and development work, encouraging innovative programming and policy initiatives. Closely inter-connected, poverty and vulnerability to emergencies often share a common root: the widespread denial of specific rights and freedoms. Our case study on ActionAid's work in Western Orissa provides a clear illustration of rights abuses and denial of freedoms as a common source of poverty and vulnerability.

3. *Combating short-sightedness*

The rights-based glasses help us combat short-sightedness. They *strengthen our ability to look at both the past and the future* by unveiling the **long-term nature, causes and implications of poverty, conflict and suffering**. As a result, short-term relief interventions are seen within the context of longer-term processes. If vulnerability reduction is about transforming power relations as well as extending rights and freedoms, both short-term emergency work and long-term development are complementary, mutually reinforcing.

4. *Scanning & broadening our view of rights*

When analysing human rights, there is a tendency to concentrate on the lists of rights and freedoms contained in the different international and regional legal instruments. Without denying the relevance of such instruments, our rights-based glasses compel us to scan those **rights as formulated and internalised by the different national and local legal systems**. ActionAid's programme in Burundi exemplifies the importance of including local values and institutions as a key component of a rights-based analysis.

Similarly, rights are often narrowly understood just as 'claims' held by individuals against the state. There is, however, a wider range of rights, freedoms, powers and immunities to be taken into consideration. Amartya Sen's *capabilities approach*¹¹, for instance, focuses directly on freedoms, defined as individual capabilities to do things that a person has reason to value. As ActionAid India's experience in Orissa shows, together with a set of rights and entitlements to be claimed directly against the State, there is also a set of inter-related rights and freedoms, whose denial and abuse take place within the private sphere of the poor and marginalised.

5. *Zooming in on dilemmas*

A rights-based analysis forces us to address the contentious question of **the relationship between humanitarianism and politics**. It is said that addressing issues of structural denial of rights cannot be politically neutral. As emergency, development and human rights practice converge, a number of critical dilemmas arise. According to Leader and Macrae¹², the increasing merger of objectives of aid and politics poses a risk of violation of key humanitarian principles, particularly independence and neutrality. As they suggest, the use of aid as a tool of conflict management may mean that aid



is delivered or withheld not on the basis of need, but according to an analysis of its likely impact on the conflict dynamic.

Yet a rights-based approach demands an active engagement on advocacy and influencing activities, whose political nature is undeniable. As ActionAid Burundi's programme on peace building illustrates, the nature and style of such engagement will be largely dictated by the context in which one operates.

* * * * *

ActionAid's experience in Burundi and Bolangir encourages us to keep exploring the potential of a rights-based analysis as a practical tool. A pair of "rights-based glasses" may help us develop a solid and coherent informational base upon which to establish goals and priorities, set standards, formulate policies, and design programmes.

Guidance notes

Below you will find two case studies based on ActionAid's rights-based work. They were the result of two field-visits I undertook last year. They may give some ideas concerning the focus of our rights-based analytical exercise.

The participants will have significant time constraints. It is therefore important to emphasise that the aim of the exercise is not to produce an exhaustive assessment/analysis of a particular case. The participants may be divided into different groups. Each group may look at a particular issue or area of analysis (you will find some suggestions below).

Appendix M5 includes further guidelines.

Have you already had your "eyesight" tested?



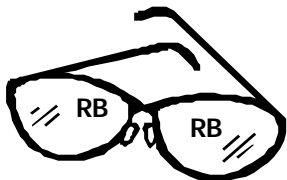
Rose (AA Uganda) during a field visit to Akwero Camp in Katakwi. The participants had the opportunity to meet and talk with different groups of internally displaced persons, including children

Photo: Nickson O. - AA Uganda

CASE STUDY A - Seeing through drought: the spiral of poverty in Bolangir

Affected by periodic drought, small farmers and labourers in Bolangir district (Western Orissa, India) are often forced to mortgage or even sell their land and other remaining assets to subsist. Eventually, many villagers abandon their homes in search for wage-paid labour, entering a dramatic spiral of poverty and social exclusion. In the small village of Badatunda, only three years ago, about 70 per cent of their inhabitants were regular migrants.

With active involvement of the communities, ActionAid India, alongside several local NGOs and CBOs, initiated a process of micro-level planning (MLP) with the central objectives of: a) ensuring equal access and control over available resources; b) ensuring food security; and c) empowering the poorest and marginalised to assert their basic rights. A considerable number of villages have already benefited from this innovative programme. Last year, for instance, all inhabitants of Badatunda managed to avoid forced migration and stayed in their communities throughout the year.



1. Unveiling the spiral of poverty

Recurrent drought and widespread poverty are a constant feature in Bolangir district. However, drought-related poverty is just the tip of the iceberg. In fact, drought acts as the device which triggers off a complex cycle of poverty that condemns the poorest and marginalised to further impoverishment and social exclusion. Within this spiral of poverty, their basic rights and freedoms are systematically denied.

ActionAid's long-term programme focuses on **micro-level planning**, a process through which the villagers actively engage in the analysis, design and implementation of their own development plans. The use of participatory tools favours the incorporation of a rights-based perspective. *Social maps*, for instance, provide information on the social status of the village, looking critically into the dynamics of the village, such as caste hierarchy, class status and access and control over basic resources. Similarly, *Venn diagrams* help strengthen people's understanding of the relationship between the various institutions at the village level.

Such analyses unveil the exploitative nature of the labour which the poorest of Bolangir are forced to take on, while highlighting their position of **dependence** with respect to other community members. Stories of abuse and exploitation by middlemen, money-lenders and contractors are commonplace among the poor of Bolangir.

In addition, forced to abandon their villages over long periods, the poorest usually miss the opportunity to access public distribution schemes. Micro-level analyses have also confirmed that government responses to extreme poverty in Bolangir continue being inadequate. Thus despite official fixing of procurement prices for agricultural and non-timber forest products, poor farmers and collectors are compelled to sell their produce at a rate far below what is legally prescribed.

2. "Long-term emergency" interventions

Following the initial short-term relief intervention, AA's programme in Bolangir focused on community mobilisation, capacity building of local CBOs and NGOs as well as the preparation of participatory micro-level plans by each of the 111 villages involved.

In 1997 a group of national and local organizations, including AA India, set up the *Collective Action for Drought Mitigation in Bolangir* (CADMB). A wide variety of initiatives were launched, including posters, street plays and cultural programmes. Both partners and communities were trained in PRA tools, basic accountancy and issues concerning land laws and land ownership systems. The different *Village Drought Action Committees* (VDACs), which had been formed to mobilise villagers, federated into a district level advocacy forum, the *Central Action Committee* (CDAC).

Once the participatory analyses were complete, **action plans** were locally developed. These include the establishment of saving groups, grain banks, women self-help groups and land development initiatives. Moreover, specific initiatives were designed to address the issue of forced migration, such as the creation of village registers of migrant labourers containing all details concerning the parties to the contract and work arrangements. Information on human rights issues, legal aid and labour laws has been widely disseminated.

MLP initiatives aim to eliminate obstacles to the exercise of basic rights and freedoms by the poor and marginalised, while creating opportunities for their protection and expansion.

Case Study B – Peace building in Burundi

The tragic events that afflicted Burundi in the 1990s resulted in the killing of tens of thousands of people, mostly civilians, from the two main ethnic groups, Hutus and Tutsis. Furthermore, widespread inter-communal violence provoked the collapse of existing social and political institutions, particularly at community level. About one million Burundians are still displaced both internally and across the national borders.

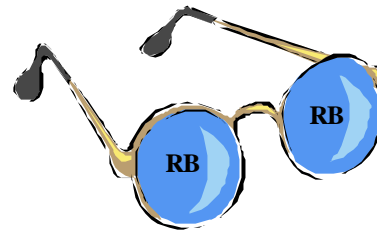
ActionAid, which had initiated its work in Burundi in 1976, responded to the crisis by introducing important changes in its programmes and ways of working. Building on its existing participatory and developmental approach, AA Burundi's peace building programme constitutes a remarkable example of innovative and courageous work in sustained conflict. A key component of its work relates to the re-establishment and support of traditional authorities as instruments of peace and order.

1. Research & analysis on traditional institutions

Although actively engaged in emergency assistance to the affected population, ActionAid's research and analysis soon focused on the concept of community development. In this respect, the reinforcement of the basic mechanisms of social interaction and local governance was seen as crucial in order to return to peace.

Concerned by the resulting breakdown in law and order, many were calling for a rediscovery of traditional values and institutions as key to building peace and promoting reconciliation. In 1998, in collaboration with the University of Burundi and other research institutes, ActionAid initiated an extensive **research project into traditional values** in Burundi. Its main aim was to "gain an understanding of the significance of traditional authority and traditional value systems in conflict avoidance, conflict management and peace building".

The study's findings confirmed that, although seriously eroded, the traditional institution of the **Bashingantahe** still continued to play a major role in peace and reconciliation processes among Burundian communities. By focusing on the role of traditional institutions in Burundi, interesting lessons were drawn especially in the areas of governance and conflict resolution. This has allowed ActionAid to undertake practical actions in order to support local capacities, while ensuring the creation of spaces for sustainable conflict resolution mechanisms.



2. Bridging the humanitarian-development gap

In the emergency programme's initial phase, local committees were established to manage the relief distribution process. Eventually these committees were to become a central element of ActionAid's long-term community development programme: a series of inter-linked activities in which peace building acts as the crucial link between humanitarian and development work. These activities include:

Shelter and social infrastructure rehabilitation programmes (e.g. primary schools) aimed to facilitate the return of displaced from all ethnic groups to their communities of origin. In addition, a variety of **micro projects** have been undertaken, ranging from group credits to initiatives in agriculture and social forestry. The aim is to reinforce the community's capacities to prioritise and to manage their own projects, while encouraging co-operation.

In order to promote trust and communication among Burundians, several projects have been implemented, such as the publication of the Community Newsletter EJO and the dissemination of posters and other materials **carrying messages of peace and trust**. REFLECT and other participatory tools are also used to encourage **dialogue and discussion** on peace and reconciliation issues. The programme equally addresses the role of women, youth, and specific groups (e.g. teachers) as peacemakers.

More recently, AA has supported the identification and **translation of laws** on human rights, women's rights and children's rights into Kirundi, the local language. The objective is to raise awareness and increase the capacity of the traditional authorities and other civil society actors to address legal issues.



Ejo in Kirundi means 'yesterday' and 'today'. *Ejo* is a monthly journal which publishes letters, stories and news of peace-building activities in Ruyigi communities. Currently it has a monthly circulation of 40,000 (Thirkell, 2001)

3. Defining rights and responsibilities

Confronted with the challenge of promoting trust and co-operation between antagonist neighbours during the crisis, AAB established an innovative and effective system to regulate the committees formed to manage the distribution of emergency goods. Each community produced a *"Cahier de Charges"*, a kind of contract between the different parties identifying the community needs, while reinforcing the autonomy of the committees. In this 'book, the rights and responsibilities of all parties were recorded. Based on a shared understanding of the programme's objectives, this approach recognises the communities' right and responsibility to make decisions concerning their priorities and plans.

In line with it, the research project on the *Bashingantahe* laid the foundations of practical initiatives aimed to strengthen local mechanisms of conflict resolution and governance. Transcending ethnicity itself, the *Bashingantahe* have traditionally represented legitimate forms of local democracy in Burundi. Their functions include non-violent conflict resolution at community level, assistance with contracts and transactions, advice and counselling.

From a rights-based perspective, some dilemmas, however, appear when considering the relationship between traditional values and institutions and human rights. The question of **women's rights** to participate in the institution of *Bashingantahe* remains controversial and sensitive in a patriarchal system anchored in Burundian tradition.

4. The politics of neutrality

ActionAid Burundi's programme was severely affected by the crisis. The death of a significant number of staff and close relations added further difficulty to the already complex situation caused by the conflict. AAB staff agreed and adopted a Code of Conduct to guide their fieldwork, including the principles of ethnic neutrality, non-partisanship, transparency and respect of the different traditions, opinions and group interests.

Yet AAB engaged in a wide range of advocacy and influencing activities of obvious 'political' nature. In a context of ample collaboration with government, donors and other NGOs AAB has developed a distinctive approach, often in the form of 'quiet', behind-the-scenes lobbying', based on its credibility. A different, more outspoken approach was adopted on the impact of sanctions on Burundi economy, which took AAB to the British Parliament to present their case.

Suggested areas of analysis and discussion

- ❑ Linkages between emergencies, poverty and denial of rights in conflict situations
- ❑ Peace-building, community development and local governance
- ❑ The role of traditional values and institutions in conflict management and peace building
- ❑ Human rights and the role and position of women in traditional societies
- ❑ Participation: challenges and opportunities
- ❑ Communication and translation of laws on rights into local language (dissemination)
- ❑ Ethical dilemmas and socio-political contracts
- ❑ How to be political in situations of emergency?

RIGHTS AND VULNERABILITY ANALYSIS

In the previous section, we have argued that, by shifting our focus towards the structural causes of poverty and humanitarian crises, a rights-based analysis helps us unveil key linkages between poverty and vulnerability to emergencies. In addition, it reconciles analyses of power, governance and rights. At the end of the day, all these aspects of human life are closely interconnected.

The danger, perhaps, is to think that the adoption of a rights-based perspective means the abandonment or disregard of other analytical frameworks (e.g. gender, power, people-centred or vulnerability). On the contrary, they must be seen as complementary and mutually reinforcing analytical tools. In fact, there are some interesting examples of harmonisation between different approaches and frameworks. Within the ambit of United Nations, for instance, the application of a rights-based approach to realizing gender equality has been explored.¹³ ActionAid is also engaged in the articulation of comprehensive analytical tools, particularly around the notion of vulnerability.

Alongside the adoption of a rights-based approach, ActionAid's Emergencies Strategy emphasises the importance of a consistent analysis of capacities and vulnerabilities both in short-term emergency work and longer-term development. Currently ten different AA country programmes are involved in a *Participatory Vulnerability Analysis (PVA) Project*, which aims at developing effective and practical methodology for conducting vulnerability analysis.

Mari Griffith has recently collaborated with ActionAid's Emergencies Unit to explore the linkages between vulnerability and human rights, by looking at vulnerability through rights-based glasses. Based on previous studies and experiences within the organization, the following table contains a summary of some key points of her study.

Table 5.1 – Vulnerability and Denial of Rights: Areas of Overlap

<p>Poverty, vulnerability and human rights</p>	<ul style="list-style-type: none"> ❑ "Vulnerability is a core dimension of poverty".¹⁴ ❑ "Poverty invariably makes people more vulnerable to the linked phenomena of variable climatic conditions, inadequate or degraded land, conflict and population displacement".¹⁵ ❑ "The reasons why poor people are often especially vulnerable to emergencies are linked to those that keep them poor".¹⁶ This linkage can be found in the denial and violation of human rights.
<p>Access to, and control over, resources and processes</p>	<ul style="list-style-type: none"> ❑ Access and control is governed by patterns of social interaction and organisation and is strongly linked to the issue of rights. ❑ Vulnerability is closely associated to <ul style="list-style-type: none"> a) Lack of access to resources and services (education, skills, income generating programmes, employment, legal services). b) Lack of access to information ❑ Lack of access to decision-making processes
<p>Discrimination</p>	<ul style="list-style-type: none"> ❑ Discrimination exacerbates poverty.¹⁷ ❑ Discrimination against various groups in their access to resources, services, information and decision-making processes enhances vulnerability.
<p>Power</p>	<p>Human rights provide a countervailing force to challenge and make just demands of power (Slim, 200:493).</p>

Key issues to be addressed by a rights-based vulnerability analysis (Griffith, 2001) – checklist of possible questions for a field-visit exercise (some basic information regarding the district, national and international dimensions may be provided by the organisers).

Guidance notes

Throughout the field-based exercise, the facilitator should encourage the participants to make use of any analytical tools they are familiar with (e.g. capacities & vulnerabilities model), and integrate them into our rights-based framework. As I suggested in module four, the rights-based analytical exercise provides us with an excellent opportunity to work around rights and gender issues in emergencies.

Community level analysis:

- ❑ Are individuals deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing or of basic forms of education?
- ❑ Are people aware of their legal rights? Are people aware of their own and others' responsibilities?
- ❑ How are rights and obligations defined and exercised within the community?
- ❑ To what extent do people participate in the community social, political and economic structures?
- ❑ To what extent do people have access to and control over resources, services and assets at the community level?
- ❑ Who controls the decision-making, both within the household and within the community?
- ❑ * The same questions may be asked in relation to women... are they aware of their rights? Do they participate...? Do they have access to and control over...?

National and District Levels:

- ❑ Are human rights respected in the country's constitution, in laws and policies?
- ❑ Do any laws of government policy or practice violated the human rights of particular individuals or groups?
- ❑ Is there discrimination in legislation or in any government policy and practice?
- ❑ Are there means of redress for human rights violations by third parties? Are they accessible to all?
- ❑ Are public administrative institutions accessible to all?

International level considerations:

- ❑ Which, if any, of the international human rights instruments have been ratified?
- ❑ Has the government ratified any regional Human Rights Conventions?
- ❑ Is the government fulfilling its duties in reporting to the relevant monitoring bodies?

Guidance notes

The participants are back from the field. Their next task will be to work in groups to put together and analyse the information they have gathered so far. Later they will present their rights-based analyses to the plenary.

I normally give them freedom to choose the style and structure of their presentation. They will not disappoint you.



Back from the field visit, the participants discuss and prepare their presentations: rights-based analysis in practice
Photo: Luis Morago

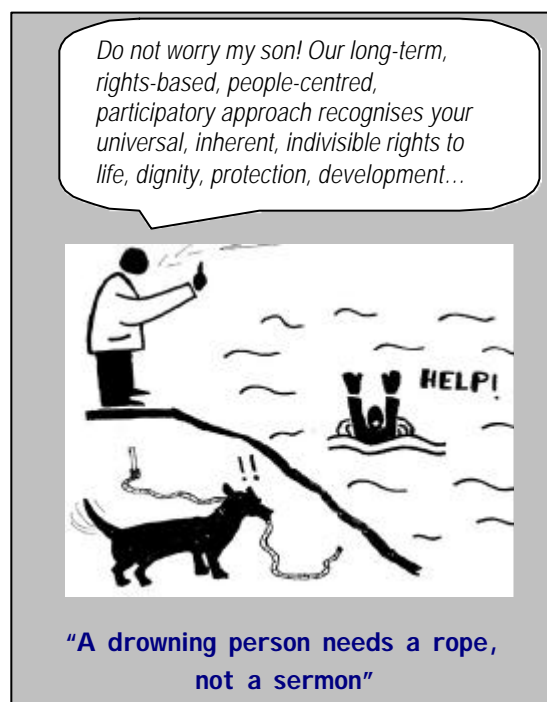
III. Rights-based approach in practice

We have said that the main focus of module five is 'rights-based analysis'. Yet we have already come across a number of instances which illustrate the practical application of rights-based approaches, both in the hall and in the field.

This section includes some comments and points for reflection with regard to the possible application of a rights-based approach through the project cycle. Particular emphasis is now placed on the identification of emergency practice through which human rights may be promoted and protected.

The Human Rights Council of Australia (HRCA) has been very active concerning the incorporation of a rights perspective to development. In 1998 it developed a Manual for a Human Rights Approach to Development Assistance: *The Rights Way to Development*. A highly useful document for those who want to learn 'what a human rights based approach means in practice'. It provides a practical guide to the implementation of a human rights approach to development assistance.

The HRCA advocates a common approach throughout the implementation process: situational analysis, goal and standard setting, planning and programmes of action, and monitoring of compliance and enforcement. I will refer to the aspects of goal and standard setting.



GOAL AND STANDARD SETTING

In section I we argued that the ultimate objective of any emergency work should be the realisation of the human rights of those affected by conflict and other disasters. The following table contains a list of possible rights-based objectives to be adopted both in our emergency and development work.



Table 5.2 – A list of rights-based objectives

Overall Objectives	<ul style="list-style-type: none"> ▪ Eradication of poverty, reduction of vulnerability and realisation of Human Rights ▪ Human Rights: civil, political, economic, social and cultural
Short to medium-term objectives (HRCA)	<ul style="list-style-type: none"> ▪ Access to, and control over, primary resources (food, medical services, clean water and sanitation, education, information on health and nutrition...). Particular emphasis on the most vulnerable (women and girls, children...) ▪ End to discrimination (legislative, administrative, cultural) ▪ Legal reform (access to legal services, legal aid, information, community-based institutions) ▪ Political participation (decision-making processes, information, association, mobilisation...) ▪ Provision for redress and compensation (in cases of human rights violations, or even as a result of development policies or emergency interventions) ▪ Establishment of national human rights institutions
Longer-term objectives	<ul style="list-style-type: none"> ▪ Equal services to all; accountability of judicial institutions; accountability of the bureaucracy; employment; social security ▪ Adequate housing, clothing, food and water ▪ Reduction of vulnerability
Good governance and democracy	<ul style="list-style-type: none"> ▪ Strengthening civil society (advocacy role and capacity; community based decision making) ▪ Strengthening the judicial system, legislative, and executive ▪ Demobilisation of combatants
Other objectives	<ul style="list-style-type: none"> ▪ Sectoral Programme Objectives (women, children, HIV/AIDS, Workers) ▪ Policy Dialogue, participation ▪ Co-ordination

PROTECTING AND PROMOTING HUMAN RIGHTS THROUGH EMERGENCY WORK

Once the assessment, analysis and goals and standards have been defined, we will confront a critical question: *how to operationalise a rights-based approach?* In the context of ActionAid, several initiatives have been undertaken in this respect. National and regional workshops have been held with the purpose of developing a framework for rights-based action, in the area of development, and more recently concerning emergency work.¹⁸

Other agencies are also engaged in this process of specification of rights theory. 1998 saw the formation of a *Reference Group on Humanitarian Action and Human Rights* with the aim of encouraging the promotion and protection of human rights through emergency practice. A comprehensive catalogue of such humanitarian practices have been gathered through several field studies in different countries. Although not exhaustive, this collection may constitute a valuable asset for humanitarian practitioners and agencies.

Table 5.3 contains a list of possible 'rights-based' humanitarian practices.

Table 5.3 – Promotion and Protection of Human Rights through Emergency Practice

Implementation of Protection Programmes	<ul style="list-style-type: none"> <input type="checkbox"/> Negotiating access to persons under threat <input type="checkbox"/> Negotiating and applying codes of conduct (e.g. Sierra Leone) <input type="checkbox"/> Conscious presence and strategic placement <input type="checkbox"/> Promoting staff security & protecting and supporting human rights defenders
Broader Initiatives	<ul style="list-style-type: none"> <input type="checkbox"/> Dissemination of Humanitarian, Human Rights and Refugee Law <input type="checkbox"/> Using tradition and culture to communicate human rights (AA Burundi, AA Sierra Leone) <input type="checkbox"/> Training for communities and vulnerable groups (use of participatory methodologies; AA's REFLECT)
Capacity and Institution-Building	<ul style="list-style-type: none"> <input type="checkbox"/> Training of government authorities and police <input type="checkbox"/> Supporting grassroots decision-making mechanisms (e.g. social audit) <input type="checkbox"/> Creating for a for representation of vulnerable people (e.g. AA in Gujarat and Orissa)
Protection & Peacekeeping	<ul style="list-style-type: none"> <input type="checkbox"/> Demobilisation & reintegration of Child Soldiers (e.g. Sierra Leone) <input type="checkbox"/> Training for Peacekeepers
Community-initiated protection	<ul style="list-style-type: none"> <input type="checkbox"/> Mobile peace units (AA Sierra Leone) <input type="checkbox"/> Engaging the public in demobilisation programmes
Prevention & Response	<ul style="list-style-type: none"> <input type="checkbox"/> Registration of detainees, refugees, IDPs <input type="checkbox"/> Promoting public awareness <input type="checkbox"/> Role of traditional authorities (e.g. AA Burundi)
Through Service Delivery	<ul style="list-style-type: none"> <input type="checkbox"/> The Sphere Project (Minimum Standards) <input type="checkbox"/> Housing projects involving people affected in planning and implementation (e.g. AA in Gujarat)
Preventing Human Rights Violators from Profiting	<ul style="list-style-type: none"> <input type="checkbox"/> Legislation regulating illicit trade (e.g. diamonds in Sierra Leone) <input type="checkbox"/> Financial accountability of governments (e.g. White Paper Gujarat) <input type="checkbox"/> "Positive conditionality" (controversial – see module 3)
Remedial Action	<ul style="list-style-type: none"> <input type="checkbox"/> Reconciliation programmes <input type="checkbox"/> Restitution and reparation (e.g. compensation packages – AA in Gujarat) <input type="checkbox"/> Rehabilitation programmes

Guidance notes

Following the presentations on rights-based analysis, the facilitator may open a debate on *how to operationalise such analysis*. I normally ask the participants to draw a list of emergency activities which, in their opinion, are consistent with the wider rights-based framework. Then the previous table may be used to illustrate different ways of applying the approach.

The implications of adopting a rights-based approach¹⁹

The application of a rights-based approach may entail a number of critical implications for agencies operating in emergency work:

- As we have argued throughout these learning modules, the rights-based approach's legal foundation demands **knowledge and a basic understanding of the legal framework** defined by *human rights law, humanitarian law and refugee law*. Consequently, a genuine commitment to a process of *organisational learning* around human rights and humanitarian issues is required. This process should encourage and promote dialogue, debate and relevant training strategies, with particular emphasis on bridging the 'learning-gap' between policy and practice.
- **Building capacity** around human rights and humanitarian principles must involve humanitarian agencies' staff, but particularly *partners and beneficiaries*.
- Many agencies' vast experience in long-term ventures working alongside partners and beneficiaries represents a highly valuable asset in terms of ensuring the adoption a **participatory and collaborative** *rights-based approach* to emergencies. The effectiveness of such an approach will largely depend on the **co-ordination** of human rights and humanitarian strategies and methods through stronger alliances, partnerships and networks.
- A rights-based approach stresses the importance of developing effective and accessible mechanisms for the *implementation and enforcement of human rights*. Strengthening **accountability systems** so becomes a key objective of any emergency-related work, especially with regard to humanitarian agencies' own accountability.
- Though significant work has already been undertaken in this area, adopting a rights-based approach implies a thorough **analysis and review** of our policies, priorities, goals, methodology and evaluation systems, with particular emphasis on their practical implications.
- The recognition of the denial of human rights as the cause of humanitarian crises forces aid agencies to increasingly engage in **advocacy** activities. Such activities aim at building public awareness of human rights and responsibilities, informing the wider public and influencing state and non-state actors in order to change policies and practices to ensure the respect and protection of fundamental rights in emergencies.
- By definition, a rights-based approach implies a **long-term agenda**.
- Finally, the implementation of a rights-based approach to emergencies requires the **allocation of adequate resources**.

Guidance notes

Some space for final reflections and discussion on implications, dilemmas and challenges concerning the adoption of rights-based approaches in emergencies may be useful. Some of them may have emerged throughout the programme.

Dilemmas and challenges

The application of rights-based approaches in emergencies poses some difficulties and dilemmas. As we discussed in previous modules, at the theoretical level, traditional debates around human rights seem far from being resolved. Are human rights universal? Are they compatible with the different cultural traditions? Are civil and political rights more important than economic, social and cultural rights? How do we achieve a balance between individual and collective rights?

At a more practical level, human rights protection suffers from an alarming lack of effective implementation and enforcement instruments, particularly at the international level. As we saw in modules 3 and 4, what is lacking is the political will to make international law work, particularly to translate international obligations into enforceable national legislation.

In the context of humanitarian action, we also face crucial constraints. As we emphasised in module 2, agencies working in conflict or disaster situations often must deal with highly delicate operational dilemmas (e.g. delivering aid versus staff security). A significant number of those dilemmas arise from the apparent contradiction between the traditional principles of neutrality and impartiality and the more politically-laden stand imposed by rights approaches (e.g. advocacy work and reporting human rights violations).

Concluding remarks

More and more organisations, communities and individuals are committing themselves to the human rights cause. In the context of development and emergency practice, the adoption of rights-based approaches is called to play a key role in the promotion of a culture of compliance with human rights and humanitarian standards. The challenges, however, are considerable.

Some still believe that human rights are nonsense, a utopian dream. Others, instead, find in the human rights project a great source of inspiration and courage to keep fighting against oppression, injustice and discrimination.

In the meantime, many agencies and practitioners keep trying to come to terms with the nature and implications of the 'rights' approach, through the formulation of analytical frameworks and the setting of human rights objectives; through the collection of field-based examples; and through the establishment of adequate indicators to monitor and evaluate our activities.

The important thing, I believe, is to realise that "much more than an approach, human rights is a *commitment*".²⁰ As de Gaay Fortman suggests, if every person, including the poor, the marginalised, women, children, etc., has rights – and they do –, "then there is no new *approach* thinkable that would deny or ignore these rights".²¹

APPENDIX M5

Appendix M5 contains a set of broad guidelines for the field-based exercise given to the participants in ActionAid's learning programme on rights and humanitarian standards in emergencies held in Sierra Leone earlier this year. It also includes a table summarising the key issues

Learning Objectives

- ❑ The participants will be able to relate relevant human rights and humanitarian standards to emergency practice, incorporating a rights-based perspective to their analysis.
- ❑ The participants will acquire a better understanding of the nature and implications of a rights-based analysis of a situation of emergency.

Field Visit

Two multi-disciplinary teams of practitioners will visit two different camps: an amputee camp, and a refugee transit camp ("Jui"). The task of the teams is to carry out a basic NEEDS/RIGHTS ASSESSMENT of the situation. To such end, they will spend a few hours in the field gathering relevant data.

Due to time constraints and insufficient background information, the participants are recommended to focus on 2 or 3 specific issues. The aim of the exercise IS NOT to produce an exhaustive and comprehensive assessment.

For example, a team may focus on issues of displacement and protection. Or perhaps on issues of rights and standards in the camps (e.g. gender, health, participation). The idea is to identify key human rights and humanitarian issues which may be relevant to our subsequent analysis.

Since the aim of the exercise is to incorporate a rights perspective in our analysis of the given situation, the data collected may cover:

- a) long-term processes and events (e.g. linkages between poverty, denial of rights and conflict)
- b) Issues of power relations, patterns of exclusion, discrimination and vulnerability
- c) Identification of stakeholders and actors involved in the given situation
- d) Perceptions of rights and responsibilities

RIGHTS-BASED ANALYSIS EXERCISE

Back to the training hall, the participants will work in their respective groups. The task is to analyse the information gathered during the field visit incorporating a rights perspective.

Each group will prepare a 15-minute presentation covering key facts and issues considered as relevant from a rights perspective.

NOTES – Bibliography

- ¹ Häusermann, J. (1998), *A Human Rights Approach to Development*, London, Rights and Humanity
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- ⁴ Morago-Nicolás, L. (2000b), *A Rights-Approach to Emergencies, Rights-based analysis in practice*, ActionAid Emergencies Unit (EmU), Briefing Paper, November 2000
- ⁵ Oxford Advanced Learner's Dictionary, 4th Edition, Oxford University Press, 1991
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- ¹⁷ Häusermann, J. (1998), op.cit.
- ¹⁸ For instance, AA India workshop on *Operationalising the Rights Mode of Development Work* (March 6-9, 2000); AA Asia Region workshop on *Operationalising the Rights Approach to Development* (July 31 – August 4, 2000); and AA Asia Region workshop on *Rights Perspective in Emergency Response* (July 3-6, 2001).
- ¹⁹ This section and the next one (Dilemmas and Challenges) are adapted from Morago, L. (2000a).
- ²⁰ de Gaay Fortman, Bas (2000), *"Rights-Based Approaches": Any New Thing Under the Sun?*, IDEA Newsletter, December 2000, page 7, in www.carleton.ca/idea/newsletter
- ²¹ de Gaay Fortman, Bas (2000), Ibid.