

A RIGHTS-BASED APPROACH TO EMERGENCIES

Setting the Scene

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A significant feature of ActionAids' *Emergencies Strategy* (2000-2003) is the adoption of a "rights-based approach" as the cornerstone of its emergency work. In line with *Fighting Poverty Together's*ⁱ evolving approach, point 4) of the Strategy recognises,

"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"

In this respect, the **purpose** of this bulletin is two-fold:

- ❑ To provide ActionAid staff with a *basic introduction* to the subject, outlining the major issues and debates around rights-based approaches in emergency practice
- ❑ To encourage a process of intra- and inter-organisational *debate* aimed at improving our knowledge and capacity around human rights issues and humanitarian law within a rights-based framework

As several studies have recently shownⁱⁱ, there is a significant lack of knowledge and understanding of International Law among relief NGO/agency staff, of which ActionAid is no exception.

ActionAid staff have little understanding of the principles of humanitarianism and the organisation holds no clear position on key issues such as impartiality and the imperative to intervene wherever assistance is neededⁱⁱⁱ.

However, recent initiatives within ActionAid give grounds for a more optimistic outlook. Last March, ActionAid India held a workshop on *Putting the Rights-Based Approach into Practice*. Likewise, a workshop on the rights-based approach to emergencies will take place in Bangkok this month. Staff from ActionAid Sierra Leone and ActionAid Kenya, together with partners and beneficiaries, have produced two videos on human rights issues. Finally, EmU has produced a poster illustrating *Humanitarian Principles in Action*. The poster, which has been widely disseminated, illustrates the Code of Conduct^{iv} and highlights some of the main dilemmas and opportunities concerning humanitarian action.

These selected examples confirm the enormous potential of ActionAid as a dynamic catalyst for relevant analysis, debate and practice. Your views and opinions will help ensure a well-informed, creative and consistent incorporation of a rights-based approach into our day-to-day work and practice.

Nevertheless, some fundamental questions need to be addressed.

Defining a rights-based approach

Over the last decade the concept of human rights has become a key component of development thinking. Central to this process is the idea that *poverty is a violation of human rights*.

Similarly, human rights analyses have been applied to other disciplines, such as international relations or, more recently, humanitarian aid. Consequently, *denials of human rights are increasingly seen as the cause of humanitarian crises*.

But what is a rights-based approach? In the absence of a standard 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 principles:

1. Firstly, access to victims is not an end in itself. 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**^v, whose rudiments cover a wide range of moral and legal principles, norms, institutions and procedures at the local, national and international levels.

What added value does a rights-based approach offer over traditional 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:

- ❑ A rights-based approach provides a *sound legal and moral basis* for addressing the complex ethical questions that ActionAid faces in emergency work (e.g. reconciling the principles of neutrality and impartiality with human rights advocacy).
- ❑ A rights-based approach offers ActionAid 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.
- ❑ 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*.
- ❑ Its focus on the systemic denial of human rights underlying humanitarian crises encourages the development of long-term and sustainable solutions.

Applying a rights-based approach

Despite the impressive body of human rights laws and standards in existence, a key challenge remains: *how to translate all these norms, principles and standards into effective operational instruments and tools*.

Yet we believe that a rights-based approach to emergencies may play an important role in this process of operationalisation, contributing to disentangle some of the complexities and contradictions underlying humanitarian disasters. A number of guidelines can be suggested in this regard:

- ❑ 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:

Right to a standard of living adequate for the health and well-being of individuals and families, including food, clothing, etc
Art.25 (1) Universal Declaration of Human Rights



Sphere's **Food Aid requirements** are based on the following WHO initial planning estimates:

- 2,100 Kcal per person per day
- 10-12% of total energy provided by protein
- 17% of total energy provided from fat
- Adequate micronutrient intake through fresh or fortified foods

- ❑ 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.

- ❑ 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. Although considered a war crime, 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. recruitment of child soldiers). A human rights approach requires that humanitarian interventions address critical issues of *protection and vulnerability* reduction in relation to the most disadvantaged, particularly women and children.
- ❑ 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.
- ❑ 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, witnessing 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.

The implications of adopting a rights-based approach

The application of a rights-based approach as purported in *Fighting Poverty Together* entails a number of critical implications for ActionAid's emergency work.

- 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, adding a global perspective to ActionAid's thinking and action.
- Building capacity around human rights and humanitarian principles must involve ActionAid's staff but particularly *partners and beneficiaries*.
- ActionAid's 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 ActionAid's own accountability.
- Though significant work has already been undertaken in this area, adopting a rights-based approach implies a thorough *analysis and review* of ActionAid's 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*.

Dilemmas and challenges

It is clear that the adoption of the new approach poses difficulties and dilemmas. 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 many point out, 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, ActionAid faces crucial constraints. As *EmU's Humanitarian principles in action* poster highlights, 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

Despite these difficulties, more and more organisations, communities and individuals are committing themselves to the humanitarian/human rights cause. ActionAid is in a very good position to contribute to such a cause, promoting a culture of compliance with human rights. As we have seen, EmU's adoption of a rights-based approach to emergencies can play a key role in the implementation of *Fighting Poverty Together's* objectives.

But the successful incorporation of the new approach into our work demands extensive intra- and inter-organisational debate and collaboration. In order to promote such debate and a process of organisational learning, EmU will undertake a series of related initiatives. These will include a monthly bulletin on rights-based approach to emergencies, which will expand the issues outlined in this bulletin, providing illustrative examples and case studies. Emu will also organise lunchtime talks, presentations and joint workshops. We hope that these initiatives will encourage the sharing of experiences and ideas around this vital issue for ActionAid.

ENDNOTES

ⁱ ActionAid's Strategy 1999-2003

ⁱⁱ For instance, Slim, H. and McConnan I. (1998), *A Swiss Prince, a Glass Slipper and the Feet of 15 British Aid Agencies*, A Study of DEC Agency Positions on Humanitarian Principles

ⁱⁱⁱ Review of ActionAid Emergencies Work 1995-1999

^{iv} Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programme

^v In particular, Human Rights Law, Humanitarian Law and Refugee Law. These different branches of international law applicable to emergencies must be seen as a coherent unity, based upon common general principles whose central aim is the protection of human dignity. As a result, humanitarian actions are one part of a spectrum of human rights activities (Darcy, 1997)

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WANT TO KNOW MORE?

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More recently he has collaborated with Oxfam GB and the British Red Cross Society on different projects.

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