

HUMAN RIGHTS CENTERED DEVELOPMENT: THEORY AND PRACTICE

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HUMANRIGHTS CENTERED
DEVELOPMENT:
THEORY AND PRACTICE

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Human rights have finally taken centerfield in the development world. Perhaps because past development paradigms have thus far failed to eradicate the poverty, homelessness, hunger, joblessness, hopelessness and despair that now plague millions of people throughout the globe. Perhaps because many world decision-makers have come to the painful realization that it is precisely the poverty, homelessness, joblessness, and hunger that have incited many people to use any and all means at their disposal - including violence - to lift themselves from their hopelessness and despair. For whatever reason, human rights are now emerging as an integral part of development.

Many in the development world have embraced the "rights-based approach towards development," defined loosely as "integrating human rights into development work" or "mainstreaming human rights in development work" or "integrating norms, standards and principles of the international human rights system into the plans, policies and processes of development." While this is long awaited and much welcome, and while there are quite a number of references to a "rights-based approach," to date, there is no single authoritative paper or document that accurately and adequately describes the approach. Existing material refers to a "rights-based approach to development assistance"¹ -which is one area of development.

This paper does not purport to present a rights-based approach to development. In my view, an approach implies the adoption and implementation of particular procedures (e.g., operating manuals), processes (e.g., programming methods and tools), policies and systems (e.g., staffing requirements, organizational structure). Rather, this paper attempts to present a framework that is human rights-centered and that could serve as a guiding philosophy for current development efforts. Such a framework defines the ends and means of development, provides the basis for which and by which development efforts are undertaken, and integrates human rights concepts, standards and principles with the current development praxis. This framework does not replace development efforts, but serves to strengthen the human rights content of development policy, planning, budgeting and programming. This paper is a modest contribution towards crafting a truly *rights-based approach to development*.

This paper provides a beginning framework for human rights centered development policy, planning, budgeting and programming. It is neither definitive nor exhaustive. Its limitations and gaps will likely become more evident as development workers and human rights activists test the framework. This paper is intended to encourage, stimulate and provoke development workers and human rights activists to work together to promote and create a political, social and economic order where rights and freedoms can be fully enjoyed, exercised and realized.

¹ See The Rights Way to Development: Policy and Practice, The Human Rights Council of Australia, Inc., May 2001.

This paper is divided into seven sections.

Section 1 defines human rights centered development and proffers seven reasons why development efforts should center on human rights.

Section 2 presents an overview of the theory and practice of human rights centered development policy. It proposes guidelines for policy makers and demonstrates development policy making within the context of human rights, through a seven-stage process. It discusses policy analysis within the framework of human rights, and introduces human rights guidelines for policy analysts.

Section 3 argues that the failures of national development plans may be averted if human rights were fully integrated into national development planning. It puts forward a framework for human rights centered development planning, through an eight-stage process.

Section 4 presents a practical framework for assessing national budgets within the context of human rights. It proposes a dual-phased process of revenue and expenditure analysis, matching state performance towards the enjoyment, exercise and realization of human rights against objective capabilities such as financial resource management and allocation. This section is largely drawn from two papers I had earlier written: A Rights Based Approach towards Budget Analysis,² and ESC Rights and Budget Analysis.³

Section 5 suggests a six-stage process for the conduct of human rights centered development programming.

Section 6 presents ten tools of analysis that may be used within the framework of human rights centered development. These tools are: *Participation Checklist*, *Symptom-Cause-Effect Analysis*, *Checklist: Claim Holder Analysis*, *Claim Holder Analysis and Entitlement Mapping*, *Duty Holder Analysis and Obligations Mapping*, *Forces-at-Work Analysis*, *Development Goal Setting*, *Development Intervention Tree*, *Monitoring* and *Checklist: Concrete Measures of Progress*.

Section 7 contains checklists, outlines, matrices and diagrams outlining human rights principles, the normative content of selected human rights that impact on development, the nature and levels of state obligations, duties of individuals under international human rights law, and violations of the rights to food, health, housing and education.

² International Human Rights Internship Program, 1999, which was also reproduced in International Human Rights Internship Program, Circle of Rights. ³ October 24, 2001

A word of caution: In formulating this framework, value judgments were unavoidable. At all instances where value judgments were made, however, I linked these to a state's human rights obligations, human rights principles and the normative content of human rights. Value judgments were based on prevailing international human rights law and developments.

A limitation of this paper is that it focuses on the formal or regular economy. The informal or underground economy (income generating activities that are unregulated by political and economic institutions or are hidden or concealed from the state) is ignored despite the fact that the underground economy is a significant phenomenon in both developed and developing countries and capitalist and communist societies. The underground economy, largely fueled and driven by the poor, deserves special attention. Perhaps a future study on human rights centered development focused on the underground economy may be in order.

Fifteen years ago, my father passed away. My father taught me much about human rights, instilled in me a deep and abiding faith in our people's talents, capacities, and strengths. He urged me always to "bring my talents to full flower, not to make a perfect world, just a better one." By writing this paper, I honor my late father, Jose W. Diokno.

Maria Soccoro I. Diokno
7 July 2002

HUMAN RIGHTS CENTERED DEVELOPMENT

"No cause is more worthy than the cause of human rights. Human rights are more than legal concepts: they are the essence of man. They are what make man human. That is why they are called human rights: deny them, and you deny man's humanity."

Jose W. Diokno,
"Human Rights Make Man Human," in
A Nation for Our Children, Claretian Publications, 1987.

This section defines human rights centered development and proffers seven reasons why development efforts should center on human rights.

Human rights centered development is an integrated, multi disciplinary and tri-faceted framework for the formulation, articulation and implementation of development policy, planning and programming (Figure 1). It seeks to improve the quality of life of human beings to enable them to fully enjoy, freely exercise and realize their fundamental rights and freedoms. At the heart of the framework is the conviction that *the human person is the central subject, active participant, owner, director and beneficiary, of development*. This implies that those undertaking development efforts must focus on the human persons in society, paying

special attention to those most vulnerable and marginalized, and able to identify:

- who they are;
- what their situation is;
 - what their aspirations are;
- what their strengths and weaknesses are;
- what their capacities are, both as individual members of society and perhaps as members of organized (formal or informal or both) entities in society;
- which capacities need strengthening;
- what value systems govern their existence;
- what social, or political, or economic forces, if any, are behind them;
- how they relate with the social or political or economic forces that may be behind them;
- what formal and informal structures (laws, policies, rules, etc.) they relate with;
- how they relate with each other and with these formal and informal structures; and
- what their rights and entitlements are.

Human rights centered development has three interwoven components: it is based on human rights principles, it respects the normative content of human rights, and it is coherent with the nature and levels of a state's human rights obligations. These three key, distinct yet intricately connected components, should

- Define development objectives;
- Guide the formulation, articulation and implementation of policies, laws, strategies and other appropriate measures in the administrative, budgetary, judicial, educational, political, social and other fields;

State obligations must be highlighted in every stage of the development process. This implies that those undertaking development efforts should be able to identify duty-holders and their obligations, in particular:

- who they are;
- what their strengths and weaknesses are;
- what their capacities are, both as individuals and as members of organized entities (including sub-organizational units);
- which capacities need strengthening;
- what value systems govern their activities; what formal and informal structures (laws, policies, rules, etc.) they operate within;

- how they relate with each other on an individual and institutional basis;
- how they relate with formal and informal structures;
- what social, or political, or economic forces, if any, are behind them;
- how they relate with the social or political or economic forces that may be behind them;
- the existing regulatory framework and how effective the framework is, identifying the aspects that may need strengthening or even changing;
- what their obligations are, whether these obligations are immediate or progressive, or both, and the levels of these obligations.

State obligations demand a greater level of state accountability and responsibility for all development plans, policies and projects. States are also required to address the procedural, policy and substantive implications of their obligations in their development policies, plans and programs. In this manner, development efforts are geared towards improving public structures and services and adopting strategies through which freedoms are guaranteed and entitlements are secured.

Annexed to this paper are *Diagrams of the Nature and Levels of State Obligations* that enhance the adoption of development strategies that address procedural, policy and substantive implications of state obligations. Also annexed is a *Matrix of Violations of the Rights to Food, Health, Housing and Education* that warn against possible implications of development policy, plans and programs.

There are seven reasons why development efforts should center on human rights.

First, human rights transcend human needs, human aspirations, human ideals, human goals; human rights are freedoms and entitlements: freedoms of action, guarantees of security, and command over the totality of things a person must have in order to be a human person.⁴ Human rights are legitimate claims that are immutable and universal; claims made by individuals on the conduct of other individuals, society and the state, and claims on the design and implementation of social, political and economic arrangements needed to facilitate or secure freedom and entitlements. These claims are asserted and owned by persons and thus empower the claim holders to determine and control their own lives and future. While human rights imply development goals, sadly, development goals do not always imply human rights.⁵ Since human rights are the

totality of civil, cultural, economic, political and social freedoms and entitlements, human rights goals are holistic, comprehensive, inter-related, Indivisible, multi-faceted and multidimensional. Development goals, on the other hand, are often targeted or partial goals that attempt to meet basic needs, or social objectives. It thus becomes imperative to formulate and pursue development goals in human rights terms so as to ensure that development addresses holistic, comprehensive, inter-related, indivisible, multi-faceted and multi-dimensional concerns related with human life in dignity.

⁴ The right to food, for instance, is both the freedom from hunger and the entitlement to safe and nutritious food. The right to health is both the freedom from undue interference in health matters and entitlement to a system of health protection.

In this manner, development efforts attain greater normative clarity and detail, and are more rational since they remove any taint of arbitrariness that often accompanies current development efforts. This leads to higher levels of empowerment, ownership and free and meaningful participation, effectively contributing towards the full realization of human rights.

Second, human rights impose upon states certain duties and responsibilities from which states cannot escape. This is because human rights regulate relations between states and peoples; this places upon the state the primary responsibility to enforce, protect, promote and guarantee the enjoyment and exercise of human rights. State obligations are of different levels and natures that may vary depending upon the normative content and entitlements of rights. State obligations are essentially twofold: states must respect human rights limitations and constraints on their scope of action and, at the same time, states are obliged to be active in their role as protector and provider. These are often referred to as state obligations of conduct and result.

Human rights impose upon states the fundamental obligation to take steps to the maximum of its available resources towards achieving progressively the full realization of human rights by all appropriate means and the obligations to respect, protect and fulfill. Obligations of conduct and result are implicit in each of these fundamental obligations. Each of these obligations has procedural, policy and substantive implications.

State obligations therefore require states to address these procedural, policy and substantive implications in their development plans and programs and to ensure development goals, policy, plans and programs comply with human rights. In this respect, development efforts centered on

human rights enhance state accountability in their efforts to comply with the nature and levels of their obligations arising from human rights and give rise to stronger, more effective and more equitable public institutions.

⁵ Dr. Cecilia A. Florencio, "Rights-based Food and Nutrition Perspective: 21st Century Challenge for Dietetics," J Hum Nutr Dietet, 14, 169-183, The British Dietetic Association Ltd. 2001.

Third, human rights are legally enforceable entitlements. A fundamental, albeit often overlooked right is the right of reparation. This essential right becomes operative when other human rights are violated. This right forms the foundation for claiming freedoms and entitlements and seeking redress for every violation of human rights. Correlated to this right is the duty of states to make reparation in case of a breach of obligation under international law. The obligation to respect, ensure respect for, and enforce human rights includes the duties to prevent violations, to investigate violations, to take appropriate action against the violators, and to afford remedies to victims.⁶

Since human rights carry with them the force of law, development efforts centered on human rights are mandated to take into consideration all potential, unintended or unanticipated harm or threats that may result from a development effort. Development efforts are thus more cautious, more careful, more objective, focusing on the intended impact on the lives of the human persons, cognizant of the implications on the enjoyment, exercise and realization of human rights.

Fourth, human rights set norms, rules, limits and checks on state action and on actions by other non-state actors who often control the economic, social and political processes within society. Human rights offer a measure of protection against actions and decisions that adversely affect the enjoyment, exercise and realization of freedoms and entitlements. Thus human rights must shape the process of policy formulation and implementation and form the basis for objective setting for development.

Fifth, human rights address issues of power, equity and discrimination-issues often left un- or under-addressed by current development efforts. Human rights form valuable strategic entry points to address the ways by which power relations produce and reproduce deprivations of fundamental freedoms and entitlements.

In every society, political, economic and social decisions based on interest group power are often more critical than bureaucratic decisions based on technical information in implementing development initiatives.⁷ These decisions exacerbate power imbalances and may deny, hamper or

obstruct people's entitlements to the goods and services needed to live a life consistent with humanity and dignity.

Human rights afford development planners, programmers and policymakers with the opportunity to examine key aspects of power relations and institutions that shape people's lives. Human rights require intensive and critical analysis of the economic, social and political processes that determine the quality of human life in society. Human rights demand the recognition of all features in society that empower, or dis-empower, people. Human rights help policy makers understand the power dimensions of the development process. Thus human rights offer a more complete and effective analysis and the opportunity to seek more effective ways to address people's human rights problems and concerns.

<p>⁷ Caroline Moser and Andy Norton with Tim Conway, Clare Ferguson, Polly Vizard, <u>To Claim Our Rights: Livelihood Security, Human Rights and Sustainable Development</u> Overseas Development Institute, August 2001.</p>
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Sixth, human rights are not only the *ends* but also the *means* to achieve a quality of life consistent with one's humanity and dignity. Human rights is not only to *be human*, it is also the state of *being human*. Thus, the process of development is just as important as the outcome of development. Human rights compel the adoption of process-based development methodologies and techniques and sets forth both outcome goals and process goals. In this manner, the realization of all human rights *is the* goal of all development efforts. It not only invokes the international apparatus of human rights, but also, and more importantly, uses human rights as the basis for development policy, planning, budgeting and programming.

Because process is as important as outcome, human rights centered development demands that people directly, or through their advocates, individually and/or collectively through organizations, participate in and direct the course of development aimed at strengthening their claims to -and realization of -human rights. Participation is more than mere consultation. Participation is the actual involvement of people at all levels of social, political and economic decision making process, in setting targets, in formulating priorities and policies, in designing plans, projects, programs or activities, in implementing these plans, projects, programs or activities, in monitoring, and in evaluating progress. Participation must be free, voluntary, effective and full and should not be subject to sanction or threat. For people to freely participate in development and in the development process, it is essential that people be provided with the information needed to make informed decisions. It is also important that

people are encouraged to organize themselves and that the autonomy of authentic popular or grassroots organizations or movements at local, regional and national levels be respected and promoted at all times.

People's participation in the development process may take many forms, but whatever methods or tools are used, these must be adapted to specific situations to enable all to fully, voluntarily, freely and effectively participate in the development process. For participation to be genuine, formal or legal mechanisms need to be in place so that people may question decisions, bring complaints, demand compensation or restitution, and hold duty-holders accountable.

A *Participation Checklist* has been designed (see pages 64 to 66) that outlines the hallmarks of people's participation and control over development efforts centered on human rights.

Seventh, human rights impose three types of individual duties *to the community of human persons in society-not to the state*. These duties especially apply to development policy-makers, planners and programmers-who are precisely tasked with charting the very future-and quality-of life in society. Human rights highlight the crucial role these actors play in society. Annexed to this paper is an outline of the *Duties of Individuals under International Human Rights Law*.

The duties of individuals towards others and the community, which are exercised *independently* of any particular human rights claim, include the duties to:

- Exercise all rights responsibly,
- Strive for the promotion and observance of human rights,
- Promote and protect the appropriate political, social and economic order
for development, and
- Contribute, as appropriate, to a social and international order in which
rights and freedoms can be fully realized.

Of particular importance to the development process is the duty of individuals to exercise rights responsibly, to act responsibly so as not to exceed the limits of the right. Rights may not be pursued to the point where they lead unfairly to someone else's suffering, or may result in inequality, inequity and discrimination. *A special duty is also placed upon those engaging in development efforts: the duty to act to give effect to the rights of all, particularly those most vulnerable in society*. Thus development planners, policy-makers and programmers have the duty to

balance the legitimate claims of vulnerable and marginalized groups for special protection' against the requirements of Society.

HUMAN RIGHTS CENTERED DEVELOPMENT POLICY

"Let us build a nation for our children, which rations neither food not freedom nor jobs nor justice.,"

Jose W. Diokno,
"The Changing Political Situation: A Challenge," in
A Nation for Our Children, Claretian Publications, 1987.

This section presents an overview of the theory and practice of human rights centered development policy. It proposes guidelines for policy makers and demonstrates development policy making within the context of human rights, through a seven-step process. It discusses policy analysis within the framework of human rights, and introduces human rights guidelines for policy analysts.

A state's development policy provides the framework within which specific decisions relating to a country's development are made and implemented. Public policy establishes a definite course of action, reflecting a composite of decisions (not just one decision) and programs to achieve development goals. Policy substance determines methods of execution.' Thus development policy is central to attaining a quality of human life that

enables all persons to live decently and in dignity, fully enjoying and freely exercising all their rights and freedoms.

In theory, policies are written by the executive and find expression through enabling laws passed by the legislature. In practice, however, a network of decision-makers, including those in the private sector, actually writes public policy. In most countries, partisan political and economic interests strongly influence the formulation and adoption of state policies. It is not clear what criteria or standards, if any, decision-makers use to resolve contending partisan political and economic interests. What seems clear is that, because these interests strongly influence the formulation and adoption of public policies, these same interest groups enjoy privileged access to the policy-making process.

State development policy generally indicates actions the state believes are desirable to attain a certain level of development. More often, a state's development policy limits itself to macroeconomic matters. Yet, public economic policies often tend to be *ad hoc* responses to recurring crisis.

Because public policy directs the course of a country's development, the process and substance of development policy formulation, analysis and implementation must be shaped by human rights. Human rights' state obligations require the state to adopt and implement policies geared towards the full realization of all human rights. The respect-bound obligation requires the state not only to refrain from any policy that would negate human rights but also to formulate policies that create and facilitate an economic, social and political environment conducive to the enjoyment, exercise and realization of all rights and freedoms. The protection-bound obligation requires the state to adopt and implement policies necessary to prevent other individuals or groups from violating the integrity, freedom of action, or rights of others. The fulfillment-bound obligation requires the state to pursue appropriate legislative, administrative, budgetary and other policies to facilitate the full enjoyment and exercise of fundamental freedoms and entitlements.

¹ See Jay M. Shafritz and Albert C. Hyde, Classics of Public Administration, 4th Edition, Harcourt Brace College Publishers, 1997; Felix A. Nigro and Lloyd G. Nigro, Modern Public Administration, 7th Edition, Harper & Row Publishers, New York, 1989; Jose P. Leveriza, Public Administration: The Business of Government 2nd Edition, National Book Store, 1990; Avelino P. Tendero, Theory and Practice of Public Administration in the Philippines Fiscal Administration Foundation Inc. Publication No. 21, 2000; John Joseph Puthenkalam, Integrating Freedom, Democracy and Human Rights into Theories of Economic Growth Palinsad General

Merchandise, 1998; Patrick Alain Azanza, Rodolfo V. Azanza, Rodolfo T. Azanza, Jr., and Rosario T. Azanza, Economics, Society and Development National Book Store, 2001; Michael P. Todaro, Economic Development 7th Edition, Pearson Education Asia Pte Ltd., 2001; and Hollis Chenery, Montek S. Ahluwalia, C.L.G. Bell, John H. Duloy, and Richard Jolly, Redistribution with Growth Oxford University Press, 1974.

Guided by human rights, policy-makers move away from approaching development as an exercise of welfare towards approaching development as an empowering legitimate claim to which all persons particularly those most vulnerable, are entitled, by virtue of their inherent dignity. In addition, strengthening the human rights content of public policy creates stronger and more equitable public, civil, and community institutions, which in turn increases the capacity of the state and the people to prepare for and cope with unexpected shocks in the domestic and global community.

Human rights demand that contending interests that affect public development policy are resolved with equity, equality and non-discrimination. Human rights also requires full access to the policy-making process, particularly by those most vulnerable and marginalized, discarding any privileged access that may be enjoyed by certain interest groups in society. This means addressing such factors as class affiliation, control over resources, etc. that obstruct access to the policymaking process.

Human rights mandate that policy not be based on one specific context or framework (e.g., macroeconomic policy as the sole determinant of development policy) but instead should focus on the whole range of rights (civil, cultural, economic, political and social) that determine the quality of life in society. Human rights demand coherent, complementary and effective policy.

Guidelines for Policy-makers

Human rights centered development policy is a web of decisions and actions that guide and constrain state action. It focuses on improving the quality of human life in society, enabling all persons to live decently and in dignity, fully enjoying and freely exercising all their rights and freedoms.

Formulating human rights centered development policy means incorporating human rights principles in the substance of policy and the process of policy-making, integrating the normative content of human rights, and highlighting state obligations.

The following guidelines may facilitate the formulation and implementation of human rights centered development policy.

- ✓ Power and politics affect policy formulation; they also affect the quality of human life in society, and the level of enjoyment -or non-enjoyment -of human rights. Recognize the role of politics and understand the power dimensions of the development process. Resolve contending issues of different interest groups or power factions with *equity, equality and non-discrimination*.
- ✓ The ability to design and implement effective policy depends on two interrelated factors: organizational resources and capacities (e.g., ability to organize, finance and implement a policy), and situational factors (e.g., human rights situation, trends in markets, technology, social and political attitudes, population patterns, etc.). Consider these organizational and situational factors when formulating and designing public development policy.
- ✓ Always rigorously study the human rights impact of any development policy before adopting, pursuing and implementing it.
- ✓ Involve the people, particularly those most vulnerable, at all levels of social, political and economic decision-making. Ensure full access to the policy-making process, particularly by those most vulnerable and marginalized. This includes ensuring access to and participation in policy-related meetings at all levels of governance. (*See Participation Checklist, pages 64 to 66*).
- ✓ Ensure access, availability and effective functioning of genuine mechanisms that enable people to question policies.
- ✓ Publicly and completely disclose all information regarding the policy, the manner by which the policy was formulated, the manner by which the policy will be implemented, and its implications on the quality of life. The information that is disclosed must be of such high standard in terms of content and clarity; it must be disclosed in forms and media that are easily understood; finally it must be disclosed in a timely fashion.

Wage hikes, that result in restricting access to essential goods and services.

X Policies requiring the devaluation of the domestic currency may also lead to a fall in purchasing power and rise in prices of consumer goods and services. This is because when a greater amount of domestic

currency is used to buy the same amount of foreign currency, the domestic currency prices of the state's imports increase, even if the foreign currency prices have not. For countries such as the Philippines, which import most of its capital goods (e.g., machinery, semi-processed raw materials, spare parts, etc.), the prices of even locally made and assembled goods also increase.

X Policies that create conditions that are incompatible with the realization and enjoyment of human rights. For instance, the 1987 Asian currency crisis in Indonesia and Thailand was attended by closure of businesses and factories, massive unemployment, food shortages, riots and other acts of violence directed at consumer shops, collapse of commercial and other banks, etc. Many believe that this crisis was caused by the policy of liberalizing foreign exchange and import controls; this policy encouraged the increase in foreign portfolio inflows and outflows, and facilitated the free inward and outward flow of short-term capital or short-run money ("hot money" or speculative investments). In many parts of Southeast Asia, the effects of this crisis are still felt today.

X Policies that adversely affect the enjoyment and exercise of fundamental rights and freedoms, such as, for instance policies controlling bank credit and imposing higher interest rates. This could result in less access to capital for industry; with less capital, industry may resort to downsizing, right-sizing, shortened work hours, and closing down factories. Unemployment and underemployment could ensue, with grave implications on human rights.

X Policies based on one specific context or framework alone.

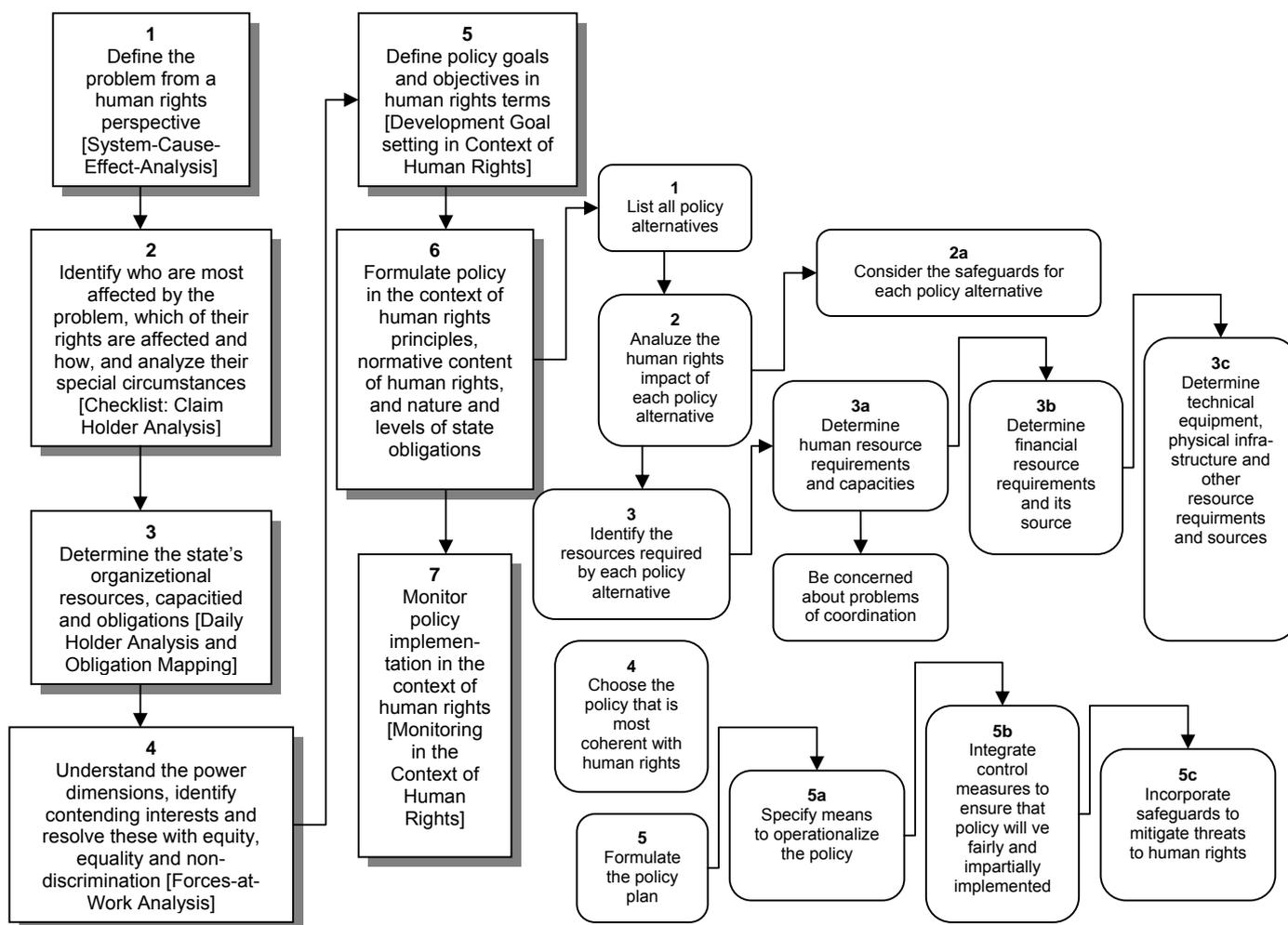
✓ Where the adoption of such policies are *unavoidable, for reasons beyond the state's control*, human rights centered development policy strictly requires the adoption of *safeguards that mitigate harm or threats to human rights and reduce risks of human rights deprivations*. Such safeguards could include, among others, pensions, subsidies, social insurance programs, credit schemes, relief programs, social funds for related interventions, etc.

To formulate human rights centered development policy, a seven-stage process undertaken in conjunction with some specially designed tools of analysis (see *Section 6, pages 63 to 114*), is recommended (Step Guide 1). Policy-makers first define the problem that is the object of policy-making within the context of human rights. Policy makers then identify and assess who are most affected by the problem, which of their rights are most affected and how. Policy makers then determine the state's organizational resources and capacities, look into the different interests

and interest groups, and attempt to reconcile contending interests with equity, fairness, equality and non-discrimination. Policy makers then define policy goals and objectives in human rights terms. Policy makers formulate the policy, after plotting all policy alternatives and determining the human rights implications of each policy alternative. Finally, policy makers monitor policy implementation within the context of human rights.

Policy makers are reminded to *ensure genuine people's participation and involvement at all stages of this process (see Participation Checklist, pages 64 to 66)*.

Step Guide 1. Formulating Human Rights Development Policies



Stage One: Define the problem from a human rights perspective.

To define a problem that is to be the object of policy making from a human rights perspective, refer to the four-step *Symptom-Cause-Effect Analysis* tool (see pages 67 to 70). Through the use of this tool, the problem is brought into sharper focus, enabling policy-makers to focus on those factors subject to state control and intervention needed to address the

problem and enhance the enjoyment and exercise of fundamental rights and freedoms.

Stage Two: *Identify who are affected by the problem, which of their rights are affected by the problem and how, and analyze their special characteristics.*

To identify who are most affected by the problem and to analyze their special characteristics, refer to the Checklist: Claim Holder Analysis tool (see pages 73 to 83).

Stage Three: *Determine the state's organizational resources, capacities and obligations.*

To determine the state's organizational resources, capacities and obligations, refer to the *Duty Holder Analysis and Obligations Mapping* tool (see pages 89 to 93).

Stage Four: *Understand the power dimensions, recognize the full collection of demands of interest groups and other actors relevant to the problem and resolve these contending demands with equity, fairness, equality and nondiscrimination.*

To identify the different power blocs related to the problem, assess their interests and demands, and resolve contending demands with equity, fairness, equality and non-discrimination, refer to the *Forces-At-Work* tool (see pages 94 to 98).

Stage Five: *Define policy goals and objectives in human rights terms.*

To define policy goals and objectives in human rights terms, refer to ***Development Goal Setting in the Context of Human Rights*** tool, (see pages 99 to 103).

Stage Six: *Formulate the policy in the context of human rights principles, the normative content of human rights and the nature and levels of state obligations.*

The final stage is the adoption and formulation of a policy plan that contains clearly defined policy goals and objectives in human rights terms, well-designed operational plan to achieve policy goals and objectives, clearly defined control measures and safeguards to mitigate threats to human rights.

It is important to formulate policy in the context of human rights, to ensure that the policy will lead to an improved quality of life particularly for those

most vulnerable and marginalized, empowering them to exercise and effectively claim their rights and freedoms. Formulating public development policy within the framework of human rights leads to more capable and responsive public institutions, which in turn increases the capacity of the state to comply with its obligations to create and facilitate conditions necessary for the enjoyment, exercise and realization of fundamental freedoms and entitlements.

Formulating development policy within human rights entails a five-step process, described below. After defining the problem and policy goals in human rights terms, policy-makers then list all policy alternatives, analyzing the human rights impact of each policy alternative and considering safeguards. Policy-makers then identify the resources necessary for each policy alternative. Policy-makers then choose the policy that is most coherent with human rights, and formulate the policy plan.

Step One. List all policy alternatives.

Step Two. Analyze the human rights impact of each policy alternative and consider safeguards for each policy alternative.

Analyze each policy alternative, by focusing on the projected

- Impact on the exercise and enjoyment of human rights,
- Impact for women and men,
- Impact on the quality of life,
- Capacity of the state to comply with the nature and levels of its obligations,
- State accountability,
- Capacity of those affected to claim and assert their rights, and
- Accessibility, availability, impartiality and effectiveness of the regulatory framework.

Consider any and all potential infringements on human rights, and whether these potential infringements can be avoided. If these cannot be avoided, verify whether there are existing recourse mechanisms that ensure fair procedures for redress. If there are no existing recourse mechanisms, consider whether there is a better approach. Formulate express safeguards against potential infringements on the enjoyment, exercise and realization of fundamental rights and freedoms.

Step Three. Identify the resources required by each policy alternative.

These resources include human resource requirements and capacities, financial resources and sources, and technical, equipment, physical, infrastructure and other requirements and sources.

Define all the resources necessary to achieve each policy alternative and determine where and how to source these resource requirements.

When considering human resource requirements, analyze the organizational/ institutional internal strengths and weaknesses, and external threats and opportunities. Consider the organizational capacities, particularly the capacity to comply with the nature and levels of human rights obligations. Be concerned about problems of coordination between different organizational and/or sub-organizational units at the national and local levels.

Step Four. Choose the policy that is most coherent with human rights.

Choose the policy that achieves the greatest enhancement of the enjoyment and realization of human rights at the least cost.

Step Five. Formulate the policy plan by specifying the means to implement the policy, integrating control measures to ensure that the policy will be fairly and impartially implemented, and incorporating safeguards that mitigate threats to human rights.

The policy plan should contain four essential elements:

- Clearly defined policy goals and objectives written in human rights terms,
- Well-designed operational plan to achieve policy goals and objectives, that highlight such human rights principles as *accountability, attention to vulnerable groups, people's participation, transparency, independence of the judiciary, legislative capacity, equity, equality and nondiscrimination,*
- Clearly defined control measures to ensure that policy will be *fairly, impartially* and *strictly followed*, and *without discrimination of any kind*, and
- Safeguards to mitigate threats to human rights.

Stage Seven: Monitor policy implementation within the context of human rights.

To monitor policy implementation within the context of human rights, refer to *Monitoring in the Context of Human Rights* tool, (see pages 110 to 111).

Human Rights Centered Policy Analysis

In human rights centered development, policy analysts focus on four essential and inter-related factors:

1. The substantive content of the policy and its coherence with human rights principles, the normative content of human rights and nature and levels of state obligations
2. The policy making process in relation to human rights principles such as *people's' participation, transparency, non-discrimination, equality and equity, etc.*, and in relation to the power dimensions of the development *process*
3. The manner by which policy is implemented in the context of the nature and levels of state obligations and human rights principles such as *accountability, attention to vulnerable groups, transparency, equity, people's participation, equality and non-discrimination, etc.*
4. The impact on the quality of human life in society and on the enjoyment, exercise and realization of fundamental rights and freedoms.

Analyzing development policy from a human rights perspective enables policy analysts to provide rational, well-grounded advice to policy-makers in the public and private spheres, which, in turn, allow policy-makers to adopt, reform, pursue and implement policies geared towards improving the quality of human life in society. It also ensures that the interests of those most vulnerable and marginalized in society will actually be addressed by policy makers, and that those most vulnerable and marginalized will also be involved in the process of their development.

Analyzing development policy means applying human rights principles to the substance of policy and the process of policy-making, integrating the normative content of human rights, and highlighting state obligations. *[Refer to the checklists, diagrams and matrices annexed to this paper (Annexes 1 through 5), the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]*

The following guidelines may facilitate policy analysis within the framework of human rights centered development. Policy analysts are reminded to *ensure genuine people participation and involvement (see Participation Checklist, pages 64 to 66)*.

- ✓ When analyzing the *substance of policy*, determine whether the policy:
- ✓ Diminishes or eliminates conditions that cause or perpetuate discrimination or *discriminates* against any persons, groups, sectors, or communities
- ✓ Applies *equally* to women and men
- ✓ *Enhances the power* of people to act for and on their own behalf
- ✓ Creates conditions necessary for the full enjoyment, exercise and realization of all human rights, particularly by those most vulnerable and marginalized
- ✓ Prevents other actors from violating the integrity, freedom of action, or human rights of the people
- ✓ Is expressed as a law, an administrative or executive order or issuance, whether funds are allocated for the implementation of the policy, and whether these funds are reflected in the national budget
- ✓ The specific rights covered by the policy, and whether the policy addresses the normative content of these specific rights
- ✓ Takes into account the particular socio-economic characteristics of those subject to the policy
- ✓ Guarantees the independence of the judiciary
- ✓ Effectively responds to present and future needs of all persons in society, particularly those most vulnerable and marginalized
- ✓ Minimizes and eradicates corruption and abuse at all levels of governance
- ✓ Includes mechanisms for monitoring the actual impact of policy, and how effective these mechanisms are

- ✓ Includes clearly defined control measures, and whether these measures actually ensure that the policy will be *fairly, impartially and strictly followed*, and *without discrimination of any kind*,
- ✓ Includes safeguards to mitigate threats to human rights, and how effective these safeguards are
- ✓ When analyzing the policy making process, consider:
- ✓ The nature and extent of people's participation (*see Participation Checklist, pages 64 to 66*)
- ✓ Whether women and men were equally represented in the policy making process
- ✓ Non-discrimination in the selection, participation and involvement of those most vulnerable in the policy making process
- ✓ The nature and extent of access to the policy making process, particularly by those most vulnerable and marginalized
- ✓ The accessibility, availability and effective functioning of genuine mechanisms that enable people to question policies
- ✓ The nature of information disclosed to the public, the content and clarity of information disclosed, whether the information disclosed is easily understandable (e.g., technical information should be disclosed in forms and media that may be understood by non-technical persons) and the timeliness of disclosure
- ✓ Whether all factors (e.g., class affiliation, control over resources, etc.) that obstruct access to the policy making process were effectively addressed
- ✓ The role of politics and the power dimensions of the policy making process, and whether contending issues of different interest groups or power factions were resolved with *equity, equality and non-discrimination*

- ✓ When analyzing the way policy is being implemented, look into:
- ✓ The nature, level and effectiveness of state accountability
- ✓ Whether the policy is implemented fairly, equitably, and without discrimination
- ✓ Whether the policy pays close attention to vulnerable groups
- ✓ Whether the policy is being implemented with the active and genuine participation of the people, particularly those most vulnerable and marginalized
- ✓ The accessibility, effectiveness and availability of recourse mechanisms to question policy implementation
- ✓ The nature and level of public transparency
- ✓ Unintended or unanticipated harm or threats that may arise from the policy, while it is being implemented, whether the harm or threats are addressed and how, what corrective action and/or safeguards are adopted to address the harm or threats
- ✓ When analyzing the impact of policy on the quality of human life in society and on the enjoyment, exercise and realization of fundamental rights and freedoms, focus on:
 - ✓ The human rights situation and the level of enjoyment or non-enjoyment of human rights, threats to human rights and the efficacy of safeguards
 - ✓ The situation of vulnerable groups in society, and whether there have been any substantial and meaningful changes in their situation before and after the policy was adopted and implemented
 - ✓ Finally, policy analysts are advised to guard against committing the "seven deadly sins of policy analysts:"³ channeled (being in a rut), distant, late, superficial, topical, capricious and apolitical.

³ Arnold J. Meltsner, *7 Deadly Sins of Policy Analysts* in Jay M. Shafritz and Albert C. Hyde, Classics of Public Administration, 4th Edition, Harcourt Brace College Publishers, 1997, p. 453

HUMAN RIGHTS CENTERED DEVELOPMENT PLANNING

"Our economy was run by politicians and businessmen, and our people learned to regret it. Today our economy is run by technocrats and military men, and our people regret it even more. We need-and our people hunger for-an economy run by humans for humans."

Jose W. Diokno,
"Economics and Social Consciousness," in
A Nation for Our Children, Claretian Publications, 1987.

This section argues that the failures of national development plans May be averted if human rights were fully integrated into national development planning, It puts forward a framework for human rights centered development planning, through a seven-step process.

Development planning is often viewed as the deliberate attempt by the state to coordinate national decision making over the long run and to influence, direct and control the level and growth of a nation's principal variables to achieve a predetermined set of development objectives. Development planning covers all major aspects of the national economy

(industry [mining and quarrying, manufacturing, construction, electricity, gas, water, etc.], agriculture, fishery, forestry, services [transportation, communication and storage, trade, finance, real estate, private services, public services], exports, imports, etc.). It links the public and private sectors, and depends on a variety of factors, such as tax revenues, availability of foreign credit, private sector investment, preference of the private sector to invest in one area or another, passage of enabling laws and government budgets, private response to business incentives, etc. It results in an indicative plan of the situation of the country's economy in future, forecasting indicative qualities. The national development plan generally covers a period of five years and is called the medium term plan but it may incorporate long-term perspectives and may be supplemented by annual plans. For most states, development planning is a necessary condition for foreign aid.

Yet, many national development plans fail, mainly because:

- They are over ambitious, containing too many objectives without considering whether these objectives compete or even conflict with each other;
- They are vague on specific policies for achieving the objectives;
- They are based on insufficient and unreliable data;
- They fail to consider unanticipated economic, political and social disturbances-both internal and external;
- They are implemented by state agencies that are wracked by institutional weaknesses; or
- They are not effectively implemented, for lack of political will.

National development plans also fail because they are often left solely in the hands of the national government, with hardly any -or perhaps merely token participation of the people. So, in many cases, national development plans treat their population as beneficiaries of the state's largesse, rather than as persons with legitimate claims and entitlements.

These failures, it is submitted, may be averted if human rights were fully integrated into national development planning. Human rights provide a rational and comprehensive framework that focuses on the human persons-and on improving the quality of their life-by rigorously analyzing the social and political processes that determine the likelihood of people's claims and entitlements being realized. Human rights highlight the linkages between different areas, variables and factors that form the basis

of development and that impact on the quality of human life in society. Human rights mandate that resource mobilization and allocation are planned in a manner that enhances the dignity and humanity of the people.

Human rights anticipate the effects of future events by realistically requiring states to comply with their obligations to:

- *respect* human rights, that is, to refrain from adopting any national development plan that directly encroaches upon recognized rights and freedoms,
- *protect* human rights, that is, to take steps, in its national development plan, to prohibit others from violating recognized rights and freedoms, and
- *fulfill* human rights, that is, to ensure that its national development plan actively creates and facilitates an economic, social and political environment conducive to the enjoyment, exercise and realization of human rights.

Human rights mandate the analysis of strategy and correlation of strategy to detail in a manner that is consistent with the normative content of human rights. This means that all development strategies that are incorporated into a national development plan must take into full account the different elements that are required for the full enjoyment, exercise and realization of fundamental rights and freedoms. These may include such elements as *accessibility, availability, cultural acceptability*, and the like.

Human rights recognize that while legal systems define and enforce rights, administrative structures and social deliveries are often the primary institutions through which entitlements are delivered or withheld. In addition, the exercise and enjoyment of human rights depend upon a number of variables and factors that are subject to state control. Human rights require that those factors and variables subject to state control be fully incorporated into a national development plan; these factors and variables are generally twofold:

- the general socio-economic condition of a society (quality of the environment, availability and access to sanitation and safe water, health practices, quality, availability and access to education, nutrition awareness and consciousness, housing availability and accessibility, income distribution, family size, etc.) and
- the quality, efficiency, availability and distribution of state services.

Purchasing power is also central to the exercise of basic human rights. This implies that all national development plans should include such mechanisms, including a well-functioning and effective regulatory framework, that prevent those in the private sector from engaging in practices that adversely affect income, jobs and productivity, and lead to an erosion of the purchasing power of the domestic currency.

Land and agriculture are also central to human rights. "Land rights and agrarian reform are often central to the realization of human rights. The fulfillment of various economic, social and cultural rights show a direct relationship to land, such as the right to food, the right to housing, the rights to an adequate standard of living, the right to culture, the rights of indigenous peoples, and others.¹"

All these-and other-factors and variables that impact on the enjoyment, exercise and realization of human rights should find expression in the state's national development plan.

In the process of formulating, adopting and implementing a national development plan, human rights require the full., active and genuine participation of the people, taking into full account their aspirations, needs and rights. Thus while the state may prepare, adopt and implement a national development plan, the plan is, in reality, owned by the people. This, in turn, may provide the impetus for the success of the national development plan.

Human rights also mandate that the process of national development planning be attended by such principles as state *accountability, transparency, attention to vulnerable groups, equity, equality, non-discrimination, independence of the judiciary, legislative capacity, etc.*

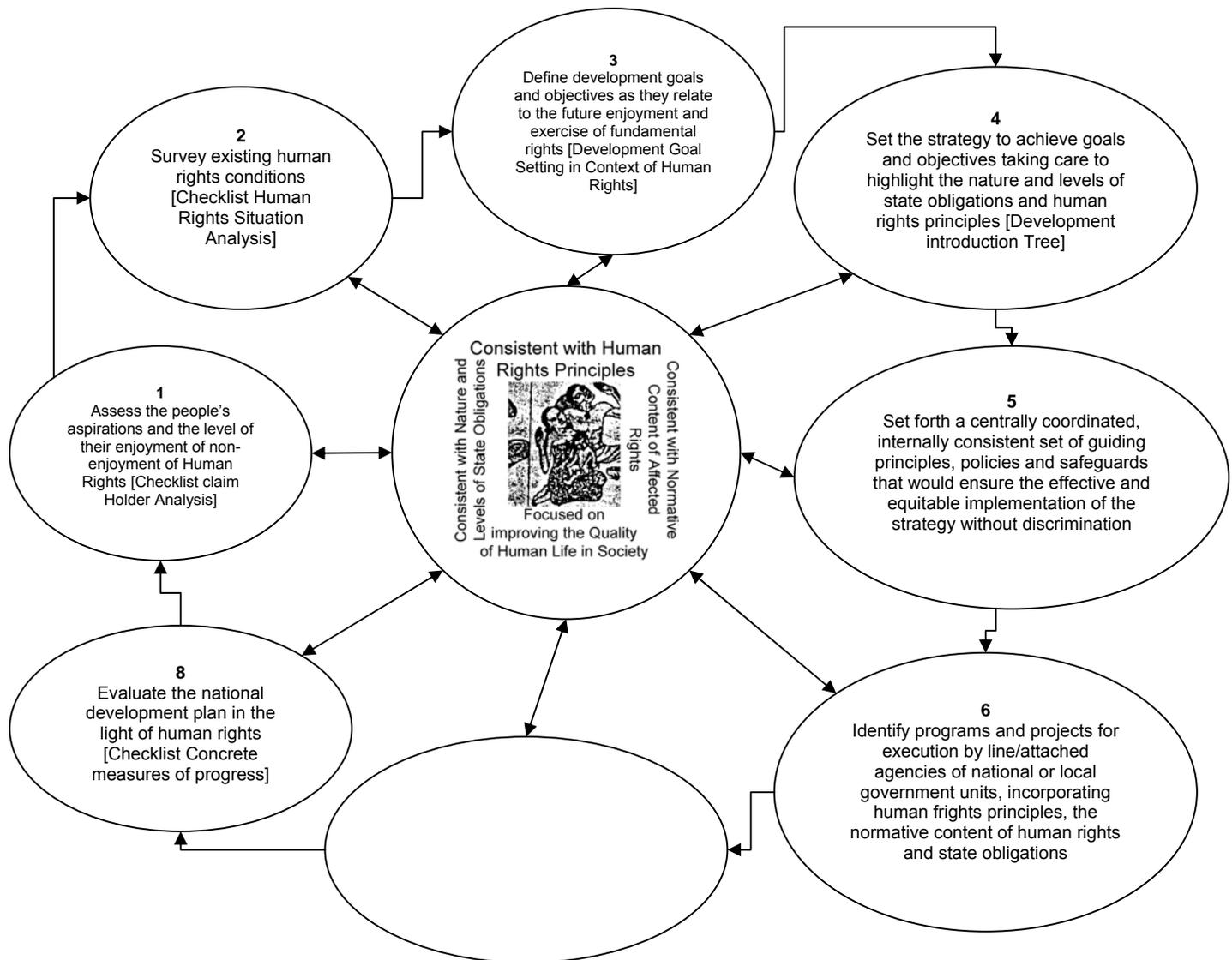
Finally, human rights mandate that the power dimensions of the development process be addressed in such a manner as to empower those most vulnerable and marginalized, enabling them to claim their freedoms and entitlements.

In human rights centered development, planning is an essential and integral part of development, the pivotal means of guiding and accelerating the enjoyment, exercise and realization of all human rights, particularly for those most vulnerable in society. Human rights centered development planning integrates human rights principles, incorporates the normative contents of human rights and prominently highlights the nature and levels of state obligations.

¹ Danilo Turk, cited in Robert E. Robertson, "Measuring State Compliance with the Obligation to Devote the Maximum Available resources to Realizing Economic, Social and Cultural Rights," Bert B. Lockwood, Jr., Human Rights Quarterly Volume 16, Number 4, Baltimore, MD, November 1994, page 699.

Human rights centered development planning is an eight-stage process [Figure 2] that begins with ascertaining the people's aspirations and surveying the human rights condition. Development goals and objectives are then defined within the context of human rights and the strategy to achieve the goals and objectives is set forth. A set of principles, policies and safeguards is then formulated to ensure that the strategies will be implemented fairly, equally, effectively, and without discrimination. Programs and projects are identified and the plan's implementation monitored. At all stages of the development planning process, human rights centered development mandates full, active, and genuine people's participation (see *Participation Checklist, page 64 to 66*).

Figure 2. Human Rights Centered Development Planning



Step Guide designed by Maria Socorro I. Diokno.

Stage One: Assess the people's aspirations and the level of their enjoyment- or non-enjoyment of fundamental human rights.

Development is about human life and improving the quality of human life to enable all persons to live decently and in dignity, fully enjoying and freely exercising all their rights and freedoms. It thus becomes important to ascertain and assess the people's aspirations and the level of their enjoyment or non-enjoyment of fundamental rights.

To assess the people's aspirations, analyze their special characteristics, and determine the level of their enjoyment-or non-enjoyment of fundamental human rights, refer to the *Checklist: Claim Holder Analysis* tool (see pages 73 to 83).

Remember to assess the people's aspirations in terms of how high or low the aspiration is, compared to what the state can realistically and effectively achieve, given its capacity and resources. Consider all factors and variables that affect the achievement of the people's aspirations, including those factors within and beyond the scope of state control. Focus on those aspirations that are affected by factors and variables within the state's control that comprise the conditions necessary to realize, enjoy and exercise human rights. In assessing people's aspirations, keep in mind the state's fulfillment-bound obligation, i.e., its obligation to take a whole range of necessary measures to ensure that each individual has the opportunity to obtain the entitlements of human rights that cannot be secured by personal or individual efforts alone.

Stage Two: Survey the human rights condition.

Survey existing conditions, focusing on the level of enjoyment-or non-enjoyment -of fundamental rights and freedoms. Look at the changes that have taken place since the inception and end of the last national development plan.

To survey the human rights condition, assess secondary information. This points to the need for accurate and impartial data from all possible sources - official, non-governmental, academe, international bodies, etc. Be aware that data can be manipulated, or distorted, for various reasons and motivations. So scrutinize the data carefully, and, where possible, look into how the data was gathered, what formulae, if any, were use to arrive at final figures, how sound these formulae are, etc., to ensure the integrity and quality of the data.

The survey of human rights conditions focuses on the extent of enjoyment -or non-enjoyment of each of the fundamental rights and freedoms. It is essential to take into consideration the normative content of human rights. Note that the information - and all other relevant data -relating to the status of specific rights should be *viewed holistically and comprehensively to arrive at the human rights condition*. This is because the status of a right

largely affects and is sometimes even dependent on the status of other rights. "We cannot enjoy civil and political rights unless we enjoy economic, social and cultural rights; any more than we can ensure our economic, social and cultural rights unless we can exercise our civil and political rights. True a hungry man does not have much freedom of choice. But equally true, when a well-fed man does not have freedom of choice, he cannot protect himself against going hungry.²"

The following **Checklist: Human Rights Situation Analysis** may help you survey the human rights conditions:

☐ The availability of food, sufficient to satisfy dietary needs, free from adverse substances and acceptable within the given culture, and food accessibility (economic and physical). This could include:

- Agricultural data, such as food production, food balance sheet; agricultural output, terms of trade for agriculture, proportion of cultivated land, number of agricultural workers disaggregated by prohibited grounds of discrimination), cultivated land per worker, proportion of irrigated land, proportion of forest area and watersheds, proportion of land planted with food crops, proportion of marine waters used for fishing, number and type of fish ponds, by geographic location, volume and types of imports of food, fertilizer and oil, volume and types of exports of crops grown on land that might otherwise have produced food crops, rice and corn sufficiency, rice and corn production, etc.
- Economic data, such as purchasing power, food prices, consumer price index, inflation, food threshold, poverty threshold, food distribution, national family income and expenditure, income distribution, etc.
- Socio-cultural practices and beliefs, such as food consumption patterns, food practices and beliefs, etc.
- Food science, such as nutrient content of specific prevalent foods, biological effects of diets, effect on nutrient levels of common processing and storage practices, presence of possible toxic factors in food, food adulteration and additives, etc.

☐ The quality, availability, accessibility and acceptability of functioning public health facilities, goods and services, including underlying determinants of health. This could include information on:

- Physical infrastructure, by geographic location (e.g., number and type of hospitals, health clinics, use rate, etc.)

- Human resources, disaggregated by prohibited grounds of discrimination (e.g., number and type of health professionals, doctor-patient ratio, doctor-nurse ratio, shifts and working hours, standards for professional development, recruitment and promotion, wage levels and benefits provided to health workers, etc.)
- Materials and equipment (e.g., number and type of facilities by geographic location, patient-bed ratio, availability, accessibility and affordability of drugs, medicines, laboratory examinations, etc.)

² Jose W. Diokno, "Human Rights Make Man Human," in A Nation for Our Children A Nation for Our Children, 1987.

☐ Legal security of tenure, the availability of services, materials, facilities and infrastructure necessary to enjoy and exercise the right to housing, housing affordability, habitability, full and sustainable housing accessibility, housing location, and cultural adequacy. This could include information on:

- Average length of waiting time on waiting lists for obtaining accommodation, measures taken to decrease such lists, measures taken to assist those on such lists to find temporary housing, etc.)
- Housing affordability, disaggregated by prohibited grounds of discrimination (number of persons whose housing expenses are above any state-set limit or affordability, based upon the ability to pay or as a ratio of income, cost of housing materials, rent levels, housing subsidies, etc.)
- Housing accessibility, by geographic location (e.g., types of low-cost housing, access to credit, etc.)

☐ The availability, accessibility, acceptability and adaptability of functioning educational institutions and programs. This could include information on:

- Physical infrastructure (e.g., number and types of schools, by geographic location, etc.)
- Human resources, disaggregated by prohibited grounds of discrimination (e.g., number and types of teachers categorized by educational field and level of education, teacher-student ratio, class size, teaching,

- assignments, standards for professional development, recruitment and promotion, wage levels and benefits provided, etc.)
- Materials and equipment (e.g., number and type of instructional materials, student-laboratory equipment ratio, student-textbook ratio, etc.)
 - ☐ The extent, nature and conditions of poverty, disaggregated by prohibited grounds of discrimination
 - ☐ Threats to life and the security and integrity of the human person, including disaggregated information on the crime rate, crime volume, crime solution rate, crime victims, causes of crime, jail and prison population disaggregated, number and types of jails by geographic location, where the death penalty exists, death row population, executions, number of police and investigative personnel, shifts and working hours, wages and other benefits, etc.
 - ☐ The extent and nature of people's participation in government, directly or indirectly, individually or collectively
 - ☐ The extent and exercise of the rights to free speech, opinion, expression, peaceful assembly and association, and freedom of movement, focusing on the issues and concerns that spurred the people to exercise these rights
 - ☐ Accessibility, availability and effectiveness of public services, and the extent and exercise of the right to social security, including types of social insurance, number of persons covered by social insurance disaggregated, etc.
 - ☐ The extent of enjoyment of the right to work, including type, accessibility and availability of technical and vocational guidance and training programs by geographic locations, unemployment, underemployment and employment rates disaggregated, work conditions and hours, wages and other benefits, promotions, recruitment, number and kinds of workers' organizations, unions, federations, collective bargaining agreements, incidence of strikes, lockouts and other labor disputes broken down by geographic location, issue, and industry, etc.
 - ☐ Legislative capacity (e.g., number and types of laws passed, composition disaggregated by prohibited grounds of discrimination, etc.)
 - ☐ Independence of the judiciary (e.g., accessibility to courts, terms of offices, conditions for service, case loads, wages and other benefits, court personnel disaggregated by prohibited grounds of discrimination, threats against judges, lawyers and prosecutors, etc.)

☐ Regulatory Framework and liability of the private sector for violations of human rights (e.g., accessibility, availability, capacity and effectiveness of monitoring, adjudication and regulatory bodies and agencies, etc.)

☐ The availability, accessibility and effectiveness of mechanisms for redress and the exercise of the right of reparation (e.g., actions taken to prevent human rights violations, investigate human rights violations, take appropriate action against violators, afford remedies to victims, incidence and extent of restitution and number of human rights' victims disaggregated by prohibited grounds of discrimination, incidence and amounts of compensation provided to victims, disaggregated by prohibited grounds of discrimination, incidence and type of rehabilitation afforded to victims, disaggregated by prohibited grounds of discrimination, and measures taken to ensure satisfaction and guarantee nonrepetition of human rights violations)

Completing the human rights survey is an assessment of the power relations and forces in society, and how these forces exercise power in such a way as to impact on the realization of fundamental rights and freedoms. To identify the different power blocs related to the problem, assess their interests and demands, and resolve contending demands with equity, fairness, equality and nondiscrimination, refer to the *Forces-At-Work* tool (see pages 94 to 98).

After surveying the human rights condition, identify and assess future needs relating to the enjoyment and exercise of fundamental rights and freedoms. Then analyze the state's capacity to provide future needs, by looking into the state's resources, capacities and obligations. To determine the state's resources, capacities and obligations, refer to the *Duty Holder Analysis and Obligations Mapping* tool (see pages 89 to 93).

Stage Three. Define development goals and objectives as they relate to the future enjoyment and exercise of fundamental rights and freedoms.

Define development goals and objectives as they relate to the future enjoyment and exercise of fundamental rights and freedoms, for all persons in society, particularly those most vulnerable and marginalized. Development goals and objectives should be based on the people's aspirations that can realistically and reasonably be met by the state given its human rights obligations, capacity and resources, and on rectifying the current human rights condition of the people. Development goals are projections of people's exercise and enjoyment of human rights, based on changed policies, programs and projects

To define policy goals and objectives in human rights terms, refer to *Development Goal Setting in the Context of Human Rights* tool, (see pages 99 to 103).

Stage Four. Set out the strategy to achieve the goals and objectives, taking care to highlight the nature and levels of state obligations and human rights principles.

To set out the strategy to achieve development goals and objectives, refer to those portions of the *Development Intervention Tree* tool that are applicable to this stage of national development planning (see pages 104 to 109). The strategy is normally translated into specific targets for the economy as a whole, to enable the state to allocate resources among the different sectors of the economy.

Begin by clustering the sectors of the economy around particular human rights. Which sectors of the economy impact on the rights to life, food, health, education, housing, etc.?

Then identify the critical resources of these clustered sectors and forecast the growth of these sectors. Remember to target the quantitative growth of these sectors as they relate to the enjoyment, exercise and realization of human rights.

After setting targets, prioritize areas of growth, ensuring that no human right is sacrificed for another.

Stage Five: Set forth a centrally coordinated, internally consistent set of guiding principles, policies and safeguards that would ensure the effective and equitable implementation of the strategy, without discrimination.

Formulate a centrally coordinated, internally consistent set of principles, policies and safeguards as the optimal means of implementing the strategy and achieving the targets. This set of principles, policies and safeguards, serves as the comprehensive framework for implementing, coordinating and monitoring the development plan. [Refer to the section on human rights centered development policy, particularly the guidelines for policy-makers, pages 12 to 20 above. Refer also to the checklists, diagrams and matrices annexed to this paper (Annexes I through 5), the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]

Stage Six: Identify the programs and projects for execution by line and attached agencies of the national government and local government units,

incorporating human rights principles, the normative content of human rights, and the nature and levels of state obligations.

Identify the specific functions and activities, projects and programs for the implementation of the strategy, to be executed by line and attached agencies of national government or local government units with national government support through shared proceeds of tax and commitment of funds. *[Refer to the Development Intervention Tree tool, pages 104 to 109. Refer also to the checklists, diagrams and matrices annexed to this paper (Annexes I through 5), the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]*

Stage Seven: *Monitor the implementation of the national development plan in the light of human rights principles, taking corrective action when warranted.*

To systematically appraise the implementation of the national development plan in the context of human rights, refer to *Monitoring in the Context of Human Rights tool*, (see pages 110 to 111).

Stage Eight: *Evaluate the national development plan in the light of human rights.*

To evaluate the national development plan in the context of human rights, refer to *Checklist. Concrete Measures of Progress* (pages 112 to 114).

HUMAN RIGHTS CENTERED DEVELOPMENT BUDGETING

"Full human development is the optimal development of all that is human in all humans, the bringing to full flower of the native genius of each and of all."

Jose W. Diokno,

"Political Life: Its Place in Full Human Development," in
A Nation for Our' Children Claretian Publications. 1987.

This section presents a practical framework for assessing national budgets within the context of human rights. It proposes a dual-phased process of revenue and expenditure analysis, matching state performance towards the enjoyment, exercise and realization of human rights against objective capabilities such as financial resource management and allocation.

This section is largely based on two papers: Maria Socorro I. Diokno, A Rights-Based Approach towards Budget Analysis, International Human Rights Internship Program, 1999, which was also reproduced in International Human Rights Internship Program, Circle of Rights and Maria Socorro I. Diokno, ESC Rights and Budget Analysis

October 24, 2001.

Every action of the state has financial implications that are ultimately translated into the national budget. The national budget reflects what the state is doing or intends to do. It is a translation in financial terms of the action program of the state, coordinating planned expenditures with expected revenue collections and proposed borrowing operations -hence a national plan that cuts across departmental boundaries and ties together all plans and projects. It is the instrument through which a state attempts to carry out the full range of its activities. The national budget converts state development plans and priorities into a program of action.

The national budget contains the totality of resources available to a country and an itemized listing of all expenditures of the state. It reflects the country's socioeconomic policy priorities by translating priorities and political commitments into expenditures and taxation. It is a representation in money terms of govern-mental activity, the master plan of government.

It is difficult to conceive of any public policy or development plan that can be carried out without money and without being subject to budgetary processes at the development, review and implementation stages. It is equally difficult to conceive of any state action designed to create and facilitate an economic, social and political environment conducive to the enjoyment, exercise and realization of human rights that can be undertaken without funds from the national coffer.

The extent, efficiency and implementation of public development policies, plans and priorities are greatly influenced by the availability of public resources. These resources include physical factors, natural resources, human power, existing productive capacities, financial resources in domestic currency and foreign exchange, receipts from borrowings, grants and assistance programs, among others. All these resources put together are available for state use. The fact of the matter is that all states possess resources; so clearly, the basic problem is not that a state does not have resources, but that the state structures its resources along the lines of its policy priorities.

Unfortunately, most states have not clarified the criteria they use for selecting the object of public expenditures. Confronted with limited financial resources, states often make choices, perhaps arbitrary, that are influenced by pressure politics, perceived economic growth demands, global realities, etc., with little consideration for the impact such choices have on the quality of human life.

States have not yet considered what norm of expenditure is consistent with human rights and state obligations emanating from human rights.

Human rights centered budget analysis, is a practical framework for assessing national budgets to determine whether these conform to human rights principles, are coherent with the normative content of human rights, and comply with the nature and levels of state obligations. It matches state performance towards the enjoyment, exercise and realization of fundamental rights and freedoms against objective capabilities such as financial resource management and allocation.

Human rights centered budget analysis is a dual-phased process composed of revenue analysis and expenditure analysis. Public revenues are analyzed to determine whether the state upholds human rights

principles, respects the normative content of human rights, and complies with its obligations in its efforts to raise revenues to finance state activities. Public expenditures are assessed by nature and function and compared against the quality of human life and the status of human rights.

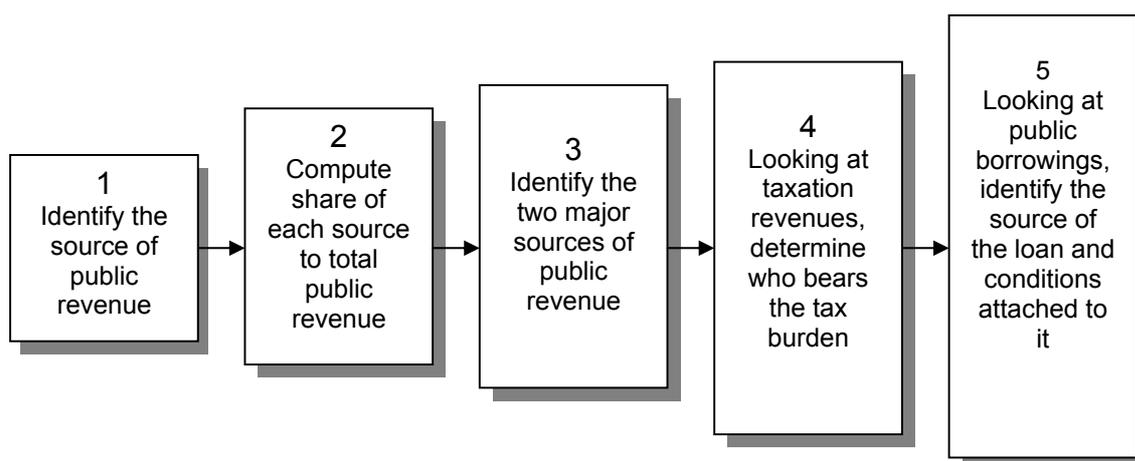
Budget analysts are reminded to *ensure genuine people participation and involvement at all stages of this process (see Participation Checklist, pages 64 to 66).*

Phase One: Revenue Analysis within the context of human rights

Revenue analysis within the context of human rights is a five-step process (Step Guide 2) described below. It seeks to determine what financial resources are available to the state, how much financial resources are available for state use, where the state intends to source these financial resources, and how the state intends to raise these resources. This information impacts on the status and realization of human rights and can signify whether the state complies with its obligations.

Step One. Identify the source of public revenues to determine what financial resources are available for state use.

Step Guide 2. Revenue Analysis in Context of Human Rights



Public revenues may be sourced from taxation revenues, capital revenues, extraordinary income, public borrowings, grants, etc.

Step Two. Compute the share of each source to total public revenues to determine where and how the state intends to raise its resources.

Computing the share of each source to total public revenues is simply determining taxation revenues as a percentage of total revenues, capital revenues as a percentage of total revenues, public borrowings as percentage of total revenues, and so forth.

Step three. Identify the two major sources of public revenues.

In all likelihood, a state sources most of its revenues from taxation and public borrowings.

Step four. Looking at taxation revenues, determine who bears the tax burden.

To determine who bears the tax burden, look at the share of direct and indirect taxes to total taxation revenues and compute the ratio of indirect to direct taxes.

Taxes are classified into direct and indirect taxes depending on whether taxes are based on the taxpayer's ability to pay or not.

Direct taxes are those taxes that cannot be shifted or transferred to another but are borne by those liable to pay for them. Direct taxes are computed on the basis of the taxpayer's income or personal assets such that, for example, those with greater income pay a larger tax. Examples of direct taxes include income tax, transfer tax, real property tax, community tax, etc. Since direct taxes cannot be shifted to other taxpayers, these do not tend to increase the prices of consumer goods or services and are more effective in achieving equity in the distribution of wealth and income in society.

Indirect taxes, on the other hand, are those paid by persons other than the one on whom the tax is legally imposed. Persons liable for indirect taxation have the opportunity to shift or transfer their tax burden to others as part of the purchasing price of a commodity or part of compensation for services rendered.

Thus, all buyers of the same product or service pay exactly the same rate and amount of tax regardless of differences in their incomes. Examples of indirect taxes are sales tax, business percentage tax, value-added tax, amusement tax, and the like. In countries where income is inequitably distributed, indirect taxation increases inequality in society. This is because when the poor pay the same amount of taxes as the rich, the poor are actually paying proportionately more taxes than the rich. The

indirect tax is a bigger share of the income of the poor, and the poor have less to spend for their needs than the rich. Indirect taxes also tend to increase the prices of consumer goods and services. Where indirect taxation results in a decline in purchasing power that is required in the exercise of human rights, indirect taxation has a devastating effect on the enjoyment and realization of human rights.

To determine who shoulders the tax burden, simply compute the share of direct and indirect tax to total tax revenues (direct tax as a percentage of total tax revenues and indirect tax as a percentage of total tax revenues). Then compute the ratio of indirect tax to every 1.00 in domestic currency of direct tax collected (*divide indirect tax by direct tax to arrive at the ratio of indirect tax: 1.00 direct tax*).

$$\frac{\text{Indirect tax}}{\text{Direct tax}} = x \text{ indirect tax : 1.00 Direct tax}$$

The above computations will lead to either of two results: tax revenues are generated mainly through direct taxation or tax revenues are generated mainly through indirect taxation.

A situation where tax revenues are generated mainly through direct taxes, particularly in countries characterized by massive poverty and inequality in the distribution of wealth and income would be compatible with human rights.

A situation where tax revenues are generated mainly through indirect taxes, particularly in countries characterized by massive poverty and inequality in the distribution of wealth and income would be incompatible with human rights. In this situation, indirect taxation may be considered a discriminatory measure against the poor and a measure that deepens inequality in access, treatment and opportunity to exercise and enjoy fundamental rights and freedoms. Also, situations where reliance on indirect taxation results in rising prices and effective reduction of purchasing power may deliberately retard the enjoyment, exercise and realization of human rights.

Step Five. Looking at public borrowings, identify the source of the loan and ext of human rights.

Sources of public borrowings may be either domestic or foreign and may include commercial banks, bilateral lenders or multinational financial institutions.

It is important to look at the source of public borrowings and conditions attached to these, because higher borrowings mean larger spending on debt servicing, thus smaller allocations for other public programs geared towards creating conditions necessary for the enjoyment and realization of

human rights. Since all loans have conditions attached to them, the identification of the source of the loan will determine to some extent the conditions 'attached to the loan.

Commercial banks impose primarily financial conditions (e.g. interest rates, spreads,¹ periods of repayment, etc.). Bilateral lenders, (other country-govern-

ments) impose generally political and trade conditions. Multilateral financial institutions, such as the World Bank and the International Monetary Fund, impose conditions that involve detailed participation in the state's development plans and all aspects of the state's economic policies. As a general rule, the International Monetary fund extends loans to states with balance of payments problems² while the World Bank extends loans that are directly applied to development projects. In practice, however, overlapping occurs. Countries that oppose conditions imposed by the World Bank and the International Monetary Fund do not receive financial assistance.³

It is important to analyze the conditions attached to public borrowings to determine how these conditions impact on the quality of human life. This is accomplished by relating loan conditions to human rights principles, the normative content of human rights and the nature and levels of state obligations. *[Refer to the checklists, diagrams and matrices annexed to this paper (Annexes 1 through 5), the relevant international covenants; the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines]*

¹ Spreads refer to the difference between two different figures or percentages.

² Balance-of-payments represent the balance between what a state earns from its exports of goods and services, etc., which makes foreign currencies available to it, and what the state spends for its imports and other items, including foreign aid, requiring foreign currencies.

³ Sigrun I. Skogly, "Structural Adjustment and Development: Human Rights - An Agenda for Change," : Bert B. Lockwood, Jr., Human Rights Quarterly Volume 15, Number 14, Baltimore, MD, November 1993, page 756.

The following questions may help analyze loan conditions from a human rights perspective:

- Do the conditions retard, halt or otherwise obstruct the enjoyment and realization of fundamental rights and freedoms, particularly by those most vulnerable and marginalized?

- What is the actual impact of these conditions on the quality of human life in society?
- Do the loan conditions diminish or eliminate those factors that cause or perpetuate discrimination? Do the loan conditions discriminate against any persons, groups or sectors in society?
- Do the loan conditions contribute to equality between women and men? Are women affected by the loan conditions differently from men?
- Do the loan conditions empower the people?
- Do the loan conditions prevent other actors from violating the human rights of the people, particularly those most vulnerable and marginalized?
- What specific rights are affected by the loan conditions? Do the loan conditions respect the normative content of these rights?
- Do the loan conditions include mechanisms for monitoring their actual impact on the lives of the people? How accessible, available and effective are these mechanisms?
- Do the loan conditions include mechanisms to enable the people to question these conditions, or seek redress for any deprivations that may arise as a result of these conditions? How accessible, available and effective are these mechanisms?
- Do the loan conditions include clearly defined safeguards to mitigate threats to human rights? How effective are these safeguards?
- Did the people genuinely participate in the negotiations and acceptance of these loan conditions? What is the nature and extent of people's participation? See *Participation Checklist, pages 64 to 66*. Were women and men equally represented?
- What information regarding the loan conditions, if any, was disclosed to the public? What is the standard of the information disclosed in terms of content, clarity, accessibility, availability and timeliness?
- What is the nature and extent of access to the loan process, particularly by those most vulnerable and marginalized?
- What are the role of politics and the power dimensions of the loan process? Were there any contending issues of different interest groups

or power factions? Were these resolved with *equity, equality* and *nondiscrimination*?

Phase Two: Expenditure Analysis within the context of human rights

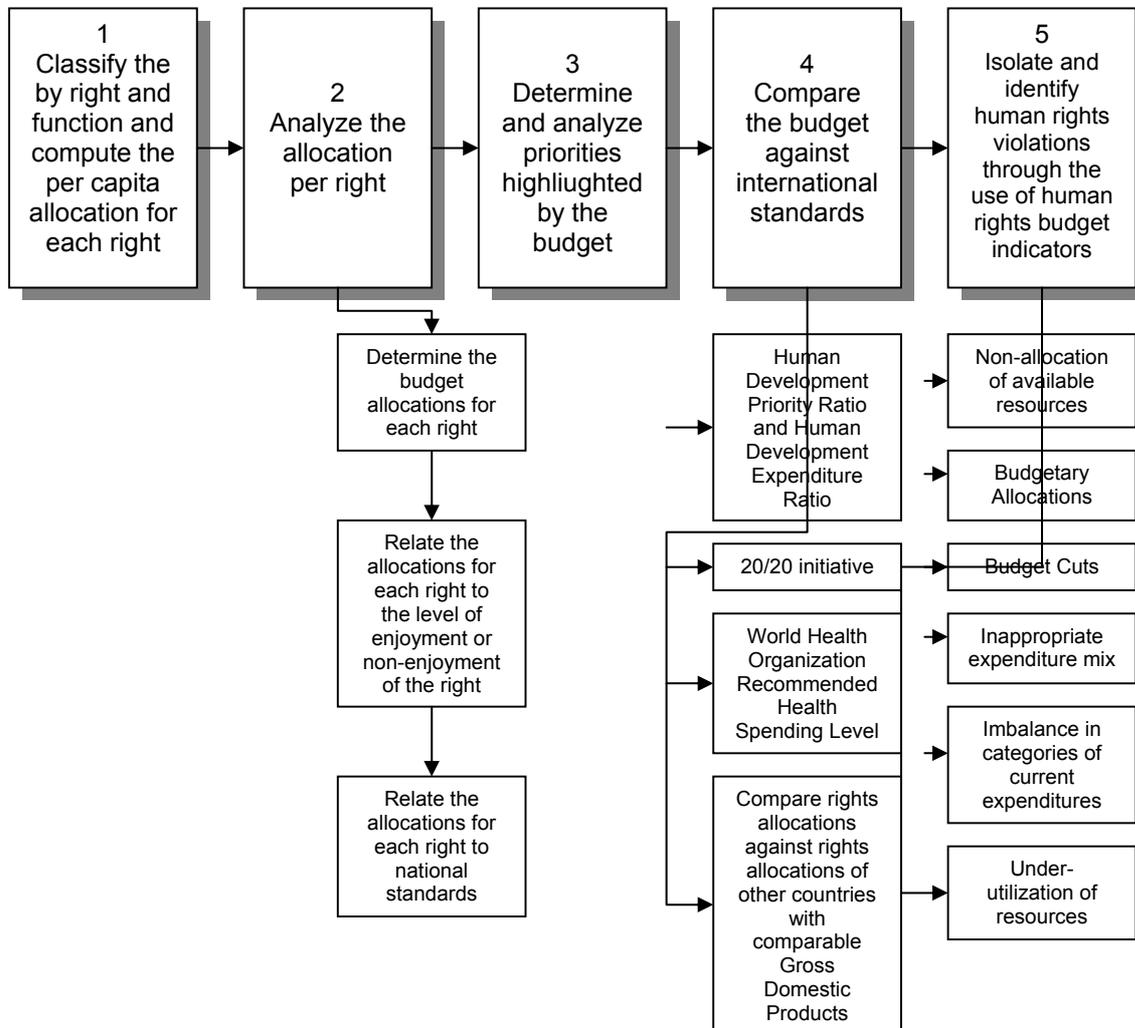
In the context of human rights centered development, expenditure analysis seeks to determine how the state intends to spend its available financial resources, the priorities the state set for its public expenditures, and whether these priorities and public allocations are consistent with human rights. Expenditure analysis also links public allocations with international and national standards and with the status of human rights in order to assess the impact of public allocations on the enjoyment and exercise of fundamental rights and freedoms.

Step One. Classify the budget by right and function and compute the per ca pita allocation for each right.

This step seeks to determine the budget's expenditure mix, in particular:

- how much is allocated for the creation of conditions that facilitate the enjoyment and realization of human rights,

Step Guide 3. Expenditure analysis in context of human rights



- how much is allocated for programs and projects that obstruct the enjoyment and realization of human rights,
- how much is allocated for the protection of human rights, and
- how much is allocated for other functions of the state.

To determine the budget's expenditure mix, undertake a line item analysis: go over each and every item in the budget and reclassify the proposed expenditures by right and function, as follows:

- Allocations for the right to education

- Allocations for the right to food
- Allocations for the right to health
- Allocations for the right to housing
- Allocations for the right to social security
- Allocations for the right to work
- Allocations that obstruct the realization and enjoyment of human rights, specifying which particular human right is adversely affected by the allocation, These include any items in the budget of any department/ ministry, which, on its face, violate any human rights, such as, for example, state subsidies for the tobacco industry, which violate the right to health. Allocations that obstruct the enjoyment and exercise of human rights should be encoded in negative figures.
- Allocations for national defense and security
- Allocations for the judiciary
- Allocations for the national human rights institution, if any
- Allocations for the legislature
- Allocations for other executive functions, and
- Allocations for debt servicing.

Please note that states rarely classify their national budgets by right, so it is important to go over every item in every departmental/ ministerial budget, since rights-related expenditures often cross departmental/ ministerial lines. Also note that value judgments may be required in reclassifying proposed expenditures; make sure to base all value judgments on the normative content of human rights and corresponding state obligations of the rights. *[Refer to the checklists, diagrams and matrices annexed to this paper (particularly Annexes 3 and 4), the relevant international covenants; the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]*

After classifying the budget by right and function, compute the per capita allocation for each right and function by simply dividing the total allocation for each right and function by the population.

It is important to remember that per capita allocation does not imply that each and every member of the population will actually receive the amount allocated. In all likelihood, there will be an uneven per capita distribution of state allocations for the different rights and functions. Research in South Africa has shown uneven per capita distribution of state expenditures on services such as health and education. In South Africa, the poorest twenty percent of households receive less than twenty percent of government expenditures on education and health, whereas the richest twenty percent receive more than twenty percent of public spending on those items. This is indicative of gross inequality in how government spending is reaching (or failing to reach) those who need it most. The per capita analysis would not be able to identify such inequality issues.

Step Two. Analyze the allocations per right.

The classification of the budget by right and function will show the amount the state intends to spend for the realization and enjoyment of each right. It will also point out which cabinet departments/ ministries are involved in creating conditions towards the enjoyment and realization of the right. Do these departments/ ministries work together towards the promotion, protection, enforcement and guarantee of the right? Are their programs complementary or conflicting? Is there an inter-agency task force or some other mechanism that rationalizes these rights-related expenditures?

Relate the allocations for each right to the level of enjoyment or non-enjoyment of the right. In this case, the budget is viewed as a process indicator, while the status of the rights may be gleaned from various outcome indicators established by official and nongovernmental sources. It is important to look at as many sources of indicators as possible, and to view indicators with a critical eye. Outcome indicators are influenced by a multitude of factors, and should include those indicators that are substantially consistent with state obligations and the normative content of the rights. It is also important to probe beyond outcome indicators and to correlate the indicators with each other to arrive at the status of the rights. Finally, it is important to disaggregate indicators by urban-rural setting, gender, age, income levels, social groups, ethnicity occupation, etc.

Look at every right and break down the allocations by geographic location and spending level. It is important to link the geographic distribution of the population with budgetary allocations. Is the state's population concentrated in urban centers or spread throughout the rural areas? Are the allocations focused on rural or urban spending? Inappropriate spending may lead to inequality between the rural and urban population and discrimination against the rural population.

The guidelines below may help compare the status of the rights to education, food, health, and housing with budgetary allocations:

✓ When analyzing the budgetary allocations relating to the right to *education*, consider:

✓ Where a greater segment of the general population is below 18 years of age indicates a need to support a greater number of elementary and secondary schools in the geographic locations where the youth population is concentrated. It is important to find out:

- How many schools are there? Where are these schools located? What levels of education are provided?
- What is the student population? How does the student population compare with the general youth population? Are more youth out-of-school or in school?
- Are there budgetary allocations for the construction of elementary and secondary schools consistent with the geographical location of the youth population? How much is allocated? How many school buildings will be constructed and for what levels of education? Are school amenities (library, laboratory, play area, toilet facilities, cafeteria, drinking water stations, etc.) included in the budgetary allocation for school building construction?
- Remember that capital expenditures such as construction of school buildings should be matched by efforts to provide adequate personnel to run the infrastructure. Does the budget include allocations for new staff (teaching, administrative, and non-teaching personnel)?
- Is the amount allocated sufficient to meet the requirements of the youth and student population?

✓ Teacher experience, teacher-student ratios, pedagogical skills, textbooks, class size, homework and length of the school year have been known to impact positively on student achievement. It is important to find out:

- What are the estimates of educational wastage? What are the dropout rate, the failure rate, and the rate of repetition? What is the school completion rate?
- What are the student-textbook ratio and the student-laboratory equipment ratio?

What is the teacher-student ratio? What is the average class size?

✓ Where there are low survival rates among pupils indicates a need for: (a) curricular development, (b) development of pedagogical skills of teachers, (c) smaller class size, and (d) improved teacher-student ratio.

Are there budgetary allocations to hire more teachers, construct more classrooms, provide teacher-training courses and seminars and increased wages and benefits for the teaching staff and curricular development?

✓ Where student-textbook ratio is higher than 1:2 and where student laboratory equipment ratio is greater than 1:5 indicates a need to provide more textbooks and laboratory equipment (for science laboratories, computers, etc.).

Does the budget include allocations for the provision of textbooks, textbook development, curricular development and laboratory equipment? How much is allocated? Are the allocations sufficient to meet the needs of the student population?

✓ Where functional literacy and literacy rates of the general population are low indicates a need to support elementary and secondary education.

How much is allocated for elementary and secondary education compared to other levels of education?

✓ Where public school students in rural areas cannot compete with or pass the standardized national test scores indicates a need for greater budgetary support for rural public education.

What is the passing rate for standardized national test scores? How many students pass these tests? Is the passing rate for public school students higher or lower than the passing rate for private school students?

Does the budget provide greater support for rural public education?

✗ A high or significant prevalence of child labor could indicate poor enrolment rates, low survival rates, and high rates of educational wastage.

- What is the enrolment rate?
- What is the incidence of child labor?
- How much is allocated for university educational programs in the presence of very low primary and secondary school enrolment rates?
- Does the budget provide for scholarships, free admissions, free meals, free textbooks, free uniforms and other incentives?

When analyzing the budgetary allocations relating to the right to food, consider:

Crucial to the enjoyment and exercise of the right to food are (a) the production and maintenance of sufficient supply of food so that access to food is possible, (b) the adoption of an agricultural production policy that ensures adequate supply of food, and (c) the adoption of programs on effective food use and self-sufficiency through training and education.

- What is the total available supply of calories and proteins per person per day? This information may be taken from the food balance sheet accounts for domestic 'production of food, imports minus exports, inventories at the beginning and end of each year, food products used for seed, animal feed, industrial and other non-human consumption purposes and allowance for wastage. Is the total available supply of calories and proteins per person per day sufficient to meet the needs of the population?
- What is the level of rice sufficiency (i.e., the level of rice production compared to population growth)? If rice sufficiency is in deficit, there is not enough rice for the population.
- What is the extent of cash crop production? What is the extent of commercial crop production? What is the extent of food crop production? If commercial crop or cash crop production exceeds food crop production, it may reduce the availability of food supplies to dangerous levels.
- What are the terms of trade for agriculture? Are agricultural products cheaper or more expensive than non-agricultural products?
- What is the proportion of irrigated land? Cultivated land? How many agricultural workers are there? What is the ratio of agricultural worker

- to cultivated land? What is the proportion of forest area and watersheds? How much land is planted with food crops?
- What is the proportion of marine waters utilized for fishing? How many fishponds and fish farms are there?
 - What is the volume of food imports? How often is food imported? What is the volume of exports of crops grown on land that might otherwise have produced food crops?
 - Does the budget allocate funds to improve the supply of calories and proteins per person per day?
 - Are there budgetary allocations to improve rice sufficiency? In what form are these allocations (for import of rice, for development of rice production capabilities, etc.)?
 - Does the budget allocate funds for farmer education, cooperative support, farm credit, farm equipment subsidies?
 - Does the budget allocate funds against destructive forms of fishing (dynamite fishing, etc.)?
 - Does the budget allocate funds for land reform? How much land will be distributed under the land reform program? Are the budgeted amounts sufficient for the successful implementation of the land reform program?
 - Crucial to the enjoyment and exercise of the right to food is the maintenance of reasonably unimpeded, effective and equitable access to available food supply (e.g., regulation of food prices, effective geographical distribution and storage of food supplies, etc.).
 - What is the currency's purchasing power? What is the consumer price index? What is the inflation rate?
 - How much is average family income and expenditure? How family expenditure is distributed (how much is spent on food, health, housing, education, etc.)?
 - What is the poverty threshold? What is the poverty line? How many families fall below the poverty line?
 - What is the food threshold? How many families fall below the food threshold?

Does the budget allocate any funds to address the needs of those falling below the food and poverty thresholds? In what forms (supplementary feeding programs, access to credit, food subsidies, etc.)?

It is also important to look at the nutritional status of the population, an indicator of the level of enjoyment-or non-enjoyment of the right to food.

What are the incidence and types of nutritional disorders (protein energy malnutrition, endemic goiter, xerophthalmia leading to blindness, nutritional anemia, etc.)?

What is the prevalence of stunting, underweight, malnutrition?

What is the prevalence of deficiencies in vitamin A, iodine and iron?

Does the budget allocate funds to meet nutritional disorders and deficiencies?

Does the budget allocate funds for community nutrition education?

When analyzing the budgetary allocations relating to the right to *health*, consider:

The right to health is the right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health. It is thus important to find out:

How many hospitals and health centers are there? Where are these located? What is the use rate for hospitals and clinics? What is the patient-bed rate? What health services (promotive, preventive, curative, rehabilitative) do these public hospitals and clinics provide?

Do the health facilities include laboratories and other amenities (toilet facilities, canteen, drinking water stations, pharmacy or dispensary, etc.)?

Are medicines and other hospital supplies provided patients free of for a cost, and if so, at what cost?

Does the budget provide for the establishment and maintenance of more hospitals and health centers?

- Remember that capital expenditures such as construction of hospitals and health centers or clinics should be accompanied by efforts to provide adequately trained personnel to run the infrastructure. Does the budget include allocations for hiring additional health personnel?
- Does the budget include allocations for the distribution of free medicines? Does the budget include subsidies for health care? Are these allocations sufficient?
- The doctor-patient ratio, nurse-doctor ratio, nurse-patient ratio and midwife-patient ratio have been known to affect the state of health. Where these ratios are inadequate, indicates a need to support the recruitment and hiring of health professionals in the public health sector.
- How many doctors, nurses, midwives and other health professionals work in the public health sector? What are the doctor-patient ratio, nurse-doctor ratio, nurse-patient ratio and midwife-patient ratio?
- Does the budget include allocations for the hiring of health professionals?
- Does the budget include allocations for health professional training courses and development?
- Does the budget provide for increased salaries, wages and benefits for health professionals?
- Are these allocations sufficient to improve the above ratios?
- Where high incidence of infant mortality, under-five mortality and mortality exist and where life expectancy is low indicating a need for primary health care clinics, community health education programs and childhood immunization programs.
- What are the infant mortality rate, under five mortality rate, mortality, rate and morbidity rate? What are the leading causes of infant mortality? Could these causes of death be prevented and/or treated with proper health care?
- What is the life expectancy rate?
- What is the prevalence of youth and teen pregnancy?

- What is the proportion of the youth and child population already immunized and the type of immunization received?
- Does the budget include allocations for immunization campaigns, the establishment and maintenance of family planning and primary health care clinics, and community health education programs? Are these allocations sufficient?
- Research has shown that community family planning clinics promote infant health.
- Does the budget include allocations for the establishment and maintenance of community family planning clinics?
- Where will these clinics be established?
- Does the health budget provide greater allocations for preventive health care clinics or curative health care facilities? Does the budget emphasize preventive rather than curative health measures?
- Does the budget adopt primary health care as its basic orientation?
- It is also important to find out how the state addresses health problems in the country.
- What are the incidence of drug abuse and de-addiction and alcohol and other substance abuse and de-addiction?
- What is the prevalence of AIDS cases?
- What is the proportion of population with mental health problems?
- Does the budget include allocations to address these health problems? Are the allocations sufficient?
- Water and sanitation are essential to the enjoyment and exercise of the right to health. Many diseases are water borne or are exacerbated by lack of access to safe and potable water or basic sanitation. Where a greater number of households do not have access to safe and clean potable water and to sanitation facilities indicates a need for the construction of sewage systems, basic sanitation facilities, and provision of adequate supply of safe water.

- What is the proportion of households with access to safe and clean potable water? What are the types of access?
- What is proportion of households with access to sanitation facilities? What are the types of access?
- Does the budget provide for the construction of sewage systems, basic sanitation facilities, and provision of adequate supply of safe water? How many facilities will be constructed and where will they be constructed? Are the allocations sufficient?

 When analyzing the budgetary allocations relating to the right to *housing*, consider:

- What are the different types of housing tenure? How many persons are housed according to the different types of housing tenure?
- What is the proportion of the population that is homeless?
- How many persons are currently inadequately housed?
- How many households do not have ready access to safe drinking water, electricity, and basic sanitation facilities?
- How many persons live in over-crowded, clamp, structurally unsafe housing?
- How many persons are currently classified as living in "illegal" settlements or housing?
- How many persons were evicted? How many persons are under threat of eviction?
- Does the budget include allocations to provide housing for the homeless? How much is allocated and for how many houses? Is the amount sufficient to meet the housing needs of the homeless?
- Does the budget include allocations to provide electricity, sanitation facilities, and provision of adequate supply of water? Are these sufficient to meet the needs of those currently without access or with inadequate access to these facilities?
- Does the budget include allocations to address the problem of over-crowding and homelessness (housing subsidies, housing credit, etc.)?

- Does the budget include allocations to provide assistance to those evicted or under threat of eviction?

Relate the allocations for each right to national standards by comparing total per capita rights allocations with the official food threshold, daily minimum wage, daily cost of living and poverty threshold.

In many cases, the state has established its own standards or parameters that relate to human rights. These include standards on poverty, food and wages. Often these standards are conservative, way below what is actually required to live a decent and humane life and to realize and enjoy freedoms and entitlements.

State-set standards are usually in the form of food threshold, poverty threshold and daily minimum wages. The food threshold is the annual per capita income required or the amount spent to satisfy a person's nutritional requirements of x calories a day. The poverty threshold is the minimum income required to satisfy food and other basic needs. Persons earning less than this amount are officially regarded as poor. Most states have established daily minimum wages, either by executive proclamation or through legislation. The daily minimum wage is the rock-bottom wage to be observed by all employers.

In some states, non-governmental organizations or academic research institutes have computed the daily cost of living, or the amount needed to feed, clothe, house and attend to the health needs of an individual. These standards are generally higher than the official standard and are generally more compatible with the realities within the country.

It is important to compare budgetary allocations for the realization and enjoyment of human rights against official standards relating to human rights, to determine whether the state matches its own standards, and whether the state is creating - or attempting to create - conditions that realize human rights.

To determine whether budgetary allocations match official standards, add the per capita allocations for the realization of the rights to education, food, health, housing, work and social security and compare the total per capita rights allocations against the state's food threshold and poverty threshold. Then divide the total per capita rights allocation by 365 days to arrive at the rights allocation per capita per day. Compare this figure against the official daily minimum wage and the estimated daily cost of living. Is the budget for human rights less than, equal to, or greater than the food threshold, the poverty threshold, the daily minimum wage, and the daily cost of living? Are these allocations sufficient for the enjoyment, exercise and realization of these rights?

Step Three. Determine and analyze state priorities highlighted by the budget.

Consolidate your findings by creating a table (Table 1, next page) that represents exactly how much the state allocates for each right and function, the per capita allocation, and its share of the budget (allocation for a right or function as a percentage of total budgetary allocations). The table will provide the expenditure mix of the budget and will point out state priorities for the year.

Table 1. National Budget Classified by Right and Function

Budgetary Allocations Classified by Right and Function	Total Allocation	Per Capita Allocation	Percent of Total
Allocations for the Right to Education			
Allocations for the Right to Food			
Allocations for the Right to Health			
Allocations for the Right to Housing			
Allocations for the Right to Social Security			
Allocations for the Right to Work			
Allocations that Obstruct Human Rights			
Allocations for National Defense and Security			
Allocations for the Judiciary			
Allocations for National Human Rights Institutions			
Allocations for the Legislature			
Allocations for Other Executive Functions			
Allocations for Debt Servicing			
Total Allocations			

Analyze the table by answering the following questions:

- What are the state priorities highlighted by the budget?
- Is the state allocating more of its financial resources towards creating conditions for the enjoyment and realization of human rights?
- Is the state allocating fewer resources for human rights and providing more resources for national defense and security or debt servicing or some other function?
- Does the expenditure mix reflect equitable and effective use of financial resources?

- Is the expenditure mix sufficient for the enjoyment and realization of fundamental rights and freedoms?

Step Four. Compare the budget against international standards and against the budgets of other countries with comparable Gross Domestic Products.

After determining and analyzing state priorities highlighted in the budget, compare the budgetary allocations against international standards. In recent years, three international standards for rights expenditures have evolved:

- The United Nations Development Programme (UNDP) recommended that states devote at least five percent (5 %) of their Gross National Product (GNP) or the equivalent of twenty percent (20 %) of the national budget on what it calls human priority expenditures. These are expenditures on basic education, health, water, family planning and nutrition. The Human Expenditure Ratio refers to five percent of the Gross National Product while the Human Development Priority Ratio refers to twenty percent of the national budget. To find out whether the state meets the Human Development Priority Ratio, add up all expenditures for basic education, health, water, family planning and nutrition and determine its share of the national budget (divide the total by the total national budget). Note that you should not add up the allocations for the rights to education, food and health; what you should do is to add only those items in the budget relating to basic education, health, water, family planning and nutrition. Also note that states have different ways of arriving at these international standards, so it is important to discover the formula used by the state. The simple formula proposed here will, in all likelihood, arrive at different figures from the state formula.
- At the 1995 United Nations-organized World Summit on Social Development, a consensus was reached adopting the 20/20 initiative. This initiative directs developed states to devote twenty percent (20 %) of their official development assistance and developing states to devote twenty percent (20 %) of their national budget on basic social services. Insofar as the 20/20 initiative is concerned, the national budget will only provide the percentage of expenditures for basic social services of the state. One may not be able to arrive at whether official development assistance for basic social services provided by a particular developed state represents twenty percent of their total official development assistance. In this regard, networking with colleagues in developed countries could be of great help. Again, note that different states have different ways of arriving at these

international standards, so it is important to discover the formula used by the state.

- The World Health Organization set a global target that encourages states to spend at least five percent (5 %) of the Gross National Product (GNP) on health. To find out whether the state meets this standard, simply divide total allocations for the right to health by the state's Gross National Product.

It may be also be important to undertake international comparative analysis, by comparing allocations against those in other countries with similar Gross Domestic Products. This will point out the state's standing vis-a-vis other states with comparable income. This may include computing the total rights allocations as a percentage of the budget or of the state's Gross Domestic Product and comparing this figure against figures from other countries with comparable Gross Domestic Products.

Step Five. Isolate and identify violations of human rights through the use of human rights budget indicators.

The following budget indicators may help facilitate budget analysis within a human rights framework and help isolate and identify violations of human rights:

- Non-allocation of available resources, that is, absolutely NO funds are allocated for
 - A step the state is, by its treaty obligations under international covenants, required to take, or
 - The progressive realization of a right, or
 - The immediate implementation of a right, or
 - The removal of obstacles required by the international covenants, or
 - Benchmarks towards the progressive realization of a right, set by the state.
- Budgetary allocations, or all items in the national budget that the state intends to use to finance its activities, projects and programs, including
 - Capital expenditures (infrastructure, equipment, etc.)

- Current expenditures (salaries and wages, maintenance and operating expenses such as rents, transportation and travel, repair and maintenance of facilities, equipment or vehicles, supplies and materials, communications, water, light and power services, taxes, duties and fees, etc.)
- Benefits, grants, subsidies and contributions, rewards and other claims
- Training and seminar expenses.
- Budget cuts or reductions in public allocations that may be seen through a multi-year analysis of the budget. The United Nations Committee on Economic, Social and Cultural Rights has implied that where there is no apparent justification for a reduction in public expenditure, the state might be considered to have violated its obligations under the International Covenant on Economic, Social and Cultural Rights.
- Inappropriate expenditure mix, meaning the distribution of expenditures results in the state's non-observance of its human rights obligations
 - Among different state functions (for example, greater allocations for national defense and security or debt service and less allocations for human rights)
 - Within levels of spending patterns (for example, higher allocations for university education and less allocations for elementary education, or higher allocations for urban tertiary care hospitals and less allocations for rural health clinics, etc.)
 - By geographic location (greater allocations for urban centers and less allocations for rural areas)
- Imbalance in categories of current expenditures, that is, disproportionate or unequal spending on budgetary items which result in breaches of human rights (for example, declining share for medicines and other hospital supplies due to increasing staff salaries and allowances of the personnel of the Health Ministry/ Department)
- Under-utilization or the improper use of funds already allocated for services, projects and programs necessary for the enjoyment and realization of human rights resulting in breaches of states' human rights obligations.

HUMAN RIGHTS CENTERED DEVELOPMENT PROGRAMMING

"One more thing is needed: a change in our mentality. We must believe in ourselves, in our capacity to overcome hardship, in our ability to make the right decision. In short, we must have faith in the people, and not act like colonizers who know everything and distrust everyone, especially the people. So that, whenever a question impinges on the life of the people, it should be submitted to their judgment. It is on that judgment that WC should rely."

Jose W. Diokno,
"The *Changing Political Situation A Challenge*," in
A Nation for Our Children Claretian Publications, 1987.

This section suggests a six-stage process for the conduct of human rights centered development programming.

Human rights centered development programming is a six-stage process founded on human rights principles, the normative content of human rights, and the nature and levels of state obligations (Figure 3). Note that these stages are not accomplished in isolation but are largely contingent upon each other. Note also that throughout every stage of human rights centered development programming, every effort must be taken to involve those affected (claimholders, -duty-holders, other actors) and encourage their free, meaningful and genuine participation in the process (See *Participation Checklist, pages 64 to 66*).

Figure 3. Human Rights Centered Development Programming Cycle.

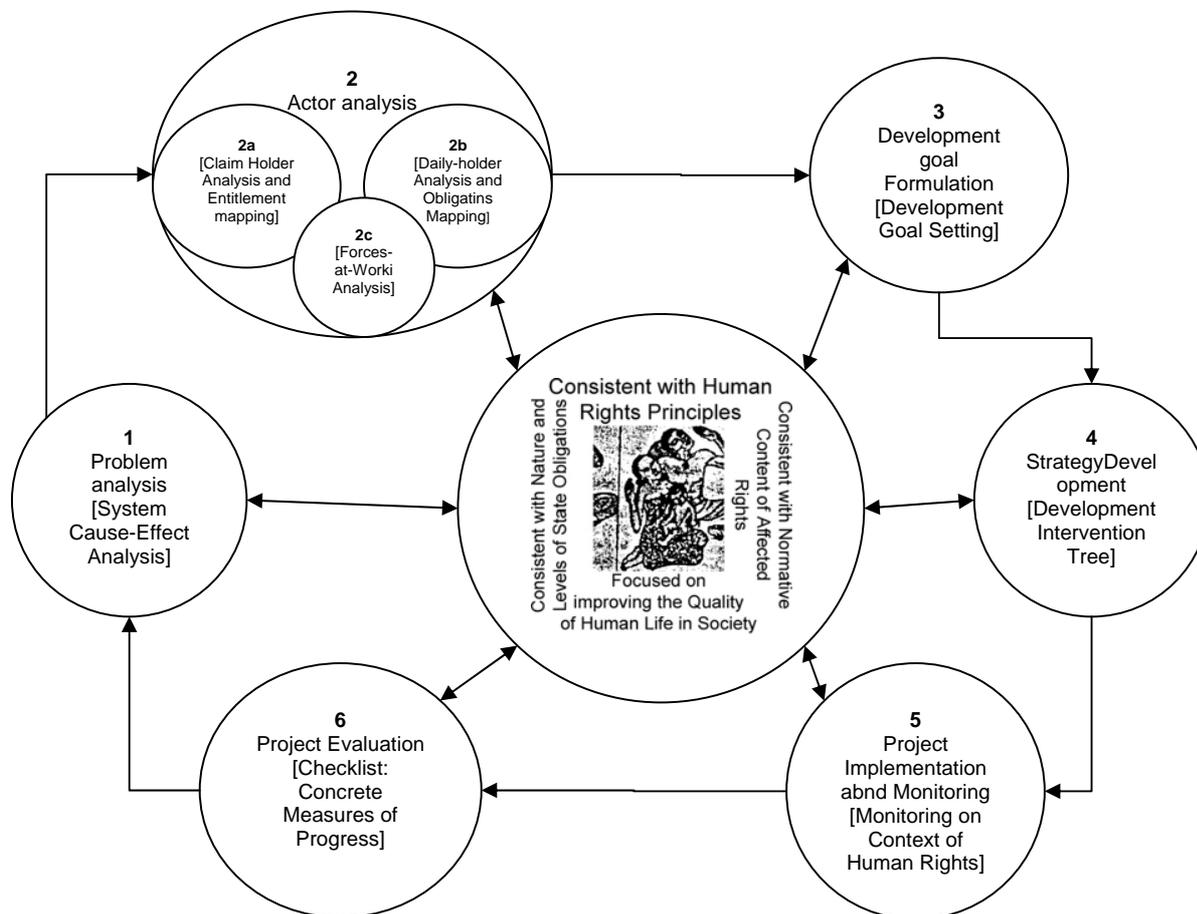


Illustration by Gilbert Torres, 1983, for Regional Council on Human Rights in Asia;
Diagram and tools designed by Maria Socorro I. Diokno

Stage One: Problem Analysis through Symptom-Cause-Effect Analysis

Analyze the problem" that is to be the object of a development intervention, within the context of human rights. To undertake problem analysis in the context of human rights centered development, refer to the four-step *Symptom-Cause-Effect Analysis* tool (see pages 64 to 66).

Stage Two: Actor Analysis through Claim Holder Analysis and Entitlement Mapping, Duty Holder Analysis and Obligations Mapping, and Forces-at-Work Analysis.

Analyze all actors (claim holders, duty holders, other actors) affected by and/or involved in the problem. Actor analysis consists of *Claim Holder*

Analysis and Entitlement Mapping tool (see pages 84 to 88), Duty Holder Analysis and Obligations Mapping tool (see pages 89 to 93) and Forces-At-Work Analysis tool (see pages 94 to 98).

Stage Three: *Define development goals and objectives in human rights terms.*

Define goals and objectives relating to the development intervention in human rights term; refer to ***Development Goal Setting in the Context of Human Rights*** tool (see pages 99 to 103).

Stage Four: *Strategy Development through the Development Intervention Tree*

To develop strategies and design projects within the context of human rights, refer to the *Development Intervention Tree* tool (see pages 104 to 109).

Stage Five: *Project Implementation and Monitoring.*

To monitor projects as they are being implemented, refer to *Monitoring in the Context of Human Rights* (see pages 110 to 111).

Stage Six: *Evaluation through Concrete Measures of Progress Checklist*

In this final stage of human rights centered development programming, development programmers evaluate their development intervention, through the use of the *Checklist: Concrete Measures of Progress* (see pages 112 to 114).

HUMAN RIGHTS CENTERED DEVELOPMENT TOOLS OF ANALYSIS

"Why be honest when it pays to be dishonest? Why be fair to others when they are unfair to you? Why fight for others when they won't fight for you -or even for themselves? Why think for yourself when it is easier to let others think for you? ... Why have principles when others don't- and they often get away with it?"

The answer, I think, lies in what life means to you. If life means having a good time, money, fame, power, security, then you don't need principles; all you need is techniques. ... On the other hand, if life means more than those things, if happiness counts more than a good time, developing your talents more than developing wealth, respect more than fame, right more than power, and peace of soul more than security; if death doesn't end life but transforms it, then you must be true to yourself and to your God, and to love and truth, good and beauty and justice and freedom that are His other names and that He has made part of our human nature."

Jose W. Diokno,
"Lessons from Prison: Letters of Jose W Diokno," in
Sunday Globe February 23, 1992.

This section presents ten tools of analysis that may be used within the frame work of human rights centered development. These tools, it must be stressed, require a thorough and well-grounded understanding of the theoretical and practical concepts, standards and principles of human rights. Readers are encouraged to use these tools in conjunction with the annexes and with international human rights treaties, general comments and observations adopted by treaty monitoring bodies and other international experts.

The ten tools of analysis presented here are: Participation Checklist, Symptom-Cause-Effect Analysis, Checklist: Claim Holder Analysis, Claim Holder Analysis and Entitlement Mapping, Duty Holder Analysis and Obligations Mapping, Forces-at-Work Analysis, Development Goal Setting, Development Intervention Tree, Monitoring and Checklist: Concrete Measures of Progress.

The tools of analysis presented in this section are not, by any means, the only tools available. Certainly, there are better, more efficient tools that may be used.

PARTICIPATION CHECKLIST

✓ Participation is more than merely consulting people. Participation is directing, owning, managing and controlling the course of development aimed at strengthening people's claims to - and realization of - human rights.

People may participate in the development process

Directly

Through advocates

Individually

Collectively through organizations

✓ For participation to be *genuine*, it must be:

Voluntary

Recognized by law

Free, not subject to sanction or threat

Recognized and encouraged by the state authorities

Active

✓ For people to *freely participate* in development and in the development process, it is essential that:

People are provided with full and complete information needed to make informed decisions in media that is understood by them, and in a timely manner

People are encouraged to organize themselves

Autonomy of authentic popular or grassroots organizations or movements at local, regional and national levels be respected and promoted at all times

Formal/legal mechanisms need to be in place so that people may question decisions, bring complaints, demand compensation or restitution, and hold duty-holders accountable

The involvement of all actors relevant to the development process is crucial. These actors include:

Claim Holders

Duty Holders

Other Actors (e.g., media, religious organizations, non-governmental organizations, trade *unions and* federations, women's organizations, political parties, business or professional bodies, etc.)

Genuine, full and active People's Participation occurs at all *levels of social, political and economic decision-making process*:

Defining the problem

Surveying the human rights situation

Assessing claim holders and their entitlements

Assessing duty holders and their obligations

Identifying, understanding and resolving contending interests and demands of different power blocs or factions

Setting goals and objectives

Formulating priorities and policies

Designing plans, projects, programs or activities

Setting targets or benchmarks

Implementing policies, plans, projects, programs or activities

Monitoring the implementation or execution of policies, plans, projects, programs or activities

Evaluating progress

Forms of people's participation in the development process could include, among others:

Workshop-based methods, to provide training, to involve affected persons in policy appraisal, formulation, implementation, and decision making

Public meetings

Public hearings

Community-based methods, including community outreach activities

Committee-based methods, composed of affected persons

Round-table meetings, covenants, social contracts and forums

Focus groups and citizens advisory groups

Joint project teams

Surveys

Open house

Negotiations

Mediation

Lobbying

Resource Centers

Cultural Activities

Inter-sectoral alliance

Consensus building

Whatever methods or tools are used, these must be *adapted to specific situations* to enable all to fully, voluntarily, freely and effectively participate in the development process.

✓ The more people who genuinely and freely participate in the development process, the greater the success of the development policy, plan, program or project.

DEFINING THE PROBLEM IN THE CONTEXT OF HUMAN RIGHTS, THROUGH SYMPTOM-CAUSE-EFFECT ANALYSIS

Developing a clear notion of the problem is crucial towards formulating effective, complementary and coherent development policy and interventions. Policy-makers and programmers must recognize that how they define the problem will influence their subsequent choices and the policy or intervention they adopt and pursue.

To define a problem from a human rights perspective, a four-step Symptom-Cause-Effect *Analysis* tool has been designed (Figure 4). Through the use of this tool, it becomes easier to identify the problem, its effects and causes, so as to ensure that development policy and interventions do not act as mere panacea but as genuine cures to the human rights deprivations reflected in the problem. Policy makers are able to focus on those factors subject to state control and intervention needed to address the problem and enhance the enjoyment and exercise of fundamental rights and freedoms. Programmers are able to see the problem in sharper focus and devise appropriate development interventions.

Step 1. Identifying Symptoms.

Identify the problem that is to be the object of policymaking or a development intervention. In human rights centered development programming, a problem is treated as symptomatic of the true or root causes of human rights deprivations (hence the use of the word symptoms, instead of problems, in Figure 3 above). To help you clarify the nature and importance of the problem, answer the following questions:

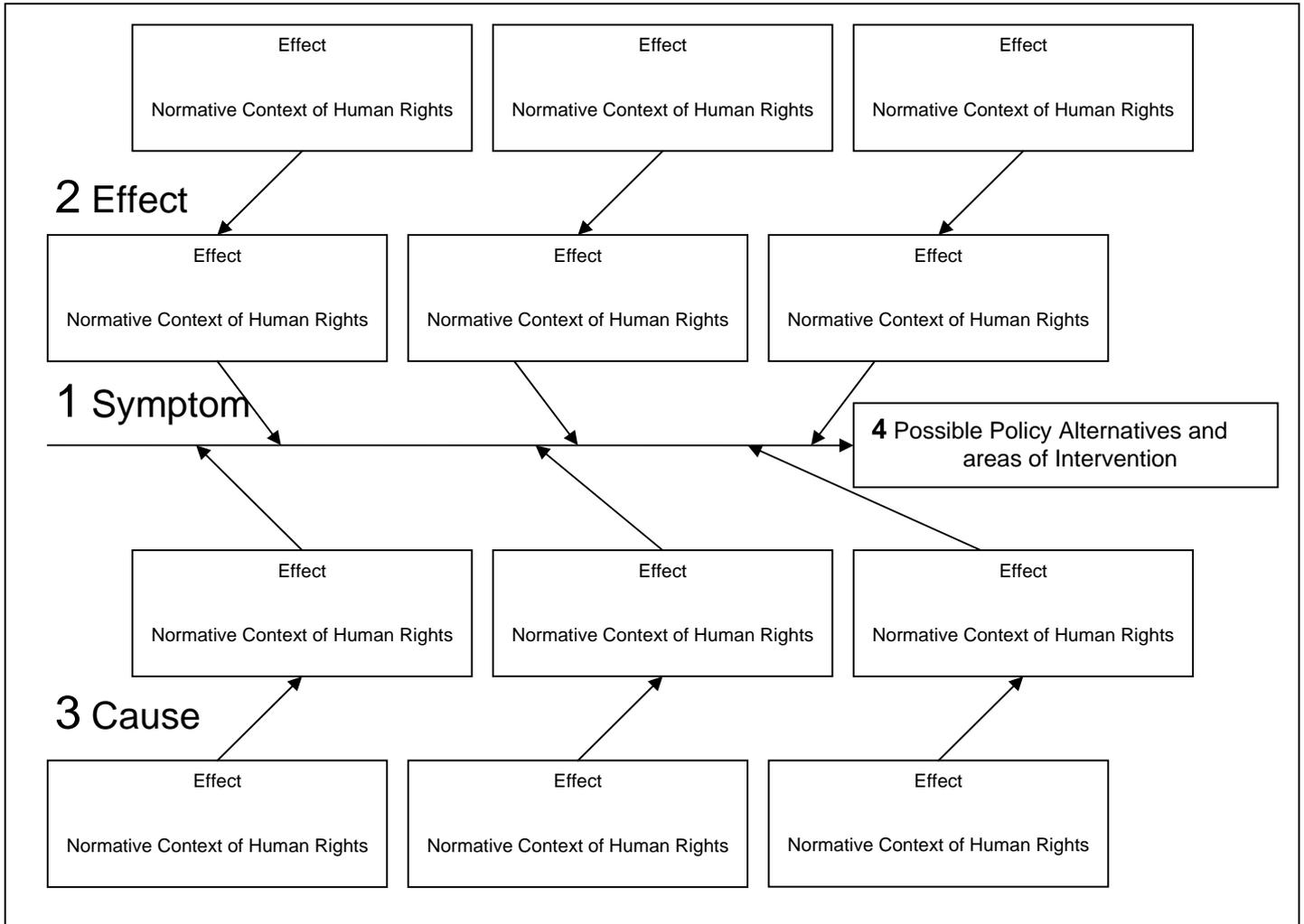
- What is the problem all about?
- Why is it a problem?
- How important is the problem?
- Is the problem related to other problems? How?

Are women and men affected by the problem in the same way? Would women have different concerns, issues or problems, aside from or other than the concerns, issues or problems of men?

Reduce your answers into key words, and write these onto the Symptom, line.

After identifying the symptoms, relate these symptoms to specific human rights. Write the affected rights below each symptom.

Figure 4. Symptom-Cause-Effect Analysis



Tool Design by Maria Socorro I. Diokno, 2002

Step Two. **Identifying and Assessing Effects.**

After identifying symptoms and affected rights, map out the various effects of each symptom on the lives-and quality of life-of those affected by the symptoms. Write each effect onto a separate box on top of the symptom line; use an arrow to connect effects with symptoms.

Analyze each effect in the context of the normative content of the affected rights. *[Refer to Normative Content of Selected Human Rights, Annex 3; refer also to the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]* To help you analyze the effects, answer the following questions:

- What is the effect of the symptom on the exercise and enjoyment of human rights (e.g., health status, income status, lifestyle, food consumption patterns, nutrition levels, productivity, etc.)? How are these effects inter-related?
- What is the effect of the symptom on the attitudes and values of those affected?
- What is the effect of the symptom on the quality of life of those affected?
- Do these effects affect women and men differently? How?

Convert your analysis into key words and write these key words (abbreviated analysis) below each effect you have just analyzed.

Step Three. **Identifying and Probing Causes.**

After identifying and analyzing effects, trace the causes of both the symptoms and effects in the context of human rights principles, the normative content of the affected rights and the nature and levels of state obligations until you get to the root cause. List each cause on a separate box below the symptom line. Use an arrow to connect the cause to the symptom or effect. You may need to create boxes linking a cause to a deeper cause.

Analyze each cause in the context of human rights principles, the normative content of the affected rights and the nature and levels of state obligations. *[Refer to Normative Content of Selected Human Rights, Annex 3; refer also to the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]* To help you probe the causes, answer the following questions:

- Why do you think the problem exists?
- Is it due to a failure on the part of those affected by the problem to claim and assert their rights?
- Is it due to a failure by the authorities to comply with their state obligations?
- Is it due to a lack of an enabling environment (poor laws, weak regulatory systems, inequitable distribution of wealth and power in society, lack of transparency, corruption, no state accountability, lack of access to information and institutions, etc.)?
- Is it due to lack of resources?
- Is it due to factors beyond the control of all those affected by the problem?

Convert your analysis into key words and write these key words (abbreviated analysis) below each cause you have just analyzed.

Step Four. Identifying Possible Policy Alternatives and Areas of Intervention.

Evaluate your diagram. Does it accurately reflect the problem? Does it highlight human rights principles, the normative content of human rights and the nature and levels of state obligations?

You should now have a more comprehensive grasp of the problem having analyzed its effects and probed its causes. Now consider all possible policy alternatives and/or areas of intervention, and list these areas onto the box at the right side of the diagram. Beside each possible policy alternative or area of intervention, note whether it addresses a symptom, a cause or an effect and which symptom, cause or effect it addresses.

ACTOR ANALYSIS IN THE CONTEXT OF HUMAN RIGHTS

Human rights centered development is focused on ***the human person as the central subject, active participant, owner, director and beneficiary, of development.*** Thus policy makers, planners and programmers must be able to identify the aspirations, special characteristics, rights and entitlements of the human persons in society, particularly those most vulnerable and marginalized.

In human rights centered development, human persons in society are treated as claim holders, who, by virtue of their inherent dignity, intrinsic worth, honor and esteem, possess legitimate, immutable and universal claims, freedoms and entitlements.

To facilitate claim holder analysis in human rights centered policy making and development planning, a checklist (*Checklist. Claim Holder Analysis*) has been prepared to guide policy makers and development planners understand the human rights situation of claim holders.

To facilitate claim holder analysis in development programming, a six-step tool, ***Claim Holder Analysis and Entitlement Mapping***, has been designed (Figure 5a). Through the use of this tool, policy-makers and development programmers are able to have a deeper understanding of the freedoms and entitlements of those affected by the problem. This deeper understanding should translate into more effective and targeted policies and interventions geared towards the full realization of the human rights of those affected by the problem.

Human rights centered development stresses the fundamental obligations of the state in development, recognizing that certain factors and variables that impact on the enjoyment, exercise and realization of human rights are subject to state control and disposition. Thus, human rights centered development requires development policy-makers, planners and programmers to focus on the role, capacities, strengths, weaknesses and obligations of the state, identify gaps and determine compliance or non-compliance with the nature and levels of state obligations.

In human rights centered development, state authorities are viewed as duty holders, strictly obliged under international human rights law, to comply with their treaty obligations. To facilitate duty holder analysis, a four-step tool, ***Duty Holder Analysis and Obligations Mapping***, has been designed (Figure 5b). Through the use of this tool, development planners, policy-makers and programmers are able to acquire an in-depth understanding of the nature and levels of obligations of duty holders. This deeper understanding should lead to rational and consistent policies and

interventions geared towards full compliance by the state of its **human** rights obligations.

Human rights centered development also addresses power relations in society. Human rights recognize that power - any asymmetry in relations - when abused or misused by state and non-state actors may cause serious deprivations of fundamental rights and freedoms. In many countries, non-state actors do wield considerable power and often assert their economic, political and social interests and demands over those of the people. While international human rights law today does not ascribe non-state actors with binding obligations, it does, nonetheless, impose upon them the *duty to exercise their rights and freedoms responsibly*.

Human rights centered development recognizes the crucial role played by the private sector, whose actions and activities often impact on the enjoyment or non-enjoyment of fundamental rights and freedoms. Many times, claims are made against other private entities and it is the state's obligation to protect those most vulnerable from threats coming from private entities.

In light of the significant role played by non-state actors in development, human rights centered development recognizes requires policy makers, planners and programmers to look into the role of other actors or forces, and their relationships with claim holders and duty holders. Development programmers, planners and policy makers must also recognize the full collection of demands of these interest groups and resolve contending demands with equity, fairness, equality and non-discrimination.

In human rights centered development, economic, social and political interest groups or power blocs are viewed as other actors or non-state actors, who possess the fundamental duty to exercise their rights and freedoms responsibly. To facilitate the analysis of non-state actors, an eight-step tool, ***Forces-at-Work Analysis***, has been designed (Figure 5c). Through the use of this tool, development programmers are able to acquire a comprehensive view of all the forces behind claim holders and duty holders-their relationships with each other, and their interests and demands. This process helps policy makers, planners and programmers take into account all interests, competing or complementary interests, and resolve those contending demands with equity, equality, and non-discrimination. Planners and programmers are also able to devise strategies to reduce the impact of competing interests and strengthen and reinforce complementary interests. In this manner, development policies interventions are more holistically focused on the enjoyment, exercise and realization of all human rights.

CHECKLIST: CLAIM HOLDER ANALYSIS

To analyze the special characteristics and circumstances of those affected by the problem, policy-makers and development planners need full and complete access to all available information from all possible sources, including

National Constitution. *If the national Constitution is a product of genuine people's participation, and is actually and freely embraced and ratified by the people- not imposed upon them by the state. One must, however, be aware that a state's Constitution is generally a static document, written years ago, and while it should be a "living document" or a living embodiment of people's aspirations, conditions - and perhaps even aspirations may change.*

- National Laws and Jurisprudence
- International human rights law
- International treaties ratified by the state
- Interpretations and Concluding Observations of treaty monitoring bodies
- Official reports
- Non-governmental reports News reports
- Academic researches and studies
- Reports by international institutions and bodies
- Public opinion polls or surveys

Policy makers and development planners must look at the information with a critical eye, constantly aware of possibilities of data manipulation and information distortion.¹ When assessing secondary information, and to ensure the integrity and quality of the data, scrutinize the data carefully, and, where possible, look into

- How the data was gathered,*
- What formulae, if any, were use to arrive at final figures,*
- How sound these formulae are*

Who are most affected by the problem?

Do they belong to a particular race or ethnic group?

What is their gender?

What language(s) do they speak?

By gender

By ethnicity

By property status

By age range

By income status

By occupation

- By educational status
- By geographic location

- By social status

† Information can be manipulated and may be unreliable. Sources may be incomplete or outdated. Improper or inconsistent criteria and methodologies to gather the information may have been used.

- What is their age range?

- Do they belong to political or other affiliations or do they hold particular political or ideological beliefs?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location

- By age range
- By income status
- By occupation
- By social status

- What is their religion, if any?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location

- By age range
- By income status
- By occupation
- By social status

- What is their social origin?

- What is their property status?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location

- By age range
- By income status
- By occupation
- By social status

- What is their educational status?

- What is the literacy rate?

- By gender
- By ethnicity
- By property status
- By social status

- By age range
- By income status
- By occupation
- By geographic location

- What is the functional literacy rate?

- By gender
- By ethnicity
- By property status

- By age range
- By income status
- By occupation

- By social status
- By geographic location
- What is the enrolment rate?
 - By gender
 - By ethnicity
 - By age range
 - By geographic location
- What is the estimate of educational wastage?
 - By gender
 - By ethnicity
 - By age range
 - By geographic location
- What is the survival rate?
 - By gender
 - By ethnicity
 - By age range
 - By geographic location
- What is the prevalence of child labor?
 - By gender
 - By ethnicity
 - By age range
 - By geographic location
- What is the school completion rate?
 - By gender
 - By ethnicity
 - By age range
 - By geographic location
- What is the proportion of the student and youth population who achieve standardized test scores?
 - By gender
 - By ethnicity
 - By age range
 - By geographic location
- What is their health status?
- What is the infant mortality rate?
 - By geographic location
- What is the under-five mortality rate?
 - By geographic location
- What is the incidence of drug abuse and de-addiction?
 - By gender
 - By ethnicity
 - By property status
 - By educational status
 - By geographic location
 - By age range
 - By income status
 - By occupation
 - By social status
- What is the incidence of alcohol and other substance abuse and de-addiction?
 - By gender
 - By age range

- By ethnicity
- By property status
- By educational status
- By geographic location
- By income status
- By occupation
- By social status

What is the proportion of youth and child population already immunized? What is the type of immunization they have received?

- By gender
- By ethnicity
- By social status
- By age range
- By educational status
- By geographic location

What is the mortality rate?

- By gender
- By ethnicity
- By age range
- By geographic location

What is the morbidity rate?

- By gender
- By ethnicity
- By age range
- By geographic location

What is life expectancy?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

What are the causes of mortality and morbidity?

What is the proportion of the population with AIDS?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

What is the proportion of the population with mental health problems?

- By gender
- By ethnicity
- By property status
- By social status
- By age range
- By income status
- By educational status
- By geographic location

What is the prevalence of teen and youth pregnancy?

- By age range
- By educational status
- By ethnicity
- By geographic location

What is the population growth rate?

What is their nutrition status?

How extensive is malnutrition among those most affected by the problem?

- By gender
- By age range
- By ethnicity
- By educational status
- By geographic location

What is the proportion of children who are stunted?

- By gender
- By age range
- By ethnicity
- By educational status
- By geographic location

What is the proportion of children who are wasted?

- By gender
- By age range
- By ethnicity
- By educational status
- By geographic location

What is the proportion of children who are underweight?

- By gender
- By age range
- By ethnicity
- By educational status
- By geographic location

What is the incidence and type of nutritional disorders, vitamin deficiencies, etc.?

- By gender
- By age range
- By ethnicity
- By income status
- By property status
- By occupation
- By educational status
- By social status
- By geographic location

What is the proportion of households with access to sanitation facilities? What are the types of access?

- By ethnicity
- By income status
- By property status
- By occupation
- By educational status
- By social status
- By geographic location

What is the proportion of households with access to safe and clean potable water? What are the types of access?

- By ethnicity
- By income status
- By property status
- By occupation
- By educational status
- By social status
- By geographic location

What is their housing status?

What is the proportion of the population living in different types of housing tenure? What are the types of housing tenure?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

How many are homeless?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

How many are currently inadequately housed and without ready access to basic necessities?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

How many are living in overcrowded, damp, structurally unsafe housing?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

How many are currently classified as living in "illegal" settlements or housing?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

How many have been evicted? How many are in danger of eviction?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

How many persons have housing expenses above any state-set limit of affordability?

- By gender
- By ethnicity
- By property status
- By educational status
- By geographic location
- By age range
- By income status
- By occupation
- By social status

What is their income status?

What is their occupation?

What is the employment rate?

- By gender
- By ethnicity
- By property status
- By social status
- By industry
- By age range
- By income status
- By educational status
- By geographic location

What is the unemployment rate?

- By gender
- By ethnicity
- By property status
- By social status
- By industry
- By age range
- By income status
- By educational status
- By geographic location

What is the underemployment rate?

- By gender
- By ethnicity
- By property status
- By social status
- By industry
- By age range
- By income status
- By educational status
- By geographic location

What are their work conditions and hours?

- By gender
- By ethnicity
- By property status
- By social status
- By industry
- By age range
- By income status
- By educational status
- By geographic location

What are their wages and benefits?

- By gender
- By ethnicity
- By property status
- By age range
- By income status
- By educational status

- By social status
- By industry

- By geographic location

How are they promoted and recruited?

- By gender
- By ethnicity
- By property status
- By social status
- By industry

- By age range
- By income status
- By educational status
- By geographic location

Are they organized?

- By gender
- By ethnicity
- By property status
- By social status
- By industry

- By age range
- By income status
- By educational status
- By geographic location

How many workers are organized?

- By gender
- By ethnicity
- By property status
- By social status
- By industry

- By age range
- By income status
- By educational status
- By geographic location

How many workers' organizations unions, federations, etc. have been established?

- By geographic location
- By industry

How many workers are covered by collective bargaining agreements?

- By gender
- By ethnicity
- By property status
- By social status
- By industry

- By age range
- By income status
- By educational status
- By geographic location

What is the incidence of strikes, lockouts and other labor disputes?

- By geographic location
- By industry
- By issue

Do they belong to political or other affiliations'?

- By gender
- By ethnicity
- By property status
- By social status

- By age range
- By income status
- By educational status
- By geographic location

What is their religion, if any?

What is their social origin?

What is their property status?

What is their lifestyle?

Where are they located? *Problems in urban settings may require a different set of policies and plans from those in rural settings.*

State

Region

Province

city

Municipality

Community

Why are they most affected by the problem?

What are their aspirations?

By gender

By age range

By ethnicity

By income status

By occupation

By property status

By educational status

By social status

By geographic location

How high or how low is the aspiration, compared to what the state can realistically and effectively achieve, given its capacity and resources?

What are the factors and variables that affect the achievement of the people's aspirations?

In assessing people's aspirations, keep in mind the state's fulfillment bound obligation, i.e., its obligation to take a whole range of necessary measures to ensure that each individual has the opportunity to obtain the entitlements of human rights that cannot be secured by personal or individual efforts alone.

Which of their fundamental rights are most at risk?

Life

Food

Peaceful Assembly and Association

Housing

Equality

Non-Discrimination

Freedom of Movement

Work

Freedom of Opinion and Expression

Health

Education

Right to Social

Security

Equal Access to Public Service

Right of Reparation

Right to Participate in Government

Others, Please

Specify

What are their socio-cultural practices and beliefs, particularly those that affect fundamental rights such as the rights to food, health, education, housing, etc.?

- | | |
|---|---|
| <input type="checkbox"/> By gender | <input type="checkbox"/> By age range |
| <input type="checkbox"/> By ethnicity | <input type="checkbox"/> By income status |
| <input type="checkbox"/> By property status | <input type="checkbox"/> By occupation |
| <input type="checkbox"/> By educational status | <input type="checkbox"/> By social status |
| <input type="checkbox"/> By geographic location | |

Of those most affected, how many have been victims of crime?

- | | |
|---|---|
| <input type="checkbox"/> By gender | <input type="checkbox"/> By age range |
| <input type="checkbox"/> By ethnicity | <input type="checkbox"/> By income status |
| <input type="checkbox"/> By property status | <input type="checkbox"/> By occupation |
| <input type="checkbox"/> By educational status | <input type="checkbox"/> By social status |
| <input type="checkbox"/> By geographic location | |

Of those most affected how many are currently in prison?

- | | |
|---|---|
| <input type="checkbox"/> By gender | <input type="checkbox"/> By age range |
| <input type="checkbox"/> By ethnicity | <input type="checkbox"/> By income status |
| <input type="checkbox"/> By property status | <input type="checkbox"/> By occupation |
| <input type="checkbox"/> By educational status | <input type="checkbox"/> By social status |
| <input type="checkbox"/> By geographic location | |

What is the quality of life of vulnerable groups in society?

- | | |
|--|--|
| <input type="checkbox"/> Women | <input type="checkbox"/> Children |
| <input type="checkbox"/> Elderly | <input type="checkbox"/> Persons with disabilities |
| <input type="checkbox"/> Persons with AIDS | |

What is the extent and nature of their participation in government, directly or indirectly, individually or collectively?

- | | |
|---|---|
| <input type="checkbox"/> By gender | <input type="checkbox"/> By age range |
| <input type="checkbox"/> By ethnicity | <input type="checkbox"/> By income status |
| <input type="checkbox"/> By property status | <input type="checkbox"/> By occupation |
| <input type="checkbox"/> By educational status | <input type="checkbox"/> By social status |
| <input type="checkbox"/> By geographic location | |

What is the extent and exercise of their rights to free speech, opinion, expression, peaceful assembly and association, and freedom of movement?

- | | |
|--|---|
| <input type="checkbox"/> By gender | <input type="checkbox"/> By age range |
| <input type="checkbox"/> By ethnicity | <input type="checkbox"/> By income status |
| <input type="checkbox"/> By property status | <input type="checkbox"/> By occupation |
| <input type="checkbox"/> By educational status | <input type="checkbox"/> By social status |

By geographic location

By Issue

Of those most affected by the problem, how many are covered by social insurance? What are the types of social insurance?

By gender

By income status

By educational status

By ethnicity

By occupation

By geographic location

CLAIM HOLDER ANALYSIS AND ENTITLEMENT MAPPING

Step One. Claim Holder Analysis.

Identify the claim holders (those affected) in the problem you are confronted with. Write the claim holders in the small box at the center of the left side of the diagram. Then identify who among the claim holders are most vulnerable, marginalized and disenfranchised here and now and why they are vulnerable. List them onto the lower portion of the center box.

Ascertain the claim-holders aspirations and strongest desires for improvement of their quality of life. List their aspirations inside the upper box.

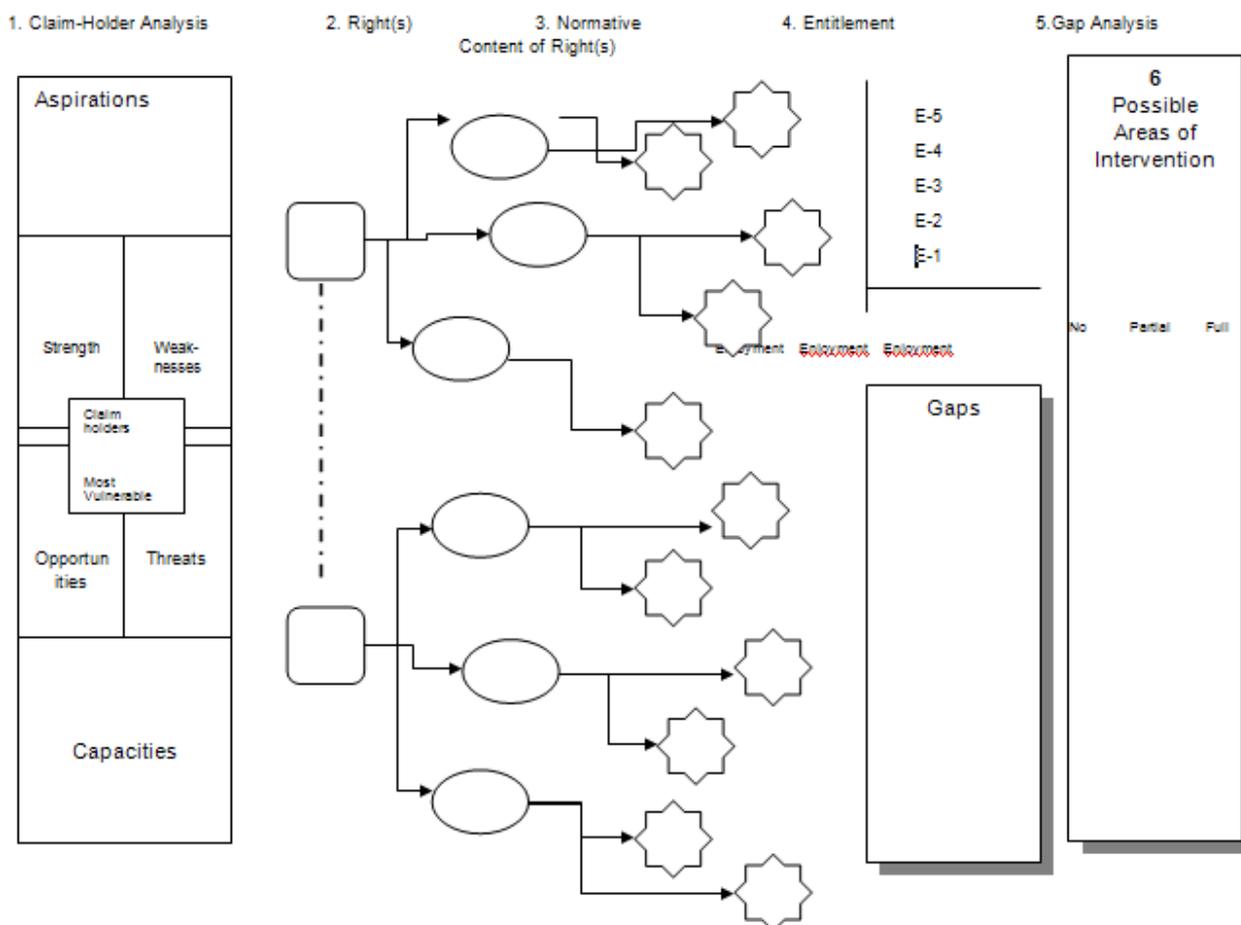


Figure 5. Claim-Holder Analysis and Entitlement Mapping
Tool designed by Maria Socorro I. Diokno, 2002

Analyze the aspirations by answering the following questions:

- Are these aspirations compatible with human rights? Why or why not?
- Are these aspirations recognized by domestic or national law?

Beside each aspiration, note your response to the questions posed above.

Assess the significant strengths (positive aspects) *internal* to the claim holders and note these onto the box entitled *Strengths*. To help you assess the internal strengths of the claim holders, answer the following questions:

- What are their positive characteristics?
 - Are women and men equally well informed about human rights?
 - Are women and men equally well informed about the social, economic and political decision-making process?
 - Are women and men equally well informed about their situation and the processes and mechanisms they need to address -the problems arising from their situation?
 - Do women and men equally possess the capacity to assess their situation, articulate their needs and aspirations and work towards enjoying and exercising their fundamental rights and freedoms?
 - Do women and men equally possess positive characteristics?
- What are their advantages?
 - Are women and men organized? If so, how well organized are they?
 - Do women and men have access to other actors (media, church, non-governmental institutions, etc.) in society?
 - Can women and men mobilize resources (human power, finances, other material resources)?
 - Do women and men have equal access to information, institutions and the development process?
 - Do women and men equally enjoy these advantages?
- What do they do well?
 - Do women and men actively and genuinely participate at all levels of social, economic and political decision-making process?
 - Do women and men actually assert their freedoms and entitlements?
 - In the exercise of their rights and assertion of their claims, are their activities well planned, well thought out, and well executed?

Assess the significant weaknesses (negative aspects) *internal* to claim holders and note these onto the box entitled *Weaknesses*. To help you assess the internal weaknesses of the claim holders, answer the following questions:

- Which characteristics could be improved?

- Do women and men need greater knowledge and understanding of their situation and the processes and mechanisms they need to address their situation?
- Do women and men need deeper understanding of their human rights?
- Do women and men need enhanced capacities to assess their situation, articulate their aspirations and claim and assert their rights?
- Are they doing anything badly?
 - Are there ways to enhance the organization of women and men?
 - Are there ways to enhance the participation of women and men in the development process?
- Are they doing anything that should be avoided?
 - Do factionalism, in-fighting and internal intrigues exist within the organization? How are internal conflicts resolved?
 - Are there ways to improve the activities they undertake in exercising their rights and asserting their claims?

Assess opportunities (positive aspects) **external** to claim holders and list these onto the box entitled *Opportunities*. To help you assess external opportunities, answer the following questions:

- Are there any policies or changes in policy that positively affect claim holders?
- Are there any laws or rules or jurisprudence that favor the claim holders?
- Are there new or interesting trends (in technology, markets, social attitudes, lifestyle changes, population patterns, etc.) that would benefit the claim holders?
- Are there special programs or projects that cater to the rights of the claim holders?
- Is there increased access to information, institutions and the development process?
- Are authorities open and responsive to claim holders' rights and entitlements?
- Are other non-state actors supportive of the claim holders?
- Are formal and informal structures impartially and effectively implemented?
- Do recourse mechanisms exist? Are these available and accessible to the claim holders? Are these effective?

Assess the threats (negative aspects) **external** to the claim holders and list these onto the box entitled *Threats*. To help you assess the external threats, answer the following questions:

- What obstacles do claim holders face?
- Are there any policies or changes in policy that negatively affect claim holders?
- Are there any laws or rules that discriminate against the claim holders?
- Are there new or interesting trends (in technology, markets, social attitudes, lifestyle changes, population patterns, etc.) that adversely affect the claim holders?

- Are there projects or programs that negatively affect claim holders?
- Are the authorities influenced by negative value systems (e.g., culture of corruption)?
- What are the barriers, if any, to access and availability of information?
- What are the defects, if any, of formal and informal structures?
- What hampers the availability, effectiveness and accessibility of recourse mechanisms, institutions and the development process?

Then assess the capacities of claim holders by relating how their strengths and weaknesses, and external opportunities and threats affect their capacity to claim and enjoy their rights. List these capacities onto the box entitled *Capacities*.

Step Two. Identifying Claim Holders' Rights.

After analyzing the claim holders, identify the rights that are affected by the problem; list each right onto a separate box. Refer to your *Symptom-Cause-Effect Analysis* diagram.

Step Three. Identifying the Normative Content of Claim Holders' Rights.

Identify the normative content of each right of claim holders and note these onto the circles attached to the rights. *[Refer to Normative Content of Selected Human Rights, Annex 3; refer also to the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]*

Step Four. Identifying Entitlements that Spring from Claim Holders' Rights.

Identify the entitlements that arise from each right of claim holders and note these onto the stars attached to normative content (circles) of the rights (boxes). *[Refer to Normative Content of Selected Human Rights, Annex 3; refer also to the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]*

Step Five. Gap Analysis.

Assess the extent of enjoyment-or non-enjoyment-of the rights in question by the claim holders. Use the line chart where the x axis refers to a scale ranging from no enjoyment through full enjoyment of human rights, and the y axis refers to each entitlement of the claim holders.

To aid your assessment, answer the following questions:

- Do claim holders enjoy and exercise their rights in law and in fact and without discrimination? What is the extent of their enjoyment and exercise of human rights?

- Do women and men equally enjoy and exercise their rights in law and in fact and without discrimination?
- What freedoms and entitlements, if any, are not being -enjoyed and exercised?
- What freedoms and entitlements, if any, are not being enjoyed and exercised by women in the same way as men?
- What are the gaps, if any, in the enjoyment and exercise of rights by claim holders?
- Are gaps in the enjoyment and exercise greater for women than for men?

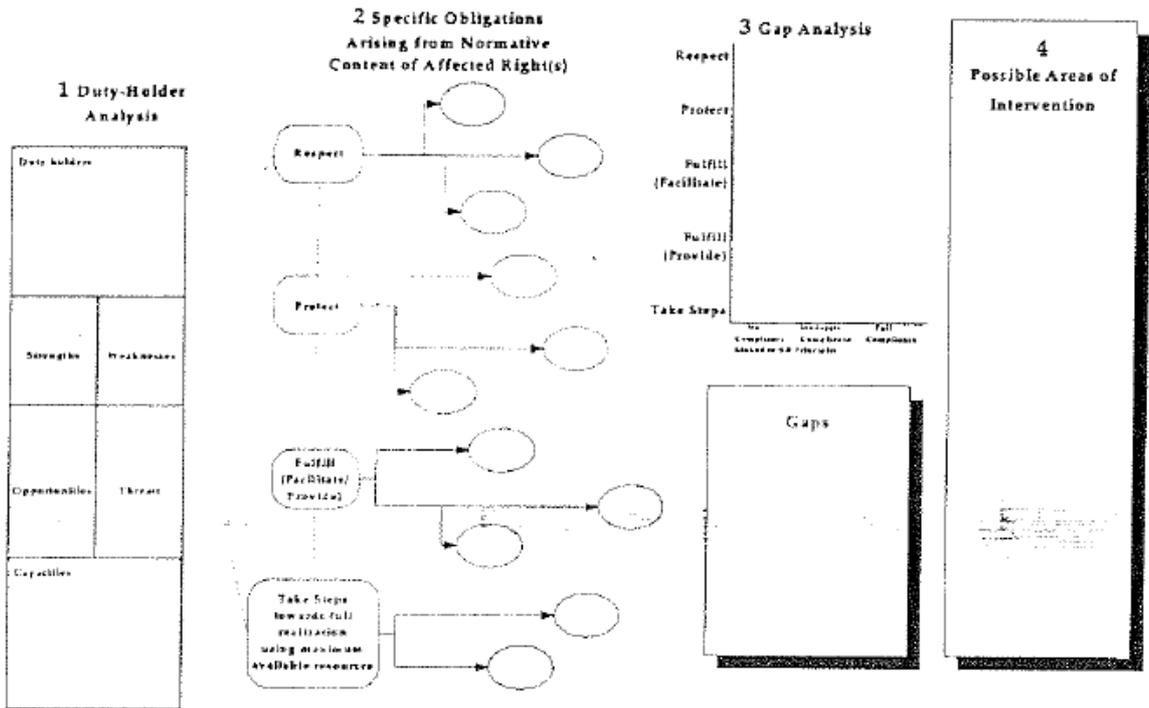
List the gaps onto the box entitled *Gaps*.

Step Six. Identifying Possible Areas of Intervention.

Evaluate your diagram. Does it accurately reflect the capacities, strengths, weaknesses, opportunities, threats and rights of the claim holders? Which rights are not enjoyed, under-enjoyed, moderately enjoyed, or fully enjoyed? Which rights need to be claimed and asserted by claim holders? What are the gaps in the enjoyment and exercise of human rights?

Focus on the rights that need to be claimed and asserted by claim holders and on the gaps in the enjoyment and exercise of human rights. Review your list of areas of intervention in the *Symptom-Cause-Effect* Analysis Diagram. Consider all possible areas of intervention, in light of your previous list, and note these areas onto the box at the right side of the diagram. Beside each possible area of intervention, note the right the intervention seeks to address.

DUTY HOLDER ANALYSIS AND OBLIGATIONS MAPPING



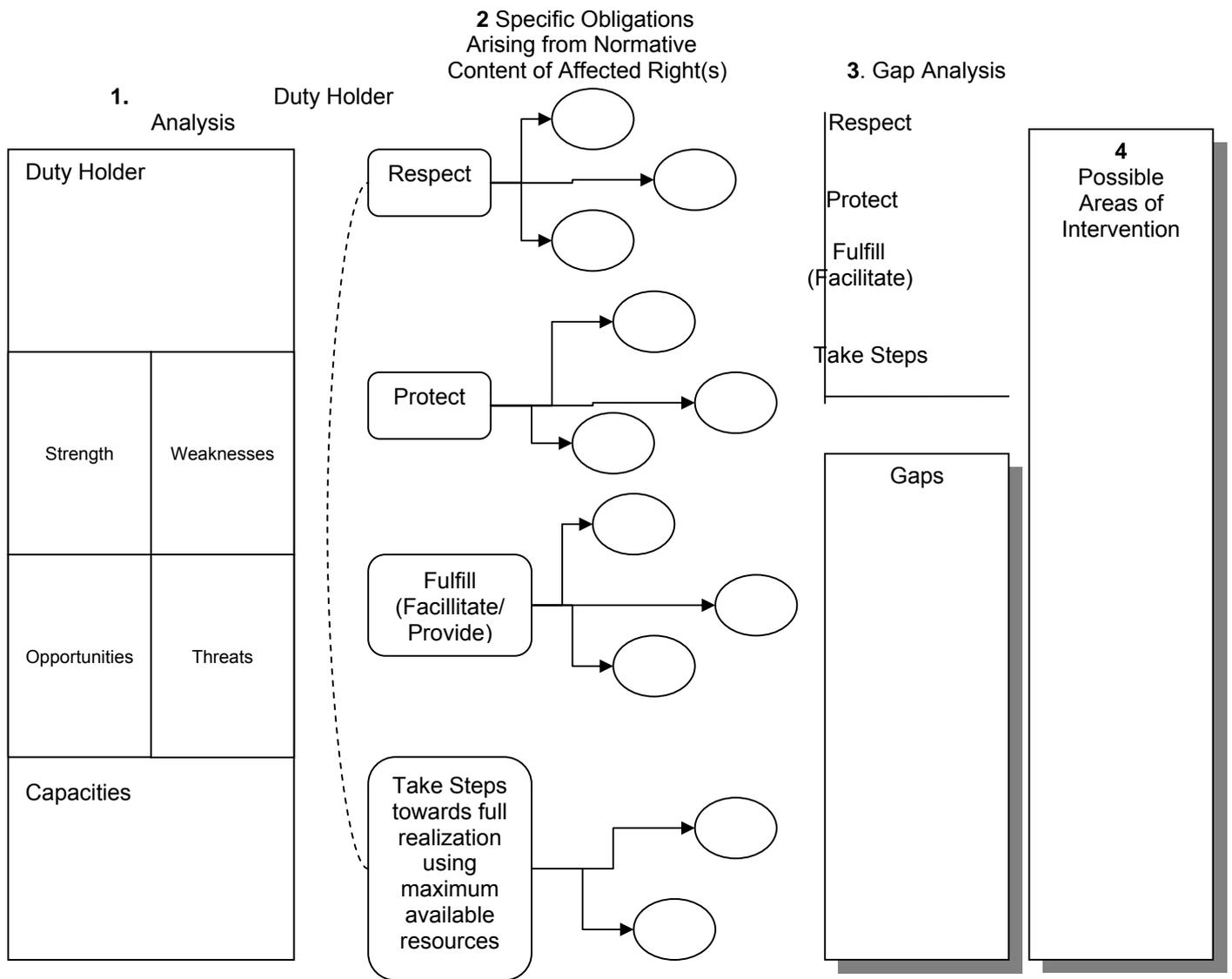


Figure 6. Duty Holder Analysis and Obligations Mapping

Tool designed by Maria Socorro I. Diokno, 2002

Step One. Duty Holder Analysis.

Identify duty holders in the problem you are confronted with. Determine whether duty holders are individuals, or institutions/ organizations/ sub-organizational units. List duty holders onto the box entitled *Duty Holders*. Assess the significant strengths (positive aspects) *internal* to duty holders and note these onto the box entitled *Strengths*. To help you assess the internal strengths of the duty holders, answer the following questions:

- What are their positive characteristics?
 - Are they well informed about human rights?
 - Are they well informed about existing laws?
 - Are they well informed about their human rights obligations?
 - Are their formal and informal structures and institutions well functioning?
 - Are there recourse or redress mechanisms in the event that rights are violated? Are these mechanisms fully accessible, available and effective? Are these mechanisms functional?
 - Is the regulatory framework impartially and effectively administered?

- What are their advantages?
 - Do duty holders have enough resources (human power, *finances*, other material resources) to comply with their obligations?

- What do they do well?
 - Do they actually comply with the nature and levels of their obligations?
 - Do they actually deliver the goods and services to which claim holders are entitled by reason of their rights?
 - Are their programs or projects geared towards the full realization of the rights of the claim holders?
 - Do duty holders provide increased and effective access to information, institutions and the development process?
 - Are duty holders open and responsive to claim holders' rights and entitlements?

Assess the significant weaknesses (negative aspects) *internal* to duty holders and note these onto the box entitled *Weaknesses*. To help you assess the internal weaknesses of the duty holders, answer the following questions:

- Which characteristics could be improved?
 - Do duty holders need greater knowledge and understanding of human rights, and their obligations?
 - What formal and informal structures and *institutions*, if any, need to be enhanced?
 - What recourse mechanisms and regulatory framework, if any, need to be enhanced?

- Are they doing anything badly?
 - Are the authorities influenced by or operating under negative value systems (e.g., culture of corruption)?

- Are they doing anything that should be avoided?
 - What are the barriers, if any, to compliance with their obligations?
 - What hampers the access to and delivery of goods and services to which claim holders are entitled?

Assess opportunities (positive aspects) **external** to duty holders and list these onto the box entitled *Opportunities*. To help you assess the external opportunities, answer the following questions:

- Are there new or interesting trends (in technology, markets, social attitudes, lifestyle changes, population patterns, etc.) that would facilitate compliance with state obligations?
- Do duty holders enjoy the full and active support of claim holders?
- Are other non-state actors supportive of the duty holders?

Assess the threats (negative aspects) **external** to the duty holders and list these onto the box entitled *Threats*. To help you assess the external threats, answer the following questions:

- What obstacles do duty holders face?
- Are there new or interesting trends (in technology, markets, social attitudes, lifestyle changes, population patterns, etc.) that adversely affect compliance by duty holders of their obligations?
- What are the barriers, if any, to the full and active support of claim holders?
- What are the barriers, if any, to the full and active support of other non-state actors?

Then assess the capacities of duty holders by relating how their strengths and weaknesses, and external opportunities and threats affect their capacity to comply with their obligations. To aid you, answer the following questions:

- Do duty holders have the capacity to comply with their obligations? What are its existing capacities in relation to its obligations? Which capacities need strengthening?
 - Do duty holders have the capacity to comply with the nature and levels of their obligations with respect to each of the fundamental rights of claim holders? What are its existing capacities in relation to this obligation? Which capacities need strengthening?
 - Do duty holders have the capacity to comply with human rights principles and actively and consciously incorporate these principles in its development planning and implementation activities? What are its existing capacities in this regard? Which capacities need strengthening?
- List these capacities onto the box entitled *Capacities*.

Step Two. Identifying Duty Holders' Obligations.

After analyzing the duty holders, identify the specific obligations that arise from the normative content of the rights of claim holders; note these onto

the circles (specific obligations) that are connected to the general obligations (respect, protect, fulfill, take steps towards full realization using maximum resources). Refer to your *Symptom- Cause-Effect Analysis* and your *Claim Holder and Entitlement Mapping* diagrams. [Refer to *Nature and Levels of State Obligations, Annex 5*; refer also to the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guideline.]

Step Three. Gap Analysis.

Assess the extent of compliance - or non-compliance - of duty holders with the nature and levels of state obligations. Use the line chart where the x axis refers to a scale ranging from no compliance through full compliance with state obligations, and the y axis refers to the general obligations of states. Link, your gap analysis to state obligations and human rights principles by answering the following questions:

- What are the practical implications of each of the fundamental obligations (respect, protect, fulfill)? What are the effects of compliance or non-compliance with each of the fundamental obligations on the lives and quality of life of claim holders?
- In the exercise of each of the fundamental obligations, did the duty holders respect the rights of women in the same way that it did of men?
- What are the practical implications of the obligation to take appropriate steps towards the progressive realization of human rights, by all appropriate means to the maximum of their available resources? What are the effects of compliance or non-compliance with this obligation on the lives and quality of life of claim holders?
 - Did the duty holders exercise this obligation for women in the same way that it did for men?
 - What steps have already been taken? What steps need to be taken? What steps need to be taken immediately? What steps may be taken progressively?
 - Do the steps that have already been taken encompass all appropriate means?
 - Are the steps that were taken implemented to the maximum of available resources?
- What are the practical implications of the obligations of non-discrimination and equal treatment? What are the effects of compliance or non-compliance with these obligations on the lives and quality of life of claim holders?
- Do duty holders pay close and special attention to the most vulnerable claim holders?
- In the exercise of their obligations, do duty holders promote equity?

- In the exercise of their obligations, are duty holders accountable for their decisions and actions?
- In the exercise of their obligations, are duty holders responsive to the needs, aspirations, freedoms and entitlements of claim holders?
- In the exercise of their obligations, do duty holders fully, freely and publicly disclose their decisions, policies and rules?
- In the exercise of their obligations, do duty holders ensure free and full access to and participation in important meetings?
- Are formal and informal structures impartially and effectively implemented?
- Do recourse mechanisms exist? Are these available and accessible to the claim holders? Are these effective?
- Is the regulatory framework available and accessible to the claim holders? Is it effective?
- Are there any gaps in the compliance by duty holders with their obligations?

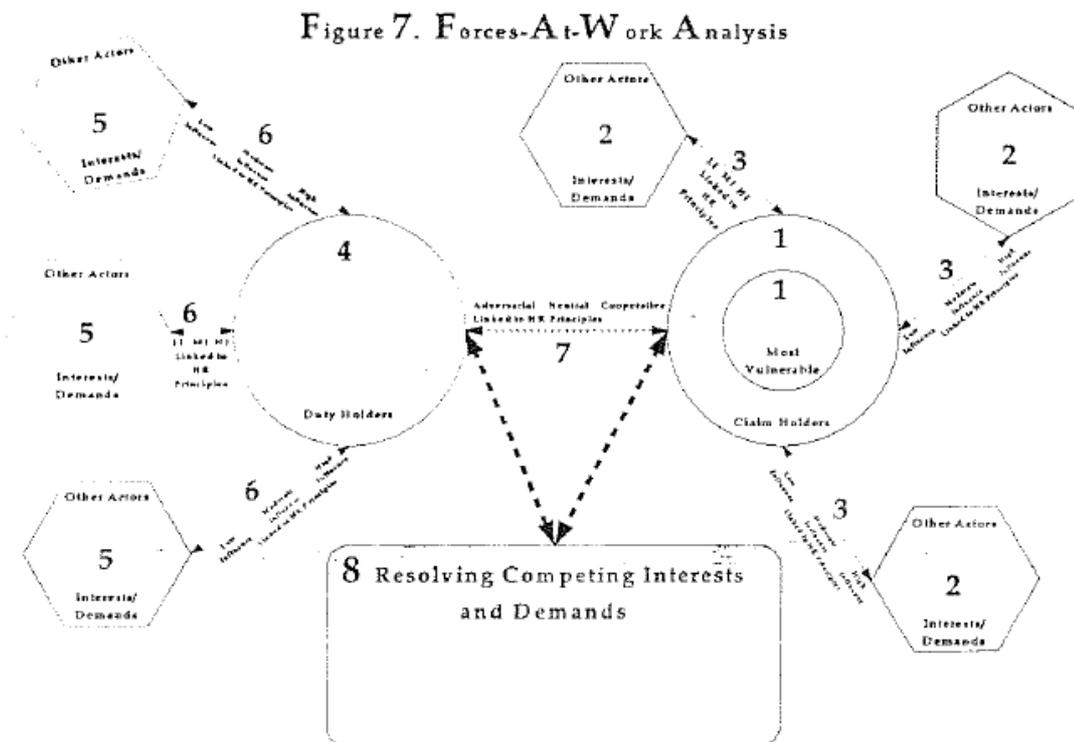
List the gaps onto the box entitled *Gaps*.

Step Four. **Identifying Possible Areas of Intervention.**

Evaluate your diagram. Does it accurately reflect the capacities, strengths, weaknesses, opportunities, threats and obligations of duty holders? Which obligations are not complied with, under-complied with, moderately complied with or fully complied with? Which obligations need to be complied with by duty holders? What are the gaps?

Focus on the obligations that need to be complied with by duty holders and on the gaps. Review your list of areas of intervention in the *Symptom-Cause-Effect Analysis* and *Claim Holder Analysis and Entitlement Mapping Diagrams*. Consider all possible policy alternatives and areas of intervention, in light of your previous lists, and note these onto the box at the right side of the diagram. Beside each possible policy alternative or area of intervention, note the obligation the policy or intervention addresses.

Forces-At-Work Analysis



Tool Designed by Maria Socorro I. Diokno, 2002

Step One. Identifying Claim Holders.

List claim holders onto the larger circle; in the inner circle, list those most vulnerable. Refer to your *Claim Holder Analysis and Entitlement Mapping Diagram*.

Step Two. Identifying Other Actors or Forces that may be behind Claim Holders.

Identify all other actors who may be behind claim holders. Other actors may include church or religious entities, non-governmental organizations, media, political parties, partisan or ideological movements, federations, associations, unions, professional groups, etc. List these actors onto the hexagons linked to the claim holders by arrows.

Identify the interests of these other actors and what motivates them to support or assist claim holders. List these interests and/or motivations onto the hexagons.

Determine whether these interests are compatible with or complementary to the interests and rights of claim holders. Note this on the hexagon.

Step Three. Understanding the relationships between other Actors and Claim Holders.

Assess the relationship between these other actors and claim holders. To aid you, answer the following questions:

- What is the nature of the relationship between these Other actors and claim holders?
- What is the level of influence (none, low, moderate, high) these other actors exert on claim holders, in terms of
 - assessing the situation of claim holders,
 - articulating the aspirations, needs and rights of claim holders,
 - planning activities to claim or assert the rights of claim holders,
 - implementing these activities.
- Who actually decides on matters relevant to claim holders?
- Are these other actors accountable to the claim holders for their decisions and actions?
- Do these other actors act in ways that empower claim holders?
- Do these other actors fully, freely and publicly disclose necessary or relevant information to claim holders?
- Do these other actors participate in meetings of claim holders? Do claim holders participate in meetings of these other actors?
- Do these other actors encourage the full and active involvement of claim holders in the development process? Or do these other actors act as representatives of claim holders? If so, do they accurately and effectively represent the rights and interests of claim holders?
- Do these other actors assist claim holders question Policies or decisions, bring complaints, demand compensation or restitution, and hold duty holders accountable?
- Do these other actors respect the rights of claim holders? Do they protect the rights of claim holders?
- Do these other actors exercise their own rights responsibly?
- In their relationships with claim holders, do these other actors treat women and men equally?
- Do these other actors help or hamper efforts by claim holders to assert their rights?

You may use the scale along the arrow connecting the other actor to the claim holder to reflect your assessment of the relationship between these other actors and claim holders.

Step Four. Identifying Duty Holders

List duty holders onto the circle opposite the claim holders' circle. Refer to your *Duty Holder Analysis and Obligations Mapping Diagram*.

Step Five. Identifying Other Actors or Forces that may be behind Duty Holders.

Identify all other actors who may be behind duty holders. Other actors may include private business interests, multinational entities, international financial institutions, foreign governments, foreign donors, church or religious entities, non-governmental organizations, media, political parties, partisan or ideological movements, federations, associations, unions, professional groups, etc. List these actors onto the hexagons linked to the duty holders by arrows.

Identify the interests of these other actors and what motivates them to support or assist duty holders. List these interests and/or motivations onto the hexagons. Determine whether these interests are compatible with or complementary to the obligations of duty holders. Note this on the hexagon.

Step Six. Understanding the relationships between Other Actors and Duty Holders.

Assess the relationship between these other actors and duty holders. To aid you, answer the following questions:

- What is the nature of the relationship between these other actors and duty holders?
- What is the level of influence (none, low, moderate, high) these other actors exert on duty holders, in terms of
 - Complying with the nature and levels of their obligations,
 - Complying with human rights principles,
 - Delivering goods and services to which claim holders are entitled,
 - Development process (policy, planning, budgeting and implementation).
- Who actually decides on matters related to the development process?
- Do these other actors fully, freely and publicly disclose necessary or relevant information to duty holders?
- Do these other actors participate in meetings of duty holders? Do duty holders participate in meetings of these other actors?
- Do these other actors encourage the full and active involvement of claim holders in the development process?

- How do these other actors respond to claim holders' questioning of policies and decisions, bringing complaints, demanding compensation or restitution, and holding duty holders accountable?
 - Do these other actors exercise their own rights responsibly?
 - Do these other actors help or hamper efforts by duty holders to comply with their obligations?
- You may use the scale along the arrow connecting the other actor to the duty holder to reflect your assessment of the relationship between these other actors and duty holders.

Step Seven. Understanding the relationships between Claim Holders and Duty Holders.

Assess the relationship between claim holders and duty holders. To aid you, answer the following questions:

- What is the nature of the relationship between claim holders and duty holders? Is it adversarial, neutral or cooperative?
- Are claim holders' insights, advice and interests taken into consideration in duty holder's decision making process?
- Are duty holders accountable to claim holders for their decisions and actions?
- Do duty holders act in ways that empower claim holders?
- Do duty holders fully, freely and publicly disclose necessary or relevant information to claim holders?
- Do duty holders encourage the full and active involvement of claim holders in the development process?
- Are duty holders responsive to the needs, interests and rights of claim holders?
- Do duty holders provide redress and effectively deal with complaints and demands of claim holders?
- Do claim holders exercise their rights responsibly?

You may use the scale along the arrow connecting the claim holders to the duty holders to reflect your assessment of their relationship.

Step Eight. Resolving Competing Interests and Demands.

Evaluate your diagram.

- Does it accurately reflect the interests of all actors in the problem you are confronted with?
 - Which interests are competing?
 - Which interests are complementary?
 - Which interests should be supported or encouraged?
 - Which interests should be rejected?

- Does your diagram accurately reflect the nature of the relationships between other actors and claim holders, other actors and duty holders, and claim holders and duty holders?
 - Which relationships need strengthening or reinforcing?
 - Which relationships need to be guarded against?

Consider how to resolve competing or contending interests with *equity, fairness, equality and non-discrimination*. Consider also how to strengthen or reinforce complementary interests and relationships and how to reduce the impact of competing or opposing interests and relationships. Review your list of areas of intervention in the *Symptom-Cause-Effect Analysis Diagram*, the *Claim Holder Analysis and Entitlement Mapping Diagram*, and the *Ditty Holder Analysis and Obligations Mapping Diagram*. Consider all possible policy alternatives and areas of intervention, in light of your previous lists, and note these areas onto the box at the bottom center of the diagram.

DEVELOPMENT GOAL SETTING IN THE CONTEXT OF HUMAN RIGHTS

Defining goals and objectives is a crucial stage in all aspects of development, from formulating development policy, to national development planning to development programming. Goals address the problem or situation at hand and represent the results the policy, plan, program or project aims to achieve. Defining goals in human rights terms enhances coherent, complementary and effective policy that facilitates an economic, social and political environment conducive to the enjoyment, exercise and realization of all freedoms and entitlements. By ensuring that policy, plans, programs and projects are based on the whole gamut of rights that affect the quality of life in society, goals defined in human rights terms increase the capacity of public institutions to fully and effectively comply with their fundamental obligations.

Development goals and objectives should also be based on the people's aspirations that can realistically and reasonably be met by the state given its human rights obligations, capacity and resources.

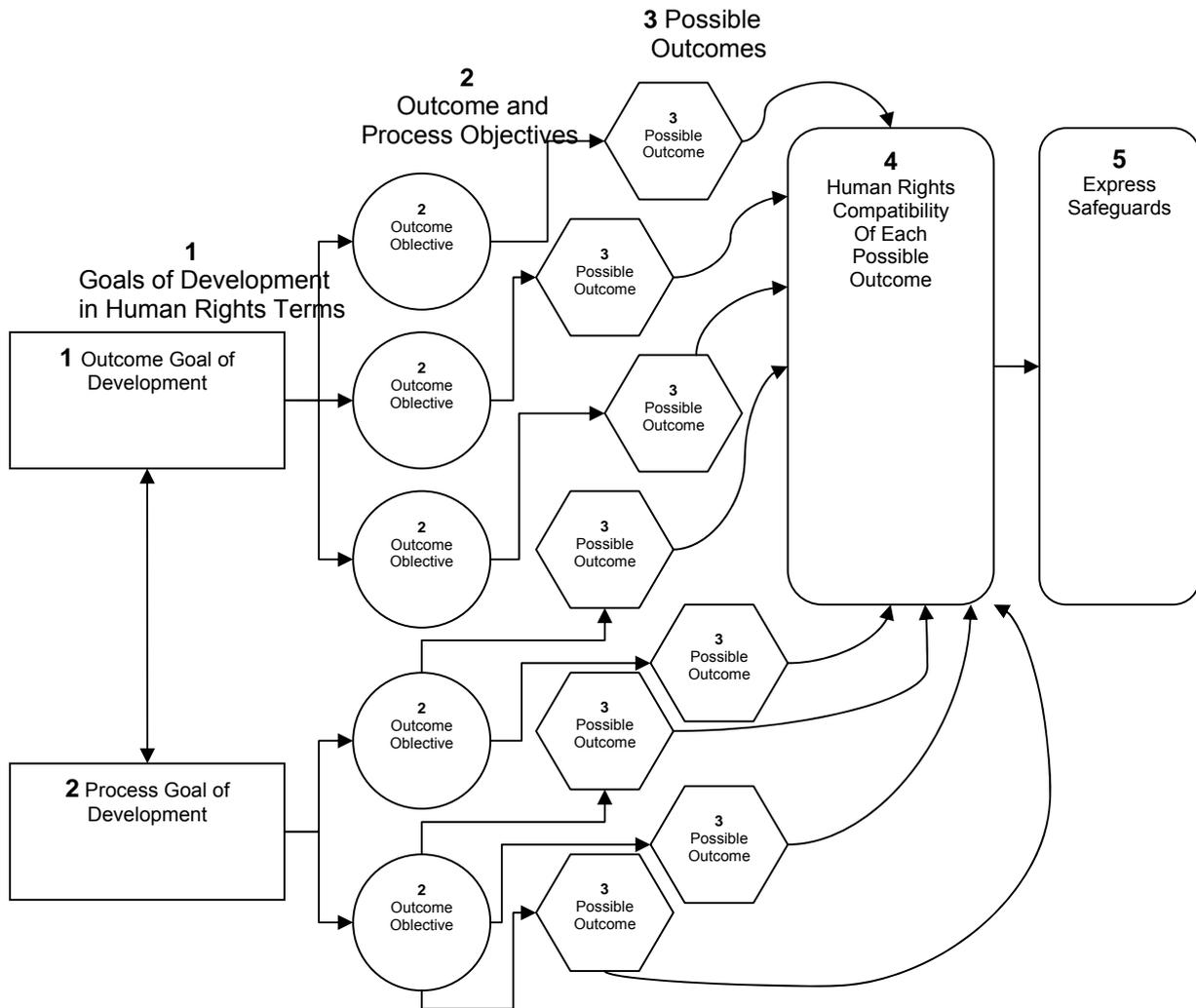
To facilitate the formulation of development goals and objectives, a five-step tool, ***Development Goal Setting***, has been designed (Figure 8). Through the use of this tool, development policy makers, planners and programmers are able to focus on the outcome and process of development, forecast scenarios, and assess the human rights compatibility of possible outcomes. Policy makers, planners and programmers are thus enabled to incorporate express safeguards to mitigate potential, unintended or unanticipated harm or threats of human rights deprivations that may arise from development goals.

Step One. Set goals relating to the substance and process of development, in the context of human rights.

In the context of human rights principles, the normative content of human rights and nature and levels of state obligations, clearly define outcome and process goals of development to address the problem or situation. Defining goals and objectives as simply as possible will enhance clarity of instructions for those who will implement the policy, plan, program or project. It is important to avoid goals that contain inherent contradictions or clash with prominent goals pursued by other state agencies.

Outcome goals refer to the desired end results of development; these are generally linked to the normative content of human rights. Process goals refer to the way by which development is carried out, and are generally linked to human rights principles and state obligations.

Figure 8. Development Goal Setting



Tool designed by Maria Socorro I. Diokno, 2002

For example, faced with a significant proportion of a population, particularly women and children, suffering from serious iodine deficiency, the development goal is typically formulated as follows:

ELIMINATE MICRONUTRIENT MALNUTRITION, PARTICULARLY IODINE DEFICIENCY DISEASE.

In human rights terms, however, the development goal would be formulated as follows:

CREATE CONDITIONS THAT PROVIDE EQUAL AND EQUITABLE ACCESS WITHOUT DISCRIMINATION, FOR CHILDREN AND WOMEN OF PRESENT AND FUTURE GENERATIONS, TO IODIZED SALT THAT IS AVAILABLE IN SUFFICIENT QUANTITY AND OF GOOD QUALITY, WITHIN THEIR SAFE PHYSICAL REACH, AND IS AFFORDABLE

- Where **CREATE CONDITIONS** specifically refers to the state's fulfillment-bound obligations and to the *substance* of development,
- Where **EQUAL AND EQUITABLE ACCESS WITHOUT DISCRIMINATION** specifically refers to human rights principles and the normative content of the rights to food and health (ACCESS) and to the *process* by which development is to be undertaken,
- Where **CHILDREN AND WOMEN OF PRESENT AND FUTURE GENERATIONS** specifically refer to the human rights principle of *attention to vulnerable groups* and to the *substance* and *process* of development,
- Where **IODIZED SALT THAT IS -AVAILABLE IN SUFFICIENT QUANTITY AND OF GOOD QUALITY, WITHIN THEIR SAFE PHYSICAL REACH, AND IS AFFORDABLE** specifically refers to the normative content of the rights to food and health (**AVAILABILITY, QUANTITY, QUALITY, WITHIN SAFE PHYSICAL REACH, AFFORDABILITY**) and to the *substance* of development.

List the outcome and process goals onto the box at the left hand of the diagram.

Step Two. Specify goals into realistic, logical and integrated objectives linked to each development goal.

Development goals must lend themselves to the specification of objectives (or subordinate goals) that can be defined for organizations that will be involved in implementing them. Objectives are the steps to arrive at the end results (goals). Objectives explain in clear-cut terms precisely what the goals mean in practice.

When setting objectives, take care to ensure that objectives are consistent with human rights principles, coherent with the normative content of human rights, and consistent with the nature and levels of state obligations.

Using the same example set forth above, objectives should include, among others, at least the following:

- Regulate the market price of iodized salt so as to ensure that the price per packet of iodized salt does not exceed *x percent* of household food budget and/or household income

- Guarantee x annual per capita supply of iodized salt linked to population growth over time
- Guarantee the equitable, distribution 'of iodized salt to x outlets geographically located in specific areas with significant incidence of serious iodine deficiency
- Provide specific incentives to iodized salt producers to achieve guaranteed, safe and sustainable supply of iodized salt

List objectives onto the circles beside the goals; use arrows to connect objectives to goals.

Step Three. Build scenarios, plotting possible human rights effects of development goals and objectives.

Review your outcome and process goals and objectives. Now consider what could possibly result (both positive and negative) from the goals and objectives, Be creative. Free your mind. Write down, in free association, deliberately suspending all judgment, all possible effects of goals and objectives. Consider all possible effects, no matter how remote these may seem to you. Remember that this step deals with possibilities - not probabilities - and that the objective of this step is to anticipate as far as is humanly possible all effects (good and bad) that may arise from the development goals.

List all possible outcomes onto the hexagons beside the objectives, and link these outcomes (hexagons) to objectives (circles) by using arrows.

Step Four. Assess the human rights compatibility of each possible outcome and formulate safeguards.

Assess the human rights compatibility of each possible outcome, by considering:

- The specific rights affected, and how the outcome affects its exercise and enjoyment,
- The impact for women and men,
- The impact on the quality of life of those affected,
- The impact on the capacity and resources of the state to comply with the nature and levels of its obligations,
- The impact on state accountability and transparency,
- The impact on genuine people's participation,

- The impact on the capacity of those affected to claim and assert their rights,
- The impact on the accessibility, availability, impartiality and effectiveness of the regulatory framework,
- The impact on the relationship between duty holders and claim holders,

After assessing the human rights compatibility of each possible outcome, create a table composed of two columns. The left-hand column is headed *Positive*, while the right-hand column, *Negative*. Underneath the *Positive* column, write all possible positive outcomes; underneath the *Negative* column, write all possible negative outcomes.

Positive	Negative

Review your table; you should be able to decide whether the positive -outweighs the negative. If it does, proceed to the next step. If it does **not**, then you may have to discard your goals and objectives, and repeat each of the steps above.

Step Five. Formulate express safeguards to mitigate threats to the enjoyment, exercise and realization of fundamental human right.

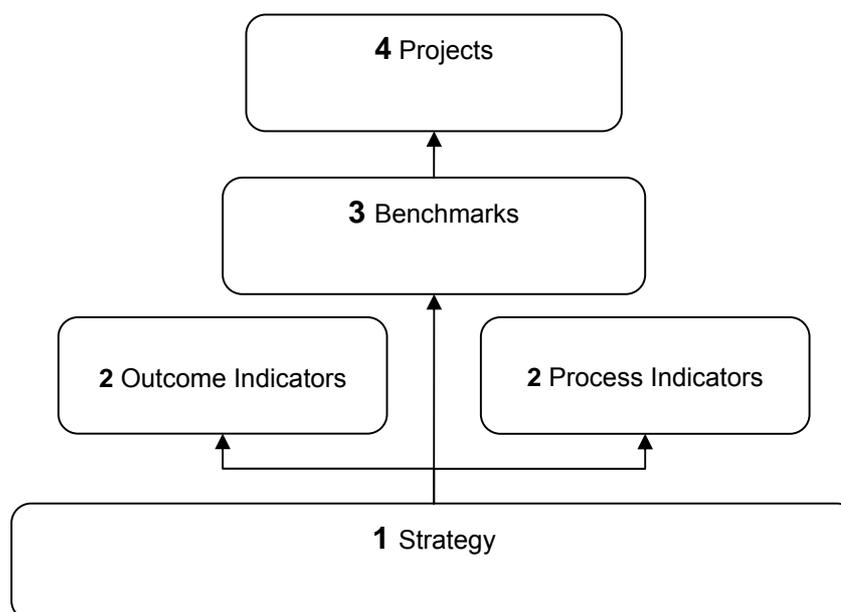
Focus on the possible negative outcomes and determine whether there are ways to reduce the negative impact of these possible outcomes. Formulate express safeguards to guard against-and reduce the adverse human rights impact-of these possible negative outcomes. List express safeguards onto the box beside your assessment of possible outcomes.

DEVELOPMENT STRATEGIES IN THE CONTEXT OF HUMAN RIGHTS

Strategy development is facilitated through the use of a specially designed four-step tool, the *Development Intervention Tree* (Figure 10).

Through the use of this tool, development programmers may ensure that development strategies are actually based on human rights principles, actually take into consideration the normative content of human rights, and actually are coherent with the nature and levels of state obligations. In this manner, development strategies are more rational, better targeted towards those most vulnerable and marginalized, and comprehensive, with wide-reaching implications towards improving the quality of human life in society.

Figure 9. Development Intervention Tree



Tool design by Maria Socorro I. Diokno, 2002

Step One. Developing Strategy

Develop the strategy to address the problem or situation, in light of the outcome and process goals and objectives. Remember that human rights centered development demands a preference for:

- Strategies of empowerment;

- Strategies that guarantee access to the development process, institutions and information;
- Strategies that incorporate mechanisms of redress and accountability;
- Strategies that contain express safeguards to protect against unanticipated or unintended harm of threats to human rights;
- Strategies that guard against reinforcing existing power imbalances;
- Strategies that are focused on the most vulnerable; and
- Strategies that guarantee non-discrimination and equality of women and men.

Consider all possible strategies. Be creative and free your mind. Write down, in free association, deliberately suspending all judgment, all possible strategies. In light of your mandate, expertise and resources, choose the most effective and most suitable development strategy.

To help you decide which strategy to adopt, assess the pros and cons of each strategy. You may do this through the use of PMI (Plus-Minus-Interesting), a basic decision-making tool designed by Edward de Bono. Simply create a table composed of three columns. The first column is headed Plus, the second, Minus, and the third, Interesting. Underneath the Plus column, write all positive points of taking action; relate the positive points to your mandate, expertise and resources. Beneath the *Minus* column, write all negative points of taking action; relate the negative points to your mandate, expertise and resources. In the Interesting column, write the extended implications of taking action, both positive and negative. Review your table; you should be able to make a decision from the table you have just drawn.

Plus	Minus	Interesting

Note the strategy onto the box at the bottom of the *Development Intervention Tree*.

Step Two. Setting Outcome and Process Indicators.

Indicators are "statistical data which attempts to provide or 'indicate' (usually based on some form of numerical qualifications) the prevailing circumstances at a given place at a given point in time."² "The term 'indicator' reflects the necessary modesty that must attach to statistics intended to measure one or other aspect of development: indicators are not necessarily direct and full measures of what they are intended to

indicate but often indirect or incomplete measures (e.g., measures of causes, instrumentalities or inputs; of effects or outputs; of particular manifestations, phases or parts of the whole)."³ Therefore, "indicators do not always reflect the human condition in a meaningful way and may be an easy way to avoid attacking the root cause of poverty and related concerns."⁴

Set outcome indicators, paying close attention to obligations of result and to the normative content of human rights. [*Refer to Normative Content of Selected Human Rights, Annex 3; Nature and Levels of State Obligations, Annex 4, refer also to the relevant international covenants, the General Comments adopted by the United Nations treaty bodies., the Limburg Principles and the Maastricht Guidelines.*]

Outcome indicators are directly related to the goals and objectives of development. Outcome indicators are also closely linked to a state's obligations of result and to the normative content of the affected rights. Outcome indicators measure the attainment or non-attainment of the development goals and objectives. Outcome indicators also measure changes (both positive and negative) in the situation of claim-holders and the level of compliance by duty-holders of their obligations and responsibilities.

When setting outcome indicators, remember to:

- ✓ Ensure the integrity and reliability of data, information and statistics.
- ✓ Use timely sources.
- ✓ Use appropriate indicators that actually measure levels of enjoyment or non-enjoyment of human rights, or compliance or non-compliance of state obligations.
- ✓ Resolve any apparent contradictions that may arise between certain indicators.
- ✓ Avoid, as far as possible, the use of estimates.
- ✓ Use proper and consistent criteria and methodologies in selecting indicators.
- ✓ Ensure that the indicators are comparable across time.

² Danilo Turk, The Realization of Economic, Social and Cultural Rights July 1990 (Progress Report), UN Doc. E/CN.4/Sub.2/1990/19. ³ United Nations Research Institute on Social Development cited in Danilo Turk, The Realization of Economic, Social and Cultural Rights July 1990 (Progress Report), UN Doc. E/CN.4/Sub.2/1990/19. ⁴ Ibid.

Avoid the use of indicators of a percentage type that can create difficulties in terms of how to measure growth or change.

Disaggregate data, information and statistics.

Use your outcome goals, outcome objectives, and possible outcomes, as the basis for the outcome indicators. List outcome indicators onto the box above the strategy

Now set process indicators paying close attention to obligations of conduct and to human rights principles. *[Refer to Checklist of Human Rights Principles, Annex 1; Nature and Levels of State Obligations, Annex 4, refer also to the relevant international covenants, the General Comments adopted by the United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.]*

. Process indicators are directly related to the manner by which the development process is undertaken. Process indicators are also closely linked to a state's obligations of conduct and to human rights principles. The level and nature of participation by claim-holders in every stage of the development process would be examples of process indicators.

Use your process goals, process objectives, and possible outcomes, as the basis for the process indicators. List process indicators onto the box beside outcome indicators.

Step Three. Setting Targets or Benchmarks

Design concrete and specific targets against which the outcome and process goals and objectives may be assessed. Targets must be contextualized within the particular situation or prevailing circumstances. So make sure you take into consideration your problem and actor analysis diagrams, and this diagram, when setting targets.

Targets may be qualitative or quantitative or both, and must be disaggregated by gender, age, income status, and other prohibited grounds of discrimination. Targets must be set within achievable, realistic and flexible time frames. Targets must also be consistent with human rights principles, the normative content of human rights and nature and levels of state obligations.

Remember that targets must

✓ *Respect* human rights (i.e., targets do not directly encroach upon human rights),

✓ *Protect* human rights (i.e., targets or incentives to induce private sector response should not encourage or allow the private sector to violate human rights. It is also important to ensure that the means the state intends to use to try to enforce upon the private sector pre-determined targets is coherent with human rights principles, consistent with the normative content of human rights and the nature and levels of state obligations), and

✓ *Fulfill* human rights (i.e., targets take into consideration the role of the state as the ultimate provider of productive resources, and, when necessary, goods and services).

Remember also that targets must be consistent with the normative content of human rights; these include setting targets for availability, accessibility, quality and acceptability of goods, services and facilities essential to the exercise and enjoyment of fundamental freedoms and entitlements.

In setting targets, it is not enough to study gains and losses of the different sectors, or to consider inputs of capital or other scarce resources or outputs. It is more important to analyze the effects of those targets on the projected enjoyment, exercise and realization of human rights. If one were to target x percent growth for x sector, one would have to consider what measures and actions that sector would need to take to meet that target. Would any of these measures or actions impinge upon, threaten or harm the enjoyment and exercise of any human right? Which measures and actions would contribute to the exercise and enjoyment of human rights? Targets may have to be recast if the measures and actions needed to meet those targets would potentially be inconsistent with human rights.

Here are some reminders in benchmarking:

✓ Avoid setting targets that are impossible to achieve.

✓ Avoid setting targets that are too easy to achieve that no improvement occurs.

✓ Remember that targets are not the end results and that there is always room for improvement once targets are met.

✓ Choose targets that actually solve the human rights problem or issue.

List targets onto the box above the outcome and process indicators in the *Development Intervention Tree*.

Step Four. Identifying and Designing Projects

Design the project(s) to implement the strategy. Answer the following questions to guide you in developing the project(s):

- What needs to be done? Break these down into workable steps. Are steps consistent with human rights principles, the normative content of human rights and the nature and levels of state obligations?
- How long will it reasonably take to accomplish each step?
- What resources (human, material, financial, physical, equipment, etc.) are need? Are these resources available?
- Who will implement the project? What criteria or standards should guide the selection of the project partner(s)? Are these criteria or standards consistent with human rights principles, the normative content of human rights and the nature and levels of state obligations?

Then determine measurable, specific and concrete outputs. Answer the following questions to guide you in determining outputs:

- What do we actually want to achieve through this project?
- What problems could we encounter?
- How can we prepare for these problems?
- How can we safeguard against these problems?

MONITORING IN THE CONTEXT OF HUMAN RIGHTS

Monitoring is the process of systematically tracking the development process as it is undertaken. Monitoring involves two inter-related activities: collection of data and documentation. Monitoring, through the use of outcome and process indicators identified earlier, generally focuses on:

- Who should be involved?
- What is happening?
- What data must be collected?
- How should data be collected?
- When should data be collected?
- How should the data be analyzed?
- How should the findings be used and by whom?
- What future actions need to be taken, in light of the findings?

Monitoring can detect problems in development as they occur allowing for corrective action thus putting into operation the safeguards that were previously designed in the previous stages. Monitoring also generates information that can be used in the evaluation stage.

Monitoring serves as a guide for future development efforts, and is based on all types of data - both qualitative and quantitative - that may be used to monitor the effects of the policy, plan, program or project on the quality of human life in society.

Monitoring should consider the actual human rights conditions, comparing these against projected conditions. Monitoring should also consider the extent of people's involvement and participation in development. Monitoring should also look into the efficacy, availability and accessibility of the regulatory framework, and into the level of state compliance with its obligations to respect, protect and fulfill human rights. Finally, monitoring appraises the nature and level of public accountability and public transparency in development.

Effective and objective monitoring is one that *is truly participatory* (see *Participation Checklist, pages 64 to 66*); effective monitoring may facilitate public accountability and promote principled delivery of goods and services to which people are entitled.

In human rights centered development, development policy makers, planners and programmers monitor development *through the use of outcome and process indicators* (see *Development Intervention Tree*).

They also monitor the external environment because it may impact on development. The external environment could include, among others,

- Trends/changes in the global economy and market
- Developments in laws (law reform, repeal, adoption),
- Developments in jurisprudence (interpretations of laws),
- Policy reform,
- Adoption of new rules or orders (administrative, executive),
- Changes in the structure of political power (through elections, for instance)
- Actions of other actors in society that may affect, positively or negatively, the implementation of the project,
- Actions and reactions of duty holders and claim holders to the project,
- Changes in attitudes.

EVALUATION IN THE CONTEXT OF HUMAN RIGHTS

Evaluation is the most complete and objective data collection and analysis of the outputs, outcomes, unexpected results, and process of development, which are carefully studied, largely through the use of *concrete measures of progress* in the human rights situation of claim holders. These concrete measures of progress are linked to benchmarks (see *Development Intervention Tree*) and may be qualitative or quantitative.

Concrete measures of progress could include, among others,

- Equitable, equal, effective and active implementation of laws, without discrimination of any kind
- Enactment of new legislation
- Amendment of legislation
- Repeal of legislation
- Guaranteed and Sustainable Supply of Goods and Services essential for a quality of life consistent with human dignity
- Guaranteed and Sustainable Distribution of Goods and Services essential for a quality of life consistent with human dignity
- Guaranteed and Sustainable Accessibility of Goods and Services essential for a quality of life consistent with human dignity
- Guaranteed and Sustainable Affordability of Goods and Services essential for a quality of life consistent with human dignity
- Public Expenditures geared towards the creation of conditions necessary for a quality of life consistent with human dignity
- Public Revenues generated through measures that are consistent with human rights
- Policy Reform

- Changes in the human rights situation of claim holders, particularly those most vulnerable
- Changes in the capacity of claim holders, particularly those most vulnerable, to assert and claim their freedoms and entitlements
- Nature, Level and Extent of People's Participation and Involvement in the development process (*see Participation Checklist*)
- Access to the development process, institutions and information
- Level of empowerment of claim holders, particularly those most vulnerable
- Changes in the capacity of claim holders, particularly those most vulnerable, to
 - Assess their situation,
 - Articulate their aspirations, needs and rights,
 - Plan activities to claim or assert their rights,
 - Implement these activities.
 - Question policies or decisions,
 - Bring complaints,
 - Demand compensation or restitution, and
 - Hold duty holders accountable
- Changes in the capacity of duty holders to comply with the nature and levels of their obligations to
 - Respect
 - Protect
 - Fulfill (facilitate or promote)
 - Fulfill (provide)
 - Take steps, by all appropriate means, to the maximum of available resources, towards the progressive realization of human rights
- Changes in the capacity of duty holders to comply with human rights principles of
 - Non-discrimination and equality
 - Accountability
 - Transparency
- Changes in the responsible exercise of human rights by claim holders, duty holders, and other actors

- Attainment of development goals and objectives, both outcome and process
- Impact for women and men
- Impact of safeguards
- Changes in power relations
- Equity in the relationships between claim holders and duty holders, claim holders and other actors who may be behind them, and duty holders and other actors who may be behind them
- Changes in the nature of the relationship among all actors

"Social justice ... means a coherent, intelligible system of law, made known to us, enacted by a legitimate government freely chosen by us, and enforced fairly and equitable by a courageous, honest, impartial, and competent police force, legal profession and judiciary, that first, respects our rights and freedoms both as individuals and as a people; second, seeks to repair the injustices that society has inflicted on the poor by eliminating or at least reducing poverty as rapidly as our resources and our ingenuity make possible; third, develops a self-directed and self-sustaining economy that distributes its benefits to meet, at first, the basic material needs of all, then to provide an improving standard of living for all, but particularly for the lower income groups, with time enough and space to allow them to help create and to enjoy our culture; fourth, changes our institutions and structures, our ways of doing things and relating to each other, so that whatever inequalities remain are not caused by those institutions or structures, unless inequality is needed temporarily to favor the least favored among us and its cost is borne by the most favored; and fifth, adopts the means and processes that are capable of attaining these objectives."

Jose W. Diokno, "A *Filipino Concept of Justice*," in *A Nation for Our Children*, Claretian Publications, 1987.

This Section contains diagrams, a checklist and a matrix, based on international human rights documents, the General Comments adopted by United Nations treaty bodies, the Limburg Principles and the Maastricht Guidelines.

ANNEXES

ANNEX 1

CHECKLIST OF HUMAN RIGHTS PRINCIPLES

Accountability

- Government must be answerable to those it governs.
- Government must be responsible for all its decisions and actions.

Attention to Vulnerable Groups.

- Great importance must be given to the promotion and protection of the human rights of persons belonging to groups that have been rendered most vulnerable.
- States have an obligation to create and maintain adequate measures at the national level, in the fields of
 - Education,
 - Health and
 - Social support,
- for the promotion of the rights of persons in vulnerable sectors and
- to ensure their participation.¹

Empowerment

- Power to act for and on their own behalf to claim their rights.
- Emphasis on efforts of the people themselves to bring about the necessary changes towards the full realization of all human rights.

Equality

- All persons should enjoy all human rights on an equal basis, and in their totality.
- Equality demands women' and men equally enjoy and exercise all fundamental rights and freedoms.

Equality does not mean identical treatment in every instance.

Paragraph 24, Vienna Declaration and Action Programme, 12 Jul), 1993 [A/CONF.157/23].

Equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions that cause or help perpetuate discrimination.

Such action may involve granting certain preferential treatment for a time to part of the population

Equity

In the guarantee of fundamental rights and freedoms, equity is

Fairness

Justice

Impartiality

Good Governance

Key attributes of good governance²

Transparency

Responsibility

Accountability

Participation

Responsiveness to the needs of the people

Good governance linked to an enabling environment conducive to the enjoyment of human rights and promoting growth and sustainable human development.

Eight major characteristics of Good governance:

Participatory

Consensus oriented

Accountable

Transparent

Responsive

Effective and efficient

Equitable and inclusive

Follows the rule of law

- Good governance assures corruption and abuse are minimized.
- Good governance assures the views of the vulnerable and marginalized

² Office of the United Nations High Commissioner for Human Rights, What is good governance? See Commission on Human Rights Resolution 2000/64. are taken into account.

- Good governance is responsive to the present and future needs of society.
- Good governance requires mediation of the different interests in society
- to reach a broad consensus on what is in the best interest of the whole community
 - how this can be achieved
 - what is needed for development
- Good governance implies that structures and processes of institutions are coherent with their public role.
- The true test of 'good' governance is the degree to which it delivers on the promise of human rights: civil, cultural, economic, political and social rights.
- Key question: Are the institutions of governance effectively guaranteeing the rights to health, adequate housing, sufficient food, quality education, fair justice and personal security, etc.?

Independence of the Judiciary

- The judiciary is the final arbiter of all disputes that may arise from the exercise of human rights.
- Crucial roles of judiciary:
 - Protecting human rights
 - Respecting human rights
 - Fulfilling human rights
- Independence of judiciary should be guaranteed.
- The judiciary should decide all matters before them with impartiality
 - on the basis of fact,
 - in accordance with law, and

☐ without any improper influence or pressure.³

³ For a clearer understanding of the standards covering the independence of the judiciary, see Basic Principles on the Independence of the Judiciary adopted by the Seventh Crime Congress at Milan, from 6 August to 26 September 1985 and endorsed by the United Nations General Assembly in resolution 40/32

Indivisibility

☐ "Human rights are so inextricably intertwined that the absence of one negates the presence of the others."⁴

☐ "We cannot enjoy civil and political rights unless we enjoy economic, cultural and social rights, any more than we can insure **our economic, cultural** and social rights, unless we can exercise our civil and political rights."⁵

Interdependence and Inter-relatedness

☐ Our enjoyment and exercise of a particular human right are dependent on our enjoyment -or non-enjoyment -of other human rights.

☐ Human rights are inter-linked with one another.

Legislative capacity

☐ Human rights standards must be guaranteed by law.

☐ The legislature must enact laws that aim always and only to uphold the inherent dignity of every person.

☐ A fair and just legal framework -coupled with the impartial and effective implementation of law -is essential for the exercise and enjoyment of all human rights.

☐ Public policy that finds expression in law must be carefully scrutinized by the legislature to ensure its compatibility with human rights.

☐ A national budget that prioritizes public expenditures for the creation of conditions necessary for the exercise and enjoyment of human rights and that generates public revenues on the basis of equity and justice must be carefully reviewed by the legislature before it is enacted into law.

Non-discrimination

☐ All persons are entitled to human rights, without distinction of any kind, exclusion, restriction or preference based on

⁴ Jose W Diokno, "Human Rights Make Man Human," Lecture delivered at a Convocation on Human Rights at Siliman University on its 80th Founder's Day, 31 August 1981, in A Nation for Our Children Claretian Publications, Quezon City, 1987, pages 176.

⁵ *Ibid*

- ☐ race
- ☐ color
- ☐ gender
- ☐ language
- ☐ disability
- ☐ age
- ☐ religion
- ☐ political other opinion
- ☐ national or social origin
- ☐ property
- ☐ birth
- ☐ other status.

Peoples' Participation

☐ People, directly, or through their advocates, individually and/or collectively through organizations, must participate in and direct the course of development aimed at strengthening their claims to - and realization of - human rights.

☐ Participation is more than merely consulting people.

☐ *See Participation Checklist, pages 68-70.*

Transparency

☐ Transparency allows all persons to see openly into all activities of government.

☐ Transparency involves full, free and public disclosure of decisions, policies, rules, etc.

☐ Transparency requires effective efforts to build public understanding of the objectives of policy, nature of responsibilities of **public authority and the process** of governance.

- ☐ Decisions taken by government- and their enforcement --must be done in a manner that follows rules and regulations.
- ☐ Information must be freely available and directly accessible to those who will be affected by public decisions and enforcement.
- ☐ Enough information in easily understandable forms and on a timely basis must be provided.
- ☐ Creating effective transparency requires more than just making information available about policy objectives, policy responsibilities, policy decisions and performance results; transparency dictates a high standard of the quality of information disclosed in terms of content, clarity, - accessibility and data disclosed.
- ☐ Transparency involves access to important meetings and participation in such meetings, including providing input into government decisions and rule making at all levels of governance.

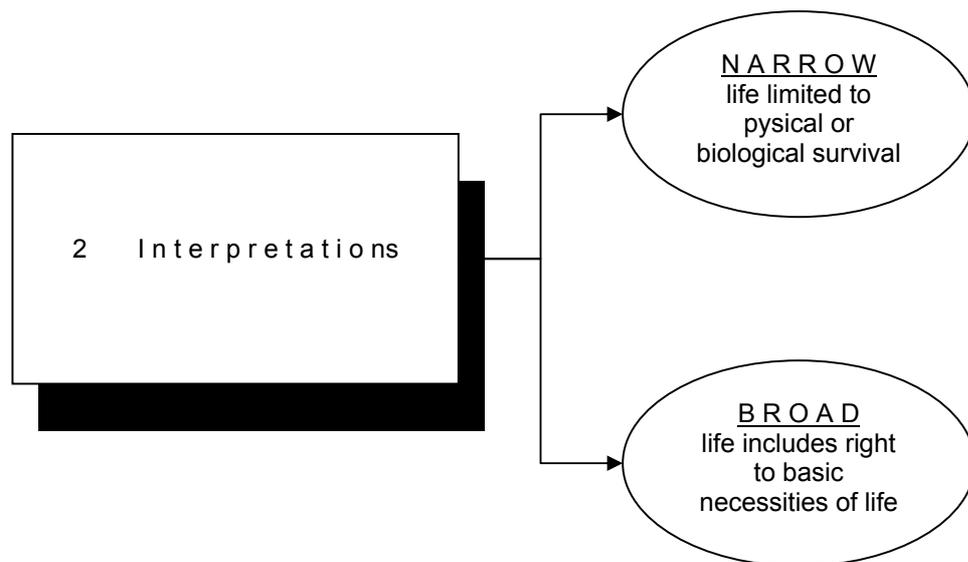
Universality

- ☐ Human rights belong to everyone, everywhere.
- ☐ Human rights are based on the inherent dignity of every person.

Annex 2

Normative Content of Selected Human Rights

Right to Life-Right to Live in a manner consistent with our common humanity and dignity



The Human Rights committee in General comments no. Sixteen Session 1982 adopts the broader interpretation of the right to life.

The right to life, under international law, begins at birth.

The right to life is absolute; no derogation is permitted even in times of national emergencies that threaten the life of the nation.

Right to Life in International Documents

Article 3, Universal Declaration of Human Rights

Article 6, International Covenant on Civil and Political Rights

General Comment No. 6, Human Rights Committee (1982)

Article 5b, Convention on the Elimination of all Forms of Racial Discrimination

Article 6, Convention on the Rights of a Child.

Equality - Right to enjoy and exercise all human rights on an equal basis and in their totality.

Equality does not mean identical treatment in every instance.⁶

The United Nations Human Rights Committee has said that equality "sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant. For example, in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions. Such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population. However, as long as such action is needed to correct discrimination in fact, it is a case of legitimate differentiation under the Covenant."⁷

Right to Equality in International Documents

Article 7, Universal Declaration of Human Rights
Article 3, International Covenant on Economic, Social and Cultural Rights
Article 3, International Covenant on Civil and Political Rights
Article 8(1), Declaration on the Right to Development
Article 5, Convention on the Elimination of All Forms of Racial Discrimination
Articles 9 and 15, Convention on the Elimination of All Forms of Racial
Discrimination Against Women

⁶Article 6 of the International Covenant on Civil and Political Rights prohibits the death sentence from being imposed on persons below 18 years-old, and from being carried out on pregnant women. Article 10(3) of the same Covenant, requires the segregation of

youth offenders from adults. General Comment No. 18. Non-discrimination, adopted by the United Nations Human Rights Committee at its thirty-seventh session in 1989. ⁷ Ibid.

Non-Discrimination - Right to -enjoy and exercise all human rights without distinction of any kind, exclusion, restriction or preference

Prohibited grounds of Discrimination:

- race,
- color,
- gender,
- language,
- Disability,⁸
- age,⁹
- religion,
- political or other opinion,
- national or social origin,
- property,
- birth or
- other status.

Right against Non-Discrimination in International Documents

Article 7, Universal Declaration of Human Rights

Article 2(2), International Covenant on Economic, Social and Cultural Rights

Articles 2(1) and 20(2), International Covenant on Civil and Political Rights

Article 6(1), Declaration on the Right to Development

Articles 1, 3, and 4 Convention on the Elimination of All Forms of Racial Discrimination

Articles 1, 2, 4 and 7, Convention on the Elimination of All Forms of Racial Discrimination

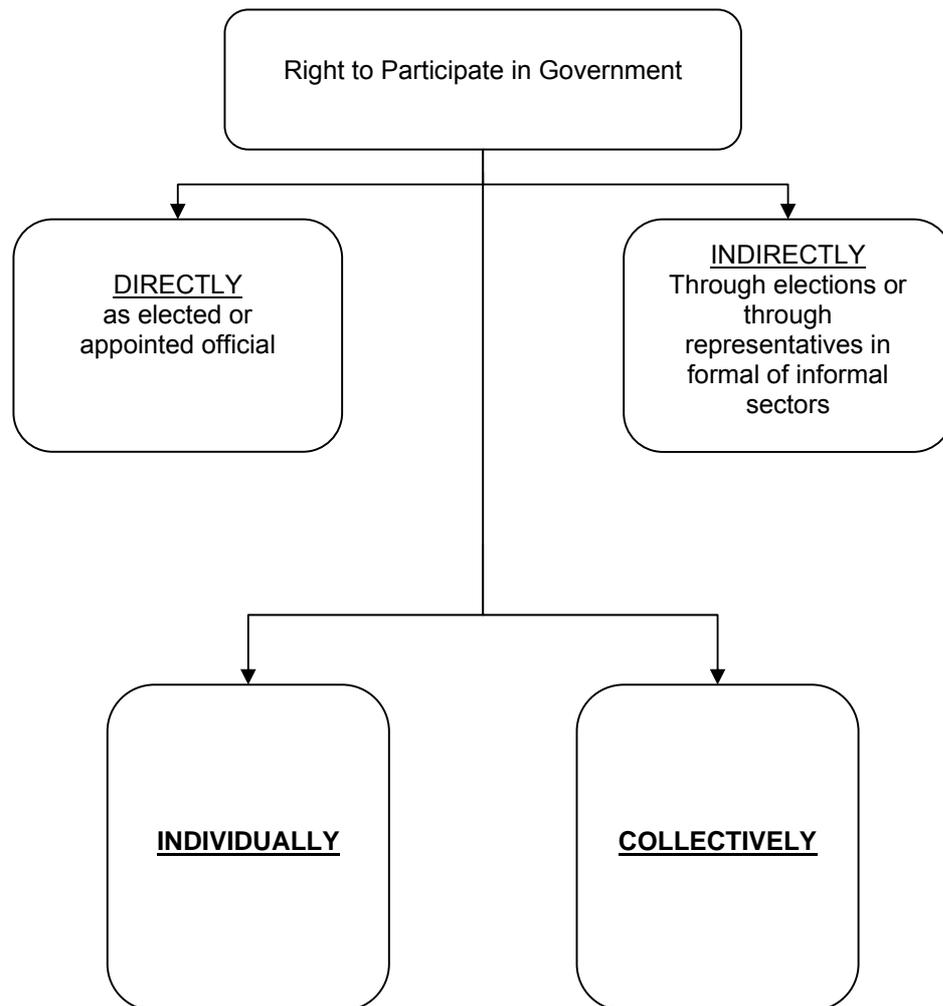
Against Women

Article 2, Convention on the Rights of the Child

⁸ General Comment No. 5 Persons with Disabilities, adopted at the eleventh session in 1994 [E/1995/22].

⁹ General Comment No. 6 77^{te} Economic, Social and Cultural Rights of Older Persons, adopted at the thirteenth session in 1995 [E/ 1996/ 22].

Right to Participate in Government—Right to freely, voluntarily, effectively and fully participate in government without sanction or threat



See *Participation Checklist*, pages 64 to 66

Right to Participate in Government in International Documents

Article 21, Universal Declaration of Human Rights

Article 5(c), convention on the Elimination of All Forms of Racial Discrimination

Freedom of Opinion, Right of Peaceful Assembly and Association, Freedom of Movement

Derogable rights

Freedom of Opinion and Expression on International Documents

Article 19, Universal declaration of Human Rights
Article 19, International Covenant on Civil and Political Rights
Article 6(1), Declaration on the Right to Development
Article 5(d)(iii), Convention on the Elimination of All Forms of racial
Discrimination
Articles 12 and 13, Convention on the Rights of the Child

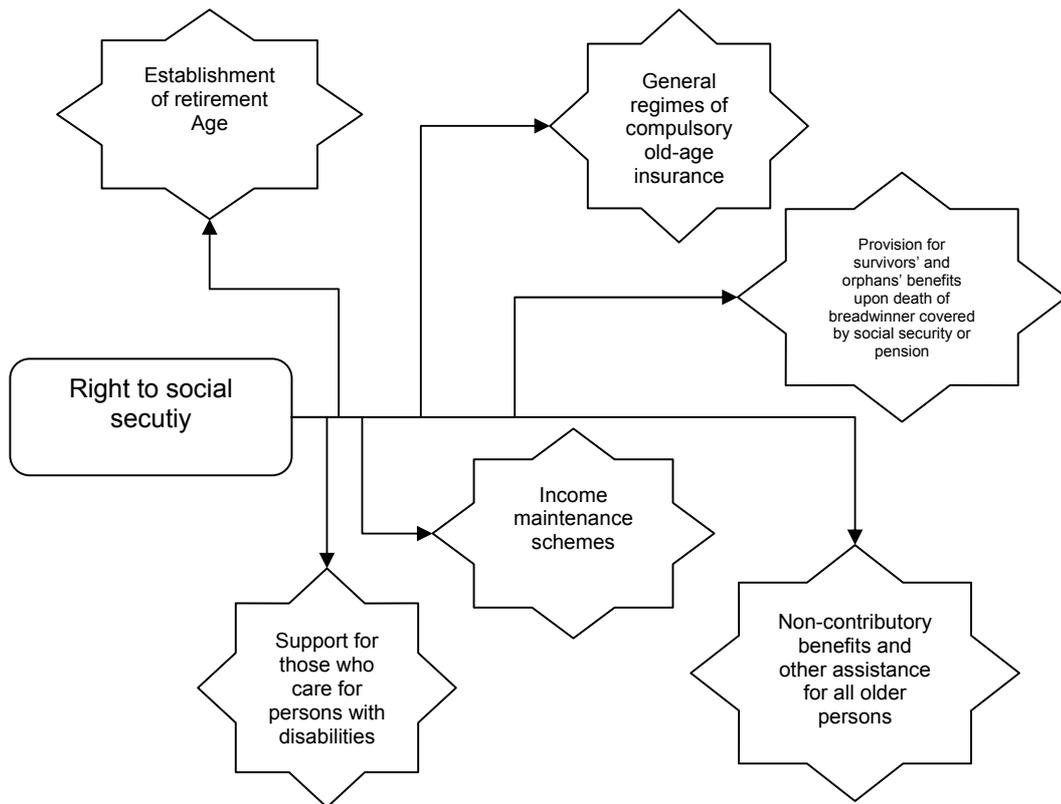
Freedom of Movement in International Documents

Article 13, Universal Declaration of Human Rights
Article 12, International Covenant on Civil and Political Rights

Right to Peaceful Assembly and Association in International Documents

Article 20, Universal Declaration of Human Rights
Articles 20 and 21, International Covenant on Civil and Political Rights
Articles 5(d)(ix), Convention on the Elimination of all Forms of Racial
Discrimination
Article 15, Convention on the Rights of the Child

Right to Social Security—Right to coverage for all risks involved in the loss of the means of subsistence, for reasons beyond a person's control



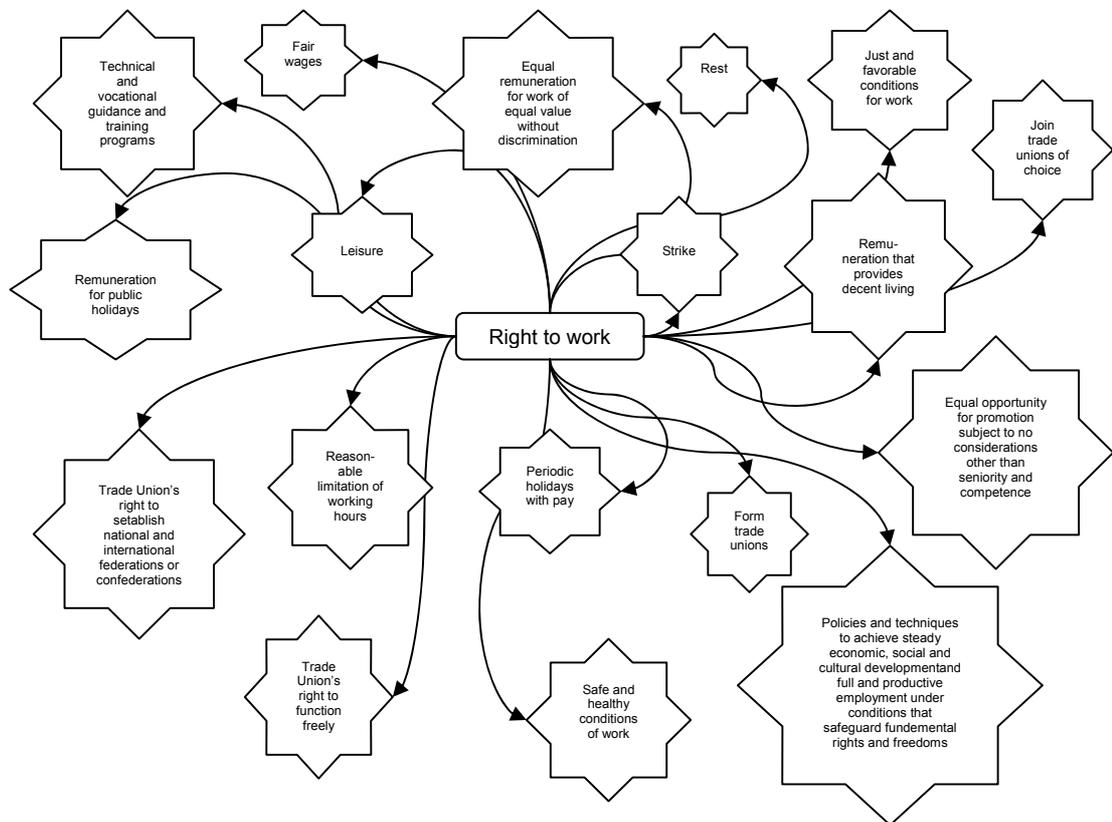
Right to Equal Access to Public Service

Article 21, Universal Declaration of Human Rights
Article 8(1), Declaration on the Right to Development
Articles 11(c), Convention on the Elimination of All Forms of Racial
Discrimination against
Women

Right to Social Security

Article 22, Universal Declaration of Human Rights
Article 9, International Covenant on Economic, Social and Cultural Rights
General Comment Nos. 5 and 6, Committee On Economic, Social And
Cultural Rights (1994/1995)
Article 8(1), Declaration on the Right to Development
Articles 11(e), Convention on the Elimination of All Forms of Racial
Discrimination against
Women
Article 25, Convention on the Rights of the Child

**Right to Work - Right to opportunity to gain a living by
work freely chosen or accepted**

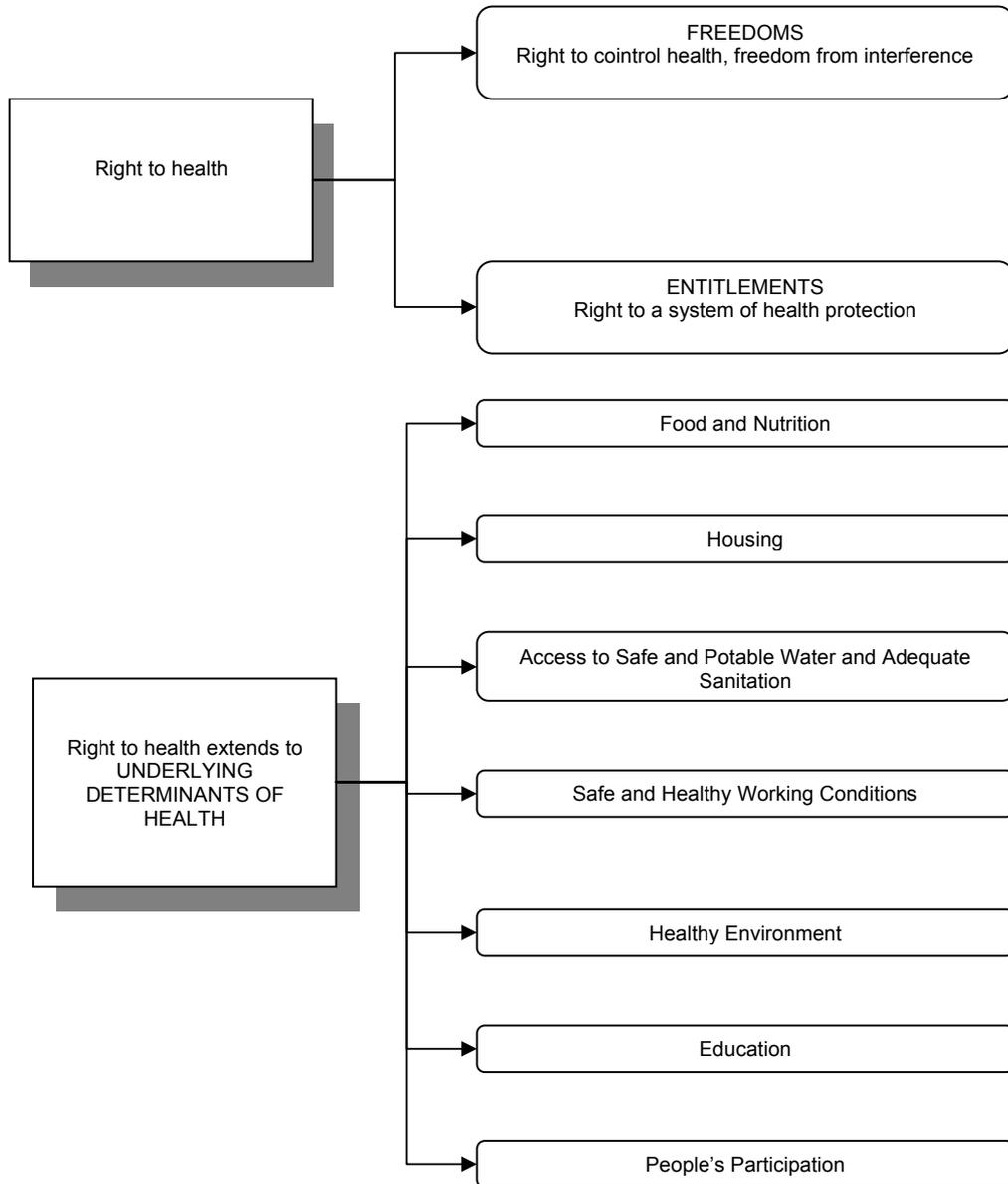


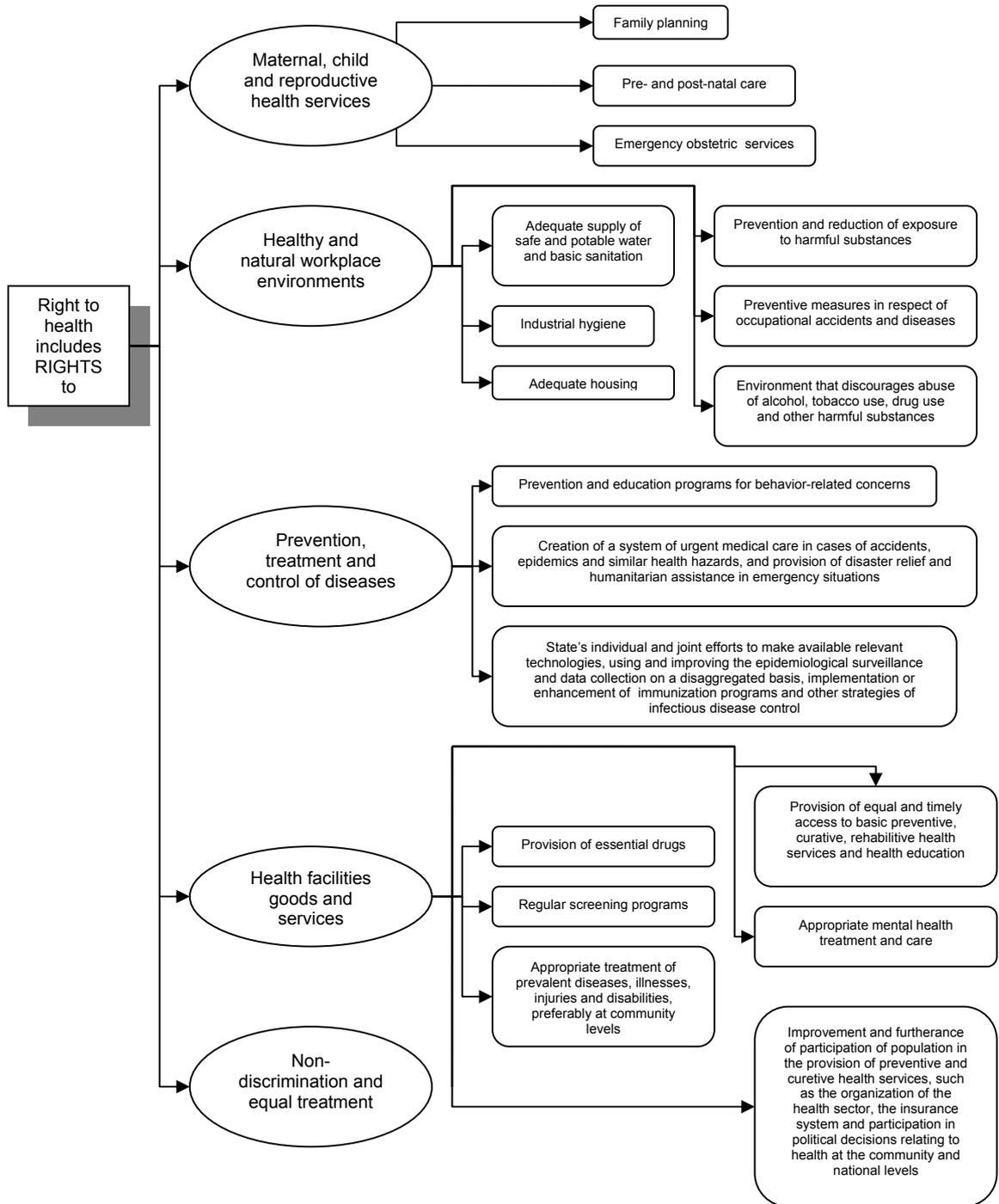
Right to Work

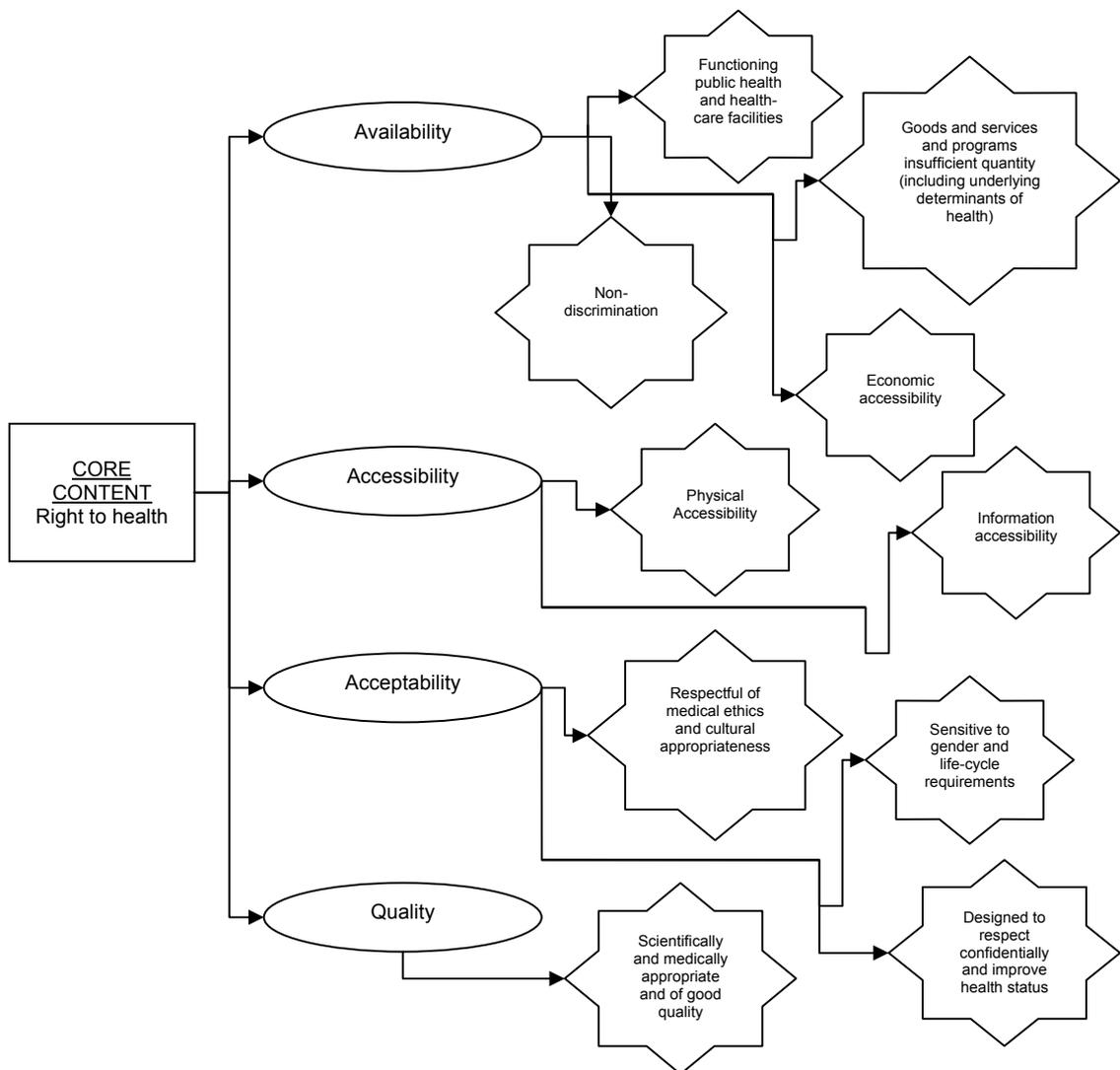
Article 23, Universal Declaration of Human Rights
Articles 6, 7, 9, International Covenant on Economic, Social and Cultural Rights
Article 8(1), Declaration on the Right to Development
Article 5(e) (i) (ii), Convention on the Elimination of All Forms of Racial Discrimination
Articles 11, Convention on the Elimination of All Forms of Racial Discrimination against Women
Article 32, Convention on the Rights of the Child

Right to Highest Attainable Standard of Health-Right to enjoyment of variety of facilities, goods, services and conditions necessary for realization of highest attainable standard of health

Right to health not the same as right to be healthy.







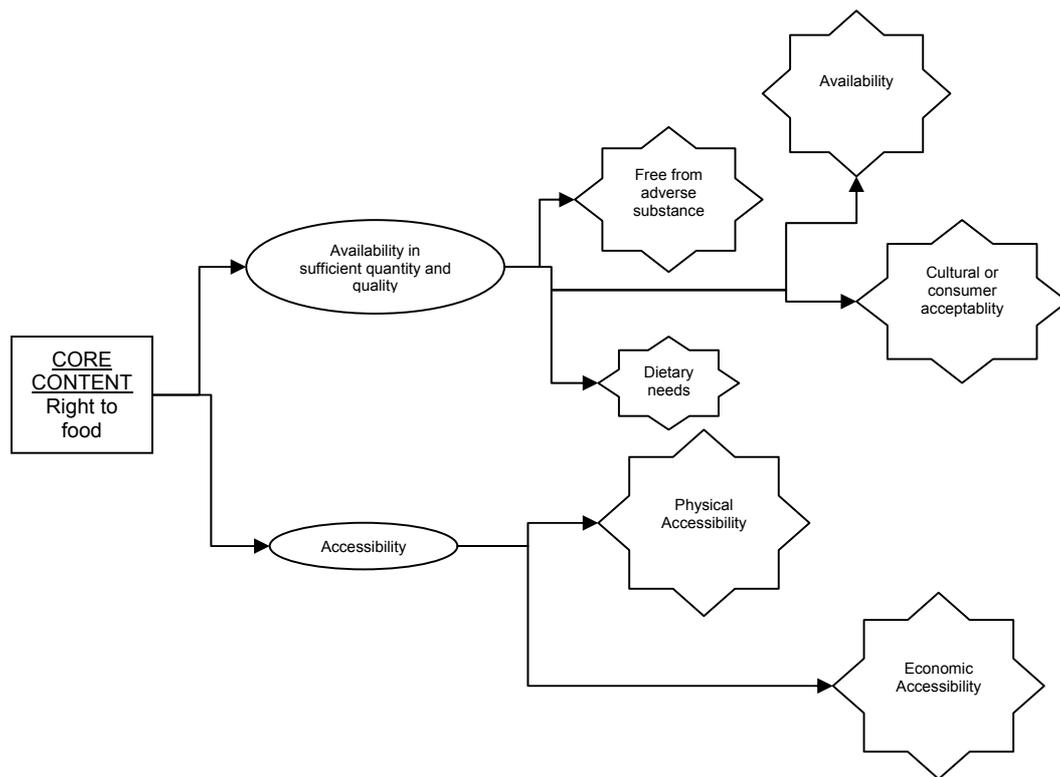
Right to Health

Article 25, Universal Declaration of Human Rights
 Article 12, International Covenant on Economic, Social and Cultural Rights
 General Comment No. 14, Committee on Economic, Social and Cultural Rights (2000)
 Article 8, Declaration on the Right to Development
 Article 5(e)(iv), Convention on the Elimination of All Forms of Racial Discrimination
 Articles 12, Convention on the Elimination of All Forms of Racial Discrimination against Women.
 Article 24. Convention on the Rights of the Child

Right to Adequate Food-Right of every man, woman and child, alone or in community with others, to have physical and economic access at all times to adequate food or means for its procurement

The right to adequate food will have to be realized progressively. However, States have a core obligation to take the necessary action to mitigate and alleviate hunger, even in times of natural or other disasters.

Food Adequacy is linked to sustainability, implying food accessible for both present and future generations; the precise meaning of adequacy is determined by prevailing social, economic, cultural, climatic, ecological and other conditions, while sustainability incorporates long-term availability and accessibility.

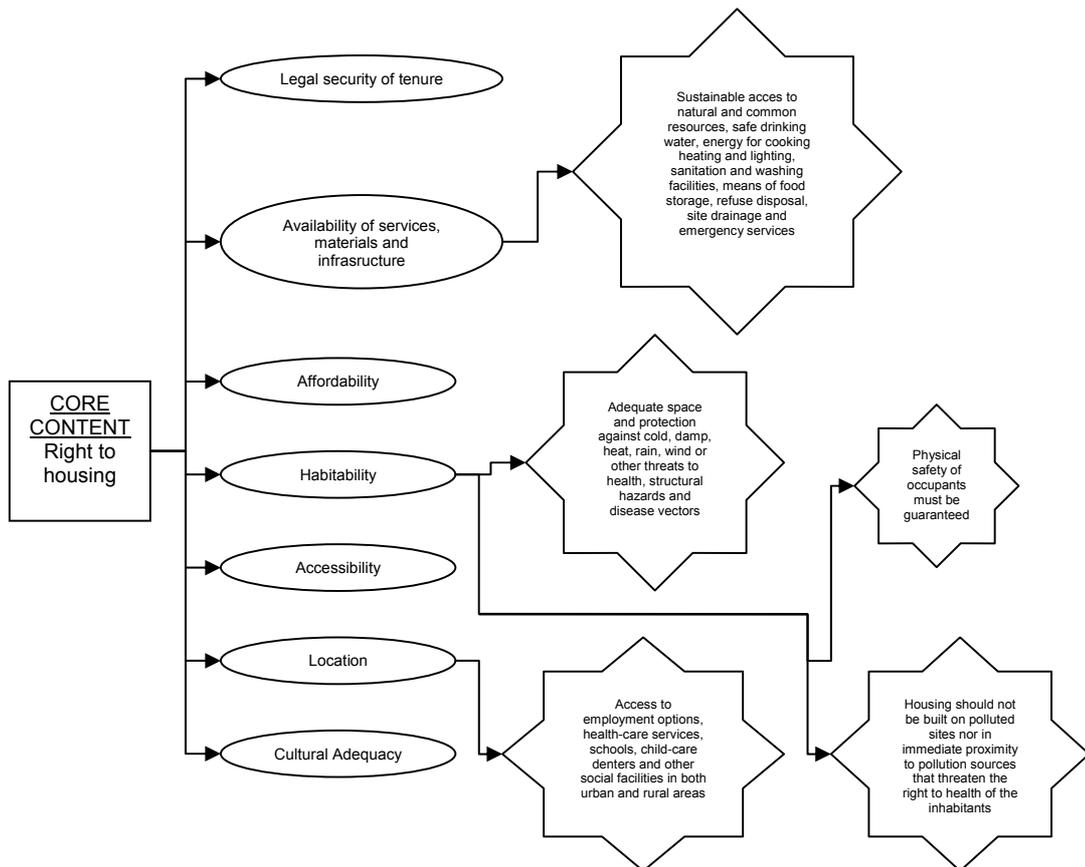


Right to Food

Article 25, Universal Declaration of Human Rights
Article 11, International Covenant on Economic, Social and Cultural Rights
General Comment No. 12, Committee on Economic, Social and Cultural Rights (1999)
Article 8, Declaration on the Right to Development

Right to Housing- Right to live somewhere in security, peace and dignity

Right to housing integrally linked to other human rights and to fundamental human rights principles. The right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to housing.



Right to Housing

Article 25, Universal Declaration of Human Rights

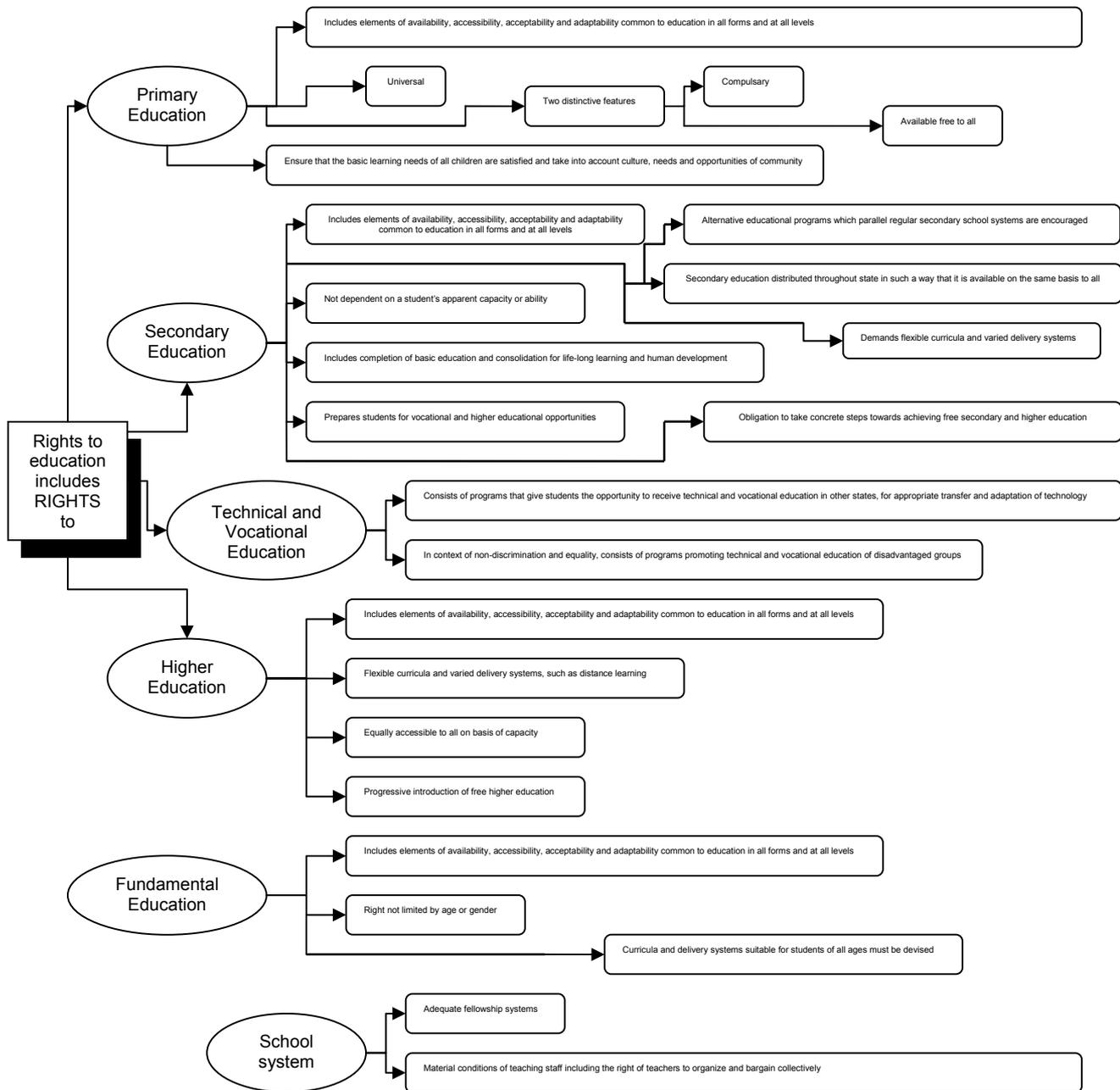
Article 11, International Covenant on Economic, Social and Cultural Rights

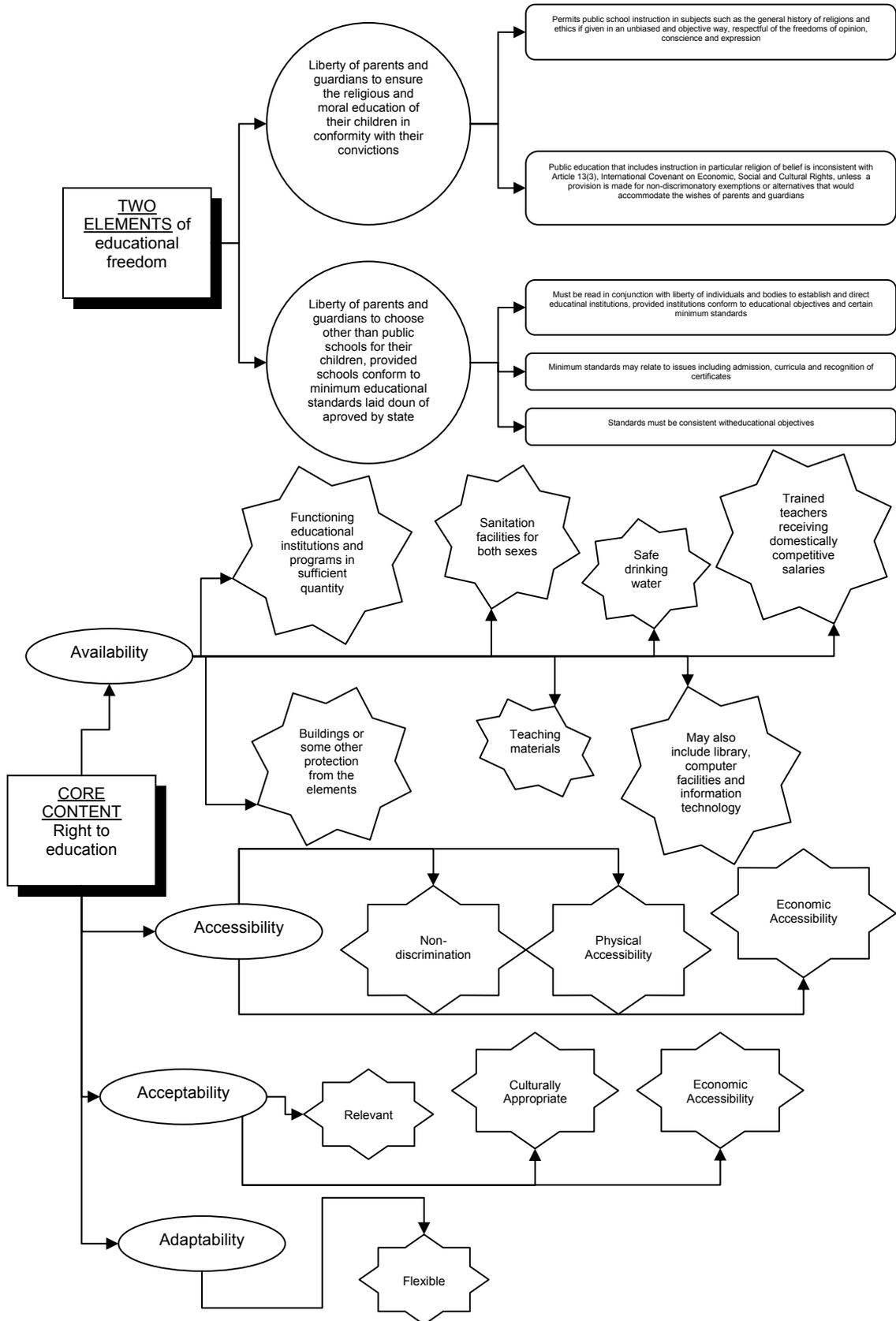
General Comment Nos. 4 and 7, Committee on Economic, Social and Cultural Rights
(1991/1997)

Article 8, Declaration on the Right to Development

Article 5(e)(iii), Convention on the Elimination of All Forms of Racial Discrimination

Right to Education -Right to education that is directed to the full development of the human personality, enables all persons to participate effectively in a free society, promotes understanding among all ethnic groups, as well as nations and racial and religious groups, and promotes gender equality and respect for the environment





Special Topics of Broad Application Related to the Right to Education

Non-discrimination and equal treatment. Applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination; Adoption of temporary special measures intended to bring out *de facto* equality for men and women and for disadvantaged groups not a violation of the right to non-discrimination in education so long as:

- such measures do not lead to the maintenance of unequal or separate standards for different groups, and
- provided they are not continued after the objectives for which they were taken have been achieved
- In some circumstances, separate educational systems or institutions for groups in article 2(2), International Covenant on Economic, Social and Cultural Rights, shall be deemed not to constitute a breach of the International Covenant on Economic, Social and Cultural Rights
- Principle of non-discrimination extends to all persons of school age residing in the territory, including non-nationals, and irrespective of their legal status
- Sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination under the International Covenant on Economic, Social and Cultural Rights
- States must closely monitor education, including all relevant policies, institutions, programs, spending patterns and other practices, to identify and take measures to redress any *de facto* discrimination. Educational data must be disaggregated by prohibited grounds of discrimination.

Academic freedom and institutional autonomy. Right can only be enjoyed if accompanied by academic freedom of staff and students; Members of academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes:

- liberty of individuals to express freely opinions about the institution or system in which they work,
- to fulfill their functions without discrimination or fear of repression by the State or by any other actor,

- to participate in professional or representative academic bodies
- to enjoy all internationally recognized rights
- Academic freedom carries with it duties, such as the duties:
 - to respect the academic freedom of others
 - to ensure the fair discussion of contrary views
 - to treat all without discrimination on any of the prohibited grounds
 - Academic freedom requires autonomy of institutions of higher education. Autonomy is that degree of self-governance necessary for effective decision-making by institutions of higher education in relation to their academic work, standards, management and related activities. Self-governance must be consistent with systems of public accountability, especially in respect of funding provided by State. Institutional arrangements should be fair, just and equitable, and as transparent and participatory as possible.

Discipline in schools. Corporal punishment inconsistent with fundamental guiding human rights principle of dignity of the individual; Public humiliation may also be inconsistent with human dignity; No form of discipline should breach other rights, such as the right to food; States are required to take measures to ensure that discipline which is inconsistent with the International Covenant on Economic, Social and Cultural Rights, does not occur in any public or private educational institution within its jurisdiction; Initiatives that encourage schools to introduce positive, non-violent approaches to school discipline are welcome.

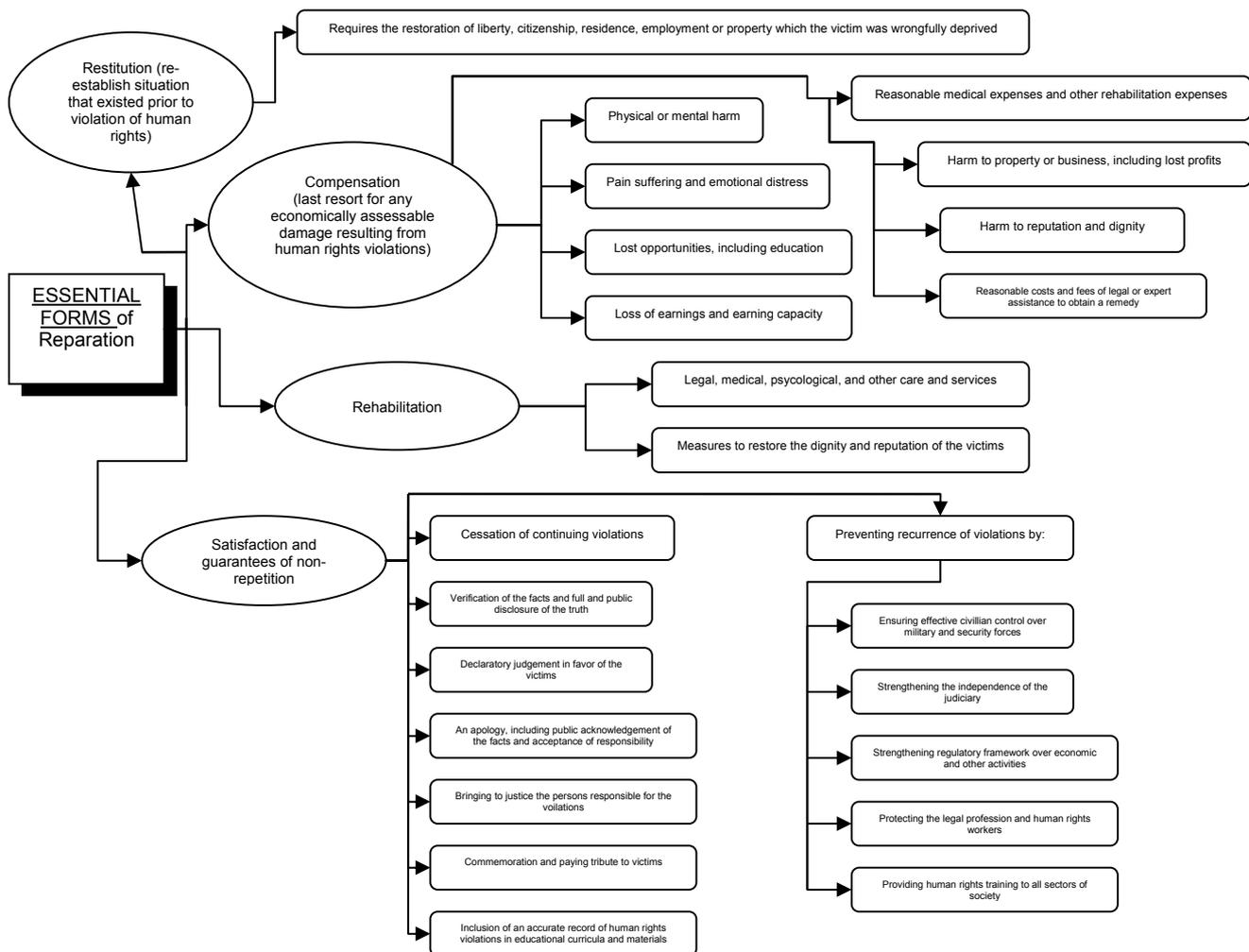
Right to Education

Article 26, Universal Declaration of Human Rights
 Article 13, International Covenant on Economic, Social and Cultural Rights
 General Comment Nos. 11 and 13, Committee on Economic, Social and Cultural Rights (1999) Article 8(1), Declaration on the Right to Development
 Article 5(e)(v), Convention on the Elimination of All Forms of Racial Discrimination
 Articles 10, Convention on the Elimination of All Forms of Racial Discrimination against Women Articles 28 and 29, Convention on the Rights of the Child

Right of Reparation- Right of individual to seek redress for a violation of human rights

Every violation of human rights gives rise to the right of reparation for the victim. The obligation to ensure respect for human rights includes the duties to prevent violations, to investigate violations, to take appropriate action against the violators, and to afford remedies to victims.

Reparation for human rights violations has the purpose of relieving victims' suffering and affording justice to victims by removing or redressing, to the extent possible, the consequences of the wrongful acts, and by preventing and deterring violations.



Right of Reparation

Article 8, Universal Declaration of Human Rights

Article 2(3), International Covenant on Civil and Political Rights

Article 5, Declaration on the Right to Development

Article 6, Convention on the Elimination of All Forms of Racial Discrimination

Articles 2, Convention on the Elimination of All Forms of Racial Discrimination against Women

Articles 4 and 39, Convention on the Rights of the Child

ANNEX 3

NATURE AND LEVELS OF STATE OBLIGATIONS

Obligations of Conduct and of Result

- ☐ States must respect human rights limitations and constraints on their scope of action & Obligations of conduct.
- ☐ States are obliged to be active in their role as, protector and provider Obligations of result.

Obligation to Respect

- ☐ Requires the state to abstain from doing anything that violates the integrity of the individual or infringes on the individual's freedom.
- ☐ Forbids the state to act in any way that directly encroaches upon recognized rights and freedoms.
- ☐ In essence, a prohibition against state interference.
- ☐ Although it appears that respect-bound obligations are negative in character, these obligations carry with them positive aspects.
- ☐ Obligation to respect demands that the state accept the corresponding duty to create and facilitate an economic, social and political environment conducive to the enjoyment, exercise and realization of human rights.
- ☐ Obligation to respect human rights is immediate.
- ☐ Respect-bound obligation is unconditional, meaning states must not destroy people's livelihood, people's personal security or health, people's homes, people's cultural identity, etc.¹⁰

Obligation to Protect

- ☐ Compels the state to take steps to prohibit others from violating recognized rights and freedoms.

¹⁰ Paragraph 6, Part II, "The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights," The Maastricht Guidelines; Kunnemann, "Violations of the Right to Food," The Maastricht Guidelines p. 170.

- ☐ Binds the state from taking any measures that would erode the legal and practical status of human rights, and imposes upon states the duty to act to preclude further deprivation.
- ☐ Places sufficient legal and policy emphasis on the full realization of human rights through a series of active measures, including the guarantee of access to legal remedies for any infringement caused by a third party.
- ☐ Requires states to prevent violations of human rights by third parties, meaning states must not connive with any third party who destroys -people's livelihood, people's personal security or health, people's homes, people's cultural identity, etc.¹¹

Obligation to Fulfill

- ☐ Two dimensions: *obligation to fulfill (facilitate or promote)* and *obligation to fulfill (provide)*. The United Nations Committee on Economic, Social and Cultural Rights, has noted that that this obligation is not one that merely provides, but one that fulfills, so that the state is called upon as the ultimate provider of productive resources and, if necessary, goods and services.¹²
- ☐ Obligation to fulfill (facilitates or promote) human rights requires the state to actively create conditions aimed at achieving full realization of human rights.
- ☐ Requires the state to take necessary measures to ensure that each individual has the opportunity to obtain the entitlements of human rights that cannot be secured by personal or individual efforts alone.
- ☐ "Most interventionary obligation" and as a "programme obligation."
- ☐ Implies a long-term view, that. requires financial inputs which cannot be accomplished by individuals, and that involves issues of public expenditures, state regulation of the economy, basic services, taxation, and related re-distributive measures.
- ☐ Requires more from states than mere legislation; it requires states to take measures that actually promote the realization of human rights.

☐ Requires states to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of human rights.¹³

☐ When individuals or groups are unable to realize their rights by the means at their disposal, for reasons beyond their control, the state has the obligation to fulfill (provide) the right in question.

¹¹ Ibid.

¹² Kunnemann, "Violations of the Right to Food," The Maastricht Guidelines, p. 171.

¹³ Paragraph 6, Part II, "The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights," The Maastricht Guidelines.

Obligation under Article 2.1, International Covenant on Economic, Social and Cultural Rights: Obligation to Take Steps to the Maximum of its Available Resources towards Achieving Progressively the Full Realization of Human Rights by All Appropriate Means

Obligation to take steps

☐ Not qualified or limited by other considerations.

☐ While full realization of human rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force.

☐ Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.¹⁴

☐ The means to satisfy the obligation to take steps include, among others, the adoption of legislative measures, provision of judicial measures, administrative, financial, educational and social measures.¹⁵

☐ The United Nations Committee on Economic, Social and Cultural Rights, stresses that "the undertaking 'to take steps ... by all appropriate means...' neither requires nor precludes any particular form of government or economic system being used as the vehicle for the steps in question, provided only that it is democratic and that all human rights are thereby respected" and "reaffirms that the rights recognized in the Covenant are susceptible of realization within the context of a wide variety of economic and political systems..."¹⁶

By All Appropriate Means

- ☐ All appropriate means are not limited to the adoption of legislative measures.
- ☐ Include, among others, provision of judicial remedies, administrative, financial, educational, budgetary, social and other measures.

¹⁴ General Comment No. 3 paragraphs 1 and 2.

¹⁵ *Ibid.*, paragraphs 3 to 7.

¹⁶ *Ibid.* paragraph

To the Maximum of its Available Resources

- ☐ Available resources include, among others, physical factors, natural resources, human power, existing productive capacities, financial resources in domestic currency and foreign exchange, receipts from borrowings, grants and assistance programs, which are available for state use.
- ☐ Requires all states to make maximum use of available resources to ensure widest possible enjoyment of human rights.
- ☐ Obligation remains, even where available resources are demonstrably inadequate.
- ☐ Includes adoption of relatively low-cost targeted programs designed to affect the most vulnerable and marginalized, even in times of severe resources constraints.
- ☐ The United Nations Committee on Economic, Social and Cultural Rights stresses:

"In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations."

Towards Achieving Progressively the Realization of Human Rights

- ☐ The United Nations Committee on Economic, Social and Cultural Rights also defined the meaning of "progressive realization:"

"The concept of progressive realization constitutes recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short period of time.....

Nevertheless, the fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d' etre* of the Covenant which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources."¹⁷

Non-Compliance with State Obligations

☐ In determining whether the State complies with its obligations or not, it is important to distinguish the *inability* from the *unwillingness* of a state to comply with its treaty obligations.

☐ A state claiming that it is unable to carry out its obligations for reasons beyond its control has the burden of proving that this is the case.¹⁸

☐ A state not capable of proving *inability* due to forces reasonably beyond its control would be *in violation of human rights*.¹⁹

¹⁷ Ibid paragraph 9.

¹⁸ Paragraph 13, Part 11, Maastricht Guidelines.

¹⁹ Victor Dankvs, a, Cees Fhnterman and Scott Leckie, "Commentary on the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights," The Maastricht Guidelines, p. 25.

Levels of State Obligations Relating to Specific Rights

Right to Education

A. General Legal Obligations

1. Immediate obligations: (a) guarantee that the right to education will be exercised without discrimination of any kind; (b) take steps towards the full realization of the right to education; such steps must be deliberate, concrete and targeted towards the full realization of the right to education.
2. Progressive Realization means that States have a specific and continuing obligation to move as expeditiously and effectively as possible towards the full realization of the right to education.
3. Retrogressive measures in relation to the right to education, as well as other rights, not allowed.
4. Three levels of obligations:
 - a. Obligation to respect - avoid measures that hinder or prevent the enjoyment of the right to education
 - b. Obligation to protect - take measures that prevent third parties from interfering with enjoyment of the right to education
 - c. Obligation to fulfill (facilitate) - take positive measures that enable and assist individuals and communities to enjoy the right to education
 - d. Obligation to fulfill (provide) - to provide a right when an individual or group is unable, for reasons beyond their control, to realize the right themselves by the means at their disposal; the extent of this obligation subject to the International Covenant on Economic, Social and Cultural Rights
5. States have principal responsibility for direct provision of education in most circumstances. The parameters of a State's obligation to fulfill (provide) are not the same for all levels of education; the extent of the obligation is not uniform for all levels of education.

B. Specific Legal Obligations

- 1 Obligation to ensure that curricula, for all levels of educational system, are directed to objectives of education
- 2 Obligation to establish and maintain a transparent and effective system that monitors whether or not education is, in fact, directed to educational objectives
- 3 Obligations to respect, protect and fulfill each of the essential features (availability, accessibility, acceptability, adaptability) of the right to education. For example:

- a. states must respect availability of education by not closing private schools;
 - b. protect the accessibility of education by ensuring that third parties, including parents and employers, do not stop girls from going to school;
 - c. fulfill (facilitate) the acceptability of education by taking positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all;
 - d. fulfill (provide) the adaptability of education by designing and providing resources for curricula that reflect contemporary needs of students in a changing world; and
 - e. fulfill (provide) availability of education by actively developing a system of schools, including building classrooms, delivering programs, providing teaching materials, training teachers and paying them domestically competitive salaries
- 4 Obligation to prioritize the introduction of compulsory, free primary education; immediate obligation
 - 5 Obligation to take steps towards the realization of secondary, higher and fundamental education for all; minimum obligation - adopt and implement a national educational strategy that includes provision of secondary, higher and fundamental education and mechanisms, such as indicators and benchmarks, by which progress can be monitored
 - 6 Obligation to ensure that an educational fellowship system is in place to assist disadvantaged groups
 - 7 Obligation to pursue actively the development of a system of schools at all levels
 - 8 Obligation to establish minimum educational standards
 - 9 Obligation to maintain transparent and effective system to monitor minimum educational standards
 - 10 Obligation to ensure that communities and families are not dependent on child labor
 - 11 Obligation to remove gender and other stereotyping which impedes educational access of girls, women and other disadvantaged groups

- 12 Obligation to ensure that their actions as members of international organizations, including international financial institutions, take due account of the right to education

C. Minimum core obligations

- 1 Obligation to ensure the right of access to public educational institutions and programs on a non-discriminatory basis
- 2 Obligation to ensure that education conforms to objectives of education
- 3 Obligation to provide primary education for all
- 4 Obligation to adopt and implement a national educational strategy that includes provision for secondary, higher and fundamental education
- 5 Obligation to ensure free choice of education without interference from the State or third parties, subject to conformity with minimum educational standards

D. Obligation under Article 14, International Covenant on Economic, Social and Cultural Rights: Unequivocal obligation to draft and implement a plan of action for free and compulsory education; unavailability of resources not ground for non-compliance. When a State party is clearly lacking in the financial resources and/or expertise required to work out and adopt a detailed plan, the international community has clear obligation to assist

1. *Compulsory* - neither parents, nor guardians, nor the State are entitled to treat as optional the decision on whether the child should have access to primary education
2. *Free of charge* - *this* requirement is unequivocal. Fees imposed by government, local authorities or the school, and other direct costs, constitute disincentives to the enjoyment of the right and may jeopardize its realization; they are often highly regressive in effect. Indirect costs, such as compulsory levies on parents (sometimes portrayed as being voluntary, when in fact they are not), or the obligation to wear a relatively expensive school uniform, can also fall into the same category.
3. *Adoption of a detailed- plan* - *required* within two years from the International Covenant on Economic, Social and Cultural Rights' entry into force for State concerned, or within two years of subsequent

change in circumstances that have led to the non-observance of this obligation. The plan must cover all actions necessary in order to secure each of the requisite component parts of the right and must be sufficiently detailed so as to ensure the comprehensive realization of the right. Participation of all sections of society vital

4. *Progressive realization - plan* of action must be aimed at progressive implementation of the right to compulsory primary education, free of charge. Plan must specifically set out a series of targeted implementation dates for each stage of the progressive implementation of the plan

Right to Food

1. **Principal obligation:** take steps to achieve progressively the full realization of the right to adequate food; every State is obliged to ensure for everyone access to -the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger
2. **Obligation to respect:** States may not take any measures that result in preventing access to adequate food
3. **Obligation to protect:** States must take measures to ensure that enterprises or individuals do not deprive individuals of access to adequate food
4. **Obligation to fulfill (facilitate):** States must proactively engage in activities intended to strengthen peoples access to and use of resources and means to ensure their livelihood, including food security
5. **Obligation to fulfill (provide):** Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States must fulfill (provide) that right directly. This obligation also applies to victims of natural or other disasters.
6. **Obligation to adopt and implement a national food strategy,** derived from the normative content of the right to food and spelled out in relation to the levels and nature of State obligations. The national food strategy should address critical issues and measures in regard to all aspects of the food system, including production, processing, distribution, marketing and consumption of safe food, as well as parallel measures in the fields of health, education, employment and social security. Care should be taken to ensure the most sustainable management and use of natural and other resources for food at the national, regional, local and household levels. The national food strategy should include corresponding food indicators and benchmarks.

Right to Health

A. Obligation to respect: States must refrain from interfering directly or indirectly with the enjoyment of the right to health, including, among others:

1. Refrain from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services
2. Abstain from enforcing discriminatory practices as a State policy
3. Abstain from imposing discriminatory practices relating to women's health status and needs
4. Refrain from prohibiting or impeding traditional preventive care, healing practices and medicines
5. Refrain from marketing unsafe drugs
6. Refrain from applying coercive medical treatments, unless on an exceptional basis for the treatment of mental illness or the prevention and control of communicable diseases; such exceptional cases should be subject to specific and restrictive conditions, respecting best practices and applicable international standards
7. Refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health
8. Refrain from censoring, withholding or' intentionally misrepresenting health-related information, including sexual education and information
9. Refrain from preventing people's participation in health-related matters
10. Refrain from unlawfully polluting air, water and soil, e.g., through industrial waste from State-owned facilities
11. Refrain from using or testing nuclear, biological or chemical weapons if such testing results in the release of substances harmful to human health
12. Refrain from limiting access to health services as a punitive measure, e.g., during armed conflicts in violation of international humanitarian law

B. Obligation to protect: States must take measures that prevent third parties from interfering with the enjoyment of the right to health, including, among others:

1. Adopt legislation or take other measures ensuring equal access to health care and health-related services provided by third parties
2. Ensure that privatization of the health sector does not constitute a threat to the availability, accessibility, acceptability and quality of health facilities, goods and services
3. Control the marketing of medical equipment and medicines by third parties
4. Ensure that medical practitioners and other health professionals meet appropriate standards of education, skill and ethical codes of conduct
5. Ensure that harmful social or traditional practices do not interfere with access to pre- and post-natal care and family-planning
6. Prevent third parties from coercing women to undergo traditional practices, e.g., female genital mutilation
7. Take measures to protect all vulnerable or marginalized groups of societies
8. Ensure that third parties do not limit people's access to health-related information and services

C. Obligation to fulfill: States must adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures towards the full realization of the right to health, including, among others:

1. Give sufficient recognition to the right to health in the national political and legal systems, preferably by way of legislative implementation
2. Adopt a national health policy with a detailed plan for realizing the right to health
3. Ensure provision of health care, including immunization programs against major infectious diseases
4. Ensure equal access for all to underlying determinants of health
5. Public health infrastructures should provide for sexual and reproductive health services, including safe motherhood, particularly in rural areas
6. Ensure the appropriate training of doctors and other medical personnel, provision of sufficient number of hospitals, clinics and other health related facilities, and promotion and support of the establishment of

institutions providing counseling and mental health services, with due regard to equitable distribution throughout the country

7. Provision of public, private or mixed health insurance system which is affordable for all
8. Promotion of medical research and health education and information campaigns
9. Adopt measures against environmental and occupational health hazards and against any other threat as demonstrated by epidemiological data
10. Formulate and-adopt national policies aimed at reducing and eliminating pollution of air, water and soil, including pollution by heavy metals such as lead from gasoline
11. Formulate, implement and periodically review a coherent national policy to minimize risk of occupational accidents and diseases and provide a coherent national policy on occupational safety and health services

D. Obligation to fulfill (facilitate) requires states to take positive measures that enable and assist individuals and communities to enjoy the right to health

E. Obligation to fulfill (provide) a specific right when individuals or a group are unable, for reasons beyond their control to realize the right themselves by the means at their disposal

F. Obligation to fulfill (promote) requires States to undertake actions that create, maintain and restore the health of the population, including, among others:

1. Foster recognition of factors favoring positive health results, e.g., research and provision of information
2. Ensure that health services are culturally appropriate and that health care staff are trained to recognize and respond to specific needs of vulnerable or marginalized groups
3. Meet its obligations in the dissemination of appropriate information relating to healthy lifestyles and nutrition, harmful traditional practices and the availability of services
4. Support people in making informed choices about their health

G. Core Obligations

1. Ensure the right of access to- health facilities, goods and services on a nondiscriminatory basis, especially for vulnerable or marginalized groups
2. Ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone
3. Ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water
4. Provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs
5. Ensure equitable distribution of all health facilities, goods and services
6. Adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing health concerns of the whole population; the strategy and plan of. action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups

H. Obligations of comparable priority

1. Ensure reproductive, maternal (pre- and post-natal) and child health care
2. Provide immunization against major infectious diseases occurring in the community
3. Take measures to prevent, treat and control epidemic and endemic diseases
4. Provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them
5. Provide appropriate training for health personnel, including education on health and human rights

Right to Housing

A. Obligation to take measures aimed at conferring legal security of tenure on persons and households currently lacking such protection, in genuine consultation with affected persons and groups

B. Obligation to ensure that the percentage of housing-related costs is, in general, commensurate with income levels

C. Obligation to establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance that adequately reflect housing needs

D. Obligation to protect tenants by appropriate means against unreasonable rent levels or rent increases

E. Obligation to take steps to ensure availability of natural and other building materials

F. Obligation to give due priority to those social groups living in unfavorable conditions by giving them particular legislation; policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others

G. Obligation to adopt a national housing strategy that defines the objectives for the development of shelter conditions, identifies resources available to meet these goals and the most effective way of using them, and sets out the responsibilities and time frame for the implementation of necessary measures. Such strategy should reflect extensive genuine consultation with and participation by, all affected, including the homeless, the inadequately housed and their representatives

H. Obligation to take steps to ensure coordination between ministries and regional and local authorities to reconcile related policies (economics, agriculture, environment energy, etc.)

I. Obligation to undertake effective monitoring of housing situation; immediate obligation

J. Obligation to take measures that are sufficient to realize the right to housing for everyone in the shortest possible time in accordance with maximum of available resources; enabling strategies, combined with full commitment to obligations under the right to housing, are encouraged

K. State obligations in relation to forced evictions

1. Obligation to respect - refrain from forced evictions and ensure that the law is enforced against its agents or third parties that carry out forced evictions
2. Obligation to adopt and implement legislation against forced eviction; legislation should include measures which
 - a. Provide greatest possible security of tenure to occupiers of houses and land
 - b. Conform to the International Covenant on Economic, Social and Cultural Rights
 - c. Are designed to control strictly the circumstances under which evictions may be carried out
3. Obligation to ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies
4. Obligation to review relevant legislation and policies to ensure that they are compatible with obligations arising from right to housing and repeal or amend any legislation or policies that are inconsistent with requirements of the International Covenant on Economic, Social and Cultural Rights
5. Obligation of non-discrimination; obligation to ensure that, where evictions occur, appropriate measures are taken to ensure that no form of discrimination is involved
6. Obligation to ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with affected persons, with a view to avoiding, or at least minimizing, the need to use force; legal remedies or procedures should be provided to those affected by eviction orders
7. Obligation to ensure that individuals have right to adequate compensation for any property, personal and real, that is affected
8. Procedural protections in relation to forced evictions:
 - a. Opportunity for genuine consultation with those affected
 - b. Adequate and reasonable notice for all persons prior to scheduled date of eviction

- c. Information on proposed evictions, and where applicable, on alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all affected
- d. Especially where groups of persons are involved, government officials or their representatives to be present during eviction
- e. All persons carrying out evictions to be properly identified
- f. Evictions not to take place in particularly bad weather or at night unless affected persons consent
- g. Provision of legal remedies
- h. Provision, where possible, of legal aid to persons in need to seek redress from courts

Obligation to fulfill (provide) housing where evictions result in individuals rendered homeless or vulnerable to violations of other rights; includes adequate alternative housing, resettlement or access to productive land.

ANNEX 4

DUTIES OF INDIVIDUALS UNDER INTERNATIONAL HUMAN RIGHTS LAW

Three types individual duties:

1. Duties of individuals vested with authority to respect, protect and promote human rights - duty of state authorities to act or not to act to give effect to a right.
2. Duties of individuals to exercise rights responsibly - duty of individuals to act responsibly so as not to exceed the limits of the right. Some rights are qualified; for example free speech does not allow a person to slander or libel someone else. Right to equality cannot be pursued to the point where it leads unfairly to someone else's suffering inequality. The legitimate claims of minority/ indigenous groups for special protection must be balanced against requirements of society.
3. General duties of individuals towards others and community independent of any particular human rights claim. *Duties are to community (not to state)* and include:
 - a. Exercise rights responsibly
 - b. Strive for promotion and observance of rights
 - c. Promote and protect appropriate political, social and economic order for development
 - d. Contribute, as appropriate, to social and international order in which rights and freedoms can be fully realized
 - e. Duties of parents in the upbringing and development of the child
 - i. Duties of parents to provide for the child
 - ii. Duties of parents to help child in exercise of his/her rights

<p><i>Duties of Individuals under International Human Rights Law</i></p>

<p>Article 29, Universal Declaration of Human Rights</p>
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<p>Article 2(2), Declaration on the Right to Development</p>
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<p>Article 13(2), Convention on the Rights of the Child</p>

ANNEX 5
VIOLATIONS OF SELECTED RIGHTS

Right to education	Right to food	Right to health	Right to housing
Poverty			
Introduction or failure to repeal legislation that discriminates against individuals or groups, on any of the prohibited grounds in the field of education	When state fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger	<p>Acts of Commission--through direct action of States or other entities insufficiently regulated by States including among others</p> <p>*Adoption of any retrogressive measures incompatible with core obligations under the right to health</p> <p>*Formal repeal or suspension of legislation necessary for the continued enjoyment of the right to health</p> <p>*Adoption of legislation or policies manifestly incompatible with the existing domestic or international legal obligations in relation to the right to health</p>	A general decline in living in housing conditions, directly attributable to policy and legislative decisions by the State, and in the absence of accompanying compensatory measures

<p>Right to Education</p> <p>There to take measures to address <i>de facto</i> educational discrimination</p>	<p>Right to Food</p> <p>Discrimination in access to food, and to means and entitlements for its procurement, on the grounds of race, color, sex, language, age, religion, political or other opinion, national social origin, property, births or other status with the purpose of effect or nullifying or in bearing the equal enjoyment or exercise of economic, social and cultural rights</p>	<p>Right to Health</p> <p>Acts of Omission--through omission or failure of States to take necessary measures arising from legal obligations, including among others:</p> <ul style="list-style-type: none"> • Failure to take appropriate steps towards full realization of the right to the highest attainable standard of physical and mental health • Failure to have a national policy on occupational safety and health as well as occupational health services • Failure to enforce relevant laws 	<p>Right to Housing</p> <p>Forced eviction—permanent or temporary removal against their will of individuals, families, and/or communities from the homes and/or lands they occupy, without the provision of, and access to appropriate forms of legal or other protection. The prohibition on forced evictions does not apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights use of curriculum inconsistent with educational objectives and</p>
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Right to Education	Right to Food	Right to Health	Right to Housing
<p>Use of curricula inconsistent with education objectives</p>	<p>Violations can occur through direct action of States where other entities insufficiently regulated by States:</p> <ul style="list-style-type: none"> • For all the deal or suspension of legislation necessary for continued enjoyments of rights to food • Denial of access to food particular individuals or groups, whether discrimination is based on legislation or proactive • Prevention of access to humanitarian food aid in internal conflicts or other emergency situations • Adoption of legislation or policies manifestly incompatible with pre-existing legal obligations relating to the right to food • Failure to regulate activities of individuals or groups so as to prevent them from violating the right to food of others, or failure of the State to take into account in its international legal obligations regarding the right to food when entering into agreements with other States or with international organizations 	<p>Violations of Obligation to Respect include, among others:</p> <ul style="list-style-type: none"> • Denial of access to health facilities goods and services to particular individuals or groups as a result of <i>de jure</i> or <i>de facto</i> discrimination • Deliberate withholding or misrepresentation of information vital to health protection more treatment • Suspension of legislation or adoption of a loss or policies that interfere with the enjoyment of the right to health • Failure to take into account its legal obligation regarding the Right to Health when entering into bilateral or multilateral agreements with other States, international organizations and other entities, such as multinational corporations 	<p>Force eviction and house demolition as punitive measures</p>

Right to Education	Right to Food	Right to Health	Right to Housing
<p>Fair to maintain a transparent and effective system to monitor conformity with Article 12(1), International Covenant on Economic, Social and Cultural Rights</p>		<p>Violations of Obligation to Protect include, among others:</p> <ul style="list-style-type: none"> • Failure to regulate activities of individuals, groups or corporations so as to prevent them from violating the right to health of others • Failure to protect consumers and workers from practices detrimental to health • Fair to discourage production, marketing and consumption of tobacco, narcotics and other harmful substances • Failure to protect women against violence or to persecute perpetrators • Failure to discourage continued observance of harmful traditional medical or cultural practices • Failure to enact or enforce laws to prevent the pollution of water, air and soil by extractive and manufacturing industries 	

Right to Education	Right to Food	Right to Health	Right to Housing
<p>Failure to introduce as a matter of priority, primary education which is compulsory and available free to all</p>		<p>Violation of Obligation to fulfill include, among others:</p> <ul style="list-style-type: none"> • Failure to adopt or implement a national health policy designed to insure the right to health for all • Insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to health particularly by the vulnerable or marginalized • Failure to monitor the realization of the right to health at the national level • Failure to take measures to reduce inequitable distribution and health facilities, goods and services • Failure to adopt a gender-sensitive approach to health • Failure to reduce infant and maternal mortality rates 	
<p>Failure to take deliberate, concrete and targeted measures towards the progressive realization of secondary, higher and fundamental education</p>			
<p>Prohibition of private educational institutions</p>			

Right to Education	Right to Food	Right to Health	Right to Housing
Failure to insure that private educational institutions conform to minimum educational standards			
Denial of academic freedom of staff and students			
Closure of educational institutions in times of political tension			