

Programming Guide for Strategy Papers

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Democracy and Human Rights <i>Amended to show how a disability dimension could be included, in the framework of the project</i> www.make-development-inclusive.org ; contact catherine.naughton@cbm.org	Date: January 2006 Amended on: October 2007

*For justifications on the disability entry points see: **Justifications to support the inclusion of a disability perspective Human Rights***

1. Introduction

Democracy and protection of human rights are universal values to be pursued in their own right; they are also seen as integral to effective work on poverty alleviation and achieving the Millennium Development Goals, as vital tools for conflict prevention and resolution, and as the indispensable framework for combating terrorism. Democratic processes of accountability are also key to ensuring government transparency and combating corruption. Democracy and the protection of human rights are inextricably linked: the fundamental freedoms of expression and association are the preconditions for political pluralism and democratic process, whereas democratic control and separation of powers are essential to sustain an independent judiciary and the rule of law which in turn are required for effective protection of human rights. Human rights may be considered in the light of universally accepted international norms, but democracy has to be seen as a process, developing from within, involving all sections of society and a range of institutions that should ensure participation, representation, responsiveness and accountability¹.

2. Mainstreaming democracy and human rights at the programming level

Mainstreaming is the process of integrating human rights and democratisation issues into all aspects of EU policy decision-making and implementation, including trade and external assistance.

An important entry point for addressing issues of human rights and the democratisation process is the political dialogue conducted with the partner country. Each dialogue event needs to include pertinent aspects of the partner country's situation in these areas. The aim is promoting policy, legal and institutional reform in order to strengthen respect for human rights and democratisation processes. Political dialogue also prepares and supports

¹ For more information on the concept of human rights and democracy see the Annex 1

mainstreaming democracy and human rights into the country strategy paper; it accompanies actively the implementation of the cooperation programme.

Mainstreaming democracy and human rights at the programming level would require the following steps:

1. Analysis

Prior to country programming, the main aspects of the process of democratisation and respect for human rights in the country will need to be analysed. In this context, useful tools are the EU Human Rights Fact Sheets which are regularly updated and kept in a protected Council website², and Heads of Mission (HoM) reports on specific developments. Reports produced by UN human rights bodies and **Treaty-bodies** mechanisms (all available online in the OHCHR websites³) constitute equally authoritative sources of information.

Furthermore, the Amnesty International Library⁴ includes comprehensive country, regional and thematic reports. In addition to the relevant governmental sources (e.g. line ministries, human rights commissioners, representatives of the justice sector etc.), local NGOs or NGOs active in the partner country, human rights defenders and human rights groups, journalists, academics and researchers, members of political parties and dissidents can provide important information.

In this phase, it is essential to ensure that information is sought from an/or concerning the most vulnerable and marginalised groups of the society: for example ethnic or sexual minorities, indigenous people, **persons with disabilities** migrants, women, children and prisoners. However, rather than define the vulnerable groups in advance, the baseline studies should seek to understand, considering the particularities of the society in question, who is vulnerable here and now. Development data need to be disaggregated, as far as possible, by race, religion, ethnicity, **disability**, language, sex and other categories of human rights concern. The relevant government policies, the institutional framework, the existence and the capacities of the local civil society and political parties should be analysed and strengths and weaknesses identified. The analysis should define which are the key processes ongoing, about to start or needed in the country concerned. These can range from the Security Sector Reform (SSR)⁵, land reform, Disarmament, Demobilisation and Reintegration (DDR), reconciliation policies, revision of electoral systems to decentralisation and programmes in the fields of health and education.

² <http://humanrights.consilium.eu.int>; for access contact: secretariat-hr@consilium.europa.eu

³ UN Convention website - <http://www.un.org/esa/socdev/enable/> and OHCHR – Disability site - <http://www.ohchr.org/english/issues/disability/index.htm> and <http://www.un.or.th/ohchr/complaints/index.html>

⁴ See also the country information collected by Human Rights Watch

⁵ See Commission Communication A Concept for European Community Support for Security Sector Reform COM(2006) 253 final of 24 May 2006

The analysis should identify which are the key risks to the realisation of human rights and to the advancement of the democratic process. In the worst scenario, these risks can lead to a breakdown of a fragile democratic process, to an armed conflict or to other kinds of human rights violations. These risk factors should receive specific attention in the drafting of the programming response as they can undermine the long-term development efforts. In this context, a link can be made to the analysis of root causes of conflict, linked to issues such as the legitimacy of state, rule of law, fundamental rights, civil society and media and social and regional inequalities⁶.

The analysis should consider the specificities of the local context, for example with regard to religion **and belief (such as the belief that persons with disabilities are cursed)**, customary practises (such as the Female Genital Mutilation) or customary forms of governance or leadership.

The analysis should also comprise an overview of past and ongoing EC cooperation activities and information on programmes of EU Member States and other donors.

Drivers of change

The development community increasingly recognises that effective programmes must be grounded in an understanding of the economic, social and political factors that either drive or block change within a country. The Drivers of Change (DoC) approach has emerged within the UK's Department for International Development (DFID) as a way of applying political economy analysis to the development of donor strategy.

Various DoC studies have been carried out involving in-depth, country-level analysis in order to identify the opportunities, incentives and blockages to pro-poor change in a given country. The DoC methodology seeks to identify the political institutions, structures and agents that can act as key levers to enable pro-poor change and therefore improve the effectiveness of aid.

2. Drafting the programming strategies

The programming strategy should consider the full range of indivisible, interdependent and interrelated rights: civil, cultural, economic, political and social. Several sectors are directly concerned, for example health, education, housing, justice administration, personal security and political participation. It is evident that development policies, projects or activities that have the effect of violating rights are off limits.

Democracy and human rights issues of specific concern should be expressly identified, analysed and addressed in the country strategy. A two-pronged approach should be adopted whereby on the one hand human rights and democracy run through the entire programming as mainstreaming issues and the **Country Strategy Paper** establishes the linkages between the sectors under consideration and democracy and human rights and

⁶ The Commission has developed a check list for root causes of conflict/early warning indicators, see http://ec.europa.eu/comm/external_relations/cfsp/cpcm/cp/list.htm

on the other hand specific actions promoting human rights and democracy are identified and supported.

Human rights and democratisation linkages can be established for all sectors. The response strategy should pay specific attention to ensuring the protection of the human rights and the inclusion in the democratic processes of the most vulnerable groups of the society (e.g. when deciding which roads to build, where to construct schools, **ensuring that public buildings are reachable and accessible to all including to persons with disabilities**) in order to avoid contributing to the further marginalisation and exclusion of these groups.

On the other hand, on the basis of the identification of the key processes, the weaknesses and the risks, the response strategy should identify corresponding specific interventions in such fields as capacity building of national public institutions, such as the judiciary, the police, prisons, **election management bodies, or parliaments**, which are essential aspects of cooperation on democracy and human rights or support to the local civil society, particularly human rights groups, and media. The full range of cooperation instruments available to the country concerned should be considered.

It is important that the drafting process be as participatory and transparent as possible, involving a wide range of local actors, including the local civil society.

3. Useful links

The following selected links provide detailed additional information on aspects of democracy and human rights

- International Human Rights Instruments (comprehensive list with complete texts)
- UN Office of the High Commissioner for Human Rights
- Regional human rights mechanisms
Africa: http://www.achpr.org/english/_info/news_en.html
Latin America: <http://www.cidh.org/DefaultE.htm>
Europe: http://www.coe.int/t/commissioner/default_FR.asp
<http://www.osce.org/activities/18805.html>
- International organisations
UNDP
UNICEF
ILO
IDEA

- Non-governmental organisations
There are an immense number of non-governmental organisations within Europe and outside Europe active in the field of promoting respect for human rights and supporting democratic reform processes. The following links lead to some major relevant European NGO networks. Links to local NGOs will have to be researched separately with the support of the respective Delegations.

The Human Rights and Democracy Network (HRDN)
The European Peacebuilding Liaison Office (EPLO)
European Federation of development and relief organisations (CONCORD)

- **Disability organizations and networks with expertise on disability and human rights**

[The European Disability Forum](#)

[The International Disability Alliance](#)

[The International Disability and Development Consortium \(IDDC\)](#)

[Disability Awareness in Action,](#)
[the international disability & human rights network](#)

[Basic Needs – working with people with mental illness in developing countries](#)

[Mental Disability Advocacy Centre](#)

- European Commission website
DG RELEX

ANNEXES

A. The EU policy context

Community policy in the sphere of development cooperation “shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms” (Article 177(2) of the Treaty establishing the European Community). This mandate is supplemented by Article 11(1) of the Treaty on European Union which identifies developing and consolidating

“democracy and the rule of law, and respect for human rights and fundamental freedoms” as an overall objective of the Union’s Common Foreign and Security Policy (CFSP).

The **Commission Communication on the European Union’s role in promoting Human Rights and Democratisation in third countries (COM(2001) 252 final)** attaches great importance to “mainstreaming human rights and democracy in EC assistance programmes”. With a view to country strategies, it proposes to enhance the positive impact of EC assistance programmes on respect for human rights and democratisation by

- including these issues in the dialogue used to draw up the country strategy for EC assistance;
- using country strategies to focus on sectors or cross-cutting interventions to improve the overall governance situation;
- supporting participation of civil society in the EC’s development co-operation, in line with the approach in the Cotonou Agreement, and building the capacity of civil society actors engaged in dialogue and implementation of programmes;
- taking active steps to use participatory approaches in programme design and to assess,
- monitor and enhance the impact of individual projects and programmes on human rights;
- taking performance in the area of human rights (including economic, social and cultural rights), democracy and the rule of law into account when deciding country allocations under the main co-operation programmes.

The EU Annual Report on Human Rights, since 2003, include references to persons with disabilities and have provides some status report on the situation of persons with disabilities.

The Council Conclusions of 25 June 2001 supported the Commission’s commitment to intensify the process of mainstreaming human rights and democratisation objectives into all aspects of EU external policies. The Council underlined that the country strategy papers would have to contribute to a more systematic approach to human rights and democratisation. Human rights and democracy were to be included in planning, design, implementation and monitoring of policies and programmes. The Council invited the Commission to ensure consistency, including by taking into account the views of the Heads of Mission (HoM) between the country strategy papers and the CFSP considerations. Since 1998, Council has adopted six EU Guidelines on Human Rights which provide orientation to the various EU actors, and Member States missions and Commission Delegations in third countries, on human rights issues of particular importance.

These include:

- Guidelines EU policy towards third countries on the death penalty (1998);

- EU Guidelines on human rights dialogues (2001);
- Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment (2001);
- EU Guidelines on children and armed conflict (2003);
- EU Guidelines on human rights defenders (2004)⁷6;
- EU Guidelines on promoting compliance with International Humanitarian Law (2005).

In the context of the new financing instruments for external assistance under the Financial Perspectives 2007-2013, mainstreaming of the promotion of human rights and democracy shall be undertaken in all programmes. This complies with the EU's commitment in the European Consensus on Development to apply a strengthened approach to mainstreaming cross-cutting issues such as the promotion of human rights and democracy⁸, gender, children's rights and the rights of indigenous people in its development cooperation⁹.

B. More on the concept of democracy and human rights

The task of building and sustaining a culture of human rights and making democracy work for its citizens, though especially urgent and difficult in emerging democracies, is in fact a never ending challenge, belonging first and foremost to the people of the country concerned. Developing and consolidating democracy reaches much further than just electoral processes or establishing or reinforcing democratic (governmental or semi-governmental) institutions. In order for democratic change to be sustainable, a democratic culture needs to develop, firmly anchored within a functioning civil society and rooted in people's minds. In most cases, this is a long-term process.

Moreover, democracy is a contested concept. Different definitions and theories emphasize different aspects of democracy. For the purposes of mainstreaming "democracy" into the Community's development cooperation and external assistance, the understanding of democracy should be that of a system of political governance whose decision-making power is subject to the controlling influence of citizens who are considered political equals. A democratic political system is inclusive, participatory, representative, accountable, transparent and responsive to citizens' aspirations and expectations.

Democracy cannot be considered as an all-or-nothing affair. It is a question of the degree to which citizens exercise control over political decision-making and are treated as equals. These values of democracy are realized through political institutions and

⁷ See also Council conclusions (2006) on the first review of the implementation of the EU Guidelines on Human Rights Defenders

⁸ See also Political and Security Committee (PSC) paper of 1 June 2006 on Mainstreaming human rights across CFSP and other EU policies; also Council document SN 3154/06 of 29 June 2006

⁹ Article 101 of the European Consensus

practices. There is no universal model of democracy. A country's political institutions and practices are often shaped by its history, culture, social and economic factors. Democratization is not a linear process that moves from an authoritarian to a democratic regime. It is a multi-faceted, multi-disciplinary process that moves back and forth, where some institutions are more developed than others. A functioning democracy therefore requires many interdependent elements and processes that are based on a culture of citizen participation in public affairs.

Concerns with security and the fight against terrorism have in recent times tended to dominate international agendas, but these have also begun to highlight root causes of violence and the importance of ensuring human rights, rule of law and inclusive democracy to avoid alienating communities and creating conditions of insecurity. Conflict prevention has thus added a new dimension to development strategies and work with civil society.

In this context, it is essential to have an understanding of the human rights-based approach to development¹⁰. This approach defines development as a comprehensive economic, social, cultural and political process. The objective is the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the resulting benefits. Development should be people-centred, participatory **and inclusive** and environmentally sound. It should involve not just economic growth, but equitable distribution, enhancement of people's capabilities and widening of their choices. It gives top priority to poverty elimination, integration of women into the development process, self-reliance and self-determination of people and Governments, and protection of the rights of indigenous people **and other vulnerable groups including ethnic and religious minorities, persons with disabilities and older people**¹¹.

This approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress. While there's no universal recipe for a human rights-based approach, United Nations agencies have nonetheless agreed a number of essential attributes:

- As development policies and programmes are formulated, the main objective should be to fulfil human rights;

¹⁰ For more information, see http://www.ohchr.org/english/about/publications/docs/FAQ_en.pdf

¹¹ Source: Office of UN High Commissioner for Human Rights (OHCHR)

- A human rights-based approach identifies rights holders and their entitlements and corresponding duty-bearers and their obligations, and works towards strengthening the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations;
- Principles and standards derived from international human rights treaties¹² should guide all development cooperation and programming in all sectors and in all phases of the programming process¹³.

Human rights are universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity. Human rights law obliges Governments (principally) and other duty-bearers to do certain things and prevents them from doing others. Some of the most important characteristics of human rights are that they:

- are universal — the birthright of all human beings;
- focus on the inherent dignity and equal worth of all human beings;
- are equal, indivisible and interdependent;
- cannot be waived or taken away;
- impose obligations of action and omission, particularly on States and State actors;
- have been internationally guaranteed;
- are legally protected;
- protect individuals and, to some extent, groups.

Among the rights guaranteed to all human beings under international treaties, without any discrimination on grounds such as race, colour, sex, **disability, age or sexual orientation**, language, political or other opinion, national or social origin, property, birth or other status, are:

- The right to life, liberty and security of person
- Freedom of association, expression, assembly and movement
- The right to the highest attainable standard of health
- Freedom from arbitrary arrest or detention
- The right to a fair trial
- The right to just and favourable working conditions
- The right to adequate food, housing and social security
- The right to education
- The right to equal protection of the law

¹² **the UN Standard Rules on the Equalization of Persons with Disabilities** <http://www.un.org/esa/socdev/enable/dissre00.htm> and the **UN Convention on the Rights of Persons with Disabilities** <http://www.un.org/disabilities/convention/facts.shtml>

¹³ See OHCHR and UNDP, *Lessons Learned From Rights-Based Approaches in the Asia-Pacific Region*, 2005

- Freedom from arbitrary interference with privacy, family, home or correspondence
- Freedom from torture and cruel, inhuman or degrading treatment or punishment
- Freedom from slavery
- The right to a nationality
- Freedom of thought, conscience and religion
- The right to vote and take part in the conduct of public affairs
- The right to participate in cultural life

Codified in international, regional and national legal systems, human rights standards constitute a set of performance standards against which duty-bearers at all levels of society — but especially organs of the State — can be held accountable. The fulfillment of commitments under international human rights treaties is monitored within the United Nations system by independent expert committees called “treaty bodies”¹⁴ which also help to clarify the meaning of particular human rights¹⁵. Their meaning is also elaborated by individuals and expert bodies appointed by the United Nations new Human Rights Council (a Geneva-based body composed of 47 United Nations Member States which succeeds the UN Commission on Human Rights), known as “special procedures” and of course through regional and national courts and tribunals.

¹⁴ OHCHR treaty bodies database, and fact sheets

¹⁵ See the treaty bodies database of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and OHCHR Fact Sheet No. 30, The United Nations Human Rights Treaty System