

**Introduction to a Human Rights-Based Approach to Development  
within the Belgian Cooperation and Humanitarian Affairs**

December 2020

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### **Belgium's Goals and Commitments**

In accordance with Belgium's commitments and obligations under international and regional treaties, Belgian development cooperation includes a strong engagement towards the promotion of human rights. Since its major legal reform at the end of the 1990's, the 25 May 1999 law on international cooperation established, among the classical sectors of intervention (health, agriculture, education, and infrastructure), a 5<sup>th</sup> sector targeting "conflict prevention and society building, including the support to the respect of human dignity, human rights, and fundamental freedoms" (art. 7).

The current Belgian law on development aid (2013) states that it contributes to the *general objective of building democracy and rule of law (incl. good governance)*, and to the *objective of respecting human dignity, human rights in every dimension, and fundamental freedoms, with particular consideration to the fight against discrimination* (art. 4). It also establishes *human rights (incl. child rights) and decent and sustainable work as priority themes* (art. 11), and *gender (women empowerment and gender equality) as a transversal theme*. Several projects and programmes were undertaken in several countries with respect to that broader and more transversal framework, under a human rights label (e.g. gender equality promotion), or under more classical approaches, both via multilateral, governmental, and non-governmental aid.

At the international<sup>1</sup> and European level<sup>2</sup>, within the framework of the SDGs, Belgium has committed to promote and integrate a Human Rights-Based Approach (HRBA) into its development cooperation. Belgium bases its vision upon the European approach that considers "human rights and standards both as a means and a goal of development cooperation"<sup>3</sup>. Belgian development cooperation (a) seeks to promote and realize human rights and sustainable development (goal) and (b) integrates human rights and standards, through the principles of a Human Rights-Based Approach to Development (HRBAD), as a guide for its action at the operational level (means). Belgium takes stock of the fact that reaching this goal is a progressive process and requires a long-term engagement.

Belgium aims at promoting a common language, understanding and attention to the added-value of mainstreaming a HRBAD among all Belgian development actors, while respecting their autonomy and specific mandates, procedures, methods, partnerships and priorities.

In the near future, guidelines on priority sectors and themes are to be drafted in order to help mainstream, operationalize and implement a HRBAD into the different channels of Belgium development cooperation. The operational integration of a HRBAD will also require specific training strategies designed for and at the level of the different Belgian development cooperation stakeholders and linked to the specific issues and challenges they face on the field.

Over the past decade and across the globe, the civic space has been put under pressure and threatened by authoritarian forces. The situation further deteriorated since the beginning of the Covid-19 pandemic, used as a pretext to further restrict the voice and freedoms of citizens. In this context where fundamental human rights are at risk and civil society space is shrinking<sup>4</sup>, Belgium promotes

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<sup>1</sup> Transforming our World: the 2030 Agenda for Sustainable Development, 25 September 2015.

<sup>2</sup> The New European Consensus on Development, "Our World, Our Dignity, Our Future", Joint statement by the Council, the European Parliament and the European Commission, 2017.

<sup>3</sup> A rights-based approach, encompassing all human rights for EU development cooperation, Toolbox, Commission staff working document, 2014, p. 6.

<sup>4</sup> ECDPM, *Claiming back civic space. Towards approaches fit for the 2020s?*, May 2020, [https://diplomatie.belgium.be/sites/default/files/downloads/study\\_claiming\\_back\\_civic\\_space\\_towards\\_approaches\\_fit\\_2020s.pdf](https://diplomatie.belgium.be/sites/default/files/downloads/study_claiming_back_civic_space_towards_approaches_fit_2020s.pdf).

the mainstreaming of a HRBAD at the international and the European level and contributes to capitalization and lessons learning processes regarding HRBAD.

## Definition and key concepts

A HRBAD is a conceptual framework that implies to plan, adopt, implement, and assess development policy on the basis of the global system of rights and obligations as established by national, regional and international law, in particular the UN Charter and the Universal Declaration of Human Rights and related adopted conventions. Human rights and sustainable development are interdependent and the right to development is rooted in the foundation that constitutes all the fundamental rights established at the international level: the civil and political rights (first generation), the social, economic and cultural rights (second generation). In addition, a new generation of rights has emerged, beyond traditional and individual rights, that could be integrated into a comprehensive HRBAD.

Adopting a HRBAD does not only have methodological or operational consequences for development cooperation actors and practices. It is a conscious political and strategic decision that implies a shift in perspective, a new vision, and a new theory of change, where SDGs and human rights are the cornerstones for the goals, the processes and the outcomes of development cooperation<sup>5</sup>. No sustainable development can be achieved without respect for universal human rights. The theory of change, sectors of interventions and partnerships may of course vary according to development actors' specificities.

While traditional approaches to development focused and started from a needs-based perspective, under a HRBAD, local realities and population's needs are analyzed through the lens of long-term rights to be respected, protected and fulfilled. In that context, the goal of the HRBAD is to empower and give voice to the rights-holders to claim their inalienable, interdependent, indivisible and universal rights and participate in their own development process and to strengthen the capacity of duty-bearers to respect, protect and fulfil those rights. A HRBAD therefore calls for taking into consideration both rights-holders and duty-bearers and their relations, promoting active citizenship.

Human rights are universal and every individual is a rights-holder entitled to the same rights without discrimination "based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status such as disability, age, marital and family status, sexual orientation and gender identity, health status, place of residence, economic and social situation"<sup>6</sup>. Beyond individuals, depending on the contexts, specific social groups are particularly vulnerable or disadvantaged when it comes to the respect, protection or fulfilment of their rights. It is most often the case of women, children, youth, migrants, indigenous people, persons with disabilities, LGBTQ, other marginalized and vulnerable groups. A HRBAD calls for paying particular attention to those groups (*Leave no one behind* principle).

The State and public authorities, at all levels and branches of governance (including public development actors and bodies), are the primary duty-bearers. The public authorities (and its agents in a position of authority over rights-holders) have an obligation and responsibility to respect, promote, protect and fulfil human rights, and to abstain from human rights violations. Other non-state actors, like individuals, non-governmental organizations or business enterprises, have the responsibility to respect all human rights (e.g. right to decent work, right to food, right to health or right to a healthy environment), including by avoiding causing or contributing to human rights abuses through their own activities, and are required to comply with all applicable laws<sup>7</sup>. The nature, level of obligations and commitments of the different duty-bearers should be made explicit, monitored and evaluated.

Given their specificities, Belgian development actors tend to develop more direct and priority relations with specific rights-holders and duty-bearers. Those partnerships can be very diverse, evolve and take place at the international, national and local levels.

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<sup>5</sup> UN Common Understanding on HRBA, 2003.

<sup>6</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 20, Non-discrimination in economic, social and cultural rights, 2009.

<sup>7</sup> See notably UN Guiding Principles for Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011 and current discussions at UN level.

The HRBAD is not limited to programmes promoting democratic governance, human rights defenders protection or the rule of law. It applies to all sectors of development cooperation and should also guide development programs for the progressive realization of economic, social and cultural rights. Specific challenges can emerge depending on the local context or specific types of rights, sectors or themes. While stressing the universality of human rights and accepting no cultural exceptions as a pretext for human rights violations, it is important to take into consideration the existence of different representations and deep-rooted values depending on the national, regional or local context<sup>8</sup> of intervention that can have an impact, at the operational level, on the implementation of a HRBAD.

A HRBAD should take into consideration the recommendations made regarding policy coherence for development and consider the impact of other public policies on the respect and protection of human rights (esp. diplomacy, defense, investment and trade). It should also inform, take stock of and be coherent with the different DGD strategic notes.

### “MEET” Principles

Belgium's vision on the HRBAD puts at the forefront the “MEET” key principles. The acronym refers to the need of meaningful, non-discriminatory and transparent partnerships of empowered and accountable actors (MEET). Belgium is committed to using those key principles to guide its development cooperation policy in a comprehensive way across its different channels – at bilateral, multilateral and indirect levels – and at the different key phases of cooperation programming (design, planning, implementation, monitoring and evaluation).

- Meaningful participation: all rights-holders, especially vulnerable and marginalized groups – including civil society organizations representing or supporting them – should have the opportunity to actively participate and influence agenda-setting, context analysis and problem identification, programme planning, risk management implementation and monitoring.
- Equality, non-discrimination and inclusion of marginalized groups: all rights-holders should be taken into account. Inequalities, power imbalances and discrimination, including in the field of gender, are at the heart of development problems. They should be analyzed and acted upon, especially multi-dimensional discrimination faced by marginalized groups (*Leave no one behind* principle). Belgian development policy should ensure equal access to the opportunities, services or benefits it delivers, without discrimination of any kind. It keeps in view that marginalized and most vulnerable groups face greater obstacles in the fulfilment of their human rights.
- Empowerment and capacity building: the development cooperation programmes, through their goals, processes, activities and outcomes, should contribute to strengthening both the capacity of rights-holders to claim their rights and the capacity of the duty-bearers to fulfil their obligations. Citizens should be empowered in their capacities to make their own decisions and make their voice heard.
- Transparency and accountability: information on the development cooperation programmes should be easily and proactively available to both rights-holders and duty-bearers. The rights-holders should have the possibility to contribute to processes when impacting decisions are made (timely concertation). The duty-bearers' mandate, obligations, actions and efforts should be known by the rights-holders and the latter should be in a position to hold them accountable.

The “MEET” principles should guide the interventions of development actors and take different forms at the operational level according to actors' specificities. Taking into account already existing expertise and practices among Belgian development actors, those principles need to be further operationalized and integrated in specific tools and methods such as concertation processes, relevant data, indicators and templates that are HRBAD-sensitive, contextual risks analysis, political economy analysis including the most marginalized groups and root causes of discrimination, environmental and social impact assessments and due diligence mechanisms, remedy and grievance mechanisms, a check-list

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<sup>8</sup> See Localising human rights working paper series, <https://www.uantwerpen.be/en/research-groups/law-and-development/publications/localising-human-rights>.

of key questions to be systematically addressed when working in a specific sector or at a particular phase of a programming cycle, ... This will constitute the next steps of the Belgian strategy for integrating and mainstreaming the HRBAD.

## References

This list of references is not exhaustive. Their sources and legal and political statuses are different.

### International and regional Human Rights legal framework

- Universal Declaration of Human Rights, 1948.
- International Labour Organization's conventions.
- European Convention on Human Rights, 1953.
- International Convention on the Elimination of All Forms of Racial Discrimination, 1965.
- International Covenant on Civil and Political Rights, 1966.
- International Covenant on Economic, Social and Cultural Rights, 1966.
- American Convention on Human Rights, 1969.
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979.
- African Charter on Human and Peoples' Rights, 1981.
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.
- Convention on the Rights of the Child, 1989.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.
- Convention on the Rights of Persons with Disabilities, 2006.
- International Convention for the Protection of All Persons from Enforced Disappearance, 2006.
- United Nations Declaration on the Rights of Indigenous Peoples, 2007.
- Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence, 2011.
- United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, 2018.

### Multilateral political declarations, conferences and programmes

- World Conference on Human Rights, Vienna Declaration and action programme, 25 June 1993.
- UN Common Understanding on a Human Rights-Based Approach to Development Cooperation, 2003.
- European Commission, A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation, Commission Staff Working Document, 30 April 2014.
- Transforming our World: the 2030 Agenda for Sustainable Development, 25 September 2015.
- The New European Consensus on Development, "Our World, Our Dignity, Our Future", Joint statement by the Council, the European Parliament and the European Commission, 2017.

### Business and Human Rights frameworks and standards

- UN Guiding Principles for Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011.
- OECD Guidelines for Multinational Enterprises, 2011.
- IFC Performance Standards on Environmental and Social Sustainability, 2012.
- World Bank Environmental and Social Safeguards Policies (and new E&S Framework, 2016).

## **Annex: HRBAD guiding questions**

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The following questions contribute to help and guide the operationalization of the MEET principles. They can be used to inform and help policy processes such intervention design, identification of opportunities, planning, implementation, monitoring, dialogue with partners and stakeholders or other policy decision-making.

Not all questions are relevant for all organizations or situations. They should always be adapted, on the one hand, to the development cooperation organization in charge of the design and implementation of an intervention, and, on the other hand, to the specific context, process, exercise or decision, on the other hand.

This list of questions is a basic tool to help to integrate the key human rights principles at the heart of a human rights-based approach to development. It is not prescriptive and should not be seen or used as a compulsory checklist for the evaluation of programmes.

The key concepts and principles used in the following questions are presented in the introductory note.

### **Meaningful participation**

- Have the rights-holders and duty-bearers been identified? Are their respective rights and duties at the center of the dialogue on design, planning, implementation, monitoring and evaluation of the programme?
- Can relevant stakeholders, including most vulnerable/"far left behind" groups, actively participate in the design, planning, monitoring and evaluation processes in order to influence the decisions regarding the programme? How: is it timely, sufficiently, accessibly?
- How is the programme informed, at the operational level, by the participation and perspectives of relevant stakeholders, including most vulnerable/"far left behind" groups? Are there structural reasons (barriers and social or cultural obstacles, particular dynamics of power) that hinder the participation of certain groups?

### **Equality, non-discrimination and inclusion of marginalized groups**

- Has your organization analyzed the main contextual challenges and barriers in terms of inequalities and discrimination that are relevant for the programme? Does the program develop capacities to reduce identified discrimination?
- Which groups are (at risk of being) left behind and from what rights are they excluded?
- Is the programme (strategy and its activities) based on an analysis of the systemic challenges, the root causes of the non-realization of rights and does it take into account and monitor its consequences for the rights-holders?
- Are disaggregated data and indicators – reflecting the diversity of rights-holders, including most vulnerable/"far left behind" groups – available, analyzed and used?

### **Empowerment and capacity building**

- Does the programme (strategy and activities) develop the capacity of the rights-holders (empowerment of right holders, making their voice heard)? How? At what level and what types of capacities (capacity to understand and claim their rights; capacity to participate; etc.)?
- Does the programme (strategy and activities) develop the capacity of the duty-bearers? How? At what level and what types of capacities (capacity of the actors and systems to promote and realize rights; capacity to inform; etc.)?

## **Transparency and accountability**

- What are the obligations, commitments and strategies that the partner country has made or developed under the international/regional human rights treaties or conventions that are relevant to the program? Can those obligations and commitments be used to improve dialogue, capacity-building and accountability?
- Can the programme contribute to the implementation of recommendations made at the end of the latest Human Rights Universal Periodic Review cycle and accepted by the partner country?
- Are the rights-holders – including most vulnerable/"far left behind" groups – informed about their rights (participation, thematic rights, etc.) and about the programme (strategy and activities)? How: is it timely, sufficiently, accessibly?
- Can the rights-holders engage with the programme-relevant duty-bearers through accessible mechanisms?
- Are there effective and accessible grievances and complaint mechanisms in place (if not, planned for)?
- Have duty-bearers the capacity, resources and awareness to respond to rights-holders claims?