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The Human Rights-based Approach: A More Effective Framework for International Development Policies in New EU Member States

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Acronyms

ACP	Africa, Caribbean and Pacific	ICESCR	International Convention on Economic, Social and Cultural Rights
AIHRC	Afghanistan Independent Human Rights Commission	MDG	Millennium Development Goals
ANDS	Afghanistan National Development Strategy	NGO	Non-governmental organization
BiH	Bosnia and Herzegovina	OECD/DAC	Organisation for Economic Co-operation and Development/Development Assistance Committee
BMZ	German Ministry for Economic Cooperation and Development	ODA	Official Development Assistance
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	OHCHR	Office of the High Commissioner on Human Rights
CIS	Commonwealth of Independent States	PDP	Provincial-level development plans
CRC	Convention on the Rights of the Child	SIDA	Swedish International Development Cooperation Agency
DANIDA	Danish International Development Agency	UDHR	Universal Declaration of Human Rights
EC	European Commission	UN	United Nations
GNI	Gross national income	UNAMA	UN Assistance Mission in Afghanistan
HRBA	Human rights-based approach (to development)	UNDAF	UN Development Assistance Framework
ENPI	European Neighbourhood and Partnership Instrument	UNDP	United Nations Development Programme
EU	European Union		
ICCPR	Convention on the Elimination of All Forms of Discrimination against Women		

Executive summary

1. Background

The mainstreaming of human rights in development cooperation is a legal and political obligation for all Member States of the European Union (EU), including the New Member States. This policy paper argues that, rather than being an additional burden, human rights mainstreaming through the application of the human rights-based approach (HRBA) offers practical solutions for the New Member States to overcome some of the specific challenges they face as relatively new donors of Official Development Assistance (ODA), such as limited human and financial resources and limited public awareness on aid. Moreover, it shows that the specific context for ODA in the New Member States provides excellent opportunities for the integration of the HRBA and would allow these states to capitalize on their particular expertise and their ‘added value’ as donors while being in line with international and EU obligations.

2. Main findings

The HRBA as a ‘lens’ to human development

The human rights-based approach to development is based on the recognition that human rights and development are closely interrelated and mutually reinforcing. It stems from the Declaration on the Right to Development (1986), is enshrined in the Millennium Declaration and has been taken up by major development actors such as the UN System, the OECD/DAC and the EU. The HRBA aims to integrate human rights into development programming in order to support a conceptual shift from development based on externally devised, charity-focused aid provided to passive recipients to looking at development as a process that empowers people through an inclusive and participatory approach. The focus of the HRBA is on *rights* rather than *needs*. It is a ‘lens’ for looking at specific development problems that leads to a comprehensive understanding of problems to be addressed and facilitates the identification of effective, inclusive and sustainable solutions to those problems. The approach is based on the identification of ‘rights-holders’ and corresponding ‘duty-bearers’ in specific development contexts, and the promotion of their capacities to claim their rights and fulfil their duties respectively.

Legal and political obligations to mainstream human rights

As members of the EU and the international community, the New Member States have various legal and political commitments to mainstream human rights in their development assistance. These include the nine core international human rights conventions (in particular the International Covenant on Economic, Social and Cultural Rights [ICESCR] and the Convention on the Rights of the Child [CRC]), the Millennium Declaration; the European Consensus (on the EU Development Policy), the Cotonou Agreement and – of specific importance to the New Member States – the European Neighbourhood and Partnership Instrument (ENPI), which regulates the EU’s relations with its immediate neighbours. Mainstreaming human rights is, therefore, not a question of choice but an obligation.

Specific characteristics of New Member States as donors of ODA

Although different in many respects, the New Member States share the following characteristics:

1. they are fairly new ODA donors in the process of developing their institutional and policy frameworks for development assistance;
2. they have limited national human resources and expertise on development cooperation;
3. they have limited public awareness on the importance of development cooperation;
4. they have small ODA budgets;¹
5. they have a recent history of being aid recipients;²
6. they have substantive experience in democratisation and civil society strengthening (particularly former Eastern bloc countries);
7. they have a special appreciation of the value of solidarity and respect for human rights for the promotion of peace and stability (particularly in the context of Cyprus);
8. some apply the principle of ‘delegated cooperation’ by which aid is given to a bilateral or multilateral donor for implementation (particularly in the context of Cyprus).

Opportunities to integrate the HRBA in the New Member States

The specific context faced by the New Member States provides the following opportunities for the integration of the HRBA:

- *The process of developing aid frameworks and training staff is an excellent opportunity to integrate HRBA.* The HRBA is a relatively new approach and donors with a long history of development assistance and existing large aid administrations face the challenge of reforming and re-training. The New Member States are currently in the process of setting up their development cooperation frameworks and have a unique opportunity to integrate and utilize the HRBA from the outset.
- *The HRBA offers a practical solution to developing effective development projects even with limited human resources.* The HRBA provides a practical conceptual lens that facilitates the development of comprehensive, legitimate and just development intervention. Substantive tools and guides exist that can support the application of the HRBA even with limited human resources.
- *Linking public awareness-raising campaigns on development cooperation to human rights can make them more effective.* Due to the recent histories of many New Member States, public awareness on human rights seems relatively high, compared to awareness on development cooperation. Linking development with human rights provides an attractive avenue for public awareness-raising.
- *The HRBA provides tools for quality aid, which is particularly important for donors with limited ODA budgets.* Although the New Member States must undertake serious efforts to increase their ODA budgets, the HRBA offers an opportunity to strengthen the focus on quality (as opposed to mere quantity) of aid in order to better support the achievement of international targets, such as the Millennium Development Goals (MDGs).
- *Their recent history of being recipients of development assistance means New Member States are well placed to appreciate the importance of HRBA principles.* New Member States have first-hand experience of receiving well-conceived (and badly conceived) assistance. This underlines their appreciation of the importance of assistance conceived through a participatory process, applying a holistic approach, aiming to empower recipients and adhering to principles of accountability and transparency.
- *Substantive experience in democratization and civil society strengthening is a 'niche' in development cooperation linked to HRBA.* Their recent histories provided many New Member States with ample experience in relation to democratization and civil society strengthening, which are of substantial importance to the HRBA. These areas

of expertise should be more explicitly related to the HRBA, as they are conceptually linked and would place New Member States' aid firmly in line with international obligations.

- *An appreciation of the value of solidarity and respect for human rights for the promotion of peace and stability (particularly in the context of Cyprus).* Cyprus's experience in working on peace and reconciliation, and the importance attached to the value of solidarity puts it in an advantageous position to appreciate and practise the HRBA in its external assistance.
- *The HRBA lends itself very well to application through 'delegated cooperation'.* As funding is given directly to other donors, integrating the HRBA in delegated cooperation essentially only requires that the selection of donors and programmes to be supported includes an assessment of their integration of the HRBA. This necessitates a strong development policy that sets out the principles for Cyprus's aid, including the HRBA. Doing so would allow Cyprus to have a further assurance that its aid will be effective and would provide a clear identity for Cyprus's aid in line with international and EU standards.

3. Key recommendations

For governments in the New Member States

1. Develop a comprehensive official development policy
2. Explicitly integrates the HRBA in official development policy
3. Develop comprehensive and standardized implementation frameworks for development cooperation.
4. Explicitly integrate the HRBA into those implementation frameworks and include safeguards to ensure that the HRBA is meaningfully integrated and applied.
5. Build capacity of staff in decision-making, policy development and programming in the HRBA.
6. Poland and Cyprus should use the EU Presidency to promote the HRBA, for instance in the European Development Days, in discussions on the European Commission Green Paper on the EU's development policy, aid effectiveness and financial perspectives.

For civil society organizations in the New Member States

1. Build capacity of staff at all levels on the HRBA.
2. Implement the HRBA in all development programmes and along the entire project/programme cycle.
3. Call on governments to fulfil the recommendations above.
4. Participate in EU and international fora to promote the HRBA.

Introduction

The New Member States of the EU³ present a wide variety of historical, social, cultural and economic contexts. Despite their numerous differences, the countries also share various characteristics, mostly related to the EU accession process. Notably, all New Member States were obliged to start providing development assistance to third countries when they joined the EU.⁴

As new donors, the New Member States face a common context in their development cooperation. For instance, they have small ODA budgets, limited expertise and public awareness on development issues and are (although to varying degrees) in the process of setting up their institutional and policy frameworks for development assistance.

The New Member States are all bound by a number of EU and international political and legal obligations relating to their new role as international development donors. These obligations cover a wide variety of issues relating to the quantity and quality of aid. Importantly, they include a commitment to recognize the interdependence and mutually reinforcing nature of development cooperation and human rights.

This recognition, first explicitly enshrined in the Declaration on the Right to Development of 1986⁵ and further endorsed in the Vienna Declaration and Programme of Action of 1993,⁶ led to the development of the HRBA.

The specific context of the New Member States as new donors is at times perceived as an obstacle for meeting international and EU obligations on aid, including the application of the HRBA. Some development actors in New Member States consider their countries as ‘not yet ready’ to integrate the HRBA, suggesting that they first need to develop their institutional and policy frameworks, build human capacity, increase their aid budgets, raise public awareness and then move to integrating the HRBA.⁷

This policy paper will engage with precisely this question: is the integration of the HRBA both desirable (what are the benefits?) and feasible (what are the challenges?) in the context of the New Member States’ development cooperation? The paper has been commissioned by Minority Rights Group Europe (MRG) under the EC-funded project ‘From Needs to Rights: Promoting More Effective Development Policies in Europe’ (DCI-NSAED/2009/210) and is the first in a series of products on the HRBA in the New Member States. It will be followed by a Resource Kit, which will provide specific tools to integrate the HRBA in practice.

The structure of the paper is as follows. Section one presents the HRBA, its origins, content and what it means in practice. It also illustrates how the HRBA can contribute to effective aid and discusses three issues that can cause uncertainty in the application of the HRBA: (1) the extent of duty-bearers’ obligations, (2) the difference between human rights promotion, development and the HRBA, and (3) the HRBA and gender mainstreaming.

Section two outlines the international and European political and legal obligations to mainstream human rights into development policy and planning. It is shown that mainstreaming human rights is not a matter of choice but obligation. This section is followed by an overview of the specific context for development faced by New Member States, including some widespread practical challenges related to limited human and financial resources. Each characteristic is then taken in turn in order to establish whether it poses an obstacle to the integration of the HRBA or rather an opportunity. It is shown that, if endorsed, the HRBA would allow New Member States to tackle the particular challenges they face as new donors. Moreover, it is suggested that the HRBA would provide an opportunity for New Member States to build on their specific ‘added value’ as individual donors while also being in line with their international and EU obligations.

Having illustrated that the HRBA is a matter of obligation but would also be particularly beneficial and feasible for New Member States, section four provides some practical examples of three EU15 Member States, and how they integrate the HRBA in their development work. The last section of the paper provides some overall conclusions and recommendations to New Member States governments and civil society organizations.

Although the paper broadly covers the New Member States, three countries were studied in detail: Cyprus, Hungary and Poland. The countries were selected as they hold the Presidency of the Council of the EU in 2011 and 2012.⁸ The Presidency is an important process that provides some political space for agenda-setting and brings increased attention to the respective countries, including to their development cooperation activities and frameworks. This policy paper aims to serve as a tool that can inform processes on development cooperation in the context of the Presidency. It aims to encourage New Member States to seize this unique opportunity to increase their profile as effective actors in development cooperation and to demonstrate that their specific context makes them particularly well-placed to champion the HRBA.

1. An overview of the HRBA

The following section provides an overview of the key concepts of the HRBA and outlines in more detail what the application of the HRBA ‘looks like’ in practice. Further, it illustrates how the HRBA can contribute to effective aid and addresses the following three issues that can cause conceptual uncertainty when applying the HRBA: (1) the extent of duty-bearers’ obligations, (2) the difference between human rights promotion, development and the HRBA, and (3) the HRBA and gender mainstreaming.

1.1 What is the HRBA?

1.1.1 Human rights and development as interrelated processes

The HRBA is based on the recognition that human rights and development are closely interrelated and mutually reinforcing. This understanding stems from the UN General Assembly Declaration on the Right to Development (1986)⁹ and was further endorsed by the 1993 World Conference on Human Rights¹⁰ held in Vienna. Since then, the mainstreaming of human rights into development cooperation has attracted increasing political recognition among major development actors as essential to working towards effective, sustainable and just human development.¹¹ It is enshrined in the Millennium Declaration¹² and has been taken up by major development actors such as the UN system,¹³ the Organisation for Economic Co-operation and Development–Development Assistance Committee (OECD/DAC)¹⁴ and the EU,¹⁵ to name but a few.

The HRBA represents a sharp departure from traditional approaches to development assistance,¹⁶ which focused largely on needs of the poor and the provision of specific commodities and services to meet those needs. In contrast, the HRBA looks to empower people through an inclusive and participatory approach focused on *rights* rather than *needs*. Importantly, this approach resonates with perceptions of poverty among poor people themselves. In the ‘Voices of the Poor’ project, the World Bank found an overwhelming view among poor people that:

*‘poverty was not merely absence of commodities and services to meet basic needs, but rather a question of powerlessness. Aside from the importance of material assets, health and education in improving people’s lives, the poor mentioned the influence of factors such as emotional integrity; respect and dignity, social belonging, cultural identity, organizational capacity, and political representation and accountability.’*¹⁷

Concretely, therefore, the HRBA centres around the recognition of the:

*‘vital role human rights play in mobilising social change; transforming state–society relations; removing the barriers faced by the poor in accessing services; and providing the basis for the integrity of information services and justice systems needed for the emergence of dynamic market-based economies.’*¹⁸

It aims to integrate human rights into development programming in order to support a conceptual shift from development based on externally devised, charity-focused provision of aid to passive recipients to a concept of development that looks to empower aid recipients through an inclusive and participatory approach focused on *rights* rather than *needs*.

1.1.2 The HRBA as a ‘lens’ for development

At its core, the HRBA is a framework for analysing development challenges and for planning meaningful responses. It provides a ‘lens’ for looking at specific situations that leads to a comprehensive understanding of problems to be addressed and facilitates the identification of effective, inclusive and sustainable solutions to those problems. The HRBA is therefore a tool for *looking at* development and for *doing* development.¹⁹

The particular human rights ‘lens’ essentially focuses on identifying *rights-holders* and *duty-bearers* in a specific development context. Once identified, it aims to analyse and promote the capacity of rights-holders to claim their rights and the capacity of duty-bearers to fulfil those rights.

Notably, a capacity analysis of rights-holders includes an assessment of the following elements:

- Do all rights-holders know that they are entitled to claim their rights?
- Do all rights-holders know how to claim their rights, and how to advocate and mobilize for those?
- Are there specific channels of participation available for all rights-holders, including the most marginalized groups?
- Do all rights-holders have the ability to affect decision-making processes to their advantage?²⁰

A capacity analysis of the duty-bearer requires consideration of the following questions:

- Do the duty-bearers know that they have an obligation to respect, protect or fulfil certain rights?
- Do they understand the problem and the duties at stake?
- Do they have the resources (financial, technical, human) to fulfil their obligation?
- Do they have the authority, attitudes and motivation to fulfil their obligation?

1.2 What does applying the HRBA look like?

Although development actors have developed various approaches to the HRBA, some core principles are found in most approaches. These principles are:

1. explicit linkage of development challenges to rights as defined in international human rights instruments;
2. empowerment of rights-holders to claim their rights and duty-bearers to fulfil their obligations;
3. participation of rights-holders and duty-bearers in all processes that affect them, including development programming;
4. non-discrimination and inclusion of vulnerable groups in decision-making processes;
5. accountability and transparency of duty-bearers towards rights-holders.

Therefore, at its most basic level, applying the HRBA requires development actors to ask the following questions²¹ and apply the following principles in planning and implementing development programmes:

1. *Which rights are at stake?* All development challenges relate to one or more internationally recognized human rights. The HRBA requires the recognition of this fact and the explicit identification of the right(s) in question.
2. *Whose rights are at stake?* The HRBA aims to put people at the centre of development by engaging with the question of who the rights-holders are. Special attention is paid to the actual or potentially excluded and marginalized groups in society, as the approach is built on the principle of universality of human rights. Once identified, the approach promotes the empowerment of rights-holders to effectively claim their rights, as outlined above.
3. *Who is the duty-bearer?* Most development challenges involve a number of duty-bearers, including the national government, local government and civil society (see also section 1.3.1 below). Although the HRBA focuses on states as primary duty-bearers, other actors can also bear duties in certain circumstances.²² What is

required is a careful assessment of actors, their responsibilities and their capacities to fulfil those responsibilities as well as an assessment of how the state will oversee the fulfilment of obligations as the primary duty-bearer.²³

4. *Taking a holistic view:* *'A programme guided by a human rights-based approach takes a holistic view of its environment, considering the family, the community, civil society, local and national authorities. It considers the social, political and legal framework that determines the relationship between those institutions, and the resulting claims, duties and accountabilities. A human rights-based approach lifts sectoral 'blinkers' and facilitates an integrated response to multifaceted development problems.'*²⁴
5. *Applying a participatory process:* The HRBA calls for the participation of both rights-holders and duty-bearers in policies and legislative frameworks that affect them. Processes must meaningfully involve all stakeholders without discrimination and on an equal footing. In the context of development planning, the HRBA requires participation of all relevant rights-holders and duty-bearers in the entire programming cycle from conception to evaluation.
6. *Promoting transparency and accountability:* A cornerstone of the HRBA is the promotion of accountability of duty-bearers towards rights-holders. This requires an emphasis on transparent policy processes, the empowerment of rights-holders (see point 2 above) as well as the availability of accountability remedies and mechanisms.

1.3 The HRBA and aid effectiveness

The HRBA is a specific approach to development, which focuses on addressing power inequalities and discrimination, and deals with weaknesses in accountability systems. As stated above, it is based on the recognition of the interrelatedness and mutually reinforcing nature of human rights and development – the realization that one cannot be achieved without the other. The approach is rooted in the international recognition of the universal nature of human rights and the resulting *normative* importance attached to them. However, applying the HRBA also has an *instrumental* reason; it aims to make development more effective (including improving its sustainability and equitability).

Although no comprehensive overall evaluation of the effectiveness of the HRBA as such has been undertaken, major development actors see human rights mainstreaming as a fundamental element of effective aid.

Notably, the EU Consensus on Development states that:

'We reaffirm that development is a central goal by itself; and that sustainable development includes good

*governance, human rights and political, economic, social and environmental aspects.*²⁵

Moreover, the following points developed by the UN suggest that the HRBA can strongly contribute to more effective aid:

- a. A human rights perspective helps identify the root causes of poverty by providing a holistic picture of development and the connections between the economic, social, cultural and political dimensions of the problem.*
- b. A human rights perspective brings the gender dimensions of development to the forefront. Gender analysis is an intrinsic part of a human rights perspective, not an add-on.*
- c. A human rights perspective sees development as an empowering process. It highlights human beings as agents of change and not as passive recipients of charitable development programmes. With adequate social opportunities, individuals can effectively shape their own destiny and help each other. By ensuring development contributes to strengthen the ability of people to help themselves and influence the world, development programmes contribute to human freedom in outcome as well as in process, and therefore become more sustainable.*
- d. A human rights perspective removes arbitrariness from development programmes and objectives, because it provides a basis to assess the 'developmental' contribution of a particular intervention. Design of development programmes can be done on a more rational basis due to the greater normative clarity provided by national and international human rights norms.*
- e. A human rights perspective provides objective standards that can be used as a guide in a dynamic process, as they include guidance for 'immediate' and 'progressive' realization.*
- f. A human rights perspective strengthens accountability in the development process by highlighting the fact that human rights imply human duties. The improvement of quality of life and the eradication of social injustices are tasks that everybody has, individually and collectively, the right and the duty to pursue. Human rights obligations may lay on the State, non-State actors and individuals, and the international community as a whole.*²⁶

Specific evaluations of the application of the HRBA to selected development projects also suggest that the HRBA can substantively contribute to effective development interventions, although implementation challenges remain.²⁷ Box 1 provides a concrete example of the application of the HRBA to a water and sanitation project in Europe and the Commonwealth of Independent States (CIS). An additional example can be found in Annex 1.

Box 1: Bosnia and Herzegovina and Tajikistan: Analysing the Water and Sanitation Situation through an HRBA lens

Project name: UNDP HRBA to Improving Water Governance Regional Programming in Europe and CIS

Context

In the CIS region, water and sanitation conditions are in a terrible state. Water infrastructure and governance are particularly bad. Efforts to address this problem have largely focused on infrastructure. This has had little result. Not much has changed in 10–20 years. Clearly, a different approach was needed. An HRBA, with its focus on governance issues, was seen as an approach that could have a wider and more sustainable impact. The UN Development Programme (UNDP) Europe and CIS Regional Centre decided to try and incorporate an HRBA into its water governance projects in the region. The hope was that by doing so, people's access to safe potable water and sanitation would be improved. This HRBA experience focuses on the experience of Bosnia and Herzegovina (BiH) and Tajikistan.

Strategy

The human rights principles of non-discrimination and equality guided the situational analysis of water and sanitation in both countries. This helped to identify the specific groups that were marginalized with regard to access to water. In BiH these groups included displaced people, Roma, minority returnees, school children and people with disabilities. In Tajikistan it concerned primarily individuals in rural communities, schools and medical institutions. These are the main groups that UNDP water projects needed to target.

Accountability and the rule of law was another guiding principle of the analysis. Abiding by this principle led to discussions with national Ombudspersons on the accountability structures for water and sanitation issues. This helped the team identify major capacity gaps in accountability systems. In both Bosnia and Herzegovina and Tajikistan, the judiciary lacks the capacity to deal with water and sanitation issues; people do not know that they have a right to redress when prevented from accessing these services; they do not know how to file a claim; and there is no access to information on water plans and policies. Moreover national laws on water at times do not meet international standards. When the laws are there, they rarely enforced. If people's taps are turned off, or if schools lack adequate sanitation facilities, people simply accept the situation.

To address this gap, one strategy the project plans to implement is awareness-raising campaigns in both countries. The aim is to raise awareness that sufficient and affordable safe water is a right; that people have a right to redress when that right is unmet or violated; and that with

the right to water come responsibilities, that is, responsibly managing and conserving water.

Lessons learned

The project is only at the implementation stage. Talking about impact is premature. However, the experience of using an HRBA at the analysis stage has provided a few important lessons:

- An HRBA provides a more comprehensive view of the situation. It takes the analysis beyond a focus on technical issues to also address issues of accountability and governance.
- Involving non-traditional partners for water and sanitation development programmes, such as Ombudspersons, human rights ministries and human rights non-governmental organizations (NGOs) can bring in a new perspective to the analysis. Their knowledge of the judicial framework and the areas and groups most marginalized with regard to water access has proved very useful.
- A pragmatic approach to applying an HRBA is needed. Not all human rights principles need to be, or can be promoted to the same extent in all situations. In one context, there may be a need to focus more on accountability and less on non-discrimination. In another, participation may be the key issue and accountability not as relevant. The HRBA framework should be adapted to the specific context in which it is being applied.
- Both citizens' rights and responsibilities in relation to water should be recognized and emphasized in HRBA projects, that is, with the right to sustainable access to safe potable water comes the responsibility to manage water carefully.²⁸

1.4 Three points on conceptual clarity

Due to the various interpretations of the HRBA, there seem to be a number of particular misconceptions or conceptual ambiguities in relation to the HRBA. This section identifies four areas and aims to clarify them.

1.4.1 The extent of duty-bearers' obligations

Although duty-bearers have an obligation to respect, protect and/or fulfil the respective human rights (see Box 2), this obligation does not necessarily mean that they must directly provide certain services (e.g. food or water). In some cases the duty to fulfil certain rights requires the duty-bearer to facilitate that certain rights are realized by, for example, strengthening people's ability to meet their own needs. This could include, for example, the creation of conditions in

which the market can supply certain services that rights-holders demand.²⁹ However, in cases where the enabling conditions fail to provide access to rights for all rights-holders, the duty-bearer has an obligation to take concrete steps to directly provide these services. In addition, there are a number of minimum core obligations that states are required to fulfil, such as those enshrined in the ICESCR.

Lastly, although in most instances the primary duty-bearer in the context of human rights and development is the state, other actors, including rights-holders, also have duties. The nature and extent of these duties is established through a well-designed problem analysis.

Box 2: State obligations

- Respect – to not interfere with citizens' enjoyment of their rights.
- Protect – take steps to ensure that third parties do not interfere with citizens' enjoyment of their rights.
- Fulfil – (1) facilitate: strengthen people's ability to meet their own needs and (2) provide, which goes further and includes the direct provision of certain services.³⁰

1.4.2 The difference between human rights and applying the HRBA

The HRBA is based on the close and mutually reinforcing relation between human rights and development. In particular, human rights and the global development framework enshrined in the MDGs share many guiding principles:

*Human rights and the MDGs have much in common. They share guiding principles such as participation, empowerment, national ownership; they serve as tools for reporting processes that can hold governments accountable; and, most fundamentally, they share the ultimate objective of promoting human well-being and honouring the inherent dignity of all people. Human rights and MDGs are also two interdependent and mutually reinforcing frameworks.*³¹

However, despite the many linkages and their interdependence, development cooperation and human rights promotion should not be conflated. Key differences include the fact that 'human rights are wider in scope: they deal with the human condition in the broadest sense'³² and therefore include a concern with poverty alleviation, while development cooperation focuses on key areas for achieving human development with a key focus on poverty alleviation, albeit in a broad sense. Moreover, human rights apply to all countries while development cooperation focuses on low-income and middle-income countries.³³

Importantly, and as stated above, the HRBA is an approach to human and social development, using human rights principles to achieve effective, sustainable and just development.

Box 3: Definition of human rights

'Human rights are the rights possessed by all persons, by virtue of their common humanity, to live a life of freedom and dignity. Human rights are universal – they are the same for everyone, everywhere. They are inalienable – they can neither be taken away, nor given up. And they are indivisible – there is no hierarchy among rights, and no right can be suppressed in order to promote another right.'³⁴

1.4.3 Human rights and gender mainstreaming

The promotion of women's rights is an important integral part of the HRBA and requires explicit recognition.³⁵

Gender mainstreaming, on the other hand, is a complementary and mutually reinforcing approach to the HRBA (see Box 4), as it focuses on the promotion of equality between men and women.

Box 4: The HRBA and gender mainstreaming

'Gender mainstreaming calls for the integration of a gender perspective in development activities, with the ultimate goal of achieving gender equality. A human rights-based approach integrates international human rights standards and principles in development activities, including women's human rights and the prohibition of sex discrimination. The Committee on the Elimination of Discrimination against Women has analysed comprehensively and in depth how inequality affects women's lives; this is a valuable input for development policymaking and programming. When backed by national accountability systems, a human rights-based approach can greatly reinforce progress towards gender equality.'³⁶



Maasai woman from Engaresero women's group, Engaresero village, Ngorongoro, northern Tanzania, 2010. Credit: Adam Davies.

2. Legal and political obligations to apply the HRBA

The New Member States of the EU have numerous legal and political obligations to mainstream human rights in their development policies and programming frameworks. These obligations stem from the countries' membership of the EU as well as from international frameworks that countries have committed themselves to bilaterally.

2.1 International obligations

All states are bound by a range of international human rights treaties that they have bilaterally signed and ratified. Table 1 lists the nine core international human rights treaties and their ratification status vis-à-vis the three focus countries: Cyprus, Hungary and Poland. The table clearly shows that all three are bound by a vast range of international human rights obligations that they must adhere to, including in their development cooperation.³⁷ Many of these obligations specifically relate to human and social development, in particular those enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); and the Convention on the Rights of the Child (CRC), to name but a few.

In addition to these legal obligations to promote human rights, all three focus countries have also politically committed themselves to promote human rights specifically through their development cooperation by adopting the UN Millennium Declaration. Notably, the Declaration commits UN Member States to:

*'spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected. We are committed to making the right to development a reality for everyone and to freeing the entire human race from want.'*³⁸

and to:

*'spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development.'*³⁹

Thus, the commitment to work towards the achievement of the MDGs goes hand in hand with an obligation to mainstream human rights in the process.

Table 1: Status of ratification of nine core international human rights treaties

Instrument	Cyprus	Hungary	Poland
International Covenant on Civil and Political Rights (1966)	ratified (1969)	ratified (1974)	ratified (1977)
International Covenant on Economic, Social and Cultural Rights (1966)	ratified (1969)	ratified (1974)	ratified (1977)
Convention on the Elimination of All Forms of Discrimination Against Women (1979)	ratified (1985)	ratified (1980)	ratified (1980)
Convention against Torture or Other Cruel, Inhumane or Degrading Treatment or Punishment (1984)	ratified (1991)	ratified (1987)	ratified (1989)
Convention on the Rights of the Child (1989)	ratified (1991)	ratified (1991)	ratified (1991)
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)	signed (2007)	ratified (2007)	signed (2007)
International Convention for the Protection of All Persons from Enforced Disappearance (2006)	signed (2007)	–	–
International Convention on the Elimination of All Forms of Racial Discrimination (1999)	ratified (2002)	ratified (2000)	ratified (2003)

2.2 Obligations stemming from membership in the EU

In addition to the international level, membership in the EU brings with it a substantive number of specific political and legal commitments in relation to human rights and development.

Most importantly, all Member States of the EU are legally bound by the Lisbon Treaty, which states that: 'Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty.'⁴⁰ Regarding the principles and overall objectives of the EU's development cooperation, the Treaty refers to chapter V of the Treaty of the European Union, which makes an explicit reference to the promotion of human rights. It states that:

*'The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be ... to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.'*⁴¹

In addition to the Lisbon Treaty, the EU's external relations to African, Caribbean and Pacific (ACP) countries are regulated by the Cotonou Agreement. This is of particular importance to Cyprus, Hungary and Poland as they have recently commenced contributing to the European Development Fund, which provides assistance to ACP countries. The Cotonou Agreement puts the EU's cooperation with ACP countries squarely in the framework of the HRBA. Notably, Article 9 states:

*'Cooperation shall be directed towards sustainable development centered on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights. Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.'*⁴²

In addition to the above, the legal framework for assistance to the EU's immediate neighbours in North Africa and Central Asia, the ENPI, which is of particular relevance to the New Member States in general, and the three focus

countries in particular, also strongly calls for the promotion of human rights along with poverty eradication. The ENPI states that the scope of community assistances includes:

*'supporting policies aimed at poverty reduction, to help achieve the UN Millennium Development Goals; promoting and protecting human rights and fundamental freedoms, including women's rights and children's rights; supporting democratisation, inter alia, by enhancing the role of civil society organisations and promoting media pluralism, as well as through electoral observation and assistance; fostering the development of civil society and of non-governmental organisations ...'*⁴³

These strong legal requirements are supplemented by the EU development policy, the *European Consensus on Development*. This policy also clearly recognizes the interrelation between development and human rights, presents the promotion of human rights as fundamental for sustainable development and enshrines human rights as a fundamental cross-cutting issue in the EU's development cooperation:

'Progress in the protection of human rights, good governance and democratisation is fundamental for poverty reduction and sustainable development. All people should enjoy all human rights in line with international agreements.

...

*'In all activities, the Community will apply a strengthened approach to mainstreaming the following cross-cutting issues: the promotion of human rights, gender equality, democracy, good governance, children's rights and indigenous peoples, environmental sustainability and combating HIV/AIDS. These cross-cutting issues are at once objectives in themselves and vital factors in strengthening the impact and sustainability of cooperation.'*⁴⁴

This section has illustrated that there are numerous international and EU legal and political obligations to mainstream human rights. These obligations apply to all EU Member States, including the New Member States. Moreover, it has been shown that the New Member States have an additional obligation to promote human rights in their cooperation with the majority of their traditional partners in the 'Neighbourhood' as enshrined in the ENPI.

3. Challenges and opportunities for applying the HRBA in the New Member States

The above sections have explained the key concepts of the HRBA and have illustrated that the New Member States have numerous legal and political obligations to apply this approach to their development cooperation. However, to what extent is it really feasible and desirable to integrate the HRBA in the development cooperation frameworks of the New Member States? Considering that the New Member States are relatively new aid donors, with comparatively limited human and financial resources for development, does the HRBA make sense for them?

This section tackles this particular question by first outlining the specific context of development cooperation faced by the New Member States, with a focus on Cyprus, Hungary and Poland. It then shows that the HRBA is, in fact, particularly useful to support the New Member States to overcome their challenges and build on their existing advantages to provide effective, sustainable and just development assistance in line with international requirements.

3.1 Characteristics of New Member States as donors of development assistance

Although to varying degrees, the majority of New Member States, including the three focus countries, face a similar context for their development cooperation, which includes the following characteristics:⁴⁵

1. they are fairly new ODA donors in the process of developing their institutional and policy frameworks for development assistance;
2. they have limited national human resources and expertise on development cooperation;
3. they have limited public awareness on the importance of development cooperation;
4. they have small ODA budgets;⁴⁶
5. they have a recent history of being aid recipients;⁴⁷
6. they have substantive experience in democratization and civil society strengthening (particularly former Eastern bloc countries);
7. they have special appreciation of the value of solidarity and respect for human rights for the promotion of peace and stability (particularly in the context of Cyprus);

8. some apply the principle of ‘delegated cooperation’, by which aid is given to a bilateral or multilateral donor for implementation (particularly in the context of Cyprus).

Some of these characteristics represent challenges for New Member States to act as effective development actors. In particular, interviews conducted for this policy paper strongly suggest that the limited human and financial capacity is often perceived as a major obstacle to integrating the HRBA into New Member States’ development cooperation frameworks.

However, many of these characteristics also present important opportunities for an effective integration of the HRBA and, arguably, make New Member States particularly well-placed to strongly promote the HRBA. The HRBA can also offer solutions to overcome some of the outlined challenges, as the section below shows.

3.2 Challenges and opportunities for integrating the HRBA in New Member States’ development frameworks

The process of developing aid frameworks and training staff is an excellent opportunity to integrate the HRBA

The HRBA is a relatively new approach to development cooperation and concrete tools and the conceptual clarity necessary for its practical application have only been developed over recent years. Donors with a long history of provision of development assistance usually have established and often very large aid administrations, and an extensive legal and political framework for development cooperation. Therefore, arguably, they face a much greater challenge in adapting to the HRBA than donors who are in the process of setting up their frameworks. Revising, reforming and re-training can be more cumbersome than integrating the HRBA from the outset.

Since the New Member States are currently in the process of setting up their development cooperation frameworks they should take advantage of this unique

opportunity to use the HRBA as an actual basis in this process. This is particularly true for the three focus countries as both Cyprus and Hungary do not yet have an official development policy and Poland is currently in the process of developing a multi-annual development policy framework. Tapping into the tools developed for the HRBA provides these three countries with a concrete and progressive framework for development assistance, which is in line with their international and EU obligations.

The HRBA as a practical solution to develop effective development projects even with limited human resources

Limited expertise on development in general, and the HRBA in particular, is without doubt a challenge faced by New Member States. However, the HRBA, as outlined above, is a very practical approach to development. It provides a specific conceptual lens that can facilitate a comprehensive analysis of a particular development context, which in turn provides the cornerstones for the development of an effective, sustainable, just and legitimate development intervention.⁴⁸ It can therefore help in the formulation of meaningful development projects even with limited human resources.

To support the application of the HRBA in practice development actors have developed various tools and guides. In addition, MRG is in the process of developing a Resource Kit on the HRBA specifically tailored to the needs of the New Member States.

Moreover, as stated above, the fact that New Member States are currently in the process of building capacity on development cooperation puts them in an excellent position to include the HRBA in the capacity-building programmes from the outset. Training modules on the HRBA will also be included in the MRG Resource Kit mentioned above.

Linking public awareness-raising campaigns on development cooperation to human rights can make them more effective

Many people, particularly in the New Member States, widely recognize the importance of human rights, arguably more so than development cooperation. Due to their recent histories, in the case of Hungary and Poland, and because of the particular political situation in Cyprus, public awareness on human rights seems relatively high.⁴⁹ Linking development cooperation with human rights provides an attractive avenue for public awareness-raising on the importance of development cooperation. This opportunity should be seized by the New Member States.

The HRBA provides tools for quality aid, which is particularly important for donors with limited ODA budgets

The challenge of limited financial resources for development aid is very pronounced in the New Member States, including in the three focus countries.⁵⁰ The recent financial crisis has exacerbated this situation, with significant drops in aid budget having been witnessed across the world, including among the New Member States over the last year.

While substantial efforts need to be made to increase the level of ODA to the agreed minimum of 0.33 per cent of gross national income (GNI) by 2015, the HRBA offers an opportunity to New Member States to strengthen their focus on *quality* (as opposed to mere *quantity*) of aid. Applying the HRBA can substantially improve the quality of aid programming, making aid programmes more comprehensive, effective, empowering and sustainable as outlined in section 1.3.

Rather than tackling isolated infrastructure problems (e.g. building a medical centre)⁵¹ without considering the larger context, the HRBA provides tools for more holistic planning, which can ultimately lead to more meaningful and sustainable interventions.

Recent history of being recipients of development assistance makes New Member States well-placed to appreciate the importance of HRBA principles

The New Member States, including the three focus countries, have until recently been recipients of development assistance and still receive considerable funds from the EU for specific programmes and projects. Therefore, they have first-hand experience of what receiving well-conceived (and badly conceived) assistance feels like. This experience clearly shows that receiving assistance for projects that have been developed without meaningful and inclusive participation, that do not apply a holistic approach to the problem at hand, or adhere to principles of accountability and transparency, or aim to empower recipients are unlikely to be effective and sustainable.

New Member States should take advantage of their strong appreciation of the importance of participatory and empowering assistance as previous aid recipients by integrating the HRBA in their development frameworks.

Substantive experience in democratization and civil society strengthening as a 'niche' in development cooperation linked to the HRBA

Due to their particular recent histories, many New Member States have ample experience in relation to democratization and civil society strengthening. This is often presented as

part of the ‘transition experience’ and is usually seen as an aspect where New Member States can add particular value through their development cooperation. This is particularly so for former Eastern bloc countries, such as Hungary and Poland. A closer look at some actual development interventions undertaken by both countries in recent years indicates that, indeed, numerous projects focus on democracy-building and strengthening of civil society,⁵² which are of substantial importance to the HRBA.

Despite this, the HRBA does not yet seem to be explicitly used as an overall framework of development assistance in Cyprus, Hungary and Poland.⁵³ What is required is a more explicit inclusion of its principles in all development cooperation frameworks, both at policy and implementation level.

Particular appreciation of the value of solidarity and respect for human rights for the promotion of peace and stability (particularly in the context of Cyprus)

Due to its particular political context, Cyprus is particularly well-placed to promote an approach to development that recognizes the interrelatedness of human rights and development cooperation. Its experience in working on peace and reconciliation puts Cyprus in an advantageous position to appreciate and practise the HRBA in its external assistance.

Moreover, the values of solidarity and social justice seem to be of great cultural significance in the country.⁵⁴ Approaching development through an HRBA lens facilitates the achievement of socially just and inclusive development outcomes.

The HRBA can be straightforwardly applied through the principle of ‘delegated cooperation’ (practised significantly in Cyprus)

Cyprus provides the vast majority of its aid through delegated cooperation. Cyprus ODA is, therefore, directly provided to various bilateral or multilateral donors to co-fund different projects and programmes. This approach allows Cyprus to use its limited resources effectively, without spending too much on aid administration.⁵⁵

Leaving an in-depth discussion of the benefits and drawbacks of such an approach aside, delegated cooperation lends itself extremely well to the application of the HRBA. As funding is given directly to other donors, integrating the HRBA in delegated cooperation largely requires that the selection of donors and programmes to be supported includes an assessment of the extent to which the HRBA is integrated in the particular donor’s framework and/or the specific project to be funded. This, in turn, requires a strong development policy that clearly sets out the principles for Cyprus’ aid, including the HRBA.

The benefits of insisting on the HRBA in its delegated cooperation are: (1) a further assurance that aid will be implemented effectively and will yield sustainable results, and (2) the provision of a clear identity for Cyprus’s aid, which builds on its particular experience and shows that Cyprus is in line with progressive international and EU standards.



Ester Paulo, Secretary of Pinyiny women’s group, Pinyiny village, Ngorongoro, northern Tanzania, 2010, Credit: Adam Davies.

4. Examples of best practice in applying the HRBA

4.1 Danish International Development Agency – DANIDA

DANIDA has to large extent integrated the HRBA in its development policy and programming framework. First, the new Danish development policy, published in July 2010, is firmly placed in an HRBA frame. The policy, entitled *Freedom from Poverty – Freedom to Change*, squarely recognizes the interrelated and mutually reinforcing relation between human rights and development. Notably, the very first two paragraphs of the policy state that:

‘Development is about fostering freedom throughout the world, about setting each individual and their potential free. Denmark’s development policy rests on the fundamental belief that all people are born free and equal, with inalienable rights. Freedom is an absolute good and a precondition for development. Without freedom there will be no development.... Fighting poverty is about giving each individual the opportunity and the ability to influence their own situation in life, politically, economically and socially. Denmark’s development policy is therefore rooted in universal human rights and fundamental freedoms as they are set out in the UN Charter and the Universal Declaration of Human Rights. These rights and freedoms are fundamental to the lives, integrity and dignity of all people.’⁵⁶

DANIDA has further developed a specific policy on Democratisation and Human Rights for the Benefit of the People, which underscores the vision set out in the overall policy. For instance, it states that, for DANIDA, human rights are a universal value system:

‘Because they are closely linked to democracy, the Danish Government believes that human rights are best assured by democratic societies based on justice and the rule of law. Such societies provide the best opportunities for people, for reducing poverty, and for promoting sustainable human development, peace and security. The promotion of democracy and human rights therefore benefits not only the individual, but also the entire community – locally and at the global level.’⁵⁷

Crucially, in addition to a strong policy framework, DANIDA integrates the HRBA in its programming,

monitoring and evaluation of development interventions. This is ensured through a number of management tools, which require the consideration of human rights and democratization issues at every step of the programming cycle. For example, the *Guidelines for Programme Management* require the consideration of democracy and human rights as a cross-cutting issue in programme preparation (country context analysis), strategy development (specific measures to address human rights and democratization must be identified) and in the assessment of programme support (assessment of the extent to which human rights were successfully mainstreamed and if specific human rights and democratization interventions were successful). Concretely, this is done by the provision of specific templates and tables that explicitly include a section on human rights and democratization at every step of the programming cycle.⁵⁸

4.2 Swedish International Development Cooperation Agency – SIDA

Sweden has also framed its approach to development strongly in line with the HRBA. Its development policy notably states that:

‘efforts to contribute to equitable and sustainable global development and combat poverty in all its dimensions must be directed at creating the conditions and opportunities for individuals to exercise greater dominion over their own lives. The policy is based on the right of every human being to live in freedom and with the best prospects possible of lifting her-/himself out of poverty. Particular emphasis is placed on the importance of democracy. The Government is intensifying its focus on the rights perspective. Among other things, it has determined that impact analyses that include an assessment of the perspective’s impact on respect for human rights are to be conducted prior to decisions regarding measures deemed to have development aspects or a potential effect on developing countries.’⁵⁹

The policy further provides concrete examples how SIDA intends to practically apply the HRBA in its development cooperation. The example in Box 5 provides two examples of SIDA’s concrete approach to the HRBA.

Box 5: SIDA's approach to improving financial markets and freedom of expression

Objective: Better functioning local financial markets, primarily for saving and investment, in developing countries

To contribute to the achievement of this objective, the government intends, *inter alia*, to:

- contribute to ongoing efforts, primarily by the international financial institutions, to promote a generally stable and favourable investment climate and effective national regulations governing the financial sector
- support the development of financial services and local securities markets, including microcredits, and of the financial infrastructure, *inter alia* via the international financial institutions
- analyse and take account of the conclusions and recommendations of the independent international Commission on Legal Empowerment of the Poor, and pursue relevant issues in international forums
- support knowledge enhancement in the field of land surveying and land and property registration.

Objective: Greater freedom of expression in countries where it is restricted

To contribute to the achievement of this objective, the government intends, *inter alia*, to:

- prioritize initiatives aimed at promoting free media (radio, TV, printed press and the internet)
- press for intensified intergovernmental dialogue, in various international forums including EU, Council of Europe and UN mechanisms, on the promotion of freedom of expression
- intensify efforts to spread information about legal protection for media workers, and support the dissemination of knowledge and information on the importance of the principle of public access to official records as a key component of a democratic society
- provide support for journalist training programmes and associations
- extend support to projects aimed at improving laws safeguarding press freedom and freedom of expression, and ensuring compliance with existing legislation
- support implementation of the EU common guidelines on the protection of human rights defenders, the Council of Europe Declaration⁵ and the UN Declaration on the Protection of Human Rights Defenders.⁶⁰

In addition to the policy framework, Sweden has developed a number of concrete tools, such as the *Guide for Country Analysis from a Democratic Governance and Human Rights Perspective*. This document, developed in 2003, aims to

'assist the analysis of country strategies from the perspective of democratic governance and human rights and guide donor intervention'.⁶¹

4.3 Federal Ministry for Economic Cooperation and Development Germany – BMZ

Germany is another donor that has strongly integrated the HRBA in its policy and implementation framework. Notably, the German development policy firmly endorses the approach as it states that:

*'German development policy is informed by basic principles of human dignity and prosperity. It pursues freedom, human rights and solidarity within and between societies. Other countries demonstrated that kind of solidarity towards Germany following World War II. The Marshall Plan drawn up by the USA for West Germany laid the foundations for the prosperity we enjoy today.'*⁶²

Germany has developed two *Action Plans on Human Rights* (2004–7, 2008–10). The first outlined concrete steps to integrate the HRBA into Germany's development cooperation practice. Concretely, the plan led to the implementation of the following practical steps:

1. Country and sector strategy papers were oriented towards human rights.
2. Kenya and Guatemala were chosen as pilot countries where the HRBA was implemented, especially in the education, water, agriculture and health sector.
3. BMZ's catalogue of criteria for assessing the development orientation of its partners' countries was extended to more fully include all human rights.⁶³
4. The budget specifically focused on human rights promotion was increased.
5. Germany played an active role in promoting the HRBA at the international level.
6. African human rights institutions were explicitly promoted.⁶⁴

The second *Action Plan for Human Rights* built on these achievements and sets out a framework for increased action to integrate and practise the HRBA. Crucially, the *Action Plans* outline concrete steps for institutionalization of the HRBA in German development policy and implementation. Notably, in addition to including the HRBA in the criteria for assessing the development orientation of its partners, Germany is working towards integrating the HRBA into BMZ's policy-regulating instruments and promoting internal training on the HRBA.⁶⁵

Conclusion

After presenting the key principles of the HRBA and the extensive legal and political obligations to integrate the HRBA in development cooperation, the policy paper has illustrated that the New Member States, although different in many respects, share a common context in which they conduct their development cooperation. This context includes the fact that they are fairly new ODA donors still in the process of developing their institutional and policy frameworks for development assistance; have limited national human resources and expertise on development cooperation; limited public awareness on development cooperation; small ODA budgets; a recent history of being aid recipients; substantive experience in democratization and civil society strengthening (particularly in the context of the former Eastern bloc countries); and a particular appreciation of the value of solidarity and respect for human rights for the promotion of peace and stability (particularly in the context of Cyprus).

The specific context in the New Member States, particularly their small ODA budgets and limited human resources, is sometimes perceived as an obstacle to the full integration of the HRBA. However, the paper has shown that, in fact, New Member States are particularly well-placed to integrate the HRBA in their development cooperation precisely because of their specific context. Key arguments put forward include the fact that countries in the process of establishing their aid policies and administrations are strategically in an advantageous position to integrate the HRBA from the start, rather than having to reform policies and re-train a vast number of staff.

The HRBA can also help to overcome the challenge of limited public awareness on development cooperation as, in many New Member States, issues of human rights are broadly acknowledged as legitimate and important – thus linking the two issues in awareness-raising campaigns can be beneficial. Further, the HRBA provides tools for quality aid,

which is an important aspect that goes hand in hand with a necessary focus on increasing the quantity of aid.

The recent history of New Member States of being aid recipients puts them in a privileged position to understand first-hand the importance of well-conceived development interventions which focus on participation, empowerment and accountability. Lastly, the substantive experience in promoting democracy and strengthening civil society of the former Eastern bloc countries, and the deep appreciation of the importance of solidarity as well as respect for human rights for the promotion of peace and stability in the context of Cyprus, show that the HRBA is strongly in line with New Member States' particular identity as aid donors. Explicitly integrating the approach in their development frameworks, therefore, does not require a drastic shift but merely a clear recognition and a more comprehensive application.

Lastly, the paper has shown that, not only is the HRBA a legal and political obligation and in the interest of New Member States, it is also an approach genuinely and widely practised by a variety of major donors. By briefly presenting the examples of Denmark, Germany and Sweden, the paper has illustrated the extent to which the HRBA has been embraced and has provided concrete examples of how these donors have integrated the HRBA in their policy and programming frameworks.

Overall, the arguments presented in this paper show that a strong focus on the HRBA would allow the New Member States to demonstrate their specific 'added value' as new donors while being firmly in line with international and EU standards and obligations. This is a positive insight, which should feed into the preparations for the upcoming Presidency of the Council of the European Union by Poland and Cyprus, as it provides a unique opportunity to raise the profile of New Member States as effective donors and to demonstrate their specific 'added value' as new development actors.

Recommendations

Based on the findings above, the policy paper makes the following recommendations:

For governments in New Member States⁶⁶

1. Develop a comprehensive official development policy

Many New Member States, including Cyprus, Hungary and Poland do not currently have official development policies. This is an overall challenge as it makes it difficult to assess what the strategic objectives and values of the respective country's development cooperation interventions are and makes the entire aid framework non-transparent. The lack of an official development policy can result in aid that is fragmented, ad hoc and largely guided by individual preferences. This, in turn, makes an assessment of aid effectiveness difficult, as results and outcomes need to be measured against officially set and public objectives.

2. Explicitly integrate the HRBA in official development policy

As shown in the examples of Denmark, Germany and Sweden above, the HRBA calls for an overall approach to development that recognizes the interrelatedness of human rights and development, and puts development in the context of freedom and empowerment. Explicit references to the HRBA as a concept, as seen in the case of Germany, are also recommended.

3. Develop comprehensive and standardized implementation frameworks for development cooperation

Some New Member States, including Cyprus, Hungary and Poland, do not currently have comprehensive and standardized tools that guide (1) calls for proposals; (2) project and partner selection; (3) project/programme monitoring; (4) project/programme evaluation – or, in the case of Cyprus's delegated cooperation, guide selection of donors and projects/programmes to be supported.

This lack of standardized tools – such as guidelines, checklists and templates – makes the consistent implementation of any values or principles difficult and can ultimately lead to development assistance being fragmented, ad hoc and dependent on the preferences of particular individuals (as above, recommendation 1).

It is therefore strongly recommended that comprehensive and standardized tools be developed to manage the entire project cycle.

4. Explicitly integrate the HRBA in the standardized implementation frameworks for development cooperation

As illustrated with the case of Denmark above, HRBA principles should be integrated in all the tools along the project cycle. This should include, for instance, the explicit requirement to illustrate the specific linkages of a project intervention to human rights norms and an explanation of how the specific HRBA principles (participation, empowerment, etc.) will be integrated in the project strategy in a project application template. This, in turn, should be reflected in a project appraisal checklist for assessing project applications. Detailed examples and tools of how this can be done will be provided by a specifically designed Resource Kit that will be developed by MRG in due course.

5. Build capacity of decision-making, policy development and programming staff on development cooperation with the HRBA

Effective integration and application of the HRBA requires an overall understanding of the approach, the concepts involved, and the policy and programming tools available. This requires capacity-building on the HRBA of staff at all relevant levels. The Resource Kit mentioned above will also include a training manual that can facilitate in-house training of staff on the HRBA.

6. Cyprus and Poland should use the EU Presidency to promote the HRBA

The upcoming EU Presidencies of Cyprus and Poland provide a unique opportunity for both countries to showcase their particular 'added value' in development cooperation. As outlined above, the HRBA provides a good framework for the particular donor identity of New Member States as it is closely linked to a focus on quality rather than mere quantity of aid and builds upon core values that are of specific importance to both Poland (elements of the transition experience such as democratization, civil society building) and Cyprus (solidarity, human rights for peace and reconciliation).

The HRBA could be a key theme, for instance, during the European Development Days, in discussions on the EC Green Paper on the EU's development policy, aid effectiveness and financial perspectives.

7. Develop a development education strategy from an HRBA perspective

Awareness-raising on development cooperation is necessary to increase the appreciation of, and support for, development cooperation among the general public. Any awareness-raising actions should portray recipients of aid as active participants and rights-holders in their own development, and should be based on an overall development education strategy that is firmly rooted within the HRBA approach.

8. Substantially involve civil society organizations in the formulation of development policy and programming frameworks.

Participation and inclusion are important principles of the HRBA, which should be applied at all levels, including in the formulation process of development policies and programmes. Civil society organizations add substantial value due to their experience in development project and programme implementation and their links to the global South. Civil society organizations also play an important role in ensuring that various political and legal commitments are upheld in the policy and programme formulation process and should therefore be substantially involved in policy and programme formulation processes.

For civil society organizations in the New Member States

1. Build capacity of staff at all levels on the HRBA

As mentioned, effective integration and application of the HRBA requires an overall understanding of the approach, the concepts involved and the policy and programming tools available. This requires capacity-building on the HRBA of staff at all relevant levels. The Resource Kit mentioned above will also include a training manual that can facilitate in-house training of staff on the HRBA.

2. Implement the HRBA in all development programmes and along the entire project/programme cycle

NGOs play an important role in developing and implementing development cooperation projects and programmes. When doing so, HRBA principles should be incorporated along the entire cycle, from conception to monitoring and evaluation. The Resource Kit, to be developed by MRG, will provide tools to do so.

3. Call on governments to fulfil the recommendations above

NGOs also play an important role in holding their governments to account. Given that there are numerous commitments to mainstream human rights in development cooperation, NGOs should play an active role in ensuring that these obligations are met. One tool in this context could be this policy paper and the recommendations outlined above.

4. Participate in EU and international fora to promote the HRBA

The EU and international policy frameworks provide important guidelines and points of orientation for national development policies, in particular for New Member States. NGOs should therefore play an active role in promoting the HRBA in these contexts, notably, by actively engaging in the CONCORD⁶⁷ HRBA group.

5. Apply the HRBA to development education programmes

As recommended for government development education programmes, any awareness-raising actions should portray recipients of aid as active participants and rights-holders in their own development. As civil society organizations are frequently active in development education, this recommendation is particularly important to them.

Annex 1: Example of HRBA application

Name of project: ‘Sub-National Development Planning: HRBA in Neglected Provinces’

Context

The HRBA project in the central highlands of Afghanistan was designed to address the ‘top down’ nature of development planning; particularly at the sub-national level. It also aimed to draw attention to districts that were often neglected by donors. The project focused on two provinces: Bamyan and Dai Kundi, the latter being one of the poorest provinces in the country. Both provinces are designated as ‘grade 3’; meaning they are the lowest priority for resource allocation.

Many considered the sub-national consultations that supported the design of the Afghanistan National Development Strategy (ANDS) to be unsatisfactory. The process was rushed and heavily donor-driven. Although the national government was engaged, provincial and local-level stakeholders were largely excluded. This raised questions as to the transparency and inclusiveness of the process. While the ANDS has been complemented by provincial-level development plans (PDPs), most PDPs are lengthy wish-lists for construction projects. As a result, the plans are neither strategic nor reflective of the communities’ needs.

Moreover, in the ANDS, human rights concerns, such as quality of services, participation, non-discrimination and accountability, are hardly mentioned. At the sub-national level, these concerns are almost absent from PDPs. For example, for the education sector, a typical project is the construction of a school building. No reference is made to why it was decided to have it in that location; who will be teaching in the school; how the school will be maintained; what teaching tools and materials are needed; and how they will be supplied. There was also little accountability on how the sums were to be spent.

In 2009, to improve its development planning process, the Dai Kundi authorities, with the support of UN Assistance Mission in Afghanistan (UNAMA), reviewed its PDP. The review offered an opportunity for the Office of the High Commissioner on Human Rights (OHCHR) and UN partners to work with Dai Kundi’s provincial departments, the Afghanistan Independent Human Rights Commission (AIHRC) and local NGOs. The aim was to learn how a rights-based perspective could be integrated into the plans and, through doing so, obtain a more participatory planning process. The objective was also to achieve outcomes that better reflected human rights standards.

Strategy

To address the problem of inequitable development aid across provinces, Afghanistan’s UN Development Assistance Framework (UNDAF) (2010–13) prioritizes the most neglected provinces. Once a province is chosen, UN agencies develop a ‘provincial package’ and jointly roll out a programme in line with the province’s priorities. Dai Kundi was selected as the first province under this approach. Taking advantage of this opportunity, OHCHR decided to support the prioritizing and planning process through an HRBA. This fell in line with the UNDAF’s commitment to HRBA.

A second strategic objective of applying an HRBA was to promote a multi-sectoral approach to development assistance. Often sectors such as the social protection sector, get left behind. This is due to the weak capacity of the institutions and staff. These sectors are also not priority areas for those in power. The HRBA, which emphasizes the reinforcing and interdependent nature of human rights, had the potential to draw out the links between sectors. Through its emphasis on rights, it could also bring out the importance of addressing areas that have been left out.

Three workshops were carried out with provincial authorities and NGOs. They targeted people working in the following sectors: health, education and social protection. The design was based on a prior capacity analysis of the participants. Using UN Treaty Body jurisprudence on the right to health, education and social security, awareness was raised on the entitlements that these rights conveyed; the standards that they enshrine; and how these rights can be incorporated into development planning outcomes.

Impact

One major result was that the first discussion among provincial authorities on an HRBA in development planning was triggered. The participants, who were members of the sector working groups responsible for revising and monitoring the PDP, had little knowledge or understanding of the PDP’s content. Despite their membership, they were not aware that the sector working groups had terms of reference. These included ensuring that the development process was transparent and participatory with respect to the concerned communities. With this understanding, they were encouraged to make more demands of the authorities. They also realized that they were not at the mercy of development actors’ ‘goodwill’ to serve this remote province. National authorities had an obligation to support them in meeting the rights of the people in the province.

The workshop participants were very receptive to the training programme. It led them to question the status of existing national/sub-national relationships regarding sub-national priorities. For example, why had the government 'magically' delivered election boxes to the province, but not school books promised two years ago? The training also led them to analyse development issues in a more comprehensive way. In addressing gender-based violence they realized that not only were protection systems and support services for women needed, awareness-raising and economic opportunities for women were essential.

Challenges

Incentives: participants questioned the utility of working hard to improve planning when doing so would not necessarily lead to more funds or support. In addition, the participants were not motivated as the funding process is handled in Kabul, where they have little influence.

Accountability: in Afghanistan it is common for NGOs and the military to be involved in public service delivery. Local authorities have no regulatory or monitoring power over these actors. As a result, identifying where accountability lies and who is the 'rights-holder' is a challenge. *Long-term behaviour change:* one of the heads of a line department was

resistant to the concept of inclusive development. He felt that by including more stakeholders in a design process, it would create more work. This attitude, combined with the view that good planning will not necessarily lead to more funds, calls for long-term strategies. It will take time to develop capacities and change attitudes. There was a lack of disaggregated data to identify which groups were the most marginalized in the provinces.

Lessons learned

Bringing development and governance actors together. It is important to work hand in hand with the UN's governance and development pillars in the province. With different arms of the UN consistently reinforcing the same message, efforts to develop capacities and change attitudes will be more effective.

Long-term capacity development of local authorities: Provincial authorities are beholden to central government with little power to make demands of them. Empowerment strategies are needed to help them make claims on the central authorities, particularly when they fail to provide the resources and support they need to ensure their constituencies better enjoy their rights.⁶⁸

Annex 2: List of people interviewed

Adam Kirchknopf, Deputy Head of Department, Department for International Development, Ministry of Foreign Affairs, Hungary.

Anders Dahlbeck, European Campaigns Coordinator, Action Aid International, Belgium.

Averof Neophytou, Member of Parliament, Deputy President of the Democratic Rally, Chairman of the Foreign Affairs Committee of the House of Representatives, Republic of Cyprus.

Balazs Szentivanyi, Research Associate, Faculty of Economics, Corvinus University of Budapest, Department of World Economy, Hungary.

Bulent Kanol, Executive Director, The Management Centre, Nicosia.

Fabian Pal, Representative to CODEV, Hungarian Permanent Representation, Belgium.

Frances-Galatia Lanitou Williams, Ambassador, Department of Development Cooperation, Ministry of Foreign Affairs, Cyprus.

Franz Berger, Policy Officer on Aid Effectiveness/Effective Development, CONCORD, Belgium.

Istvan Tarrosy, Afrika Kutatóközpont, Hungary.

Iza Wilczynska, Polish Humanitarian Action, Poland.

Jan Bazyl, Zagranica Group, Executive Director, Poland.

Jan Hofmoki, Development Cooperation Department, Ministry of Foreign Affairs, Poland.

Judit Almasi, Head of the Regional Office, Terre des hommes, Hungary.

Justyna Janiszewska, Education for Democracy Foundation, Poland.

Kordian Kochanowicz, Consultant, Poland.

Lorraine Marriott, Programme Manager, NGO Support Center, Cyprus.

Meagan Baldwin, Head of Policy, CONCORD, Belgium.

Mirosław Broilo, First Counsellor, Chief of the EU Development Policy Section, Department of Development Cooperation, Ministry of Foreign Affairs, Poland.

Peter Sandor, Political Analyst, EC Representation, Cyprus.

Paweł Baginski, Global Development Research Group, Poland.

Reka Balogh, Network Coordinator, Hand, Hungary.

Patryk Kugiel, Polish Institute of International Affairs, Poland.

Yioui Taki, Senior Researcher and Project Manager, INDEX, Cyprus.

Zsófia Farkas, Human Rights and Development Officer, Minority Rights Group Europe, Hungary.

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Notes

- 1 ODA for 2009 was 0.17 per cent, 0.09 per cent and 0.08 per cent of gross national income (GNI) for Cyprus, Hungary and Poland respectively. The CONCORD and AidWatch report 2010 finds that even these amounts include non-genuine aid. See CONCORD and AidWatch, *Penalty Against Poverty: More and Better EU Aid Can Score Millennium Development Goals*, Brussels, CONCORD and AidWatch, 2010, pp. 38, 41, 45. Available at: <http://www.concordeurope.org/Public/Page.php?ID=25122>.
- 2 Due to the current political situation in Cyprus, the Turkish Cypriot community is currently still a recipient of aid, even though Turkish Cypriot NGOs are increasingly interested in engaging in international development. A case in point is the Management Center, which runs one EC-funded project in Azerbaijan.
- 3 Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia acceded in 2004 and Bulgaria and Romania in 2007.
- 4 Kricheswsky, L. *Development Policy in the Accession Countries*, 2nd edn, Vienna, TRIALOG, March 2003, p. 5.
- 5 Declaration on the Right to Development, UN General Assembly, A/RES/41/128, 4 December 1986.
- 6 Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, Vienna, 14–25 June 1993. Available at: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en).
- 7 This point was mentioned frequently during interviews with decision-makers in all three focus countries Cyprus, Hungary and Poland.
- 8 Hungary held the Presidency in the first half (January until June) of 2011 followed by Poland in the second half of 2011, Denmark in the first half of 2012 and Cyprus in the second half of 2012.
- 9 Declaration on the Right to Development, *op. cit.*
- 10 Vienna Declaration and Programme of Action, *op. cit.*
- 11 Although the overall and long-term impact of the HRBA has not been comprehensively evaluated, important development actors have acknowledged the importance of effective human rights mainstreaming for sustainable and effective development. Moreover, some evaluations of specific projects suggest that the approach is fundamental to achieve effective development assistance. See section 1.3 for more details.
- 12 United Nations Millennium Declaration, General Assembly Resolution 55/2, 8 September 2000, paras 11, 24.
- 13 UN Statement of Common Understanding on Human Rights-Based Approach to Development Cooperation and programming, adopted by the UN Development Group, 2003.
- 14 OECD/DAC, *DAC Action-Oriented Policy Paper on Human Rights and Development*, Paris, OECD/DAC, 2007. Available at: <http://www.oecd.org/dataoecd/50/7/39350774.pdf>.
- 15 Joint statement by the Council and the representatives of the government of the Member States meeting within the Council, the European Parliament and the Commission on the European Union Development Policy: *The European Consensus (2006/C 46/01)*, para. 7.
- 16 UN Philippines, *Rights-Based Approach to Development Programming: Training Manual*, Manila, UN Philippines, July 2002, p. 11.
- 17 *Ibid.*
- 18 DAC Action-Oriented Policy Paper on Human Rights and Development, *op. cit.*, p. 2.
- 19 UN Philippines, *op. cit.*
- 20 Laberge, M. *Claiming the MDGs: An Empowerment Framework*, Oslo, UNDP Oslo Governance Centre, July 2008, p. 5.
- 21 Adapted from Office of the High Commissioner for Human Rights (OHCHR), *Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation*, New York and Geneva, UN, 2006. Available at: <http://www.ohchr.org/Documents/Publications/FAQen.pdf>
- 22 See International Council on Human Rights Policy (ICHRP), *Taking Duties Seriously: Individual Duties in International Human Rights Law*, Versoix, Switzerland, ICHRP, 1999. Available at: www.ichrp.org.
- 23 OHCHR, *op. cit.*, p. 4.
- 24 *Ibid.*, p. 17.
- 25 Joint statement by the Council *et al.*, para. 7.
- 26 UN Philippines, *op. cit.*, p. 16
- 27 Kuehhas, B., Lukas, K., Nowak, M. and Sax, H., *A Human Rights-Based Approach to MDG 1 – Selected Experiences from the Balkans*, prepared for the Austrian Development Agency, Vienna, May 2006.
- 28 UN Systems Staff College (UNSSC), *Experiences in Applying Human Rights Based Approaches*, Turin, UNSSC, May 2010. Available at: <http://hrbaportal.org/wp-content/files/1278695062unsschrbaexperiences2010final.pdf>.
- 29 UNDP, *Human Rights and the Millennium Development Goals: Making the Link*, Oslo, UNDP Oslo Governance Centre, 2007, p. 9. Available at: <http://hurilink.org/Primer-HR-MDGs.pdf>.
- 30 *Ibid.*, p. 9.
- 31 UNDP, *op. cit.*, p. 10. It should be noted that arguments have also been put forward to suggest that the way in which MDGs have been formulated and are being measured to some extent undermines the HRBA as they encourage considering problems in isolation and do not focus on underlying root causes. However, the fundamental principles outlined above are shared by both approaches.
- 32 *Ibid.*, p. 10.
- 33 *Ibid.*, p. 12.
- 34 *Ibid.*, p. 8.
- 35 Interview with CONCORD Europe Secretariat and Action Aid, 11 April 2011, Brussels, Belgium.
- 36 OHCHR, *op. cit.*, 18.
- 37 See in particular Article 2.1 of the ICESCR and Article 4 of the CRC.
- 38 United Nations Millennium Declaration, *op. cit.*, para. 11.
- 39 *Ibid.*, para. 24.
- 40 Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, *Official Journal of the European Union*, vol. 53, 30 March 2010, Article 208 (ex Article 177 of the Treaty establishing the European Community).
- 41 Consolidated Version of the Treaty on European Union, *Official Journal of the European Communities*, vol. 325, no. 5, 24 December 2002, Article 11.1.
- 42 Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the one Part, and the European Community and its Member States, of the other Part, signed in Cotonou, Benin, 23 June 2000, Article 9.
- 43 Regulation (EC) No. 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument, Article 2.
- 44 Joint statement by the Council *et al.*, *op. cit.*, paras 86, 101.
- 45 These characteristics were frequently mentioned by government representatives in all three focus countries and were also discussed at an informal retreat of New Member States on the specific nature of the EU12's approach to development, held in January 2011 in Cyprus.
- 46 ODA for 2009 was 0.17 per cent, 0.09 per cent and 0.08 per cent of GNI for Cyprus, Hungary and Poland respectively. The

- CONCORD and AidWatch report of 2010 finds that even these amounts include non-genuine aid. See CONCORD and AidWatch, *op. cit.*, pp. 38, 41, 45. Available at: <http://www.concordeurope.org/Public/Page.php?ID=25122>.
- 47 Due to the current political situation in Cyprus, the Turkish Cypriot Community is currently still a recipient of aid, even though Turkish Cypriot NGOs are increasingly interested in engaging in international development. A case in point is the Management Center, which runs one EC-funded project in Azerbaijan.
- 48 See note 11 above. Although the overall and long-term impact of the HRBA has not been comprehensively evaluated, important development actors have acknowledge the importance of effective human rights mainstreaming for sustainable and effective development. See for example the European Consensus on development, paragraph 7: 'We reaffirm that development is a central goal by itself; and that sustainable development includes good governance, human rights and political, economic, social and environmental aspects.' Importantly, see also Foresti, M., Booth, D. and O'Neil, T., *Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration*, London, ODI, October 2006. Moreover, some evaluations of specific projects suggest that the approach is fundamental to achieve effective development assistance. See, for example, Kuehhas *et al.*, *op. cit.*
- 49 Interviews with: Mirosław Broilo, First Counsellor, Chief of the EU Development Policy Section, Department of Development Cooperation, Ministry of Foreign Affairs, Poland; Adam Kirchknopf, Deputy Head of Department for International Development, Ministry of Foreign Affairs, Hungary; and Averof Neophytou, Deputy President of the Democratic Rally, Chairman of the Foreign Affairs Committee of the House of Representatives, Cyprus.
- 50 Lovitt, J. and Rybkova, E., *The Challenge of the EU Development Co-operation Policy for New Member States*, Brussels, European Parliament, 2007.
- 51 According to the *Cyprus Mail*, quoted on the INDEX website, the Cypriot government announced a donation of US \$1 million to the Palestinian National Authority for a new medical center. INDEX questions whether an adequate needs assessment for this intervention has been undertaken. See: http://www.indexcyprus.com/site/index.php?option=com_content&task=view&id=840&Itemid=9.
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- 54 Interviews with Averof Neophytou, Member of Parliament, Deputy President of the Democratic Rally, Chairman of the Foreign Affairs Committee of the House of Representatives; Yiouli Taki, Senior Researcher and Project Manager, INDEX.
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- 56 Ministry of Foreign Affairs of Denmark, *Freedom from Poverty – Freedom to Change*, Strategy for Denmark's Development Cooperation, Copenhagen, July 2010, p. 4.
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- 60 *Ibid.*, p. 22.
- 61 SIDA, *Country Strategy Development: Guide for Country Analysis from a Democratic Governance and Human Rights Perspective*, Copenhagen, SIDA, 2003.
- 62 Federal Ministry for Economic Cooperation and Development, *German Development Policy at a Glance*, Bonn and Berlin, February 2011, p. 1, available at http://www.bmz.de/en/publications/type_of_publication/special_publications/BMZ_Policy_at_a_glance.pdf.
- 63 Federal Ministry for Economic Cooperation and Development, *Development Policy Action Plan on Human Rights 2008–2010*, Bonn and Berlin, March 2008, p. 5.
- 64 *Ibid.*, pp. 5–6.
- 65 *Ibid.*, pp. 5–6. http://www.bmz.de/en/what_we_do/issues/HumanRights/allgemeine_menschenrechte/deutsche_entwicklungspolitik/index.html#t4.
- 66 The recommendations apply to all New Member States but are specifically directed to the governments of Cyprus, Hungary and Poland.
- 67 CONCORD is the European NGO confederation for relief and development. For more information see: <http://www.concord-europe.org/Page.php?ID=4&language=eng>.
- 68 UNSCC, *op. cit.*

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The Human Rights-based Approach: A More Effective Framework for International Development Policies in New EU Member States

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