



# SDC Guidance on Human Rights in Development and Cooperation

Sustainable Development Goals		Related human rights *	
<p><b>1 NO POVERTY</b></p>	<p><b>End poverty in all its forms everywhere</b></p> <p>Targets include eradicating extreme poverty; implementing social protection measures; and ensuring equal access of men and women to economic resources.</p>	<ul style="list-style-type: none"> <li>• <b>Right to an adequate standard of living</b> [UDHR art. 25; ICESCR art. 11; CRC art. 27]</li> <li>• <b>Right to social security</b> [UDHR art. 22; ICESCR art. 9; CRPD art. 28; CRC art. 26]</li> <li>• <b>Equal rights of women in economic life</b> [CEDAW arts. 11, 13, 14(2)(g), 15(2), 16(1)]</li> </ul>	
<p><b>2 ZERO HUNGER</b></p>	<p><b>End hunger, achieve food security and improved nutrition, and promote sustainable agriculture</b></p> <p>Targets include ending hunger and malnutrition; improving agricultural production, sustainable and resilient food production; correcting trade distortions; and ensuring functioning food commodity markets.</p>	<ul style="list-style-type: none"> <li>• <b>Right to adequate food</b> [UDHR art. 25; ICESCR art. 11; CRC art. 24(2)(c)]</li> <li>• <b>International cooperation</b>, including ensuring equitable distribution of world food supplies [UDHR art. 28; ICESCR arts. 2(1), 11(2)]</li> </ul>	
<p><b>3 GOOD HEALTH AND WELL-BEING</b></p>	<p><b>Ensure healthy lives and promote well-being for all at all ages</b></p> <p>Targets include reducing maternal mortality; preventable child deaths; ending or reducing diseases; universal health coverage; affordable medicines; sexual and reproductive health research; and access to medicines.</p>	<p><b>4 QUALITY EDUCATION</b></p> <p><b>Ensure inclusive and equitable quality education and promote life-long learning opportunities for all</b></p> <p>Targets include universal access to free, quality pre-primary, primary and secondary education; improving vocational skills; equal access to education; expanding education facilities, scholarships, and training of teachers.</p>	<ul style="list-style-type: none"> <li>• <b>Right to education</b> [UDHR art. 26; ICESCR art. 13], particularly in relation to children [CRC arts. 28, 29; persons with disabilities [CRC art. 23(3), CRPD art. 24] and indigenous peoples [UNDRIP art. 14]</li> <li>• <b>Equal rights of women and girls in the field of education</b> [CEDAW art. 10]</li> <li>• <b>Right to work, including technical and vocational training</b> [ICESCR art. 6]</li> <li>• <b>International cooperation</b> [UDHR art. 28; DRD arts. 3-4], particularly in relation to children [CRC arts. 23(4), 28(3)], persons with disabilities [CRPD art. 32], and indigenous peoples [UNDRIP art. 39]</li> </ul>
	<p><b>5 GENDER EQUALITY</b></p> <p><b>Achieve gender equality and empower all women and girls</b></p> <p>Targets include eliminating discrimination and violence against women and girls; valuing unpaid care and domestic work; ensuring the full participation of women; access to reproductive health care; and equal access of women to economic resources.</p>	<p><b>6 CLEAN WATER AND SANITATION</b></p> <p><b>Ensure availability and sustainable management of water and sanitation for all</b></p> <p>Targets include ensuring universal and equitable access to safe, affordable drinking water; sanitation and hygiene for all; reducing pollution; increasing water-use efficiency; promoting participatory management of water and sanitation services.</p>	<ul style="list-style-type: none"> <li>• <b>Elimination of all forms of discrimination against women</b> [CEDAW arts. 1-5] and girls [CRC art. 2], particularly in legislation, political and public life (art. 7), economic and social life (arts. 11, 13), and family relations (art. 16)</li> <li>• <b>Right to decide the number and spacing of children</b> [CEDAW arts. 12, 16(1)(e); CRC art. 24(2)(f)]</li> <li>• <b>Special protection for mothers and children</b> [ICESCR art. 10]</li> </ul>
		<p><b>7 AFFORDABLE AND CLEAN ENERGY</b></p> <p><b>Ensure access to affordable, reliable, sustainable and modern energy for all</b></p> <p>Targets include ensuring universal access to affordable, reliable and modern energy services.</p>	<ul style="list-style-type: none"> <li>• <b>Right to an adequate standard of living</b> [UDHR art. 25; ICESCR art. 11]</li> <li>• <b>Right to enjoy the benefits of scientific progress and its application</b> [UDHR art. 27; ICESCR art. 15(1)(b)]</li> </ul>
		<p><b>8 DECENT WORK AND ECONOMIC GROWTH</b></p> <p><b>Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all</b></p> <p>Targets include promoting sustained economic growth; improving resource efficiency in production and consumption; full and productive employment and decent work for all; eradicating forced and child labour and trafficking; protecting labour rights including those of migrant workers; and increasing access to financial services.</p>	<ul style="list-style-type: none"> <li>• <b>Right to work and to just and favourable conditions of work</b> [UDHR art. 23; ICESCR arts. 6, 7, 10; CRPD art. 27; ILO Core Labour Conventions and ILO Declaration on Fundamental Principles and Rights at Work]</li> <li>• <b>Prohibition of slavery, forced labour, and trafficking of persons</b> [UDHR art. 4; ICCPR art. 8; CEDAW art. 6; CRC arts. 34-36]</li> <li>• <b>Equal rights of women in relation to employment</b> [CEDAW art. 11; ILO Conventions No. 100 and No. 111]</li> <li>• <b>Prohibition of child labour</b> [CRC art. 32; ILO Convention No. 182]</li> <li>• <b>Equal labour rights of migrant workers</b> [CMW art. 25]</li> </ul>
		<p><b>9 INDUSTRY, INNOVATION AND INFRASTRUCTURE</b></p> <p><b>Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation</b></p> <p>Targets include affordable and equitable access to quality infrastructure; employment generating industrialisation; access to financial services and markets; innovation and technology transfer, and increasing access to ICT.</p>	<ul style="list-style-type: none"> <li>• <b>Right to enjoy the benefits of scientific progress and its application</b> [UDHR art. 27; ICESCR art. 15(1)(b)]</li> <li>• <b>Right to access to information</b> [UDHR art. 19; ICCPR art. 19(2)]</li> <li>• <b>Right to adequate housing, including land and resources</b> [UDHR art. 25; ICESCR art. 11]</li> <li>• <b>Equal rights of women to financial credit and rural infrastructure</b> [CEDAW art. 13(b), art. 14(2)]</li> </ul>

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# Foreword

*“There is virtually no aspect of our work that does not have a human rights dimension. Whether we are talking about peace and security, development, humanitarian action, the struggle against terrorism, climate change, none of these challenges can be addressed in isolation from human rights”<sup>1</sup>. Ban Ki-Moon, 2012*

Strengthening human rights means contributing to a world without poverty where people live in dignity, freedom and peace which is at the heart of SDC’s mandate.

Global experience shows that human development is neither effective, equitable nor sustainable if it does not contribute to the promotion, protection and fulfilment of human rights. The majority of the countries that did not attain the Millennium Development Goals (MDGs) have a weak human rights record and are characterised as fragile and conflict affected<sup>2</sup>. The description of human rights as the “scaffolding of development policy” highlights the necessity that development is not limited to technical service delivery,

but tackles root causes of social, economic and political exclusion and marginalisation.

With the 2030 Agenda for Sustainable Development the international community has made a strong political commitment to such a comprehensive approach to development. The new agenda recognises that development, human rights, peace and security are intrinsically linked, echoing the statement by a former UN High Commissioner for Human Rights that “Today’s human rights violations are the causes of tomorrow’s conflicts”<sup>3</sup>. Equally, violent conflict undermines development efforts. For SDC, implementing the 2030 Agenda (including its priority of leaving no-one behind) and contributing to the promotion, protection and fulfilment of human rights go hand in hand. The Implementation of the Sustainable Development Goals (SDGs) is an opportunity to globally, regionally and nationally strengthen constructive, respect-based relationships between duty-bearers and rights-holders at multiple levels. In practice, this means applying a human rights-based approach (HRBA) to our interventions.

## Introduction

In 2006, SDC adopted its second human rights policy “towards a life in dignity”<sup>4</sup>, replacing the policy from 1997. Our 2006 policy committed us to implement our interventions in line with human rights principles and with the conceptual framework of the human rights based approach (HRBA)<sup>5</sup>.

The content and overall vision of our human rights policy from 2006 remain valid and relevant. However, since the adoption of the 2006 policy, more than a decade has passed. At international level, the adoption of the 2030 Agenda has contributed to a momentum for a more human rights-based approach to development. At the national level, we continue to adapt our thinking and methodologies on the basis of lessons learned to address new challenges, including our mandate to increase our work in fragile contexts<sup>6</sup>.

Against this background, we decided to update our existing policy and to provide new guidance to our staff and partners. Furthermore, in a global context of human rights under pressure, which includes a tendency towards an erosion of compliance with human rights and international humanitarian law, with the present document we aim to reaffirm our commitment to human rights. This document is guided by the *2030 Agenda for Sustainable Development* and is anchored in the *Dispatch on Switzerland’s International Cooperation*, as well as the *F DFA Human Rights Strategy*<sup>7</sup>, the political orientation for all F DFA human rights work.

Building upon the three strategic objectives of the *F DFA Human Rights Strategy*<sup>8</sup> this document aims to provide new conceptual guidance to SDC personnel and partners regarding the strengthening of human rights in Swiss international cooperation. To complement the guidance, specific programming tools will be developed to help make the guidance’s commitments operational.

# 1 Background

## Examples of universally recognised individual human rights include:

- Freedom from torture and from cruel, inhuman or degrading treatment or punishment
- Freedom from slavery and servitude
- The rights to life, liberty, and security of person
- The right to asylum from well-founded fear of persecution
- The right not to be displaced
- The right to equal treatment and non-discrimination in the enjoyment of all rights
- The right to be recognised as a person before the law
- The right to an adequate standard of living – food, water and housing
- The right to the highest attainable standard of physical and mental health
- The right to work and to just and favourable conditions of work
- The right to form and join trade unions
- The right to education
- Freedom of thought, conscience, religion
- Freedom of opinion, expression, association and the right to participate in the political process
- The right to participate in cultural life
- The right to privacy and family life

Human rights are inherent to all human beings, regardless of nationality, place of residence, colour, sex, language, religion, political or other opinion, national, social or ethnic origin, property, birth or other status. These rights are all universal, indivisible and interdependent<sup>9</sup>.

International human rights law entails both rights and obligations, with states as the principle duty-bearers obligated to respect, to protect and to fulfil human rights. In recent years human rights law has evolved to include other entities as legal duty-bearers<sup>10</sup>. The obligation to **respect** means refraining from interfering with or curtailing the enjoyment of human rights. The obligation to **protect** entails an obligation to proactively protect the rights of all individuals and groups, with mechanisms which prevent, protect from, and provide redress for, interference by non-state actors. The obligation to **fulfill** requires positive action to facilitate the enjoyment of human rights, including appropriate legislative, administrative, budgetary and judicial measures.

## 1.1. The international human rights framework and key human rights

At the global level, human rights are developed within the framework of the United Nations. The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, – complemented by a range of additional international human-rights conventions and protocols. Other international treaties and declarations, define specific individual human rights more precisely or aim to protect particularly vulnerable groups (e.g. refugees) or address specific contexts (e.g. international humanitarian law). In addition to treaties, decisions of courts and other bodies, a range of secondary human rights instruments (Declarations, Recommendations, Principles)<sup>11</sup>, elaborate the content of human rights and provide guidance to our development interventions. Regional human rights systems complement and enhance the global human rights framework.

Our interventions, including those of our humanitarian aid, are firmly and explicitly rooted in binding human rights law, humanitarian law norms, with advocacy and capacity building efforts regarding their universality central to all interventions.

The universal validity of human rights derives from core human rights treaties having been ratified by states in all regions of the world, as well as *Jus Cogens*<sup>12</sup>, an important source of human rights obligations that binds states whether they have ratified treaties or not. While international human rights law sets minimum standards, the mode of implementation is left to states, according to their particular circumstances, structures and traditions.

## UN human rights treaties include:

- International Convention on the Elimination of All Forms of Racial Discrimination 1965
- International Covenant on Civil and Political Rights 1966
- International Covenant on Economic, Social and Cultural Rights 1966
- Convention on the Elimination of All Forms of Discrimination against Women 1979
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984
- Convention on the Rights of the Child 1989
- International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families 1990
- The UN Convention on the Rights of Persons with Disabilities 2005

## 1.2. Human rights and development cooperation

In recent decades operationalising human rights in development has been advanced by the legal and conceptual principles of the human rights based approach (HRBA). HRBA seeks to analyse inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress. Applying an HRBA means understanding the realization of human rights as the ultimate objective of development cooperation and applying certain core principles in working towards that objective.

## 1.3. Human rights and the 2030 Agenda

Swiss international cooperation understands poverty as a multidimensional concept, strongly linked to inequality, marginalisation, exclusion and disempowerment<sup>13</sup>. Fundamentally, poverty is both a result of the denial of human rights and an impediment to a range of human rights being vindicated<sup>14</sup>. Thus, a human rights based approach seeks to address poverty, not as a question of fate, but as an issue of power and justice.

The 2030 Agenda commitment to 'leave no one behind' is both a core SDG principle and a human rights obligation, reflecting the fundamental human rights principles of non-discrimination<sup>15</sup> and equality. SDC's commitment to leaving no one behind is outlined in the SDC Guidance Leave No One Behind<sup>16</sup>. Furthermore, the universality and strengthened review mechanism of the SDGs, reflect the established principle of international human rights law that human rights in any state are the legitimate concern of all states and that states have obligations to cooperate internationally and to seek and accept necessary development assistance. The 'goals' derive from a range of international human rights law obligations<sup>17</sup>, civil, cultural, economic, social and political rights. More than 90% of targets and indicators are linked to international human rights standards<sup>18</sup>. For example, SDG16+ which aims at achieving peaceful, just and inclusive societies is rooted in several civil and political rights, including personal security, access to justice, due process and participation<sup>19</sup>.

Strengthening relevant institutions tasked with safeguarding these rights is intrinsic to sustainable development. We contribute to implementing SDG 16+ among others through our broad range of governance programmes<sup>20</sup>, as well as through justice sector support, on the basis that "an effective, equitable justice system is the engine for ensuring that all rights are vindicated, and that redress is provided where duty-bearers fail to meet their obligations"<sup>21</sup>.

The accountability function of the justice system is central to addressing the universal challenge of corruption (both a cause and consequence of human rights violations). It applies equally to civil and political rights and economic, social and cultural rights. Support to informal / traditional justice systems and alternative dispute resolution can offer cost-effective, culturally acceptable and accessible justice. Our prioritisation of support to both formal and informal justice is both an objective in itself and a means of advancing and sustaining development interventions in other sectors.

**Justice sector support in Tajikistan:** Switzerland is helping the government of Tajikistan to set up a state-run free legal aid system, which will allow the vulnerable (poor) individuals in Tajikistan to better protect their rights and in particular to claim various benefits (e.g. pensions, child allowances). This system will replace the current NGO legal aid services. A space for dialogue between civil society and state authorities will also be preserved and will contribute to addressing further legal challenges faced by the population.

## ② SDC's human rights commitment

### 2.1. Our goals

Building on our 2006 human rights policy and the *FDFA Human Rights Strategy* this SDC Guidance on Human Rights reaffirms our commitment to systematically strengthen human rights through our interventions in the belief that for development interventions to be legally accurate, effective and sustainable, they must be human rights-based.

We will:

- **Analyse and address human rights violations** as both root causes and consequences of conflict and fragility as well as obstacles for sustainable development.
- **Ensure that the prevailing** (e.g. the highest) relevant **human rights standards**, whether from global, regional or national sources, **guide our programming interventions** in all contexts and sectors.
- **Endeavour to apply a human rights-based approach to all our interventions** as part of project cycle management and strategic orientation, thereby contributing directly to the realisation of one or several human rights.
- **Advocate** in multilateral forums, bilateral dialogues with governments, ministries, international and local partners **for a human rights-based approach to development**, including in the implementation of the 2030 Agenda.
- **Enhance the dignity of the poor and other marginalised groups** by combating economic, social and political exclusion. This includes prioritising efforts to address the specific gender dimensions of poverty.
- **Promote the empowerment of vulnerable rights-holders**<sup>22</sup> and their active free and meaningful participation in development processes, thereby ensuring that no one is left behind.
- **Provide assistance and protection to victims of conflict through humanitarian aid.** Protecting civilians involves not only responding to violations that have already occurred, but also preventing further violations and reducing the vulnerability of persons to be protected. The protection measures are explicitly rooted in international humanitarian law and human rights law.

- **Strengthen accountability of national duty-bearer and oversight institutions at all levels in our partner countries**, by ensuring that our programmes, policy and sectoral dialogue address key accountability challenges (such as corruption<sup>23</sup> and impunity) that discriminate against, and deny justice to, the poor and other disempowered groups.
- **Strengthen regional and multi-lateral accountability mechanisms** so as to enhance synergies between human rights and development.
- **Enhance our efforts to measure and document the human rights impact of our interventions** for greater sustainability and to advance lessons learning.

### 2.2. Principles of engagement

We contribute to strengthening human rights by adhering to the following **principles of engagement**:

#### a) Context specificity

Programming from a human rights perspective means applying an HRBA lens to context analysis. Poverty is not to be viewed as merely deprivation of economic / material resources. Instead the analysis needs to identify and address the full spectrum of human rights issues that give rise to poverty and the denial of human rights that results from poverty. It includes analysing the power dynamics and obstacles to programme implementation (including agents of, and barriers to, change); identifying structural discrimination, the most vulnerable groups<sup>24</sup> including situations of multiple discrimination. Our context analysis acknowledges that each jurisdiction/sector/target group has its own distinct political, historical, cultural and other features.

#### b) Conflict sensitivity

Human rights work needs to be pursued in a conflict-sensitive manner, including adherence to the do-no-harm principle. This means applying a comprehensive risk management approach with the following three dimensions:

**Context:** taking the conflict dynamics of the context as the starting point, identifying the key human rights and conflict issues at stake, the key actors and their perspectives.

**Programme:** analysing and understanding the possible impact of identified conflict and human rights issues on programming and adapting programmes accordingly. It is important to be aware of the fact that as a development actor we are part of the context, and that all our programming choices have consequences.

**Institution:** adapting our work processes and institutional set-up, so as to avoid doing harm, and to make a relevant contribution to mitigating identified contextual human rights-related risks.

### **c) Dealing with the past**

Building upon the thematic expertise of the FDFA Human Security Division (Task Force Dealing with the past), we will increasingly integrate a DwP dimension in our programming, especially in post conflict contexts.<sup>25</sup> Those contexts are fragile, tend to be highly polarised and are often characterised by collective trauma and a legacy of injustice and human rights violations. For our interventions to be sustainable and not undermined by future violent conflict, it is important that we as development actors understand how the past impacts societies of the countries we work in. The DwP perspective is essential for programming to avoid aggravating existing polarisation (do no harm) and to contribute to addressing root causes of conflict and key issues hindering development (such as mistrust, real and perceived injustice). Integrating a DwP dimension in programming starts with applying a DwP lens to context analysis as part of conflict sensitive programme management (CSPM) and concludes with measuring the success of interventions in terms of their contribution to healing, reconciliation, justice, and preventing recurrence of violent conflict.

### **d) Specific attention to the rights of women and girls and gender equality**

In our human rights engagement, we pay specific attention to root causes, discriminatory norms and practices that exclude people on the basis of their sex and gender. The right to equality is a transversal provision in all human rights instruments, and prohibits discrimination based on sex and gender (as well as other grounds)<sup>26</sup>. The *Convention on the Elimination of All Forms of Discrimination against Women* is a key international instrument for gender equality with other treaties addressing women/girls and gender issues affecting specific groups (e.g. persons with a disability, children) and contexts. Switzerland's 2017 *FDFA strategy on gender equality and women's rights*<sup>27</sup> guides all FDFA actors' contributions in this area, including reaching SDG 5 to achieve gender equality and empower all women and girls by 2030. *Switzerland's Fourth National Action Plan to Implement UN Security Council Resolution 1325 (2018–22)*<sup>28</sup> outlines Switzerland's thematic priorities and working approaches regarding the resolution's implementation. Switzerland's humanitarian aid focuses on SGBV (a violation of the right of women and men, boys and girls, to live a life free of violence)<sup>29</sup>.

### **e) Specific attention to vulnerable groups**

Vulnerable groups<sup>30</sup> are at the centre of our interventions. Vulnerability to human rights violations, can arise by virtue of difference or other status, can be multi-faceted and shifting and can involve multiple layers of vulnerability. Invariably it means exclusion from power and commonly poverty.

At the same time groups and individuals that are vulnerable in human rights terms are not defined by that vulnerability, and can also be empowered, positive drivers of societal change, economic growth etc.

Many migrants typify this duality. Our approach to development and migration recognises this duality and deals with these different aspects of migration. Migrant groups that tend to be particularly vulnerable in human rights terms are refugees and internally displaced persons due to their dislocation, and sometimes specific targeting for persecution. Switzerland's humanitarian aid puts a special focus on the protection of those groups. A further example of an especially vulnerable group in human rights terms are persons with disabilities. Globally, persons with a disability comprise one of the largest vulnerable groups, some 15% of the world's population, with 80% living in developing countries<sup>31</sup>. Such groups generally have poorer health, less access to education, fewer economic opportunities and higher rates of poverty than people without disabilities. Root causes of this include societal prejudice, lack of political will to address these disadvantages and disability being viewed as something to be dealt with via medical and charitable means, rather than through rights. In both its drafting process and content, the *UN Convention on the Rights of Persons with Disabilities* provides a new human rights-based momentum, to which we seek to contribute through our development interventions.<sup>32</sup>

### **f) Building on complementarities and strengthening cooperation**

This document is guided by, and contributes to, the implementation of the *FDFA Human Rights Strategy*. Our human rights engagement is complementary to that of other actors within the FDFA and beyond. We build on complementarities, particularly with the FDFA Human Security Division (HSD). The HSD leads Switzerland's human rights policy in close cooperation with other directorates such as the Directorate of International Law (DIL). Within the FDFA the HSD and the DIL are priority partners on human rights, in coordinating advocacy initiatives, developing policy stances and policies, and clarifying questions on legal frameworks. The FDFA's Directorate of Political Affairs HSD can take up specific human rights issues and engage with governments and other duty-bearers on their human rights obligations. It can share Switzerland's concerns, for example, during bilateral human rights dialogues or in multilateral forums. This, in turn, can have a positive impact on Swiss development cooperation efforts. Furthermore, the increasingly integrated structures provide Swiss representations abroad with important opportunities for a whole-of-government approach to human rights. In the field, SDC can benefit from the presence of human security advisors and their thematic expertise, and cooperate with the HSD regarding specific programming on human rights and the rule of law. At the same time, SDC's field experience and long-standing relationships with state actors and civil society in its partner countries can contribute to a comprehensive and coherent Swiss human rights engagement (in the field and at head office).



# ③ A human rights-based approach to development cooperation

## 3.1 The core dimensions of the human rights-based approach



We will continue to apply a human rights-based approach based on the 2006 SDC Human Rights Policy.<sup>33</sup> This means starting from the standards set out in the international human rights framework, integrating human rights principles in our policies and programmes, and empowering rights-holders and strengthening duty-bearers across all thematic areas of interventions.

Our HRBA model consists of three core dimensions:

### 1) Starting from the standards set out in the international human rights law framework<sup>34</sup>

The international human rights law standards binding Switzerland and its development partner states are the starting point for our HRBA. These standards include norms of international and regional treaties, national constitutions and legislation, with the highest standard prevailing.

### 2) Ensuring adherence to human rights principles

Together with our governmental and non-governmental partners, we will continue integrating human rights principles into the design, implementation and monitoring of development policies, programmes

and projects at multilateral and bilateral levels. The following human rights principles represent fundamental values inherent to human dignity and underpin the international human rights framework:

- **Indivisibility and universality:** our development interventions are premised on the principle that all human rights belong to all, by virtue of their humanity, all human rights are of equal status<sup>35</sup>, and are mutually reinforcing and dependent on each other for fulfilment.
- **Equality/non-discrimination, and inclusion:** we ensure that underlying structural causes of exclusion are analysed and addressed, consciously aiming at promoting equality and non-discrimination. While taking necessary calculated risks, our interventions will seek to avoid negative impacts on vulnerable groups or reinforcing social, political or economic inequalities.
- **Empowerment and participation:** our interventions will aim to empower people to participate fully in decision-making processes that affect their lives – and to build the capacity of state institutions to meet their obligations.
- **Transparency, accountability and the rule of law:** we promote transparency<sup>36</sup> and accountability<sup>37</sup> as inextricably linked principles at the heart of



the concept of the rule of law<sup>38</sup>, identified in the Universal Declaration of Human Rights as a precondition for the protection of human rights. To this end we will seek to strengthen accountability mechanisms at national and local level, including targeted support to democratisation, decentralisation and local governance<sup>39</sup> as well as justice sector support. Such support will seek to ensure that governance systems and institutions are enhanced, including addressing deficiencies such as the lack of a systematic human rights base and gender sensitivity.

**HRBA and governance:** the HRBA focus on process, participation and accountability means governance and the HRBA are closely connected. From an HRBA perspective “good” governance includes decision-making processes and institutions that are explicitly and accurately based upon and enhance the applicable human rights law standards.

### 3) Empowering Rights-Holders and Strengthening Capacities of Duty-Bearers

Central to the application of the HRBA is the identification of duty-bearers and rights-holders:

**Rights-holders:** Human beings (not only citizens) are “holders” of human rights, individually and in certain contexts as groups. Thus, the HRBA addresses them not just as beneficiaries of development assistance, but as recipients of services that are theirs – as of right. They must (as of right) be aware and empowered to advocate for respect, protection and fulfillment of their rights. Enhancing this capacity, through empowered participation in development is intrinsic to the HRBA. SDC partners with civil society actors,<sup>40</sup> faith and community-based organisations, human rights defenders<sup>41</sup> and media, as key representatives of rights-holders, in awareness raising/education/advocacy, supporting individuals and vulnerable groups in accessing justice, in participating in decision-making processes, and in holding duty-bearers accountable.

**Empowering rights-holders in Moldova:** With enhanced access to information and participation intrinsic to empowerment of rights-holders, the SDC’s project “Engaging Citizens and Empowering Communities<sup>42</sup>” strengthens civil society in Moldova. The project supports 180 (national and local) civil society organizations. It fosters partnerships between those organizations to increase their efficiency in influencing political decision-making that promotes and safeguards the rights and interests of vulnerable and marginalised people who often lack representation in public life and decision making bodies.

**Duty-bearers:** The concept of human rights duty-bearer is a multi-faceted and evolving concept which

we factor into our context analysis. As a matter of international law, states are the primary legal duty-bearers (including where they delegate human rights responsibilities (through privatisation and decentralisation)<sup>43</sup>) or in situations of fragility or conflict where the state may struggle to exercise its authority. However, other actors too are duty-bearers where they exercise certain authority in particular contexts (autonomous or occupied areas, internationalised territories, etc.). Thus, intergovernmental organisations, transnational corporations and non-state armed groups may be human rights duty-bearers, bound by a range of legal obligations.<sup>44</sup>

**Anti-corruption support in Tanzania:** Switzerland supports a programme that fosters an institutional and social environment aimed at tackling corruption. Support to reform-oriented “duty-bearers” – by strengthening the technical and procedural capacities of the Prevention and Combating of Corruption Bureau (PCCB) – are combined with activities enhancing collective action by supporting the private sector for a more transparent business environment and a multi-media campaign inspiring behavioural change among citizens (“rights-holders”) to strengthen integrity.

Central to our engagement with duty-bearers and rights-holders is to support the mutual recognition of each others’ roles and legitimacy and to utilize our comparative advantage as a donor to facilitate constructive engagement.

**Strengthening human rights protection mechanisms in Pakistan<sup>45</sup>:** With support of CHF 1.4 million over three years, the SDC-funded and UNDP-implemented programme supported the provincial government of Pakistan’s KP province (35m inhabitants) in the successful drafting and approval of the 2018 KP Human Rights Policy, with plans to upscale it to a national human rights policy. The programme also helped develop a rights data collection system – the KP Virtual Platform (KPVP) – aimed at ensuring robust, timely and authentic data collection and analysis, that can inform Pakistan’s international reporting obligations. On the rights-holders’ side, the programme also assisted in the design of a province-wide radio & SMS outreach campaign to raise awareness of human rights and grievance redress mechanisms at the Human Rights Directorate. Furthermore, it supported CSOs in rights advocacy and communication. CSO representatives subsequently produced a shadow report submitted under the third cycle universal periodic review (UPR).

## 3.2 The human rights-based approach to programming

The HRBA is relevant to all sectors and thematic areas in which we are engaged. It provides an overarching approach that ensures our goals, partner choices and programming methodologies (including focus on capacity building) are accurately and explicitly rooted in human rights norms. Thus, for example, our wide-ranging interventions on governance-related themes, institutions and actors is rooted in an understanding of good governance which is based on and enhances human rights law norms.

### HRBA to economic, social and cultural sectors:

Our thematic priorities mean that the range of socio-economic and cultural rights, are central to our programming. Human rights law offers both binding legal norms and practical guidance at various stages of the project management cycle (including the context analysis and identification of problems, the formulation of objectives, the design of process, choice of methodologies, partners, indicators, etc.). An HRBA to development programming requires, and is aided by, legally accurate understanding of the content<sup>46</sup> and nature of economic, social and cultural rights, including that they are not just to be “progressively realised”, but “by all available means” and are to be guaranteed without discrimination, “to the maximum available resources”, without regression and each right has “core content” that are matters of immediate obligation for states<sup>47</sup>.

**Managing for results:** The HRBA is not a substitute for existing programming tools (such as conflict-sensitive programme management), but a lens for applying these tools<sup>48</sup>. Our HRBA to results-based management frames results as being fundamentally about positive, sustainable human rights change with the quality of *process* being as important as the results. Thus, context analyses at project and strategic level must comprehensively analyse human rights issues at stake and their links to structural poverty, humanitarian crises, peace and state-building. Key to this analysis are national and international human rights monitoring mechanisms and information from think tanks and civil society, etc.<sup>49</sup> Our existing system of thematic reference indicators also guides our intervention choices, theories of change and monitoring systems to assess contributions towards better enjoyment of human rights<sup>50</sup>.

**Comprehensive risk management:** Applying a human rights-based approach entails taking necessary managed risks. We apply the comprehensive risk approach<sup>51</sup> (OECD Copenhagen Circles)<sup>52</sup> by identifying human rights-related contextual, programmatic and institutional opportunities and risks and translating the opportunities into programming and mitigating the risks.

**Monitoring and evaluation (M&E):** We seek to apply human rights-based M&E to our interventions, framing generic evaluation criteria in human rights terms, measuring process as well as results and utilizing data that is disaggregated by human rights relevant criteria<sup>53</sup>. This entails ensuring that:

- Human rights gaps, progress, and impact are measured against human rights law norms, with duty-bearers and rights-holders identified and objectives and indicators framed accurately.
- Rights-holders and duty-bearers are empowered by being informed of the processes and objectives of M&E and also by seeking to measure enhanced empowerment, as a result in itself.
- M&E is based upon active, free and meaningful participation and seeks to measure the quality of participation in all stages of development interventions.
- M&E processes are non-discriminatory, sensitive to gender and vulnerability and measure those elements as key to results.
- M&E processes are transparent and accountable and seek to measure transparency and accountability of development interventions.

## Endnotes

- 1 Ban Ki-Moon, 2012.
- 2 SDC Peace and Statebuilding Strategy, p.5, 2015.
- 3 “A voice for Human Rights”, Mary Robinson, p.9, 2006.
- 4 In 2005 SDC also issued the “SDC Advocacy Guidelines” “to give voice to victims; to provide passive protection to vulnerable groups through presence in the field; to promote the application of International Humanitarian Law and the related Human Rights”.
- 5 *idem*.
- 6 SDC’s 2015 Peace- and State- Building Strategy emphasises the role of human rights in addressing root causes of fragility and in strength-ening resilience to crises and conflicts.
- 7 [FDFA Human Rights Strategy](#)
- 8 (1) To defend and promote the universality, the interdependence and the indivisibility of human rights; (2) to establish a coherent international frame of reference and strengthen existing human rights institutions and mechanisms; (3) to strengthen the commitment and inclusion of key human rights actors. [FDFA Human Rights Strategy](#)
- 9 OHCHR, “[What are human rights?](#)”
- 10 E.g. The EU accession to the UN Convention on the Rights of Persons with Disabilities in 2010 made it the first human rights treaty to be ratified by a regional organization. Private actors, e.g. transnational corporations, are also increasingly subject to human rights law stand-ards, including the work of the UN Working Group on human rights and transnational corporations and other business enterprises.
- 11 These include a range of highly authoritative guidelines such as UN Committee on Economic Social & Cultural Rights, General Comment No. 3 on the nature of States parties’ obligations (1990), the **Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights** (1986) and **Maastricht Guidelines on Violations of Economic, Social and Cultural Rights** (1997), formulated by leading ESC rights experts.
- 12 Peremptory norms of international law recognised by the international community of states as norms from which no derogation is permitted.
- 13 [SDC Poverty-Wellbeing Shareweb: “what is poverty”](#)
- 14 OHCHR, [Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development](#)
- 15 Discrimination is defined in UN Human Rights Committee General Comment No.18 of (1989) as “any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms”.
- 16 [SDC Guidance Leave No One Behind](#) and SDC fact sheet HRBA and LNOB
- 17 OHCHR, [Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development](#)

# 4 Roles and responsibilities within SDC

**SDC's senior management** is responsible for oversight of adherence to the guidance, in accordance with the Federal Council's Dispatch on Switzerland's International Cooperation. SDC's senior management approved this SDC Guidance on Human Rights on 21 March 2019.

**SDC's departments, divisions and cooperation offices** are responsible for the application of this guidance, which is undertaken through core contribution management to global institutions, global programmes, regional and bilateral cooperation strategies, results frameworks, and humanitarian assistance.

**SDC's Conflict and Human Rights thematic unit and focal point** cover the themes "conflict and human rights" (CHR) and its corresponding network (CHRnet).










**SDC's** Conflict and Human Rights thematic unit will take the lead in the following areas:

- Further developing and adapting SDC's human rights-related thematic processes and instruments.
- Managing the evolving thematic knowledge and best practice exchange.
- Offering training to further strengthen staff capacities related to human rights.
- Developing further guidance for integrating human rights into the thematic priority domains of SDC.
- Promoting Swiss policy coherence and complementarity of Swiss action in the area of human rights.

**SDC's thematic focal points and networks** support SDC staff in implementing the guidance, with the Conflict & Human Rights Network having primary responsibility for the advancement of the guidance. The CHRnet, DDLGN and Gender networks cooperate within the "Cluster White" to develop integrated approaches and tools of which the HRBA is a central part.

- 18 "Human Rights and the SDGs", [Danish Institute for Human Rights](#); see also [The Human Rights Guide to the SDGs](#)
- 19 OHCHR, [Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development](#)
- 20 Contributing to the achievement of the following SDG targets: "develop effective, transparent, accountable institutions at all levels" (SDG 16.6); "Ensure responsive, participatory and representative decision making at all levels «including the principle of participation (SDG 16.7), or "ensure access to public information" (SDG 16.10) and anti-corruption programmes (SDG 16.5).
- 21 International Human Rights Network, *Human Rights Based Approaches to Justice Sector M&E* (2009).
- 22 Education programmes are an important part of empowering vulnerable rights-holders. Key to empowerment is human rights-based and civic education. See also SDC's Education Strategy Basic Education and Vocational Skills Development (2017).
- 23 The evolution of a human rights based approach to corruption includes the Report by the OHCHR, "Best practices to counter the negative impact of corruption on the enjoyment of all human rights", (2016).
- 24 Asking questions such as; who is excluded? From what? Why? By whom?
- 25 DwP can be addressed through specific bilateral programmes (e.g. *SDC Project in Cambodia: Working with arts and a psycho-social approach on the phenomenon of forced marriages under the Khmer Rouge regime*). At multilateral level, SDC supports DwP processes through resident coordinators and peace and development advisers.
- 26 Including sexual orientation, thus anchoring the equal rights of LGBTI persons.
- 27 [FDFA Strategy on Gender Equality and Women's Rights](#)
- 28 [Women, Peace and Security: Switzerland's Fourth National Action Plan](#)
- 29 SDC Humanitarian Aid Implementation Concept on SGBV (2017 – 20)
- 30 Typically such groups include women and girls; children; refugees/IDPs/stateless persons; national and other minorities; indigenous peoples; migrant workers; persons with a disability; elderly persons; persons with HIV/AIDS; and lesbian, gay and transgender people, but circumstances can mean that others too can be vulnerable, for example, journalists and human rights defenders.
- 31 [Disability Inclusive Development Kit, CBM](#), p.12.
- 32 The drafting process and campaign for ratification featured the clarion call of "Nothing About Us Without Us!".
- 33 Various development actors (multi- and bi-lateral) have elaborated on their understanding of HRBA, e.g. [the UN](#), [the EU](#), [SIDA](#), [DANIDA](#)
- 34 This framework comprises international, regional and national law norms and evolves over time through a variety of means, including decisions of regional and international courts, the UPR and UN Special Procedures etc.
- 35 Some rights (the right to life, to be free from torture, to be free from slavery or servitude and to be free from retroactive application of penal laws) are non-derogable, i.e. are so fundamental that they can never be suspended, even in conflict or time of national emergency.
- 36 Including rights to seek, receive and impart information.
- 37 A composite right, including rights to truth, justice, due process, legal security, effective remedies and reparation and the obligation to address impunity.
- 38 A comprehensive definition of the rule of law offered in the report of the UN Secretary-General: [The rule of law and transitional justice in conflict and post-conflict societies](#) (2004). "a principle of governance in which all persons, institutions and entities, public and private, including the

- State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."*
- 39 See, SDC Policy Paper: [Democratisation, Decentralisation and Local Governance](#) (2016).
  - 40 There is no single legal definition of civil society, but it is generally regarded as comprising actors and institutions that are distinct from the state and for-profit commercial actors. The World Bank defines civil society as "a wide array of organisations: community groups, non-governmental organisations [NGOs], labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations."
  - 41 See further, Swiss Guidelines on the Protection of Human Rights Defenders (2013)
  - 42 [Moldova project](#)
  - 43 E.g. the CESCR Committee [General Comment No. 24 \(2017\)](#) provides important clarification on states' obligations in the context of growing impact of business activities on the enjoyment of ESC rights.
  - 44 The principle of the individual as a human rights duty-bearer is reflected in the UDHR stipulation that "every individual and every organ of society, shall strive to promote respect for these rights and freedoms", while individual criminal responsibility for certain human rights abuses includes genocide, torture etc and violence against women. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994), for example, calls on individual men as well as the state to prevent VAW.
  - 45 [SDC Human rights programme in Pakistan](#)
  - 46 Thus, for example, the "right to health" is more accurately the right to "the highest attainable standard of health", with its content further elaborated (eg available, accessible, acceptable and adaptable healthcare) by a range of authoritative bodies and legal instruments, eg Committee on Economic, Social and Cultural Rights [General Comment No 14](#) (2000).
  - 47 Core international documents, elaborating the legal obligations of ESC rights include, the [Maastricht Guidelines and Limburg Principles](#), and UN CESCR [General Comment 3 on the Nature of States Parties' Obligations with regard to ESC rights](#) (1990).
  - 48 Among an array of tools that help marry HRBA & RBM are the UN [Inter-agency Common Learning Package on HRBA](#) and UN Population Fund, [A HRBA to Programming Practical Implementation Manual and Training Materials](#)
  - 49 See, for example, the [UN Human Rights Indicators](#) that can be useful for assessing the context in a comprehensive manner.
  - 50 HR 1 on policies, HR 2 on human rights-based approach, HR 3 on access to justice/rule of law, see [SDC Guidelines on the use of Aggregated Reference Indicators](#), Bern 2017.
  - 51 See also SDC CSPM Platform: [SDC CSPM Platform](#) / See also SDC Risk Guidelines: [SDC Risk Guidelines Field Handbook](#)
  - 52 OECD, [Development Assistance and Approaches to Risk in Fragile and Conflict Affected States](#) (2014).
  - 53 OHCHR, [A Human Rights-Based Approach To Data: Leaving No One Behind in the 2030 Development Agenda](#) (updated 2016).

<p><b>10 REDUCED INEQUALITIES</b></p> 	<p><b>Reduce inequality within and among countries</b></p> <p>Targets include promoting higher growth rates for the bottom 40 per cent; promoting social, economic and political inclusion; reducing inequalities in opportunities and outcomes; ensuring social protection for all; securing participation in economic decision making; facilitating migration, and reducing transaction costs for migrant remittances.</p>	<ul style="list-style-type: none"> <li>• <b>Right to equality and non-discrimination</b> [UDHR art. 2; ICESCR art. 2(2); ICCPR arts. 2(1), 26; CERD art. 2(2); CEDAW art. 2; CRC art. 2; CRPD art. 5; CMW art. 7; DRD art. 8(1)]</li> <li>• <b>Right to participate in public affairs</b> [UDHR art. 21; ICCPR art. 25; CEDAW art. 7; ICERD art. 5; CRPD art. 29; DRD art. 8(2)]</li> <li>• <b>Right to social security</b> [UDHR art. 22; ICESCR arts. 9-10; CRPD art. 28]</li> <li>• <b>Promotion of conditions for international migration</b> [CMW art. 64]</li> <li>• <b>Right of migrants to transfer their earnings and savings</b> [CMW art. 47(1)]</li> </ul>
<p><b>11 SUSTAINABLE CITIES AND COMMUNITIES</b></p> 	<p><b>Make cities and human settlements inclusive, safe, resilient and sustainable</b></p> <p>Targets include ensuring access to housing, basic services and public transport for all; participatory planning of human settlements; safeguarding cultural and heritage, and strengthening resilience to disasters.</p>	<ul style="list-style-type: none"> <li>• <b>Right to adequate housing</b>, including land and resources [UDHR art. 25; ICESCR art. 11]</li> <li>• <b>Right to participate in cultural life</b> [UDHR art. 25; ICESCR art. 15; ICERD arts. 5, 7; CRPD art. 30; CRC art. 31]</li> <li>• <b>Accessibility of transportation, facilities and services</b> particularly of persons with disabilities [ICERD art. 10(1); CRPD art. 21; and rural women [CFNAW]</li> </ul>
<p><b>12 RESPONSIBLE CONSUMPTION AND PRODUCTION</b></p> 	<p><b>Ensure sustainable consumption and patterns</b></p> <p>Targets include achieving sustainable management, efficient use of natural resources; improving management; promoting sustainable public access to information; and building sustainable development.</p>	<p><b>13 CLIMATE ACTION</b></p>  <p><b>Take urgent action to combat climate change and its impacts</b></p> <p>Targets include strengthening resilience and adaptation to climate change and natural disasters, including in marginalised communities; implementation of the Green Climate fund.</p>
<p><b>14 LIFE BELOW WATER</b></p> 	<p><b>Conserve and sustainably use the oceans, seas and marine resources for sustainable development</b></p> <p>Targets include reducing marine pollution; conserving coastal ecosystems, coastal marine areas and fish stock; securing market access for small scale fishers; protection of marine biodiversity.</p>	<ul style="list-style-type: none"> <li>• <b>Right to health</b> including the right to safe, clean, healthy and sustainable environment [UDHR art. 25(1); ICESCR art. 12; CRC art. 24; CEDAW art. 12; CMW art. 28]</li> <li>• <b>Right to adequate food &amp; right to safe drinking water</b> [UDHR art. 25(1); ICESCR art. 11]</li> <li>• <b>Right of all peoples to freely dispose of their natural wealth and resources</b> [ICCPR, ICESCR art. 1(2)]</li> </ul>
<p><b>15 LIFE ON LAND</b></p> 	<p><b>Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss</b></p> <p>Targets include the sustainable management of freshwater, mountain ecosystems and forests; combat desertification; halting biodiversity loss; combatting poaching and trafficking of protected species.</p>	<p><b>16 PEACE, JUSTICE AND STRONG INSTITUTIONS</b></p>  <p><b>Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels</b></p> <p>Targets include reducing all forms of violence; ending violence against and trafficking of children; promoting rule of law and justice for all; reducing illicit financial and arms flows, corruption and bribery; developing effective institutions; participation in decision making at all levels; legal identity for all.</p>
<p><b>17 PARTNERSHIPS FOR THE GOALS</b></p> 	<p><b>Strengthen the means of implementation and revitalize the global partnership for sustainable development</b></p> <p>Targets include strengthening domestic and international resources; debt sustainability; technology transfer and capacity building; promoting trade; enhancing policy and institutional coherence; respecting countries' policy space; promoting multi-stakeholder partnerships; measurements for progress, disaggregated data.</p>	<ul style="list-style-type: none"> <li>• <b>Right to life, liberty and security of the person</b> [UDHR art. 3; ICCPR arts. 6(1), 9(1); ICPEd art. 1] including freedom from torture [UDHR art. 5; ICCPR art. 7; CAT art. 2; CRC art. 37(a)]</li> <li>• <b>Protection of children from all forms of violence, abuse or exploitation</b> [CRC arts. 19, 37(a)], including trafficking [CRC arts. 34-36; CRC-OP1]</li> <li>• <b>Right to access to justice and due process</b> [UDHR arts. 8, 10; ICCPR arts. 2(3), 14-15; CEDAW art. 2(c)]</li> <li>• <b>Right to legal personality</b> [UDHR art. 6; ICCPR art. 16; CRPD art. 12]</li> <li>• <b>Right to participate in public affairs</b> [UDHR art. 21; ICCPR art. 25]</li> <li>• <b>Right to access to information</b> [UDHR art. 19; ICCPR art. 19(1)]</li> </ul>
<p><b>17 PARTNERSHIPS FOR THE GOALS</b></p> 	<p><b>Strengthen the means of implementation and revitalize the global partnership for sustainable development</b></p> <p>Targets include strengthening domestic and international resources; debt sustainability; technology transfer and capacity building; promoting trade; enhancing policy and institutional coherence; respecting countries' policy space; promoting multi-stakeholder partnerships; measurements for progress, disaggregated data.</p>	<ul style="list-style-type: none"> <li>• <b>Right of all peoples to self-determination</b> [ICCPR, ICESCR art. 1(1); DRD art. 11(1)]</li> <li>• <b>Right of all peoples to development, &amp; international cooperation</b> [UDHR art. 28; ICESCR art. 2(1); CRC art. 4; CRPD art. 32(1); DRD arts. 3-5]</li> <li>• <b>Right of everyone to enjoy the benefits of scientific progress and its application</b>, including international cooperation in the scientific field [UDHR art. 27(1); ICESCR art. 15(1)]</li> <li>• <b>Right to privacy</b> [UDHR art. 12; ICCPR art. 17], including respect for human rights and ethical principles in the collection and use of statistics [CRPD art. 31(1)]</li> </ul>

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