

H2N – Human Rights in policy dialogue

The FCHR unit elaborated this how-to note (H2N) for internal capacity building purposes. It is based on the [SDC Guidance on Human Rights \(2019\)](#). This document shall provide SDC staff with key elements for communication on human rights in policy dialogue at different levels as part of the human rights based approach. This document complements the FCHR H2Ns on human rights and communication.

The [FDFA Guidelines on Human Rights 2021-24](#) emphasize that “*effective and sustainable development cannot occur without the promotion of human rights*” (see chapter 4.4. sustainability). Recognising this, the [SDC Guidance on Human Rights \(2019\)](#) contributes to the concrete implementation of the FDFA Guidance’s thematic pillar human rights and sustainability. SDC operationalises human rights in sustainable development through a human rights based approach (HRBA)¹. This requires clear, effective and conflict-sensitive communication, including in policy dialogue at different levels. While laying out various contexts and levels of possible policy dialogue on human rights, this document **primarily focuses on policy dialogue** in the **context of Swiss development cooperation**, including humanitarian aid.

Summary:

Communicating on human rights in policy dialogue with duty-bearers in our partner countries is an integral part of the human rights-based approach to development to which the Swiss Agency for Development Cooperation is strongly committed.

For effective communication on human rights in policy dialogue:

- **Ensure ongoing communication with duty-bearers on human rights** (it should not just be a conversation when serious violations need to be addressed);
- **Use human rights language** (the normative HR framework) **to ensure foreign policy coherence in policy dialogue at all levels**
- **Refer to the concrete human rights norms and standards in the relevant sector / theme of international cooperation** (for example, not just a ‘right to education’ but the specific content (“available, accessible, acceptable and adaptable and quality education for all”);
- **Predict and prepare to address fears / misperceptions** & arguments against human rights;
- **Create common ground for addressing human rights challenges by being self-critical** (what can be improved regarding human rights in Switzerland) **and therewith creating a space that allows for constructive exchange highlighting the mutual human rights obligations** (of donor & partner countries). This enabling space should allow for:
 - **Acknowledging human rights achievements** in a particular country;
 - **Acknowledging that challenges** exist and that progress takes time and effort;

¹ Applying an HRBA means basing development on the rights and duties of the international human rights framework, ensuring that our interventions strengthen duty bearers to promote, protect and fulfil rights and that rights holders are empowered to (know and) claim their rights (e.g. access to clean water, to food, to political participation). Key principles guiding all interventions are based on the international HR framework: non-discrimination, empowered participation, transparency and accountability.

Why, where and who? Communication on human rights in policy dialogue² (as part of development programming and beyond) is crucial to advance human rights-based development. Policy dialogue takes place in different forms at different levels, i.e. in the multilateral arena (the UN, regional organizations, the EU), through bilateral conversations at international level, sectoral dialogue with line ministries or at the level of implementing partners. Key interlocutors include duty-bearers of our partner countries (Government, line ministries of sectors we work in, municipalities, UN agencies, other governmental development agencies etc.).

What is the starting point? Communicating on human rights in policy dialogue with duty-bearers is **not** about criticizing in the first place. It should start from the premise that **human rights are common global standards**, uniting Switzerland and its development partner countries, in their efforts to improve their societies, strengthen rule of law and economies and enhance their global standing. This implies a continued conversation on human rights (enhancing trust and, to a certain extent, mutual understanding) that allows to address challenging developments with regard to **human rights when such situations occur**. 'Positive' communication on human rights in policy dialogue highlights the practical utility of human rights to measure development progress and the benefits of an improved national human rights record (domestic and international reputation of State/Government, political stability, better functioning rule of law, including security, inward investment, increased tourism/tax revenue etc.).

What is the possible push back? **Sensitivity / possible push back by partner countries / duty-bearers should not be presumed** and sometimes can be over-stated, with donors at times engaging in self-censorship, assuming partner countries are not open to discussing human rights. In this context, it is also important to keep in mind that **those whose rights are not respected** often have a **vital interest that we communicate effectively and explicitly** on human rights in policy dialogue with duty-bearers.

At what levels does it take place? The following levels of policy dialogue are distinguished:

A.) Multilateral level³ (primarily part of Swiss human rights diplomacy)

The multilateral policy dialogue on human rights takes place mainly at the UN (i.e. in the Human Rights Council or the General Assembly), through Regional Development Banks as well as in Regional Organizations such as the OAS, the OSCE or the OECD. It allows for a general positioning of Switzerland's priority issues with regard to human rights in development cooperation.

B.) Bilateral level (primarily part of Swiss human rights diplomacy)

Bilateral conversations on human rights mainly happen in the margin of bilateral political dialogues between two states or through institutionalized human rights dialogues. This format allows for a more targeted discussion about human rights that has the potential to create a common ground allowing for a more critical exchange. As an ultima ratio, if the human rights situation deteriorates rapidly, demarches may be required.

C.) Programme level

At programme level, human rights awareness can be raised by clear consistent communication on human rights in sectoral dialogue between SDC and the respective national actors (for example the respective line ministries, municipalities etc.). This dialogue can also involve discussions about the protection of implementing partners or human rights defenders that contribute indirectly to programme implementation. Human rights issues can also be put on the agenda of coordination meetings with like-minded donors and other international actors on site. At higher political levels, 'normalising' human rights language combined with building human rights capacity can enhance duty-bearers' confidence and comfort in engaging in a conversation on human rights.

²The distinction between programme and high level/policy level is not clear-cut or fixed. It can involve engaging at grass-roots to highest government levels, as well as international platforms (human rights treaty reporting, UPR etc).

³ FDFA's Division on Peace and Human Rights is responsible for Switzerland's human rights diplomacy. This includes for example the realm of the UN Human Rights Council. (see also FDFA Human Rights Guidelines, multilateral)



What are the key elements to consider?:

- Highlight the mutual nature of the obligations involved.– Which are binding on us, as a governmental/development actor as well as on IFIs/INGOs, and the ODA recipient country. A key starting point is the international law principle that states have a duty to provide (and where necessary, to accept) development assistance as part of their human rights obligations.⁴
- Acknowledge existing positive human rights aspects of a country's culture and context. – Religious/social traditions (eg the respect given to the views of older people in many cultures etc.), and transition made, from authoritarian rule in a given context, etc.
- Acknowledge possible challenges for our partner countries in delivering human rights. For example, in times of economic recession, political instability, armed conflict etc. while at same time highlighting donors' willingness and obligation to assist in addressing these challenges and underlying root causes.
- Predict and prepare for counter-arguments or fears of key interlocutors. Concerns or opposition based on the cost of a human rights-based approach to social and economic issues can be addressed by highlighting the longer-term economic benefits of HRBA, and noting that cost arguments are rarely raised against civil and political rights, that equally require expenditure, such as “fair trial”, free and fair elections” etc.
- Be familiar with perspective on human rights of key individuals within duty-bearer institutions. Even in sectors where opposition to policy dialogue on human rights is often presumed, high-level institutions are rarely monolithic in their dis/comfort addressing human rights. Familiarity with the interest/knowledge/perspective of key officials can be important in opening/enhancing dialogue, even where formal institutional positions or culture are more reticent.
- Policy dialogue on human rights can be enhanced by planning *who* might best communicate the message. For example, senior judiciary in partner countries may be more receptive to a exchange on human rights with counterparts (Judges/Prosecutors) from Switzerland or other countries.
- Highlight issues shared by other countries in the region. Bi-lateral policy dialogue on human rights can be aided by communication/events regarding human rights in the region or issues affecting human rights across a group of countries.
- Contribute to coherent and shared common language, (accurate in human rights terms) across all elements of a Donor's presence – humanitarian aid / development programmes (including those delivered by contracted programmes implementers), and at the diplomatic level.
- Common language and joint positions – Contribute (to the extent possible) to ensuring that donors / embassies use common accurate human rights language/joint positions etc, particularly on sensitive human rights issues (in multi-lateral fora, as well as in the development partner country).

FCHR Unit, September 2021, Bern

⁴ The Maastricht Principles on [Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights](#) and accompanying [Legal Commentary](#) synthesise various treaty obligations on states to engage in international cooperation and through that cooperation to fulfil socio-economic rights universally.