

HRBA CHECKLIST OF QUESTIONS

UNFPA

**A HUMAN RIGHTS-BASED
APPROACH TO PROGRAMMING:**

Practical Implementation Manual and Training Materials

Program on International Health and Human Rights, Harvard School of Public Health and the
Gender, Human Rights and Culture Branch of the UNFPA Technical Division (GHRCB)

HRBA CHECKLIST OF QUESTIONS

Hint: How to use this Checklist of Questions

This Checklist consists of a list of suggested questions that can help you and your partners implement a human rights-based approach to programming. The questions are designed to help you and your partners systematically consider the key human rights principles at each stage of your programme. You and your partners should ask yourselves these questions as you develop your programme—and you will probably have to refer to different sources to find the answers. Even if you cannot answer all these questions, they should at least be raised as they will help you to continuously work towards implementing a HRBA in your programme. Of course, keep in mind that this is not an exhaustive list! The questions are just examples to help spur your thoughts on how to promote a HRBA to your work.

The questions in this Checklist focus only on the human rights principles of participation and inclusion; equality and nondiscrimination; and accountability and rule of law. For ideas on how to consider implementing the other key human rights principles (universality and inalienability; indivisibility; interdependence and interrelatedness), please turn to Module 2 page 5. You can also read through Modules 3-6 for examples. Additional human rights may be relevant to your programme; we suggest using this Checklist as a guide for how to consider the relevance of these rights to each stage of your work.

The questions are grouped by programming stage, and within each programming stage are further grouped by human rights principle. Beside some of the questions, you will find suggestions on what to think about as you search for answers. These suggestions are just meant to be a guide, and are by no means prescriptive.

1. SITUATION ASSESSMENT AND ANALYSIS

What do we need to ask in order to ensure a human rights-based situation assessment and analysis?

These questions apply particularly to the 'legal and policy' analysis that is an essential part of any human rights-based situation assessment and analysis. As explained in Module 2, understanding the legal and policy environment is vital because it can affect the success or failure of programme activities. For suggestions on where to find answers to these questions, take a look at the 'Hint' box on page 29 of Module 2 for a list of potentially useful sources of information.

- 1. What human rights treaties have been ratified? What relevant reservations made?**
- 2. What do international human rights treaty bodies have to say about this country in their Concluding Observations? What about Special Rapporteurs? Have they visited the country? Written anything about it?**

Much useful and relevant information can be gathered from Concluding Observations of UN Committees, such as CEDAW or the Committee on Economic, Social and Cultural Rights, as well as from the reports of Special Rapporteurs who have investigated the legal and policy environment of a country. Turn to pages 20-23 of Module 1 for more information, and also to the case studies in Modules 4 and 5 for examples.

- 3. Are laws, policies and interventions in the country consistent with international human rights norms and standards?**

This question reveals the extent to which international human rights obligations have been translated into national laws, policies and practice. For example, take a look at the country's Constitution and to other laws and policies. Do they all reflect international human rights norms and standards?

- 4. Are policies and interventions in the country consistent with the national law?**

This question reveals the extent to which the law is being implemented in a country and to what extent government actions abide with the rule of law. For example, if a country has a law that promotes the rights of young people (for instance in the form of a 'Children's and Young Person's Act'), but health policies and interventions routinely ignore the rights and needs of young people or openly restrict their rights to health services and information, then policies and interventions are not consistent with the law.

- 5. Have laws and policies been vetted through political processes and in public fora?**

This question reveals the extent to which the public can participate

in and comment on the creation of laws and policies, and the level of transparency in the political system. In order to promote the human rights principles of participation and accountability, it is important for a State to follow the correct processes when creating laws, and also, preferably, to provide the public with a forum in which they can voice their concerns regarding the laws and policies that affect them.

6. Is there a functioning judicial process to handle any claims of violations of laws or policies?

7. Are there monitoring, claims and redress mechanisms in place and accessible?

This question, and the one preceding it, will help you to understand how functional the justice system in the country is, and therefore will shed light on whether it is possible to determine government accountability for failing to respect, protect or fulfil human rights.

8. Is participation of communities/interest groups supported by law and policy?

9. Are there mechanisms in place to ensure affected communities can be involved in the drafting of policies concerning them?

This question and the one preceding it are important when assessing the human rights principles of participation and inclusion. In order to promote the principles of participation and inclusion, it is important for a State to protect the participation of all groups—including communities and interest groups—by law. It is especially important that affected communities be involved in the drafting of policies that concern them, and thus it should be noted whether mechanisms exist to support such participation.

10. What laws or policies could constrain the success of the proposed work?

For example, a law in the country that criminalizes sex work may pose an obstacle to a UNFPA-supported programme that aims to provide HIV prevention to sex workers. Sex workers may be afraid to be part of the programme, fearing that they will be discovered and will face prosecution. A second example: if a UNFPA-supported programme leads to more rural health clinics being built and more contraceptive supplies in rural areas, but a law exists requiring spousal consent or a law forbids the provision of contraceptives to unmarried individuals, these populations will still not have access to contraceptives, despite the fact that services have been put in place. It is essential to take such laws into account before a programme is designed.

11. Do policies refer to specific excluded populations? In what ways?

For example, if a country has certain minority populations, such as indigenous groups or refugees, but has no laws or policies that

specifically mention them, there is the possibility that these populations' needs are being entirely ignored.

12. Have the structures , processes, training and needed resources been made available to translate laws and policies into practice?

This question reveals the extent to which laws and policies are actually being implemented in a country.

13. What assessment mechanisms are in place to determine whether existing relevant goods/services/information are being provided in a manner that is available, accessible, acceptable and of high quality?

Refer to Module 2, pages 8-9, where we discuss the importance of making reproductive health services (or any other services), goods and information, available, accessible, acceptable and of high quality to all, including marginalized groups.

Whereas the above set of questions asked you to think about the content of the information that you and your partners gather for the situation assessment and analysis, these next questions ask you to think about how the situation assessment is being carried out, and whether the process complies with key human rights principles.

What do we need to ask to ensure that the process at this stage promotes the principles of:

Participation and inclusion?

14. How are concerned actors participating in data gathering and analysis?

For example, are they involved in determining which sources to use for data gathering purposes? Are their voices being heard? Are they participating in data analysis? Are they included in the decision-making stages?

This question aims to get at whether the participation of concerned actors is active and meaningful, or just 'token'.

15. How is participation of women being ensured?

For example, have experts who understand gender constraints been involved in the situation assessment and analysis? Are there women on the data gathering teams? Are women involved in providing needed information and statistics?

16. How is participation of marginalized groups being ensured?

According to UNFPA, marginalized groups include those living in extreme poverty; especially disadvantaged adolescents and youth; women survivors of violence and abuse; out-of-school youth; women living with HIV; women engaged in sex work; minorities and indigenous peoples; women living with disabilities; refugees and internally displaced persons; women living under occupation; and

aging populations. Depending upon the nature of the programme you are supporting, you will need to ensure the participation of relevant marginalized groups at all stages of the programme.

17. How are marginalized groups recognized?

What methods are you and your partners using to determine which groups are marginalized in the country? For instance, are you involving human rights NGOs, women's rights groups, youth networks, and such in your decisions? Are you reading poverty reports and the reports of ombudspersons, examining disaggregated data, and so forth? As there are some groups, such as sex workers, that a State may deny the existence of entirely, what efforts are made to go beyond 'official' statements that list marginalized groups that have been acknowledged by the government?

18. How are religious or cultural leaders being included in the situation assessment and analysis? [Their involvement is essential in order to ensure a culturally sensitive approach].

Equality and non-discrimination?

19. What steps are being taken to ensure the situation assessment is not discriminatory in its aim, design, conduct and analysis?

What are you and your partners doing to ensure that you do not intentionally or unintentionally discriminate against any group in the process of carrying out the situation assessment and analysis? For instance, you and your partners may decide to carry out the entire situation assessment and analysis in the country's main official language. However, this means that those who do not speak the official language will be unable to participate.

20. How is it being ensured that collection and/or presentation of results does not risk a gravating discrimination?

If, as part of your attempts to promote transparency, you and your partners decide to share all the results of the situation assessment and analysis with the public, have you made sure that these results do not unwittingly cause further harm to any marginalized groups? Certain population groups, for example, may experience great discrimination if it is known to the general public that their HIV prevalence rates are higher than in the rest of the population.

Accountability and rule of law?

21. What is being done to ensure that the situation analysis is carried out by competent and trustworthy entities?

For example, what efforts have you and your partners made to ensure you have hired respected, qualified individuals to carry out the data gathering and analysis? What methods did you use to determine who would be on the data analysis team?

22. How and by whom will the results of the analysis be disseminated?

For instance, will the results of the situation assessment and analysis be shared with the public? With local NGOs? Will the results be translated into different languages? Who will be responsible for doing this?

23. How is the analysis distinguishing between inability and unwillingness of duty-bearers to fulfil their human rights obligations?

In analyzing the data you and your partners have gathered, for instance, how are you reaching your conclusions regarding whether the various government bodies are simply unable to fulfil their human rights obligations, or if they are unwilling to do so?

24. How is it being ensured that the situation assessment and analysis in general contributes to the promotion of human rights?

2. PLANNING AND DESIGN

What do we need to ask to ensure that the process of planning and design promotes the principles of:

Participation and inclusion?

- 1. **How is the general public participating in the design of the programme or policy intervention?**
- 2. **How is meaningful participation of all relevant groups (and not just the strongest groups) being ensured?**
- 3. **What mechanisms are in place to ensure divergent views are considered before final decisions are made?**

For example, how are you and your partners making sure that all voices are heard before final decisions are made?

- 4. **Are the communities especially concerned with the development/gender/reproductive health issue at stake participating in the design of the policy, programme or intervention?**

This question aims to ensure that the actual groups that are the target of the UNFPA-supported programme play an active role in designing the programme. This will promote ownership and sustainability of the programme. So, for example, if the programme you are supporting aims to provide HIV prevention to out-of-school youth, how are out-of-school youth participating in the design of the programme?

- 5. **What are the benefits and risks from the policy, programme or intervention for affected communities?**
- 6. **How is it being ensured that sufficient attention and resources are devoted to fulfil the rights of excluded populations?**

For example, how will you and your partners track resources to ensure that at all stages, resources and attention are supporting the needs and rights of excluded populations?

- 7. **How are religious or cultural leaders/groups engaging in the design of the programme to ensure its cultural sensitivity?**

Equality and non-discrimination?

- 8. **How is it being ensured that the design of the policy, programme or intervention is not discriminatory?**

For help on how to answer this question, see the 'Situation Assessment and Analysis' section of this Checklist.

- 9. **How is a gender balance being ensured among the individuals involved in design?**

- 10. Are the most marginalized groups specifically targeted? How are they being identified? What safeguards are being put in place to ensure that their involvement does not lead to increased stigma and discrimination?**

Accountability and rule of law?

- 11. How are the processes and authorities responsible for designing the programme/policy made known to the public?**
- 12. Is there transparency about how the programme is designed and what it intends to do?**

For example, are roles and responsibilities clearly outlined? Are decisions made in a transparent manner and with input from relevant stakeholders? Is the programme design clearly articulated and shared with the public?

- 13. Does the design of the programme or policy include targets to measure progress in relation to availability, accessibility, acceptability and quality of services?**

For instance, do you and your partners have a plan in place on how to track improvements in relation to availability, accessibility, acceptability and quality of services? Given that a HRBA aims to promote the availability, accessibility, acceptability and quality of services, these are important aspects to measure.

- 14. How is the programme ensuring that the goods/services/information provided will meet the criteria of the 3AQ with respect to marginalized groups?**

How are you and your partners ensuring that the services/information provided by your programme will in fact be available, accessible, acceptable and of quality to marginalized groups? For example, if the programme you are supporting aims to provide access to emergency obstetric care in rural communities, how are you ensuring that these services will be truly available, accessible, acceptable and of quality to groups such as indigenous women, out-of-school youth, women living with disabilities, and others?

- 15. How is it being ensured that the planning and design stage in general contributes to the promotion of human rights?**

3. IMPLEMENTATION

What do we need to ask to ensure that the process of implementation promotes the principles of:

Participation and inclusion?

- 1. **How is the public participating in the implementation of the programme or intervention?**
- 2. **How are the capacities of actors in population/development/health/gender and other relevant sectors being developed so as to ensure the programme is implemented in a culturally sensitive, gender-responsive, human rights-based fashion?**

The actual implementers of UNFPA-supported programmes are typically national or local government agencies or NGOs. Because they are the ones implementing the programme, it is essential that they become familiar with human rights and the methodology of implementing a HRBA. As a result, part of your capacity development activities should include providing guidance to both State and non-State actors on how to implement a culturally sensitive, gender responsive, human rights-based approach.

- 3. **How are particularly excluded groups engaged in implementing the programme or intervention?**
- 4. **How are their capacities to engage being developed?**
For example, if out-of-school youth are invited to participate in the implementation of the programme, how are their capacities being developed to enable them to engage in a meaningful way?
- 5. **How is the programme or intervention striving towards greater availability, accessibility, acceptability and quality of goods, services and/or information among excluded populations?**
- 6. **How is it being ensured that marginalized populations are in fact benefiting from programme implementation?**

For example, are you and your partners regularly monitoring the impact of the programme on marginalized populations? Are you carrying out focus groups or opinion polls to gauge their thoughts as to whether they actually are benefiting?

- 7. **Are marginalized groups adequately organized to participate? What support do they need? Do they have access to reliable information? Do they have freely chosen representatives that you can work with?**

Equality and non-discrimination?

- 8. Do specific incentives and approaches for participation by the poorest and most excluded groups, with sensitivity to the social and cultural context, exist or need to be created?**

For instance, what are you and your partners doing to encourage the meaningful participation of some of the most marginalized groups? Are you perhaps providing free transportation to and from programme meetings? Are there ways to reach out to married women who might need consent of their husbands before they can participate?

- 9. Is the programme in any way discriminatory in its application?**

- 10. If so, in what forms is such discrimination perpetrated? In what setting, and by whom?**

- 11. How can discrimination in implementation of the programme or intervention be combated?**

For instance, if it turns out that your programme is unintentionally discriminating against women living with disabilities by holding meetings in buildings that are not accessible to those with physical disabilities, how will you and your partners address this problem?

- 12. What plans have been made and what resources allocated to combat active discrimination?**

- 13. Does the programme consciously set out to rectify any existing discrimination?**

- 14. How are power inequalities among the intended beneficiaries of the programme or intervention dealt with?**

For example, if in programme meetings it becomes clear that larger, national-level women's NGOs have much more power and voice than the smaller, local-level women's NGOs who do not speak up in meetings, how can you and your partners deal with this disparity?

- 15. How are cultural or religious differences among the intended beneficiaries of the programme addressed?**

- 16. Within every 'disadvantaged group', some people are more marginalized than others; how is the programme or intervention ensuring representative input from the whole group?**

For instance, when working with out-of-school youth, how do you ensure that you are meeting the needs of (and hearing the voices of) both urban as well as rural out-of-school youth?

- 17. If the programme is providing a good, service and/or information, how is it ensuring that it meets the criteria of availability, accessibility, acceptability and quality?**
- 18. Is the implementation of the programme fostering gender equality and the empowerment of women?**

Accountability and rule of law?

- 19. How is information disseminated throughout the implementation of the programme?**
For example, are you and your partners sharing information through printed newsletters? Through a website? Through radio or TV?
- 20. How is transparency maintained with respect to the decision-making processes within the programme?**
For example, how are you and your partners sharing the decision-making process with the public?
- 21. In case of assumed rights violations, what methods of redress are available to those affected by the programme?**
For instance, can those negatively affected by the programme file a complaint with the programme administrators? Is there a complaints procedure that has been made known to the public? Can those negatively affected file a complaint with the national human rights commission or some other body? Write to the ombudsperson?
- 22. Who can demand accountability during programme implementation?**
For example, is it only programme beneficiaries who can demand accountability? The general public?
- 23. What mechanisms exist to support marginalized individuals and populations to demand accountability? Accountability for what? And from whom?**
- 24. How is it being ensured that the implementation stage in general contributes to the promotion of human rights?**

4. MONITORING AND EVALUATION

What do we need to ask to ensure that the process of monitoring and evaluation promotes the principles of:

Participation and inclusion?

- 1. How is the public included in setting targets and in defining success and failure of the programme?
- 2. How are women, especially marginalized women, included?
- 3. In what ways are the public included in determining what data is to be collected, collecting it, analysing it and feeding back into the programme?
- 4. How is the programme determining whether its implementation fulfils the rights of targeted populations to the maximum of available resources?

For example, are you and your partners specifically monitoring whether the implementation of your programme has fulfilled the rights of the targeted populations to the extent possible, given your available resources? How are you tracking whether money was effectively or ineffectively spent?

Equality and non-discrimination?

- 5. How does the monitoring and evaluation system detect causes, practices and impacts of any discriminatory actions that may occur?
- 6. How are claims of discrimination tracked?
- 7. What criteria will be used to determine what levels and types of data disaggregation will be most useful?

Accountability and rule of law?

- 8. How does the M&E system monitor and evaluate the implementation and impacts of the programme with respect to the criteria of availability, accessibility, acceptability and quality?

For instance, do you and your partners have a system in place to monitor and evaluate the availability, accessibility, acceptability and quality of goods, services and/or information? What about monitoring the 3AQ specifically among excluded populations?

How are you measuring availability of goods, services and/or information? How are you measuring accessibility (including physical accessibility, economic accessibility, information

accessibility and non-discrimination)? How are you measuring acceptability(including cultural and ethical acceptability)? How are you measuring quality? For more information on the 3AQ, see Module 2 page 8 and Module 4 page 17.

- 9. How is it being ensured that findings are made public?**
- 10. How is it being ensured that the programme or intervention as a whole contributes to the promotion of human rights, including the right to reproductive health?**

What steps have you and your partners taken to ensure that your programme outputs, outcomes and ultimate impact contribute towards the promotion of human rights? Are your outputs and outcomes human rights-based?

- 11. How are findings from the programme used to inform needed changes or adjustments in policy or other interventions both within and outside the population/development/ health/gender sectors?**

This question ensures that programme results lead towards greater accountability. Part of UNFPA's mandate is to support governments in changing or adjusting their policies based on accurate evidence. This will help to ensure that policies continue to respond to the actual needs of the population.

