

Report to UNDP Philippines

Human Rights Programme Review

HURIST Mission Team
26 January – 6 February 2004
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Although it appears long, this report is structured in stand-alone sections so as to be of maximum use to development practitioners. It is possible to read only the summary and recommendations (Section 2), or one or more of the sections dealing with specific programme portfolios: poverty reduction through good governance (Section 3), peace and development (Sections 4 and 5), empowerment of the poor (Sections 6, 7, and 8), and the environment (Section 9). The annexes also can be referred to separately or in conjunction with the rest of the document.

May 19, 2004

Table of Contents

1. Background and Methodology	3
2. Summary and Recommendations (N. Hijab)	5
3. Review of the Poverty Reduction through Good Governance Portfolio (M. Darrow)	15
4. Review of the Peace and Development Portfolio (A. Parakrama)	23
5. Strategies to Integrate Human Rights-Based Approaches in the Peace and Development Portfolio (A. Parakrama)	31
6. Review of the Empowerment of the Poor Portfolio (S. Golub)	33
7. Elements of a Strategy to Integrate Human Rights-Based Approaches in the Empowerment of the Poor Portfolio (S. Golub)	38
8. Approaches to Monitoring and Evaluation (S. Golub)	41
9. Sample Human-Rights Sensitive Indicators for Two Projects in the Empowerment of the Poor Portfolio (S. Golub)	53
10. Review of the Environment Portfolio (N. Hijab)	57
Annex 1 HRBA Checklist for Programme Staff	64
Annex 2 Methodology for a Human Rights-Based Review in a UNDP Country Office	66
Annex 3 Frequently Asked Questions About a Human Rights-Based Approach to Development (M. Darrow)	69
Annex 4 List of People Met	75

1. **Background and Methodology**

HURIST (Human Rights Strengthening), a joint programme of UNDP and OHCHR, supports the implementation of the UNDP policy on human rights. Its primary purposes are to test guidelines and methodologies and to identify best practices and learning opportunities in the development of national capacity for the realisation of human rights and in the application of a human rights-based approach to development programming. To this end, HURIST developed guidelines for human rights-based reviews of UNDP country programmes, which were issued in draft in October 2002, with a view to piloting these in selected UNDP Country Offices before finalizing them for adoption.

The Guidelines have since been piloted in Bosnia and Herzegovina, Bolivia, and Benin. The BiH mission produced a Human-Rights Based Assessment (HRBA) checklist, which served as a tool of analysis for the report, as well as a Methodology setting out specific steps regarding the conduct of programme reviews. The exercise is still in its pilot phase and tools and methodologies are being refined based on country human rights reviews, drawing on experiences in different contexts. These have included post-conflict, middle income and low-income countries; sparsely as well as heavily populated countries; and countries where UNDP offices use different programme execution modalities, e.g. DEX (direct execution), the more common NEX (national execution), and agency execution.

UNDP Philippines is the fourth country office to request a pilot human rights review of its country programme.¹ Accordingly, HURIST fielded a four-person mission to conduct the review 26 January – 6 February 2004:

- Nadia Hijab, independent consultant and Director, Development Analysis and Communication Services (team leader);
- Mac Darrow, HURIST Coordinator in the Office of the High Commissioner for Human Rights and expert on international law;
- Stephen J. Golub, attorney, law lecturer and expert on non-governmental organisations, particularly the rule of law and civil society (26 – 30 January); and
- Arjuna Parakrama, policy advisor with UNDP's Bureau for Crisis Prevention and Recovery and former director of the Colombo Center of Policy Alternatives (1 – 7 February).

The terms of reference were drawn up by UNDP Philippines and the team was tasked to:

- Assess the extent to which current programmes integrate a human rights perspective and identify the gaps;
- Propose elements of a strategy and action plan to support rights-based approaches in current and future programmes, particularly in poverty and in conflict programmes;
- Develop sample indicators for two projects and suggest a tool that would facilitate monitoring and evaluation of rights-based programming;
- Provide feedback and capture all findings, recommendations and tools in a comprehensive report.

¹ The programme is nationally executed, i.e., the Government of the Philippines and Filipino Non-Governmental Organisations (NGOs) are responsible for implementing programmes and projects.

The mission adopted the following methodology:

- Desk review of UNDP project documents and related materials from the four programme portfolios: good governance for poverty reduction, empowerment of the poor, environment, and peace and development.
- Workshops with UNDP programme staff as well as with national counterparts at the start and at the end of the mission in order to introduce concepts and progress to date as well as to provide feedback. Mission team members made presentations at the launch workshops on progress in the Human Rights-Based Approach (HRBA) at UNDP and within the UN system as well as on approaches to integrating rights in development. At the first workshop, Attorney Cedric Candelaria, national expert on the constitution and international and national laws, set out the legal framework and the way in which it translated into policies and programmes.
- One-on-one and group interviews with programme staff and national counterparts in Manila as well as on field trips in Samar Island and in Mindanao using the HRBA Checklist (see Annex 8 for list of people met).

The mission faced some constraints common to such reviews, including lack of time and prior discussion with programme managers to identify projects and priorities – lessons learned that have been captured in Annex 2. Throughout, the mission sought to keep in mind the important distinction between good programming, on the one hand, and human rights-based approaches, on the other, as set out in the UN Common Understanding on the Human Rights-based Approach adopted at Stamford, Connecticut in May 2003: “Experience has shown that the use of a human rights based approach requires the use of good programming practices. However, the application of ‘good programming practices’ does not by itself constitute a human rights based approach, and requires additional elements.” In line with the Terms of Reference, the mission team produced the following:

- A review and analysis of the UNDP Country Programme, with each team member assessing one of the four portfolios based on their areas of expertise (Sections 2, 3, 4, 6 and 10 of this Report).
- Strategies to integrate rights-based approaches in two programme areas, peace and development, and empowerment of the poor (Sections 5 and 7).
- Suggestions on monitoring and evaluation and sample rights-based indicators in the empowerment of the poor programme (Sections 8 and 9)

The exercise was very useful in revising parts of the Programme Review Guidelines, including the HRBA Checklist (revised checklist attached as Annex 1) and the methodology for conducting programme reviews (revised methodology attached as Annex 2). The team also produced a note on Frequently Asked Questions on Rights-Based Approaches that will be helpful in other country contexts (Annex 3).

The mission would like to take this opportunity to thank UN Resident Coordinator and UNDP Resident Representative Ms. Deborah Landey, UNDP Deputy Resident Representative Mr. Kyo Naka, and all of their colleagues for their full support and engagement. We would particularly like to thank Ms. Rosanne Wong, who was given overall responsibility for mission arrangements and whose efforts helped to ensure its success.

2. **Summary and Recommendations**²

In setting out the analysis below, the HURIST mission team is conscious of the short period of time it has spent in the country and the need to approach this exercise with recognition of the efforts made by national partners and UNDP staff and the hard work that has gone into the UNDP Philippines Country Programme. This is not a programme audit but an attempt to learn from a country and Country Office that have invested greatly in the HRBA over the past few years, so as to identify opportunities as well as risks and barriers for strengthened human rights-based programming.

Moreover, at the present stage of the HRBA within the UN system, programmes rarely integrate human rights standards and principles at every stage (assessment, analysis, programme design and implementation, monitoring and evaluation). While an attempt is made below to bring out ‘positive’ or illustrative HRBA elements, balanced with constructive criticism, these do not necessarily stem from a coherent overall rights-based project design. A focus on selected elements does not detract from the need for an appropriate and inclusive *ex ante* rights-based situation assessment and analysis.

The framework for analysis is the HRBA Checklist (Annex 1), which addresses five sets of questions relating to the country context, excluded and vulnerable groups, stakeholder capacity, programme process (conduct) and programme outcome (results).

i. **Country Context**

Good governance for poverty eradication, environmental sustainability, and peace are the overarching development priorities in the Philippines, and these are well reflected in the selection of the main Country Programme areas.³ On the positive side, there are many factors promoting the fulfilment of human rights in the Philippines. The 1987 Philippines Constitution forcefully spells out the rights of citizens to a full range of economic, social, and cultural rights as well as civil and political rights, partly due to the fact that the Constitution was developed in the wake of

Country Context

- * What are the 3 top priorities for human development in the country today?
- * What is the environment in the country for promoting human rights?
- * Which rights have yet to be fulfilled for the population as a whole, and what are the structural causes for this?
- * What treaty standards and treaty monitoring body recommendations are relevant in this context?
- * How does the Country Programme support the realisation of human rights?
- * Do programme staff have the capacity to integrate human rights in their work, and a sound grasp of the UN Charter, human rights instruments, and the country constitution?
- * How do other international partners support the realisation of human rights?

² This section was written by Nadia Hijab.

³ The UNDP in the Philippines seeks to help ‘build and share solutions to the challenges of creating an enabling environment to effect poverty reduction through good governance, empowerment of the poor, ensuring environmental sustainability, and establishing the foundations for peace and development.’ GOP-UNDP Program Portfolio: ‘Enabling Environment: Poverty Reduction Through Good Governance,’ p.1. For further information concerning the portfolio’s objectives and key desired outcomes see <http://www.undp.org/ph/environment.htm>.

a successful people's movement against dictatorship. The Constitution not only reflects the rights contained within the major international treaties but also adds rights relating to access to information and participation in public affairs, a right to free secondary education as well as primary education (the highest budgetary allocation is required to go to education), and a right to electricity. The Philippines Constitution is also remarkable in that it provides for the right to a "healthy and balanced ecology" therefore promoting inter-generational rights.⁴ In short, the international and national legal foundations for rights-based development in the Philippines are strong by most standards.

Also among the positive factors promoting the realisation of human rights is the existence of a thriving civil society, marked by strong and organized non-governmental organisations (NGOs) as well as people's organisations (POs). In addition, there are resources on which both claims-holders and duty-bearers can draw in advocating their rights and/or fulfilling their obligations, such as the civil society-based alternative law groups and the government Commission on Human Rights.

There has been major progress in the realisation of rights, and the Philippines is on track to meet Millennium Development Goals like access to safe water, eliminating gender disparities at all levels of education, and reducing the incidence of major diseases. However, there have also been setbacks. For example,

- Official national income poverty decreased from 45.3% of the population in 1991 to 37% in 1997 but went up again to 39.4% in 2000.
- The right to food is not likely to be achieved in the near future: the prevalence of moderately and severely underweight children under 5 years old decreased from 34.5% in 1989–1990 to 30.8 % in 1996, but then went up again to 32% in 1998;
- In terms of the right to education, participation rates in elementary education for both public and private schools significantly increased from 85% in 1991 to 97% in 2000, but 'cohort survival rates' remained at around 69% in the same period.⁵

The obstacles most often mentioned by partners to fully achieving the promise of the Constitution are:

- The country's heavy public debt, much of it accumulated during the dictatorship;
- Corruption, accompanied by a growing lack of faith in the political system;
- The slow legal process;
- Conflicting and overlapping government mandates; and
- The short-term nature of development interventions.

One should add to this the growing international understanding regarding the capacity of elites from all parts of the economic spectrum to "capture" much of the resources

⁴ S.16 Art. 2, 1987 Constitution of the Philippines.

⁵ Figures from "Philippines Progress Towards the Millennium Development Goals: Geographical and Political Correlates of Sub-National Outcomes" by Solita Collas-Monsod, Toby Monsod, and Geoffrey Ducanes in *Journal of Human Development*, Vol. 4, Issue 2, March 2004.

disbursed for development.⁶ These would appear to be among the structural causes for non-fulfilment of rights (insofar as it is possible to make such a sweeping statement after a two-week mission). A human rights-based approach emphasizes the importance of identifying structural causes because it then becomes possible to assess how strategic the Country Programme is in contributing to the realisation of human rights. This point is worth underscoring: even though promoting knowledge about and building capacity for the realisation of human rights are necessary activities, unless structural causes are addressed then progress is likely to be difficult and uneven.

Although the limited scope of the mission did not make it possible to identify the treaty standards and monitoring bodies most relevant to addressing these structural causes, it is worth noting that the Government of the Philippines has lagged in reporting on its obligations to the treaty bodies, as will be further discussed in Section 3.

Activities supported by the Country Programme demonstrate a very good grasp of the international and national legal framework – this is particularly true of projects in the environment and in the governance portfolios. The programme is therefore well placed to contribute to this evolution of a society governed by the rule of law. Indeed, perhaps the most important contribution that development interventions can make is to contribute to a society governed by a culture of rights and respect for the rule of law.

This insight has also emerged in other HRBA country reviews. When programme staff spell out the ways in which a development intervention is situated in the standards established in relevant international conventions, articles of the country's constitution, and national legislation, they make the law a “living thing” in people's lives – their own lives and those of stakeholders. Duty bearers involved in the project better understand the basis for their obligations, and rights-holders understand the basis for (and limitations of) their claims.⁷ All stakeholders take hold of and “own” the law, giving it further content, and contributing to a society governed by the rule of law.

The knowledge of the law is such amongst development practitioners in the Philippines that staff and partners can eloquently discuss the problems of “bringing the law to life”. For example, conflicts can arise between different sets of rights. To cite just a few:

- Freedom of movement of pedestrians versus the right of street vendors and the urban poor not to be forcibly evicted;
- The (inter-generational) right to a balanced and healthful ecology versus the right to an adequate standard of living; and

⁶ This is termed “elite capture” and recognizes that there are hierarchies even amongst the poorest communities. For example, there are exploiters and exploited working the massive garbage dump on the outskirts of Manila.

⁷ Duty bearers are persons or institutions responsible for performance to realise human rights. Rights-holders (or claim-holders) are those to whom responsibility is owed for performance to realise human rights. It is worth noting that duty-bearers are often also rights-holders and rely on others performing their duties in order to be able to, in turn, deliver what they owe.

- The rights of landless migrants versus indigenous people's title to their ancestral domains.

As one stakeholder in the biodiversity project on Samar Island put it, "It is simple if you read the law, but in real life it is not so simple. When does mahogany, planted on Samar Island years ago, cease to be an exotic plant and a violation of the Philippines' obligations as a signatory of the CITES convention and become a native plant? In assessing land rights, how do you tell if people have lived there for five years or not?"

Filipino duty bearers in particular expressed worries that a rights-based approach would lead to unreasonable expectations and to a culture of dependency. There was insufficient understanding that legal standards for all rights help to define performance standards for development in objective and clear terms – as well as to limit the scope for baseless or unreasonable claims or duties (such as 'everyone has an immediate right to a house'). The mission team has attempted to address the questions and to clarify the issues in its note "Frequently Asked Questions About a Rights-Based Approach to Development", which, although still in preliminary form, has been one of the valuable outcomes of this mission (attached as Annex 3).

The above discussion has been structured following the questions listed under Country Context in the HRBA Checklist. The last question in this set relates to other international actors in the country, based on the understanding captured in the Results-Based Management (RBM) system introduced by UNDP in the year 2000. Put simply, the RBM position is that, while an agency and its partners can be responsible and take credit for project outputs, many partners and consolidated resources are needed to secure sustainable outcomes and results. The impression formed by the mission as regards much of the Country Programme (the peace and development portfolio is an exception) is that there is insufficient coordination with international partners, and that the resources are too limited to achieve the kind of results needed to address the structural causes for the non-realisation of human rights.

ii. Excluded and Vulnerable Groups

The Philippines Constitution identifies 16 sectors in the country that required additional attention and investment, an excellent beginning to address exclusion and vulnerability. However, many partners said they lacked data to really identify excluded and vulnerable groups as well as mechanisms to validate that these are really the groups with which to work. For example, the Department of Labour and Employment (DOLE) has a good feedback mechanism with local vulnerable communities such as street vendors, small transport workers, home based workers, etc. The leaders are selected by their organisations and five are women, and DOLE goes as far as

Excluded and Vulnerable Groups

- * Which groups are the most disadvantaged? How are vulnerability and poverty in the country defined?
- * Are tools and indicators to identify excluded groups sufficiently disaggregated?
- * How does the overall Country Programme address exclusion and disadvantage? How do specific projects do so?
- * How do other partners do so?
- * How do partners coordinate?
- What gaps remain?
- * Does the UNDP Country Office adequately reflect the diversity of the country?

giving them space in their offices. But, officials say, “We believe some council leaders may not really represent their sectors.”

Moreover, partners note that vulnerable groups are not “static”. For example, indigenous peoples marry partners from outside their community, labour migrants sometimes move into protected areas, and while people may live outside project areas they earn their livelihoods within these areas.

Several excluded and vulnerable groups are specifically targeted in the Country Programme: the poor, indigenous peoples, and women are among the most prominent, and there is an emphasis on empowerment, both social and economic, the Empowerment of the Poor as well as the Environment portfolios. Civil society groups, NGOs, and People’s Organisations are engaged in project implementation or are well represented in the projects, especially in the Governance and Peace portfolios, and many partners are well aware of the importance of representation. For example, POs are included in network of consortiums formed by electoral reform partner Institute for Political and Electoral Reform (IPER). The Cooperative Development Agency expanded the scope of members to include rebel returnees and the informal sector poor.

However, poor groups are not homogenous. They too have elites who have more power and can better control or “hijack” resources. The mission noted that most projects surveyed had adopted the recommendation of existing local leaders as to which groups to work with and which communities to target.

iii. Stakeholder Capacity

The Country Programme has many diverse partners at all levels, partly due to the fact that it is nationally executed. Due to the relative newness of the HRBA approach, there has not been an analysis of stakeholder capacity, but most projects, especially those in the Environment Portfolio, emphasize capacity building and empowerment of project partners and beneficiaries. Across the Programme there are examples of projects that build the capacity of claim holders to advocate their rights and of duty bearers to fulfil their obligations, to access information and to organize.

Among the partners involved in the governance portfolio, for example, IPER has organized a network on electoral reform that brings together 38 different stakeholder consortia. The Philippines Urban Forum started interacting with one PO, but now includes eight PO federations in its Secure Tenure programme – the first time that urban POs have formed a national network. In the Samar Island Biodiversity Project, there is a consortium of 45 NGOs involved in project formulation and implementation. The NGOs co-manage the project with government in an interesting and unusual set up. This engagement in project

Stakeholder Capacity

- * Who are the Country Programme or project stakeholders and how were they identified?
- * Which are duty bearers and what obligations are they supposed to meet? Do they have the capacity to meet obligations (including responsibility, authority, data, and resources)?
- * Which are claim holders and do they have the capacity to claim their rights (including ability to access information, organize, advocate policy change, and obtain redress)?

management builds capacity to promote rights, and the NGOs are gaining capacity in new areas, for example in contracting, which they identified as a gap.

Overall, there appears to be a missed opportunity to provide simple, basic education on human rights across the Programme portfolio, which could be done with little additional investment, so as to build stakeholder understanding of human rights obligations and claims. An important exception is some of the work in the peace and development and the environment portfolios, which has helped to create the space for mediating conflicts between different rights through human rights education. For example, in Mindanao, project partners noted misunderstandings and misinformation relating to ancestral rights. They provided a venue for discussion to clarify the rights. In one such forum, indigenous peoples reported they had been told by the environmental department that they could cut newly planted trees once they matured in order to generate an income, but were then informed they could not do so. The forum covered all existing laws relating to resources in ancestral domains to enable IPs to deal with their claims.

An important capacity gap – especially given the approach in several projects to use seed money to attract funding – is the capacity for fundraising. The insufficiency of funds to provide embed sustainable results is a constraint across projects. In the Samar Island project, for example, one NGO was contracted to undertake training and capacity building for a local PO, and it succeeded in raising awareness of rights and mobilizing the people, but project funds ran out and the NGO felt no further obligation to assist the PO in securing its resource use permit, leaving the people aware of but unable to secure their rights. Most partners cited serious resource constraints.

The resource constraints also raise the question of whether the Country Programme has favoured breadth of partnerships at the expense of depth. It might have been better to invest in stronger capacity for fewer partners. For example, in the project assisting the National Commission of Indigenous People to secure claims to ancestral domains and manage conflict, the staff have little knowledge of law. Many of the staff members at the Center for Human Rights have insufficient understanding of and appreciation for the importance of human rights. The diffusion of efforts raises questions as to the Programme's ability to address the structural causes for the non-realization of rights.

iv. Programme Process (Conduct)

While several of the Country Programme projects set out the laws relevant to that context, there is as yet insufficient use of the law to provide a standard against which to measure results. This, of course, does not just apply to this country and programme but throughout the development cooperation world, given that HRBA is still so new. Moreover, indicators to measure results in terms of the fulfilment of human rights are as yet under-developed. It is to the credit of

Country Programme and Project Process (Conduct)

- * Does project design and implementation incorporate human rights standards as set out in international and regional conventions? Does the Country Programme?
- * Does project design and implementation incorporate principles of universality, indivisibility, inter-dependence, equality, participation, and accountability? Does the overall Country Programme?
- * Do both duty bearers and claim holders participate in project design, implementation, monitoring and evaluation? In the overall Country Programme preparation?

the UNDP Philippines Country Office that they emphasized the need for rights-based indicators in the terms of reference for this mission, and an attempt has been made to provide a sample of such indicators for one portfolio in Section 9.

In terms of the universality of human rights, this can be promoted in development by making every effort to ensure that people are not excluded from project interventions. The Programme is marked by efforts towards inclusion, an awareness raised by the identification of vulnerable groups in the Philippines Constitution.

The indivisibility of human rights are especially striking in the environment and peace portfolios, which link political, economic, social, and cultural and civil rights. The Samar Island biodiversity project partners recalled how efforts to promote environmental sustainability did not bear fruit until people's livelihoods were addressed.

Several projects show understanding and awareness of gender issues and the need for equality between women and men, a core objective of the human rights based approach. Ethnic and other divisions are addressed through strong support to indigenous people's programmes. Again, the definition of vulnerable groups in the country's constitution has clearly helped to raise awareness of these issues. As noted earlier, the Country Programme is marked by strong participation by civil society, NGOs and POs, although the extent varies across projects. Also, as mentioned above, there is a need to account for what is now called "elite capture", or the ability of better off segments among the poor and disadvantaged to control development resources.

Perhaps the most pressing challenge is the need to strengthen programme in terms of accountability for results in several respects.

- Many of the poverty reduction interventions focus on sustaining traditional livelihoods, although when these have limited markets and raw materials. Moreover, when such efforts are not matched with access to education and new knowledge this may risk keeping people where they are (even if they themselves select the livelihoods). There are exceptions, for example in Mindanao, of supporting non-traditional empowering livelihoods such as soap factories and welding (including women welders).
- Many projects are seriously over-stretched and under-resourced: "Our problem is to find minimum working capital for women after they receive training" said one project partner. In one intervention by DOLE, only 2000 informal sector participants took up the social security scheme as against a target of 5,000 (and a potential need by seven million).
- Short, donor-driven project cycles do not promote sustainability and may cause disappointment and frustration - indeed, they may even exacerbate conflict. This issue was raised both on Samar Island and in Mindanao.

- There is little coordination within and across programme portfolios (the anti-corruption project is an example where there are good linkages), but the reality is that stand-alone projects can rarely achieve meaningful results. As one DOLE employee: “There’s a limit to what one project can do.”

Such factors limit the Programme’s potential to address structural causes for the non-realisation of rights.

v. **Programme Outcome (Results)**

The Country Programme has certainly strengthened the capacity of some duty bearers, for example the Supreme Court blueprint on access to justice. Many rights holders have been given information about their rights and understanding of how they may go about securing them. For example the Ombudsman Literacy forums in Mindanao and Visayas provided data to claims-holders on the number of complaints, explaining that the low number of cases lodged is not a positive sign and how people can be more active about suing for their rights.

In some cases capacity development and information has helped to achieve structural change. The Samar Island-wide rally on 8 August 2003 led to a presidential proclamation of a national park in the areas that the inhabitants wanted protected from mining interests. NGOs have also been able to push provincial ordinances for a ban on mining activities. They use diverse methods: “Since poor people can’t access lawyers, we go to the media and press case there”, explained one.

Another example of a project that addresses structural causes is the voter education campaign by IPER. This is particularly crucial given growing popular disenchantment with the political system. The IPER national voter education summit addressed the patronage system, use of guns, and vote buying. They are investing in human rights education and in the development of a core curriculum that can be used by all their consortia in addition to the materials the consortia may also have developed. IPER uses indicators to gauge voter used by IPER: voter maturity. Although they found that the level of cynicism regarding the political system has risen, there is progress in that the number 1 factor used in assessing a politician’s desirability is their image as a public servant whereas in 1995 popularity was the number 1 factor and is now number 3. (Other projects use indicators that capture progress towards the realisation of rights as well as public appreciation of rights, for example Samar Island NGOs - see Section 10). However, as is the case in other projects, there are insufficient resources to ensure that the capacity built is sufficient to sustain process and realize rights. IPER,

Country Programme and Project Outcome (Results)

* How has the overall Country Programme built capacities to realise human rights in the country? Do these address the structural causes for non-realisation of human rights? Which human rights will be further realised?

* How has the Programme contributed to a culture of rights and respect for the rule of law?

* How does the project build the capacities of duty bearers to meet obligations and claim holders to claim human rights? Which human rights will be further realised? How is this monitored and evaluated?

* Do indicators capture information on the enjoyment of human rights as well as qualitative aspects, such as accountability of public authorities?

based on conference decisions, identified need for 100mn pesos, while UNDP's contribution was 4mn pesos.

Indeed, one of the conclusions emerging in all of the mission's discussions was the need to coordinate with other donors in order to mobilize resources for strategic results and address the structural causes that impede the fulfilment of human rights. In other words, there is an important link between donor coordination, internal programme coherence, and the outcomes and impacts described in results-based management (RBM).

vi. Recommendations

In general, it is difficult to evaluate the extent of UNDP's success in integrating the Human Rights-Based Approach to development in the absence of benchmarks to gauge success. Many of the projects reviewed below have adopted processes that are traditionally applied by implementing institutions even prior to their exposure to rights-based approach to development, e.g., community-organizing, consultation, empowerment.

It is also worth noting that remedies for violations of economic, social and cultural rights are not yet as fully established as those for civil and political rights. There is a need for discussion and promotion of the justiciability of ESC rights as part of UNDP's capacity building efforts in governance to improve or restructure existing mechanisms.

Specific recommendations are included in the discussion of each of the Country Programme portfolios in Sections 3 – 10. Here, it is worth highlighting three overarching recommendations:

- The Programme could be repositioned to address structural causes This brief review has identified five structural causes to the non-fulfilment of rights: the public debt; corruption, accompanied by a growing lack of faith in the political system; the slow legal process; conflicting and overlapping government mandates; and the short-term nature of development interventions. Fewer, more strategic and better resourced projects addressing these and other structural issues, together with better coordination with other donors in the country to maximise resource use, would have a more powerful and sustained impact on human rights and improve accountability for results.
- Linkages across portfolios While in some cases the spread of the Programme leads to under-resourced projects with limited sustainable capacity, the other side of the coin is the strength in the significant number of partnerships and tremendous outreach. Linkages across projects would bring great value-added with little additional investment – for example voter education could be added to the empowerment of the poor and the environment portfolios, which reach thousands of people. The empowerment of the poor portfolio could, conceivably, focus its livelihood work within the environment portfolio. A built mechanism to ensure linkages across portfolios should be developed and put in place.

- Longer-term commitment to development interventions There is a need to find a way to move beyond short-term, donor-driven cycles especially when strategic issues such as peace and development are addressed. The Mindanao project is a case in point, where serious setbacks and conflict could be the result of project termination. But in a country where many regions could see recurrence of conflict it may be better not to begin an intervention unless it can be sustained so as not to raise expectations which, unfulfilled, may lead to conflict. Longer-term and more strategic interventions would optimise the resources and ensure sustainability.

3. **Review of the Poverty Reduction through Good Governance Portfolio**⁸

The second CCF for the Philippines establishes that poverty alleviation shall be the core business of UNDP Philippines, with governance interventions as the major means to achieve this goal. This highlights the importance of viewing the governance portfolio in an integrated manner with the ‘empowerment of the poor’ and other portfolios, and ensuring that progress is measured in accordance with a human rights-based definition of poverty.⁹

There are nine projects within the governance portfolio.¹⁰ The mission team received the nine project documents in advance of the mission, and short project updates (current to 2003/2004) upon arrival. Otherwise, the mission team’s assessment was based upon interviews carried out on February 2 with the nine project clusters, forty-five minutes per project, with questions framed loosely in accordance with the HURIST draft HRBA checklist. Further interviews were conducted at the end of the mission.

i. **Country Context**

The root causes of governance problems in the Philippines cannot be determined by reference to the issues covered within this portfolio alone. At the same time, ‘governance’ problems (corruption, undue influence, lack of motivation of bureaucrats, lack of resources and other such factors) were identified as being at the heart of underlying problems within the three other programme portfolios. Within the sphere of electoral and political reforms, the more particular concerns identified by programme partners included: a patronage-based political system, intimidation and human rights violations by private armies, vote-buying, widespread apathy and lack of civic education, weakness in journalistic ethics and responsibility, and populist electoral politics. High turnover within the bureaucracy, an inefficient judiciary, a climate of personal insecurity including human rights violations perpetrated by police and law enforcement agencies, and disruptions upon change of political administrations (political appointees filtering down to middle-levels within the bureaucracy), were also identified among the structural causes for the non-realisation of human rights in the Philippines. Mention should also be made of the need to reform and strengthen the political party system as a major concern since this impacts on all the other electoral and political concerns.

The Philippines government is party to the major six international human rights treaties (see HRBA checklist), although its record of reporting and implementation could be significantly improved. The mission team was advised that recommendations of at least

⁸ Section 3 of this report was written by Mac Darrow.

⁹ The National Anti-Poverty Commission is said to be working on such a definition, which is necessary to monitor progress not just in poverty eradication but also for governance programmes.

¹⁰ These are: (1) Electoral and Political Reform PHI/02/06; (2) Judicial Reform PHI/02/07; (3) Legislative Reform PHI/02/12; (4) Civil Service and Economic Management PHI/02/09; (5) Decentralisation and Local Governance PHI/02/10; (6) Right to Development PHI/02/11; (7) Anti-Corruption PHI/02/08; (8) Globalisation and Corporate Citizenship PHI/02/13; and (9) Governance Review PHI/02/14.

two international human rights accountability mechanisms had served a constructive role in national level policy debates in the past, prompting action to rectify identified human rights violations: (1) the Committee on Economic, Social and Cultural Rights in 1997, responding to reports of forced evictions in 1997 (a human rights issue with direct and obvious development relevance); and (2) the Special Rapporteur on the Rights of Indigenous Peoples, on issues concerning indigenous peoples' rights to ancestral domains. The effectiveness of such international accountability mechanisms could be leveraged further for development ends, with additional support to the government to help bring it into step with its reporting obligations, and engagement of wider national constituencies (including the media, CSOs and the CHR).

ii. Excluded and Vulnerable Groups

A human rights-based approach mandates a focus upon the most excluded and vulnerable, looking beyond aggregate or average development attainments to directly address issues of equity and discrimination. There is an explicit awareness within the programme rationale and much of the project documentation of the need to reach the most disadvantaged, and integrate gender analysis across portfolio activities. This comes through very strongly as part of the HRBA capacity-building efforts of the Commission on Human Rights (CHR) within the framework of the 'Right to Development' project, within the resource constraints and limited reach of project activities to date. Other selected examples from across the portfolio include:

- A national survey on access by the poor to the Public Attorney's Office (PAO) categorised vulnerability by reference to 14 'basic sectors' (including farmers, fisherfolk, urban poor, indigenous people, migrant workers, women, children, elderly, disabled, victims of disasters, and others) identified under National Anti-Poverty Commission legislation, although as will shortly be seen, there were identified limitations in how far the survey *process* itself went in directly involving justice sector 'clients' and vulnerable groups and ensuring that their perspectives were registered. In addition, NAPC's definition of poverty is not rights-based, as noted in Section 6, p. 33.
- The Institutional Strengthening Programme of the Cooperative Development Authority, under the Civil Service and Economic Management project, goes beyond traditional farmers' cooperatives to reach displaced employees in other sectors such as education, and targets middle- and lower-income groups and people in conflict areas.

However more systematic efforts to target the poorest of the poor should be encouraged, ensuring that the processes and outcomes of development are not dominated by elites.

iii. Stakeholder Capacity

The programme documentation reflects a clear and accurate delineation between different stakeholders as ‘claim-holders’ and duty-bearers’ respectively, and basic understanding of the kinds of obligations owed:

- The three branches of Government Institutions are viewed as ‘duty holders . . . in performing the state’s obligations to respect, protect and fulfil human rights[.]’
- Private sector (economic) entities are regarded as ‘duty holders regulated by government with enhanced corporate citizenship in terms of transparency, responsibility and accountability . . . particularly engaging in practices that are non-violative of human rights[.]’
- Civil society organisations ‘organise, mobilise and transform people’s participation as claimholders of rights into a social force that provides check and balance on government powers and abuses in the context of full realisation of human rights[.]’¹¹

Consistent with the UN Common Understanding on a rights-based approach to development cooperation, and with the updated CCA/UNDAF guidelines, the ‘Suggested Guidelines for Project Development’ advocate causal analysis ‘identifying causes and necessary attribution to specific rights involved,’ as well as a mapping of duty-holders, claim-holders and others in positions of responsibility and influence in connection with the rights and root causes previously identified. While some important steps have been taken to reflect these requirements, rights-based stakeholder mapping (identifying the content of applicable rights, who is entitled to claim them and who are required to respect, protect and fulfil them) across the portfolio remains a work-in-progress.

The capacity-building programme headed by the Philippines Commission on Human Rights under the ‘Right to Development’ project uses HRBA methodology and training tools that are similarly explicit about human rights causal analysis, and claim-holder/duty-bearer analysis. Partners/beneficiaries are key government agencies, CSOs and media institutions, although the CHR’s own capacities are in urgent need of strengthening if the impacts of this ambitious capacity-building project are to maximised and sustained. One of these partners, the Task Force Detainees of the Philippines, subsequently developed and implemented follow-up HRBA training of its own, as did the Concerned Citizens of Abra for Good Governance (CCAGG) with the framework of the innovative ‘Participatory Project Monitoring’ (community-based audits) component of the Anti-Corruption project.

In the CCAGG (Abra) case, the HRBA knowledge was incorporated within training modules on community empowerment, focusing on technical, social, and financial aspects. The practical impacts as reported to the mission team were to help people gain courage to bring their complaints of corruption to CCAG, which transmitted them to

¹¹ GOP-UNDP Program Portfolio, ‘Enabling Environment: Poverty Reduction for Good Governance,’ Vol. I-1 (2003).

implementing agencies and ensured follow-up. Media (newspaper and radio) components played a significant role. CCAG also plays a role in helping indigenous peoples with their livelihood and ancestral land claims under the Indigenous Peoples Rights Act (1997), within the framework of the Anti-Corruption project. This project might be looked at as a potential model within the scope of future UNDP-supported programming.

The portfolio documentation reflects a reasonably broad understanding of the term ‘capacity-building,’ embracing material and human resources, knowledge/awareness-raising, constituency building, action research, policy advice and advocacy, consensus building, information management and systems development. However there was little evidence within the portfolio as a whole of capacity-building strategies being targeted towards the fulfilment of particular *human rights*. This could be done by spelling out the rights whose fulfilment would be supported by a specific project, for example rights to information, participation, association and other civil and political rights as spelled out in the Convention on Civil and Political Rights, as well as relevant rights in the Convention on Economic, Social and Cultural Rights. This is more than a matter of semantics, as a focus on human rights capacity-building and accountability has direct consequences in terms of implementation and advocacy strategies, partnerships, cross-sectoral linkages, and institution building elements required. Accountability for human rights realisation, guided by the standards in the 1987 Constitution and international law, brings something distinctive and concrete to capacity-building in the governance field.

Moreover as a general observation there is a risk of focusing disproportionately upon ‘capacities’ in a traditional sense, as distinct from questions of undue influence, corruption, counter-incentives and motivational issues frequently at the heart of human rights-based analyses of development problems. A number of projects within the portfolio seemed to have strategic significance in seeking to address such underlying causes, notably the Electoral and Political Reform, Decentralisation and Local Governance, and Anti-Corruption projects. The CCAGG (Abra) Participatory Project Monitoring activity within the Anti-Poverty project has already been highlighted for mention in this regard; corruption complaints are signed by all community members, assisted by legal officers, in order to assure a measure of protection. Related portfolio initiatives insofar as rights-holder and duty-bearer ‘capacity-building’ is concerned include initiatives by the Transparency and Accountability Network (TAN) in ‘Developing Civil Society to Fight Graft and Corruption’ (including public literacy programmes, Ombudsman Watch, and Right to Information activities), and strengthening the capacities of the Philippines Centre for Investigative Journalism.

However, with certain exceptions, much of the actual activities undertaken to date within the portfolio have been directed towards knowledge building and research, rather than the many other kinds of capacities needed to address structural causes, such as mobilization and organization to hold duty bearer accountable. This is a factor that could be taken into account in the next programme cycle, along with necessary strategic prioritisation. While this may be necessary in the light of the initial stages of most of the projects, there is a need to move towards a comprehensive, long-term and strategic approach to address the

root causes raised in the research and initial discussions. The point was raised that structural reforms may sometimes be outside the scope of interventions supported by the UN development system. However, the UN can contribute to the efforts of national partners to raise awareness of critical issues and ways to address them, such as the country's debt burden.

One of the defining attributes of a human rights-based approach, and a necessary part of the process of claiming human rights, is that remedies should be available in the event that rights are violated. This means that information about human rights entitlements (under the Philippines Constitution and international law) needs to be widely known, with attention given to creating or strengthening accessible and effective redress mechanisms (of an administrative, judicial or other appropriate kind). A 'Baseline Study on the Access to Justice by the Poor and Disadvantaged' was carried out under the 'Access to Justice' project between September 2002-September 2003', with survey results in three areas of concern in terms of access to justice by the poor: (1) legal practitioners; (2) the Public Attorney's Office; and (3) the situation of detainees. The question of how these outputs relate to the wider justice sector reform agenda – encompassing formal and informal sectors – in the Philippines is worthy of consideration.

Other portfolio initiatives bearing upon the ability of rights-holders to claim their rights and obtain remedies include the Citizen Voters Education Campaign (2003) and associated regional workshops, voter education modules and mass campaign, within the framework of the Electoral and Political Reform project. While at an early stage, the explicit intention is to help Filipinos better understand and exercise their political rights. Anti-corruption and civil service reform initiatives will be vital supporting linkages to address the problem of voter apathy and cynicism identified in the Filipino Voter Behaviour psychographic survey. And while on a relatively modest scale, the Participatory Project Monitoring, community-based training and public audit (at local government unit or *barangay* level) activities within the Anti-Corruption Project are directly intended to equip people with the information and skills required to assert their rights and hold public officials accountable. The media has an obviously vital role to play in this regard, recognised within the Anti-Corruption and Electoral and Political Reform projects, although as a general observation it seemed to the mission team that the roles and inputs of media partners and the Institute for Political and Electoral Reform (IPER) could perhaps be better coordinated within the portfolio. There is an opportunity to promote the media's role beyond the context of citizen-voter education and anti-corruption campaigns, to address other governance concerns.

Finally, an important mechanism at local level to help people claim their rights are 'Barangay Human Rights Action Officers' (BHRACs), located within a growing number of *barangays*. BHRACs fulfil human rights awareness-raising and complaint-handling functions. Efforts have been made to put these in place by law, and UNDP could assist in supporting such legislation given the value of this mechanism.¹² CHR continues to

¹² The establishment of BHRACs came about as a joint undertaking of the CHRP, Department of Interior and Local Governance (DILG), Local Government Academy (LGA) and other institutions through a

advocate for more widespread and strengthened role for these officers. UNDP could play a significant role in supporting capacity-building efforts at this level of governance, the level most proximate to people's daily lives. There are no references to the important role of BHRACs within the 4-volume 'Compilation of Best Practices at *Barangay* Level' produced under the Decentralisation and Local Governance project in 2002. The Compilation contains a valuable, comprehensive and user-friendly set of practices in many project sectors and activities including education, health and sanitation, housing, environmental management, participatory and gender-sensitive planning, and participatory implementation, monitoring and evaluation in *barangay* projects. However, with limited exceptions (notably, education¹³), human rights foundations and practical implications are lacking. There is an initiative by CHRP and DILG to capture human rights best practices at the local level, including BHRACS, which could be supported by UNDP along with strengthening and publicising the role of BHRACs.

iv. Programme Process (Conduct)

The mission team observed varying degrees of awareness of the importance of quality of process among national partners and UNDP programme staff as well as (and linked with) substantive development outcomes. However the picture is a variable one depending upon which principles are involved. Many national partners and UN programme staff have participated in HRBA training either under CHR or UNDP auspices, and display an impressive knowledge of HRBA programming principles. But further capacity-building is required across the board in order to help institutionalise that knowledge, develop the practical tools to apply it more evenly, and create incentives for sustainability.

To illustrate, the principles of 'indivisibility' (human rights of all kinds – civil, economic, social, cultural and political – are equal) and 'inter-relatedness' are recognised clearly in the rationale and description of the governance portfolio itself. The right to vote may matter little to the many Filipinos without adequate food or shelter. Economic and social disadvantage exacerbate political disempowerment, personal insecurity and related vulnerability. Projects such as Electoral and Political Reform, Civil Service and Economic Management and the Anti-Corruption Project are focused directly on civil and political rights protection. However, it seemed to the mission team that the internal coordination mechanisms could be improved, linking with 'Empowerment of the Poor' and other portfolios focused on a broader range of human rights.

Memorandum of Agreement among these partners, and subsequently through administrative or executive orders. There have been several bills to institutionalise BHRACs but Congress has not passed them.

¹³ In the 'Barangay and Overseas Scholar' best practice, the State's Constitutional obligation to provide universal, free public elementary school is highlighted at the outset. But the problem of prohibitive non-tuition expenses isn't considered as a human rights issue, nor are the government's responsibilities otherwise raised in the discussion of a private scholarship scheme. Security of tenure is likewise not considered within a human rights framework ('From Swamps to Humane Settlements', Barangay Dap-Dap, Legazpi City), nor health, sanitation or participation. This is not to impugn the importance and value of the Compilation, nor question the merits of particular 'best practices.' Rather, the intention is to signal scope for improvement from a human rights standpoint.

The principle of participation is well articulated within the implementation strategies for each of the project documents within this portfolio, and to some degree in practice. For example under the Electoral and Political Reform project a nationwide psychographic survey on voter behaviour was undertaken, by means of stratified sampling methodology, including rural, urban, Muslim and other areas. This was followed by focus group discussions led by local leaders to validate the survey results, supplemented by case studies and informal feedback mechanisms. However, as discussed with the national partners involved, from a rights-based perspective there is a need to go beneath the level of the elites and local leaders in order to capture the perspectives of ordinary people themselves, as far as this is possible. Quality of representation cannot too readily be assumed, and statistical results alone cannot be relied upon.

The importance of ensuring the representation of stakeholders in survey/research-related initiatives was highlighted in the 'Baseline Study on the Access to Justice of the Poor and Disadvantaged' within the Access to Justice project (an urban bias being observed in that case). Other particular lessons documented by that project include the need to translate questionnaires into local dialects before conducting the survey, limited success of regular mail services for self-administered surveys, the vital role played by Alternative Law Groups, and ensuring that quality of data is not sacrificed to expediency of process.

v. Programme Outcome (Results)

The mission team raised questions concerning the wide scope of the governance portfolio, within an overall framework of limited resources. While the portfolio is a relatively new one (most national partners concerned are first-time partners of UNDP), the mission team felt that the impact of activities would be enhanced through strategic prioritisation, within an overall mapping of donor activities. Although it may be useful to invest in strategic short-term projects, a case can be made for moving towards longer-term initiatives focused on a few structural causes, with sufficient resources mobilized to address these in partnership with national and international donors. 'Capacity-building' should move beyond 'capacities' traditionally construed, with a more concerted focus upon root causes of governance problems identified through rights-based assessment and analysis (referred to above in Country Context).

A number of projects seemed to the mission team to be of strategic importance in light of the root causes identified, notably those concerning Electoral and Political Reform, Civil Service and Economic Management, Anti-Corruption, Decentralisation and Local Governance, and Judicial Reform. This implies a longer-term commitment (five to 10 years) by all partners in terms of aiming for strategic results. The Right to Development project is unique in its rights-based conceptualisation and strategic in its purpose, but hampered significantly through lack of needed implementation capacities.¹⁴

¹⁴ A comprehensive and ambitious design report for the CHR 'Re-Engineering Project' on a Rights-based Approach to Development was completed in October 2003, aiming to position the CHR to catalyse and build capacities for the implementation of a rights-based approach in areas including public resource management, national budget processes, legislation and policy analysis, and national and sub-national sectoral and agency planning.

Strengthened intra-portfolio and cross-portfolio coordination would be likely to enhance impacts. The Governance portfolio should emphasize interactions and linkages with the other three portfolios given the fact that rights-related problems of development are frequently rooted in the area of governance. This has obvious implications for monitoring and evaluating project outcomes, which will depend significantly upon what other donors and actors are doing.

It is impossible to monitor the progress realisation of economic, social and cultural rights without reliable and disaggregated baseline data, adequate statistical and analytical capacities at national level, and independent (including community-based) monitoring capacities. The 'obligation to monitor' progressive realisation is part of what is known as the 'core content' of economic, social and cultural rights. Certain projects have either developed human rights-based indicators, or indicated the intention to do so. For example the updated indicators within the recently completed baseline study on the State of Cities Governance, within the Decentralisation and Local Governance project, were reported to include indicators sensitive to gender and human rights, although the mission team did not receive a copy. It is hoped that the sample human rights-based indicators set out in Section 9 of this report will be of use in this regard.

4. **Review of the Peace and Development Portfolio**¹⁵

The following review and assessment of the Strengthening the Foundations of Lasting Peace and Development in Southern Philippines (Third Phase) initiative, commonly known as the Mindanao Multi-Donor Programme, is based on a two-day field visit to the area, a desk review of project-related documentation and discussions with field and programme staff. The field visit included the following:

- Discussion with Vice Mayor, community representatives and staff at Buluan, and subsequent visit to refugee camp in the vicinity, which included a few one-on-one interviews with community leaders.
- Discussion with doctor, nurse and support staff at a Maguindanao health post and one interview with an auxiliary health worker.
- Discussion with members of a women's cooperative group at Lumlum.
- Individual discussions with key project staff based in Davao City, including the Programme Coordinator.
- Roundtable dialogue with a cross section of senior Peace & Development Advisers and national UN Volunteers.
- Meeting with two representatives of the Bangsamoro Women's caucus

This component of the review was seen as an opportunity to learn and understand the nature of the programme, based on a series of open-ended and informal discussions. Questions related to the inclusiveness and coverage of programmes, the democratisation of decision-making and the awareness among members of the reasons for decisions, the processes and practices of dissent and appeal, as well as the potential for realizing an alternative leadership that did not reflect entrenched and militarised hierarchies.

Throughout the visit and in the discussions at the UNDP office in Manila, all individuals and groups extended their fullest support and cooperation. The levels of commitment and openness displayed by the staff and volunteers alike were overwhelming.

Among the major constraints of this component of the HURIST Review process are (a) the lack of time, (b) the need for translation when speaking with the communities, (c) the lack of prior access to relevant documents and reports, and (d) the fact that it should have been a more participatory exercise from its conception, design and analysis. Yet, the issue of inadequate time and resources will always remain, and it is in the nature of such reviews that they are, to a great extent, top-down in their planning. It is, therefore, hoped that the Report itself is shared with all the people who so generously gave of their time and expertise, and that their validation be sought prior to its wider circulation.

¹⁵ Section 4 and 5 of this report were written by Arjuna Parakrama. Dr. Parakrama is happy to make a more detailed account of the interviews and analysis of project documentation available on request.

i. Context

It is clear that the Mindanao Multi-Donor Programme (MPP3) addresses a crucial development priority, since systemic exclusion of the island from the mainstream of development activity was one of the chief causes of the Moro insurgency. Unfortunately, the history of the region and its prolonged conflict taken together provide yet another example of the thesis that violence is an effective if costly means of obtaining quick redress for structural discrimination, marginalisation and exclusion. It was only after non-democratic means were used by the Moros that the initial December 1976 “Tripoli Agreement” between the Marcos administration and the MNLF, brokered by Organisation of Islamic Conference was reached. Subsequent reneging on agreements and understandings and realpolitik has resulted in its many iterations and revisions, involving the four following administrations. However, it is as a result of the September 1996 Final peace agreement (Ramos administration) that Executive Order 371 established the Special Zone for Peace & Development in the Southern Philippines, whose programme is implemented in 14 provinces and 9 cities in the region by the Southern Philippines Council for Peace & Development.

What has complicated an already fraught and complex situation is the ascendancy of the Moro Islamic Liberation Front (MILF), with which the programme has no direct link.¹⁶ The challenge is, therefore, for the ownership and manifest benefit to the MNLF communities to evolve into a broader based and less partisan agenda, so that all can profit equally from the programme.

The issue, of course, is that areas (whether they be municipalities or *barangay* or villages) have already been selected by the MNLF on the basis of their self-interest, so that it is mainly through the addition of new areas that the broader balance can be restored. Yet, the serious constraints on both funds and capacities for expansion militate against the inclusion of new areas. Ideally, a twin process of consolidation and expansion needs to be undertaken in the next phase, if the positive momentum and credibility of the programme is to be maintained.

Discussions with a cross-section of senior Peace & Development Advisers (PDAs), all former MNLF commanders, indicated that they are ready to go into new *barangays* where the MNLF has no direct stake, but three constraints are (a) whether the MILF (and other protagonists such as the Abu Sayyaf) sympathisers in these communities will accept another leadership, (b) whether additional funding will be available for this expansion, and (c) whether capacities both institutional and individual can be readily accessed to accomplish these additional and difficult tasks.

Indeed, this raises specific issues related to programme design and formulation. What is the role of the peace building programme(s) in relation to the equity and rights issues that

¹⁶ For an account of the vicissitudes of the Moro liberation struggle both externally, against the Philippine state, and internally, among its own factions, coalitions and counter-factions, as it relates to the UN programme, see the Paul Oquist Mission Reports (1999 – 2003). A detailed bibliography is also available on request.

functioned as “root causes” for the original conflict vis-à-vis the more narrowly political agenda of the conflicting parties (e.g. Philippine Government and MNLF)? It seems that the programme addresses the political consensus as a first and most important prerogative, and only within that framework deals with the human rights and equity issues which caused the conflict. To be more specific, the programme’s loyalty and circumscription by the agreements with MNLF resulted in (a) the MNLF selecting the areas (*barangay*) of engagement, (b) MNLF commanders became the Peace & Development Advisers, and (c) areas of current armed conflict or disturbance (such as places where Abu Sayyaf was powerful or the NPA was active) were left out of the programme. It can be argued that a different set of conflict-sensitive and rights-based criteria would have yielded a different group of *barangays*, with greater exclusion, higher poverty and deprivation, lower literacy etc.

The situation is further compounded by the fact that the new political arrangements with the MILF would inevitably result in another shift in the project, if its primary commitment is to support national-level moves (at Track I level) which prevails over the more complex yet substantive rights issues. In fact, in this rather cynical light, the entire project can be seen as a kind of *quid pro quo*, or incentive for continued negotiations, and “elite capture” (with the MNLF leadership functioning as the leadership here) becomes the official agenda of the programme.

ii. Excluded and Vulnerable Groups

The most disadvantaged and vulnerable groups from a conflict-sensitive perspective are the target population of this programme. Moreover, all human development indicators demonstrate that the *barangay* of Mindanao are among the poorest and least empowered in the Philippines. Yet, within this broad concentration of disadvantaged and vulnerable communities, a pre-selection of those with specific MNLF buy-in has tended, at least in the earlier stage of the programme, to exclude more remote and severely conflict-affected areas (for instance those under Abu Sayyaf influence and Marxist control). Since the 1978 split which created the MILF, numerous unity agreements and alliances have been reached between the MNLF and MILF, yet the current political leadership is both complex and unstable. Hence, the inclusion of supporters and sympathizers of all groups and factions is imperative for long-term peace and stability. At the same time these very uncertainties and tensions make such efforts at inclusion (particularly under a MNLF field-level leadership) most difficult.

A remarkable development that the programme needs to nurture is the growing independence of the PDAs, for whom the peacebuilding process has become a crucible for moving beyond narrow political agendas. However, as a result of PDAs beginning to think more autonomously on issues such as inclusion (of people of other political and religious persuasions, for instance) and their growing self-confidence to question the MNLF leadership, some slight tension surfaces from time to time. The view was expressed that previously no one would question the MNLF leadership, even on small issues!

Also, at the ground level, there are accommodations and alliances between the MNLF and MILF cadres and sympathisers. The confidence was expressed that PDCs can negotiate with the MILF at the community level. Yet, this is only so of the PDCs in which the programme is currently operational. The original selection of areas for intervention appears to have been skewed in favour of less conflict-affected locations, with only 2 -3 PDFs affected by conflict in the last phase.

At present the chief obstacle to the inclusion of those so far left out (the poorest, Christians and Lumads, remote conflict-affected locations etc) remains, however, the lack of resources, and particularly the uncertainty about the extension of the programme beyond June 2004.

iii. Stakeholder Capacity

The primary stakeholders are the MNLF cadres, their families and the communities they come from. They were selected on the basis of the agreements entered into by the Government and the MNLF leadership in 1996, as a confidence-building measure. Former MNLF commanders volunteered as PDAs, and they still remain the backbone of the programme's community outreach. At the administrative level the change from the Southern Philippines Council for Peace and Development to the Mindanao Economic Development Council (MEDCO) has not been without its problems. In the first instance, as described below, MEDCO was not part of the initial process, and hence feels less ownership with the process thus far. In addition, since it is not an operational institution with experience working with UNDP, systems and modalities need to be reinvented, and this has led to further uncertainties and delays.

The key point to be reiterated here is that uncertainty, delays, lack of ownership and/or understanding at the administrative and resource mobilization levels is a major obstacle to the continued success of the programme, and will erode community confidence in the peace building process itself.

Moreover, it is urged that the principle of voluntarism be revisited in the current context for the following reasons: (a) the PDAs have demonstrated clearly that they are committed to the programme and have worked without payment for many years, so there is no issue of ownership/dedication, (b) the increased workloads and hence demands on personal time make it impossible for the PDAs to take on other paying jobs or even be productively self-employed, and therefore (c) only the relative elites and those with other sources of income would be able to function as PDAs and hence lead the development impetus in the ARMM and adjoining areas, leaving out the less advantaged due to no fault of their own. In addition, (d) payment constitutes a validation and public recognition of their work, while at the same time providing a legitimate basis for insisting on professionalism in relation to achieving targets, quality and frequency of reporting etc.

Even in discussions with senior PDAs, there appeared to be a sense of fatigue and creeping frustration at the increased demands on their time and expertise, with no concomitant recognition that they needed to be breadwinners for their families.

iv. Programme Process (Conduct)

In the initial formulation, the exclusive targeting of MNLF resulted in an erosion of the principle of equality. Though the contextual reasons for such selection may be rationalized on the basis of greatest urgency of need, but through time a more inclusive approach is essential. The third phase of the programme claims to have become more inclusive in that it seeks to bring in those who are not former MNLF combatants or their extended families, but it is only now that the leadership has actively begun this process. Tangible results of this shift to inclusivity are still hard to identify, and this is also an indicator of how slow and difficult the shift has been. Part of the problem is that this requires engagement in entirely new communities, often in less accessible areas, and this has stretched staff and funding capacity to its limits.

Indeed, the search for a non-militarised (and less politicised) alternative community leadership is a challenge that runs through this assessment as well as the programme documents. The need for greater inclusion was recognized in the third phase, but since 2000 tangible results on a sufficiently large scale have not been forthcoming. Two implications of this are (a) the need to look for an alternative leadership within already mobilized PDCs, to include a multi-religious, multi-cultural representation from the poorest and most marginalized groups, and (b) to expand the programme to hitherto excluded communities which have been marginalized by the MNLF/MILF political process etc. Moving towards inclusivity and non-sectarianism is a crucial stage in the peace building process (once it goes beyond immediate needs and grievances of a specialised nature) that must be supported.

Another issue is sharing and participation in decision-making. The extent to which communities (even community leaders) are (a) involved in, and (b) aware of decisions taken that have a direct bearing on their lives and projects remained unclear. In the admittedly inadequate sample of discussions undertaken during the field visit, the findings were that there was negligible involvement at the PDC level in macro/meso decision-making, and even awareness of the decisions (particularly the rationales etc) was not widespread. Decisions taken at another venue (for instance, savings interest or daily wage payments to members involved in economic activity on behalf of the CO/PDC) or at least orchestrated elsewhere are implemented strictly but there appears to have been little discussion of the principles involved, nor is there any manifestation of the kind of empowerment that encourages the free expression of dissent.

v. Programme Outcome (Results)

The building of capacities of duty bearers to meet obligations does not seem to have kept pace with the claim holders to demand their rights. This has resulted in a mismatch and some tension as described earlier.

Delays in implementation are also a product of the joint programming process among UN agencies, though this is not purely a problem with the current programme since it

involves broader institutional issues and the agency and inter-agency levels. The precise relationship between/among the various participating UN agencies (UNFPA, ILO, FAO, UNDP) remains unclear and is symptomatic of the difficulties of doing joint programming under the existing UN institutional framework, rhetoric to the contrary notwithstanding. It is not clear what has the programme (and indeed the Country Team) has done to facilitate a genuinely shared intervention, where all agencies work together (as opposed to working in separate sectors) and where decision-making is mutual and consensual.

The UNDP coordination role appears not to have fulfilled its potential. There is no structural arrangement in place, and different agencies have different mandates, modalities, and agendas that have not been brought together in any cohesive and consistent way. This becomes most problematic on the ground, in the interaction with communities, since a more holistic and rights-based approach requires the combined effort of all agencies. Otherwise, confusing, even contradictory messages are given to partners and PDCs. This requires more than the concurrence of field level operations of the various UN agencies. The Country Team itself must take on the responsibility of institutionalising these joint arrangements, and for this the UN Secretariat (or other appropriate apex body) should provide for the recognition of such joint work. At present, agency heads are assessed mainly on their work within their respective agencies, and inter-agency initiatives are generally perceived as additional workloads.

The entire thrust of the programme is on sustainable and alternative livelihood support for poor communities who have been seriously affected by the conflict. Though anecdotally and based on observable evidence there are demonstrable results on the ground, a more detailed study is required to demonstrate exactly how this has affected excluded groups, and/or differentially benefited to less vulnerable groups. Closely linked to this is the issue of local leadership, which still appears to be in the hands of the non-poorest, and is still fundamentally Muslim (though some Christian and Lumad members grace the people's organisations).

On the positive side can be seen the mainstreaming and internalisation of the programme processes by some municipalities, which makes a key stage in the sustainability and influence of the peace building and development nexus. All *barangays* in some MCs have been declared as PDCs, in recognition of the crucial role that PDCs play and should play in the future.

The environment created in the sites visited in Davao City, Cotabato and Maguindanao and evidenced from general discussions as well as available documentation, is one extremely conducive to sustainable human development. In fact, even in the difficult circumstances of the refugee camps in Buluan, the relaxed atmosphere and excellent relationship between host and visitor communities was remarkable. The refugees even said that they were reluctant to return to their homes after the situation went back to normal!

Under the new leadership of the Programme Coordinator, documenting lessons learnt has been prioritised through a number of initiatives such as the circulation of a news magazine, which includes 5 – 6 stories from the field, as well as a detailed manual, which is in the final stages of completion. This should go a long way towards consolidated institutional memory and streamlining future interventions. It is hoped that the manual is rights-based in its approach.

vi. Core Issues and Recommendations

- Even from preliminary discussions with various stakeholders in the three regions of Mindanao (political leadership, government line agencies, people's organisations, *barangay* officials, community members, UNDP staff etc.) and with field staff in Manila, a clear consensus emerged that this initiative needs to be continued beyond June 2004, into another phase. Else, the communities and the entire range of participants in the elaborate multi-agency support structure will be isolated and left out, and this will indisputably exacerbate the conflict. An extended discussion with four national UN Volunteers working in the programme and six key volunteer Peace and Development Advisers (former MNLF commanders, some of whom are now *barangay* Captains and Municipal leaders in their respective areas), bore this out quite forcefully.
- On the issue of consolidation vs expansion to new PDCs/*barangays*, the views of key stakeholders are divided. On the one hand, only a few PDCs are developed to the point of being self-sustaining and hence the vast majority of the 160+ need to be supported, while on the other hand, there is a growing demand for expansion to adjoining (and even remote, "NPA infested") *barangays*. Particularly given the recent changes in the overall political landscape, the entire credibility of the programme may depend on its ability to move quickly to new areas (under MILF control, for instance), so that it can be perceived as being non-partisan and "neutral" vis-à-vis power blocs. Resource constraints need, therefore, to be addressed early and additional funds earmarked for expansion in key politically-sensitive areas, as well as to be pro-active in engaging in locations that have the potential for erupting in further conflict (areas controlled by the Marxist groups).
- There is a particular need for a seamless transition to a new phase. Delays are already an issue. Uncertainty increases turnover and affects performance, and a number of key staff members are already seeking alternative employment. Apparently MEDCO wants a new regimen, which includes re-hiring a perhaps smaller number of staff, and a greater control of the day-to-day activities and planning. They feel that they have inherited a large, problematic programme in which they had no say in the modalities and genesis. This is a classic issue of ownership and direction, which is exacerbated by the fact that the MNLF is no longer the prime political mover with bargaining power at the centre.
- Many of the problems are symptomatic, such as joint programming delays and inter-agency divergences of mandate, process, and focus. A way must be found to

address and overcome these problems. However, it should also be recognized that this is the first ever initiative for joint programming in the Philippines. Moreover full implementation only began in June 2003, as the programme was initiated in 2001 and inter-agency agreements signed in December 2002. Still, a way must be found to learn from the issues arising and move beyond them.

- The rights-based elements of the programmes are mostly implicit, and there is an urgent need for training of national UN Volunteers, Area Coordinators, PDAs and other staff on the HRBA as applicable to a nascent conflict situation. For instance, IDP programmes in Buluan focus mainly on livelihood and immediate needs issues, not explicitly on the violation of rights. Yet, the process is so participatory and non-threatening that the IDPs do not want to go back at all (even in the far future!). The Acting Mayor and the government line agency staff are most responsive to the needs of the community (particularly their religious and cultural rights), though inadequate attention has been paid to gender and subaltern concerns.
- There is also an urgent need to put in place systems to document and disseminate lessons learned. For example, the Reproductive Health (RH) programme in *barangays* in Maguindanao has achieved some success in bringing the Mullahs on board in support of family planning. Some Mullahs were more open than others, and still pills and IUDs were much more used than condoms (which means that family planning is still a problem mainly for women, not their husbands, who at best tacitly condone it), but this is still a breakthrough after many months of awareness-raising. Yet, in a PO closer to the main city in the *barangay* of Lumlum, we were told that family planning was impossible because the Mullahs had declared it anti-Islamic. This means that there is no learning from best practice, and, in fact, little documentation of the processes involved in achieving successful outcomes.
- In general, there is an inadequate emphasis on or even understanding of longer-term structural and rights issues as well as in creating an alternative non-combatant and non-elite leadership. The next (and final phase) should address this through (a) the training of staff and partners in “HRBA and Conflict”, (b) clear exit strategies, and (c) new monitoring and evaluation mechanisms for measuring impact. This will also involve the development and testing of indicators.
- Particularly from the HURIST point of view, training of field level staff and partners in a modified “HRBA for Conflict areas” is not only a key requirement in order to enhance current programmes, it is also a clearly articulated need (field coordinators we met in Manila, and all staff and partners in Davao expressed this need in the strongest terms), which in my view should be a *sine qua non* for the continuation of the programme.

5. Strategies to Mainstream the Human Rights-Based Approach in the Peace & Development Portfolio

- i. A precise mapping of the project areas in terms of poverty, human rights violations and profiles of exclusion and deprivation should be done. Once such baseline data is available and its accuracy verified, it should be used to:
 - (a) Identify poorest (or multiply marginalized) communities and individuals in order to ensure that they have preferential benefits (targeting the most rights-vulnerable groups)
 - (b) Identify “survivors” of violence and human rights violations in order to address their needs as a priority
 - (c) Identify potentially vulnerable areas, groups, and individuals from a rights perspective, for preventive/protective interventions
- ii. A conceptual and operational shift from a (still) near-exclusive focus on MNLF self-interest to a broader more inclusive approach, which would require the following:
 - (a) Changes in the method of selection of areas for peace and development activities, so that no single group (or one criterion) can determine who is included in the programme
 - (b) The responsibility of the programme as well as its “beneficiaries” (more precisely, “owners”) should be the wider communities themselves, not merely members. This means that even non-members of PDCs (those excluded or self-excluded by the modalities of the process)
 - (c) The active expansion of *barangays* selected on the basis of conflict-sensitive criteria (poverty indices, remoteness of access, vulnerability to conflict)
 - (d) The use of baseline data in assessing the quality and nature of the changes required, as well as the particular blend of consolidation and expansion required
- iii. The design and prioritising of interventions should shift from a basic needs perspective to a rights approach. This would influence both the nature of the intervention as well as the modalities of implementation. For instance, reproductive health issues when seen in relation to a woman’s right to control of her body take on a very different rationale and significance (and become operational differently) than if it is purely a health/well-being concern. Even livelihood creation, for instance, would then be oriented towards the realization of fundamental rights, and hence not discriminate on the basis of gender etc., nor would a “food for work” option be viable.
- iv. Crucial to all this is the need for capacity development in (a) analytical and assessment skills, with special emphasis on conflict-sensitivity, (b) training of trainers in HRBA, which includes clear processes of follow-up and an agenda for mainstreaming both conflict-sensitivity and the HRBA.

- v. Since the NPA presents potentially the greatest risk of further violent conflict in the Philippines, and since their strongholds are among the most disadvantaged areas in Mindanao, it is recommended that at least 2 – 3 programmes are begun in these areas as a means of building trust/confidence as well as from an equity perspective. The problem is that with the NPA there remains a clear ideological divide, unlike in the MNLF /MILF relationship which is more a question of degree. The fact that original and subsequent communities were basically chosen by the MNLF structure has militated against the inclusion of any in NPA areas, but now PDAs ready to break out (gradually) of this straitjacket. The challenge will be to get institutional support for such a pilot programme, the merits of which from a conflict perspective are clear, but which may have political ramifications that are more difficult to negotiate.
- vi. Training is an urgent need at the moment, and this has been reiterated elsewhere in this Report. To be specific, (a) MEDCO requires training in HRBA and Working on Conflict, (b) HRBA/Conflict Training for Field Staff and Coordinators is needed, and (c) selected line agencies and partners should also be trained. This training should include mechanisms for installing systems of Monitoring and Documentation (particularly process) and should require formulation of indicators appropriate to each agency, sector and modality, as well as for shared impact and outcomes. Processes should be designed that are not dependent on self-assessment only.
- vii. A shift from a near-exclusive involvement with livelihood and welfare issues to an approach that also addresses root causes needs to be discussed. This may take the programme further into the realm of “the political”, and therefore needs clear UN senior management support and understanding, but it is nonetheless crucial from both the long-term equity/fundamental rights and sustainability perspectives.

6. Review of the Empowerment of the Poor Portfolio¹⁷

Any external review of the work of a development agency field office must be approached with considerable humility. To understand the issues confronting a given sector and to put together a thoughtful programme can take two or three years—and even then, the work is an ongoing learning process. To visit and review such a programme for a week or two, accordingly involves steering clear of a detailed assessment. There are constraints and considerations that the visitor will not begin to grasp, even with some grounding in the host country. Such considerations inform this assessment of the UNDP/Philippines Empowerment of the Poor Portfolio, which focuses on areas 2, 3 and 4 of the HRBA checklist.

Excluded and Vulnerable Groups

The problems that can arise in targeting vulnerable groups are evidenced in the Strengthening Institutional Mechanisms for Convergence of Poverty Alleviation Efforts implemented by the National Anti-Poverty Commission (NAPC). By definition this project would seem to advance and reflect many human rights and principles associated with HRBA, in that it seeks to increase the poor's participation in and input into development programmes. As a result, it also addresses a variety of human rights associated with various pro-poor development initiatives. In addition, as explained during a discussion the Programme Review Mission had with representatives of the NAPC, the project is seeking to increase participation by representatives of the poor at the local level. It furthermore seeks to bring together government agencies to identify the minimum basic needs of the poor, which can have positive ramifications for addressing various human rights. On the other hand, the orientation is that of addressing basic needs, rather than rights. So while the project is indirectly oriented toward rights, its thrust remains that of basic needs.

In addition, and to expand on the above point, the NAPC defines poverty in terms of the inability of households to meet minimum basic needs. Again, this is not the same as a rights-based approach. Nor is it in step with the growing international conception of poverty as involving not just the absence of material resources but also the absence of empowerment (which comes closer to overlapping with HRBA than does a basic needs approach and perspective). Future projects that focus on poverty as a whole (rather than specific manifestations of it) could seek to incorporate more attention to human rights in their design and implementation. As with all comments here, this is not to criticize the current project or UNDP partner organization (in this case, the NAPC).

Workers are the group targeting by the Creation of an Enabling Environment and Building Capacities for the Growth and Protection of the Informal Sector implemented by the Department of Labor and Employment –Bureau of Rural Workers (DOLE-BRW). The strongly participation-oriented orientation of this project both reflects key human

¹⁷ This section, and sections 7, 8 and 9 were written by Stephen Golub.

rights principles and potentially advances the implementation of human rights. More specifically, in its focus on workers inhabiting the informal sector of the economy the project seems to be reflecting the principle of universality, addressing the rights of populations that typically lack formal legal protection, not least in terms of their livelihoods. In addition, since more women than men are members of the informal sector, the project implicitly places a priority on advancing the rights of women and therefore runs counter (in a favourable way) to some development initiatives.

The Programme Review Mission's discussion with DOLE representatives makes clear, however, that working to help the poor access their rights is not always in line with what the poor themselves necessarily prioritise. Though the right now exists for informal sector members to enrol in social security, they are reluctant to do so. The reasons are understandable, and include a shortage of resources to contribute. The upshot is that they have the right in one sense (the legal one) but either choose not to avail of it or are unable in a financial sense to do so.

Stakeholder Capacity

The design of Empowering the Agrarian Reform Beneficiaries through Tenurial Security (implemented by the Department of Agrarian Reform) clearly reflects not only a very concrete focus on a specific array of rights (regarding land tenure), but only a very concrete kind of rights-based approach to helping farmers act on those rights.

In addition, the project design pays considerable attention to the fact that women have not benefited from agrarian reform to nearly the degree that men have, as reflected in the low percentage of emancipation patents and certificates of land ownership that they have received. It seeks to redress this imbalance partly by placing an emphasis on training women as paralegals. Above and beyond the immediate project goals, this conceivably could enhance their status in their communities.

Furthermore, the project seeks to measure the number of women who benefit from having their land cases handled. It is less clear whether the project is taking specific steps (beyond the indirect one of training women paralegals) to actually increasing that number. Whether this can be attempted could be considered in planning any future agrarian reform projects or other projects with tenurial implications.

On the other hand, there is a question about whether the design and implementation address structural underlying causes of the denial of land rights to these potential agrarian reform beneficiaries. In seeking to build the capacities of farmers and DAR personnel alike, the project seems to overlook the reality that many DAR personnel are biased or corrupted in ways that run counter to the farmers' interests. It may be possible to overcome this obstacle and still work train and retain DAR personnel as mediators who will help advance the rights of farmers and landowners fairly. The project is seeking to do this. But future projects might be usefully advised to take account of problems and strategies that reach beyond addressing shortcomings in capacities.

Finally, the human rights principle of universality suggests that future design of agrarian reform projects at least take account of the rights of landless labourers—often Filipino migrants who go from one planting or harvesting job to another within the country—sometimes employed by the potential agrarian reform beneficiaries themselves. Going beyond taking their rights into account is of course a greater challenge, for they tend not to be organized and frequently are not rooted in any one place, which makes initiatives to help them assert their rights difficult. But a rights-based approach would differ from many agrarian reform projects by considering not just the rights of the agrarian reform beneficiaries, as important as they are, but also of these even poorer groups.

Programme Process (Conduct)

Key human rights principles are both directly and indirectly evinced in the project “Empowerment of Indigenous Peoples for Governance and Sustainable Development of Ancestral Domains” implemented by the National Commission for Indigenous Peoples, which aims to promote and protect the rights of indigenous peoples (IP) through supporting sustainable development and management of ancestral domains, strengthening of indigenous peoples’ governance, and strengthening the National Commission itself.

The project reflects such principles as the indivisibility and inter-relatedness of human rights, in that it addresses both IP cultural rights even as it advances their land and other socio-economic and political rights. The project also illuminates a way in which a project can address human rights up and down the chain of relevant legal entitlements. It involves implementation of the International Covenant on Civil and Political Rights, the Philippines Constitution, and the country’s Indigenous People’s Rights Act and its implementing regulations.¹⁸

The project has the added rights-based value of concretely implementing IP rights through such activities as surveys that help indigenous peoples establish boundaries of their ancestral domains, a necessary precursor to official state recognition of those ancestral lands under the Act. This illuminates an important element of HRBA: helping disadvantaged populations understand, act on, and implement their rights. In this instance, the surveys and related land delineation activities, as well as other aspects of the project, directly help IP act on and implement their rights.

In a related vein, the background and progress of this project are indirectly linked to the work of Philippine legal services NGO that puts into practice an HRBA that in fact emphasizes helping disadvantaged groups to understand, act on, and implement their rights. The NGO is PANLIPI, a legal services organization that focuses on the rights of IPs, that was instrumental in the drafting and passage of IPRA, and today works with many of the same IP communities involved with the project. PANLIPI is one of more than 20 Philippine “Alternative Law Groups” that have a similarly concrete approach to rights-based development and that are discussed further in Section 7.

¹⁸ This is not to claim, however, that all projects can easily embody such a multi-layered integration of relevant international, constitutional, legislated and regulatory rights. The nature of the law or the project may not lend itself so neatly to this integration.

On the other hand, future projects with IPs might be designed with greater attention to the human rights principles of equality and non-discrimination, in the sense that women's rights can get overlooked in the process of advancing IP rights in other regards. Beyond noting women's membership in the National Commission on Indigenous Peoples, however, the project document does not mention women at all, though project personnel report efforts to work with women. Yet while it is a straightforward matter to note here the importance of the principles of equality and non-discrimination, it is more difficult to implement these in contexts where there is, at the very least, a tension with the cultural rights of IPs and the principle of the indivisibility of human rights: All human rights carry equal weight.

Yet another tension is relevant to this project: that between the rights of the IPs and the non-IP residents of lands now certified as ancestral domain. This point was raised a few times in a few different ways in discussions that the HURIST Programme Review Mission held with UNDP staff and partners. If in fact certain rights of non-IP residents are impinged upon by the recognition of the land rights of IPs, and if in fact the principle of indivisibility applies, what course of action does a rights-based approach to development dictate? This is a challenge that reaches far beyond UNDP and the Philippines and that the evolution of thinking about HRBA will have to grapple with.

In this context, it is important to address unrealistic assumptions about certainties offered by human rights in conflict resolution, and, rather, to emphasize minimum substantive entitlements. At the same time, the value of the human rights-based approach lies in providing the education and supporting the participation and inclusion that enables people to work through potential and actual clashes of rights and interests, and provide redress as appropriate. Examples are given above in Section 1, page 10, and this point is further discussed in the Frequently Asked Questions paper in Annex 3.

Human rights principles can help to avoid certain constraints results if factored in at the outset, as illustrated by the project "Advancement of Filipino Women through Strategic Support Mechanisms for Economic Empowerment (funded by Japan WID and implemented by TESDA), which had as its objective the economic empowerment of women entrepreneurs in micro, cottage, and small-scale industries.

At least in principle, the project has had the considerable merit of being explicitly gender-oriented, in line with the principles of equality and non-discrimination that inform the HRBA. Above and beyond any other factors affecting the progress of this project, future efforts along these lines might pay greater attention, however, to principles of participation and inclusion. The nature of the project was such that the main beneficiaries were a very limited number of relatively prosperous community members. This is not to say that all development initiatives must focus only or even mainly on the poorest of the poor. But participation and inclusion should inform not just the substance of the project but the way it is designed. In fact, this project evinces the notion that HRBA can provide extra value to good programming practices. In the future, more

participatory and inclusive design processes can help obviate the reported difficulties encountered by this very narrowly focused initiative.

The Microfinance Sector Strengthening Project implemented by NAPC focuses more on needs (for credit) than rights, but it has potentially powerful ramifications in terms of enhancing economic security that in turn enables partner populations to implement a variety of rights. In addition, it has an implicitly enhanced focus on women's rights, since women tend to be the main participants in microfinance initiatives. What is less clear is whether the project is fully implementing the human rights principle of universality by seeking to make credit available to the poorest Filipinos who normally may fall through the programmatic fingers of outreach efforts.

One potential regard in which future microfinance projects could more explicitly adopt a rights-based approach is if the formation of recipient groups typical of such projects is used as an opportunity to help the group members learn (and even act on) their rights in ways that reach beyond the project's microfinance goals. The formation of groups for any development purpose can provide an entry point for discussion of the rights and legal issues of greatest concern to the members (violence against women in some cases, land tenure in others, for example). The mutually supportive conduct of group members enables them to be more powerful in asserting their rights than if they act alone.

7. Elements of a Strategy to Integrate Human Rights-Based Approaches in the Empowerment of the Poor Portfolio

This paper proposes six elements of a strategy that could help UNDP/Philippines adopt a rights-based approach to development. The plan is not comprehensive, for the proposal is based on relatively limited exposure to the operations of the Philippines office. Thus, these are *elements* of a strategy, not an overall framework within which the office should operate. Nevertheless, the elements can fit together to the extent desired by UNDP. They also have the virtue of being separable: UNDP may utilize one element without committing itself to the others.

Three of the elements are process-oriented in nature. The first addresses the ordinarily excluded populations that UNDP/Philippines and its partners should take into account in designing projects. Another pertains to the breadth of UNDP programming and to whether the organization is spread too thin. The third discusses considers the potential for UNDP support for NGOs and other civil society organizations.

On the more substantive side of the equation, the paper considers the potential role of legal empowerment – the use of legal services and other development activities to increase disadvantaged populations’ control over their lives – to promote a rights-based approach for the Philippines. The discussion then turns to the Alternative Law Groups, a network of more than 20 Philippine legal services NGOs that practice legal empowerment in a particularly homegrown manner. The third substantive topic is the current and potential work of Philippine law schools in building a human rights orientation in part of the legal profession.

Considering Excluded Populations in Project Design

One virtue of human rights-based approaches (HRBA) is that key human rights principles they espouse, such as universality and non-discrimination, place a focus on “the poorest of the poor” and other populations ordinarily excluded from development initiatives by virtue of their very powerlessness, extreme poverty, lack of organization and marginalization. It is not enough to be satisfied with projects that reach 80% of a target group—the remaining 20% must also be taken into account to the extent possible.

This is not an argument for impossible perfectionism, for it *does not* mean that each project or program must aim to reach 100% of the people in a given community or group or that it always must aim at the most disadvantaged persons. It *does* mean, for example, that agrarian reform and other rural development efforts should not only be community-oriented. For example, internal migrant labourers tend to be excluded by this process even though their poverty is dire. The upshot is that those landless labourers merit attention as partial or entire foci of development projects and programs, even though they may regularly move from place to place within the country.

Less is More in Development Programming

The problem is not unique to UNDP or the Philippines office, but there appears to be a tremendous spread of projects. This threatens to dilute the expertise and attention of staff in ways that are counterproductive for any good programming, not to mention HRBA. The result can be an array of projects that may add up to being less than the sum of its parts. The sheer number of projects interferes with the ability of staff members to monitor, understand and help improve upon existing efforts. A precursor to effective HRBA, then, is a more focused approach that puts more funds and attention into fewer but longer-term initiatives.

A Civil Society Focus

One effective way to undertake HRBA is to focus programming and resources on NGOs and other civil society groups that themselves are engaged in seeking the implementation of human rights for partner populations. This approach is particularly suited to the Philippines, given the open nature of the society in general and the vibrant nature of its civil society.

Legal Empowerment

Legal empowerment, the use of legal services and other development activities to increase disadvantaged populations' control over their lives, represents a particularly concrete integration of human rights and development carried out by NGOs in diverse developing countries. It takes many forms—modifying gender-biased traditional dispute resolution in the Bangladesh, public interest litigation linked with community mobilization in South Africa, paralegal development in numerous societies, for instance. In the Philippines it is best represented by the impressive work of the network of more than 20 legal services NGOs known as the Alternative Law Groups (ALGs).

Legal empowerment is particularly concrete because it focuses on partnering with disadvantaged populations in order to help them understand their rights, act on that knowledge, and secure implementation of those rights. It also draws on grassroots experience and participation to enable NGOs and their partner populations and institutions to successfully advocate legal and regulatory reforms in some countries. UNDP/Philippines can make this concrete form of HRBA an important part of its program in a number of ways. This can include support for NGO legal empowerment initiatives to the extent that it can expand its engagement with civil society. It also can construct programs that partner NGOs with potential allies in appropriate government agencies in ways that specifically aim to bolster the rights-oriented knowledge, activism and impact of the poor.

Working With ALGs

UNDP Philippines can increasingly draw on the services of the ALG network. ALGs address such issues as illegal logging, violence against women, agrarian reform, housing

for the urban poor, and indigenous people's rights. Most ALGs are headed by attorneys, and all include lawyers on their staffs. They have contributed to scores of legal reforms while also addressing an enduring Philippine problem: the poor implementation of laws on the ground. They typically work in partnership with other nongovernmental organizations and with disadvantaged communities. Sometimes they play leading roles; more often, supporting ones.

ALGs depart from private practice and traditional legal aid by seeing clients as partners in development, and seeking to empower them to develop their own legal and political strategies. Their activities embrace both conventional and unorthodox legal work. They may litigate; appear before quasi-judicial proceedings, such as labour and agrarian reform tribunals; negotiate with corporate leaders regarding environmental and labour issues; advise on “meta-legal tactics,” such as interfering with illegal logging and fishing; and provide legal assistance and guidance regarding strikes and protest activities. They may also secure government services for partners; organize communities; train paralegals; pursue efforts to affect jurisprudence; conduct research; produce scholarly articles and publications; advise advocacy groups; and work on legal and regulatory reform.

UNDP/Philippines is already working with or supporting ALG work to a limited extent. It retains as a human rights advisor a law school professor affiliated with an ALG. The office funds indigenous people and agrarian reform projects in which ALG attorneys play complementary roles. Yet there is considerable room for far more extensive cooperation. One place to start is simply to establish systematic contact with ALGs individually or as a group. This would provide the basis of discussions about possible arenas for partnership.¹⁹

Forging the Future of Rights-based Approaches

One final way of adapting a rights-based approach to development is to help foster more of a rights-based approach to legal practice in the Philippines in coming years. And the way to do that is to engage with law schools that have current legal aid, human rights or NGO-oriented programs that provide their students with practical experience involving the situations of disadvantaged populations. This engagement could take any number of forms: financial support, training, student internships, etc. Such an approach has the potential impact of enabling students interested in development or public service to “cut their teeth” on such work early in their careers. It further enables them to gain valuable experience and contacts.

¹⁹ A logical contact person for initiating such discussions would be Carol Mercado of the Asia Foundation office in Manila.

8. Approaches to Monitoring and Evaluation

This paper proposes a “Practical Monitoring & Evaluation Strategy” that can be applied to rights-based approaches to development (as well as to other development initiatives). The strategy incorporates a number of tools that can help governments, nongovernmental organizations (NGOs), international agencies and their partner populations understand whether and how they are achieving progress and impact in terms of implementing rights embodied in international treaties, constitutions, legislation, regulations, ordinances, court rulings and other legally binding obligations of duty-bearers.

The strategy is not comprehensive; it does not necessarily apply to every development initiative in every context. No realistic approach to monitoring and evaluation (M&E) can do so. However, the M&E strategy does incorporate an underlying rationale and set of tools that can make productive use of indicators for the ends of human rights and development, rather than having development initiatives counter-productively driven purely by indicators. This is one reason for the emphasis on a *Practical M&E Strategy*.

Another emphasis on practically flows from the fact that while monitoring and evaluation can be approached separately, this strategy allows development practitioners to bridge what often is an artificial distinction between the two. Monitoring is supposed to indicate whether a development initiative is achieving its desired results. In theory, it does not explain why the initiative may be achieving or falling short of its targets. To get at the "why," development agencies can conduct evaluations. In reality, monitoring can and should flow into evaluation, with the two sometimes simultaneously occurring.

The proposed M&E strategy takes account of this reality. Though somewhat process-oriented, it most powerfully pertains to gathering and analysing data on progress toward and achievement of the implementation of rights in the lives of the poor and other disadvantaged populations.

Guided by the above considerations, this discussion addresses some types of rights-based impact, tools for M&E, the incorporation of M&E planning into program design, and M&E reporting. Given the fact that development agencies often use the same M&E terms differently, and that this paper focuses specifically on adapting M&E to rights-based approaches, it details how some of those terms are used here. The paper does not aim to be an in-depth exposition of methodological rigour, but rather a practical explanation that development practitioners can grasp.

Some Types of Rights-based Impact

HRBA can help advance good governance, poverty reduction, the implementation of rights and other development priorities by overcoming constraints on access to justice and participation in governance. The roles and impact of HRBA can range in sophistication and scope from imparting basic knowledge of law and rights to providing the disadvantaged with the skills and advocacy tools needed to confidently engage in legal and other public decision-making processes. Depending on the nature of the

development initiative, the results can include, though not necessarily be limited to, a number of rights-oriented types of impact:

- *Increased Awareness of Rights* In their simplest forms, HRBA provide the poor and other disadvantaged populations with a general awareness of law and the concept of rights. However basic, such awareness in turn provides them with a sense that law and rights have relevance to their lives.
- *Increased Knowledge of Specific Rights and Legal Issues* The disadvantaged may possess a general awareness that they have rights, yet lack specific knowledge of how those rights are prescribed or enforceable in law. HRBA can impart practical legal knowledge by educating citizens about specific international treaties, laws, regulations, constitutional provisions, or milestone court rulings that have a direct bearing on their status or rights as citizens.
- *Enhanced Practical Legal Skills* It is one thing to know one's rights; it is quite another to know how and where to assert them. HRBA can provide the disadvantaged with basic legal skills—for instance, as how to launch an appeal where an application for a national identity card is rejected by the administering government agency.
- *Increased awareness of specific public policies and programmes addressing the promotion and protection of human rights* Two defining characteristics of a rights based approach are its emphasis on accountability and the issue of a redress mechanism. However, both accountability as well as the focus on redress mechanism need not necessarily be seen only in light of the relevant jurisprudence and increased awareness of people to the relevant laws and regulations. It could, be related to the awareness of the people to such public initiatives that are directed at redressing the threat of denial or violation of rights (particularly the Economic, Social and Cultural rights) or the awareness of people regarding specific public policy such as social security and safety net-measures or such public measures which encourage the accessibility of the target group to those services and goods that could potentially help them to improve the level of realisation of the corresponding human rights.
- *Increased Public Confidence and Higher Expectations* HRBA can equip the disadvantaged to confidently act on their legal knowledge and practical skills, helping them to overcome deep-seated feelings of inferiority or the belief that in practice the law can only be used against them. Building legal awareness and knowledge contributes to attitudinal change, which in turn makes people more open to acquiring legal knowledge and skills, more confident in their ability to apply their knowledge and skills, and more likely to voice their expectations in demanding responsible action by public officials and agencies.
- *Greater Access to Justice and Participation in Public Decision-making* Improved access to justice, increased participation in governance, and other goals are

frequently constrained by obstacles such as physical intimidation, economic power advantages, or prevailing community norms. When opposition is too powerful for individuals to challenge, HRBA can help equip disadvantaged groups to apply what they have learned through collective action.

- *Successful Participation in Legal Implementation and Governance* HRBA can contribute to the implementation of laws by helping to counter the failure or refusal of public agencies and officials to enforce existing laws and administrative procedures. This generally occurs through enhanced participation by affected populations in legal and governmental processes and decisions.
- *Scope for public auditing and increased availability and access to information* The HRBA can increase accountability for results in programmes and projects.
- *Improvement in access to public programmes addressing the promotion and protection of rights* Improved accessibility based on non-discrimination to development programmes
- *Government Personnel's Greater Responsiveness and Accountability* HRBA can help to facilitate improvements in the knowledge, attitudes, behaviour, and other performance standards of government officials. This can flow from training public officials and corollary efforts to equip the disadvantaged to more effectively lobby, cooperate with, or otherwise interact with government agencies.
- *Participation in Law, Regulatory, and Budget Reform* HRBA can help to mobilize the disadvantaged to inform the development of laws, public policy, or budget reform. (Budget reform takes on salience for HRBA in the sense that government duty-bearers' obligations sometimes translate into resource allocation decisions.) This involves enabling citizens and communities to identify problems with existing laws or resource allocations, rather than blindly accepting them. Where the disadvantaged play a role in law, regulatory, or budget reform—either directly or through representation of their interests by NGOs or other interlocutors—and their priorities and perspectives are taken account of, their participation reflects both the implementation and strengthening of their rights.
- *Legal, Regulatory and Budget Reform* Often but not necessarily as a product of the above participation, HRBA can contribute to the enactment of legal reforms that strengthen the rights of the disadvantaged.
- *Improvements in Material Circumstances* HRBA contributes to improvements in the material circumstances of those who benefit from socioeconomic development efforts, particularly in the context of poverty reduction, in ways that both reflect and enhance implementation of rights. Learning about and acting on relevant laws may help women to reduce the incidence of domestic violence in their communities or help farmers to take advantage of agrarian reform laws in ways that will increase their income.

- *Implicit Rights-oriented Impact* Some development initiatives may only implicitly involve HRBA and rights-oriented impact. Through participation in development programs, people may in effect learn about and act on their rights by becoming acquainted with the roles and procedures of certain government offices, even if rights are not explicitly discussed as such.

M&E Tools

This section describes a range of relatively basic mechanisms that may be employed in monitoring and evaluating HRBA. These tools pertain to various types of rights-oriented impact that can result from development initiatives. While the menu is far from exhaustive, it does seek to capture some of the practical ways in which development institutions gather information. It further aims to demonstrate how some of these approaches can be employed informally, for M&E can be an ongoing analytical process not confined to generating data for periodic reports.

The degree to which an institution uses any of these tools must hinge on the resources available under a given program. Clearly, small-scale programs should not generate large-scale evaluations. Which mechanisms to use and which questions to ask also depend on the nature of the program.

M&E mechanisms serve to indicate and assess at least two levels of impact. The first is program-specific or direct impact on organizations and individuals directly funded, trained, or otherwise assisted by a given development initiative. Indirect impact, in contrast, results from a ripple effect through which other groups and persons are in turn affected by those directly impacted. It also can apply to effects on broader populations, segments of a society, or the society as a whole—that is, as long as a contributory role can be established for the initiative in question.

Certain M&E mechanisms also can serve two other purposes. First, they can provide general insights about a society or issue, information that can help shape or guide a development agency's work even if it does not ultimately aid an evaluation. Second, certain tools can help an agency and its development partners assess the technical competence with which an activity has been carried out (for example, participants' impressions of the speakers, materials, and venue of a conference). This can be the case even if they do not reveal the impact of the activity (such as what participants learned at the conference, and what use they eventually made of that knowledge).

M&E mechanisms, and the information they provide, can be divided into two categories: quantitative and qualitative. Very basically, the quantitative mechanisms gather information that can be best expressed numerically, such as the number of people trained or the percentage of a population that understands certain rights. Qualitative mechanisms, by contrast, gather data that is best expressed and recorded in a non-numerical manner, such as individuals' detailed opinions, experiences, or observations regarding programs, or their reports on how they subsequently made use of the

knowledge or skills acquired. They also may better assess a project's unanticipated impact.

As both types of mechanisms must vary widely among programs, it is counterproductive to dictate a strict formula for employing them. The following partial menu of mechanisms is but a starting point for developing and implementing an M&E plan. Which tools to select hinges on the nature of the program.

Sample Surveys of Program Participants/Beneficiaries

The most straightforward way of assessing program-specific impact on knowledge of rights is a series of oral or written surveys. Development programs can determine whether a rights-based initiative has increased participants' knowledge by surveying a sample of them at the outset of the initiative (usually called a baseline survey), and at least two additional times—at the close of the program and at one or more later dates. This is a variation on the notion of what colloquially are described as “before/after” research, except that this approach includes a third (or even additional) round of surveys.

If appropriate, the survey at the close of the program should include questions that focus on the technical competence of its implementation, as well as questions that measure impact. Assessing competence can be useful for determining whether the approach to similar activities needs to be refined in the future. It should be clear that the answers of respondents regarding technical competence say little about the *impact* of the approach. The respondents may, for example, report that the speakers were excellent and that they learned a great deal; but these responses do not reveal what they actually learned.

In addition to knowledge, impact-oriented surveys at the outset and close of a program can ascertain changes in attitudes. They can also determine improvements in rights-oriented skill levels, where asking questions (for example, about how to prepare an affidavit or obtain information from a government bureau) demonstrates whether program participants retain at least a theoretical knowledge of how to exercise those skills.

The follow-up survey, undertaken at least six months (and preferably a year or more) later, provides a much better gauge of whether the participants have retained knowledge, skills, or attitudinal changes initially generated by the program. As such, it yields a much more significant reflection of impact than does the survey undertaken at the program's close. For many development initiatives, the follow-up survey may be considered a luxury that cannot be accommodated for logistical reasons: the organization has closed its financial and reporting books on the initiative. New structures should be put in place to at least selectively allow such follow-up, for it indicates impact far better than inquiries conducted as a program ends.

Surveys can generate both quantitative and qualitative data. The former is best gathered through yes/no or multiple choice questions. It can be especially useful if both pre-program and follow-up surveys are possible.

By employing open-ended questions, this mechanism also can generate important qualitative information. The follow-up survey can solicit information about behavioural changes, organizational improvements and government actions to which the program might have contributed. Though some responses to questions of this kind can be quantified, the real usefulness (as described below) is that they could provide the basis for subsequent qualitative inquiries that verify and expand understanding of the impact.

Of course, many programs may not lend themselves to surveys at each of the stages described above. A program may aim for more general diffusion of knowledge than can be measured by a set list of questions at its outset. The fact that surveys can help document diverse types of impact accordingly suggests that follow-up surveys be conducted even if their questions differ from those originally asked of participants (because the program's perceived impact has changed), or if no initial surveys were conducted at all. The data need not be comparative for it to be illuminating.

How the information is initially and subsequently collected depends substantially on such factors as the resources and communications facilities available, the nature of the participants, and the nature of the project. Under some circumstances, for example, house-to-house interviews might be necessary. Under others, questionnaires could be distributed and collected at meetings organized by an NGO or government agency.

Sample Surveys of Broader Populations

Under circumstances where an institution anticipates indirect impact (that is, impact reaching beyond program participants), it should consider surveying populations likely to be affected. They need not be as broad as the general population. Rather, they could be residents of communities where a development organization undertakes activities. Ideally, such polling should be conducted before the program begins, and again as a follow-up at least six months later.

In conducting surveys of this kind, the organization should ask respondents not just what they know (or believe, or do), but how they came to know it. Respondents may not be able to identify whose training they attended, whose pamphlet they received, or whose radio show they heard. Their answers nevertheless may provide bases for concluding whether a given effort contributed to their enhanced knowledge.

In addition to revealing impact on citizens' attributes or circumstances, polling a broader population can suggest or verify other types of impact. For example, it can indicate whether a given NGO's or government department's capacities have improved.

Intervention versus Control Group Surveys

Whenever possible and appropriate, an organization could poll a control group that is not participating in or affected by its training or other activities but that belongs to a demographically similar population. Where surveys or other evaluation tools suggest that the organization has contributed to impact on the “intervention” population (i.e., the group participating in and benefiting from the development initiative), a control group's unchanged attributes will tend to verify the program's success. Preferably, the control group that is surveyed initially should be the same as that surveyed at the follow-up stage. Again, practical considerations may impinge on this. If so, a new control group still would offer a basis for comparison.

Qualitative Interviews and Discussions with Participants

Qualitative interviews and discussions with participants seek information that cannot be translated into survey numbers. The two can go hand in hand, with an oral survey turning into an open-ended discussion. Of even greater importance, interesting survey responses can trigger a subsequent interview.

Such interviews can take many forms, but the two most prominent might be called “semi-structured” and “open-ended.” As understood here, the former starts with a common set of questions asked of all participants interviewed, before branching out to cover whatever interesting topics arise in the course of discussion. The latter focuses on whatever issues seem most pertinent with respect to a given participant. As with the surveys, the most useful interviews could well take place months or even years after a program has ended. It is at this stage that the respondents might be best able to analyze what use they or others made of the program.

Qualitative Verification through Third-Party Interviews

The most important element of M&E is independent verification of impact. Wherever practical, an organization should consult knowledgeable third parties to seek such verification. Although it is useful for NGO, government or development organization personnel to themselves to perceive positive impact regarding such factors as behavior, government responsiveness, or material circumstances, it is highly desirable to confirm that information in whole or in part. Depending on the nature of the initiative, independent sources of confirmation can include journalists, academics, government officials, NGO leaders, and representatives of international development organizations.

Under some circumstances this relatively in-depth evaluation of relatively modest activities would be too expensive, time-consuming, or politically sensitive. It also would be unnecessary where the only goal of the activities is to affect participants' knowledge or attitudes, for these can be determined through quantitative surveys. Nevertheless, where it is feasible, independent verification would lend great credibility to the organization and its partners alike.

Verification through Textual Analysis

Where a rights-based initiative makes a significant contribution to government policies, it can and should confirm this through textual analysis: comparing policy proposals with the resulting regulations, legislation, or other documents. Even in cases where an initiative affects just one aspect of a government policy, textual analysis comparing its suggestions with the revised policy can demonstrate impact.

Case Studies

Even where M&E indicate impact, they often fail to generate in-depth insight into the dynamics of change that it helps bring about. Case studies—that is, focused research on actual or potential instances of impact—represent an effort to achieve and learn from such understanding.

As the term is employed here, a case study consists of an in-depth look at impact as diverse as how NGOs successfully advocated for adoption of a piece of legislation or how a community group helped to reduce the incidence of violence against women. In the former instance, such scrutiny can consist of a social scientist tracking a legislative bill's progress as it occurs, or retrospectively learning as much as she can about the strategies, politics, and other influences that affected its form and course. In the latter example, it could involve a quasi-anthropological observation of one or more communities over time, to learn what strategies and forces helped (or failed) to overcome deeply ingrained attitudes and practices. Case studies can also document partial successes or failures, yielding useful lessons.

As is evident, a case study can draw on social science research tools, including some of the other evaluation mechanisms described above. More than any other mechanism, it offers opportunities to learn about strategies for effecting change at both national and grassroots levels.

An obvious difficulty with this approach is that it can be most useful when a bill or community is tracked from the start of a rights-based initiative—however, that initiative may not produce success or even useful lessons. In some cases this can be overcome by researching a number of bills or communities. In other instances, it may prove worthwhile to review progress retrospectively. Regardless of the approach taken, the time and expense involved with such studies preclude their being appropriate for certain activities. In planning a study of this kind, cost considerations should be borne in mind. For example, in many countries a local academic specialist and graduate students can be contracted for several months for less than the cost of engaging a Western consultant for a month. In addition, the former typically have greater insight into their societies.

Incorporating M&E Planning into Program Design

Most development practitioners can attest to the fact that development initiatives can yield unanticipated impact. In fact, those projects that go precisely as planned are very much the exception to the rule. This reality must be taken into account in M&E plans. Of course, the elements of any given plan need to be suited to the project. Examples of possible elements are given below.

- *Anticipated Impact* The plan could state the nature of the type(s) of impact an organization aims to achieve (for example, regarding citizen knowledge, government responsiveness, or other factors). It also could state the anticipated scale of such impact, if possible. This applies to such matters as the number of citizens, communities, or policies affected. The anticipated impact is illustrative of what an organization hopes to achieve. It is one potential basis for monitoring and evaluating a program. It may in fact turn out to be the sole basis for evaluation. Where other types of impact materialize, anticipated impact may become less relevant, or even irrelevant.
- *Unanticipated Impact* It is important to try to predict at the outset what a program will accomplish, to set standards by which it can be assessed. Yet an exclusive focus on and investment in such prediction can delay or derail a rights-based initiative to no good end, when the reality of unintended consequences catches up with it. For example, people who learn about health benefit rights through a community health project might become engaged in good governance activities that have nothing to do with those specific rights. Farmers who receive training in land tenure laws may strengthen their previously weak community-based organization. They may even provide input into regulatory reform regarding land rights. None of these results can necessarily be anticipated. With this in mind, an initiative must be open to seeking out whatever impact, good or bad, flows from its activities. The best results may not be planned. Even if there are counterproductive consequences, these need to be determined and understood in order to improve a project and avoid mistakes in the future.
- *Planning of Evaluation Mechanisms* The choice of evaluation tools hinges on the nature of the program's anticipated impact. Determining citizen knowledge sometimes lends itself to surveys; assessing their input into law or regulatory reform is much more qualitative. The selection of such mechanisms also depends on the program's duration and budget. A few third-party interviews may well make sense for a relatively modest project. In-depth case studies may only be justified for a more major effort. Like impact, evaluation tools themselves can only be "anticipated" in the evaluation plan. They may require modification or replacement once the program starts. This may be due to unexpected changes relating to the program, its apparent impact, or the broader society. In selecting such mechanisms, the plan could also state illustrative questions that the

organization will ask in assessing impact. Again, however, it may need to modify these questions by the time the program begins or as it proceeds.

In addition to mechanisms for assessing anticipated impact, the M&E plan should explicitly include at least one method of identifying unanticipated impact. The two can be one and the same. Where, for example, follow-up interviews aim to determine anticipated impact, they also can probe for benefits that were considered possible but not likely at the outset of the program, or that were not considered at all. A survey that mainly probes for quantitative data of a predetermined nature may also include open-ended questions for the respondents.

- *Time Frame* The plan could state a timetable for utilizing the anticipated M&E mechanisms. Because so much of the impact of HRBA may only materialize long after the completion of a program, a final evaluation should ideally take place at least six months after the program's completion. For a major initiative, a development agency may want to conduct more than one post-program evaluation activity, doing the final one a few years after program completion. Obviously this cannot be done for most programs, but occasional use of this device is worthy investment. This may well be the most useful means of determining whether a program ultimately had a positive impact on the implementation of rights, and the best way of drawing lessons from the experience.
- *Resources* Finally, an M&E plan should estimate—and the program budget should allocate—the resources an organization needs to carry out evaluation. As with all other elements of the plan, the budget estimate should be illustrative. That is, an organization should set aside a certain amount of funds for M&E from the outset, but should employ those funds flexibly as it becomes clearer which information and mechanisms will best contribute to useful documentation and learning.

Evaluation Reporting

How can a development organization integrate and weigh the information generated by its M&E mechanisms? What types of reports suit these purposes? What kinds of questions could the reports address? Finally, but most fundamentally, how can the organization use and learn from the reports? This section hazards some suggestions.

Weighing Impact Priorities in Reports

Relatively modest and short-term rights-based programs are most appropriately evaluated in terms of impact on citizen knowledge and attitudes concerning rights and related matters. The more ambitious and long-term a program, the more it should be assessed in terms of actual implementation of rights through changes in such items as citizen behaviour, material circumstances, good governance, and law/regulatory/budget reform and implementation.

Knowledge often represents a first step toward changes in behaviour and material circumstances. Changes in material circumstances are important in reflecting implementation of rights and therefore as ends in themselves, as with farmers organizing and learning about the rights in order to realize the benefits of agrarian reform. Yet they are equally important if one takes a more process-oriented view of them, for they can serve as the firmest proof of effective implementation of the right to participate or other types of impact.

The same dual role applies to impact regarding law reform, legal implementation, and other rights-oriented government actions. These may be sought in and of themselves. Or, for those taking a process-oriented perspective, success regarding these matters may be seen as proof of impact regarding citizen participation.

Questions for Evaluation Reports

Unless the answers are self-evident, an M&E report should include as many of the following questions as possible, whether explicitly or implicitly:

- What is the nature of the impact? It is not always essential to break down the discussion into distinct analyses of knowledge, behaviour, good governance, or other types of impact. While the nature of impact is rarely so neatly compartmentalized, an organization should keep the various kinds of impact in mind in preparing the report.
- What is the scale of the impact? It is not always possible or appropriate, but an organization can try to state the number of people or communities affected, or the population actually or potentially affected by government actions to which a program has contributed.
- What is the significance of the impact? This element addresses the crucial issue of context. In some instances, the significance of a particular impact may be self-explanatory. In others, it may be necessary to explain why cultural, political, economic, or other factors in the host society make an achievement that might seem minor in one country a milestone in another. Or it may be advisable to illuminate the importance of a particular policy achievement, or the ripple effect of impact on a specific community. Conversely, the report might need to provide context that addresses why the project fell short of expectations or its potential.
- What is the rights-based program's contribution to the impact? An organization should explain how it helped bring about the impact. The emphasis, of course, is on contribution to impact, rather than sole credit for changes that came about.
- What is the significance of the organization's contribution? The importance of an organization's role may be self-explanatory, or may require some further illumination—as, for example, what might have happened (or not happened) had its program not taken place.

- What evaluation mechanisms were employed, and why? This question goes to the heart of verification, and how it can be determined that impact took place and that the organization contributed to it. It also can address how the organization reached certain conclusions. Particularly for outside audiences, it could be helpful to explain why the evaluation report documents them as much as is reasonably possible, while acknowledging possible gaps in what can really be known about impact and attribution.
- What lessons have been learned? This can be the most important element in the evaluation. The lessons can range from the relatively mundane (specific techniques for conducting educational seminars, for example) to strategic (such as considerations regarding whether and how to work with a government agency permeated by corruption).
- Who will see the report? This is a question of a different nature, but it is still worth asking—as well as answering in favour of dissemination to a variety of interested individuals and organizations. Particularly in the evolving arena of rights-based development, many illuminating M&E reports may end up collecting dust on the shelves of the organization that commissioned them, while other organizations scramble to reinvent the wheel, unaware of valuable lessons learned by previous or similar efforts. This situation contributes to duplication of effort, and failure to learn from past experience.

9. Sample Human-Rights Sensitive Indicators for Two Project in the Empowerment of the Poor Portfolio

The following indicators are derived from the proposed M&E Strategy set out above. These samples and the explanations underlying them are not intended as a criticism of or replacement for existing indicators, but rather as devices for adaptation in similar projects in the future. Note that not all indicators are quantitative in nature and that for the sake of brevity the basis of comparison are included in the descriptions of the indicators.

PHI/02/018 - Empowering the Agrarian Reform Beneficiaries Through Tenurial Security

1. Indicator (and basis of comparison): Before/after/follow-up (i.e., six or more months after project completion) comparisons of backlogs in Department of Agrarian Reform (DAR) cases in selected *barangays*.

Reason: Data will help indicate whether project has helped reduce bottlenecks in processing cases and implementation of farmer rights under the Comprehensive Agrarian Reform Law.

Source of data: DAR records.

Notes: a) Data can only be considered in context of other indicators, given the possibility that backlog reduction could spring from expedited but anti-farmer impact of project activities or that, conversely, greater backlogs could result from greater farmer knowledge and willingness to seek agrarian reform. b) Alternative explanations for backlog changes should be taken into account.

2. Indicator: Intervention/control group comparisons of backlog changes in selected demographically similar *barangays*.

Reason, data source and note: Same as #1.

3. Indicator: Before/after/follow-up comparisons of trained DAR personnel's knowledge of relevant laws and regulations in selected DAR municipality offices.

Reason: Knowledge of law is one important component of capacity of DAR personnel to render assistance to farmers and to protect their rights.

Source of data: Surveys.

Note: Increased knowledge can indicate increased capacity to render effective assistance, and therefore progress in project implementation, but is in the nature of a necessary but not sufficient condition. It does not guarantee that assistance is effectively provided.

4. Indicator: Intervention/control group comparisons of trained DAR personnel's knowledge of relevant laws and regulations in selected DAR municipality offices.

Reason, data source and note: Same as #3 above.

5. Indicator: Before/after/follow-up comparisons of farmer paralegals' knowledge of relevant laws and regulations in selected *barangays*.

Reason: Knowledge of law is one important component of capacity of farmer paralegals to render assistance to fellow farmers and to protect their rights.

Source of data: Surveys

Note: Knowledge of law by farmer paralegals is more likely to enable them to render effective assistance than it is for DAR personnel, since the farmer paralegals are less likely to be subject to countervailing, anti-implementation pressures. Nevertheless, the knowledge still is not a guarantee of effective assistance.

6. Control/intervention group comparisons of paralegal farmers' knowledge of relevant laws and regulations in selected demographically similar *barangays*.

Reason, data source and note: Same as #5 above.

7. Indicator: Before/after/follow-up comparisons of potential agrarian reform beneficiaries' satisfaction with services provided by DAR personnel trained by project.

Reason: Satisfaction indicates whether project has helped improve quality and speed of services designed to enable farmers to avail of their rights.

Source of data: Surveys.

Note: Equivalent indicator not suggested for satisfaction with services provided by trained farmer paralegals, because survey results too likely to be biased by reluctance to criticize these fellow farmers.

8. Indicator: Number of women trained as farmer paralegals, as percentage of total.

Reason: Training of women could enhance their status and ensure greater likelihood that protection of women's property rights are upheld in pursuing agrarian reform.

Source of data: Project records.

Note: Other, qualitative indicators will track not only attitudinal and other obstacles (if any) to training women and to male farmers using their services, and strategies that can gradually overcome such obstacles.

9. Indicator: Before/after/follow-up comparisons of completion of changes in farmer beneficiaries' favourable changes in tenurial status under the agrarian reform law, compiled on an annual basis.

Reason: Such completion of changes in tenurial status is the central goal of the law and a central vindication of the farmers' rights.

Source of data: DAR records.

Notes: a) Records would be on the basis of tenurial status changes per year so as to provide a comparison across equivalent time frames. b) The term "tenurial status" is employed because not all changes under the law involve conversion to land ownership.

10. Indicator: Before/after/follow-up comparisons of whether women are included as legal beneficiaries (as land owners or otherwise) of changes in tenurial status.

Reason: Tracking such changes indicates whether women's property rights under national and international law are upheld through the agrarian reform process.

Source of data: DAR records

11. Indicator: Landless farm labourers' impressions and satisfaction with status and income under pre-agrarian reform and post-agrarian reform tenurial patterns.

Source of data: Interviews with landless labourers.

Reason: It is important that, in seeking to improve the implementation of the rights of agrarian reform beneficiaries, the rights of the most impoverished populations residing in agrarian reform areas are not overlooked and that compensatory strategies are constructed.

Note: Landless labourers tend to be migrants in many areas, so employing comparative survey research can be problematic.

12. Indicator: Three-way comparisons of farmers' impressions of and satisfaction with agrarian reform progress and processes in selected demographically similar *barangays* where they are assisted by a) UNDP project, b) NGOs or c) no outside agents (but not where they are assisted by both the project and NGOs).

Reason: Impressions will help illuminate relative effectiveness of project and add qualitative element to M&E.

Source of data: Focus groups.

Note: The complexity and questionable reliability of comparing quantitative data across three types of *barangays* precludes a survey approach. Focus group discussions can add a depth of analysis to quantitative data gathered through other indicators, especially data that indicates success (or lack thereof) in advancing farmers' rights in terms of implementing land transfer and case backlog reduction.

PHI/01/007 - Empowerment of Indigenous Peoples for Governance and Sustainable Development of Ancestral Domains

(Note: Because this project already has established an impressive set of quantitative indicators, the sample indicators discussed here tend to be in the qualitative vein.)

1. Indicator: Before/after/follow-up comparison of key indigenous people (IP) community members' knowledge of relevant rights under the relevant laws, particularly the Indigenous People's Rights Act, its implementing regulations and the other national laws with which overlaps and is even in conflict.

Reason: Part of the success of the project hinges on IP leaders and other key members' understanding their rights and being able to act on that knowledge.

Source of data: Survey research.

Note: An assumption here is that widespread education of IPs regarding and other relevant laws is useful (and should be undertaken if it is not already going on under other rubrics) but not as important for the project as key members' knowledge.

2. Indicator: Independent third party perspectives on project progress and success.

Reason: Gathering such independent assessments from NGO personnel, journalists, academics, government officials and even persons with conflicting interests illuminate the project progress in ways that can verify, expand on, or counter reported documentation of that progress.

Source of data: Interviews.

3. Indicator: Before/after/follow-up comparisons of whether intrusions by outside interests into areas legally protected as a result of the project by Certificates of Ancestral Domain or Certificates of Ancestral Land Title.

Reason: The legal recognition of rights through certificates is not an end in itself, but rather a means toward the actual enforcement of IP rights. This indicator helps assess whether the legal recognition is having a concrete impact on enforcement.

Source of data: Two kinds of case studies that a) track the process over time in selected areas and that b) review impact retrospectively.

Note: The case studies can be valuable tools for learning lessons that putting in context the quantitative data discussed here and which the project already is gathering. They also can be important, and even essential, for further learning stemming from documentation of unanticipated impact of the project.

4. Indicator: Before/after/follow-up comparisons (of a quantitative nature) of women's status in their IP communities.

Reason: One potential unanticipated consequence of activities undertaken by the project could be changes, for better or worse, in the status of women in the IP communities. Assessing this can yield lessons for efforts to advance women's rights even as cultural rights are protected.

Source of data: Surveys of both women and men regarding knowledge of women's rights, attitude toward women's status, and their roles in the communities benefiting from the project.

Note: This indicator treads on the sensitive but important issue of balancing cultural and gender rights. A rights-based approach nevertheless needs to address women's rights to the maximum extent possible, thought in a culturally respectful manner.

5. Indicator: Before/after/follow-up comparisons (of a qualitative nature) of women's status in their IP communities.

Reason: Same as #4 above.

Source of data: Interviews with IP populations and with independent third parties.

Note: Same as #4 above.

6. Indicator: Impact of project implementation on non-IP disadvantaged populations in legally protected IP areas.

Reason: As is the case with a focus on women, a rights-based approach takes into consideration impact on the rights of all affected populations. Displacement of or benefits for disadvantaged populations, highlighting the rights impact, should be examined.

Source of data: Interviews with various stakeholders (e.g., IP populations, non-IP disadvantaged populations, government officials) and with independent third parties.

7. Indicator Before/after/follow-up changes in income and other materials circumstances of IP beneficiaries.

Reason: The protection of IP rights through IPRA may have income effects, presumably positive, that in turn positively impact IP advancement of other IP rights (e.g., regarding childhood education). This is potentially important to document and to learn from.

Source of data: Survey research.

Note: Tracking income change is notoriously challenging. Proxy indicators such as changes in quality of observed housing will be employed.

10. Review of the Environment Portfolio

The review of the Environment Portfolio is based on meetings and discussion with Manila-based government and non-governmental partners involved in implementing the UNDP programme, which covers areas as diverse as waste management, supporting the preparation of master plans, and biodiversity and protection, among others. The review also involved a two-day visit to a biodiversity project in Samar Island and meetings with project partners and beneficiaries. We are grateful to all the staff and partners who gave so generously of their time.²⁰

i. Context

As noted in Section 2, the Philippines Constitution guarantees a “balanced and healthy ecology”. However, as in other countries, there are conflicts between different rights, interests and pressure groups, and these are more prominent in this area than in others. Mining and logging companies are the most prominent interests pushing for access to exploit the country’s resources, arguing that economic development, or economic rights, necessitate such exploitation. Their momentum is sometimes halted by people’s organizations and NGOs, who are able to draw on socio-economic and cultural rights protected by the Constitution and national laws such as the Indigenous People’s Rights Act. The people’s movements argue that they do not have any objections to economic investment in their areas, but they do not benefit from the exploited resources, and the companies do not rehabilitate mined out areas or deal with hazardous emissions once they have completed their projects.

Most of the projects supported by UNDP in this area show a clear understanding of the relevant laws and several are intended to implement the law. For example the Persistent Organic Pollutants Project is intended to build capacity to implement the Stockholm Convention, which the Philippines has ratified. In partnership with NGOs promoting the convention, the project staff is meeting with many stakeholders – representatives of different associations, such as electrical operators and farmers, as well as the media – to disseminate information on hazardous materials, which then enables people to report on the materials they come in contact with so that action can be taken. This pits the right to health and a healthy environment against economic interests; one member of the Senate asked for information on the economic impact of implementing the Convention.

Conflicts between the rights of different groups as well as between conventions and rights are frequent. For example in Samar Island, the need to grow new or better crops so that farmers can earn more money and the Philippines commitments under the CITES convention are an issue. “Let them be native and poor” is what the law seems to be saying, according to the local project manager. “In some cases, it is obvious: you will not introduce a plant species that is going to kill other species. But if we can grow a bigger

²⁰ Given time constraints, it was not possible to review the entire range of initiatives covered by the portfolio. The fact that the field trip was organized to Samar Island meant that many of the mission’s observations related to activities under this project.

eggplant, importing some that are not native to Samar Island but grow in a neighbouring Philippines island, does this break the law?” (The solution was to establish a technical and multidisciplinary review group to screen proposals).

ii. Excluded and Vulnerable Groups

Some environmental sectors such as forestry and mining already target specific vulnerable and excluded groups. For example the forestry sector addresses slash and burn cultivators as the poorest of the poor in upland areas, as well as indigenous peoples. In mining areas the focus is on small scale operations because they are not as well monitored as larger operations and the most likely to cause health hazards to workers and communities. The project to develop an Environmental and Natural Resources Framework is building on this foundation.

Women are one of the vulnerable groups being addressed by the Environment Portfolio throughout the different environment sectors address (forestry, mines, protected areas, etc.) For example, the rights of women are being promoted through the Samar Island Biodiversity Project, which has helped change the land grants title to provide for ownership by the head of household rather than the father. The project also made a breakthrough in terms of its ability to penetrate areas controlled by rebel groups, thus promoting the universality of rights by making the benefits available to the whole population within its ambit. This involved some risks for the project management and the approach was made possible because of the involvement of a neutral body like UNDP which could be trusted by both sides, the rebels and the military.

The Renewable Energy project is targeting the poorest of the poor, in promoting services in areas that cannot be reached by the national grid. Access to electricity – a right under the Philippines Constitution – has potential benefits for promoting economic and social rights. However, even targeting poor areas may lead to problems if, for example, certain households are selected on a pilot basis, creating the potential for conflict. The project is seeking to address this by organizing village energy associations to run the system.

iii. Stakeholder Capacity

While the term human rights-based approach is not familiar to most of the partners in this portfolio, there is an awareness and understanding of human rights, varying across communities. To build stakeholder capacity, project staff make an effort to engage and involve communities, local government units (LGUs) as well as individual women and men, in broad-based stakeholder consultations and public dialogues to ensure that their voices are not only heard but more importantly, being listened to. Both of these processes are seen as essential to learn the values, concepts and local experiences, which are expected to ensure attainment of HRBA objectives.

As the manager of the waste management project put it, “Rights only come to the surface when there is something negative. There is a need to make the understanding more conscious and more pronounced.” In this project – “Community Based Ecological Solid

Waste Management” – there is deliberate investment in community leaders’ awareness of the law (Public Act 003, which provides for 25% waste reduction by 2007) and their responsibilities under the law. The project is also building the capacity of leaders in 10 *barangays* or local government units to organize to implement the law and to work with households in achieving a clean environment. There is an opportunity here to learn from the implementation of the law in practice to further enrich and enhance the law itself. This opportunity to feed back to the legislative and judiciary the lessons learned from the implementation of the law arises in many of the projects, and should be consciously addressed.

The Climate Change project is building the capacity of communities to understand how climate change affects their lives and to mitigate the impact of climate change as well as to adapt to the fallout. This is deliberately building awareness of their rights and the obligation of the government under the Kyoto Protocol and the UNFCCC to assist them because their rights are being affected by something beyond their control.

The participation of various stakeholder groups, including IPs and POs, was ensured as part of the consultation for the Environment and Natural Resources Framework Plan, the blue print for the environment and natural resources sector. A series of consultations were held wherein representatives from identified vulnerable groups were invited to review the Framework Plan before its finalization.

iv. Programme Process (Conduct)

The Community Solid Waste Management project has been participatory in that all 17 potential municipalities were involved in defining the criteria that were used to select 10 local government units. Although the project is focused on low income areas, it is working with existing leaderships, the municipal officials. The activities are decided together with the municipal officials and then approaches are made to larger groups in the community. Street leaders are identified and made responsible for a number of streets, and are given both technical and management training. Other potential stakeholders are also identified, such as junk shop holders, tricycle drivers, and mothers.

This is an effective way of implementing the project, but it does appear to entrench existing leaderships rather than seeking to strengthen new ones. The danger is that the existing leaders may already be the ones in a position to control or “capture” resources that may be made available to the project, a newly recognized danger in development terms “elite capture”. On the other hand, efforts are being made to focus on the local communities. In one case, an external NGO wanted to become involved in implementation but its application was rejected so as to involve NGOs and groups from the local community and not an NGO with an established “business” in waste management, and with a “specific personality” and “absolutist tendencies”, according to the project manager.

The Samar Island Biodiversity Project has established an interesting and unusual mechanism for project implementation: co-management between government

representative and an NGO representative. This has had many advantages, in that the NGOs are able to bring in the communities “whose picture of government projects in some areas is not very positive. They served as allies to promote the project and give feedback and supported the proclamation of the national park.”

The NGO-government co-management arrangement has also been found to provide checks and balances in a project with sizeable resources, thereby strengthening accountability. The NGOs decided to rotate their representative in the co-management arrangement to have one representative from each of the three provinces covered by the project serve for one year over the three-year period. This helped to defuse tension among NGO groups. The project management also respected the local NGO partners’ desire to implement activities themselves rather than bring in experts from Manila, and invested in skills and knowledge such as contracting procedures. The downside is that NGO consultation processes take time, which slows down implementation. There is also the potential for overlap between NGO roles as partners and as contractors of the project, and the management adopted rules to avoid conflicts of interest, for example NGOs could not serve on the advisory panel if they were billing.

However, it is not clear what will happen to this arrangement when the national park is established and the government representative becomes the supervisor of the national park. NGOs might become partners in the protected area management board, but this will not enable them to play the same role as they do now. Although this will reduce the extent of NGO participation, it does have the benefit of institutionalising the project in the government system. As a representative from the Protected Areas and Wildlife Bureau put it, “So many projects implemented in the country stop when project funding stops. This has created a negative attitude with people. We’re trying to incorporate projects in our regular budget, although it has been declining for the last several years.”

The indivisibility of rights is well illustrated through the Samar Island and other environmental projects. A main lesson learned is that communities will work to protect and regenerate the environment if their livelihoods are taken into account. Communities raise this point again and again in discussions. In Samar Island project, the Global Environment Facility only provides funds for biodiversity. UNDP makes additional funds available to address the livelihoods side. These funds were added after meetings with stakeholders where livelihoods were the recurring concern.

The national offices of international partners such as CARE and WWF are moving towards a rights-based approach, and their experiences can provide lessons for the UNDP office. Both offices are making extra efforts to make sure that the projects are inclusive and that all voices are heard. For example in one project the fisherfolk had the least voice although they stood to be most affected by the establishment of a marine park, and the project worked with the local government unit to enable them to organize to ensure their voices were heard. In another project, there is an effort to give migrant workers, who are working in the peripheries of a national park and have no security of tenure, a voice in the Protected Area Management Board. There is also an effort to prevent traditional practices that violate human rights, for example, whipping an offender on the feet.

In terms of accountability, it is worth noting that many of the projects cover similar areas but there do not appear to be linkages across projects or opportunities for lessons learned, scaling up and sustainability. For example the biodiversity and livelihood projects promote a move away from the kind of pesticides with which the Persistent Organic Pollution Project is dealing. There are some exceptions, for example links between renewable energy and efficient lighting projects, but much more can be done.

v. Programme Outcome (Results)

The most striking example of results in fulfilling human rights through project activities comes from Samar Island. The NGOs and communities were able to mobilize the population, partly due to the activities and resources of the Samar Island Biodiversity Project, and organize island-wide against mining interests (and their supporters in government), winning the passage of a presidential decree establishing a national park. NGOs and people's organizations were also able to push a 50-year ban on mining in one province. This is perhaps the best example in the environment portfolio of a project that addresses the structural issues that impede the promotion of rights by building the capacity to understand and implement the law and by supporting mobilization and organization to change the power dynamic. At the same time, the project promotes awareness of sustainable mining by organising travel to countries which practice it.

Other projects do not appear to be in a position to bring about similar results, partly because of their small-scale pilot nature and partly because they may not have consciously addressed these issues. More importantly, as one stakeholder in the Empowerment of the Poor portfolio mentioned, there is a limit to what you can do through a single project. Partners like CARE are moving beyond project cycle to a cross-project programme approach within a strategy to link projects. They believe that the rights-based approach is in fact a programme approach, but are also aware of the need to educate donors on this approach because results will take longer to achieve.

There are opportunities for linkages across programme portfolios that are not being exploited. For example, the Empowerment of the Poor portfolio and the Environment portfolio are both dealing with livelihoods, and scarce resources could be concentrated in fewer areas to make a difference, rather than being dispersed across the country. Projects for voter education in the Governance portfolio could reach out to the NGOs and people's organizations engaged in the Environment and Empowerment portfolios, linking all five sets of rights and reinforcing their applicability and realization.

Moreover, in promoting people's economic rights, there is a tendency in the Samar Island and other environment projects to respect the livelihoods that exist to the extent of limiting the potential of people to take advantage of new opportunities, knowledge and technologies. Focusing on traditional livelihoods can also result in a glut on the market for the products and, in the case of Samar Island, in overuse of resources like rattan which are then depleted leaving the communities worse off. The Samar Island project management is trying to address this by paying more attention to the marketing side.

Another approach that could be considered is systematically linking livelihood projects to formal education processes so that communities are able to fulfil their right to education and gain access to new knowledge and technologies.

The Small Grants Programme to Promote Tropical Forests has been able to establish markets for products – such as in Japan for silk products – that alleviate pressure on the forest. However, although the project is multi-sectoral and participatory, bringing together different government departments and communities to address conflicts over land, for example, it is limited in scope. As the manager said, the project can only support livelihood and conservation activities, whereas the indigenous peoples really want and need schools and health clinics. Children have to walk all day to reach a school, and will sometimes spend three days at the school, walking back home on the fifth day. As noted earlier, there is a strong case to be made for linking up to and partnering with organizations, national and international, that provide access to education and health, in other words social rights, for projects dealing with economic rights. Otherwise the results in people's lives are limited and may not be sustainable.

In terms of indicators to measure results, the NGOs on Samar Island use a series of indicators that measure both process and outcome issues, for example:

- Is the population organized? Have they formed their own organizations at different levels of government?
- Do they take the initiative to access resources or do they simply wait till resources reach their community?
- Have they changed the local power in the area?
- How many good local leaders have they elected?
- Is the work of the local chief executive transparent? Is the development plan fully implemented and is the budget allocated to gender being used for that purpose?

Another interesting approach to measurement is being considered by the Samar Island project, which is measuring the environmental resource protection in economic terms to set against the value of exploitation of resources. For example, they have been told that the value if the island's bauxite resources is \$22 billion. They estimated that the value of fresh water alone is around \$30 billion, exceeding the value of the mining investment. In addition, they valued traditional forest products, ecological tourism, and carbon sequestration as amounts that should be factored in when weighing the island's resources. They argued that these values benefit the majority of the people and not just one corporation, and that they can be sustained, and presented the analysis to the Environment and Natural Resources Department for communication to the president. It must be stressed that use of indicators should be thoroughly studied to ensure that they measure both qualitative and quantitative aspects at the process and outcome levels.

vi. Recommendations

As a whole, the projects in the portfolio incorporate many elements of the rights-based approach. In particular, they

- Target poor and excluded groups,
- Are multi-disciplinary, bringing together civil, political, social, cultural, and economic rights,
- Are participatory, and indeed have introduced unusual management arrangements that include NGO partners together with government, and
- Build capacity in government and civil society to understand and implement the law, thus potentially contributing to a society governed by the rule of law.

The main weakness is the same that affects the country programme as a whole: scarce resources are spread over many areas and activities, and there are missed opportunities to consolidate efforts and maximize impact by linking up with activities in other programme portfolios – as well as initiatives in other areas supported by other donors (e.g. education). This undermines the portfolio's potential to be accountable for results. There is also a missed opportunity in this as in other portfolios to provide basic human rights education as a cornerstone of project activities, as well as to enrich and enhance the law by feeding back the lessons of development experience to legislators.

The problems resulting from competing rights, for example, between the society's collective interest to conserve and protect natural resources and the community's right to (traditional) livelihood, are a major challenge in this as in other portfolios. Often, lessons can be learned from the development interventions undertaken by the projects themselves. For example, in the Samar Island project, a technical group was established to judge whether new species that could enhance livelihoods would really pose a threat to indigenous biodiversity. In the Mindanao Peace and Development initiative, space was created at the local level to discuss and resolve grievances. Given that rights issues often arise when there are conflicts between different rights, this is an area that could benefit from more discussion.

Annex 1

HRBA Checklist for Programme Staff

1. Country Context

- ✓ What are the 3 top priorities for human development in the country today?
- ✓ What is the environment in the country for promoting human rights? (See A Overleaf)
- ✓ Which rights have yet to be fulfilled for the population as a whole, and what are the structural causes for this? (B)
- ✓ What treaty standards and treaty monitoring body recommendations are relevant in this context? (C)
- ✓ How does the Country Programme support the realisation of human rights?
- ✓ Do programme staff have the capacity to integrate human rights in their work, and a sound grasp of the UN Charter, human rights instruments, and the country constitution?
- ✓ How do other international partners support the realisation of human rights?

2. Excluded and Vulnerable Groups

- ✓ Which groups are the most disadvantaged? How are vulnerability and poverty in the country defined? How does UNDP define vulnerability and poverty in the country?
- ✓ Are tools and indicators to identify excluded groups sufficiently disaggregated?
- ✓ How does the overall Country Programme address exclusion and disadvantage? How do specific projects do so?
- ✓ How do other partners do so? How do partners coordinate? What gaps remain?
- ✓ Does the UNDP Country Office adequately reflect the diversity of the country?

3. Stakeholder Capacity

- ✓ Who are the Country Programme or project stakeholders and how were they identified?
- ✓ Which are duty bearers and what obligations are they supposed to meet? Do they have the capacity to meet obligations (including responsibility, authority, data, and resources)?
- ✓ Which are claim holders and do they have the capacity to claim their rights (including ability to access information, organize, advocate policy change, and obtain redress)?

4. Country Programme and Project Process (Conduct)

- ✓ Does project design and implementation incorporate human rights standards as set out in international and regional conventions? Does the Country Programme?
- ✓ Does project design and implementation incorporate principles of universality, indivisibility, interdependence, equality, participation, and accountability (further spelled out in D overleaf)? Does the overall Country Programme?
- ✓ Do both duty bearers and claim holders participate in project design, implementation, monitoring and evaluation? In the overall Country Programme preparation?

5. Country Programme and Project Outcome (Results)

- ✓ How has the overall Country Programme built capacities to realise human rights in the country? Do these address the structural causes for non-realisation of human rights? Which human rights will be further realised?
- ✓ How has the Programme contributed to a culture of rights and respect for the rule of law?
- ✓ How does the project build the capacities of duty bearers to meet obligations and claim holders to claim human rights? Which human rights will be further realised? How is this monitored and evaluated?
- ✓ Do indicators capture information – as well as perceptions - on the enjoyment of human rights as well as qualitative aspects, such as accountability of public authorities?

(A) Human Rights include

Right to life; Freedom of association, expression, assembly and movement; Right to health; Freedom from torture and cruel, inhuman or degrading treatment or punishment; Freedom from arbitrary arrest or detention; Right to a fair trial; Freedom from discrimination; Right to equal protection of the law; Freedom from arbitrary interference with privacy, family, home or correspondence; Right to asylum; Right to nationality; Freedom of thought, conscience and religion; Right to vote and take part in government; Right to adequate food, shelter, clothing; Right to work; Right to social security; Right to education; Right to scientific progress; Right to free exchange of information; Right to participate in cultural life; Right to development.

(B) Causal Analysis In causal analysis, practitioners attempt to define and isolate the immediate, underlying, and basic (or structural) causes of a problem so that they can better understand the impact of their interventions.

(C) The six core human rights treaties are:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- International Covenant on Economic, Social and Cultural Rights (CESCR)
- International Covenant on Civil and Political Rights (CCPR)
- Convention on the Elimination of all forms of Discrimination against Women (CEDAW)
- Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC)

Account should also be taken of regional human rights conventions. The six human rights treaty monitoring bodies are: The Committee on the Elimination of Racial Discrimination; The Human Rights Committee; The Committee on Economic, Social and Cultural Rights; The Committee against Torture; The Committee on the Elimination of Discrimination Against Women; The Committee on the Rights of the Child. In addition, special rapporteurs are appointed to deal with pressing violations of human rights (like poverty, violence against women, and others) and in countries in which violations are occurring.

(D) Human rights principles, extracted/summarized from The Human Rights Based Approach: Towards a Common Understanding Among the UN Agencies, 7 May 2003.

a) Universality and inalienability: All people everywhere in the world are entitled to human rights. They cannot be given up or taken away.

b) Indivisibility: Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, a priori, in a hierarchical order.

c) Inter-dependence and Inter-relatedness. The realisation of one right often depends, wholly or in part, upon the realisation of others. For instance, realisation of the right to health may depend, in certain circumstances, on realisation of the right to education or of the right to information.

d) Equality and Non-discrimination: All human beings are entitled to their human rights without discrimination of any kind, on the grounds of race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.

e) Participation and Inclusion: Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realised.

f) Accountability and Rule of Law: States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

Annex 2

Methodology for a Human Rights-Based Review in a UNDP Country Office (DRAFT)

A human rights-based review would take 2 - 3 three weeks, depending on the complexity of the UNDP Country Programme and the range of partners involved. The steps set out below could be carried out by staff members themselves or shared with national or international consultants, depending on Office workloads and the in-house expertise available. The involvement of consultants would contribute a neutral perspective and facilitation services, as well as expertise in selected areas.

a. Leadership by the Resident Representative and His/Her Deputy

The objective of an HRBA review is to stimulate learning on the issues in the Country Office and between the Country Office and the programme review mission, which can take the lessons learned and share them with other UNDP offices and national and international partners. The leadership of the Resident Representative is critical to the whole exercise: the importance s/he attaches to the exercise provides a signal to staff as to the importance they should attach and the time and resources they should make available, beyond their own interest in the subject. The Res Rep's leadership is also critical in following up on the recommendations of the review and incorporating the lessons learned to reshape current or new programmes.

b. Composition of the Mission Team

The mission team may be composed of national and/or international consultants. The consultants should have expertise in human rights as well as in some or all of the main programme portfolios covered under the country programme.

c. Consultation with Portfolio Managers

As is the case with other development organizations, UNDP offices have "focal points" for different thematic or functional areas, e.g. for gender, new technology, NGOs, and other areas, including human rights. The focal point plays an important coordinating function, especially when a mission is fielded, ensuring that all the documents are made available and that all arrangements are in place. However, in advance of the mission, the team leader should consult with each portfolio manager (most UNDP offices have poverty, governance, and environment portfolios, with additional portfolios such as peace and development depending on the country). This consultation can be conducted by email but should involve at least one phone consultation. It would identify:

- The key objectives of the portfolio, including actual or anticipated results,
- The key projects through which those objectives are being furthered, and the relevant documentation (project document, project reviews and progress reports, background papers, case studies, etc)

- Key partners and allies within government, the U.N system, and the international community,
- Possible field visits in-country

The team leader should also take into account issues such as gender, the environment, and human rights, which would cut across programme portfolios, and interact with focal points as necessary.

d. Desk Review

Based on the discussion in (b) above, the team leader would request the relevant documentation, and s/he and the mission members would review the documentation in light of the HRBA checklist to identify issues, questions, and concerns. Additional documentation would include the Country Programme, annual reports, the Common Country Assessment and the UN Development Assistance Framework, and other documents. The review would also cover the General Comments or recommendations of human rights treaty monitoring bodies relevant to the country context, as well as regional conventions, the national constitution, and pertinent national laws.

e. Initial Workshop

All programme staff would participate in a short (3- to 5-hour workshop) on human rights and development facilitated by the mission team. This would provide an opportunity to check the staff's level of understanding of human rights,²¹ present the international human rights framework (ideally a national legal expert would be commissioned by the Country Office to do so), address the national framework and key human rights issues in the country, provide an overview of progress at UNDP in incorporating human rights in development, and walk staff through the HRBA Working Guidelines.

f. Interviews with Management and Staff

Over 2 – 3 days, the mission team would meet with the Resident Representative, the Deputy Res Rep, portfolio managers and staff members to discuss their projects, in individual or group discussions depending on how portfolios are assigned. Discussions at the meetings would be guided by the HRBA Checklist to glean further information about the country context and the UNDP programme, groups that remain excluded, assessment of stakeholder capacity, a sense of how human rights standards and principles have been incorporated into projects, and an idea of the results expected in terms of strengthened capacity to realise human rights. This would help to establish a “baseline” against which feedback can be provided at the end of the mission and in the report.

g. Field trips

Based on discussion with UNDP management and staff as well as national partners, consultants would examine two projects representative of the Country Programme (one at

²¹ Patrick Van Weerelt, UNDP Human Rights Focal Point/HURIST Programme Officer, has designed a useful card-exercise for this purpose, which is also a good icebreaker.

the upstream policy level and one at the downstream level) in much more detail, undertaking field trips as necessary and meeting with project personnel and partners.

h. Interviews with Partners

The mission team would meet key government, NGO and other implementing partners, either for individual or group meetings, keeping in mind that people are likely to be more open in individual sessions. It is also important to meet selected representatives of the UN system and the international community to provide perspectives on key development and human rights issues as well as UNDP's contribution in the country.

i. Staff Reading

During this time, programme staff would familiarize themselves, if they have not already done so, with the Universal Declaration of Human Rights, the six core treaties, relevant regional conventions, the country constitution, national legislation pertinent to their projects, and the principles set out in the UN Common Understanding. This would enable staff members to get a sense of the extent to which their projects incorporate human rights standards and principles, contributing to a society governed by the rule of law and a culture of human rights.

j. Preliminary Report

The mission team would write a preliminary report with their findings regarding the extent to which the overall programme and individual projects strengthen national capacity to realise human rights, drawing attention to ways to mainstream the HRBA into programme and project processes.²²

k. Closing Workshop and Follow-Up Meetings

The mission team would report back on findings to the Country Office team as a whole, in a learning exercise that brings independent perspectives on the programme and projects together with the perspectives of staff enriched by their background reading. Staff that wish to do so could schedule individual meetings for more detailed feedback and advice.

l. Programme, Project Redirection

Based on the review, Country Office management may wish to reorient or phase out some projects and/or to design new interventions.

²² The UN System is not responsible for realizing human rights in the country but for building national capacity to do so. At the same time, project support by development agencies should further realisation of human rights – and on no account violate human rights.

Annex 3

Frequently Asked Questions **About a Human Rights-Based Approach to Development**²³

As UN system agencies begin to introduce a rights-based approach to development, UNDP programme staff and national partners are raising a range of questions as to how this approach applies in practice. Several concerns underpin these questions: is a rights-based approach (HRBA) another donor-driven foreign import that could lead to conditionality? What is the real value-added of the rights-based approach since good development practice should be grounded in participation, transparency, equality and other values and principles? Are human rights standards and entitlements fixed, absolute and uncompromising, with potential to undermine communitarian values and fuel a culture of individualism?

This note is an attempt to provide some answers to FAQs and to put the issues in context, keeping in mind that rights-based approaches to development are still at an early – and, in many agencies such as UNDP, pilot stage – and there will doubtless be many more iterations of these FAQs.

1. Is HRBA a Donor-Driven Foreign Import?

Almost all countries have signed the United Nations Charter and the treaties and conventions dealing with human rights, and many countries have brought their national legislation into line with the internationally recognized standards. These are the same instruments that guide UN-supported development activity. Many countries have gone further, and spell out not just civil and political rights but also economic, social, and cultural rights in their constitutions. South Africa, the Philippines, India, Argentina, Bangladesh, Finland, France, Nigeria and Hungary are among the examples.

In the Philippines, for example, human rights standards and principles derive principally from the Bill of Rights and Social Justice sections of the 1987 Constitution of the Philippines, and from the international human rights treaties that the Government has ratified and undertaken to implement. National ownership is reflected in the extensive legislative human rights framework in the Philippines, in the mandates and functions of the National Human Rights Commission and judicial and administrative organs giving meaning and practical expression to these rights, and through the buy-in and support of a wide range of human rights constituencies at national level (civil society organisations,

²³ This note was written by Mac Darrow, HURIST Coordinator at OHCHR. Many of the challenging questions raised were put to a team of experts fielded by HURIST, the joint UNDP-OHCHR Human Rights Strengthening Programme, to the Philippines in January- February 2004. The author is grateful to Mr. Rolando Tungpapalan, Assistant Director-General of the Philippines National Economic and Development Authority and the many other Filipinos who raised these questions. He is also grateful to Ms. Nadia Hijab, consultant and team leader of the HURIST mission for her review and comments.

Alternative Law Groups, academia, NGOs, peoples organisations and so forth). To this extent, the core human rights objectives expressed in the UN Charter – the foundation for all UN-supported concerns – are entirely consistent with and grounded within the principle of national ownership.

2. Does a Rights-Based Approach Replace “Good Development Programming”?

There is much in ‘good development practice’ that is entirely consistent with HRBA, and upon which HRBA seeks to build. Good programming principles include such things as strengthening institutions of accountable governance, enhancing transparency, extending services to the poorest sectors (equity), extending and deepening participation, empowering people and communities as actors for their own development.

HRBA does not seek to erode existing networks of accountability and mutual responsibility upon which development progress depends, but rather, strengthen and enliven relationships between ‘rights-holder’ and ‘duty-bearers.’ HRBA brings the standards (for example, the Bill of Rights and Social Justice sections of the 1987 Constitution of the Philippines) and principles (for example, universality, non-discrimination and equality) of human rights to bear upon development programming.

3. What is an HRBA Programme?

There is no such thing. A rights-based approach to development does not refer to a ‘stand-alone’ human rights programme, or component of a programme. Rather, it underscores that, as development programmes are formulated, the main objective should be to promote human rights, and that great care should be exercised to ensure that development projects do not unwittingly undermine the enjoyment of human rights at the national level. In addition, development activities should be conducted in a way that respects human rights principles.²⁴ Development activities, however well-meaning, have not always been carried out in a manner respectful of human rights. Factoring human rights standards and principles explicitly into development plans and processes is intended to channel human rights and development progress into the same mutually reinforcing track.

4. Are We Opening the Door to Boundless Entitlements?

Perhaps the most striking ‘added value’ of human rights in development is that certain things that were previously matters of charity, need or discretion become matters of legitimate entitlement (of rights-holders) and obligation (of duty-bearers). This particular attribute of the HRBA was questioned by a number of programme partners fearful of fuelling unreasonable expectations among stakeholders.

²⁴ The System Common Understanding arrived at the inter-agency working held in Stamford Connecticut in May 2003 elaborated five human rights principles that should guide development cooperation: universality and inalienability, indivisibility, inter-dependence and inter-relatedness, equality and non-discrimination, participation and inclusion, accountability and rule of law.

The first point to be made in this regard is that the subject matter of human rights entitlements, at least as far as the law is concerned, is *carefully defined*, not always to a level of precision that many might hope for, but in a way that permits sufficient flexibility to respond to evolving demands and different national contexts and resource constraints.

In UN Country Team and national partner HRBA training programmes, obligations are generally of three kinds: to ‘respect, protect and fulfill’ human rights.

- To ‘respect’ human rights means simply not to interfere with their enjoyment (e.g. refraining from forced evictions).
- To ‘protect’ human rights means to take steps to ensure that third parties do not interfere with their enjoyment (e.g. providing a rights-respecting regulatory environment for private sector service provision).
- To ‘fulfill’ human rights means to take steps progressively to realize the right in question (e.g. establish necessary policies and programmes targeted towards the full realization of the right over time).

Considering human rights obligations within these three categories can help to keep unwarranted assumptions about absolutism in check, and to illustrate that not all obligations are necessarily expensive to implement.

A related point worthy of mention is that economic, social and cultural rights are – for the most part – required to be implemented *progressively* rather than immediately, within the maximum extent of available resources. Taking the right to education as an example, Article 9 of the 1987 Constitution of the Philippines establishes a right to free public education for both primary and secondary school levels. It also mandates that the highest budgetary allocation should go towards education (although the Supreme Court of the Philippines has interpreted this provision in a way that subordinates education appropriations to national debt servicing). But this provision is nonetheless valuable in helping to signpost the extent to which the government’s obligation to progressively fulfill the right to education is being met.

The third point to be made in connection with fears of absolutism is that human rights standards (at least under international law) are often expressly *limited* in order to take account of the legitimate requirements of ‘public order’ (although this does not offer a *carte blanche* to abrogate human rights), public health and morals, along with other such factors. This is precisely so that human rights enjoyment can be seen within the context of the values of the society in which they operate. A good illustration of this kind of limitation occurred during the 1980s when the Supreme Court of the Philippines found that the requirements of ‘public order’ outweighed former President Ferdinand Marcos’ ‘right to return’ from exile in Hawaii.

Finally, quite a number of human rights (including such important things as freedom of expression, freedom of association, but not rights basic to immediate human survival) can

lawfully be *derogated* from, or suppressed, in times of a public emergency serious enough to threaten the life of the nation, providing that certain procedural and substantive criteria can be met. With these factors in mind, human rights entitlements are far from limitless and absolute. Clear communication is critical in order to keep expectations and perspectives within a proper and realistic context.

5. What About Conflicts Between Rights?

Development practitioners raise the issue that human rights frequently clash or seem inconsistent with each other. In principle, there is no hierarchy or inherent priority among human rights. Examples of clashes between rights are potentially infinite, and can include:

- Freedom of movement of pedestrians v. the right of street vendors and the urban poor not to be forcibly evicted;
- ‘Customary’ penal practices v. international norms;
- The rights of particular target groups within a project versus the rights of a broader set of stakeholders;
- The (inter-generational) right to a ‘balanced and healthful ecology’²⁵ versus the right to an adequate standard of living; and
- The human rights of landless migrants versus indigenous people’s title to their ancestral domains.

A related observation reflected in development experience is that human rights frequently conflict, or are perceived to conflict, with economic interests lacking status as ‘human rights’. Examples raised by national partners during the course of the HURIST mission to the Philippines included: (1) external debt servicing versus the obligation to progressively realize peoples’ economic, social and cultural rights; (2) privatization programmes and the right to certain essential services like electricity or housing; and (3) mining interests versus indigenous peoples’ title to their ancestral domains.

Expectations about human rights must be kept in a realistic perspective. Human rights legal standards cannot be expected by themselves to resolve all clashes between rights, or to reveal clear answers to difficult policy choices. Rather, more modestly, their practical value in development programming should be seen in helping to provide guidance in two main ways:

- (1) Human rights standards can help to identify *minimum protected interests* that should not be bargained away in the course of policy trade-offs (for example, ensuring that the rights of disadvantaged groups are not arbitrarily sacrificed to those of the majority), and
- (2) The *process requirements* of HRBA can help to ensure that at the very least, relevant information is made available, all those whose rights are at issue have a

²⁵ S.16 Art. 2, 1987 Constitution of the Philippines.

reasonable opportunity to be heard, and that appropriate mechanisms are in place to resolve grievances and – as necessary – provide redress.

There are numerous ways in which development programmes can help resolve clashes between rights and related interests, including the following examples from UNDP-supported projects in the Philippines:

- The Mindanao Peace and Development project in Mindanao has provided forums for government representatives and indigenous peoples in order to raise awareness of human rights and the various laws governing the use of resources within ancestral domains, providing a means of channeling grievances and resolving disputes.
- The ‘strengthening access to justice by the disadvantaged’ project within the governance portfolio supported a baseline study designed to build the capacity of the Supreme Court to monitor the extent to which the formal justice system is reached the poorest sectors of the population.
- The ‘right to development’ project helps to build awareness about the content of human rights standards, and legitimate extent of human rights entitlements and obligations.
- The Agrarian Reform programme, with active participation of Alternative Law Groups, seeks to build the capacities of paralegals and mediators to help resolve claims between ‘agrarian reform beneficiaries’ and landowners.
- The Mindanao Peace and Development project initially targeted support to members of the Muslim community who had been displaced by conflict, but widened its stakeholders to include other internally displaced people (Christians, indigenous people) in order to avoid fuelling resentment between the various groups.
- The Samar Island Biodiversity project supports livelihood projects that provide forest dwellers with an alternative to destructive agricultural practices, balancing the (inter-generational) right to a balanced and healthful ecology with the right to an adequate standard of living.

6. Does HRBA Fuel Excessive Individualism and Undermine Responsibility?

Human rights legal standards will rarely if ever provide a ‘blueprint’ for how government should go about discharging its obligations at central, provincial and local levels. These standards provide an important part of the framework for the realization of human rights and development goals, but the process of implementation rests to a large degree upon local specificities, guided by human rights principles.

Equally importantly, national constitutions and international law emphasise that all individuals and sectors of society have general responsibilities towards the community at large, and at a minimum must respect the human rights of others. While these kinds of

duties are generally not spelled out as clearly as those attributable directly to the organs of the State, they provide a valuable reminder that human rights are to be exercised within a system of mutual responsibility. Certain direct duties can also be attributable to non-State actors, such as duties of parents under the Convention on the Rights of the Child.

Moreover consensus does seem to be building within the international community on the content of human rights obligations of international economic actors, business entities and transnational corporations, which are increasingly assuming 'governance' functions at both national and international levels. Together with duties of an ethical or moral kind, there is a potentially wide range of human rights duty-bearer/claim-holder relationships in which to ground development programming, while minimizing the scope for excessive individualism or fuelling a culture of unlimited entitlement. For example, insofar as service provision is carried out by the private sector, the State's duty to 'protect' human rights requires it at a minimum to establish an appropriate regulatory environment for private sector activities.

Annex 4

List of People Met

UNDP Staff

Deborah Landey, Resident Coordinator and Resident Representative
 Kyo Naka, Deputy Resident Representative
 Emmanuel Buendia, Portfolio Manager, Enabling Environment
 Rosanne Wong, Programme Manager for Human Rights, Justice and Gender
 Clarissa Arida, Programme Manager, Environment
 Jane Steel, UNV, Environment
 Morito Francisco, Programme Assistant, Environment
 Carl Nadela, Programme Assistant, Empowerment of the Poor Portfolio
 Michiko Suga, Partnerships Advisor, Programme Management Support Unit
 Alma Evangelista, Advisor, Peace and Development
 Corazon Urquico, Portfolio Manager, Empowerment of the Poor
 Suzette Imperial, Enabling Environment
 Beatriz Fernandez, Programme Officer, UNV
 Alex Carrasco, Programme Manager, Governance/Poverty

Government and Civil Society Partners

Governance Portfolio

Rolando Tungpalan, Assistant Director-General, National Economic and Development Authority
 Purificacion Quisumbing, Chairperson, Commission on Human Rights
 Atty. Eligio Mallari, Commissioner, Commission on Human Rights
 Ramon Casipie, Executive Director, Institute for Political and Electoral Reform
 Marlo Aranguren, League of Municipalities of the Philippines
 Francis Balitaan, Program Officer, League of Cities of the Philippines
 Klaid Sabangan, Secure Tenure Coordinator, Philippines Urban Forum
 Austere Panadero, Assistant Secretary, Department of Interior and Local Government
 Velma Abued, Housing and Urban Development Coordinating Council
 Atty Gil Fernando Cruz, Executive Director, League of Cities of the Philippines
 Magdalena Mendoza, Managing Director, Center for Governance
 Atty John Noah Red, Judicial Reform Project, Supreme Court of the Philippines
 Atty Nestor Venturillo, Judicial Reform Project
 Police Superintendent Victor Boco, Philippine National Police
 Police Superintendent Clarence Guinto, Philippine National Police
 Police Chief Inspector Susan Jalla, Philippine National Police
 Atty Jhegino Bacolod, Department of Justice
 Susan Bullan, House of Representatives
 Delia Memiban, Department of Budget and Management
 Edgardo Atienza, Department of Budget and Management
 Niel Santillan, Cooperative Development Authority
 Mabou Aguilla, Civil Service Commission
 Jerry Reyes, Philippine Governance Forum, Ateneo School of Government
 Juvy Gervacio, Center for Policy and Executive Development, University of the Philippines
 Leonor Briones, National College of Public Administration and Governance, University of the Philippines
 Aurora Parong, Executive Director, Task Force Detainees of the Philippines
 Nerissa, Piamonte, Programme Coordinator, Commission on Human Rights
 Red Batario, Executive Director, Center for Community Journalism and Development
 Amelita Castillo, Department of Budget and Management
 Myrna Caoagas and team members, Concerned Citizens of Abra for Good Governance

Peace and Development Portfolio

Teresa Sintin-Jamero, Area Coordinator, GOP-UNMDP3, South and Central Mindanao
 Suharto Abbas, Area Coordinator, GOP-UNMDP3, Autonomous Region in Muslim Mindanao
 James Ali Abdul, Area Coordinator, GOP-UNMDP3, Western Mindanao and Palawan
 Melissa Miranda, Component Manager for Reproductive Health, UNFPA Mindanao, GOP-UNMDP3

Mindanao

Vice Mayor, community representatives and staff at Buluan, visit to refugee camp Doctor, nurse and support staff at a Maguindanao health post; auxiliary health worker.
 Members of a women's cooperative group at Lumlum.
 Project staff based in Davao City, including the Programme Coordinator.
 Roundtable dialogue with Peace & Development Advisers and national UNVs.
 Two representatives of the Bangsamoro Women's caucus

Empowerment of the Poor Portfolio

Rosalina Bistoyong, Executive Director, National Commission on Indigenous Peoples
 Cielo Cabalatungan, Division Chief/Programme Coordinator, Bureau of Rural Workers, Dept of Labour and Employment
 Maybelle P. Frianeza, Labour and Employment Officer III, Bureau of Rural Workers, Dept of Labour and Employment
 Cecilia Regina J. Desi, Supervising Technical Education and Skills Development Specialist, TESDA
 Nerrisa T. Esguerra, Project Coordinator, NAPC-UNDP Strengthening Inst. Mechanisms for the Convergence of Poverty Alleviation Efforts, Phase II
 Fe Cabral, Officer-in-Charge/Director, NAPC
 Florencio R. Carandang, Supervising Economic Development Specialist, Social Development Staff, NEDA
 Guia S. Abalos, Chief Agrarian Reform Programme Officer, DAR Bureau of Agrarian Reform Information and Education
 Lourdes Valdez Cruz, Senior Agrarian Reform Project Officer, Dept of Agrarian Reform

Environment Portfolio

Elsie Encarnacion, Assistant Project Director, Metro Manila Development Authority
 Juvina Serafin, Science Research Specialist, National Solid Waste Management Commission Secretariat, Environmental Management Bureau
 Margarita T. Caridad, Engineer III, Environmental Management Bureau
 Lilia Raffles, Chief, Planning and Programming Division, DENR
 Lorenzo Agaloos, Assistant Director, Protected Areas and Wildlife Bureau (PAWB)
 Janette Garcia, Samar Island Biodiversity Project, PAWB
 Angelita Meniado, Project Coordinator, PAWB
 Glen Castro, National Coordinator, UNDP Small Grants Programme
 Francisco Benito, Assistant Secretary and PMO Director, CBRED
 Ramon Cabazor, Project Director, Wind Turbine Project, Dept of Energy
 Mirna Campanano, PELMATP, Dept of Energy
 Edgardo Tongson, Vice President for Conservation and Field Operations, WWF Philippines
 Ted Bonpin, Country Director, CARE Philippines
 Joyceline Goco, Project Director, Climate Change, DENR
 Gerarda Merilo, Senior Environmental Management Specialist, Climate Change, DENR
 Antonio de Castro, Former Executive Director, Palawan New and Renewable Energy and Livelihood Support Project
 Vic Guiam, Head, Public Relation Unit, Bureau of Agricultural Research
 Lilibeth Medina, Technical Staff, POPS

Samar Island

Evelyn Corado, Project (NGO) co-manager,
 Herminigildo Jocson, Project (DENR/Government) co-manager
 Marcelino Dalmacio, CTA-NGO representative and implementing partner
 NGO representatives and implementing partners of the SIBP
 Rolando Mercado, Executive Director, Pneuma Inc
 Treasurer of the Lokilon Association
 Leaders and members of the Casandig Cooperative
 Leaders and members of the KAPPAS cooperative

National Experts

Attorney Sedfrey Candelaria, law professor, Ateneo University/Ateneo Human Rights Centre
 Maria Socorro Diokno, Human Rights expert, Free Legal Aid Group (FLAG)