

# GLOBAL LEARNING PROGRAMME ON HUMAN RIGHTS IN DEVELOPMENT

*DAY ONE - 2 DECEMBER 2005*

## **SECTION 1: WELCOME & INTRODUCTIONS**

Section one of the programme was devoted to Welcome and Introductions and was broken down into several tasks. Before participants were formally welcomed and introduced to the programme, they engaged in a small energizer depicting a house which was subjected to a normal visit, a storm and later on, an eviction.

Two persons depict a house and another person (house resident) stays inside the house. When there is a visit, the house resident moves to/visit another house. When there is a storm the houses move to another location and residents remain. When eviction is called, the houses and the residents all move and form another house with another resident. This helped to energise people and gently introduced the topic of human rights in development.

Welcome note to the training was given by Odindo Opiata, the Executive Director of Hakijamii who welcomed all the participants to this training in Nairobi. After that, Aye Aye Win, the Executive Director of Dignity International gave a brief overview of the programme. She explained that, the Global Learning Programme used to be held annually in Portugal for the past four years with a specific focus on economic, social and cultural rights. As an outcome of these years of experience, it became evident the growing interest and need for a programme that would focus on human rights in development, and to go to another continent – to allow more people from other continents to participate. Given the interest of the partner Hakijamii whose founders have been involved with the previous global programmes, the decision was taken to hold the learning programme in Nairobi, Kenya.

Aye Aye appealed to the development agencies not to treat the human rights based approaches as the dish of the day – popular now but to be dumped later, but more as a step forward in integrating human rights in development work.

Participants were then introduced to an ice breaker with the aim of making the participants comfortable with their learning environment.

During the next session, participants were requested to introduce themselves both in their personal and professional capacities. This exercise took approximately 100 minutes and participants were requested to do three things which were: (i) organisations they are working for and what they are doing (ii) To explain about the vision of the world as they see it, and (iii) To explain about their personal/special characteristics. This exercise allowed participants to share their work and their characteristics with other participants and enabled them to get to know each other a little better.

The next task was to create a conducive learning environment by asking the participants to share the leadership in the programme and set their own ground rules for the programme. Participants are considered to be the centre of the learning process and that, they should be the ones to set in motion the participatory learning process themselves. A set of ground rules (respect for others their pace and space, to respect the diversity and multicultural context, listen, learn, being on time, etc.).

The following task was aimed at eliciting the participants' *expectations*. Participants were requested to answer four questions which were:

- a) What would you like to know?
- b) What skills do you want gain?
- c) How would you like to feel? And
- d) I would like to consider this programme to have been successful, if in six months in my work, I ...

The last exercise here required participants to describe their "secret expectations", which could be disclosed or kept secret at participants' will.

The last task was introducing the programme flow, chill-out groups, social activities, field visits and the case studies. Participants first discussed this in pairs to gauge their understanding of the programme matrix that was given to them followed closely by a question and an answer session on the programme and the case studies. Thereafter, the facilitator elaborated more on the programme and the case studies.

## SECTION 2: UNDERSTANDING HUMAN RIGHTS - HUMAN RIGHTS VISION

This section started with the following questions:

- a) What is good about human rights?
- b) What is not so positive about human rights? And
- c) What is confusing about human rights?

A variety of answers were proffered by the participants. Some argued that human rights do not work while others supported the notion that, human rights do work in some circumstances. On the whole however, it was seen that, there was a lot of confusion on what works with human rights and what does not work. Some participants argued that, the human rights language is for the sophisticated people and cannot be understood by the ordinary people. This again brought in considerable confusion to the whole human rights equation.

Compounding the situation still, participants were requested to step on other peoples' toes and try to protect themselves from being stepped upon. The instinct to protect themselves was very vivid and apparent from this exercise as each participant was doing his/her best not to be stepped upon. The exercise also illustrated, the people's so-called common humanity is not so common sometimes. The exercise showed how sometimes human nature can circumvent human rights.

This exercise brought into sharp focus several different rights that are there for protection by human rights activists which are, interalia:

- Right to life;
- Right to safety and security;
- Right to dignity and integrity;
- Freedom of movement;
- Right to health;
- Right to education;
- Right to self determination, etc.

A *grey area* in the human rights field is on the question of human rights in difficult situations. This concerns how human rights principles such as solidarity promote and eventually protects the human rights of vulnerable groups in society. To ensure that the question of vulnerability is understood, participants were again requested to be in a pair. One participant was then required to return backwards in a minefield filled with pins and the other participant was required to assist his/her colleague to walk backwards without dragging his/her feet into the pins.

The aim of the exercise was to show how difficult it was to meet the human rights requirements of people in difficult circumstances because normally the situation prevailing on the ground is far from the ideal situation that we normally envisage. However, it was observed that, "humanity" and "preservation" sometimes brings us together to deal with particular situations like conflicts, natural disasters, etc.

The discussion on vulnerability also elicited an attempt at identifying some vulnerable groups in society who included:

- HIV/AIDS patients;
- Women;
- People with different disabilities;
- The elderly in society;
- Children;
- Excluded minority groups

The question of *situations of vulnerability vs. vulnerable sectors of society* was also brought up. For example: a pregnant woman is in a situation of vulnerability and would need special care in relation to her pregnancy; while children are by definition a vulnerable segment in society and will need special care and considerations at all times.

The next exercise was to pull out the rights that have been exercised and those that have been violated. A story which all the participants built together draw out several different real life circumstances and was then analysed in terms of rights which were either exercised or violated. Participants were then grouped into five groups to discuss each set of rights that are available: Civil, Political, Economic, Cultural and Social.

At the end of the exercise, having experienced first hand the difficulties of separating with clear-cut lines different situations in terms of rights, it was seen that there is a deep-rooted **interdependence** and **indivisibility** between the different categories of rights in question. It was also seen that while several rights in the case in question were violated, some other rights have been exercised/upheld; and that the violation of one right frequently is linked to the violation of other rights.

At the end the various categories/sets of rights came together in a holistic view of human rights.

Another observation which emerged from the case in question is that, while Economic, Social and Cultural Rights have been in existence for quite a while, their use has not been as frequent as the use of Civil and Political Rights; and that knowledge about them is not as widespread. It was also observed that trying to bring every injustice into human rights terms, might make it more difficult to bring all perpetrators to justice as the justice system becomes overwhelmed.

The following exercise "the balloons and pins" dramatized the power game and showed in very clear terms how sometimes it is difficult to actually pinpoint the cause of a problem that has triggered human rights abuse.

Participants were each given a balloon and a pin. The facilitator instructed them to protect their balloon. What many of the participants ended up doing was to use their pins to burst other's balloons. Only two participants managed to save their balloons.

Discussion then focused on the fact that many of the following elements could be a source of a human rights abuse.

- a trigger
- a tool (which was a pin)
- the degenerating environment
- the people

The exercise wanted us to understand that, power is not neutral and that we need to understand who the power players are if we are to solve a particular human rights abuse. This means that we must be totally aware of the power games at play if we are to be effective.

This exercise made participants reflect deeply on their own behaviour and how they exercised their power (of the pin) to burst other balloons. The day's session ended with a take-away exercise where participants were asked to do a personal reflection on:

- a) One action or inaction they have done to defend human rights
- b) Another action or inaction that violated human rights at different points in their lives.

### SECTION 3: UNDERSTANDING DEVELOPMENT – DEVELOPMENT VISION

The first task of the day *Images of Development* was for the participants to answer the question of what is development. Five quick groups were established to answer this question with drama images and this was done by doing two simple exercises. The first exercise required them to act out an image of development and the second assignment required them to do the same from the perspective of a slum/ shanty environment. The cardinal condition in each case was to do the same on the basis of images/signs without sound effects.

While the images which emerged from the first task showed current images of development like the computers, cars, construction and basic amenities for all which was stating the ideals of development. In the second picture, it showed more or less the actual environment in slum areas like food shortages, lack of decent housing, etc. In the second exercise, participants portrayed powerlessness, domestic violence, gender stereotypes, how the people with power were manipulating those with less power, homelessness, evictions and etc. This was one side of the picture. The other side of the picture was that, if communities are empowered to overcome their surroundings, one can see progress, construction, solidarity, and participation.

Participants portrayed very positive images of development with full participation of the affected communities. However participants were aware that although there is progress in that direction, they are far from that ideal development image.

The second task required the participants to analyse the development process. To do this, participants were asked to see an Indonesian film showing the district of Aceh which was most affected by the Tsunami of December 2004. The film illustrated the efforts to reconstruct the district after the Tsunami. Participants observed that, this was a disaster situation and that emergency response was the most critical to begin with. It was further observed that, normally emergency/ disaster situations are averse to immediate planning. It is only after assistance has come, that actual planning can actually start to happen. Some argued that human rights principles can already be upheld in all situations including emergency situations.

One participant wanted to know how to deal with a situation whereby there are a lot of misgivings between the government and the NGO community. This situation could jeopardise efforts to help people in disaster situations. Another participant opined that, whenever a disaster happens, then it shows that, the government somewhere is not performing its duties properly. Still another participant observed that, sometimes the government is not aware that it is violating human rights and in this particular case, it is upon the NGO community to remind the government of its obligation to protect and progressively realise those rights.

Participants were of the unanimous opinion that, the government is the greatest guarantor of ESC Rights and that, in order to do this task successfully, there is a need for governments to be transparent, accountable and functioning and that the people/public must be accessed with information to make their governments accountable to them. This should, if possible, be done through the Right to Information Declaration.

The next assignment for the participants was on *Gender and Development*. In this particular case, participants were required to do two things. One, was to give their real life experiences on whether they

have encountered gender or other kind of biases in their lives. The second exercise required participants to develop a list of roles of menfolk and womenfolk in rural areas, and who has the most control of resources in the rural setting.

The facilitator told the following story of her personal experience on gender bias and thereafter asked questions of the participants:

One day, I was driving my four-wheel double cabin pick-up, through a place I was not very familiar with. My husband was seated in the front with me. It was evening time and it was threatening to rain heavily. I saw a woman carrying a baby on her back, with heavy luggage on her head, obviously tired. I felt sorry and stopped to give her a lift although she was a stranger. She entered and sat on the back seat in the cabin and greeted us. I drove on. After a long while, she said, "Excuse me madam, I am getting off here. Nearby is home." I stopped and she got out of the vehicle. Then she walked past me, round to the front of the pick-up and went to my husband's window on the other side and thanked him with all her heart. She said, "Thank you sir, thank you so...much... May the Lord bless you, sir. You have really saved me." I looked on... in total disbelief.

**Facilitator's questions:**

- Did that woman see me the driver?
- Why did she thank my husband instead of me who drove her?
- Do such things happen to you in your private and public life?
- How do you feel when you are treated like that?
- What causes invisibility and non- recognition of some groups of people and individuals?
- Then participants gave their own experiences.

On the issue of life experiences, a number of experiences were floated around which reinforced the issue of gender and other biases. In the first place, there was a Nigerian example where one participant had been chosen for a training course because the organisers thought he was a woman, due to a confusion with his name. The other compelling example was when a certain lady in Kenya was denied access to electricity in her home just because she had applied for electricity connection using a woman's name. When she complained using her surname which sounded more like a male name, she was immediately connected to the power supply. These examples show that, gender biases are still very much with us in our societies.

These biases make the affected persons very angry and disempowered. They are also nasty experiences which need not to happen to any of us. Why such discrimination happens maybe due to ignorance, cultural misconceptions and powerlessness on our part.

The second assignment on the **roles and control of resources** required participants to work into two groups dubbed as the Asia and Africa groups. Each group was required to actually reflect back on the rural situation pertaining to the two continents. In this way, it was thought that, the actual roles will come out and who controls the resources in the rural setting will also come out. The roles (fetching water, cooking, working the land, etc) and resources (cow, money, etc) were identified.

After the exercise was over, it was seen that for both continents, the women do most of the work compared to the menfolk. While the women did most of the roles in the family settings, the situation was very different when it came to owning the actual resources in the rural setting. It was seen that, most of the resources were owned by the menfolk or the menfolk had more say on how the said resources are being used or on how they should be used. Decision making and control of resources was most oftenly in the men's hands.

The exercise showed where real power is concentrated. No wonder, after seeing the actual situation on the ground, one participant said that she would rather have a divorce than to continue with all of the resources being controlled by the menfolk in her area!

In overcoming this situation, it was suggested that, the mindsets/attitudes of men need to be changed. But this should go hand in hand with the exercise of empowering women so as to overcome their vulnerable conditions. At the end, both men and women need to work together on gender-based discrimination.

The next assignment was on **layers of discrimination** to development and the assignment required participants to converge into three groups to discuss the impact on people living with HIV/AIDS, Internally Displaced People (IDP) and People With Disabilities (PWD); groups identified to be the most vulnerable of all.

Participants had the following to say for each group:

Effect of Discrimination on:	On the Individual	On the Household of the individual	On His/Her Community
<b>People living with HIV/AIDS</b>	<ul style="list-style-type: none"> <li>• Sickness</li> <li>• Stigmatisation</li> <li>• Social isolation</li> <li>• Lack of/limited access to drugs</li> <li>• Loss of jobs</li> <li>• Loss of relations</li> </ul>	<ul style="list-style-type: none"> <li>• Poverty because of loss of jobs</li> <li>• Stigmatisation/social isolation</li> <li>• Poverty as money is spent on drugs/treatment</li> <li>• Loss of wives/husbands/parents:</li> <li>• Dysfunctional households; orphans</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of participation leading to social exclusion</li> <li>• Deprivation of labour from the community</li> <li>• Reduction of community productive hours attending to the sick/burials</li> <li>• Silence encourages spread of HIV/AIDS in the community</li> </ul>
<b>IDPs</b>	<ul style="list-style-type: none"> <li>• Emotional trauma</li> <li>• Loss of self esteem</li> <li>• Loss of property</li> <li>• Loss of relatives and social networks</li> <li>• Isolation</li> <li>• Truncated access to education</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of conditions for dignified life</li> <li>• Loss of economic opportunities</li> <li>• No access to social services</li> <li>• Break down of family unit</li> <li>• Loss of homes &amp; property</li> <li>• Social disintegration</li> </ul>	<ul style="list-style-type: none"> <li>• Break down of social cohesion</li> <li>• Breakdown of cultural/traditional/social order or norms</li> <li>• More disabled persons in the community</li> <li>• Public health crises</li> <li>• Negative environmental impact</li> </ul>
<b>PWD (People With Different Abilities)</b>	<ul style="list-style-type: none"> <li>• Depreciation in personal health</li> <li>• Less trustworthy</li> <li>• Excluded &amp; isolated</li> <li>• Sense of 2<sup>nd</sup> class citizen</li> <li>• Angry &amp; rejected</li> <li>• No freedom of movement</li> </ul>	<ul style="list-style-type: none"> <li>• Stigma to the family</li> <li>• Embarrassment to the family</li> <li>• Family resources depleted on management</li> <li>• Increased work/psychological burden to the family</li> </ul>	<ul style="list-style-type: none"> <li>• Class division in the community</li> <li>• Increased poverty &amp; under- development</li> <li>• Under/non utilisation of potential/talent in productive activities</li> </ul>

	• Helpless	especially women	
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The last assignment for this section was on how to make development non-discriminatory. Because of time constraints, it was felt important to elicit general responses from the participants on how they can make development non-discriminatory.

Suggestions put forward by participants included:

- a) Creating awareness on the whole issue of discrimination so that the people can understand the bad effects of discrimination;
- b) Identifying and understanding the vulnerable groups in society and those who might be in situations of vulnerability so as to appropriately target the areas of intervention;
- c) Mainstream human rights issues in development activities which can capture issues of non-discrimination; and
- d) Analysis of the environment in which we work with in order to come up with appropriate strategies to deal with the issues of discrimination.

#### SECTION 4: GLOBALISATION, DEVELOPMENT AND HUMAN RIGHTS – WHAT’S THE LINK?

The first activity for this section was *Mapping the World* - to map the world in order to depict the real situation in various parts of the world. In order to do this, participants were requested to draw the pictures of four continents as they see the continents. The continents were those of North America and Europe, Asia, Africa and Latin America. The assignment was such that, you could not draw the picture of your continent but of the other continents and that because there was a large contingent of African participants, Africa was privileged to have two groups drawing a picture of the African continent. Participants were also at liberty to use the various newspapers they had come with from their countries in drawing the pictures of the continents.

The assignment was well understood and five pictures of four continents were drawn. In the plenary discussions that followed, a number of observations were made which included:

- Ours is an extremely interdependent world and that we have a common destiny/future;
- More of the North is in the South and more of the south is in the north (meaning that large pockets of poverty being in our midst and minor pockets of affluent people in both parts of the world);
- Control of resources is mostly in the hands of the northern countries, even though southern continents are rich in natural resources;
- International trade is having a very big impact in creating poverty especially for countries of the South;
- The increasing fragmentation of the social state in many parts of the world;
- Issues of environmental pollution and resource depletion are present everywhere;
- While good governance and democratic institutions are essential for many areas of the world, in some regions the so-called “democracy” is not a real guarantee for the exercise of all human rights for all.

The second task centre was to understand the meaning of globalisation and thereafter link globalisation to human rights and development. In understanding about globalisation, the facilitator introduced the *Globalisation Web* which showed the many interconnections between different institutions, organisations, individuals, etc. with various degrees of power in relation to the most relevant issues for development and human rights. Each participant played the role of one actor – local, national and international. The examples used were those of HIV/AIDS and rural farmers. It was discovered that in any given issue, it is not dealt with by any single institution or organisation but are dealt with by a number of

different stakeholders with various degrees of interests in the issues. Each stakeholder, it was observed, was a party to the various processes of development, supplementing the factor of money which it was observed, was not the only factor for development but was among the several factors of development. Each stakeholder also had with it different power dimensions that affected the development process.

There were two last assignments for the day. In assignment one, participants were asked to write down one or two sentences on the especially important things learnt on that day. Several suggestions were made here identifying issues of interest learnt on that day, particularly in linking human rights, development and globalisation issues. Participants went over some different issues that had been brought out through the various tasks and how they were relevant both for human rights practitioners and for development workers. Issues of discrimination, inequality, **solidarity, participation and empowerment**, which are most often at the core of our work were equally found relevant for the human rights field and for the development field, making it perplexing to draw clear-cut separations between these two "worlds".

Finally, there was a take-away assignment in which participants were requested to seriously look at the Declaration on the Right to Development and then to answer the question: *Does the Declaration take into consideration what was taught on the second day of the Global Learning Programme?*

## SECTION 5: WHAT ARE HUMAN RIGHTS INSTRUMENTS AND HOW DO THE CONTENTS RELATE TO DEVELOPMENT ?

The first task of the day was to familiarise participants with the **human rights jargon**. The aim of the exercise was to clarify the most commonly used human rights jargon. The facilitator began by equating human rights with a number of things like a cup of tea; a football team; a four wheel drive car; and later on, as a cat. When the facilitator reached the stage of equating human rights as a cat, she then requested participants to perform an exercise where they were required to shout, jump and turn around like how cats do. The exercise was meant to emphasize the fact that, in the human rights world we normally have to shout, jump and turn around so much in order to ensure that, human rights are heard, seen and recognised.

After this exercise which acted both as a rejoinder as well as an energiser, participants were then introduced to the **Bingo Game**. The game required participants to sit in a pair of two, with one participant at least knowledgeable in the human rights language. Each pair was to pick 8 human rights jargon and 4 development jargon.

The pair which got most of the words right from a bingo draw on the human rights and development jargons received a prize for their efforts. The aim of the exercise was to test the understanding of the participants in the human rights terminology that is currently in use and also to simplify their usage. After it, a list of human rights jargon was handed out.

The next task touched on the **History of the evolution of human rights** over time. The aim of this task was to show that, over time human rights - moral, family, social, religious norms have been parts of the different cultures, and different periods in history. Through this task, it was shown that the journey for the discovery of human rights started well before 1948, and that the Universal Declaration of Human Rights

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(UDHR) never came out of the blue. It had a starting point, and the starting point was found to be the different sources of human rights norms spread over the entire period in the history of mankind. Each participant showed how laws or societal norms enacted years, decades and even centuries ago in their different tribes, societies, families and cultures helped in the administration of justice to the concerned societies and in the recognition/understanding of human dignity. Also some examples from participants showed the other side of the coin, with legislation, ideas and principles which have gone against human dignity in different periods of history.

The third task of the day was to give an overview on how the *United Nations system* works and its relation to human rights and International Human Rights Law. A very simple brief of the United Nations was given and how the said body works, with particular reference to the Commission of Human Rights which is the commission responsible for the promotion, protection and advancement of human rights issues in the UN system.

### *Human Rights Treasure Hunt*

The aim of this exercise was to enable participants to become more familiar with the main international documents related to ESC rights.

The following key issues emerged from participants' observations in the plenary session:

- Teamwork was deemed important in carrying out the assignment;
- Some of the questions asked were considered to be too technical;
- The exercise tested the participants observation skills as these are paramount in any human rights exercise;
- The importance of utilising different abilities and capacities in the groups came out very clearly;
- Participants were reminded of the importance of looking for covert and overt signs in documenting and monitoring human rights issues; and
- Participants were also reminded of the need to move very fast because of time limitations/ deadlines.

*Development of International Human Rights Law* was the next task. The UN Charter of 1945, establishing the United Nations recognises the value and importance of human rights. However, International Human Rights Law was elevated to a special status by the Universal Declaration of Human Rights (UDHR) which was adopted by the UN General Assembly in 1948. At the time of adoption of the UDHR all rights were regarded as equal and it was only later that, a disaggregation of the different rights was made to include, interalia, Civil and Political Rights on the one hand and Economic, Social and Cultural Rights, on the other.

International Human Rights Law has fundamental principles enshrined in all Declarations, treaties and official documents, which are:

- Inherent right to human dignity;
- Equality and non-discrimination;
- Universality;
- Interdependence and indivisibility; and

- Diversity.

It was also observed during the discussions that, the International Human Rights Law, progressively over time, has had a positive impact on the implementation of laws in various places across the globe. It was mentioned that many of the International Conventions have been ratified and then domesticated into national laws, and are now in use in determining cases in those countries where those conventions have been ratified and domesticated. In some other cases, international standards in human rights set up by treaties have served as reference points for new developments in legislation and constitutions at national level. In other countries, the international instruments have provided useful yardsticks in setting and determining:

- Content;
- Court work;
- Standards; and
- Accountability for governments to follow.

Participants then had the privilege of being briefed on *Kenyan Constitutional Process* which was supposed to usher in a new constitution for Kenya. Participants were told that Kenya currently uses the Independence Constitution which was negotiated in 1963 before Kenya got her independence from Britain. A number of amendments have been made to the current constitution, including the amendments made in 1969, 1982, 1991 and 1997.

In 2000, pressure mounted for Kenya to have a new constitution. A commission was set up by the former President Moi to look into the modalities of coming up with a new constitution for Kenya. Before the new constitution could be adopted in late 2002, Moi decided that, the country was ready for new elections and thus effectively put on hold the debate for the new constitution.

A new government came into power that had promised the Kenyan electorate that, they will have a new constitution 100 days soon after taking over the reins of power.

In order to get as many ideas as possible on what the constitution should look like, a Constitutional Assembly under the name of BOMAs was convened. BOMAs ensured the representation of all shades of opinions from all quarters of Kenya to draft an entirely home-grown Kenyan constitution. To this end therefore, there was Bomas I, II, III and IV.

In the course of time however, the BOMAs process was hijacked by the government and this has been resolved recently through a referendum in which the government was defeated by those who felt that, the government had derailed the process. Many human rights issues which were in the draft constitution (agreed at during the BOMAs) were removed by the Attorney General when drafting the constitution, which was a subject of the referendum.

The constitution is back to the drawing board and the Kenyans are still using the Independence Constitution. The experts highlight the fact that although ESC rights provisions were contained within the proposed constitution the accompanying implementation plan would have undermined such provisions which was the reason a number of NGOs active on related ESC rights campaigned to vote "no" to the proposed constitution.

As homework, participants were asked to look at the rights included in their country's Constitution and to pay attention to some of the issues raised by the presentation for the Kenyan Constitution process, as well as to whether ESCR have been incorporated.

## SECTION 6: OBLIGATIONS OF DIFFERENT ACTORS

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## OBLIGATIONS OF STATE ACTORS

Task one started with looking at the Obligations of State Actors. The facilitator observed the obligations of states are normally either positive: to do something, or negative: to refrain from doing something. Example of a positive obligation is when a government is required to organize an election while an example of a negative obligation is when governments are required not to torture their people.

The facilitator also introduced the myths that are generally attached to positive obligations being relevant only to ESC and subject to allocation of resources; while CP rights being mainly related to negative obligations. These are only myths advanced in order to create confusion as to the hierarchy of the rights in question. All rights include both kinds of obligations: positive and negative at all levels, and this frequent prejudice against ESC rights does not have a real ground.

The facilitator then went further and divided the obligations of state actors into two major categories: the Obligation of Non-Discrimination (which is the first among the major obligations of states at all levels and in relation to all treaties/ rights); and, the Generic Obligations which can be of three kinds:

- Obligation to Respect
- Obligation to Protect
- Obligation to Fulfill

Finally, Art. 2 of the ICESCR was looked at and discussed, in particular the three main provisions from which obligations of State parties arise.

- a) **Maximum of its available resources** — which means that governments are required to use every available resource in their countries to ensure the realisation of rights;
- b) **Progressive Realisation** — A critical concept which means that a state party should go forward in the realisation of all rights for all and hence that a regressive measure (a policy, programme, law or measure which goes backwards) is a violation of this obligation.
- c) **All appropriate measures** — governments should take all appropriate measures including legislative measures to ensure the full realisation of rights. The measures should be real and meaningful and an example was given of some Latin American countries which have passed legislation on the realisation of ESC Rights without setting aside budgets for the realisation of the same.

The issue of interpretation of the rights also arose. It was observed that, when a discussion of rights arises, normally the issue of first and second generation of rights becomes a hot issue. A classical understanding of rights considered Civil and Political Rights as the first generation of rights while Economic, Social and Cultural Rights are considered to be the second generation of rights. This is a misconception and tends to create confusion regarding the hierarchy of rights. The fact of the matter though is that, all rights are considered equal and are in the same category of rights as all other rights.

## OBLIGATIONS OF NON-STATE ACTORS

Much talk in the past has centred on the obligations of state actors. Recently however, the spotlight has begun to focus on the obligations of non-state actors. This was considered a grey area in the past but it has become increasingly apparent that some of the actions of the non-state actors are harmful and that, there was no way of taking these non-state actors to task.

In August 2003, the Commission on Human Rights for ESCR circulated a proposal on the *"Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights"*.

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This was the first time such a comprehensive proposal was put forward to address the irresponsible but harmful behaviour of non-state actors.

In order to fully comprehend the provisions contained in the proposal in question, participants were divided into 7 groups and told to discuss in detail the implications of provisions 3,8,9,11,13, 14 and 17 of the proposal.

After discussions in groups, the participants came out with the following observations:

**ARTICLE 3:**

Companies are not supposed to be involved, either directly or indirectly, in abetting war crimes e.g. the provision of small arms.

**ARTICLE 8:**

Many companies operating in developing countries tend to forget paying living wages to their employees. This is in contradiction to the right to fair wages as well as to the right to an adequate standard of living.

**ARTICLE 9:**

In many countries there is a limitation to a freedom of association, especially in the establishment of independent trade unions, e.g. in Tanzania.

**ARTICLE 11:**

This right is mostly infringed by TNCs when they give bribes to officials of developing countries in order to build projects that are detrimental to the development of the people in the developing countries.

**ARTICLE 13:**

Some of the big TNCs like "McDonalds" restaurants infringe upon the right to health by not showing the extent to which their products are harmful to the health of people who are consuming their products.

**ARTICLE 14:**

Right to a healthy environment has been infringed upon several times by the TNCs like the deliberate sinking of ships and the Bhopal gas disaster.

**ARTICLE 17:**

This is a general provision; the right to social security protection. This provision is meant to enable workers in developing countries to secure social security benefits at the end of their working tenure.

In a plenary discussion that ensued, it was observed that some of the TNCs are stronger than the governments they negotiate with and as such they always do have an upper hand in whatever they wish to do.

The next session was on human rights study and this exercise involved the review of specific general comments searching for specific provisions and obligations in relation to each right. The rights which were under the human rights study were the rights to: WATER, HOUSING, EDUCATION and HEALTH.

Participants were divided into four groups, each group focusing on a particular right. At the end of group discussions, each group presented their findings as follows:

**A. Right to Housing:**

Government obligations identified included:

- Ensure government subsidies to the housing sector.
- Ensure availability of building materials.
- Ensure international co-operation to enable the building of as many houses as possible.
- Enact laws that will ensure continued building of houses.

- Create an enabling environment which will enable as many people as possible to build their own houses.
- Monitor and control building standards.
- Protect tenants and control rise in unreasonable rents.
- Respect cultural diversity, etc.

The group also identified the Non- State Actors involved in this right. These included TNCs, NCs, Banks and NGOs. Other rights identified with this right included; the right to life, education, health, adequate standard of living, development, etc.

On specific conventions which have a bearing on this right, the group mentioned the Convention on the Right of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Disabled People and the Convention on the Elimination of All Forms of Racial Discrimination (CERD).

### **B. Rights to Water:**

Government obligations identified included:

- Ensuring adequate access and supply to water.
- Non-discrimination in the provision of water.
- Ensure adequate availability and affordability of the water provided.
- Ensure quality and safety of the water provided.
- Ensure the right to information for the water users.

Non-state actors identified included the UN, WB, Red Cross and NGOs while with regard to specific conventions cited include CEDAW, Art 14.2 and CRC, Art 14.2. Rights associated with the right to water include the rights to food, health and the environment.

Participants were also concerned with the roles of the WTO and WB in ensuring that, water is privatised. Many participants said that water should be regarded as a cultural good and not as a public good, and should not be for sale as is the case at the moment in many countries.

### **C. Rights to Health:**

Obligations of the government identified included:

- Ensure quality health care.
- Ensure affordability and availability of healthcare.
- Ensure adequate access to healthcare services.
- Ensure adequate prevention, control and treatment of HIV/AIDS and other communicable diseases.

Non-state actors identified included the WTO, UNICEF, TNCs producing food and NGOs while with regard to specific conventions cited included CRC (i.e. reduce child infant mortality) and CEDAW ( e.g. right to work for women).

The group also observed that the General Comments on the Right To Health have been commented a lot by several stakeholders and that the need of the moment now is to have healthcare that is affordable and that of quality. There is also the need of having the right information as regards to the availability of health services in any given country.

### **D. Right to Education:**

The group started their presentation by commenting on the fact that, the right to education has been mentioned in the Universal Declaration on Human Rights (UDHR), in ESCR Art.13, in CRC Art. 28, in CEDAW, Art.10 and 14, also in CERD. The case has been like this because the right to education is the foundational right for all the other rights.

With regard to obligation of states, the group identified the following fundamental obligations:

- Ensure compulsory primary education.
- Ensure the progressive realisation of secondary and higher education.

Elements for ensuring the above should be:

- Accessibility.
- Acceptability.
- Cultural relevant.
- Easily available.
- Easily adoptable.

Non-state actors identified included the UN (for co-ordination needs), UNICEF, WB, IMF and NGOs.

The next task was meant to show the role and responsibilities of the WTO, WB & IMF in the development process of countries. What was apparent however from this presentation was that the conditions which are attached by these institutions as a price for development makes it difficult for actual development to take place. Essentially, this is because of the conditionalities attached to the loans advanced by the IFIs and the lopsided terms of trade of the WTO. Other factors impinging on the development process of developing countries is the debt burden, the economic models forced upon these countries and the say over who controls the resources.

Service provision or delivery to the grassroots communities was the next assignment. Virtually, a number of very different stakeholders with different visions of development participated in trying to assist two grassroots communities in bringing about development to them. The communities were that of rural farmers and slum dwellers.

What transpired during the assignment was that, there were different perspectives on what development meant to the communities. Each development agency was of the opinion that, whatever they were doing for the communities was right for them.

A number of observations emerged as a result of the different misconceptions and perspectives:

- Tug of war between TCNs and NGOs.
- Community confusion and not knowing what was happening.
- Competition among NGOs and CBOs on donor funding.
- Limited capacity of NGOs to respond.
- No credible voice for the community.
- NGOs averse to making alliances.
- No co-ordination of roles and responsibilities.
- Top-down approach
- No empowerment of the community.
- Invisibility.
- Tendency to ignore what others have done.
- Each having his own thinking of development

At the end of the exercise, two important questions were asked by the participants:

- a) Is the Rights Based Approach strengthened this way?
- b) Are we really helping the communities this way?

## SESSION 7: STRATEGIES

## PART 1: GRASSROOTS STRATEGY FOR HUMAN RIGHTS AND DEVELOPMENT ADVOCACY

Discussing development and human rights necessitates an approach that utilizes strategies for grassroots. Portrait theatre (also known as still theatre or snap shots) was used to bring out the elements that were important in thinking of strategies. Group was divided into two groups and some theatre warm up exercises were used. This theatre was creating an image through drama but without sound and movement.

One group was asked to act out a slum situation and the other a rural farmers situation. When one group was dramatising, the others were divided into two groups. Group A-representing the governments, IMF, WTO, Donor countries. Group B was assigned the role of NGO, CBO (community based organisation), International NGO, religious organisations. Each group would be asked to sculpt (change the image) into what they think is needed to make it better. The response was varied from both groups. Group A actions included direct aid, conditionality, working through governments etc. Group B was more focussed on community participation, focusing on community organising and ownership of process and end result. The debate interestingly brought out the need for these two groups to make more alliances and more collaborative actions in order to be more effective at the grassroots.

A video *Grassroots Voices* of a slum community in North Thailand who organised themselves when faced with eviction. They discussed alternative models as a tool to negotiate with the government with maximum community participation. It was noted that this community was more cohesive compared to other urban slum communities that may be more complicated to organise.

### DAY FIVE - 6 DECEMBER 2005

#### SECTION 8: HUMAN RIGHTS BASED APPROACHES

The purpose of introducing this session was to enable participants to understand the importance of Human Rights Based Approaches (HRBAs) in development work, especially in moving away from charity to dignity. In introducing this session, the facilitator began by saying that, the basic foundations to dignity basically comes from two major premises which are:

- a) Freedom from fear
- b) Freedom from want

The facilitator observed that, a true life with dignity comes from having all the above freedoms which are intertwined, interrelated and interdependent. And he gave two examples to drive the point home on their interrelatedness. The first example was of a prison inmate who was told that, he can have all the things he wants to sustain his life with (in prison) but without the fundamental freedoms of movement and association. The second example was whereby a person has all the freedoms like that of casting his vote, being outwardly free but then does not have food, water and other things to sustain his body.

In each of the examples given, the person in question will not be enjoying all the freedoms he is required to enjoy. He will only have partial enjoyment and as such, will not have the full dignity required of a human being.

The facilitator further observed that the freedom from fear is normally associated with the Civil and Political Rights while the freedoms from want is normally associated with the Economic, Social and Cultural Rights, and at one time these rights were a source of great tension between the East and the West, and were a part of the cold war politics.

The facilitator then introduced the participants to three key statements, which were:

- Dignity as a source of human progress (that without a quest for dignity, there would not have been any human progress)
- History of Human Civilisation is a History of Search for Dignity (that the greatest struggle for a human being is a search for dignity)
- Human beings act on their surroundings to change them, with subjective participation being the vehicle to transform reality (that without subjective participation, there is no change of reality).

The facilitator then pointed to the differences between the human rights law and other kinds of laws. Differences lie in two fundamental facts:

- a) Embodied and codified in the human rights law is the conception of dignity; and
- b) Human right is ethical and moral protected by law.

Participants were then divided into 5 groups. Each group was required to answer the following questions:

- How is dignity understood in your society, culture and tradition?
- Is dignity the motor of civilisation? Are there any other forms of civilisation which have searched for dignity?
- Are Human Rights a secular codification for human dignity?

#### **GROUP PRESENTATIONS:**

##### **QUESTION 1:**

All groups agreed that, there were words or sentences in their culture and traditions which captured the word dignity as exemplified in the following examples:

- In Swahili language, there is a saying: " Mtu ni Utu." Translated this means: "A person is dignity."
- In Hindi language, there is a saying: " Atmanman" Translated this means: " Dignity of the Soul."
- In Igbo language, there is a saying; "Nduika Ndubuisi." Translated this means: Life should be respected."
- In Spanish - *Dignidad*
- In Zulu, there is a saying: " Ubuntu." Translated this means: " You can find your humanity only in the humanity of others."

##### **QUESTION 2:**

This question elicited differing responses from the participants. There were those who said unequivocally that, the quest for dignity has been the motor of civilisation and they cited examples like independence/ liberation struggles and the fight against apartheid as epitomising the quest for human dignity. However, others questioned this notion by doubting the rationale of having wars like those of Iraq, Serbia and the genocide in Rwanda. Still, others saw the issue from the perspective of the power game; that civilisation has essentially been the pursuit of power and greed, with one society or individual imposing their will over other societies or other individuals.

On the issue of other living beings having conception of dignity, an example was given of some animals that follow a certain life pattern which could be construed as aspiration for or expression of dignity.

##### **QUESTION 3:**

Many agreed that, human rights are a secular codification of human dignity, and they cited the teachings of almost all religions and belief systems on this. Where many participants differed with the religious

teachings was on their treatment of women in their teachings. Many religions offer very little scope for women to exercise their full rights as human beings thus denying them a full realisation of dignity.

Before moving on, the facilitator alluded to two fundamental facts which were:

- a) That dignity can only be experienced in relation to the other people. Meaning that experience of dignity or lack of it is a relational, social, collective phenomenon.
- b) Human rights are an accumulation of all those rights and norms which have been used by society over a period of time to regulate their relations with each other, for collective good of all.

The next task was aimed at highlighting the importance of Human Rights Based Approaches (HRBAs) in doing development work. This required the participants to understand the difference between a Needs Based Approach which is now very common among NGO practitioners and the Rights Based Approach which is beginning to have wider acceptability and wider application. The Needs Based Approach hinges on the premise that, an NGO implements a project in order to fulfil a particular need in society as a provider and the recipients as beneficiaries. In the case of a Rights Based Approach, the community having needs is a claim or a right holder and the NGO facilitates its access to rights by building its capacity to assert their claim on one hand and the Government and its organs become duty holders with whom NGOs can facilitate a capacity to fulfil their duties. In a need based approach community is object of receiving goods and services while in a human rights based approach the community is full and informed participants in defining and articulating their needs and ensuring their fulfilment as realisation of their human rights. Hence, need based approach can be considered as dealing with "living" while human rights based approach can be considered as dealing with "being".

In HRBAs, the protection of human dignity is paramount and that is why the political voice for all people and the access to information becomes an integral part in the programming process of HRBAs. Other things that become an integral part of HRBA to programming are community participation, community ownership and community empowerment.

Because of the importance of HRBAs in development work, the UN has now issued a circular decreeing that, all UN projects and programmes must be guided by HRs programming. (Action 2).

In order to understand more what are HRBAs, participants were requested to go back into their buzz groups and answer the following questions:

- a) Is the HRBA the only option available?
- b) Does Human Rights and Human Development present a composite framework?
- c) If we adopt HRBAs, what are the challenges we are bound to face in our work?

#### **GROUP PRESENTATIONS:**

##### **QUESTION 1:**

Some participants agreed that, it is the only option available at the moment if the rights to development are to be realised. Some however, had different views. Some participants said that, this option presents the best way forward while others said that it represents the most viable option for the moment. Others said that, this approach cannot work in some countries because of structural problems inherent in those countries. Somalia was given as good example where HRBAs cannot be applied. In Somalia, only humanitarian assistance can work at the moment.

##### **QUESTION 2:**

Participants said that, HRs and HD have much in common. They both tend to realise human potential, to realise human dignity and enables for the development of a human being. Furthermore, the two tends to make development goals assume more and more the mantle of rights which is fine if speedier development is to take place

##### **QUESTION 3:**

On the issue of challenges, a number of challenges were identified by the participants as follows:

- Human rights is seen as a new concept and as such does not sit well with many governments;
- Government viewing human rights NGOs as instigators of the communities' demand for their rights;
- Lack of awareness/low understanding on the part of the communities about their rights;
- Difficulty in prioritising about the rights to start with;
- We have situations where certain rights are suppressing other rights or giving birth to other rights (the case of rights overlapping each other);
- Difficult to set benchmarks and indicators;
- Lack of sufficient resources for monitoring purposes; etc.

The next task was translating concepts to learning processes. This was seen as a crucial process in social transformation and empowerment. In tackling this task, it was observed by the facilitator that, the assumption that most people have is that the communities do not know anything. This is a misnomer because most communities have a wealth of accumulated experience and this means that, they are some things which they know much more than us. With this background therefore we need to tap the accumulated experiences of communities in order to bring about " subjective participation/engagement in the process of transformation."

The facilitator further observed that, the first step in HRs is to know about human rights, since without knowing, claiming is not possible and without claims realisation is a distant dream. This brings in the significance of Human Rights Education and learning as an integral part of the HRBA at all the levels, with all stakeholders and at all the stages of programme planning.

Then the facilitator introduced the participants to Paulo Freire, an educationist and thinker on the issue of the transformative learning process. Among the key critique developed by Freire of the present education system include:

- Banking concept on education;
- Education as an Investment;
- Human person as an object to be moulded for maintaining the status quo.

Freire also understood the power of continuous reflection as a tool in the development process of a human being. Thus, he came with five points which he considered crucial in the development of the human person. These were:

- Action
- Reflection
- Conscientisation
- New Action
- Praxis.

Lastly, the facilitator touched on the transformative learning is a process which combines following elements:

- Knowledge
- Skills
- Attitudes
- Perspective
- Self Awareness.

At the *Mid-term Evaluation*, participants expressed their general satisfaction with the way the Learning Programme was proceeding and how, as the days progress, they are able to see the various links and the thread running

throughout the programme. Many of them felt comfortable with their position on the "tree" and climbing.

#### **FIELD VISIT TO KIAMBIU**

Following this, participants then went on the Field Visit to the Kiambiu settlement located in the city of Nairobi. The village is made up of about 30,000 people. The visit to this village was made purposely in order for participants to see the reality on the ground and help marry theory and practice thus reinforcing the theory part of the Global Learning Programme through developing Human Rights perspectives and impressions in an actual situation happening on the ground.

When asked for their impressions about the field visit, participants said that:

- They were impressed by the solidarity spirit they saw among the slum dwellers and therefore urged NGOs to take advantage of this spirit;
- They thought that the living circumstances in the slum areas were disempowering;
- They found the cost of hiring a room in the village to be on the high side for the residents (between K.Shs. 600/= and K. Shs. 1,000/= a month);
- They were of the opinion that, by looking at the surroundings these people live in, it appeared that the money contributed by the donors never actually gets to the communities;
- Urban poverty can be very shocking;
- Communities become invisible in the whole power game and how important it is to work with these communities to empower them;
- Communities seemed to be in charge of their lives, and this was evident through positive expectations of the people as well as through maintaining their dignity;
- There was a high degree of petty businesses going around to enable the families to survive;
- There was a suggestion of sharing experiences between slum areas in Nairobi and slum areas in Mumbai; and
- People at the village seemed friendly enough in spite of their living in very difficult circumstances.

#### **APPLYING HRBAS TO CONCRETE SITUATIONS:**

The next assignment was on how to apply HRBAs to concrete situations. This assignment was undertaken in the light of the case studies which were agreed upon which were on:

- Pastoralists Land Rights in Kenya;
- Damned by the Dam: The Case of the Shiroro Communities in Nigeria.
- Evictions in Mumbai;
- The Roma Community in Spain: The Challenge of Social Inclusion; and
- Access to Medicines for People Living with HIV in Thailand.

In explaining about the application of the HRBAs to human rights situations, a thorough explanation was given about the Global Context, the Regional Context and the National Context, with participants required to also look at the provincial and local contexts at the same level as the other levels.

#### A. THE GLOBAL CONTEXT:

With regard to the global context, the facilitator said that it is very important to understand how the global system works and how they impact on the human rights work. The facilitator then introduced the three apex systems that are influential in impacting on the human rights framework. The systems are:

- a) The International Finance and Trade Architecture System which consists of the IMF, WB & WTO. This is a very powerful system at the international level because of the direct and indirect sanctions/ authority these bodies have on the international trade and monetary systems of the world - e.g. the conditionalities of the IMF& WB and the TRIPS agreement of the WTO.
- b) On the other side, we have the Security Council of the United Nations which, like the above bodies, also has direct and indirect sanctions/ authority. An example of the sanctions was made of Iraq which had to endure UN sanctions for quite a number of years, having negative impacts on its human development indicators.
- c) The other part is the Human Rights systems which has recommendatory powers only. Because of the recommendatory nature of their powers, the strategy that is used here most is that of **naming and shaming** the governments that are human rights violators.

#### B. THE REGIONAL CONTEXT:

With regard to the regional context, the facilitator observed that, save for the region of Asia, all the other regions of the world have regional instruments and systems which guarantee the remedy for human rights obligations of the states for their peoples. In this particular case, the facilitator said that it was important to take these regional instruments on board when one wishes to design and apply in a holistic way HRs frameworks.

#### C. THE NATIONAL CONTEXT:

In most of the cases, application of HRBAs is done in country specific situations. Because of this crucial condition therefore, the facilitator then implored participants to make a careful analysis of circumstances obtaining at the country level when designing and applying their HRBAs interventions.

Some of the important issues/questions to be taken into consideration at this level include:

- Which international covenants and treaties have been signed by the country in question?
- Have the said covenants/ treaties been ratified? And if so, have they been ratified with reservations or without reservations?
- What space is provided for these covenants/treaties in the National Constitutions? How have they been accommodated in the National Constitutions?
- Are the national laws and policies consistent with the international covenants/treaties on human rights?
- What is the national commitment in terms of budget allocation? Are budgets allocated reflect the human rights commitments with internationally acceptable standards?
- What is the budget allocation exercise like? Is it a legislative or an executive exercise?

Before concluding, the facilitator once again reminded participants of the need of looking in a holistic way the crucial elements required in designing and applying HRBAs. In a nutshell, he said that the important elements are:

- Covenants/treaties, laws, policies and budgets;
- Relevant judiciary mechanisms; and
- Other quasi judiciary and non-judiciary mechanisms

He also reiterated a bit on the principle of subsidiarity which is nothing more than making sure that cases are handled at the appropriate/local level for the purpose of sustainability, accessibility and affordability of the cases in question. This however, presupposes that there is some rule of law. The principle of

subsidiarity however, does not close the doors to other avenues where legal remedies can be obtained like in the regional and UN human rights systems.

Because groups had already been established to deal with the five cases identified above, the groups were then given between 5 to 7 minutes to buzz among themselves on how they can apply what they have learnt above in tackling their case studies. This was part of a learning exercise which was to prepare the participants to come up with well-thought out strategies and interventions on how to deal with their case studies.

#### **PLANNING FOR HUMAN RIGHTS INTERVENTIONS:**

The next assignment was on planning for human rights interventions. This involved looking at the planning cycle but from the perspective of a human rights framework. The facilitator then went over the planning cycle but emphasised and/or added a few things which are not part of the normal programming cycle but which are mandatory from the perspective of the human rights framework.

##### **A. ASSESSMENT STUDY:**

This is a cardinal requirement in all programming interventions. However, instead of only having the Problem Analysis, HRBAs interventions requires that a Capability Analysis be also done. A Problem Analysis will normally identify the problem or problems to be solved, list down the tasks for the assessment and also identify the right/claim holder(s) while the Capability Analysis will go further and try to look at capabilities of rights as well as duty holders, all the tasks will be defined in relation to the human rights perspective. The Capability Analysis will also try to answer such questions as:

- What are the human rights standards to be applied here?
- What capabilities are needed by both the right and duty holders in implementing the project/programme?

##### **B. PROGRAMME DESIGN:**

Programme design essentially covers four main issues which are: Objectives, Indicators, Strategies and Programme Activities.

###### **1) OBJECTIVES :**

Any programming intervention must have SMART characteristics if it is to pass the test. However, in the case of a human rights programme, the same must be very consistent with the human rights language.

###### **2) INDICATORS:**

The indicators so developed to measure the objectives must also be SMART and should both be in the category of Qualitative Indicators and Quantitative Indicators. If possible, the indicators should be located in the language of the objectives.

###### **3) STRATEGIES :**

These are the strategies used to achieve the objectives or goal(s) identified above.

###### **4) PROGRAMME ACTIVITIES:**

Programme activities are all those activities that enable the project or programme to be implemented according to a particular schedule of implementation. As we are talking about HRBAs interventions, the said programme activities must enable us to do things differently from the normal way of doing things.

After this explanation on Programme Design, participants were again requested to go back to their buzz discussions and see how the Programme Design process can be used in the development of their case studies. Again, 5 to 7 minutes was given for this exercise.

###### **5) IMPLEMENTATION:**

The next phase in the planning process is Project/ Programme Implementation. The facilitator argued that implementation should, as far as possible, be located at source to ensure ownership, empowerment and sustainability of the project/ programme. The facilitator then spoke about the reconstruction process now going ahead in Maldives after the Tsunami. He said that, reconstruction there is being done by contractors who use alien technology/resources and who are not very culturally sensitive to the communities affected by the Tsunami.

Other things remaining equal, the implementation phase should be able to ask the following questions:

- What is the role of the communities in the implementation process?
- What kind of participation should the community play in the implementation of the project?

The facilitator said that it was very important to involve the communities in every phase of the implementation process.

#### **6) MONITORING, REVIEW AND EVALUATION:**

The last phase in the planning cycle is to do monitoring, review and evaluation of the project/programme.

**Monitoring:** was defined as an online/ongoing process aimed at immediate corrections for the project/programme. Monitoring is a continuous process and ends only once the project comes to an end.

**Review:** is a periodic exercise and takes place after a certain period of time, say after two months, three months, etc. during the programme life of the project.

**Evaluation:** is supposed to be an end of the period exercise and normally takes place during the middle of the project and at the end of the project period. Some people call the evaluation exercise as a terminal exercise but then this should not be construed as necessarily ending the programme but taking the programme to the next phase.

In his presentation, the facilitator also emphasised on a number of things which are important in the design and implementation of Human Rights projects. The important things are:

- At each stage in the planning cycle, human rights education and learning (HRE&L) should be introduced;
- It is also important to identify who are the duty holders, including correlated duty holders ( even though this is an evolving area and has not yet fully stabilised);
- Participation of the communities should involve all the phases in the planning cycle if the aspect of empowerment and capacity building of the communities is to be realised.

In explaining about Human Rights Education and Learning, the facilitator also explained on how to develop *Expected Learning Outcomes (ELO)*. The facilitator said that, this was an important aspect in imparting Human Rights Education and Learning.

The first step is: Defining your *Learning Objective(s)*. This involves doing the following:

- Identifying a learning objective for each stakeholder;
- Identification of the human rights standards to apply in relation to the objectives; and
- What role each stakeholder/constituency would play in achieving the objectives.

The second step is to develop your Expected Learning Outcomes from your training programme.

The third step is to develop a comprehensive Learner's Profile of the participants you would like to benefit from your training.

The fourth and last step is to define the Content and Methodology you would like to take and pursue in relation to what has been stated above. In a nutshell, this last phase will define your Training Methodology.

The last assignment of the day was the division of the participants into opposing sides to come up with Possible Strategies for each group for discussion concerning the Global Players, the UN System and at the level of Human Rights and Development NGOs. At each level, participants were to discuss seven strategies for each level; either for or against the strategy.

## **SESSION 7: STRATEGIES**

### **PART 2: INTERNATIONAL STRATEGIES FOR HUMAN RIGHTS AND DEVELOPMENT ADVOCACY**

The strategies for each level were as follows:

#### **A. AT THE GLOBAL LEVEL:**

- Formal NGO Consultation.
- NGOs in International Fora.
- Alliances with Like-minded Governments.
- Unveiling Bad Governance.
- Consistency with Human Rights and Development.
- Technical Assistance Fund.
- Hierarchy in International Law and Human Rights.

#### **B. AT THE UN LEVEL:**

- UN Human Rights Commission.
- Committee on ESCR.
- Special Rapporteurs.
- Office of the High Commissioner for Human Rights.
- Thematic Groups.
- UNICEF, UNESCO, UNHCR, UNDP, etc.
- Treaty Bodies e.g. CEDAW.

Some strategies mentioned: litigation, shadow reporting, lobbying governments/; emailing information to special rapporteurs; follow-up of recommendations; monitoring of treaty bodies, North-South alliances

#### **C. AT THE HRs & DEVELOPMENT LEVEL:**

- Networking.
- Adapting State Strategies.
- Expanding Mechanisms.
- Transnational Partners.
- Involving International Agencies.
- Recognizing Cultural Diversity.
- Advocacy.

The importance of the exercise was to show the participants how the different strategies could be used/ applied to carry the work of different NGOs to a higher level and thus create the impact that NGOs are supposed to create at different levels for the sake of taking the development process further.

**DAY 7: 8 DECEMBER**

**SECTION 9: HUMAN RIGHTS BASED APPROACH – IN PRACTICE**

Following from the previous day, participants were put in groups of five and were asked to work on the following case studies that have been selected from the previous day.

- a) Pastoralists Land Rights in Kenya;
- b) Damned by the Dam: The Case of the Shiroro Communities in Nigeria.
- c) Evictions in Mumbai;
- d) The Roma Community in Spain: The Challenge of Social Inclusion; and
- e) Access to Medicines for People Living with HIV in Thailand.

Participants were then given the following task:

**CASE STUDY TASK**

**PUTTING THE HUMAN RIGHTS BASED APPROACH (HRBA) INTO PRACTICE**

**Summary:** Imagine you work with an NGO in the country that is the location of the case study you have been given. This NGO has adopted a human rights based approach to all its programmes. Working in groups prepare a presentation to the Board of Directors of “Your” organisation, explaining the case and presenting your best arguments for why and how the organisation should address the rights violations implicated in the case through a “Human Rights-Dignity Campaign”.

There are four expected outcomes of this task:

- a) A concise outline of the issues of the community affected
- b) A throughout analysis of the case you have been given
- c) A campaign design, combining different strategies
- d) A creative presentation to your Board
- e) A written document which incorporates key elements of all the above

In **developing your arguments and analysing your case**, you should incorporate all elements of the Human Rights in Development learning programme:

- Identify human rights issues /violations involved being as specific as possible (*what human rights have been violated? Not fulfilled? Not taken into account? Which conventions, covenants and general comments could be used? Which specific articles or sections of articles could be quoted and argued?*)
- Identify specific obligations/duties or omissions (*what specific obligations are related to this case in a particular country?, who is obliged to do what within the government and State?*)
- Identify particular issues/violations which are related to discrimination, with particular emphasis on gender-based discrimination (policies, programmes, practices).
- Identify relevant actors, the role they have played in the situation and their respective obligations/duties.
- Cite relevant provisions of your national constitution/laws/policies, if applicable.

In **designing and planning your campaign**, you should also incorporate the various elements of your learning programme:

- Identify actors on whom the campaign will be focussed explaining why you have chosen those actors; (national and international; state, non-state, multilateral; )
- Identify/specify the human rights you want protected or/and “realised” explaining why you have decided on that focus;
- Describe who your constituency is and what they say about this particular campaign.
- Describe how you will involve the affected communities and how you will work with them – including human rights education and human rights learning - to know and claim their human rights (PLEASE DEMONSTRATE TO THE BOARD EFFECTIVE USAGE OF POPULAR EDUCATION METHODS);
- Describe the information and documentation that will be needed to monitor and evaluate the campaign;
- Specify the benchmarks for your campaign, how you will measure its success and develop the indicators for success.
- Propose strategies that the organisation should pursue to ensure respect for the human rights involved – explaining why the proposed human rights based strategies you are proposing are the most promising.
- At all times, when choosing strategies –local, regional, national and/or international- highlight particular elements which are relevant in relation to discriminated against sectors of the society, especially gender-based.
- Identify the challenges at the organisational level.

**SUMMARY OF STRATEGIES THAT HAVE BEEN MENTIONED IN THE LAST FEW DAYS**

<b>Grassroots</b>	<b>HR Education and Learning</b>	<b>Planning, Monitoring and evaluating</b>	<b>Global strategies</b>
<ul style="list-style-type: none"> <li>• Planning with the community</li> <li>• Awareness building/Capacity building</li> <li>• Proactive/participatory approaches</li> <li>• Sustainable strategizing</li> <li>• Partnerships/Alliance building</li> <li>• Empowerment</li> <li>• Documenting</li> <li>• Media work/ public opinion</li> <li>• Litigation</li> <li>• Advocacy &amp; Lobbying</li> </ul>	<p><i>Key elements:</i></p> <ul style="list-style-type: none"> <li>• Knowledge</li> <li>• Attitudes</li> <li>• Skills</li> <li>• Perspective</li> <li>• Self awareness</li> </ul> <p>HRE is a transformative tool, whereby participants are subjects (not objects) to their own learning - the <i>process</i> (how we learn human rights) is as relevant as the <i>result</i> (what we learn)</p> <p><i>Design learning objectives and expected learning</i></p>	<p><i>Assessment:</i></p> <ul style="list-style-type: none"> <li>• Problem/issues</li> <li>• Capabilities</li> </ul> <p><i>Programme:</i></p> <ul style="list-style-type: none"> <li>• Objectives</li> <li>• SMART</li> <li>• Strategy</li> </ul> <p><i>Implementation:</i></p> <ul style="list-style-type: none"> <li>• community driven</li> <li>• resource flight not done</li> </ul>	<p><i>WTO/WB:</i></p> <ul style="list-style-type: none"> <li>• consultation</li> <li>• alliances of NGOs</li> <li>• alliances with like-minded government</li> <li>• technical assistance</li> <li>• main streaming HR</li> <li>• put HR as the basis</li> </ul> <p><i>UN Human Rights system:</i></p> <ul style="list-style-type: none"> <li>• HR Commission</li> <li>• ESCR committee (shadow reports)</li> <li>• Special rapporteurs visit</li> <li>• Office of the High Commission</li> </ul>

	<p><i>outcomes</i> (ELOs) in the context of learner profile.</p> <p>Curriculum development and methodology.</p>	<p><i>MRE:</i></p> <ul style="list-style-type: none"> <li>• monitoring/ongoing</li> <li>• Review /periodic</li> <li>• Evaluation/ time bound</li> </ul>	<ul style="list-style-type: none"> <li>• of Human Rights</li> <li>• Specialized agencies UNDP, UNICEF, UNESCO</li> <li>• Other treaty bodies</li> </ul> <p><i>Collaboration HR &amp; Development NGOs:</i></p> <ul style="list-style-type: none"> <li>• Networking</li> <li>• Expanding common mechanism</li> <li>• Transnational &amp; international partners</li> <li>• Share resources</li> <li>• Recognizing cultural diversity</li> <li>• Bridge gap with community</li> <li>• Creative litigation</li> </ul>
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**In preparing your presentation:**

**Remember** - Your board will be listening to a lot of presentations, so you will want to develop a creative and an engaging presentation to get their attention. (Theatre; shock strategies; flip charts ; posters; etc.)

Your board has the power to veto your campaign.

You will have 30 minutes to present your case and 30 minutes for questions. All members of your team should then be ready and prepared to reply to questions.