

RIGHTS – BASED APPROACHES TO DEVELOPMENT AS A NEW OPPORTUNITY AND CHALLENGE TO DEVELOPMENT COOPERATION

Conference Paper

*to be presented at the conference:
Current Challenges to Peacebuilding Efforts and Development Assistance
Kraków, 28-29th May, 2009*

Session: Current Challenges to Development Cooperation in the 21st century

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Abstract of the Article

The aim of this paper is to present the concept and guiding principles of the Human Rights - Based Approach (RBA) to development. The human rights based approach, by some institutions such as CONCORD¹ also referred as the rights based approach (RBA) is a people oriented concept of development rooted in the framework of human rights. The concept has been developing for many years independently within the different organizations and has been implemented in the policies of international agencies such as UNICEF, Care and Oxfam.

The RBA concept flows from the UN Declaration on the Right to Development of 1986, which explicitly addressed development as a right and since then it has become an internationally recognized standard. It builds on the human rights treaties and conferences such as the World Conference on Human Rights in Vienna (1993) where 171 states reaffirmed that *achieving development requires the implementation of the full spectrum of civil, political, economic, social, and cultural human rights as required by the international law*.

Recently, it received unprecedented attention from the different actors including NGO as well as the donor agencies and one can observe initiatives to work out common position e. g. in 2003 the UN agencies worked out the Common Understanding of the Human Rights Based Approach in their policies. Although the formulations still differ among the different organizations the five guiding principles constitute the core of the concept that can be used in adjusting and assessing the development policies, programs and projects.

Moreover, the paper refers to the Polish Official Development Assistance in terms of alignment with the principles of RBA. It provides conclusions and recommendation towards Polish Development Policies in relation to the international Aid Quality standards and RBA.

Finally, the paper presents the current trends and discussions concerned with the implementation of the rights based approach in the policies and programs of development organizations.

The Concept and Core Principles of the Rights Based Approach to Development

The RBA is a concept of development that focuses on the human person. According to the concept participation in development is a right that originates from the human rights. Every person as the holder of human right should benefit from the development process.

RBA is an approach to development cooperation that encompasses the respect for human rights, human dignity of the beneficiary communities, the priority of assistance to the vulnerable groups and the guarantee of ownership and accountability of the participation community and its members.

The realization of RBA requires the effort from the states and non – states actors to ensure the rights that include the ownership of the development cooperation initiatives and accountability of the actors towards the people they serve.

RBA is not a single method of the provision of development projects, but it refers to the process and the outcome of development. Since the effective human rights (development) change requires different approaches the practical implementation varies depending on the particular sector being addressed, social and political context and the different actors involved.²

From the RBA perspective development involves not just economic growth, or macroeconomic performance, but all areas of national life such as health, environment, housing, education,

1 Rights Based Approach in Development, CONCORD position paper, 2006.

2 The Application of a Human Rights-based Approach to Development Programming. What is the Added Value?

the distribution of resources, enhancement of people's capabilities, and widening of their choices.³

The concept of Human Right Based Approach to development is based on the human rights covered in several international treaties and declarations. A number of fundamental recurring principles can be derived from those documents that can serve as guidance for the application of a rights-based approach to development programming⁴. The five inter-connected principles forming the core of RBA are⁵:

1. Explicit, accurate use of the international human rights framework;
2. Empowerment as a precondition for effective participation - as of right;
3. Participation in development decisions - as of right;
4. Non-discrimination and prioritisation of groups vulnerable to human rights violations; and
5. Accountability of duty-bearers to rights-holders.

The human oriented development process (that include the development cooperation) goes beyond the formal commitment to respect human rights, but also means integration of the obligations into all policies, budgets and programmes.⁶ The concept however, goes beyond the bilateral or multilateral relations between institutions or governments. It calls for the implementation of effective and adjusted to local contexts consultation and participation mechanisms that guarantee the power of decision making and influence of the primary stakeholders of development cooperation – the beneficiaries in the local communities.

To support the implementation of the RBA principles a tool for guidance and assessment has been created by IHRN. It will be used further in the text to examine how the Polish Aid Program is aligned to the RBA principles. Although, it provides clear benchmarks in relation to the core principles it does not reflect all the rights included in the UN Declaration on the Right to Development of 1986, neither addresses the complexity of the right to development. Rights based approaches consider the local values, cultures, contexts therefore the understanding of the rights to development should not be limited to those mentioned in the assessment tool and should consider the priorities and perceptions of their rights by the right - holders.

The Moral and Legal Imperatives to Apply RBA

The concept of RBA to development is rooted in the moral and ethical principles. At the heart of it there is the human person whose human rights and dignity should be protected by all means. The right to Development is a practical interpretation of the right to freedom which means taking free decisions about own future and personal development. The human rights are the founding principles for the just political and social system as well as the sustainable development of nations and peoples⁷.

As the UN Human Development Report 2000 states: *"Poverty eradication is a major human rights challenge of the 21st Century. A decent standard of living, adequate nutrition, health care, education decent work and protection against calamities, are not just development goals- they are also human rights"*.

The term human rights refers to the full spectrum of internationally recognised human rights - civil, cultural, economic, political, and social that have the foundation in the Universal Declaration

3 Human Rights Based Approaches. An Introduction, International Human Rights Network 2007.

4 The Application of a Human Rights-based Approach to Development Programming. What is the Added Value?

5 Human Rights-Based Approaches and European Union Development Aid Policies. International Human Rights Network 2008.

6 Human Rights Based Approaches. An Introduction, International Human Rights Network 2007.

7 Marczyński, M., Od prawa do rozwoju do pomocy rozwojowej. Globalna Północ - Globalne Południe. Kwartalnik o rozwoju, odpowiedzialności globalnej i prawach człowieka Nr 1, 1/2008.

on Human Rights of 1948.⁸ Following the UDHR, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights were drafted that together with the UDHR, constitute the International Bill of Rights. Moreover, several conventions were drafted to protect the specific rights and the rights of the vulnerable groups such as:

- International Convention on the Elimination of All Forms of Racial Discrimination,
- Convention on the Elimination of All Forms of Discrimination against Women,
- Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,
- Convention on the Rights of the Child.

Alongside these conventions, the UN Declaration on the Right to Development of 1986, reaffirmed the right to development as a human right and links the normative standards of human rights law with development processes⁹. The declaration states that *the human person is the central subject of development and should be the active participant and beneficiary of the right to development (Art.2) and every human person is entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. (Art. 1)*¹⁰.

The milestone in the promotion of all of the human rights, including the right to development was reached in 1993 at the World Conference on Human Rights at Vienna, when 170 states reaffirmed the status of the human rights and re-stated the legal principles that all internationally recognised human rights are universal, inalienable, interrelated, and interdependent¹¹.

The universality of the right to development means that all the peoples can enjoy them without discrimination, throughout the world. The inalienability should be understood that the right to development is inherent to each individual and is not a gift or privilege given by authorities and they cannot be taken away. The full enjoyment of any particular human right depends upon the enjoyment of others which is recognised in the aforementioned principles of inter-dependency and inter-relatedness of the rights. Referring to the right to development, the enjoyment of the right to life is dependent on the right to health and the right to housing, as well as the right to education (e.g. regarding transmission of HIV/Aids). The right to equal treatment underscores all of these rights.¹²

Taking into account aforementioned legally binding legal documents, states have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals.

Moreover, several EU treaties bound EU members states, including Poland, to respect the HR in the development policies, including the RBA principles. Regarding the development cooperation, which is an international framework practically realising the right to development, all the five RBA principles are applicable. The Legal European document underpinning the application of RBA is for example the EU Treaty that in Article 177 of the treaty establishing the European Community specifies that the Community development policies: "shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human

8 Human Rights Based Approaches. An Introduction, International Human Rights Network 2007

9 The Application of a Human Rights-based Approach to Development Programming. What is the Added Value?

10 Declaration on the Right to Development Adopted by General Assembly resolution 41/128 of 4 December 1986

11 Human Rights Based Approaches. An Introduction, International Human Rights Network 2007.

12 Ibidem.

rights and fundamental freedoms.¹³

In addition, the Cotonou Agreement which governs its development relationship with a range of states that stipulates¹⁴: *“Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for promotion for all human rights. Respect for all human rights and fundamental freedoms (..) are an integral part of sustainable development.”*

The next sections will look at the added value of the RBA and will review the Polish Development Policies against the criteria and principles based on the RBA.

Rights Based Approach as the New Opportunity in the Development Cooperation – Progress in International Practice

The RBA in the last years is receiving unprecedented attention from the development actors including UN agencies or NGOs and proved to bring added – value to the development sector. The concept however is not new, and has been developing within different institutions and agencies. For examples the assistance programmes implemented by the UN Office of the High Commissioner for Human Rights (OHCHR) has been based on international human rights standards since 1955.

UNICEF in the early 1990s explicitly adopted the Convention on the Rights framework in the policies and programming as soon as the treaty came into force rooting the agencies work in the human rights. Other agencies of the UN system reaffirmed the commitment to the RBA in its 1997 Programme of Reform for all parts of the system, from the UN Development Programme to the World Bank¹⁵. It recognized human rights as both a principal goal of the organisation and a means by which its other goals could be advanced. UN agencies reaffirmed this commitments in 2003, when they agreed a Common Understanding of RBA in their development cooperation and programming, covering key elements of best practice as regards RBA.¹⁶

Simultaneously, the organizations like Care and Oxfam has been implementing in these principles in their policies¹⁷. Currently, many development NGOs, such as Oxfam, ActionAid International and Care International also recognize RBA in their policies acknowledging the imperative of being working to a human rights agenda as opposed to being providers of charity. CONCORD is also advocating for the RBA issues its point of view in 2006 and has a task-force working permanently on this topic which has been underlined by the Board as one of the main cross-cutting issue of the confederation¹⁸.

The International Human Rights Network (IHRN) issued reports in 2007 and 2008 on the progress in international practice in relation to the implementation of the RBA that are often quoted in this article. The latter one focused on the compliance of the EU development policies with the RBA principles. Moreover, the reports are accompanied with the practical tool and explained benchmarks to apply in the assessment of the policies and programs in regard to the compliance with the RBA principles.

13 Article 177 of the Treaty establishing the European Community.

14 ACP-EU Partnership Agreement signed in Cotonou in June 2000.

http://europa.eu.int/comm/development/cotonou/index_en.htm

15 Renewing the United Nations: A Programme for Reform, UN Doc. A/51/950, July 1997,

16 The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies.

17 Office of the High Commissioner on Human Rights (UNHCHR)

<http://www.unhchr.ch/development/approaches-06.html>

18 Rights Based Approach In Development, CONCORD position paper, 2006.

<http://www.concordeurope.org/Public/Page.php?ID=15358&language=eng>

The different multi-lateral and bi-lateral development actors and donors have committed themselves to include RBA in their work. OECD - DAC which is an important forum for donors including EU Member States dialogue on development, acknowledges the link between the human rights and development.¹⁹ Other donors applying the RBA include: Canada(CIDA), Norway (NORAD), Denmark (DANIDA) and Sweden's (SIDA) international development agencies and the UK Department for International Development (DfID).²⁰

The broad acceptance for the RBA among the different actors involved in development cooperation indicates that the RBA principles became international standards for the development cooperation. As Mehr Khan Williams - United Nations Deputy High Commissioner for Human Rights indicated: *"When we use the phrase human rights and development we sometimes seem to imply that the two are quite different. ...fundamentally the ultimate goal is the same: to contribute to enhancing the dignity of people's lives. Development aims at improvement in the lives and the well-being of all people. It does this through the delivery of services and the expansion of government capacities. This is also the process of realizing many human rights."*²¹

The IHRN report summarizes the added value of the RBA identified by actors that have informed themselves about the meaning in practice of the five core principles of RBA that are:

- Greater legitimacy through policies linked to universal minimum agreed standards of international law, standards that bind all states in the development relationship.
- Greater empowerment and participation as of right; linking development best practice to legal entitlements, providing an authoritative basis for advocacy by civil society.
- Greater relevance by focusing on powerlessness and social exclusion – moving from the realm of charity to one of obligation.
- Greater impact and sustainability based safeguards against unintentional harm by development aid - ensuring that human rights protection is organically incorporated into development policies and programmes.
- Greater accountability through clarity regarding duties and duty-bearers, and normative clarity provided by standard-setting bodies tasked with interpreting relevant treaties.²²

On the Polish development scene, there are new initiatives that aim to promote RBA. One example is the project of the Polish Humanitarian Organization addressed to the Polish NGOs. It is an interesting opportunity to raise awareness about the principles among the development workers in Poland²³.

The Core Principles of RBA and Applicability of RBA in the Polish Development Cooperation Policies

Poland is bound with the international human rights treaties and all the requirement related to the quality of the development cooperation apply to the Polish development policies and programming.

The principles of RBA have been complimented with the explanation and guiding notes by IHRN. These RBA principles are themselves part of the legally binding framework. The principles and the guiding notes are the reference to the development policies and programming of the Southern and

19 DAC's Action-Oriented Policy Paper on Human Rights and Development, adopted on 15 February 2007.

20 Human Rights-Based Approaches and European Union Development Aid Policies, International Human Rights Network, September 2008.

21 Mehr Khan Williams, United Nations Deputy High Commissioner for Human Rights, 11 June 2005. In Human Rights Based Approaches. An Introduction, International Human Rights Network 2007.

22 Human Rights-Based Approaches and European Union Development Aid Policies, International Human Rights Network, September 2008.

23 Polish Humanitarian Organization, www.pah.org.pl

Northern governments against which those policies must be evaluated.²⁴ The framework to review the policy and programs is proposed by the IHRN in the report "Human Rights-Based Approaches and European Union Development Aid Policies" of 2008. It is adapted by International Human Rights Network as a working tool from the work of the UN Office of the High Commissioner for Human Rights. The criteria for the review of the policy documents have been applied to review the EU development policies coherence with the RBA²⁵.

The assessment of the Polish Aid Programme in terms of the compliance with the Declaration on the Right to Development (DRD) is also part of the Polish National Report of the Social Watch Coalition 2008²⁶. It refers to the whole declaration with a specific focus on the three areas:

- Responsibility in terms of being accountable to partner countries governments as well as the beneficiaries and the public audience,
- Ownership in terms of relations with the to partner countries governments,
- Vulnerability in terms of addressing priority countries, especially in relation to the Milenium Development Goals.

This papers, however addresses the five principles and specific benchmarks of the Rights Based Approach proposed by the IHRN and widely recognized among the development cooperation actors. The conclusions from the aforementioned Report of the Social Watch Coalition are included under the appropriate sections related to the five principles.

The Polish Development Cooperation Strategy of 2003 provides a basis for the annual Polish Aid Programs including the main principles, directions, sectoral priorities worked out by the The Development Co-operation Department in the Ministry of Foreign Affairs. This article analyses the Polish Aid Programme 2008 which is the last completed year.

This analysis is based on a desk review of key policy documents. Polish aid is codified on the national level by two documents which are reviewed in the following sections i.e. Polish Development Cooperation Strategy of 2003²⁷, and the Polish Aid Program 2008²⁸. In addition to that, other documents are consulted such as: The guidance for the realisation of the aid projects by the Polish NGDOs²⁹.

Principle 1: Explicit, Accurate Use of the International Human Rights Framework

The first step to apply RBA to the development policies is to use the international human right framework explicitly and accurately. The goals of the policies should be directly linked to the human rights states obligations, it should address full spectrum of the human rights and at every stage of implementation in every sector.

The Strategy of the polish development cooperation of 2003, does include the protection of human rights in the strategic tasks. However, the strategy does not refer to this task in the section regarding the priority areas of action. Moreover, it does not specify any legal document or any interpretation regarding the human rights, which means that they are not explicitly addressed in the document.

The program of Polish Aid 2008 in the section Principles and directions of Polish Aid also mentions

24 Human Rights Based Approaches. An Introduction, International Human Rights Network 2007.

25 Human Rights-Based Approaches and European Union Development Aid Policies, International Human Rights Network, September 2008.

26 Czas na prawa. Raport Krajowy Polskiej koalicji Social Watch, Koalicja KARAT 2008.

27 „Strategia Polskiej Współpracy na Rzecz Rozwoju” z 2003 r.

28 Program Polskiej Pomocy 2008.

29 Wytyczne dla organizacji pozarządowych i innych podmiotów spoza sektora finansów publicznych niedziałających w celu osiągnięcia zysku ubiegających się o finansowanie projektów w ramach Programu polskiej pomocy zagranicznej udzielanej za pośrednictwem MSZ RP w roku 2008 w konkursie „POMOC ZAGRANICZNA 2008”.

the promotion of human rights together with the promotion of democracy and civil society. However, these objectives are linked to the country priorities only in case of Belarus and Afghanistan.

The definitions of human rights are not consistent though. Human rights standards in the section devoted for priorities in Belarus, together with democratic standards and good governance are meant to contribute to the economic and social advance of the country. In case of Afghanistan, human rights are perceived in terms of capacity building of local and national institution that should protect them. This implies inconsistency in the language and approach, as well as lack of clear interpretation of the human rights framework.

To conclude, the document guiding the Polish development cooperation refers to the human rights framework only in general terms and fails to consider the broad spectrum of human rights. Neither, the strategy nor the Program of 2008 explains the ways to implement the each stage of the implementation of the policies.

Principle 2: Empowerment as a Precondition for Effective Participation

The principle of empowerment according to the concept of RBA defines development cooperation as the fulfilment of rights not a charity. On the one hand, it means that people have the power, capacities as well as access needed to improve their own communities and influence their own lives. On the other hand, the duty bearers and the right holders should share the same understanding of the human rights goals and responsibilities to respect, protect and fulfil them. One precondition of achieving them is the systematic education and raising awareness of Government, public representatives, civil servants, service providers and other duty bearers.

The principles of empowerment is not mentioned as an objective in the the Polish Development Cooperation Strategy of 2003 and is not explicitly addressed in the Polish Aid Program 2008. The relation between the aid strategy and the right – holders is perceived only in terms of roles and responsibilities between the Polish government and the governments of the recipients country. Both documents as a principle mention the responsibility (in case of strategy) and ownership (in case of the program) of the recipient country in defining priorities and formulating the strategies, but on the operational level this principles is non – existent. In terms of access to information, the Polish Development Cooperation Strategy of 2003 exist only in Polish version but the Polish Aid Program 2008 is already available in English. There are no mechanism, nor practices to involve the government of the beneficiary countries and empower them to take the decision about the strategies.

Moreover, the procedures for establishing country priorities does not allow the potential beneficiaries to influence or shape the aid priorities of 2008. Since the aid strategies are lacking, there are no real conditions for the empowerment or ownership.

To conclude, the understanding of empowerment of people to determine their conditions and strategies of development is very limited in the documents and in the practice in the Polish Aid Program 2008. The priority capacity building of the NGO sector in the partner countries, especially in case of Subsaharan Africa is practically not addressed.

Therefore, the Polish Aid Programme is not based on real ownership or empowerment which would provide the right-holders with a right to determine their human rights objectives and priorities. Since the human rights promotion is not a priority in the Polish Aid Program 2008, the capacity of duty – bearers: the governments, civil servants is not sufficiently addressed.

Principle 3: Participation in Development Decisions

The principles of participation requires from the development cooperation actors to ensure the active, free, and meaningful participation of the southern government, communities, civil

society, minorities, women, children and others. In the RBA concept participation is also seen as a right connected with the right of the freedom of expression, right to education and access to information. These should include formal national and local consultation mechanisms and adequate support activities (meetings, presentations, hearings), where information is transparent and timely.

The Polish Development Cooperation Strategy of 2003 does not refer to the principle of participation, neither does the Polish Aid Program 2008. However, the latter defines as one of the aid principles ownership as the responsibility of southern government for the development policies, strategies and coordination of development activities. Moreover, the explanation refers to the donors, whose role is to support the Southern governments in institutional capacity building and it states that in practical terms, the Southern countries should define the needs and development vision. Similar understanding of ownership is included in the guidance for the realisation of the aid projects by the Polish NGOs³⁰. This interpretation of the ownership principle is however very limited. The Paris Declaration on Aid Effectiveness states that partner countries exercise effective leadership over their development policies, and strategies and coordinate development actions and commit to take the lead in coordinating aid at all levels in conjunction with other development resources in dialogue with donors and encouraging the participation of civil society and the private sector³¹. Due to the limited definition of ownership, the participation is not included in the principles of the Polish Aid Programme 2008.

In terms of implementation of projects the Polish Aid Programme 2008 requires from the Polish NGOs to conduct the action in partnership with the local institution. The guidance for the realisation of the aid projects by the Polish NGOs³² defines partnership as an active participation of the beneficiaries in the formulation and realisation of projects. It is recommended in the principles and good practices, but does not provide information how will the quality of partnership be verified.

The Social Watch report indicates that Poland does not have bilateral strategies with any of the priority countries (Country Strategy Papers). Country priorities are established in the annual plans due to institutional obstacles³³. Poland does not apply mechanisms to support ownership which include: supporting the distribution systems in the Southern countries, coordination of aid as well as the predictable strategy of aid.

Since, the consultation mechanisms of consultations with partner countries in the phase of defining the Polish Aid Program objectives and priorities does not exist, the strategy does not support nor allow the leadership of the partner countries.

None of the documents, refers to the national or local consultation mechanisms allowing the participation of the communities or civil society groups. Moreover, the Polish Aid Program 2008 provides no information or reference to the country development strategies in setting the objectives or priorities. Neither refers to the consultation mechanisms with the primary stakeholders of development.

To conclude, the Polish development aid strategy alignment with the principles of ownership

30 Wytyczne dla organizacji pozarządowych i innych podmiotów spoza sektora finansów publicznych niedziałających w celu osiągnięcia zysku ubiegających się o finansowanie projektów w ramach Programu polskiej pomocy zagranicznej udzielanej za pośrednictwem MSZ RP w roku 2008 w konkursie „POMOC ZAGRANICZNA 2008”.

31 Paris Declaration on Aid Effectiveness, Paris 2005.

32 Wytyczne dla organizacji pozarządowych i innych podmiotów spoza sektora finansów publicznych niedziałających w celu osiągnięcia zysku ubiegających się o finansowanie projektów w ramach Programu polskiej pomocy zagranicznej udzielanej za pośrednictwem MSZ RP w roku 2008 w konkursie „POMOC ZAGRANICZNA 2008”.

33 Czas na prawa. Raport Krajowy Polskiej koalicji Social Watch, Koalicja KARAT 2008.

and participation in very limited. Although mentioned in different sections of the document, they are not taken into account in the general principles and are not fully translated into operational documents. The documents are lacking internationally recognized definition of ownership and participation and clear understanding in terms of implementation.

Principle 4: Non-discrimination and Prioritisation of Groups Vulnerable to Human Rights Violations

The RBA requires that the policies should address as priority the vulnerable groups, that are identified on national and local level. The policies should ensure official data is disaggregated, by race, religion, ethnicity, language, sex, migrants, age and any other category of human rights concern.

As the Social Watch report suggests, from the RBA perspective development cooperation should be focused on the improvement of life quality of the poorest. Poverty reduction is reflected in the Milenium Development Goals, the different priorities of civil society groups, donors, as well as the priorities of the Polish development strategy and programs. The authors of the indicated Social Watch Report 2008, on the basis of the statistical data on poverty, argue that the continent that requires most of the aid from the developed countries is still Africa³⁴. However, the resources available for subsaharan Africa constitute less than 3% of the Polish bilateral aid in 2007.

The particular attention should be given to the gender – proofing assesses the implications for women and men of any planned action and to the "feminization" of poverty, its causes and remedies. Taking into account that more than a half of the people living in poverty are women and the fact that initiatives aiming at mainstreaming of the gender equity constitute important part of the MDGs, the lack of attention to the women rights is causing controversies³⁵. Gender equity has not become one of the so called horizontal issues in the Polish aid programme. Taking into account the programme priorities, the activities supporting women or women groups has never been identified as the areas of intervention in the year programs of the Ministry of Foreign Affairs³⁶.

The prioritisation of assistance to the groups vulnerable to human rights violations is not taken into account in any of the principles or objectives of the documents defining the Polish Aid Strategy. However, in the country priorities some vulnerable groups are addressed: for Belarus the independent organizations and journalists, in case of Palestine the rights of the children, and in many other cases civil society organisations. Although, these priorities address the specific groups, it is defined arbitrary without justification. Moreover, it is also very limited and lacking general explanation of the non – discrimination principle.

Since there are no official information which data is used to define the aid strategy and priorities, it does not allow for a proper disaggregation. The documents defining aid strategy fail to recognize the gender dimension of development processes and the consequences of them.

Therefore, the Polish Aid does not comply with these principle. Almost no attention is given to the vulnerable groups and policies fail to address the problem of non – discrimination.

Principle 5: Accountability of Duty – Bearers to Rights – Holders

The principle of accountability according to the RBA has several dimensions. First of all human rights impact assessment should be applied to all plans, proposals, policies, budgets and programmes.

The obligations of the duty – holders in terms of the human rights should be identified taking

34 Czas na prawa. Raport Krajowy Polskiej koalicji Social Watch, Koalicja KARAT 2008.

35 Ibidem.

36 Ibidem.

into account full range of actors, including local and national authorities, aid agencies, private companies. Universal standards should be translated into benchmarks for measuring progress and enhancing accountability in terms of fulfilment of the rights. Effective laws, policies, institutions, administrative procedures should be established, as well as the mechanisms of redress that ensure delivery of entitlements, respond to denial and violations, and ensure accountability.

The Polish Development Cooperation Strategy does state in the principles the transparency of procedures connected with project identification, distribution and reporting, as well as the evaluation of the effectiveness of the projects. However, the authors of the Social Watch report 2008 identify that lack of the complete, updated and accessible information about strategies, programs plans and expenditures in many cases may hinder the dialouge between the Polish government and the partner countries³⁷.

Poland also has concrete obligations in terms of the volume of aid as well as the quality and is accountable for that to the partner countries, primary stakeholders and the international community. In 2005 Poland declared to raise the volume of Official Development Assistance to 0,17% of the GNP in 2010. Although, the increase in volume has been notet, the authors of the aforementioned report³⁸ argue that the real amount stays at the same level of 0,09% of GNP and if this continues Poland will not fulfil the obligations.

The 2008 program indicates that in 2008 the basis for the future evaluation system will be created and that external evaluation will be conducted in some of the sectors. Even though the budget was allocated for this task, it was not planned in details, nor where the human rights mentioned as benchmarks and no official data is public on how the task was realised.

The human rights standards are not translated into the criteria in planning the development aid interventions. There are no specific benchmarks for measuring the progress in terms of accountability.

Moreover, there are no official information about evaluating the development aid. Since the evaluation of the development programs is very limited and information is not public, accountability is not ensured.

The Challenges Connected with the Implementation of the RBA

The implementation of RBA in the development policies and programming is a great challenge for the development cooperation in the 21st century. The compliance with the RBA benchmark has the great potential to hand over the development cooperation priorities into the hands of the people whose rights are not fully respected and fulfilled.

The preceding part provided the analysis of the Polish Aid Programme 2008 in relation to the implementation of the RBA core principles. Several conclusions are in line with the challenges identified in the report of IHRN in relation to the EU development policies. In general, the Polish and the European policy fails to recognize human rights in the centre of the development process, fails to ensure that development cooperation is based on principles rooted in the respect of the rights and refers to ownership or participation without deeper understanding. It is known that *"technocratic or instrumentalised 'participation rhetoric' continues in all too many cases, without reform in core mandates, policies or spending allocation"*.³⁹ To much attention in the policy setting and programming is given to the administration and planning the development results, instead of focusing on the peoples rights. To improve the aid quality

37 Czas na prawa. Raport Krajowy Polskiej koalicji Social Watch, Koalicja KARAT 2008.

38 Ibidem.

39 BOND, Implementors or Actors? Reviewing civil society's role in European Community development assistance in Kenya, Senegal, Bolivia and India (2004)

“approaches to achieve the MDGs must be based on human rights, with attention not only to development results, but also to the ways in which development is pursued”⁴⁰. Apart from aforementioned critique several other specific challenges include:

- Participation not seen as a human right and inadequately applied in the policies and programming,
- Weak capacity to undertake RBA programming,
- Absence of capacity-building and support from specialised focal points,
- Lack of clarity regarding the core meaning of RBA,
- The view that poverty is by definition addressed by economic growth⁴¹.

In addition to that, the report of IHRN mentions the following challenges in relation to the EU development policies and programming:

- Competing rather than coordinated processes,
- Distorted public perception of human rights,
- Low public awareness of human rights and low expectations of change,
- The view that ‘we cannot afford human rights’⁴².

Policy Recommendations

The RBA to development is a concept that can potentially strengthen the Polish development policies and programming. On the one hand, the application of RBA should guarantee the right – holders the persons and communities in the global South countries the protection of their rights and on the other hand, the implementation of the RBA principles should improve the aid effectiveness and efficient use of scarce resources of the Polish Aid Programme by taking decisions on behalf, and by the empowered groups.

These recommendations apply to the planned for implementation and drafted strategy of Polish aid 2010 – 2015, as well as to the year to year programming of development cooperation actions. To improve the quality of Polish Aid more strategic approach is needed, that takes into account the long – term objectives, rooted in human rights framework, established on the basis of well – organised dialogue with partners from the South representing the different parts of the society i.e. government, civil society organisations, as well as the representatives of the vulnerable groups. The implementation of the communication channels and dialogue fora is a prerequisite to the ownership and fulfilment of the right to development.

The long – term development priorities of the peoples in the Southern countries should be defined for every country receiving Polish aid in line with appropriate country strategies.

Improvement in Polish Aid quality also requires clear evaluation procedures, taking into account the human rights and RBA principles as criteria, and accountability measures ensuring complete and timely reporting to the right holders including partner governments, communities, groups as well as feedback and consultation mechanisms with them. As long as the evaluation is not conducted systematically with the RBA perspective, the quality of aid and respect to the rights of the beneficiaries remains questionable.

Unless the evaluation system is in place, operationalised in internal procedures and communication channels, the Polish aid program will stay below international standards. Until the personnel involved in the Polish Aid raise the competences in the area of human rights, RBA and quality of aid, Polish Aid programme will be an ineffective effort with limited impact

40 Brown M., UNDP Administrator, 2005 in Human Rights-Based Approaches and European Union Development Aid Policies, International Human Rights Network, September 2008.

41 Human Rights Based Approaches, An Introduction, International Human Rights Network 2007

42 Ibidem.

on the communities in the global South and on the margin of the European development policies.

The report of the Polish Aid in 2007 suggest that: Poland is perceived in the European Union and in the world as a partner in development aid that is becoming more important.

Poland however in the succeeding year failed to comply with the principles underpinning the development cooperation and failed to establish coherent aid system that respect also legal obligations of the protection of the human rights. To become a real partner Poland needs to take effective measures to establish adequate mechanisms improving the quality of aid and effectiveness of the public financial resources. Only the concrete commitments to quality, supported with the implementation schedule will enable Poland respect the rights of the underprivileged and vulnerable people and groups, fulfil the international obligations and uphold to international principles and standards.

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