



HUMAN RIGHTS AND DEVELOPMENT

A Human Rights-Based Approach to Development Cooperation

POLICY PAPER



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Introduction

Drafted under an interministerial mandate (resolution by the Interministerial Committee on International Cooperation and Development of 8 February 2018), the purpose of this strategy is to fully integrate the human rights-based approach into France's development cooperation actions. It also aims to formalize France's support strategy for the promotion, respect, protection and fulfilment of human rights through cooperation.

In a global context in which the space given to civil society is shrinking and the universality of human rights is being challenged, this policy paper promotes and reaffirms the intrinsic link between the realization of human rights and sustainable development.

In 2017,¹ France, together with all the other European Union Member States, committed to implement an international development approach based on human rights with the conviction that this would help attain the Sustainable Development Goals (SDGs) and in turn help to meet the global challenges of our century.

This strategy defines France's approach to development cooperation based on human rights and sets out the strategic priorities that will underpin its implementation.

In parallel to seeking possible further developments to the international legal framework, this strategy sets out how French development cooperation can help all stakeholders in partner countries to comply with these standards more effectively. This strategy will be translated into a multi-year action plan to be implemented in line with all other existing French strategies. In addition to addressing official development assistance (ODA) issues, it seeks to make development policy goals consistent with those of other public policies that could have an impact on respect for human rights.

This policy paper is intended for all French development stakeholders and government agencies in particular, as well as private-law entities receiving French ODA.

France's strategy covers all countries eligible for French ODA and will be implemented in line with geographic priorities defined by the Interministerial Committee on International Cooperation and Development.

1. *The New European Consensus on Development "Our World, Our Dignity, Our Future"*, joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament and the European Commission, 2017.



Chapter 1

THE INDISSOCIABILITY OF SUSTAINABLE DEVELOPMENT AND HUMAN RIGHTS

Human rights, founding principles of the French Republic, are based on the recognition of the inherent dignity of every human being, thereby giving them a universal dimension.² Human rights apply to all individuals, at all times and in all places; they are also indivisible and interdependent because the achievement of each right is indissociable from the respect, protection and fulfilment of all rights recognized by international human rights law.

Although the achievement of human rights is the common ideal to be attained, as affirmed by the Universal Declaration of Human Rights of 1948, it is also a means and a goal of sustainable development. Development and human rights are interdependent and mutually reinforcing.³ Development creates the conditions for the effective enjoyment of human rights for all, and the fulfilment of human rights is essential to achieving sustainable development in its three dimensions: economic, social and environmental.

The SDGs, which guide France's international cooperation policies, are based on the link between human rights and development. Promoted by SDG 16 which relates to effective governance, the rule of law, transparency and citizen participation, the fulfilment of human rights also features explicitly among the 2030 Agenda goals:

“We reaffirm the importance of the Universal Declaration of Human Rights, as well as other international instruments relating to human rights and international law. We emphasize the responsibilities of all States, in conformity with the Charter of the United Nations, to respect, protect and promote

BOX 1

The universality of human rights

“Human rights are not the lowest common denominator among all nations, but rather, [...] the ‘irreducible human element’, in other words, the quintessential values through which we affirm together that we are a single human community.”

Statement by Boutros Boutros-Ghali
United Nations Secretary-General
World Conference on Human Rights
Vienna, 14 June 1993

human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.”⁴

The rights-based approach, formalized in 2003 by the United Nations, is a conceptual framework based on this interdependence between the fulfilment of human rights and sustainable development which is used to shape development programs and projects. This framework defines interactions between states and individuals in terms of duty bearers and rights holders in the context of international human rights law. Human rights are placed at the core of government action and the state is held accountable for their fulfilment.⁵

2. Universal Declaration of Human Rights, Preamble, 10 December 1948.

3. Vienna Declaration and Programme of Action, adopted 25 June 1993, A/CONF.157/23.

4. 2030 Agenda for Sustainable Development, para. 19.

5. National Consultative Commission on Human Rights, *Statement of Opinion “For a Human Rights-Based Approach”*, 3 July 2018, p. 5.

The rights-based approach aims to make beneficiaries of development cooperation agents of their own development so as to ensure that it is truly sustainable. Target 16.7 of the SDGs thus aims “to ensure responsive, inclusive, participatory and representative decision making at all levels.” Moving from an approach based on a population’s needs, this conceptual framework calls for people to be recognized as rights holders and for each citizen to be considered free to participate in the economic and social development of their country. Development

programs are no longer just focused on solidarity-based action but are also intended as a means to implement states’ international obligations to respect, protect and fulfil all human rights. Analysing a situation through the prism of human rights also helps identify the root causes of poverty.⁶ In addition, the rights-based approach involves access to legal remedies such as complaint mechanisms, to respond to allegations made by people impacted by development projects that their human rights have been violated.

BOX 2

Pilot phase of the project “Using the rights-based approach to monitor and evaluate land governance” in Côte d’Ivoire and Kenya

This project, implemented by the think tank TMG Research and the German Institute for Human Rights, and co-financed by the Ministry for Europe and Foreign Affairs and the German Federal Ministry for Economic Cooperation and Development, aimed to promote a human rights-based approach in the monitoring and evaluation of land governance, in partnership with national human rights institutions. The purpose of the pilot phase of the project was to test and perfect an analytical framework with which to monitor land governance based on human rights for national human rights institutions. It was conducted from November 2017 to May 2018 in Côte d’Ivoire and Kenya, two countries suffering from severe land insecurity.

This project highlights the added value of the rights-based approach. In the pilot phase, a monitoring and evaluation method focusing on rights holders’ perceptions was developed. With this method, rights holders are directly involved in processes to monitor and evaluate respect for land rights.

The rights-based approach has also proven to be effective when it comes to identifying obstacles preventing rights holders from exercising their rights. In Kenya, although the law guarantees equality between men and women in terms of inheritance, field surveys conducted among rights holders in the district of Makunga by national human rights institutions and the project team revealed that the legal framework was often not being applied on account of widespread discriminatory customary practices against women. Via the project, staff of national human rights institutions were trained on issues related to land governance through the prism of human rights, supporting them in their role of monitoring and evaluation, handling complaints and raising the population’s awareness of these issues.

6. European Commission, *A Rights-based Approach, Encompassing All Human Rights for EU Development Cooperation, Tool-box*, Commission Staff Working Document, Brussels, 30 April 2014.

Chapter 2

FRANCE'S VISION OF THE HUMAN RIGHTS-BASED APPROACH

2.1 Definition and implementation principles

France's vision of a human rights-based approach to development cooperation is based on the European approach as defined in the tool box created by the European Commission in association with the European External Action Service:⁷

“A human rights-based approach considers human rights principles and standards both as a means and a goal of development cooperation. It changes the analytical approach and integrates the achievement and fulfilment of human rights into the design, implementation, monitoring and evaluation of all development policies and programmes.”

The French approach underlines the interdependence and the indivisibility of human rights, thus encompassing civil political, economic, social and cultural rights. The rights-based approach not only applies to development programs focusing on democratic governance and the rule of law, but to all development sectors as a whole. As such, particular attention is paid to poor and vulnerable populations or those subject to discrimination, for whom the obstacles to fulfilling their rights are greater.⁸

However, this approach does not imply recognition of the right to development, as mentioned in the 1986 United Nations Declaration on the Right to Development, given the lack of consensus on the content and implications of this right.

BOX 3

An inclusive approach in response to inequalities

In the context of a rights-based approach, for all individuals to be included, actors need to take into account the prevalence of multiple and intersecting forms of discrimination.⁹ This inclusive approach is crucial if everyone is to participate in the development process and benefit from it.

In order to meet the commitment to leave no one behind, which is the cornerstone of the 2030 Agenda for Sustainable Development, France has put inclusion at the core of its human rights-based approach to development cooperation. This key concern drives efforts to fight for inclusion and against inequalities, including in the field of gender.¹⁰ In the context of preventive crisis and conflict management, the rights-based approach provides responses to the root causes of crisis and conflict, namely social and societal fragility, exclusion and inequality.¹¹

The rights-based approach has two guiding principles: do no harm and do maximum good. The “do no harm” principle means that French-led projects and programs must not violate human rights in their implementation. The projects must also aim to have an optimal positive impact on human rights, especially by helping to improve the ability of rights holders to exercise their rights and of duty bearers to comply with their duties.

7. European Commission, *A Rights-Based Approach, Encompassing All Human Rights for EU Development Cooperation, Tool-box*, Commission Staff Working Document, Brussels, 30 April 2014.

8. United Nations General Assembly, *Guiding Principles on Extreme Poverty and Human Rights*, Resolution A/HRC/21/39 of 18 July 2012.

9. United Nations High Commissioner for Human Rights, *Guidance Note of the Secretary-General on Racial Discrimination and Protection of Minorities*, New York, 6 March 2013.

10. United Nations, *Turning Promises into Action: Gender Equality in the 2030 Agenda for Sustainable Development*, 2018.

11. World Bank, United Nations, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict*, 2017.

The European Union's five working principles will be applied to France's approach:

- **Legality, universality and indivisibility of human rights:** As human rights are universal, they apply to everyone. France's development cooperation policy will be conducted in keeping with its international obligations in terms of human rights.

- **Participation, inclusivity and access to the decision-making process:** France will ensure that the populations receiving assistance and local civil society organizations participate in designing and conducting the projects that it finances.

- **Non-discrimination and equal access:** France will commit to allowing populations equal access to the benefits provided by its development cooperation actions, without discrimination of any kind based on race, colour, sex, language, religion, political or other opinion, sexual orientation, age, disability, national or social origin, property, birth or other status. Interventions could focus on vulnerable groups in order to ensure equal access.

- **Accountability and access to the law:** France's international development policy will aim to build the capacity of states and all institutions involved with regard to the respect, protection and fulfilment of human rights and the rule of law. It will also seek to ensure that rights holders are in a position to exercise their rights.

- **Transparency and access to information:** These principles will be promoted in order to ensure that beneficiary countries, donors and other development stakeholders are held accountable for their actions.

These working principles should guide the drafting, implementation, monitoring and evaluation of France's development programs and projects.

The rule of law, which is based on the independence of the judiciary and effective access to legal remedies, is a prerequisite to the fulfilment of human rights and, in turn, to the implementation of the SDGs. This is also true in the case of access to pluralist and balanced information. Consequently, France's development cooperation policies will focus on the tangible development of these prerequisites so that human rights can be effectively fulfilled.

2.2 The legal framework

France's approach is based on the Charter of the United Nations and the main human rights treaties and conventions ratified by France:

- International Covenant on Civil and Political Rights (1966);
- International Covenant on Economic, Social and Cultural Rights (1966);
- Convention Relating to the Status of Refugees (1951);
- International Convention on the Elimination of All Forms of Racial Discrimination (1969);
- Convention on the Elimination of All Forms of Discrimination against Women (1979);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- Convention on the Rights of the Child (1989);
- International Convention for the Protection of All Persons from Enforced Disappearance (2006);
- Convention on the Rights of Persons with Disabilities (2006).

Given that the consideration of linguistic and cultural diversity is a prerequisite to effective access to human rights, France has also chosen to base its approach on the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).

In order to fully integrate economic, social and cultural rights, and thus affirm its commitment to the universality of human rights, France also bases its action on the International Labour Organization conventions that it has ratified and on the United Nations Guiding Principles on Business and Human Rights (2011).

In addition, when implementing its development cooperation policy, France ensures that it will comply with all the Council of Europe conventions that it has ratified, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence.

Chapter 3

STRATEGIC PRIORITIES

When implementing this strategy, France will focus on four priority areas with the dual objective of deploying the human rights-based approach across all sectors of French development cooperation and carrying out specific actions to promote human rights through cooperation.

Priority 1

Education on human rights and the rights-based approach

The “do no harm” principle of the human rights-based approach should be applied across all sectors of official development assistance and ultimate beneficiaries of development projects should be made aware of their rights and given the ability to exercise them.

► Training of all French official development stakeholders on the rights-based approach

French official development stakeholders should receive training on the cross-sector dimension of the human rights-based approach so that they can apply it effectively. The “do no harm” principle is the cornerstone of the rights-based approach. Government staff and agencies should therefore receive training on international human rights law, preventing the risk of human rights violations in the projects they conduct, and the rights-based approach itself.

► Human rights education

In order to implement the fourth goal of the 2030 Agenda,¹² France will support educational initiatives focusing on human rights. Human rights education and support for beneficiaries of development projects could help raise awareness among

rights holders of their rights so that they can assert them, consistent with a rights-based approach. Human rights education, especially for children, is crucial. It is not only in their interest but also in the interest of the society at large, since they are their country’s future.

► Promotion of the rights-based approach as a means of achieving sustainable development

France is committed to promoting the added value of the rights-based approach to support truly sustainable development that complies with international law. Raising awareness among institutional stakeholders in partner countries about the lasting benefits of the rights-based approach will help them better understand France’s activities and those of its European partners. France will thus support advocacy for this approach as opposed to competing visions that do not link sustainable development to respect for human rights. Thus, France confirms its commitment to support capacity-building efforts for sovereign counterparts and to include human rights in its public policy dialogue with partner states.

Priority 2

Assist development stakeholders to implement the rights-based approach

The rights-based approach redefines the role of development stakeholders through the prism of human rights and aims to highlight not only their duty to respect human rights in all their activities but also their role as a driving force in the achievement of human rights and sustainable development.

12. SDG 4.7: “By 2030, ensure all learners acquire knowledge and skills needed to promote sustainable development, including among others through education for [...] human rights.”

► **France's advocacy efforts among donors, development banks and multilateral forums in favour of a human rights-based approach to development cooperation**

France will seek to guide the action of development banks and multilateral donors, as well as the multilateral forums in which it participates, in a manner that is consistent with the rights-based approach, including effective access to legal recourse. It is convinced of the benefits of this approach.

► **Capacity building of civil society organizations**

In its development cooperation, France will encourage and assist civil society organizations, especially in beneficiary countries, to implement projects complying with the human rights-based approach. The civil society organizations working in development have become key players, as they represent the ultimate beneficiaries of development and contribute to the elaboration of public policies and influence how these policies are implemented. Their participation in disseminating the rights-based approach is crucial. It is also important to maintain close cooperation between civil society organizations working for human rights and development stakeholders.

► **Partnership with private stakeholders**

France will ensure that human rights are respected by French and foreign private stakeholders, whether they are in charge of French ODA project management or benefit from any other support mechanism implemented by the French Ministry for Europe and Foreign Affairs or the French Ministry for the Economy and Finance. Consistent with the “do no harm” principle, it is necessary to ensure that all stakeholders involved in the implementation of projects comply with international human rights law.

France will promote enhanced requirements in relation to respect for human rights by other donors when it comes to private-law entities receiving official development assistance.

In addition, within the framework of its private sector partnerships and going beyond official development assistance issues, France will encourage French businesses to respect and promote human rights in their activities in developing countries. Indeed, companies play an active role in the fulfilment of human rights by contributing to sustainable development in the regions

BOX 4

Regulatory framework applicable to companies in terms of human rights

Although the state is the main duty bearer with regard to obligations of international human rights law towards persons under its jurisdiction, companies bear responsibility and play an important role in ensuring respect for human rights. When conducting their activities, they must comply with the United Nations Guiding Principles on Business and Human Rights. Multinationals are also encouraged to implement the OECD's Guidelines for Multinational Enterprises.

With regard to these principles, companies' commitments to respect human rights should give rise to an evaluation of the risk of human rights violations in their activities, the adoption of an appropriate implementation framework to deal with negative impacts on human rights, the integration of this framework into their overall management systems and, lastly, the creation of complaint management mechanisms adapted to the local context to provide fair redress for grievances.

According to the third pillar of the United Nations Guiding Principles on Business and Human Rights, it is also the states' duty to establish and support judicial and non-judicial mechanisms to provide effective remedy to persons impacted by these companies' activities.

In 2017, France reinforced its corporate social responsibility mechanism by adopting Act 2017-399 on the duty of vigilance of both parent and contracting companies. This Act concerns companies employing - either in-house or in their subsidiaries - over 5 000 employees in France and 10 000 employees abroad. It obliges them to identify risks and prevent “serious violations of human rights and fundamental freedoms, the health and safety of persons and of the environment”. This obligation applies throughout the supply chain. France is seeking to replicate this system at European and international levels.

where they do business. Under these circumstances, it is important to provide them with a secure legal framework so as to ensure their participation in development.

► **Partnership with local governments and decentralized cooperation**

Given the impact of international activities conducted by local governments, France will encourage the latter to adopt the rights-based approach and to promote dialogue with partner authorities and civil society stakeholders in cooperation with recipient countries.

► **Cooperation with the academic and research sectors**

To ensure ownership of the rights-based approach and capacity building among French civil society and institutional stakeholders, research programs should be created to develop expertise in the methodology and evaluation of the rights-based approach so that best practices can be shared.

Priority 3

Support human rights defenders in a context of shrinking space for civil society

Human rights defenders are key stakeholders in sustainable development as they hold duty bearers accountable and inform rights holders of their rights. However, human rights defenders run many risks: prison, criminalization of their activities, harassment, acts of intimidation, torture, damaged reputation, retaliation against their entourage and death. Certain categories are especially targeted: lawyers, journalists, bloggers, trade unionists, members of human rights associations and activists working to defend rights related to the land, the environment, trade unions, sexual orientation and gender identity.

In this context of shrinking space for civil society, France will increase efforts to protect human rights defenders, which is one

of the priorities of our diplomacy regarding human rights. France's ODA policy may be called upon to provide tangible support for human rights defenders by, for example, financing projects conducted by civil society organizations that could benefit these individuals. These actions will add to the other instruments available to our diplomatic and consular network (procedures, declarations, support, direct measures in the case of an emergency requiring the issuing of a visa, etc.). Where appropriate, they could rely on the national human rights institutions of partner countries, based on the criteria of the Paris Principles.¹³

France will also seek to integrate the specific features of the civil society organizations working for human rights into its international development policy.


Priority 4

Support the effective implementation of international mechanisms to promote and protect human rights

► **Coordination of French official development assistance with the Universal Periodic Review and other mechanisms of the Human Rights Council**

Through its ODA policy, France will further contribute to the successful implementation of Universal Periodic Review recommendations. This review process was established by the United Nations Human Rights Council and provides for systemic and regular peer reviews of the human rights situation of each of the United Nations Member States. France supported the creation of this mechanism, which enables all States to have their mechanisms and policies reviewed on the basis of exchanges with the other Member States. Following this exercise, the countries are free to adopt - or not - the recommendations made to them. France, through its official development assistance, will support projects that can contribute to implementing relevant recommendations that have been adopted by beneficiary countries.

13. United Nations General Assembly, "Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights", Resolution A/RES/48/134 of 20 December 1993.



In addition, France will encourage the participation of all stakeholders concerned in the Universal Periodic Review mechanism, in particular through on-demand capacity-building actions for states ahead of their examination (in conjunction with the Voluntary Fund for Participation in the Universal Periodic Review mechanism). France could also provide assistance to local civil society organizations in the drafting of alternative reports. The Universal Periodic Review could also be used as a useful source for analysing the human rights situation in beneficiary countries.

In countries experiencing specific problems regarding respect for human rights, the Human Rights Council can issue mandates for independent experts, special rapporteurs and thematic working groups, who can then make recommendations to the countries. The High Commissioner for Human Rights can also make recommendations. French official development assistance could also support the beneficiary countries concerned in implementing recommendations made in these various contexts.

► **Coordination of French official development assistance with the mechanisms of the treaty bodies in terms of human rights**

France's ODA policy could also support the implementation of recommendations made by the nine treaty bodies tasked with monitoring the implementation of human rights agreements and conventions to which France is a party.¹⁴ Where appropriate and if requested to do so, France could build states' capacity to draft the reports requested by these committees, prepare for hearings and ensure their follow-up.

14. United Nations Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee on the Elimination of Racial Discrimination, Committee on the Elimination of Discrimination against Women, Committee against Torture, Subcommittee on Prevention of Torture, Committee on the Rights of the Child, Committee on the Rights of Persons with Disabilities, Committee on Enforced Disappearances.



Conclusion

The Human Rights and Development strategy places human rights at the heart of France's development cooperation policy. Consequently, France has committed not only to ensure respect for human rights throughout the entire cycle of development programs and projects, but also to participate in their fulfilment in partner countries.

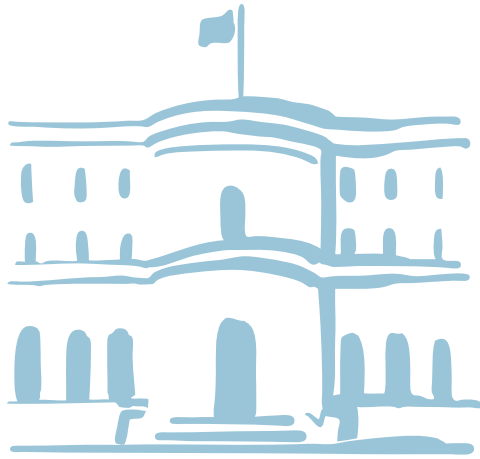
The guidelines in this note will be translated into a multi-year plan of action that will set out the measures to be taken to fulfil France's commitments.

Acronyms and abbreviations

ODA	Official development assistance
SDGs	Sustainable Development Goals

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HUMAN RIGHTS AND DEVELOPMENT

A Human Rights-Based Approach to Development Cooperation

France's development cooperation and assistance policy provides leverage for its diplomacy working to promote human rights. The interministerial strategy Human Rights and Development aims to formalize the framework for French action to support the respect, protection and achievement of human rights through cooperation. In line with the new European Consensus on Development, it also aims to integrate the human rights-based approach in all development cooperation actions conducted by France.

This policy paper is intended for all French development stakeholders and defines France's vision of the human rights-based approach and the strategic priorities that will underpin its implementation. It also aims to present France's actions to its foreign partners. This strategy is the result of a multi-stakeholder dialogue and will be translated into a multi-year plan of action that will set out the measures to be taken to fulfil France's commitments.

With this strategy, France intends to promote and reaffirm the indissociable link between human rights and sustainable development. While the fulfilment of human rights is the common ideal to be attained, it is also a means to achieve sustainable development. Development creates the conditions for the enjoyment of human rights for all, and respect for human rights contributes to a development that is truly sustainable. Therefore, it is important to further develop France's approach and design development programs that are no longer just focused on solidarity-based action but that can also be used as tools to implement states' international human rights obligations.

Deploying the rights-based approach across all sectors will require ambition and action on the part of the state, development stakeholders, civil society and the private sector. It is the cornerstone of development cooperation that undeniably respects human rights and is resolutely more sustainable.