# Integrating Human Rights into Energy and Environment Programming:  A Reference Paper

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## Acknowledgements

## Acronyms

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| **CESR** | Committee on Economic, Social and Cultural Rights |
| **DFID** | Department for International Development, UK |
| **DDC** | UNDP Drylands Development Centre |
| **GEF** | Global Environment Facility |
| **SGP** | Small Grants Programme |
| **ILO** | International Labour Organisation |
| **IMF** | International Monetary Fund |
| **NGO** | Non- governmental Organisation |
| **OHCHR** | United Nations Office of the High Commissioner for Human Rights |
| **PP10** | Partnership for Principle 10 |
| **SIDA** | Swedish International Development Co- operation Agency |
| **UNDP** | United Nations Development Programme |
| **WHO** | World Health Organisation |

**EXECUTIVE SUMMARY**

In 1998,, UNDP adopted its policy on *Integrating Human Rights with Sustainable Human Development,* recognising that human rights and sustainable development are linked and complementary. This paper explains the relevance of human rights to energy and environment programmes. It introduces the main theoretical issues related to human rights and energy and environment, and identifies the strategic entry points for integrating human rights into programming. Based on the experience of development organisations, the main issues and challenges that arise in adopting a human rights-based approach to programming is also discussed. Following on from this paper, practitioners will need specific practical guidance and tools. The draft checklist included in this paper is such a pracical tool.

**The human rights standards that relate to energy and environment**
Although energy and environment do not feature in a number of the early human rights instruments, there is a growing body of relevant national and international legal doctrine. Treaty supervisory bodies are increasingly recognising the right to environmental protection in their decisions. This is reflected in the growing number of non-binding legal instruments that explicitly refer to the environment. For example, General Comment No. 15 of the Committee on Economic, Social and Cultural Rights, set out in 2002 a human rights-based approach to the sufficiency, safety, and accessibility of water. It sets an important precedent for other environmental rights.

Whilst substantive rights to the environment are not well developed in international law, *procedural* rights offer a direct link between human rights and energy and environment issues. They are widely recognised in a number of human rights instruments, and in the Rio Declaration on Environment and Development. Procedural rights include the rights to information, participation in decision-making, and remedies for discriminatory treatment. They have provided communities and NGOs with an important tool for ensuring sound environmental governance.

National legal systems have done much to apply and develop environmental rights, and are very frequently more advanced than international law. While international environmental law is sometimes applied directly, more often courts have relied on existing Constitutional rights such as the rights to life or health to recognise environmental decisions. This paper includes examples of such court cases.

**Integrating human rights into programming**
A human rights-based approach to programming sets the achievement of human rights obligations as an *objective* of development programmes and integrates human rights principles into the programming *process*. This approach adds value to energy and environment programme design for a number of reasons. It supports achievement of the Millennium Development Goals, prevents elite capture of energy and environment programmes, and directs attention to the poor and marginalized. It also supports the development of more locally grounded, effective, and sustainable programmes. So too a human rights-based approach demands attention on the wider political, legal and social issues that impede access to natural resources and energy services. Integrating human rights into programming is a good idea both because it legitimates the demands of citizens to environmental protection, and because it is likely to produces better end results for sustainable development.

This paper uses the 'UN Common Understanding on a Human Rights-Based Approach' as a guide to integrating human rights into energy and environment programmes. It illustrates how the UN Common Understanding builds upon and demands consistent implementation of elements of good programming practice; for instance, including the most marginalized in equitable service delivery and extending and deepening participation. And importantly, it identifies the new elements that this approach brings to programming practice; for instance, looking at relationships between those who have valid human rights entitlements (right-holders) and those with obligations to respond (duty-bearers).

A growing number of organisations are adopting a human rights-based approach. It has helped them produce real results in protecting biodiversity, improving access to water for all, and channelling and managing conflict over shared natural resources. Yet integrating human rights into programming is not without its challenges. To support participation, extra time and an understanding of the socio-cultural context are required. Many rights, such as gender equality, are resisted by some community members, and this may require nuanced decision-making by programmers. There is a danger too that human rights-based programmes that seek to be more open and participatory may actually open a political space that allows capture by articulate and well-informed elites Using human rights language tends to make explicit conflicts over shared resources as well as power hierarchies in the country or the community. The advantage, though, is that procedural rights create a framework for addressing these otherwise submerged conflicts. Successful human rights-based programming will ultimately depend on a larger political context, since human rights enshrined in a single project or programme will not be sustainable without outside political support. Attention to both the macro and micro levels of policy is a key to success.

**A survey of human rights dimensions in UNDP programming**
In general UNDP programmes on environment and energy are moving in a positive direction. Human rights principles and methodologies are increasingly reflected in UNDP's work. In particular, programmes are taking a broader approach to environment and energy issues with initiatives that specifically address the political and legal issues that impede access to energy and environment resources. A cross-sectoral approach to energy and environment issues is also being taken through linking programmes with livelihood issues. There is scope to develop this integrated approach further. Adopting a broadly conceived access to justice approach could be considered.

Whilst the importance of human rights principles, such as participation and gender equality, is widely recognised within UNDP a more systematic effort to integrate these principles is needed. More progress could also be made in developing a coherent overarching strategy on human rights for UNDP's work in Energy and Environment.

Specific initiatives on water, energy, and biodiversity have moved a considerable distance toward human rights-based programming. A more deliberate effort to incorporate the principles of the UN Common Understanding in programme design, implementation, and monitoring would help carry forward the progress to date. It would also compliment and reinforce the direction in which UNDP's Energy and Environment's Practice area is now heading.

## I. INTRODUCTION

In 1998, UNDP adopted its policy on *Integrating Human Rights with Sustainable Human Development,* recognising that human rights and sustainable development are linked and complementary. The policy analysis was filled out in the *Human Development Report 2000*, which focused on human rights and human development. The Report highlighted that human rights are important for two reasons: first, they are intrinsic ends in themselves that all UN actors are bound to promote; secondly, they are powerful tools for achieving sustainable human development.

With a policy and analytical framework in place, work in the UNDP shifted toward effective implementation supported by the *UNDP Training Manual on Human Rights and Sustainable Development* (2000) to develop understandings of human rights principles among UNDP staff. The *UNDP Guidelines for Human Rights-Based Reviews of UNDP Programmes* followed in 2003.[1] UNDP's original policy position on integrating human rights with human development was confirmed in 2005 with the Practice Note on *Human rights in UNDP*. Drawing on the progress made and experiences gained since 1998, the Practice Note provides a framework for mainstreaming human rights into UNDP's work.

The present reference paper forms part of a joint OHCHR-UNDP programme: HURIST (Human Rights Strengthening). The primary purpose of which is to support the mainstreaming and operationalization of human rights into UNDP's key programming areas.[2] This paper rests within the framework definition of a human rights-based approach to programming as captured in the 'UN Common Understanding on a Human Rights-based Approach to Development Cooperation', and makes it directly relevant to one of UNDP's four practice areas: Energy and Environment Programmes. Following on from this paper, practitioners will need specific practical guidance and tools. The checklist included in this paper could be such a tool, in its present form or revised..

## II. HUMAN RIGHTS-BASED APPROACHES TO ENERGY AND ENVIRONMENT PROGRAMMES

Much has been written on human rights-based approaches to development. While governments, international organisations, and NGOs have varied in their approaches, there is consensus on common themes.