

Report

Workshop on Strategies for Monitoring Economic, Social and Cultural Rights: Experience Sharing in Best Practices, April 2012, Sonargaon, Bangladesh

ORGANIZED BY

Center for Human Rights Studies (CHRS)

Ain o Salish Kendra (ASK)

And

Asian Institute for Human Rights (AIHR)

Introduction

The workshop on 'Strategies for Monitoring Economic, Social and Cultural Rights: Experience Sharing in Best Practices' was organized by Center for Human Rights Studies, Ain o Salish Kendra and Asian Institute for Human Rights as a follow up to a workshop on economic, social and cultural rights held near Dhaka in November 2011. Twenty-two participants attended the workshop. The participants included practitioners working in the area of human rights, gender and social justice.

The workshop was conducted in the form of a dialogue: participants reflected on the notion of human rights, its fundamental principles, the meaning of rights and obligations and

strategies to ensure promotion and protection of human rights. They also reflected on the challenges faced by them in their human rights work.

The participant's experiences added richness to the dialogue giving it an energy and momentum of its own. It was not possible to capture all the nuances of the discussions in our documentation and the present report is just a summary of the dialogue. The questions reproduced in the report, were posed by facilitators and participants and helped to lead the discussions during the dialogue. The report is divided into the following sections;

- A. Human Rights: Basic Principles and Concepts
- B. Rights and Obligations
- C. Strategies for Promotion and Protection of Rights
- D. Human Dignity
- E. Evaluation

A. Human Rights: Basic Principles and Concepts

What are the fundamental characteristics of human rights?

The principles of equality and non-discrimination, justice and freedom, respect for universal values are some of the fundamental characteristics of human rights.

Respect for universal values: What are these universal values? How are they linked to respect for human rights?

As children we learn to respect some values such as, 'always be truthful', 'respect your elders', 'love your fellow human being' etc. These values are universal across all nations, cultures, religions or traditional belief systems. The fabric of our society is woven around these values. These values help us to discern the right from the wrong and guide our relationships in society. Human rights are a formal expression of these values.

What is the relation between culture and values? Are there not some cultural practices that violate human rights?

Culture includes values systems, ways of living together, traditions and beliefs. There is no one definition about culture, but it refers to the - ongoing social and political processes. We experience it through the stories we hear as children from our elders, our lessons in school, our songs, our festivals, the food that we eat, the way we take our decisions, the way we act in our public lives, etc.

Since society is composed of many diverse groups of people, many different viewpoints exist within a culture. The viewpoint that gains dominance is the one, which has more power. Such viewpoint might cause violations of the rights of others. But at the same time, competing voices also exist. Culture is not static and is in a state of continuous flux. Practices that cause violation of rights of others can be changed as people recognize the power they have in themselves to exercise control over the decisions affecting them.

How is power linked to human rights?

Human rights is essentially about ensuring there is balance of power in our relationships in society – amongst individuals, between groups and between the people and the State. Human rights give protection to individuals and groups from the powers of the State. The notion of human rights can help individuals and groups to - recognize the power they have within themselves, transform the way they perceive their place in the world and take action to shape their lives and the world around them.

How do human rights ensure this balance of power?

An integral part of the human rights framework is the notion of responsibility or obligations. The State holds the power to make laws, policies, and set up systems and structures that govern all aspects of our lives. The human rights framework imposes an obligation on the State to ensure that through its actions and inactions, it respects, protects and fulfills the rights of the people living within its control.

In a society there may be groups or individuals who have the power to influence decision-making and the consciousness of the broader society. The ideology of human rights places obligation on all people to respect the rights of the others.

Also, by recognizing that each and every person has certain rights inherent in them, the human rights framework assists every person to transform their relationships at the individual level, as well as at the level of family, community and State.

B. Rights and Obligations

Where are human rights codified?

Human rights are codified in national constitutions and international human rights treaties. They are also articulated in laws, policies, judicial decisions, customary law, etc.

What are the human rights obligations of States?

At a generic level, a State has the obligation to respect, protect and fulfill human rights.

Respect: the obligation of respect implies that the State will not take any action that destroys a standard or violates rights of persons. For example, the state shall not undertake any program that evicts people from their houses without due process.

Protect: the obligation of protect requires the State to prevent violations of rights by third parties or non-state actors. This obligation implies that States have to exercise due diligence to prevent, punish, investigate or redress the harm caused by acts of private persons or entities.

Fulfill: the obligation to fulfill requires States to take appropriate legislative, administrative, budgetary, judicial, educative and other measures to ensure that every person is able to realize their basic rights. Thus the State has the obligation to: provide food in case of disasters; create a system for registration of schools in order to enable communities to set up educational institutions of their choice, provide health information to the population, etc.

Obligation of non-discrimination: the State has to respect, protect and fulfill rights on the basis of the principle of non-discrimination and equality.

Further the State has to take steps to the *maximum of its available resources* for achieving *progressively the full realization of economic social cultural rights*. The concept of 'progressive realization' recognizes the fact that it is not possible to achieve full realization of economic, social and cultural rights in a short period of time. The obligation of progressive realization

requires the State to move as expeditiously and effectively as possible towards the goal of full realization. It requires the State to demonstrate that they are making every effort to improve the enjoyment of economic, social and cultural rights, even when resources are scarce. It also implies that the State should ensure that there are no regressive developments. Some examples of steps that can be taken by States towards progressive realization of rights are:

- Formulating strategies, plans and incorporating indicators and time bound targets that are realistic, achievable and designed to assess progress in the realization of these rights.
- Adopting necessary laws and policies and making adequate funds available to put the plans and strategies into practice
- Regularly monitoring and assessing the progress made in the implementation of plans and strategies.
- Establishing grievance mechanisms so that individuals can complain if the State is not meeting its responsibilities.

C. Strategies for Promotion and Protection of Rights

What are some of the strategies for securing promotion and protection of rights?

Using the Right to Information Act

The Right to Information (RTI) Act in Bangladesh has immense potentiality in being used as a tool for securing promotion and protection of rights. Under the Act people can seek information from the government about decisions and actions taken by them that affects the lives of the people.

As shared by a participant, the Dalit community in Kusthia has tried to use the Act to seek transparency and accountability from the government. In one case there were allegations that malpractices were taking place in relation to admission to primary schools. A petition was filed under the RTI Act to seek details about the grading of answer sheets and grades of

students whose names had appeared in the admission list. The authorities rejected the petition; however news of this petition was published in the media. The news helped to create awareness around the issue and make the people more vigilant about the admission process.

Human Rights Reporting

Reporting is the act of systematically recording and presenting information that has been collected through a process of fact-finding.

A human rights report helps to establish whether or not there has been a human rights violation. The framework of analysis is; does the incident(s) violate national constitution and laws or international human rights standards?

Human rights reporting can also help to identify patterns of violations. A pattern can be found in the; identity of victims, location, methods, circumstances of the violation, identity of alleged perpetrators or in the responses of the local authorities and the government.

What should a human rights report include?

The facts collected should be systematically categorized into three parts:

The Act(s): What happened? When? Where? How?

The Victim(s): Who?

The perpetrator(s): Who were the persons who could have committed the Act. Why or what were the reasons motivating their action(s)?

A report can also include information about the historical, political, economic and social context or the circumstances in which the violation(s) took place.

What are some of the basic principles of reporting?

Accuracy: one should be accurate about the information that is included in the report. To ensure accuracy there is a need to verify information or corroborate the facts that have been

collected from different sources. There is also a need to keep proper records of the information that is collected during fact-finding.

Impartiality: a human rights report should be balanced. It should not use stereotyping words or language that is judgmental and accusatory. The report should state facts and let the facts speak for themselves.

What are some of the basic principles of fact-finding?

Fact-finding involves investigation into specific incidents or allegations of human rights violations. During the fact-finding, one gathers facts to ascertain whether human rights abuses or violations took place or not. Some points to remember while engaging in a fact-finding mission are:

- Be clear on the purpose of the fact-finding mission. What is expected of the mission?
- Do some background reading about the local context and the issue. Seek information from the Internet or have a discussion with experts on the issue.
- Read the sections of national laws or international standards that may be related to the case. Prepare a checklist that can help you while you are conducting interviews.
- Identify local persons who could assist you during the fact-finding mission.
- Prepare a list of sources of information. Prepare a list of persons you need to interview.
- Record the information you have collected properly.
- Make sure that you talk with all sides. Make sure that you corroborate the information you have collected with other sources.
- Keep reviewing the information you have collected to ascertain if some facts are missing.

Using the medium of community radio for promoting and protecting rights

Community radio is a medium that can be used by the community to make its voice heard. It took 12 years of activism in Bangladesh to get recognition from the State with regard to community radio. Now laws and regulations have been enacted to give people access to frequency and spectrum. Community radio is also part of the Digital Bangladesh manifesto.

Experience of using community radio in Nepal

In Nepal, community radio has been used to give visibility to many issues that otherwise may not have got a hearing. Since the radio is a mobile instrument, it has potentiality to reach a wide audience – the people in village tea-shops, the people in the market, the people working in their fields and the people in their homes. It has also helped to give a voice to the people in the community.

The distinguishing aspect of a 'community radio' is the ownership and participation of the community in the management of the radio. There can be various forms of community ownership systems. The community can be the license holder and have direct ownership of the radio. In other cases where a NGO holds the license, there is usually a General Assembly comprising of the members of the community. The General Assembly is the body that elects/selects the members of the governing body of the community radio.

The funding of the community radio can also be through different forms. It can rely on funds from a donor. Or it may raise funds from the community itself through shareholdings, contributions from community people or commercial advertisements from local traders, groups and business people.

The programs are designed with the participation of the community. Most community radios broadcast local news collected from the communities by citizen journalists. 'Listener Clubs' are formed amongst people in the community who can give feedback about the community radio programs and participate in their development.

In Nepal the medium of community radio has been used to spread awareness against caste-based discrimination, about health related issues, development projects at the village level, budget spending at the village level, etc. Sometimes the local police also use the community radio to share information about issues relating to public security. The community radio also helps to promote folk culture. It gives space to artists from the community. Special programs are also organized during festivals.

Thus the community radio has the potentiality of being used strategically for empowering communities and promoting and protecting rights.

Using international UN mechanisms for promoting and protecting rights

Once the State ratifies or accedes to a human rights treaty, it accepts the obligations to be bound by the provisions of the treaty. One of the State obligations is to submit periodic reports to the treaty body about the actions taken by the State to promote and protect the rights guaranteed under the treaty. The treaty bodies review these periodic reports and issue recommendations to the State to improve its performance.

The Human Rights Council also conducts a similar periodic review of the general situation of human rights in the country through the mechanisms of Universal Periodic Review or UPR.

The monitoring by the treaty bodies or the Human Rights Council is strengthened by the actions of human rights organizations working at the national level. In cases where national human rights organizations have used the recommendations of the treaty body or Human Rights Council for initiating campaigns and doing advocacy with policy makers, they have been able to bring reforms in laws and policies.

Actions and movements of civil society also help the treaty body to become strong. The Committee monitoring the Convention on the Elimination of All Forms of Discrimination Against Women is quite strong in its actions. It could be because the women's movement and organizations working for promoting and protecting rights at national, regional and international level have forced it to address issues and concerns relating to women's rights. Thus building linkages with regional and international organizations and civil society movements helps to strengthen our campaigns and advocacy efforts.

D. Human Dignity

What is human dignity?

We say that human rights are inherent in the dignity of every person. In Sudan, people use the word 'karama' to explain dignity as something every person has at all times. How do we understand dignity?

Is human dignity about honor? Perhaps not. Honor is associated with a position of distinction in society. This position or status may be based on wealth, possessions or achievements – assets or qualities that are valued by society. However at the same time there may be groups who do not give value to such traits. Like in many societies, we associate 'honor' of women with some standards that has been constructed under the patriarchal ideology. However many women and men may not agree with such constructions.

Is human dignity about the power a person exercises in society? Perhaps not. Power is relational. A woman may have considerable power in her work area to take decisions and influence decision-making. At the same time in her intimate relationships within the family she may have very little voice.

Though we use the term quite often, it is not easy to define human dignity. However we can make an attempt to derive its meaning.

If we accept that human rights are inherent in every person by virtue of their dignity and cannot be given or taken away, perhaps dignity refers to something that is internal to every person – such as the 'power within' or the capacity to imagine, dream and have hope.

Human rights by articulating rights and freedoms, help to affirm this 'power within' every person. It helps to awaken the agency in every person – the capacity to act and change the world they are living in.

E. Evaluation

Participants appreciated the workshop as it gave them an opportunity to reflect and strengthen their understanding of some basic concepts and principles of human rights. They also requested for resource material on human rights reporting.

F. About the Organizers

Center for Human Rights Studies (CHRS)

Center for Human Rights Studies is a forum for human rights education in Bangladesh that seeks to bring together academics, activists, community leaders, government officials and students to reflect on the theory and practice of human rights. It strives towards strengthening knowledge and skills of stakeholders, promoting values amongst youth and children and encouraging the spirit of voluntarism. During 2010-2011 Afsana Chowdhury and Md. Farhadul Islam from CHRS, participated in a year long fellowship under Fredskorpset Exchange Program. The present program was organized as part of their fellowship activities.

Ain o Salish Kendra (ASK)

Ain o Salish Kendra, is a national legal aid and human rights organization, that was established in 1986. Initially it focused on providing free legal services to the disenfranchised in Dhaka city. Since then its activities and aims have developed to encompass investigation, advocacy, media, campaigning, documentation, training and action research in addition to its core activities of legal services (including legal aid, mediation and public interest litigation).

Asian Institute for Human Rights (AIHR)

Asian Institute for Human Rights based in Bangkok, strives to strengthen the theory and practice of human rights activism, facilitating linkages between academics and activists and contributing to a continuous process of action and reflection. The Institute functions as a resource organization for human rights activism in Asian region and also strives to bring experiences from other regions in the world.

G. Contact List of Participants and Resource Persons

