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Supporting Rights Based Governance in Fragile and Conflict-Affected Settings

UNDP

FBA

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Acronyms

AAAQ	Availability, Accessibility, Acceptability and Quality
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All forms of Discrimination against Women
CGF	Core Government Function
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities (CRPD)
FBA	Folke Bernadotte Academy
FCAS	Fragile and conflict affected settings
HRBA	Human rights-based approach
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICCPED	International Convention for the Protection of All Persons from Enforced Disappearance
LNOB	Leave no one behind
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner of Human Rights
PFM	Public Financial Management
RBG	Rights-based governance
SDG	Sustainable development goals
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Programme
UPR	Universal Period Review

Executive Summary

Fragile and conflict affected settings (FCAS) are frequently characterised by high levels of inequality, exclusion, and discrimination, with large groups of citizens[1] unable to fully access their human rights. Meanwhile, governance institutions in FCAS are often weak, unaccountable, untransparent, discriminatory or lacking in legitimacy. Indeed, in some FCAS de facto authorities may be unconstitutional and entirely illegitimate. The relationship between duty bearers and rights holders in FCAS tends to be weak, and the failure of governance institutions to deliver on human rights can be an important driver of conflict. In such contexts, a focus on developing rights-based governance (RBG) can help ensure that all citizens, including the most left behind, can access their rights, and can create governance conditions that contribute to more peaceful, resilient, and sustainable societies.

Recognising the importance of supporting RBG in FCAS and the current lack of guidance in this area, FBA and UNDP developed this Practice Note to help staff identify priorities, develop strategies and programmes, and adopt ways of working that can advance RBG in FCAS. The note focuses particularly on the application of a human rights-based approach (HRBA) to the core government functions of local governance, service provision, and civil service reform, which are a central focus of UNDP engagement in crisis contexts. The Practice Note draws on four case studies of UNDP's RBG programming in Bosnia and Herzegovina, Colombia, Syria, and Ukraine.

Section 1 introduces the Practice Note and presents the concept of RBG and the HRBA. Following this, **Section 2** discusses how a focus on RBG can be of value in FCAS, including in anchoring governance reforms, policies, and processes within a framework of laws, norms, standards, and principles; supporting partner governments to deliver on human rights obligations; and supporting citizens to mobilise for their rights. A focus on RBG is relevant to all areas of governance support and across all phases of crisis, conflict, and recovery. However, advancing RBG in FCAS can be challenging due to factors such as low levels of trust in governance institutions; lack of capacity, commitment, and incentives within governance institutions; elite capture of institutions and resources; disconnection between central and local government; and the prominent role of informal power relations and non-state actors. Moreover, restrictive, and authoritarian contexts may present particularly significant barriers to advancing RBG and require different approaches.

Section 2 goes on to discuss the value of RBG in relation to the core government functions of local governance, service delivery and civil service reform, and identifies priorities and entry points to apply a HRBA to support in each of these areas within FCAS. These include, for example, taking account of the role that service delivery plays in the local level political economy and what this means for citizens' access, or taking a 'non-discrimination' lens to civil service strengthening to ensure that it is more representative and better able to deliver for all population groups. This section examines how support for RBG can contribute to wider UNDP goals of prevention[2], fostering social cohesion and advancing gender equality, as well as discusses the opportunities and risks of working with non-state actors to advance RBG in FCAS. The note stresses the importance of thinking and working politically to advance RBG in FCAS, given that this is an intensely political and complex endeavour.

1 The term citizen is used in this Practice Note to refer to all rights holders who are owed responses by duty bearers, not to distinguish between those with or without formal citizenship of a given country.

2 This includes preventing human rights violations, violence, and armed conflict.

Section 3 of the Practice Note begins by providing reflections and guidance on how human rights standards can be used to identify priorities and strategies to advance RBG in FCAS. It discusses how human rights *standards* contained in international treaties, or in regional and national legal frameworks - along with data regarding the extent to which these standards are fulfilled for different groups – can provide a basis for identifying priorities, outcomes, entry points and strategies to advance RBG in FCAS, as well as benchmarks against which to measure the impact of governance interventions. This section offers guiding questions and examples to identify how human rights standards can be used inform governance interventions, provides an overview of useful sources of information on human rights standards, and presents a framework that can be used for governance support to advance economic and social rights. It also examines how advancing RBG in FCAS relates to the SDG framework and commitment to leave no one behind.

This section then goes on to examine how human rights *principles* can be used to identify priorities and desirable outcomes in relation to RBG in FCAS. Focusing on the PLANET principles of participation, linking to human rights standards, non-discrimination, empowerment and transparency, the note offers considerations and suggestions for advancing each of these principles within governance support in FCAS. It then goes on to examine in more detail how these principles relate to core government functions, and offers examples of potential strategies for applying PLANET principles to local governance, service delivery, and civil service reform.

Section 4 focuses on how to integrate a HRBA into governance programming in FCAS. It stresses that this requires asking different questions throughout the programme cycle to ensure that priorities and objectives; partners and stakeholders; and strategies, activities, and implementation processes all support the realisation of human rights and strengthen the relationships between rights holders and duty bearers. This section presents key considerations and practical guidance for applying a HRBA and RBG focus into governance programming at each stage of UNDP's Programme and Project Management Cycle - design, implement and close. It also discusses considerations in identifying partners and developing partnerships for work on RBG in FCAS. Finally, this section offers a series of tools to support programming on RBG in FCAS, including examples of common governance challenges in FCAS and potential human rights-based programming responses, an example theory of change for RBG programming in FCAS, and a list of guiding questions that can inform RBG programming.

01 Introduction

This Practice Note provides insights and guidance on how to support the development of rights-based governance (RBG) in fragile and conflict affected settings (FCAS) through the application of a human rights-based approach (HRBA) to governance programming. It is focused particularly on applying a HRBA to programming in support of core government functions (CGF) in FCAS, notably local governance, service provision, and civil service reform.

The Practice Note is intended to inform the work of staff within UNDP and other international agencies that are involved in designing and delivering governance support in FCAS. In particular, to help identify priorities, develop strategies and programmes, and adopt ways of working that can advance RBG in conflict and crisis contexts. While primarily focused on programming, the Practice Note may also be useful for policy specialists working on governance in FCAS.

The Practice Note speaks primarily to UNDP's experiences of governance support in FCAS. However, it is also designed to be useful to other agencies and organisations, in recognition that there is a general gap in terms of evidence and guidance on supporting RBG in FCAS. The Note complements the *UNDP HRBA Toolkit* (see Box 1) as well as other relevant UNDP publications.[3] It is not intended to be a comprehensive step-by-step guidance, but rather a tool to inform thinking about how best to apply a HRBA for RBG in FCAS contexts.

[3] These include UNDP and World Bank, 2017. (Re)Building Core Government Functions in Fragile and Conflict Affected Settings; UNDP. 2012. Mainstreaming Human Rights in Development Policies and Programming: UNDP Experiences; UNDP. 2016. Local Governance in Fragile and Conflict-Affected Settings; UNDP, 2018. Supporting Civil Service Restoration and Reform in Fragile and Conflict-Affected Settings. There are also strong complementarities between this Practice Note and the forthcoming UNDP Practice Note on Delivering Development Solutions in Contexts of Unconstitutional Changes of Government.

BOX 1:
UNDP Toolkit: The Human Rights-Based Approach to Development Cooperation

UNDP has developed a Toolkit on Human Rights-Based Approach to Development Cooperation that is intended to present practical ways in which UNDP can mainstream human rights across its work.

This toolkit highlights the interlinkages between human rights and sustainable development, and outlines the UN and UNDP's history of mainstreaming of human rights and applying the human rights-based approach to development programming. It introduces the key components of human rights standards and principles in international human rights law and their intrinsic link to human dignity and sustainable development. It also provides a 'how-to' of the human rights-based approach in UNDP, including outlining the methodology for a three-step human rights analysis and relevant corporate requirements; unpacking how to apply the PLANET approach to instil human rights principles and standards throughout the UNDP project cycle; and presenting relevant human rights standards in relation to the Six Signature Solutions outlined in the current UNDP Strategic Plan.

This Practice Note is intended to complement UNDP's HRBA Toolkit by reflecting on how HRBA can be applied specifically to promote RBG in FCAS. While the Practice Note can be read as a standalone document, many elements that it refers to, such as the PLANET human rights principles, or connections between a HRBA and the SDGs, are developed in more detail in the Toolkit. Where there is more detailed information provided in the Toolkit this is indicated throughout the text.

The Practice Note was developed through the following process. An initial organization-wide consultation/needs-assessment was undertaken to understand UNDP's utilisation of HRBA in the field of governance in FCAS and to identify existing capacities and gaps. A light touch review was then conducted to identify existing relevant literature, which was followed by an in-depth review of key documents with the most direct relevance for this Note. The findings from the in-depth review were discussed at a joint Folke Bernadotte Academy (FBA) and UNDP workshop in 2023,[4] at which the focus and parameters of the Practice Note were decided. The Note was then developed through an iterative process that included the development of case studies and inputs from a range of UNDP and FBA staff, and was reviewed by UNDP and FBA staff at a workshop in May 2024.

[4] The Practice Note is the result of a long-term collaboration between FBA and UNDP.

The Practice Note is divided into four sections. Section 1 introduces the concept of RBG and the HRBA. Section 2 discusses the relevance of RBG and HRBA to governance support in FCAS, and particularly to support for the core government functions of local governance, service delivery and civil service reform. Section 3 provides insights and guidance regarding how both human rights standards and human rights principles can be used to identify priorities, desired outcomes, and strategies for governance programming in FCAS. Section 4 provides guidance and tools for integrating human rights at each stage of the governance programme cycle in FCAS. Annex 1 includes four case studies of UNDP support for RBG in FCAS, in Bosnia and Herzegovina, Colombia, Syria and Ukraine.

1.1 Understanding Rights-Based Governance

Rights-based governance can be defined as governing by following human rights and rule of law principles and standards in all aspects of governance processes, ensuring rights are respected and fulfilled, and holding those in power accountable for doing so. This Practice Note presents HRBA as a programming approach that can contribute to achieving RBG.

Programming to support governance is often narrowly focused on strengthening the function and effectiveness of governance structures. This is particularly the case in FCAS, where there can be multiple pressing priorities in terms of restoring the basic elements of governance and strengthening or reforming weak governance institutions. However, advancing RBG requires a different starting point; one that begins not from asking how governance institutions can function better, but from assessing where and how governance systems and institutions are currently failing to deliver rights for citizens, and supporting these systems and institutions to meet human rights and rule of law obligations.

Fostering RBG therefore involves bringing a human rights and rule of law focus to governance programming at every level, from support for new legislation to strengthen the national human rights framework; to support for national and local level authorities to develop policies and deliver services in ways that are in line with the rule of law and human rights principles and standards; to work with communities to raise awareness about and support mobilisation for their rights. In the context of FCAS interventions, it is essential to promote measures that support conflict-sensitive governance practice and actively foster peace and reconciliation.

RBG is of intrinsic value as it enables all rights holders to access and claim their human rights from the governance institutions with responsibility for delivering on these. However, it is also important for achieving wider development goals and priorities. For example, progress towards the SDGs requires governments to prioritise fulfilling the human rights of their citizens across a wide range of areas from gender equality to food security, while delivering on the leave no one behind (LNOB) agenda requires empowering the most marginalised to claim their rights and ensuring governments do not discriminate in delivering these. Likewise, progress on climate and environmental issues requires governance that respects and upholds all citizens' human rights, and enables those most affected by climate and environmental factors to participate in decision-making and hold governments to account (see Box 2).

BOX 2:
Rights-based environmental governance in Colombia

UNDP's Environmental Governance Programme in Colombia (Case Study 1) demonstrates how a HRBA can contribute to the development of rights-based environmental governance, by strengthening the capacity and commitment of duty bearers with responsibility for environmental and extractives issues, while empowering rights holders affected by these issues. This programme is implemented in a very challenging context, as Colombia has the highest rate of murders of environmental defenders in the world (Global Witness, 2024, '*Global Witness 2023-2024 Annual Report - Missing Voices: the Violent Erasure of Land and Environmental Defenders Worldwide')*.

The programme has supported both national and departmental level authorities responsible for mining and environment issues to strengthen their policies, capacities, and practices to make these more accountable, participatory, and transparent, as well as to integrate human rights, gender, and peacebuilding issues into their strategies and activities at multiple levels. It has also supported authorities to address gender discrimination within the mining sector and to link environmental issues to national legal frameworks.

The programme has also worked to develop the capacity of mining dependent communities, and particularly of marginalised groups within them, including women, Afro Colombian populations and indigenous populations. Through its empowerment work, the programme has enabled these communities to participate in mining governance, improve their mining practices, strengthen their own organisations, develop new livelihood options, and defend their human rights.

1.2 Understanding the HRBA

The HRBA is a conceptual framework for development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. According to the UN Common Understanding on HRBA to Development Cooperation (2003) a HRBA requires that:

- All programmes of development co-operation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments.
- Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process.
- Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or of 'rights-holders' to claim their rights.

UNDP is committed to using a HRBA, which is both institutionally and instrumentally important for the organisation. Institutionally, UNDP's commitment to, respect for, and observance of human rights standards and principles is essential for fulfilling its institutional mandate, while instrumentally, UNDP understands human rights to be a powerful instrument to further sustainable development and address contemporary development challenges. UNDP's Strategic Plan 2022-2025 commits the organization to a "rights-based approach, promoting human agency and human development".

UNDP has adopted the widely used PLANET tool as the framework for its HRBA. PLANET is the acronym for the key human rights principles that are involved in a HRBA, and which can be applied to all areas of work and at each stage of the programme cycle. These principles are:

- Participation
- Links to human rights standards
- Accountability
- Non-discrimination and equality
- Empowerment and capacity development
- Transparency

Further details on UNDP's HRBA and the PLANET model can be found in the UNDP HRBA Toolkit.

02 Value of RBG and a HRBA in FCAS

FCAS frequently experience high levels of inequality, exclusion and discrimination, with large groups of citizens unable to fully access their human rights. They also commonly lack the rule of law. Meanwhile, governance institutions in FCAS can often be weak, unaccountable, untransparent, discriminatory or lacking in legitimacy. Informal power relations both within and outside state institutions play a strong role in shaping governance processes and outcomes. The relationship between duty bearers and rights holders in these contexts tends to be weak, and the failure of governance institutions to respect and deliver on human rights and the rule of law can itself be an important driver of conflict.

In such contexts, a focus on RBG outcomes and application of a HRBA can be of great value[5]. It can help to ensure that all governance support contributes to creating conditions in which citizens, and particularly the most left behind, can access their rights. Moreover, efforts to develop commitment and capacity on human rights and rule of law within key governance institutions, and particularly work to empower rights holders to understand and claim their rights in relation to a particular set of issues, can have an important 'multiplier effect' in terms of strengthening the relationship between rights holders and duty bearers across multiple issues and arenas within FCAS.

In countries emerging from conflict, crisis or transition, the application of a HRBA within governance support can help anchor governance related reforms, policies and processes within a framework of laws, norms, standards and principles. This contributes to advancing a culture of democracy and lawfulness, which is of particular value in contexts where conflict has undermined the rule of law; it helps partner governments to deliver on their human rights obligations; and ultimately it contributes to better conditions for peace and stability and preventing the recurrence of conflict. In many FCAS, transitions from conflict or authoritarian rule, or processes of reform and rebuilding, can provide a unique opportunity to change and strengthen governance institutions and processes to make them better able to deliver for rights holders.

A focus on RBG and the application of a HRBA is relevant to all areas of governance support in FCAS. Indeed, applying a HRBA to some of the more 'technical' areas of governance support, such as public financial management (PFM) or civil service reform, can be particularly useful in helping understand programming in such areas as more than just technical interventions. A HRBA can highlight how issues of power, exclusion and discrimination can play out across different aspects of governance in ways that undermine the rights of citizens, and can inform the design of governance interventions that address exclusionary power dynamics and promote human rights.

A focus on RBG is also relevant across different phases of crisis, conflict, and recovery, in line with UNDP's long-term engagement to support the governance conditions necessary for countries to escape fragility, and to "ensure that vulnerable and fragile communities are strengthened before, during and after crises, to contribute to more peaceful, resilient and sustainable societies" (UNDP, 2022). An explicit emphasis on continually assessing how best to develop, strengthen, protect, or rebuild the capacities of governance duty bearers and rights holders to advance access to rights within changing fragility contexts can help UNDP

[5] Further discussion of applying the HRBA in FCAS can be found in the UNDP HRBA Toolkit.

achieve such commitments. At different phases of conflict and crisis, a focus on RBG could involve, for example, integrating RBG indicators into multidimensional risk analysis in fragile contexts; strengthening governance capacities to address the underlying causes of protracted crises; applying a HRBA to joint work with UN peacekeeping and political missions on governance mandates; or integrating frameworks for RBG into post-conflict institution building.

BOX 3:
UNDP's Crisis Offer

UNDP's Crisis Offer outlines the need to anticipate, prevent, respond, and recover in crisis settings along three mutually supportive pillars:

1. breaking the cycle of fragility by transforming protracted and fragile contexts
2. getting ahead of the crisis curve by anticipating and preventing crisis
3. sustaining development throughout crisis by investing in hope – from jobs to justice

Adopting a HRBA to governance support can help UNDP deliver on its Crisis Offer in a variety of ways. For example, it can help the organisation to "anticipate and prevent" by identifying civil, political, economic, social, cultural and environmental inequalities and rights violations that can fuel conflict and crisis, and developing governance strategies to address these. Likewise, it can ensure that the organisation's work on "respond and recover" has a systematic focus on strengthening the relationship between rights holders and duty bearers across governance institutions at every level, and on working towards the realisation of human rights, which is critical for a sustainable recovery from crisis.

2.1 Challenges in promoting RBG in FCAS

While focusing on RBG and applying a HRBA can be of great value in FCAS, doing this can be challenging. These contexts are often characterised by low levels of trust in government institutions, especially among marginalised populations, as well as a lack of capacity, commitment and incentives among government personnel to respond to the needs of some citizens. In some FCAS, government institutions are non-existent. Elite capture of institutions and resources can be a particular obstacle to making governance institutions, processes, and outcomes in FCAS more rights-based. In such circumstances fostering greater interaction and stronger relationships between rights holders and duty bearers is critically important, but can also be difficult and face significant resistance from both sides. Support for reform and strengthening of the civil service can be an opportunity to address some of these issues.

Governance institutions in FCAS are often highly politicised and tend to have low institutional capacity, with decision making mechanisms and procedures that are unaccountable, weak or ineffective, and there is frequently a disconnection between central and local government. This can hinder the development and implementation of policies and processes across multiple levels of government that could strengthen rights-based governance. Support for the core government functions of executive management and local governance can help address such weaknesses and strengthen the institutional capacity required at different levels of government to deliver for rights holders.

Governments in FCAS often have low material capacity, with government buildings, facilities, and equipment, as well as wider transport and communication networks, damaged by conflict and neglect. This can prevent public agencies from reaching out to citizens and providing services - particularly in more isolated or conflict affected regions - thereby exacerbating the unequal access to rights of different populations.[6] Addressing this low and unequal material capacity must therefore be a central element of support for service delivery.

Not only are governance institutions in FCAS often lacking in capacity and legitimacy, but informal power relations both within and outside these institutions can play a strong role in shaping governance processes and outcomes and may not be easily visible to outside actors. Moreover, many governance functions – such as local decision-making, service delivery, or the provision of security and justice - may be provided by non-state actors, such as tribal leaders, faith-based organisations, local strong men, insurgent groups, community groups, or CSOs. This hybrid mix of formal state structures and non-state actors wielding power and undertaking governance functions needs to be understood as the 'real' governance context in FCAS.[7]

It is therefore important that efforts to promote RBG in FCAS are based on an understanding of local patterns of hybridity; the full range of formal and de facto duty bearers with relevance to a governance issue; the relationship of different groups of rights holders to these duty bearers; and what this means for entry points and opportunities to strengthen peoples' access to their rights. It is important to recognise that different groups of rights holders – based on gender, age, disability, race, ethnicity, class, and other factors – will experience different relationships with formal or de facto duty bearers. For example, as 'clients' in a patronage relationship, as citizens with the right to services, or as a member of a group that faces persecution by state authorities or other powerful actors. Understanding these dynamics is particularly crucial for support to service delivery, where an important starting point is to identify the kinds of political relationships that are currently fostered or undermined through service provision, and how best services can be delivered in ways that strengthen relationships of trust between duty bearers and rights holders.[8]

6 UNDP and World Bank, 2017. (Re)Building Core Government Functions in Fragile and Conflict Affected Settings. New York: UNDP and World Bank.
7 Lindstrom, 2018. Real governance" in Fragile, Conflict-affected and Violent States - What is that? World Bank Blogs.
8 Laws and Desai, 2024. International Engagement with Non-State Actors Engaged in Service Delivery in Fragile and Conflict-Affected Settings. Stockholm: FBA

Current global trends of closing civic space and increasing authoritarianism mean that many FCAS are becoming increasingly restrictive contexts, characterised by repression and violence; widespread fear, distrust, and avoidance of authorities; contestation over the legitimacy of institutions of authority; and a dominance of informal networks over formal institutions. Talking openly about 'rights based governance,' or working on governance with a human rights lens may be particularly difficult in such settings, with the potential to provoke strong resistance and raise 'do no harm' issues. Moreover, standard approaches to promoting accountable, transparent, or participatory governance –based on the idea that rights holders equipped with more information will make demands from duty bearers equipped with greater capacity and commitment to respond – may not be relevant in such contexts, as lack of civic space, distrust and violence make such 'virtuous circles' unlikely.

In some FCAS the concept of human rights is entirely rejected by state actors, key institutions and significant sections of society and viewed as an externally imposed framework. Likewise, there are FCAS where the rights of certain groups are comprehensively rejected, as is often seen in relation to women's human rights. In such contexts, human rights treaties may not be ratified, or may have been ratified by a previous regime and now considered illegitimate, meaning that there is no accepted human rights framework that can provide an entry point for working on RBG and any explicit reference to human rights is likely to be counterproductive. However, even while rejecting human rights frameworks, in such contexts many duty bearers and rights holder will in practice care strongly about a range of human rights – from the rights of people with disabilities to the right to health or education – providing practical entry points for engagement. In such contexts it is particularly important to understand local conceptualizations of such rights, which may be articulated in very different ways – for example as religious principles or cultural values - but still provide a valuable entry point for advancing RBG.

Advancing RBG in such highly challenging restrictive or regressive FCAS can require different approaches. This could involve combining strong pressure on protecting fundamental freedoms, with identifying and supporting the ways in which rights holders may engage in informal and less visible collective action on issues of importance to them. Alternatively, it could involve an indirect approach to work on rights that uses the SDGs as an entry point, given that these goals are shared by most host governments and provide a framework to address a wide range of human rights in a less explicit way. For example, building citizen capabilities on more 'neutral' issues such as livelihoods or health can help develop citizenship skills and prepare people to be able to take advantage of spaces for participation as these open up.[9] Likewise, building the capacity of duty bearers to assess citizen needs, deliver services, and document and report on their own actions in relation to such neutral issues may be a first step towards building more accountable, responsive, and participatory governance.

It is important to note that within most FCAS there will already be some local actors working to advance rights-based governance. These may be local CSOs and pressure groups advancing citizens' rights, or even reforming individuals and groups within government institutions. As recent research has found even in the most restrictive settings there exists "A rich repertoire of citizen-led social and political action exists despite authoritarian governance styles and real risks of reprisal, including actions that are 'under the radar." (Anderson, 2022) Understanding,

[9] OXFAM, 2012. Power and Fragility: Governance Programming in Fragile Contexts: A programme resource.

supporting, and aligning with the efforts of such local change agents is a critical element of taking a HRBA to governance support. In addition, in some cases there may also be diaspora networks seeking to advance rights based governance and push back against the erosion of rights within their home country, who can also be important allies in this work.

2.2 Relevance of HRBA and RBG to core government functions in FCAS

UNDP's governance support in FCAS has a strong focus on restoring and strengthening core government functions that have been weakened by conflict or crisis.[10] This Practice Note therefore focuses on core government functions, recognising the importance of ensuring that these functions are based on human rights standards and principles. It focuses, in particular, on the core government functions of local governance, service delivery and civil service reform, which are priorities for UNDP's work on RBG in FCAS and are particularly crucial for rights holder-duty bearer relations and the ability of citizens to claim their rights.[11]

2.2.1 HRBA to support rights-based local governance

Local governance institutions tend to be responsible for providing services; advancing local development; managing public finances at local level; and providing mechanisms for citizen participation and democratic accountability. Where this is done effectively and in line with human rights, local governance arrangements can lead to "more effective and efficient development processes, better accessible and accountable state institutions and more active participation by citizens".[12] However, where local governance institutions are weak, corrupt or discriminatory this can be a major factor preventing citizens from accessing their rights, as well as a significant driver of local level conflict and instability.

UNDP's guidance on local governance in FCAS[13] suggests that support in this area should prioritise making local institutions more accountable, inclusive and responsive to the protection and socio-economic needs of populations; facilitating peaceful local political processes, inclusive of women, youth and other marginalized groups and dissident voices; and empowering local societies to manage and transform their internal conflicts, maintain security and increase access to justice.

However, strengthening local governance in FCAS is challenging and it is important that programming in this area is based on an understanding of the complex processes that generate fragility and insecurity at the local level and their implications for local governance institutions and duty bearer-rights holder relations. Programmes also need to be part of longer-term strategies, given that decentralisation and local governance reform are long-term processes that generally happen through a gradual transfer of responsibilities and resources.

10 UNDP, 2022. UNDP'S Crisis Offer: A Framework for Development Solutions to Crisis and Fragility.
11 Guidance on applying a HRBA to UNDP's signature solutions, including governance, can be found in Anex 1 of the UNDP HRBA Toolkit.
12 SDC, 2020. The SDC's Guidance on Governance.
13 UNDP, 2016. Local Governance in Fragile and Conflict-Affected Settings. A UNDP How-to Guide.

Critically, support to strengthen local governance in FCAS must take account of the potential for local institutional arrangements not only to strengthen citizen's rights, but also to undermine access to and enjoyment of those rights. For example, in some contexts sub-national institutional arrangements can exacerbate fragility and conflict, or create new arenas for rent seeking and corruption, while there is also evidence that local level governance institutions can be particularly discriminatory towards women and other marginalised groups.

BOX 4:
Long-term engagement to strengthen rights-based local governance in Bosnia and Herzegovina

Over almost two decades UNDP's work in Bosnia and Herzegovina (BiH) has sought to support and strengthen local government authorities and local service delivery from a human rights perspective. This work began in response to a post-conflict situation in which local authorities had weak planning, project development and implementation capacities and some population groups experienced high levels of exclusion, and the work has evolved over time as the context has changed.

UNDP's initial intervention to support local governance was the Rights-Based Municipal Development Program (RMAP) which began in 2002 and was undertaken in partnership with BiH Ministry for Human Rights and Refugees and the United Nations Office of the High Commissioner of Human Rights (OHCHR). This provided support and capacity development for municipalities to undertake assessment and planning, implementation, and policy development in line with human rights principles and standards. In 2008 the joint Government of Switzerland and UNDP Integrated Local Development Project (ILDP) was launched with the aim of harmonizing integrated and inclusive strategic planning at the local level. This project included the development of a methodology (miPRO) for local development planning and management based on principles of sustainable development and social inclusion. In 2016 the Government of Switzerland launched the Municipal Environmental and Economic Governance (MEG) Project, which is implemented by UNDP and supports systemic improvement of the local governance system using a results-oriented approach and includes development of a performance management system for local authorities

UNDP's long-term engagement on local governance in BiH through these different projects has contributed to developing sustainable capacity for rights-based local governance. Across all these initiatives there has been a strong focus on supporting participatory development planning and management; fostering transparency and oversight of local government authorities; building systems for accountability to rights holders; addressing the rights and needs of the most vulnerable or excluded rights holders; and strengthening all citizens access to rights through improved public service delivery.

2.2.2 HRBA to support rights-based service delivery

Service delivery is a core government function in which the relevance and value of a HRBA is very clearly apparent, given that it is through service provision that duty bearers and rights holders most regularly interact and through which many basic rights are realised.

Restoring and strengthening service delivery is a particularly crucial area for governance support in FCAS, as the capacity of the state to provide essential goods and services to all members of society is central to rebuilding the social contract and delivering on the rights of citizens. In post-conflict contexts, the rapid restoration of basic services is not only necessary to address the most pressing humanitarian and development needs of the population, but can also contribute to rebuilding state legitimacy and sustaining peace. Meanwhile, in non-conflict fragile settings, addressing gaps in service delivery to all regions and population groups, for example to isolated rural areas, urban slums or marginalised minority populations, not only helps to deliver on the rights of these citizens, but can also contribute to positive changes in state-society relations and reduce the propensity for violent conflict to develop.[14]

Strengthening service provision can be especially challenging in FCAS. Work in this area must take account of the challenges posed by limited state authority and legitimacy; low institutional capacity and limited infrastructure for service provision; the presence of harmful incentives that undermine service delivery; the role of powerful non-state actors; and the reality of multiple competing priorities in crisis contexts. Critically, it must also take account of the role that service delivery plays in wider political economy and power dynamics at local level in these contexts. Particular challenges and trade-offs are involved where those responsible for service delivery are de facto authorities or non-state groups that do not recognise the rights of all population groups to receive services.

Key priorities for strengthening service provision in FCAS[15] include upgrading the operational capacities of local service providers, such as infrastructure and staffing levels. They also include developing the core capacities of personnel involved in service delivery, including their basic, administrative or leadership skills, and – critically – their knowledge regarding the rights of citizens and responsibilities of duty bearers. Another key priority is supporting local service delivery systems, which can involve working with a range of government actors, as well as others involved in service delivery such as civil society, the private sector and traditional authorities, and requires an understanding of the interests, relationships and incentives of all these actors. Likewise, a critical element of support for service provision is strengthening financing for service provision at national and local level, including addressing patterns of corruption that undermine citizens ability to access their rights through service provision.

[14] UNDP, 2016. Local Governance in Fragile and Conflict-Affected Settings. A UNDP How-to Guide.
[15] These priorities build on those identified in UNDP, 2016. Local Governance in Fragile and Conflict-Affected Settings. A UNDP How-to Guide.

Effective service provision is important for realising a range of civil and political rights, such as the right to a fair trial. However, it is particularly crucial for realising economic, social and cultural rights, such as the rights to education, health, water, housing and so on. These rights tend to be highly dependent on services provided by the state, primarily at local level. Guidance regarding the realisation of economic, social and cultural rights drawn from the International Covenant on Economic, Social and Cultural Rights and from the recommendations of its treaty body can be used to help inform decisions about priorities, sequencing and modalities for supporting service provision in FCAS. Moreover, the Availability, Accessibility, Acceptability, Quality (AAAQ) framework can be very useful for designing and developing programmes that seek to advance economic, social and cultural rights through strengthening service provision (see section 3.1.3).

BOX 5:
Strengthening rule of law within local service delivery in Ukraine

Ukraine's decentralization process involved giving local self-governments greater responsibility for delivery of services and a stronger financial basis. However, these local self-governments lacked adequate human capacity and legal and regulatory frameworks to deliver services in line with human rights and rule of law principles.

To address these challenges and support decentralization, from 2014-2022, FBA and its Ukrainian partners conducted a project to enhance respect and demand for the rule of law within local self-government in Ukraine. This project focused on service delivery as the primary point of interaction between local government and citizens, and as a key governance function through which core rights are accessed. It supported local authorities to undertake self-assessments using the FBA and UNDP Users' Guide for Assessing ***Rule of Law in Public Administration***, in order to evaluate the extent to which rule of law principles such as legality, accessibility, the right to be heard, the right to appeal, transparency and accountability were respected within selected areas of service delivery. Based on these assessments, the project supported local authorities to identify challenges and problems; and to develop and implement action plans to address these challenges and strengthen the rule of law within service delivery.

The project contributed to improving public service delivery in participating municipalities in a range of ways, including improving consultation with citizens, strengthening access to information and services, revising regulatory frameworks, and putting in place new working procedures. Critically, the project strengthened the knowledge, commitment and capacity of local authority staff with responsibility for service delivery to apply rule of law principles in their work. Such support for duty bearers to uphold rule of law in service provision is an important contribution to rights-based local governance and to the realization of human rights by local rights holders.

2.2.3 HRBA to support rights-based civil service reform

The civil service can be understood as a large and complex set of issues, procedures and structures within the public administration related to the management of personnel, institutions and relationships that encompasses both technical and political elements.[16] The capacity of the civil service to function and deliver is critical for the delivery of core government functions and progress towards the SDGs, and civil servants are key duty bearers in relation to a wide variety of rights.

Programming to support civil service strengthening needs to begin from an understanding that the idealized goals frequently held by the international community for public administration are often unrealistic in FCAS. It is therefore important to avoid blueprint models and instead focus on achieving context relevant solutions and supporting change over the longer term.

A key area priority for a HRBA to civil service strengthening is improving accountability. This can include capacity development to strengthen civil servants' knowledge and skills to deliver public services, and their understanding of their responsibilities as duty bearers and their accountability to citizens, for example by increasing their understanding of professional ethics. It can also include developing practices for monitoring and improving the behaviour of government employees, particularly those interfacing with the citizens, including through establishing internal and external oversight mechanisms. Indeed, addressing patronage and corruption within the civil service is particularly crucial for improving transparency and accountability and ensuring non-discrimination in the interaction between civil servants and rights holders.

Another key priority is supporting non-discrimination within the civil service. In particular, supporting the development of recruitment processes that facilitate the entry of representatives from marginalised populations into the civil service, including through quotas and positive discrimination. However, in giving priority to certain groups, the system must still strive towards fairness and transparency in recruitment, and the reasoning behind such measures should be well communicated.[17] Taking a HRBA to civil service reform can also advance non-discrimination by ensuring that there are sufficient government employees with the correct skills to provide public services in priority locations, including locations whose marginalisation has been a cause of, or has been exacerbated by, conflict; as well as to provide public services to populations that have been left behind.

2.3 Relevance of RBG for prevention and social cohesion

Support for RGB can make an important contribution to UNDP's wider prevention work to mitigate risk and address drivers and root causes of conflict, violence, and crisis. Fostering the development of governance systems, institutions, processes and relationships that are based on core human rights principles – such as accountability, or non-discrimination - and that are focused on delivering on human rights standards, can help to reduce development deficits, fight inequalities, and foster inclusion in ways that reduce risk and contribute to resilience.

16 UNDP, 2018. Supporting Civil Service Restoration and Reform in Fragile and Conflict-Affected Settings.
17 UNDP, 2018. Supporting Civil Service Restoration and Reform in Fragile and Conflict-Affected Settings.

Moreover, the international human rights framework can be a vital tool for UNDP in identifying and responding to emerging risks or underlying drivers of conflict and crisis. As OHCHR (2020a) describes, "Human rights information and analysis, as well as the recommendations of human rights bodies and mechanisms, have a specific role to play in UN prevention – identifying root causes and drivers of conflict, discrimination and inequalities, but also the sustainable solutions to prevent the lapse or relapse to conflict… Human rights information and analysis have also demonstrated value in providing targeted support to Member States in responding to these challenges."

A central element of UNDP's prevention work is fostering social cohesion, including vertically through building citizens' trust in local and national government and horizontally within and amongst communities. UNDP fosters social cohesion at local and national levels, strengthening institutions that promote conflict prevention and peace, and supporting governments and citizens to address the distrust and challenges of managing difference and diversity.[18]

Support for RBG can contribute to building social cohesion, especially in relation to core government functions such as service delivery and local governance, where patterns of discrimination, exclusion or unaccountability can be particularly divisive. Indeed, it is often in relation to these areas that trust building is most needed, for example between historically discriminated communities and local authorities, or between IDP and host communities that share resources and services. Moreover, Kaplan (2015) argues that fostering social cohesion is particularly critical in FCAS where formal governance institutions are weak, as it encourages leaders "to resolve problems with amicability and a public spirit" in the absence of fair, rule-based institutions, as well as provides a more positive basis to develop such institutions. This would be particularly relevant in contexts of an unconstitutional change of government, given that these involve a disruption of representative government and established state-society relations.

2.4 Relevance of RBG for gender equality in FCAS

Advancing gender equality is a core priority for UNDP. Gender equality is one of UNDP's 6 signature solutions, and is also mainstreamed throughout its other 5 signature solutions.[19] The organisation's work in this area is guided by UNDP's Gender Equality Strategy (2022-2025). Its overall aim in relation to gender equality is to accelerate the achievement of gender equality and the empowerment of women, including through:

- Inclusive economies and women's economic empowerment
- Equal power and representation
- Preventing and responding to gender-based violence
- Reversing the backlash against gender equality
- Better data and analysis for policy making
- Changing negative social norms

[18] See UNDP, 2020, Guidance Note on Strengthening Social Cohesion: Conceptual Framing and Programming Implications

[19] The UNDP HRBA Toolkit provides guidance on applying the HRBA to all of UNDP's signature solutions, including gender equality.

Making gender equality a central element of governance support in FCAS is critical. Women and girls in FCAS face particularly high levels of rights violations, including multiple forms of violence and discrimination, and widespread exclusion within political, economic, and social spheres. Moreover, such patterns of gender-based rights violations are intimately connected to context specific conflict and fragility dynamics, as well as structural, political, and social norm related factors. Indeed, as the UN Secretary-General points out in his New Agenda for Peace: "Gender-based violence can be a precursor of political violence and even armed conflict." This means that advancing RBG in FCAS must include analysing the underlying drivers of gender inequalities; developing the capacity of women rights holders to identify and articulate their needs and priorities; and developing the capacity and will of duty bearers within governance institutions to deliver on women's rights. It should also involve engaging with the changing nature of attacks on women's rights, such as online violence against women and women human rights defenders, or growing patterns of resistance and backlash on women's rights seen in multiple contexts.

The HRBA can be a powerful tool for advancing gender equality within UNDP's governance work. Gender equality and the prohibition of sex discrimination are core human rights and a HRBA enables human rights standards and mechanisms to be appropriated in efforts to advance gender equality. A HRBA also places a strong focus on the responsibility of the state to address violations of women's rights, and the ability of women to seek justice and redress when their rights have been violated. Moreover, a HRBA enables a focus on both advancing women's formal equality, for example through constitutional or legal reform, and on advancing women's substantive equality, for example through supporting women's mobilisation to make demands, or supporting special measures to give women access to new opportunities. Indeed, given its focus on empowerment, the HRBA can add value to efforts to develop women's movements that can advocate for women's rights and hold duty bearers to account. In addition, it can be a useful framework for working with men and boys to challenge harmful gender norms that contribute to gender-based violence and discrimination and prevent women from realising their rights.

In addition, adopting a HRBA within governance work can make visible issues of intersectionality. This can help UNDP to identify and address the way in which multiple forms of discrimination - for example based on gender, race, sexuality, disability or class - overlap and interact with one another.

2.5 Relevance of RBG for highly challenging contexts

While advancing RBG is challenging in most FCAS, there are some contexts in which space to do this is extremely limited and the risks involved are particularly high. These include contexts where there has been an unconstitutional change of government (UCG), where state actors or de facto authorities commit severe and widespread rights violations against parts of the population, and where the rights of some population groups are comprehensively denied within legal frameworks and by state institutions. In such challenging contexts, UNDP is often one of the few remaining actors with a mandate and the capacity to work on governance and human rights, making its continued engagement in this area particularly critical. However, this can require developing very different strategies, reframing the nature of engagement, and working 'under the radar.'

Central in such contexts is developing context specific, principled, risk-informed approaches,[20] including by mapping the different types of risks that are involved in engaging on RBG and identifying how these can be mitigated or shared. These include risks to UNDP, for example of legitimizing or being manipulated by de facto authorities through its engagement. They also include significant risks to the groups and communities that UNDP works with, particularly when the focus is on supporting rights holders to mobilise or engage in any activity that makes them visible.

In highly challenging contexts, advancing the PLANET principles in relation to governance may require significant adaptations and trade-offs in terms of who to work with and what is possible. For example, any support for participation in public space or demands for accountability by rights holders may be impossible, and empowerment and participation work may need to take place in more discreet ways, with smaller groups, and at community level. Likewise, advancing non-discriminatory service delivery may be unrealistic where discrimination is legally sanctioned, meaning that a realistic goal may be supporting more inclusive service delivery. In addition, where it is not possible for UNDP to engage with de facto authorities to promote accountability or transparency, it can still work with other types of local and community level duty bearers to support accountable and transparent local governance and service delivery. In many highly challenging contexts, explicitly framing engagement in terms of human rights or international frameworks, or referring directly to the PLANET principles, is impossible and can be highly counterproductive, and it may be better to frame engagement in terms of neutral human and economic development-related goals such as improving health and livelihoods.

[20] For more discussion on this see forthcoming UNDP Practice Note: Delivering Development Solutions in Contexts of Unconstitutional Changes of Government.

BOX 6:
Advancing rights-based governance in Afghanistan

UNDP's work in Afghanistan provides some examples of the different strategies that can be used to advance rights-based governance in the most challenging contexts. In this case, a context of UCG where the basic rights of women are denied in law and in practice.

Although the de facto authorities have closed many local governance structures, there are still issue-specific local structures that UNDP uses to promote citizen participation in local governance, for example through its support to water management committees. Likewise, in the face of the severe restrictions on women's rights, UNDP supports community kitchens as a way to bring women together, allow them to exchange and network, and provide them with information and capacity development on a range of issues such as health, education, social norms, GBV, and environment. Similarly, while it is no longer possible for UNDP to work on access to justice with the Ministries of Justice and Interior, it continues to support smaller elements of justice programming, such as providing legal aid to vulnerable communities and IDPs.

While such work is inevitably limited and at small scale, it can provide important building blocks towards RBG and maintain rights holder and local duty bearer capacities to take advantage of any future opening of space. Moreover, it is important to note that the current context in Afghanistan has required UNDP to not only adapt its programming, but to reframe how it presents its work. For example, by using terms such as 'social cohesion' rather than 'peace', and framing work on women's rights in terms of 'Islamic principles.'

2.6 Relevance of RBG for engagement with non-state actors in FCAS

In many FCAS, including some of the most challenging contexts, non-state actors (NSA) play a central role in delivering services for some sections of the population. This role can take a wide variety of forms, from armed groups providing security and administering justice, to religious authorities providing dispute resolution, to CSOs providing water, health, or education services. Advancing RBG in FCAS may therefore involve partnering with NSA to support them to deliver these services, recognising that they can play a key role in fulfilling citizens' rights. However, is important to note that the HRBA's focus on the state as legal duty bearer does not always map neatly onto FCAS, where the state may lack legitimacy, be physically absent in certain territories, be unwilling to deliver rights to certain populations, or be the perpetrator of grave human rights violations. In such contexts it may be more useful to apply a multiple duty bearer framework, in which various actors are understood to have responsibility for rights, while recognising that the state has ultimate responsibility.[21]

[21] For more on the concept of a multiple duty bearer framework see: Destrooper and Pascal Sundi Mbambi, 2017. A praxis-based understanding of new duty bearers examining contextual realities in the DRC. International Journal of Human Rights 21(2): 1-25.

Engaging with NSA on service delivery can involve significant risks and trade-offs, but can also bring important benefits, not just in terms of increasing citizens' access to rights, but also in contributing to broader peacebuilding goals. For example, recent UNDP-FBA research has identified that "delivering services in ways that align with procedural elements of rights-based governance can support a robust social contract between state and society, even if the provision of those services involves non-state actors. Donor engagement with service-providing NSAs can also be used to support trust in power and authority beyond the state, which may be an important objective if the political settlement has broken down" (Laws and Desai, 2024).

This UNDP-FBA research identifies that decisions about whether to support service provision by NSA must be based on a strong understanding of the context, as well as a solid analysis of the NSA in question and whether it has 'good enough' governance standards and 'inclusive enough' structures. Critically, choosing whether to work with NSA on service delivery involves balancing the risks involved in such engagement against the counterfactual outcomes from non-engagement. For example, balancing the risk that religious authorities providing dispute resolution discriminate against women and minority groups, against a counterfactual that absence of accessible avenues to resolve disputes will exacerbate local level conflict. The UNDP-FBA paper stresses that partnerships with NSA in FCAS work best when they are built on the self-identified needs and capacities of the NSA; when they have flexible programme processes and management; and when an incremental and adaptive approach is taken, to trial different options and respond to emerging results.

UNDP Syria's pilot collaborative dispute resolution mechanism is an example of UNDP supporting NSA to provide services in the absence of state provision. This example illustrates the benefits of working with NSA, as well as some of the risks and trade-offs involved.

BOX 7:
Partnering with non-state actors to provide community level dispute resolution in Syria

In 2019, UNDP Syria piloted a community level collaborative dispute resolution (CDR) mechanism in three different communities. The CDR was developed to respond to the challenge that conflict, economic crisis, and displacement had eroded Syria's formal justice institutions and pre-existing community dispute resolution mechanisms, while simultaneously increasing the populations' need for dispute resolution services.

The CDR involved a committee of locally trusted leaders and individuals, supported by an independent lawyer, who provided assistance to resolve a range of disputes. It thereby supported the provision of justice and dispute resolution services by non-state actors in the absence of effective state provision.

The CDR pilot empowered these local intermediaries to deliver informal justice and dispute resolution assistance, building their capacity to act as de facto non-state service providers. In doing this it facilitated the provision of accessible, culturally acceptable, transparent, cost-effective, and largely human rights-compatible dispute resolution for rights holders who cannot access formal justice services due to the conflict. It thereby contributed to creating a more stable local environment and potentially to wider peacebuilding and recovery efforts.

However, the CDR pilot faced some challenges in ensuring non-discrimination in relation to women's rights, with women highly underrepresented within the mechanism and dispute resolution outcomes often discriminating against women. To overcome these challenges, future development of the CDR will include measures to involve more women in these mechanisms; to invest resources to understand women's experience of using such mechanisms; to determine how women's human rights can best be upheld; and to sensitise male actors on women's rights issues.

2.7 Thinking and working politically to support RBG in FCAS

Given the complexity and multiple considerations described in the sections above, there cannot be any blueprint approach for supporting rights-based governance in FCAS. Instead, in each setting, support must be based on an understanding of the context specific factors that shape governance institutions and the relationship between duty bearers and rights holders, and the entry points and challenges these create for promoting RBG. This requires adopting a politically informed approach that recognises that supporting RBG in FCAS is an intensely political and complex endeavour, and that solutions are not obvious at the outset, but must be discovered through ongoing analysis, strategic action, and experimentation. There are two core elements to such a politically informed approach: thinking politically, and working in politically astute ways. The first requires an analysis of power relations and the functioning of the political and socio-economic system. The second involves working out how to negotiate barriers and use opportunities within this system, and identifying the best tactics and relations to achieve the desired change.[22]

While all work on governance should be politically informed, this is particularly crucial for programming that seeks to strengthen core government functions, such as local governance or service provision, in FCAS. The failure of duty bearers to uphold citizens' rights and the barriers citizens face in claiming their rights in relation to these aspects of governance are often due to deeply rooted, highly political, complex problems that are bound up with a whole variety of interests, attitudes, norms and behaviours. Meanwhile, FCAS tend to be complex, fluid contexts in which power and resource access are highly contested and where political stakes and risks are high. Given this causal and contextual complexity, human rights and governance problems in FCAS cannot be addressed effectively through a pre-planned solution that assumes a linear and predictable pathway of change.

However, adopting politically informed approaches involves significant challenges. It requires taking risks by working in new ways and across traditional silos, with a wider set of partners, and on politically sensitive issues, without being able to predict what results will emerge. It also requires a flexible and pragmatic approach that takes advantage of emerging opportunities as they arise and that accepts risk. Such approaches can be organisationally challenging, as they are radically different to current development practice.

A key element of a politically informed approach is the use of political economy analysis[23] to understand context and identify barriers and entry points to support change. There are multiple guidance and tools available for undertaking PEA in FCAS, such as UNDP's Institutional and Context Analysis.[24] However, it is important to note that while considerable progress has been made in developing and undertaking PEA, using the analysis to work differently as a result has been a much greater challenge for development actors. Despite recognition of the value of politically informed work - particularly in relation to complex challenges such as advancing RBG in FCAS - in practice much governance support continues to rely on approaches that are overly technical, insufficiently differentiated, and focused on formal reforms, without recognising how informal institutions and power dynamics shape the way reforms are implemented in practice.[25]

22 See Booth & Unsworth, 2014. Politically smart, locally led development.
23 Mcloughlin. 2014. Political Economy Analysis: Topic Guide.
24 UNDP, 2017. Institutional and Context Analysis for the Sustainable Development Goals.
25 Rocha Menocal, Power and Kaye. 2019. Promoting Inclusive Governance More Effectively: Lessons from the Dialogue for Stability Programme.

Identifying priorities and strategies for support to RBG

03

The below section provides reflections on how human rights frameworks can be used to identify 'what' should be done to advance RBG in FCAS. It discusses how both human rights standards and human rights principles can be used to identify priorities, outcomes, and strategies for governance support in fragile settings.

3.1 Using human rights standards to identify priorities, outcomes, and strategies

The human rights standards contained in international treaties, or in regional or national legal frameworks - along with data regarding the extent to which these standards are respected, protected and fulfilled for different groups of rights holders – provide a basis for identifying priorities, outcomes, entry points and strategies to advance RBG in FCAS. These standards and data regarding their fulfilment can also provide benchmarks against which to measure the impact of governance interventions.[26]

Information from human rights monitoring mechanisms can be used to identify the most critical human rights problems in a particular location or for a particular population, and hence highlight priority areas for governance support. While human rights standards contained in treaties, laws and other frameworks can be the basis for identifying the desired outcomes of governance support, and for establishing indicators to measure impact.

The following questions can provide a starting point for examining how human rights standards can inform governance interventions in a given context:[27]

- Which national/regional/international human rights laws or treaties are relevant to this governance problem? Have they been signed or ratified by the state?
- Are there certain rights that are not respected, protected, or fulfilled? For whom and in what circumstances? Why is this happening?
- Who are the rights-holders, and what are their claims? Can they voice their claims? If not, who speaks for them? What are the risk involved for rights holders in making claims and how can these risks be mitigated?
- Who are the duty-bearers? What are their responsibilities and where are these responsibilities defined (e.g., in law, in employment contracts, in wider norms about their role and responsibility etc.)? To what extent do they understand and deliver on their responsibilities? What frameworks and mechanisms exist to hold them to account?
- Which human rights commitments can provide the most useful framework for engagement? (e.g., which commitments are most meaningful to duty-bearers, are rights holders already mobilising around, contain the highest standards etc.)

[26] The UNDP HRBA Toolkit provides detailed guidance on using human rights standards for a HRBA.
[27] These questions build on SIDA, 2022. Human Rights-based Approach and Democratic Governance.

For example, if the problem being addressed is that some discriminated populations are excluded from accessing local services, this would relate to the right to equality and non-discrimination, as contained in a variety of international treaties including the Universal Declaration on Human Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All forms of Discrimination against Women, Convention on the Rights of the Child, and Convention on the Rights of Persons with Disabilities. Depending on the services in question it could also relate to the rights to education, health, water, sanitation, adequate housing or other basic goods contained in some of these treaties.

Rights holders in this case would be those discriminated groups who are unable to access services, while duty bearers would be both local level service providers and higher-level governance institutions and actors that set the policy and budget frameworks for service provision. In such a case governance support might include supporting the discriminated group to mobilise around a clear set of demands; strengthening systems for citizen voice and accountability within local government structures and processes; strengthening the capacity of relevant duty bearers to deliver services to all groups; supporting the development of laws and policies to address discrimination; or supporting strategic litigation regarding discrimination in provision of services.

Beyond human rights standards, UNDP has developed a set of social and environmental standards (2015) intended to support the mainstreaming of social and environmental sustainability across all its programming.[28] These include both higher level programming principles, such as sustainability or gender equality, as well as project level standards such as labour and working conditions or indigenous peoples. While not directly speaking to HRBA, there is a strong overlap between these social and environmental standards and broader human rights standards, meaning that they are useful in informing HRBA programmes.

In some contexts, Rule of Law principles can also provide a framework to advance RBG. For example, BiH, Moldova, and Ukraine are undertaking significant reforms in line with the EU accession process. This process places a strong emphasis on integrating Rule of Law principles into the core functions of state institutions, fostering accountability, transparency, and fair governance. For these states, compliance with these principles is seen as essential not only for EU membership aspirations, but also for building resilient institutions that earn public trust and promote stability.

[28] Guidance on applying social and environmental standards can be found in the UNDP toolkit on Social and Environmental Standards.

3.1.1 Sources of information on human rights standards

Whatever the country, sector or local context being addressed, a HRBA to governance begins with identifying the human rights at stake. This requires looking at human rights standards contained in international treaties within the UN human rights system;[29] regional human rights frameworks;[30] and national constitutions and legislation. The Office of the High Commissioner for Human Rights (OHCHR) provides information on the signature and ratification of international human rights conventions, while regional bodies provide information regarding countries' commitments to regional human rights frameworks.[31] It is important to note that, while the highest applicable human rights standards should generally be the basis for support, where it is possible to frame programming as responding to domestic human rights commitments this can generate greater local ownership and traction, and hence some trade-offs may be involved.

There are multiple sources of reporting regarding national implementation of human rights treaties, as well as analysis on specific human rights issues or situations. These can be drawn on to assess which human rights are not being respected, protected, or fulfilled in a specific context, and to complement the analysis UNDP undertakes to inform its governance work (discussed in section 4.1.1). They include the following:

- OHCHR provides information on the human rights situation of all UN member states. This includes reports on the implementation of the international human rights treaties and recommendations on how human rights abuses could be addressed. OHCHR also provides information on a range of specific human rights topics.
- The Universal Periodic Review (UPR) is a peer review process by which member states compile detailed information and recommendations on human rights situations by country.
- UN Treaty Bodies are committees of independent experts who monitor and report on the implementation of the nine core human rights treaties.[32] Each Committee receives periodic reports from the governments of countries that have ratified the relevant treaty, as well as other sources, and use this to develop analysis and recommendations.
- Country data can also be found in the Voluntary National Reviews on the implementation of the 2030 Agenda and national reports on the implementation of the Beijing Declaration.

29 Governance-related Human Rights standards from international treaties and related guidance from treaty body committees can be found in Annex 1 of the Human Rights Based Approach to Development Programming: HRBA Toolkit.

30 Regional human rights frameworks include: the European Convention on Human Rights, African Charter on Human and Peoples Rights, and American Convention on Human Rights.

31 These are the European Court of Human Rights, the African Court of Peoples' and Human Rights, and the Inter-American Court of Human Rights.

32 These treaties are the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, 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, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of Persons with Disabilities, and International Convention for the Protection of All Persons from Enforced Disappearance.

In addition to the UN human rights system, there are other sources of information regarding human rights situations in FCAS that are useful. These include regional human rights bodies, such as the African Commission on Human and Peoples' Rights; Human Rights NGOs, such as Human Rights Watch and Amnesty International, that analyse human rights commitments and performance for every country; and local NGOs and think tanks that often produce rigorous human rights analysis with high level of detail and context knowledge.

3.1.2 Human rights standards and the SDG framework

Human rights are embedded in the 2030 Agenda for Sustainable Development, which explicitly references the UDHR and international human rights treaties throughout its text, and states that the SDGs seek to realize the human rights of all. Moreover, all 17 SDGs directly or indirectly reflect human rights standards, while 92% of the 169 SDG targets are linked to international human rights instruments.[33] The Secretary General's report 'Our Common Agenda',[34] states that human rights are a problem-solving measure that can help tackle a range of contemporary development challenges and accelerate progress towards the SDGs. The UNDP HRBA Toolkit provides detailed discussion on the HRBA and sustainable development.

The mutually reinforcing relationship between the SDGs and human rights can provide opportunities for UNDP's governance support in FCAS. Even in highly restrictive contexts, the SDG framework can provide an entry point for governance support around rights issues that is seen as 'neutral' and is acceptable to host governments. Moreover, adopting a HRBA to governance support that seeks to foster the integration of principles of human rights and rule of law in all aspects of governance, can be a critical means to advance progress on the SDGs. For example, by strengthening governance in ways uphold civil and political rights through legal and justice systems, or that provide greater access to economic and social rights through improved service delivery.

Below are two useful resources to understand the relationship between specific SDGs and the international human rights framework. These can be used to help identify concrete entry points and opportunities to work in mutually reinforcing ways to advance both human rights and the SDGs through governance support.

- OHCHR provides a table listing the different human rights treaties that are relevant to each SDG.
- Danish Institute of Human Rights provides an online tool that can be used to identify and understand the linkages between the SDGs and human rights, labour standards and environmental treaties and instruments.

[33] Danish Institute for Human Rights, 2018. Human Rights and the 2030 Agenda for Sustainable Development: Lessons Learned And Next Steps

[34] United Nations, 2021. Our Common Agenda: Report of the Secretary General

BOX 8:
Rights-based governance and leaving no one behind

The cross-cutting principle of "leaving no one behind" (LNOB) is one of the most transformative elements of the 2030 Agenda and is central to all UNDP's work. The LNOB principle strongly reflects the human rights principles of equality and non-discrimination, and is particularly relevant for work in FCAS, where discrimination and inequality are often very high and where many of the most left people behind are located.

Work on RBG and on LNOB can be mutually reinforcing and ways of working to advance both RBG and LNOB are very similar. Both require disaggregating data to identify who is experiencing exclusion and discrimination, including multiple and intersecting forms of discrimination. Both also require addressing patterns of exclusion, structural constraints and unequal power relations that produce and reproduce inequalities; supporting legal, policy, institutional and other measures to address inequalities; and ensuring the free, active and meaningful participation of all stakeholders, particularly the most marginalised.

The application of a HRBA within governance work can be of great value in advancing LNOB goals, as recognised in the 2022 UNSDG guidance "Operationalizing Leaving No One Behind: Good Practice Note for UN Country Teams". A HRBA offers practical methodologies for translating the LNOB vision into action, including methodologies to identify who is left behind and why, and to use international human rights frameworks as a basis for addressing exclusion and discrimination. The HRBA's focus on identifying and working with duty bearers and rights holders can inform interventions that strengthen the ability of the most left behind people to claim their rights and the capacity of duty bearers to fulfil these rights.

3.1.3 Economic, Social and Cultural Rights and the AAAQ Framework

Strengthening the capacity of duty holders to deliver on ESC rights, and of rights holders to claim these rights, is a central priority for RBG in FCAS. This can involve engagement at multiple levels, including supporting the development of appropriate policy frameworks and institutional processes, strengthening capacity for rights-based service provision, and empowering populations to claim their ESC rights.

The International Covenant for Economic, Social and Cultural Rights (ICESCR) introduces the concept of 'progressive realization', which allows States to realize economic, social, and cultural rights over time as long as states take concrete steps to the 'maximum of their available resources'; monitor progress; avoid retrogression; and prevent discrimination. The concept of 'progressive realization' is particularly critical in many FCAS where state capacity to deliver on all ESC rights may be very limited.

The key dimensions of ESC rights can be understood as:

- **Available** in sufficient quantity and in all locations
- **Accessible** to all with no discrimination
- **Acceptable** including in ethical and cultural terms
- Of good **Quality**

These dimensions are captured in the AAAQ framework, which is a tool that can be used to inform programming on ESC rights.[35] In particular, the AAAQ framework can be used to identify the core normative dimensions of a given right in terms of the criteria of availability, accessibility, acceptability and quality; to develop a framework on the basis of these criteria that consists of specific standards, generic indicators and generic benchmarks; and to use these criteria to inform the provision of services and goods.[36] Further details on the AAAQ framework can be found in the UNDP HRBA Toolkit. The Danish Institute for Human Rights has also developed a AAAQ toolkit that provides indicators for the concepts of availability, accessibility, acceptability and quality in relation to different ESC rights (https://www.humanrights.dk/projects/aaaq-toolbox).

3.2 Using human rights principles to identify priorities, outcomes and strategies

Advancing RBG through the application of a HRBA requires that the PLANET principles are used as a basis for identifying priorities, outcomes and strategies, along with human rights standards as outlined above.[37]

For example, it may be identified that a human rights problem to be addressed is the right to water. In this case, human rights standards, as contained in the ICESCR and other international, regional or national frameworks, along with the AAAQ model, can be used to identify specific priorities and desired outcomes in terms of improved water governance. However, all support to strengthen water governance, including capacity development with duty bearers and rights holders, would also seek to foster the PLANET principles, so that water governance becomes more transparent, accountable, participatory, and non-discriminatory; so that rights holders are empowered to make claims and participate in decision-making about water management; and so that a human rights-based legal and policy framework is created for water governance. Case study 2 in BiH provides an example of advancing some PLANET principles within programming to strengthen local water and waste management services.

35 The UNDP HRBA Toolkit provides guidance on using the AAAQ framework for work on economic, social and cultural rights.

36 European Commission, 2021. Applying the Human Rights-based Approach to international partnerships: An updated Toolbox for placing rights-holders at the centre of EU's Neighbourhood, Development and International Cooperation.

37 The UNDP HRBA Toolkit provides detailed guidance on using PLANET principles for the HRBA.

The human rights principles contained in the PLANET model are indivisible and should all be applied to any governance programming. However, they may have different weight within a particular intervention depending on its focus. For instance, work on preventing corruption might prioritise promoting transparency and accountability, with empowerment given lesser emphasis. It is important to acknowledge that there may be potential trade-offs between PLANET principles that need to be negotiated, particularly in fragile and crisis contexts. For example, the need to quickly strengthen service delivery to remote areas or marginalised groups may need to be balanced against a lengthy participatory process.[38]

3.2.1 Applying PLANET principles to support for RBG in FCAS

The PLANET principles that are at the heart of the HRBA can be used to identify priorities and desirable outcomes in relation to RBG and to assess what strategies could be effective in supporting these. While there is no blueprint model for applying the PLANET principles in governance work, this section presents some key considerations and suggestions for advancing each principle within governance support in FCAS. Meanwhile, Table 1 provides some examples of potential strategies for applying PLANET principles to different core government functions.

Participation

The participation of rights holders in decision-making about governance has an intrinsic value, and supporting citizens' opportunities and capacities to participate is an important objective in itself. Such participation also has an instrumental value and can improve governance by influencing government priorities and actions, making governance processes more representative, and enhancing the legitimacy of public authorities.[39] However, in many FCAS there may be little history of, or existing space for, citizen participation in governance, and efforts to promote such participation can face significant political, structural and norm related barriers. Women, as well as some marginalised groups, may be particularly excluded from opportunities for citizen participation in governance.

It is important to note that programming in this area is often based on assumptions that participation automatically leads to influence. Such assumptions can be particularly erroneous in FCAS because of weak capacity, will or accountability among duty bearers to shape governance in ways that reflect the demands expressed by rights holders. Support should be based on context specific analysis of when and how participation is most likely to lead to influence.

[38] SDC, 2020. The SDC's Guidance on Governance. Bern: SDC.
[39] Rocha Menocal, forthcoming. 'Thinking and working politically: lessons and implications for participation and accountability' A Reflections Note for FBA.

Suggestions for promoting participation within governance in FCAS include:

- Begin by identifying the ways in which rights holders currently seek to participate in decision-making about governance and the extent to which this translates into influence. This can be a basis to build on. It may involve looking at very local level and at informal interactions through which rights holders may be seeking to articulate demands or influence duty bearers.
- Identify opportunities and entry points for participation and how these could be expanded and made more meaningful, taking account of what is politically and institutionally feasible. This should involve supporting a shift towards participation that results in genuine influence rather than just information sharing and consultation, particularly for women and marginalised groups.[40]
- Support collective organisation and representation that can channel rights holders' perspectives into governance processes. This includes supporting civil society and grassroots actors to mobilise, develop technical and organisational capacity and political agency, and build networks, in order to effectively represent their constituency. It is important to work with actors that have a legitimate mandate to speak on behalf of a given group of rights holders.
- Work with duty bearers to support the development of concrete measures and mechanisms that enable rights holders to voice their expectations and opinions within governance decision-making processes. Likewise, develop the capacity and will of duty bearers to engage in constructive dialogue and translate the ideas and proposals of rights-holders into action. This requires a context specific understanding of how duty bearers currently understand participation and its value, recognising that in more authoritarian contexts participation may be initially seen as a threat by duty bearers.
- Identify and seek to mitigate barriers to participation faced by some groups of rights holders, which can be related to social norms, power dynamics, structural and economic factors, risks and threats, or practical issues of accessibility.
- Apply the principle of participation to UNDP's own work, seeking to ensure meaningful participation of all relevant stakeholders at every phase of the intervention and actively addressing barriers to participation faced by marginalised stakeholders.

Linking to human rights standards

While many fragile or conflict affected states are signatories to international human rights commitments, in some cases these commitments will not have been domesticated, while in others they may be reflected in national legal frameworks but are not meaningfully implemented. Strengthening links to human rights obligations therefore requires a focus on ensuring that the national legal and policy frameworks within which governance institutions operate reflect international human rights commitments, are consistently applied, and provide an effective means for citizens to access their rights. However, it is important to note that in some situations, such as UCG settings, it may not be possible for UNDP to engage on policy frameworks, and instead working with communities and rights holders to increase awareness and capacities on human rights standards in context relevant ways may be the only entry point.

[40] OECD, 2020. What does "inclusive governance" mean? Clarifying theory and practice.

This can involve supporting the development of the domestic legislative frameworks and legal institutions required to deliver on international human rights commitments; building the capacity and commitment of duty bearers to apply the principle of legality, uphold the rule of law, and be accountable for doing so within national and international accountability structures; and developing the capacity of rights holders to understand their legal rights, make legal claims and seek redress, and hold duty bearers to account for implementation of human rights commitments. This means working with government to support legal and institutional reform, alongside supporting civil society to advocate for such reform. However, work in this area can be particularly sensitive, given its explicit focus on human rights. Applying the rule of law principles of legality, accessibility, the right to be heard, the right to appeal, transparency and accountability can be particularly useful in working to strengthen links between national legal frameworks and international human rights standards.

Suggestions for promoting links to human rights obligations within governance in FCAS include:

- Begin with a legal and policy analysis to identify legislative gaps and inform any future development of draft legislation required to bring national frameworks into alignment with international human rights commitments. This can form part of a wider political economy analysis, such UNDP's Institutional and Context Analysis. Applying rule of law principles can be useful for such analysis.
- Advocate for and provide technical support to the drafting of new laws that conform to international standards and treaties. In some cases, it may be possible to promote the inclusion of international human rights and rule of law principles within national frameworks without radically changing the substance of the law, by instead consolidating scattered laws into comprehensive codes.[41]
- Work with a range of duty bearers who play a role in developing, upholding and delivering on national human rights frameworks, in order to develop their knowledge and capacities in this area. However, support for technical capacities and solutions should take account of the complexity of contextual politics, power dynamics and incentives, which can render such technical solutions ineffective.[42]
- Support ongoing tracking and facilitation of the implementation of new laws and the realisation of the rights they contain. This is critical for sustainability of any legal reform efforts aimed at strengthening RBG.
- Work with rights holders to increase their understanding regarding human rights frameworks, create demand for legislative reform and/or meaningful implementation, and support them to claim human rights through justice mechanisms. Work in this area can draw on existing approaches such as *legal empowerment for the poor* which supports systemic change that enables poor and excluded people to use the law and legal system to advance their rights, or the *people-centred* justice approach that is focused on the perspectives, needs and expectations of the justice user (see Box 8 on people centred approaches).
- Work with legal professionals and their organisations to create pressure on duty bearers to uphold international and national human rights commitments and strengthen the rule of law. For example, by supporting legal aid and paralegal networks; legal education programmes; strategic litigation efforts; and the submission of alternative reports to regional or international human rights treaty bodies.

41 Bergling et al. 2008. Rule of Law in Public Administration: Problems and Ways Ahead in Peace Building and Development

42 Pact and USAID. 201⁸. Applying Rights-Based Approaches: A practical how-to note on integrating principles of empowerment into almost any development activity.

Accountability

International support for accountable governance often seeks to replicate accountability mechanisms from donor countries that may not be relevant in FCAS.[43] Such support is frequently based on an assumption that providing citizens with information on their rights, while also reforming and strengthening formal authorities with responsibility for delivering these rights, will automatically lead to strengthened accountability relations. However, accountability systems and relationships in FCAS can be very different to those in more stable settings, challenging standard assumptions about who has authority and how such authority is constituted; what incentivises those in authority have to be accountable; how citizens view and interact with authorities; and the conditions necessary for advancing accountability.[44] This means that support for accountable governance in FCAS must be based on a context specific understanding of the nature of authority; existing local accountability systems, relationships and processes; and how these relate to wider political dynamics and interests.

Suggestions for promoting accountability within governance in FCAS include:[45]

- Begin by strengthening accountability on the rights that matter most to citizens, identifying the core problems that prevent citizens from holding duty bearers to account in relation to these. For example, while international support for accountability often focuses on basic services, in some fragile contexts, issues such as community safety or affordable energy may be more likely to stimulate collective action for accountability.[46]
- Understand accountability as a system and identify the networks of actors and institutions that are relevant to the core accountability problem being addressed. This may include actors that are not formally connected to the issue but in practice mediate accountability. Identify how best to strengthen different parts of this accountability system and the linkages between them. This requires recognising that accountability relations may look very different, and be viewed very differently, in different contexts.
- Build on existing, locally owned institutions, processes and relationships for accountability. Support the tactics and channels that citizens already use to exercise voice and make claims for accountability.
- Include a strong focus on shifting patterns of behaviour, which can be as important for accountability as increasing resources, reforming institutions or creating new laws. For example, promoting professional ethics and behaviours within political institutions, civil service, and among service providers.[47]
- Engage over the long term with realistic goals. Focus on supporting the building blocks towards a long term goal of accountable governance, for example by addressing norms, expectations, capacities, and governance models.
- Reflect on UNDP's own impact on accountability and seek to work in ways that reinforce positive accountability relationships. Recognise the risk that external actors can reinforce

43 OECD. 2014. Accountability and Democratic Governance: Orientations and Principles for Development.
44 Anderson et al. 2022. Against the odds: Action for empowerment and accountability in challenging contexts.
45 These tips draw on the following documents: Anderson et al. 2022. Against the odds: Action for empowerment and accountability in challenging contexts, and OECD. 2014. Accountability and Democratic Governance: Orientations and Principles for Development.
46 Anderson et al. 2022. Against the odds: Action for empowerment and accountability in challenging contexts.
47 For an example of how promoting ethical codes can foster accountability by duty bearers see FBA, 2022. 'Promoting Accountability through Ethical Standards in Conflict-Affected States: the Liberian Civil Service'.

unaccountable political cultures through their ways of working. For example, by providing support in ways that bypass local accountability systems (as is sometimes the case with programme implementation units that work outside government structures) or that result in local duty bearers being primarily accountable to international funders.[48]

Non-discrimination

Non-discrimination within governance requires that the equality of all rights holders is embedded across all governance policies and practices. However, discrimination and marginalisation are common features of governance in FCAS, with patterns of discrimination often reflecting underlying social or political power imbalances and inequalities, which in some cases may have contributed to or been exacerbated by conflict. In some FCAS, governance institutions may be captured by and operating in the interests of certain groups (such as ethnic groups, regional groups, or political factions) to the discrimination of others. In all contexts, the most marginalised rights holders, including women, minorities, displaced people and people with disabilities, among others, tend to experience the greatest discrimination in their engagement with governance authorities, with some facing multiple discrimination based on their intersectional identities.

Advancing the principle of non-discrimination within governance support must begin from the recognition that discriminatory policies, budgets, practices, attitudes and behaviours result in some groups being prevented from accessing their rights. Addressing discrimination must therefore involve a holistic approach that supports duty bearers to make changes across all these areas, empowers discriminated citizens to claim their rights, and takes account of the underlying structures, power dynamics and interests that fuel discrimination.

Suggestions for promoting non-discrimination within governance in FCAS include:

- Support the development of disaggregated data that can be used to understand and track the rights situation of marginalised groups, identify patterns of discrimination, and inform priorities and entry points for engagement. Data can be disaggregated along prohibited grounds of discrimination contained in the ICESCR, ICCPR, or national constitution. Particular attention should be paid to understanding the impact of multiple and intersecting forms of discrimination.
- Identify which rights issues are of the greatest importance for discriminated groups and strengthen these groups awareness, mobilising and collective action on these issues. Supporting the development of discriminated peoples' movements, as well as connections between these movements, can help to challenge unequal power dynamics and dismantle the structures that perpetuate discrimination across multiple identities.
- Support positive special measures to address substantive inequalities. For example, to ensure that discriminated groups can access governance institutions, services and processes, or that they can enter employment and advance within governance institutions. Significant representation of discriminated groups within governance institutions can contribute to making these institutions more acceptable and responsive to marginalised populations.
- Take a non-discrimination lens to participation, including developing special measures to ensure the inclusion of discriminated groups in consultations and decision-making processes regarding budgets, plans, services and other areas.

[48] OXFAM. 2012. Power and Fragility: Governance Programming in Fragile Contexts: A programme resource.

- Strengthen existing frameworks and mechanisms for addressing discrimination and support the establishment of new ones. These can include Human Rights Institutions, complaints mechanisms and ombudsman functions with responsibility for addressing discrimination.[49]
- Apply the principle of non-discrimination within UNDP's own work. For example, by ensuring that barriers to access and participation in UNDP interventions faced by discriminated groups are addressed, that UNDP communications support non-discrimination messaging, and that UNDP interventions gather disaggregated data regarding participation and impact.

Empowerment

Support for citizen empowerment is a critical area for governance programming in FCAS, with a focus on supporting marginalised rights holders to develop the capacities and access the opportunities to positively shape their own lives through individual or collective action. In most FCAS some marginalised rights holders will already be engaged in struggles for their rights, and supporting the empowerment of these people and advancing their voices and agendas can be important ways to help them achieve these goals.

Empowering people to engage with governance processes can have a significant multiplier effect, with implications beyond achieving positive outcomes on a specific rights issue. For example, individuals and groups who can effectively claim their rights to services may be able to similarly mobilize to influence local planning and decision-making, or to demand transparency and accountability in relation to budgets and expenditures. This means that support for empowerment can have a potentially transformative impact.

Suggestions for promoting empowerment in relation to governance in FCAS include:

- Ensure work on empowerment is locally led, by identifying and supporting existing priorities and strategies for individual and collective agency. This requires understanding the multiple ways in which marginalised rights holders engage in social and political action, including less visible actions that take place outside of institutional channels.
- Go beyond blueprint capacity development interventions, to develop support that is based on a solid understanding of how existing dynamics of exclusion, and opportunities for empowerment, relate to wider political economy and conflict and fragility dynamics. This requires paying attention to how rapid social and political changes experienced in some FCAS can provide openings for empowerment, for example by shifting gender norms and roles in ways that can be built on to advance gender equality.[50]
- Ensure that support for capacity development is not undertaken in isolation, but combined with efforts to meaningfully connect marginalised groups to governance processes and spaces, at multiple levels and across different institutions and branches of the state.

[49] See OHCHR, 2015. SDGs Indicator Framework: A Human Rights Approach to Data Disaggregation to Leave No One Behind. https://www.ohchr.org/en/documents/tools-and-resources/sdgs-indicator-framework-human-rights-approach-data-disaggregation.

[50] OECD, 2020. Politically informed approaches to working on gender equality in fragile and conflict-affected contexts.

- Make support for women's empowerment an explicit element of all governance engagement in FCAS, as part of a gender transformative agenda. This requires understanding the multiple norm-based, political and structural constraints to women's agency in FCAS, and developing a multi-dimensional approach that addresses these constraints and seeks to empower women across multiple aspects of governance. It also requires taking account of how gender identities intersect with other identities and patterns of exclusion.
- Support the collective organisation of rights holders to advance their demands in relation to governance issues. Such collective organisation can take many forms, including through CSOs, religious groups, neighbourhood organisations, trade unions and other groupings. Support can involve helping these groups to develop a clear vision about their role, objectives and strategies; develop technical knowledge and communication skills to influence and monitor duty bearers; and develop financial and managerial capacity to sustain their operations in a transparent and inclusive manner.[51] Support for network building among groups for collaborative action to claim rights is particularly valuable.
- Support for decentralised governance can be an opportunity to empower local communities, increasing opportunities for them to participate in decision-making and hold service providers to account. However, there is a risk that decentralisation can serve to empower local elites rather than the wider population. Supporting decentralised governance that empowers local communities therefore requires recognising and addressing underlying structural inequalities.[52]
- Applying an LNOB lens to governance support can help to identify priorities and entry points for work on empowerment, with a focus on who is left behind and why, and what strategies would empower these groups to mobilise and demand their rights (see Box 2 on LNOB).

Transparency

Governance in FCAS tends to lack transparency. Concerns about security, or a desire to protect the interests of elites, frequently limit the transparency of government systems, institutions and services in such contexts. Moreover, there is often also limited awareness or capacity among duty bearers regarding obligations to be transparent. Some marginalised or discriminated groups may face particularly severe exclusion from their right to information.

Advocacy and dialogue can help develop understanding among decision-makers and duty bearers at multiple levels regarding the benefits of being transparent in relation to policy making, planning, budgets and services, and can help shift attitudes towards sharing of information. This can be complemented by support to develop awareness and demand among rights holders in relation to the right to information. However, it is also important to address legal frameworks, systems, policies and procedures to make them more supportive of transparency.

51 SIDA, 2022. Human Rights-based Approach and Democratic Governance.
52 Combaz & Mcloughlin. 2014. Voice, Empowerment and Accountability: Topic Guide. Birmingham: University of Birmingham

Suggestions for promoting transparency within governance in FCAS include:

- Advocate for and support the provision of information by governance institutions that is of good quality, widely available and accessible (drawing on AAAQ framework). This can include making the case for information provision both from a human rights perspective and from an effectiveness perspective.
- Support targeted actions to provide information to marginalised rights holders, such as people who cannot read, people with disabilities, or people who are from minority language groups or live in remote locations.
- Strengthen rights holders' awareness regarding their right to information and develop their capacity to claim these rights, including through working with civil society and supporting collective mobilisation.
- Strengthen oversight functions and capacities of parliaments, ombudsman and other independent state institutions, as well as of civil society and the media, including the ability of these actors to oversee government action.
- Establish transparency initiatives, such as public expenditure tracking studies, which include specific analyses of how funds and services reach different groups such as women, children, or people living in poverty.
- Work with non-state actors that provide services to increase their transparency in relation both to service users and state authorities.
- Apply the principle of transparency to UNDP's own governance programming, by making available information on all aspects of its governance work that is detailed, clear and accessible to multiple stakeholders.

BOX 9:
HRBA and a people centred approach to governance

There are clear connections between the use of a HRBA and application of PLANET principles to governance programming and "people-centred approaches" to governance and development. In both cases the common starting point is the perspective of the rights holder, and both HRBA and people centred approaches focus on identifying and addressing the barriers that rights holders experience, as well as empowering rights holders to make claims and participate in developing solutions.

In FCAS contexts where explicitly advancing RBG or using a HRBA could be counterproductive, a people-centred approach might be a valuable entry point to promoting PLANET principles within governance support. While a people centred approach does not have such a systematic focus on advancing human rights or connecting to human rights framework, it involves application of some PLANET principles, in particular those of participation, empowerment and non-discrimination, as well as an emphasising on the capacities of both rights holders and duty bearers.

3.2.2 Example strategies of applying PLANET principles to core government functions

The table below provides examples of potential strategies to apply the PLANET principles to support for the core government functions of local governance, local service provision and civil service strengthening in FCAS.

PLANET PRINCIPLE AND CORE GOVERNMENT FUNCTION	EXAMPLES OF STRATEGIES
Applying the principle of **accountability** to support for **local service provision**	• Strengthening institutional and social accountability mechanisms with regard to local service provision, including formal oversight processes and monitoring by non-state actors. • Strengthening communication capacities and practices of local authorities to communicate service-related priorities, decisions and plans to all rights holders, as a basis for being held to account. • Addressing the risk that external assistance bypasses local systems for service delivery and undermines accountability relationships between local duty bearers and rights holders.
Applying the principle of **linking to human rights standards** to support for **local service provision**	• Strengthening the knowledge, capacity and systems of local authorities to develop service provision that delivers on human rights, including advancing progressive realisation of ESC rights. • Increasing awareness among local populations of their human rights and how these relate to service provision by authorities. • Supporting strategic litigation efforts by legal aid and paralegal networks or CSOs to set precedent regarding duty bearers' responsibility to provide services that meet human rights standards.
Applying the principle of **transparency** to support for **management of local government finances**	• Strengthening mechanisms for oversight of local government revenue and expenditure, including audit institutions and processes, scrutiny by local elected bodies, and monitoring by non-state actors. • Supporting systems for measuring and reporting on progress in local government revenue and budget matters. • Identifying and addressing forms of corruption within local government that most adversely affect citizens access to their rights. • Increasing transparency and communication regarding local government priorities and spending choices.
Applying the principle of **participation** to support for **local governance decision-making**	• Supporting participatory local planning processes, including participatory needs assessments and participatory development of local plans and budgets. • Strengthening capacity, commitment and mechanisms within local authorities to reach out to marginalized groups and bring them into local political processes and decision-making spaces. • Developing the capacity of local civil society to mediate the relationship between citizens and local governance structures and facilitate citizens' participation in local decision-making.

PLANET PRINCIPLE AND CORE GOVERNMENT FUNCTION	EXAMPLES OF STRATEGIES
Applying the principle of **empowerment** to support for **local governance decision-making**	• Developing the capacity of marginalised groups to develop agendas and take collective action to advocate for their rights within local decision-making process and spaces, including identifying ways to protect these groups from reprisals. • Encouraging and supporting local authorities to create space for marginalised groups within local political processes and decision-making spaces. • Supporting the capacity development and networking of local women political and civil society leaders to enable them to participate in and influence local governance decision making.
Applying the principle of **non-discrimination** to support for **civil service reform**	• Developing disaggregated data on the make-up of the civil service workforce (e.g., by gender, ethnicity, age, disability etc.), in order to identify patterns of exclusion and promote a more inclusive civil service. • Establishing recruitment processes that facilitate the entry of representatives from marginalised populations into the civil service, including through quotas and special measures. • Ensuring there are sufficient government employees with the correct skills available to provide services to all locations and populations, including the most marginalised. • Reducing patronage and corruption within the civil service, in order to reduce discrimination faced by service users or by civil service staff from marginalised groups. Recognising that patronage tends to reduce where the relative power and capacities of less influential stakeholders is increased.
Applying the principles of **accountability** and **transparency** to support for **civil service reform**	• Developing accurate information about the location, identity, and profile of civil servants in order to 'clean up' government payrolls and develop transparency and accountability regarding the size, make up, and cost of the civil service. • Developing transparent procedures for appointment to government posts. This requires understanding that the allocation of such posts is often related to the delicate balance of power in countries emerging from conflict, but that over the medium term it is desirable to move away from patronage based appointments by politicians that can reinforce patterns of exclusion and undermine transparency and accountability. • Strengthening the knowledge of professional ethics among civil servants, including their understanding of their responsibilities as duty bearers, their accountability to citizens, and what constitutes professional behaviour.

04 Developing programmes to advance RBG in FCAS

Applying a HRBA to governance programming does not necessarily require undertaking extensive extra processes or involve significant additional work for programming staff. Advancing RBG through a HRBA instead primarily requires asking different questions throughout the programming cycle to ensure that priorities and objectives; partners and stakeholders; and strategies, activities and implementation processes all support the realisation of human rights and strengthen the relationships between rights holders and duty bearers within the governance sphere.

A HRBA can be easily integrated into UNDP's Programme and Project Management Cycle, which is the basis for all UNDP programming. UNDP's HRBA Toolkit provides detailed guidance on how to apply a HRBA at each stage of the programme cycle (Design, Implement, Close/Transition) and can be used to inform governance programmes.

The below sections discuss key considerations for integrating a HRBA into governance programming at each stage of the programme cycle in order to advance RBG. While this section is primarily focused on the development of specific RBG programmes, it is important to note that integrating a HRBA to governance issues across UNDP's work at country level through the Country Programme Document, or into broader UN system analysis and planning through the Common Country Assessment and the United Nations Sustainable Development Cooperation Framework, could provide valuable entry points to both expand the RBG lens across the breadth of UNDP's work and include it in joint programming.

At the end of this section there are three tools that can be used to support the development of RBG programmes in FCAS. The first is a table with examples of RBG challenges frequently faced in FCAS and potential programming responses; the second is an example ToC for programming to support rights based local government service delivery in FCAS; while the third is a list of questions related to each of the PLANET principles that can be used to inform RBG programmes in FCAS.

4.1 Designing RBG programmes

Designing a RBG programme involves beginning from a different starting point to more conventional governance programming, with a central focus on strengthening citizens' access to their rights through support to governance systems, institutions, and processes. RBG programming therefore requires strong analysis to understand the factors that prevent rights holders from accessing their human rights and identify entry points to address these. It involves formulating programme logic and results frameworks that centre on changing the situation or capabilities of rights-holders and duty-bearers for the achievement of human rights. It also involves applying human rights principles to the programme design processes itself, for example through meaningful and inclusive participation of stakeholders in problem definition, analysis, and programme formulation.

4.1.1 Analysis

Designing a RBG programme requires robust data collection and analysis to understand the existing human rights policy and legal framework; the structural barriers, political-economy dynamics, patterns of discrimination and root causes that prevent some rights holders from realising their rights; and the capacities of rights holders and duty bearers. However, this does not necessarily require undertaking multiple new analyses in addition to those that UNDP already mandates. Indeed, it can be useful in terms of mainstreaming a HRBA if the data collection and analysis required to inform RBG programming can be integrated into existing institutionally mandated analyses.

Where a HRBA can be integrated into mandated joint analyses such as the Common Country Assessment, or where specific human rights analysis can be jointly undertaken by UN Country Teams, this can be very valuable in developing shared understanding of risks and of potential strategies for preventing conflict and developing resilience in FCAS. OHCHR provides useful guidance on Joined-Up Rights Based Analysis for Prevention.

Below are listed some of the key issues on which evidence and analysis is required to ensure the relevance and effectiveness of RBG programming. Wherever possible these issues should be integrated into the analyses that are currently undertaken to inform UNDP programming, although it may also be useful to undertake some specific extra analysis (see 4.1.2 on the Three Step Analysis).

- The **political, economic, social, cultural, and environmental dimensions of human rights and the extent to which these are fulfilled for different populations**. This information can be compiled drawing on local information sources and on international human rights reporting. It is important to help build a complete picture of how existing governance institutions and processes shape the realisation of human rights at national and sub-national levels and across multiple sectors.
- The **key rights holders and duty bearers in relation to a given human rights problem and the extent of their capacities and wil**l to advance human rights.[53] This element of analysis forms the basis for determining who should be involved in an intervention and what capacity development support they may require. It is also critical to identify any other relevant stakeholders that could support, or may work against, the goals of any RBG programme.
- The **nature of partner countries' legal and policy frameworks and commitments**. This includes all applicable international, regional, and national commitments, laws, policies, and strategies that are relevant to a given human rights problem, and the extent of their implementation. Such analysis offers a framework for accountability and sets the boundaries within which interventions should take place.
- How **political economy, power, and conflict dynamics** shape the context for advancing human rights through governance support. An understanding of political economy, power and conflict dynamics is required across all levels of governance, from local to national, and including both formal and informal power. This would include identifying how recovery and reform processes in FCAS may provide entry points for advancing RBG.
- The **risks involved in supporting RBG**. In particular, how working on concepts such as rights, obligations, or commitments can create tensions between and among different groups of rights holders and duty bearers, as well as with wider stakeholders. Sensitivities over human rights can be particularly acute in FCAS. Hence a focus on conflict sensitivity, and on identifying and responding to risks, must be central to RBG programming in FCAS.

[53] It is important to note that people can be both rights holders and duty bearers. For example, a local government employee may be a duty bearer in relation to the local population, but a rights holder in relation to her employer, and may experience discrimination or other rights violations in the workplace that RBG programming should address.

BOX 10:
RBG programming and disaggregated data

Compiling and using robust disaggregated data is a critical element of the HRBA, and should form part of any RBG programme. As UN guidance outlines, a strong focus on data gathering, disaggregated data, use of multiple sources, and use of qualitative and quantitative data is particularly critical to advance the rights of the most left behind (UNSDG, 2022).

OHCHR has developed guidance for human rights-based approaches to data, which can help guide the collection and use of data in HRBA programmes, including those with a governance focus. This guidance prioritises:

- Participation in the data collection process
- Data disaggregation to guard against discrimination based on sex, age, ethnicity, disability, sexual orientation or religion
- Self-identification that does not reinforce further discrimination against vulnerable groups
- Transparency regarding the data collection process
- Privacy of respondents and maintaining confidentiality of their personal data
- Accountability in data collection and use

However, it is important to recognise that collecting comprehensive, disaggregated data can be a significant challenge in FCAS. Investing in systems, capacities and partnerships for data collection may therefore be an important element of strategies to advance RBG in FCAS.

4.1.2 The Three-Step Problem Analysis

The Three-Step Problem Analysis is a tool that is commonly used to inform HRBA programming. In addition to mainstreaming the HRBA within UNDP's existing analyses, it may be useful to also undertake the Three-Step Problem Analysis. This analysis is done in relation to a human rights problem that has already been identified, and can be particularly helpful in informing priorities and strategies for RBG programming by identifying:

- The immediate, underlying and root causes of the human rights problem
- Population groups that are particularly affected
- Governance institutions and other duty bearers that have a responsibility to act
- Key capacities that duty bearers and rights holder require to bring about change

The analysis involves the three steps outlined below and the results directly feed into programme design. A detailed guide on using the Three Step Problem Analysis can be found in the UNDP HRBA Toolkit.

THE THREE STEP PROBLEM ANALYSIS

Step 1, Causal analysis: Who has been left behind and why?	This first step identifies who is unable to access their rights and analyses the multiple and interrelated causes of this problem. This includes distinguishing between immediate, underlying or root/structural causes of the problem.
Step 2, Role analysis: What are rights-holders entitled to? Who are the duty bearers that have responsibility to do something about it?	This second step helps to identify what rights holders are entitled to, as well as which duty bearers have responsibility to do something about the problem. This can involve mapping the claims and obligations of different actors.
Step 3, Capacity gap analysis: What capacities do duty-bearers and right-holders need to take action?	This third step helps understand what capacities rights-holders need to claim their rights and what capacities duty-bearers need to fulfil their obligations. It can identify different levels at which capacity is required (individual, organisational, enabling environment), and the different types of capacities required (e.g., functional, technical, leadership etc).

4.1.3 Programme formulation

As the HRBA places rights holders at the centre of any intervention, the overall objective of RBG programmes should be oriented towards the achievement or improvement of human rights, while outcomes should ideally be related to strengthened capacities of duty-bearers and rights-holders. For example, UNDP's project on Local Self Government and the Rule of Law in Ukraine focused on outcomes related to the ability of local duty bearers to deliver on citizens' rights in relation to a range of services, as well as civil society capacity to hold public institutions accountable at the local level, although the project's overall objective was not framed in terms of achieving human rights.

Developing the intervention logic, narrative, theory of change (ToC), results chain and logframe may involve choosing whether to take an explicit or implicit approach to human rights. Explicitly integrating rights-focused language into these elements provides a clear articulation of interest in strengthening the relationship between duty-bearers and rights-holders, and a clear framing for rights-focused programming. However, in some FCAS contexts it may be appropriate to take a more subtle approach to integrating human rights into programme formulation. For example, by using proxy language, such as 'demands' instead of 'rights,' or only mentioning human rights commitments in the narrative section.

Given the complexity and challenges of applying a HRBA to governance support in FCAS, interventions should be based on a robust and evidence based ToC that is politically and institutionally feasible within the given fragile context. For example, UNDP's programming to strengthen local government systems in BIH identified that, given the multiple government levels and divided competencies among government institutions, some important steps for change would involve the development of platforms for dialogue between local and higher-level governments, vertical integration of policies and methodologies, and exchange and learning among local governments.

ToC for RBG programmes must also take into account the structures, relationships, interests and incentives underpinning recovery and reform processes. They should be based on informed and defensible choices between priorities; should enable space for testing assumptions, identifying and tracking unintended consequences; and should allow for adaptation in response to new information or changes in context (OECD 2020).

In identifying specific activities and results within an RBG programme, it is important to balance activities that support duty-bearers to fulfil human rights obligations with activities that strengthen rights-holders' awareness of their rights and capacity to claim these. Such activities can include measures that support duty bearers to understand and accept their responsibility to promote and protect the rights of all citizens without discrimination; to have the authority to carry out their obligations; and to have the capacity and resources required to carry out their obligations. They can also include measures to support rights holders to be empowered and know their rights; have opportunities and tools to express their claims; and be able to take action against violations and make complaints to a mandated body.

UNDP's Environmental Governance Programme in Colombia provides an example of this. It combines work to strengthen the capacities of government entities responsible for the mining sector with measures to empower mining communities and marginalised groups within these communities, in order to foster governance of the mining sector that takes account of human rights, conflict prevention and environmental concerns.

Given the focus within the HRBA on rights holders and duty bearers, indicators for RBG programmes should generally focus on assessing actual change in the situation or capabilities of these two sets of actors. For example, indicators could measure changes in the ability of duty bearers to provide widely available, accessible, acceptable, and good quality (AAAQ) services, or increased capacity of rights holders and the civil society organisations that represent them to demand services and hold duty bearers to account. It is important that indicators capture results for the most marginalised and left behind populations, and ideally both gender sensitive and gender equality indicators should be included.[54]

[54] Gender sensitive indicators measure changes for women and men in the areas addressed during implementation, while gender equality indicators capture changes in gender relations, either positive or negative.

Given that the HRBA involves integrating human rights into both programme outcomes and processes, it is important to include process related results and indicators in order to capture not just what the programme has done, but how it has done it. In deciding which indicators to use it is also important to take into account the availability of sources of information and the validity of the data, which can be a significant challenge in FCAS.

4.2 Implementing RBG programmes

While it is generally not possible to provide detailed guidance for programme implementation, as this tends to be highly context specific, there are some key elements that are particularly important for the implementation of RBG programmes in FCAS. These include ongoing analysis and the ability to adapt in response to changes in context or new information; monitoring that is based on human rights principles and covers both process and outcome; and the application of a HRBA to implementation processes.

4.2.1 Ongoing analysis and adaptation

FCAS are highly diverse and constantly shifting contexts and opportunities for advancing human rights can open up at particular moments and in particular places, including where they had not been expected. For example, during the implementation of UNDP's Environmental Governance Programme in Colombia new opportunities emerged to revise the national Economic, Social, Cultural and Environmental Rights framework that the programme took advantage of. Moreover, advancing human rights in relation to core government functions in FCAS is a very complex endeavour and pathways of change are not clear. It is therefore necessary to gather evidence both about context and about programme implementation on an ongoing basis and to feed this evidence back into decisions about programming.

It is important that programme staff continually scan the context for change, as outlined in UNDP Programme and Project Management Cycle guidance. In addition, it can be helpful in RBG programmes to build in periodic points within the programme cycle where staff revisit assumptions and analysis to identify any emerging windows of opportunity, challenges, or risks.

Ideally, there should be flexibility within programming modalities to respond to identified shifts in context, as well as to emerging information about how programme implementation is going and what results are emerging. For example, in UNDP's Collaborative Dispute Mechanism pilot programme in Syria, the remit of the mechanism was widened to respond to needs and demands that emerged during implementation. There should also be capacity and readiness to adapt or mitigate in response to risk, something that is particularly critical for RBG programming in challenging and unpredictable contexts such as FCAS.

4.2.2 Monitoring of process and outcome

Robust and continuous monitoring is a central element of the HRBA and critical for RBG programmes. Moreover, a HRBA requires that both programme processes and outcomes are monitored, given that the process of HRBA programming should itself embody human rights principles and support empowerment.

It is important to ensure that monitoring for RBG programmes is firmly based on human rights principles. For example, groups that are subject of data should ideally participate in data collection, dissemination, and analysis; human rights and gender expertise should be included in all monitoring and evaluation teams; transparency should be promoted by providing clear, accessible information about indicators and data collection; and data from monitoring and evaluation should be used to hold duty-bearers and development partners (including UNDP) to account.

Ensuring that monitoring is fed back into programming to support real time learning and adaptation is good practice in all programmes. However, it is particularly critical when working on RBG in FCAS, where there may be little existing evidence about effective pathways of change, making it necessary to trial different approaches and correct course based on emerging results. Recent thinking on adaptive approaches to monitoring and evaluation that could be particularly useful for informing MEL for RBG programmes.[55]

4.2.3 Applying human rights to internal processes

A HRBA requires human rights principles to be applied to UNDP's own internal practices and processes. For example, a RBG programme should not just promote participation, transparency, accountability or non-discrimination within governance institutions and processes, but must itself be participatory, transparent, accountable, and non-discriminatory in the way that it operates. The implementation of UNDP's Collaborative Dispute Mechanism pilot in Syria provides an example of this. This pilot explicitly built on the United Nations Guiding Principles for Business and Human Rights (OHCHR, 2011), which require the inclusion of legitimate stakeholder groups; ensuring transparent processes; implementing measures in a non-discriminatory manner; paying particular attention to the rights and needs of vulnerable and marginalised populations; and ensuring effective redress.

Consistently applying human rights principles to UNDP's partnerships, processes and programmes can require an investment of staff time and can make processes slower and more complex. For example, it may involve consulting more widely, building in more opportunities for participation and feedback, or engaging with a wider range of stakeholders and supporting capacity development so that their engagement can be meaningful. However, working in this way can greatly enrich relationships and interventions, providing a stronger basis for sustainable impact.

Applying a HRBA internally involves paying attention to how UNDP's governance programming can potentially support or undermine human rights principles. This kind of reflective practice requires a sound understanding of UNDP's role within the existing political and power dynamics of a given FCAS. It also requires reflecting carefully on who to work with, balancing the need to engage with power holders with the importance of challenging patterns of discrimination and empowering marginalised groups. In the most restrictive and authoritarian contexts, UNDP should continuously assess its role within the political ecosystem, to ensure its engagement is not tacitly supporting repressive actors and practices.

[55] See for example, Pasanen and Barnet (2019) Supporting adaptive management: Monitoring and evaluation tools and approaches.

4.3 Closing/transitioning RBG programmes

Closing a RBG programme in a FCAS should involve a particularly strong focus on identifying, understanding, and documenting the complex results and long-term impact that emerge from such programming. This can require the use of different evaluation tools, as well as greater investment in evaluating, learning, and documenting, as compared to more conventional programmes.

4.3.1 Evaluation

As RBG programmes seek to advance human rights by addressing entrenched inequalities and patterns of discrimination the outcomes from such programmes can take time to emerge and may not be easy to identify. This is particularly the case in FCAS, where complexity makes change even harder to track and attribute.

For this reason, it can be useful to plan for longer term evaluations that go beyond the life of a given project. Alternative evaluation methodologies can also be helpful to capture the type of results that emerge from RBG programming and fully understand potential for impact. Such methodologies could include, for example, undertaking evaluations that examine the extent to which citizens who are empowered with rights-based knowledge and capacities in one sector go on to claim their rights in other sectors; tracking a group of rights holders and duty bearers throughout the life of the project and beyond to identify changes; or using complexity-aware measurement approaches such as Outcome Harvesting or Most Significant Change.[56]

4.3.2 Documenting learning

There is currently a limited evidence base on the application of HRBA to governance programming, or on what works to advance RBG in FCAS. For this reason, it is useful to document and disseminate learning from UNDP's RBG programming, to help strengthen the evidence base in this area. Such documentation can also be helpful for UNDP's own lesson learning and to inform development of its future governance work. Likewise, it can make an important contribution to UNDP's accountability and transparency in relation to its governance work in FCAS. Documenting and disseminating learning can require extra resources and expertise and ideally should be planned from the outset of the programme.

4.4 Partnership for RBG programming

Identifying the right partners is particularly critical for RBG programming in FCAS, given the sensitivity of this work. It can also be especially challenging because of limited capacities or weak commitment to human rights among potential partners, and high levels of risk. Moreover, the nature of partnerships for RBG work in FCAS may need to be different to more stable settings.

[56] For more on alternative evaluation methodologies for rights-based programming approaches see Pact and USAID, 2018, 'Applying Rights-Based Approaches: A practical how-to note on integrating principles of empowerment into almost any development activity'.

Applying a HRBA to governance programming involves working with both duty bearers and rights holders and their representatives, using top down and bottom-up approaches in synergy. In stable settings this tends to involve working with 'traditional' partners, such as national and local government authorities, oversight bodies, political institutions, and parties, CSOs, private sector and others. However, in FCAS, where significant power often lies with non-state actors, where there may be little space for rights holders to mobilise and form civil society structures, where government institutions can be captured by elites or specific political interests, and where CSOs may be weak or unrepresentative, it may be necessary to work with unusual actors in addition to traditional partners. This can include working with non-state armed groups, religious and traditional institutions, organic civic groups, and, in the most restrictive contexts, with 'under the radar' networks of individuals seeking to advance human rights. Working with such non-traditional partners inevitably requires a willingness to take risks, to be flexible, and to find creative ways to partner with actors that work in different ways or have limited capacity.

Work with duty bearers must balance the need to partner with government institutions to strengthen their capacities to deliver on citizens' rights, with a clear-eyed understanding of the ways in which such institutions are situated within wider power and conflict dynamics, and may be captured by particular interest groups or act in ways that undermine human rights. Moreover, in more restrictive contexts, there is a need to be constantly alert to the risk that partnership with government actors can result in tacitly supporting repressive and antidemocratic practices. In restrictive environments, partnership and synergistic working with other agencies and international actors can be particularly helpful to jointly press for increased democratic space and rights, or even to just help 'hold the line' against increased authoritarianism. In the most challenging contexts, such as UCGs, there may be a limited number of international agencies that remain, meaning that collaborative work to protect rights in whatever ways are possible is particularly critical.

Identifying locally grounded and legitimate civil society partners in FCAS can be difficult. CSOs in such contexts may be new with little track record, highly politically affiliated or dominated by elites. They may also have limited capacity, lack the administrative structures required to receive international funding, or be hard to reach because of security constraints. Strong political and stakeholder analysis can help negotiate these challenges and identify the most relevant civil society partners, as well as identify how to truly support (rather than divert) existing civil society mobilisation at multiple levels. Creativity may be needed to find ways to work with civil society in contexts of restrictions on NGOs or on donor finance.

Applying a HRBA to governance work in FCAS also has implications in terms of how to work with partners. Partnerships and ways of working together should be based on the PLANET principles. In particular, in partnerships where power is highly unbalanced (for example where UNDP partners with a local government institution with limited capacity, or with a network of grassroots CSOs) a strong emphasis on participation, transparency, and empowerment is particularly crucial.

4.5 Tools for RBG programming in FCAS

4.5.1 Example governance challenges in FCAS and potential rights-based responses

In the below table are examples of some governance challenges that are frequently faced in FCAS and potential human rights-based programming responses.[57]

GOVERNANCE CHALLENGE IN FCAS	POTENTIAL PROGRAMMING RESPONSES
Opportunities for meaningful interaction between rights holders and duty bearers have been eroded by conflict or authoritarian governance.	• Identify any formal mechanisms for interaction that could be developed or strengthened, including by building on existing or previous structures and relationships. • Develop the capacity and confidence of rights-holders to engage in such mechanisms and support duty-bearers to understand how they can benefit from engagement with rights holders. • Where formal mechanisms for engagement cannot yet be established, support civil society actors to facilitate opportunities for interaction. These can build on existing informal or traditional accountability relationships.
Marginalised groups of rights-holders are systemically prevented from claiming their rights or seeking redress, fuelling grievances, and exacerbating conflict risk.	• Identify existing structural barriers and leverage points in relation to the rights of marginalised groups. • Support marginalised groups to mobilise and make demands for mechanisms to overcome the barriers that prevent them from claiming their rights (for example mechanisms such as quotas, special access arrangements etc.) • Support civil society to document the denial or violation of rights, and to support the voice and claims, of marginalised groups. • Strengthen or establish legal services for those whose rights have been denied and support strategic litigation efforts and capacities. • Use "positive deviance" methodologies to identify and learn from examples where marginalised rights-holders have successfully claimed their rights.

[57] This table draws on various sources including: Anderson et al. 2022. 'Against the odds: Action for empowerment and accountability in challenging contexts'; Laws and Desai, 2024. International Engagement with Non-State Actors Engaged in Service Delivery in Fragile and Conflict-Affected Settings; Pact and USAID 2018. Applying Rights-Based Approaches: A practical how-to note on integrating principles of empowerment into almost any development activity; Rocha Menocal, forthcoming. 'Thinking and working politically: lessons and implications for participation and accountability'; UNDP, 2016. Local Governance in Fragile and Conflict-Affected Settings. A UNDP How-to Guide; and UNDP, 2018. Supporting Civil Service Restoration and Reform in Fragile and Conflict-Affected Settings.

GOVERNANCE CHALLENGE IN FCAS	POTENTIAL PROGRAMMING RESPONSES
Service delivery by local authorities has been eroded by conflict, creating the need for transitional service delivery to enable populations in conflict-affected areas to access basic rights.	• Identify existing service delivery priorities and gaps within conflict affected areas using AAQ framework and participatory service delivery audits. • Support cost-benefit analysis of different service delivery modalities, for access by marginalised groups. • Establish partnerships for service delivery between local government, civil society, the private sector, traditional institutions, and communities, in which responsibilities for delivering services are defined and modes of collaboration are agreed. • Support local innovations for delivering services in contexts of limited resources and capacity, alongside introducing relevant solutions from outside that can improve access to and quality of services (including innovative technology).
Civil service has been weakened by fragility or conflict, resulting in low accountability and effective-ness and inability to deliver on citizens' rights.	• Support the collection of disaggregated information on the location and make up of government employees relative to the key public services required and the location of intended beneficiaries. Identify civil service personnel requirements in different locations for the restoration of key services. • Review and revise civil service recruitment criteria, rules, and mechanisms, and establish a centralized entity for overseeing all government recruitment. Ensure that recruitment processes facilitate the entry of representatives from marginalised populations into the civil service. • Develop technical assistance and training to strengthen professional knowledge and skills within the civil service, with a focus on strengthening understanding and capacity to fulfil duty-bearer role. • Support the development of systems and practices for monitoring and controlling the behaviour of civil servants, particularly those interfacing with citizens.
Non-state actors could deliver services in the absence of state provision, but engagement with them carries risks.	• Undertake analysis of how support for service provision by NSA can undermine or support rights-based governance and the wider social contract within the given FCAS context. • Based on the nature of the NSA (e.g. size, formality, level of organisation), and its relationships to local communities and the state, identify constructive forms of engagement and strategies for managing associated risks. • Identify what support NSA require in order to deliver services in ways that align with rights-based governance, as well as steps to mitigate the risk that service delivery by NSA violates human rights principles. • Examine how systems and processes can be made more flexible to support NSA service provision, as well as the possibility of providing incremental support for different types of NSA provision in order to test what works best.

GOVERNANCE CHALLENGE IN FCAS	POTENTIAL PROGRAMMING RESPONSES
A highly restrictive governance context provides little space to advance accountable governance or empower rights holders.	• Identify existing ways that rights holders engage in informal and less visible collective action for their rights and identify opportunities to support these. This should be done bearing in mind do no harm principles and recognising the limitations for citizen-led accountability in authoritarian contexts. • Use flexible funding arrangements to help sustain civil society organisations in the most highly restrictive environments, so that they are prepared to engage when there is a loosening of context. • Encourage duty bearers to assess citizen needs, deliver services, and document and report on their own actions in relation to neutral issues, as a step towards transparency and accountability. • Focus on fostering longer-term change and developing capacities and capabilities that can be building blocks towards more accountable governance • Develop expectations and cultures of accountability wherever there are spaces to do so. Even in highly restrictive contexts there may be some space for this at local level. • Identify how best to work with a low profile and using non-controversial framing in order to avoid backlash or negative impacts for partners.
IDP populations lack access to basic services and face harassment and discrimination.	• Support an inclusive and bottom-up approach to local governance planning that involves the participation of IDPs and wider displacement-affected communities. • Strengthen local government capacities to assess and respond to the range of needs of IDPs (e.g. education, labour, security etc.). Including a focus on specific needs of marginalised groups within IDP population. • Support CSOs to monitor and report on violence and harassment against IDPs and to engage with local authorities on these issues. • Support spaces for community dialogue and IDPs' voices to be heard, and facilitate IDPs interaction with key duty bearers.
Post-conflict governance reforms offer opportunities to advance women's rights, but women's organisations face barriers to influence reforms.	• Identify how specific governance reform processes, such as local governance reform or constitutional reform, can create opportunities to strengthen women's rights. • Map the ways in which women are already mobilising in relation to such reforms and identify strategies to support and expand this mobilisation. • Support women's civil society to develop agendas and capacities, strengthen alliances, and access decision-making spaces in relation to reform processes. This involves acting as an ally but not setting the agenda. • Identify and address structural and norm related barriers to women's access and influence in relation to governance reform processes. • Advocate with power holders for women's inclusion in decision making on governance reform, drawing on both intrinsic and instrumentalist rationales.

4.5.2 Example Theory of Change for RBG programming on local service provision in FCAS

Below is an example of a simplified ToC for advancing rights-based service delivery by local government in a context where the capacity of local governance institutions has been weakened by conflic

PROBLEM:	• Conflict has weakened capacity of local government to deliver services to rights holders, with marginalised groups facing particularly limited access to services.
PATHWAYS TO CHANGE:	• Developing capacity of local government to undertake assessment, planning, implementation, and policy development in line with human rights principles and standards. • Supporting local government to conduct participatory assessments for service delivery that include human rights analysis and involve the most marginalised rights holders. • Supporting local government to develop policies and frameworks for service delivery that are based on human rights principles and use human rights standards as benchmarks (e.g. in areas such as health, education, water management etc). • Supporting locawl government to undertake rights-based and participatory service delivery planning, implementation, and management. • Developing systems of transparency, oversight, and accountability to rights holders in relation to service delivery. • Strengthening capacity and collective action by rights holders and their civil society representatives to participate, make claims and hold local government service providers to account, with a focus on the most marginalised rights holders.
OUTCOMES:	• Human rights embedded within local governance frameworks, systems, structures and processes for service delivery. • Local governance institutions have sustainable capacity for rights-based service delivery. • All rights holders, including marginalised groups, understand and are able to claim their rights in relation to local service delivery.
IMPACT:	• All citizens can access rights through improved local service delivery.
RISKS:	• Danger of elite capture and use of service delivery for patronage. • Marginalised groups lack of trust in authorities prevents their engagement in participatory processes and makes them unwilling to use services. • Discriminatory norms and attitudes among local civil servants prevent the delivery of services in inclusive and non-discriminatory way. • Weak central – local government coordination, or lack of devolved competencies, undermine potential for rebuilding rights based local government services in way that aligns to national policy frameworks. • Inadequate financial and human resources to deliver on plans result in low quality services and high levels of rights-holder frustration.

4.5.3 Questions to inform RBG programming in FCAS

Below is a list of questions that can be useful to help inform RBG programming. Each set of questions relates to one of the PLANET principles, and together they can help to ensure that all PLANET principles are reflected within UNDP's governance programming. This is not an exhaustive list, but indicative of the types of questions that programme staff should be asking when working to support RBG in relation to core government functions in FCAS.

PLANET PRINCIPLE	EXAMPLE QUESTIONS TO INFORM PROGRAMMING
Participation	• In what ways do conflict and fragility dynamics shape opportunities for participation by rights holders in relation to governance processes at multiple levels? • What mechanisms could be developed or strengthened to enable rights holders to participate in decision making in relation to local governance, service delivery, or civil service reform? How can such mechanisms ensure in genuine influence rather than just information sharing and consultation? • How do duty bearers within the civil service, local government, or service providers currently perceive participation? How do non-state actors who act as de-facto duty bearers in FCAS perceive participation? How can work with duty bearers increase their openness to participation and encourage the development of concrete measures for participation? • How do different groups of rights holders currently seek to participate in decision making about local governance, service delivery or civil service reform, including through informal channels and at multiple levels? What influence do they have and how can this be increased? • What barriers to participation are faced by specific groups of rights holders, and particularly the most marginalised? What are drivers of these barriers and how do they relate to fragility and conflict dynamics? How can such barriers be mitigated? • What individual and collective capacities do different categories of rights holders have to participate in and influence decision making in relation to local governance, service delivery or civil service reform? How best can such capacities be strengthened? • What risks and challenges do rights holders face in participating or seeking to participate, and how can the programme address these? In what ways are these risks and challenges shaped by the governance, conflict, or security context? • Which actors have a legitimate mandate to speak on behalf of a given group of rights holders (e.g., CSOs, community leaders etc)? How can these actors be supported to effectively represent their constituency? • How do claims for participation in relation to service provision, local governance or the civil service relate to wider political and conflict dynamics (e.g., do such claims threaten authority of power holders, become co-opted within wider political interests etc.)? • How can UNDP's programme include and benefit different groups of rights holders across existing conflict fault lines, in order to support peacebuilding and avoid exacerbating tensions?

PLANET PRINCIPLE	EXAMPLE QUESTIONS TO INFORM PROGRAMMING
	• Have potential spoilers been identified, including both within and outside the governance institutions that are the focus of the intervention? How should these potential spoilers be handled, are there ways to include them? • How can all relevant groups of rights holders and duty bearers meaningfully participate in the design, implementation, and monitoring of UNDP's programme? What mechanisms would be most effective to achieve this given the context? • What mechanisms can be put in place to track the extent to which different rights holders, duty bearers and other stakeholders participate in UNDP's programme? Where some groups are found to participate less, what are the immediate and structural causes for this and how can they be addressed?
Linking to international human rights standards	• Which international/regional/national human rights treaties and laws are most relevant to this human rights problem? Have they been signed and ratified? To what extent are they implemented? • What are the implications of existing human rights frameworks for the operation of local government, service provision and the civil service? • Are formal and de facto duty bearers aware of their obligations under existing human rights frameworks? How can duty bearers' knowledge and commitment in relation to human rights obligations be strengthened? • What are the legislative gaps in relation to human rights and local governance / service provision / civil service? Are there opportunities to support further legislation to address these gaps and bring national frameworks into alignment with international human rights commitments? • Are different groups of rights holders and their representatives aware of relevant human rights frameworks and how they relate to service provision, local governance, civil service reform? • What opportunities and strategies could increase rights holders' understanding of human rights frameworks and create demand for (a) legislative reform to align with international human rights commitments, or (b) meaningful implementation of ratified human rights laws and treaties? • Are there opportunities to support efforts by legal professionals and civil society to press for the realisation of international and national human rights commitments and a strengthening of the rule of law (for example, through strategic litigation, submission of alternative reports to human rights bodies etc.)? • How can UNDP's programmes on local governance/ service provision / civil service be framed in relation to human rights frameworks and standards, in ways that create traction within the specific context? • How can relevant observations and recommendations from human rights monitoring bodies be used to inform the focus and design of UNDP's programmes on local governance / service provision / civil service reform in the specific context? • How can UNDP support ongoing tracking of the implementation of new laws and the realisation of the rights they contain, to support the sustainability of legal reform efforts?

PLANET PRINCIPLE	EXAMPLE QUESTIONS TO INFORM PROGRAMMING
Accountability	• What are the main barriers that prevent rights holders from holding duty bearers to account in relation to the human rights problem being addressed? How does the conflict/fragility context affect the ability of rights holders to hold duty bearers to account? • What accountability systems currently exist for local governance, service provision and the civil service? How effective are these? Who are the main actors involved and what roles do they play? • Are the roles and responsibilities of duty bearers within local governance, service providers and the civil service clearly defined and understood? • Do local governance/ service provision /civil service duty bearers have the knowledge, capacity, commitment, and professional ethics to be accountable? How can these attributes be strengthened? • Are there systems in place for monitoring and controlling the behaviour of employees within local governance, service provision and the civil service? Are there complaints mechanisms in place and how can they be strengthened? • How do de facto duty bearers in FCAS view their accountability to rights holders? What are the entry points for strengthening their understanding of and commitment to accountability? • What channels and tactics do rights holders currently use to make claims for accountability, including informal channels? How effective are these and how can they be built on? • Is civil society involved in holding local government institutions, local service providers and the civil service to account? How could support to civil society strengthen its ability to hold these duty bearers to account? • How can data be used to increase accountability and hold duty-bearers and development actors to account? What types of data would be required to do this and what capacities and systems are needed to generate it? • How can UNDP implement its programme in ways that reinforce positive accountability relationships between duty bearers and rights holders, and that avoid reinforcing unaccountable political cultures? • What can UNDP do to be meaningfully accountable to stakeholders involved in its RBG programmes, and to the wider communities where these programmes are implemented?

PLANET PRINCIPLE	EXAMPLE QUESTIONS TO INFORM PROGRAMMING
Non-discrimination	• Which human rights are most important for discriminated groups and for people facing intersectional discrimination? Which duty bearers within local governance, service provision and the civil service are responsible for delivering on these rights? • What are the immediate, underlying and root causes of discrimination in accessing these rights? How do conflict and fragility dynamics influence patterns of discrimination in access to these rights? • How are discriminated groups currently mobilising in relation to these rights? What could strengthen these groups' knowledge, capacity, and collective action in relation to these rights? • What are the risks and challenges involved in advancing the rights of discriminated groups within the conflict /fragility context? How can these risks and challenges be mitigated? • Are discriminated groups represented within local governance, civil service, and service provision institutions? In what roles and with what influence? What are the opportunities, benefits, and drawbacks of positive special measures for discriminated groups within these institutions? • What are the existing frameworks and mechanisms for addressing discrimination by service providers, local governance institutions or the civil service (e.g., Human Rights Institutions, complaints mechanisms and ombudsman functions etc.)? How can these be strengthened? Are new mechanisms required? • Is relevant statistical data disaggregated along prohibited grounds of discrimination stated in the ICESCR and ICCPR or in the national constitution or legislation? If not, what can be done to support the development of such data and its use for decision making in relation to service provision, local governance, and the civil service? • How can UNDP apply the principle of non-discrimination in its programme implementation? For example, how can it facilitate the participation of discriminated groups in the programme; include non-discrimination messaging in communications; or monitor programme impacts for discriminated groups?

PLANET PRINCIPLE	EXAMPLE QUESTIONS TO INFORM PROGRAMMING
Empowerment	• What factors limit the agency and empowerment of different groups of rights holders in relation to local governance, service provision or the civil service? How do these constraints relate to conflict and fragility dynamics? How can they be addressed? • How could the empowerment of different groups of rights holders improve human rights outcomes? And how can support for rights holders' empowerment be connected to meaningful opportunities for participation and influence in relation to local governance, service provision or the civil service? • How do existing recovery and reform processes shape opportunities for the empowerment of rights holders? For example, can the decentralisation of governance or development of local level service provision be used as an opportunity to empower local communities? • What are current forms of collective organisation in relation to human rights and governance issues? How can this collective organisation be supported and empowered, including through fostering networks across different groups? • How could the empowerment of human rights champions and representatives of discriminated groups working within local governance, service provision or civil service institutions improve human rights outcomes? • How can the application of a LNOB lens to work on civil service reform, local governance or service provision help to identify priorities and entry points for work on empowerment of the most left behind rights holders? • How can UNDP's governance programmes work in ways that empower rights holders, and particularly the most marginalised? What relationships and processes would this involve?
Transparency	• In what ways has conflict / fragility context undermined existing systems for government transparency at central and local level? What elements of such systems remain that can be rebuilt? • How do rights holders access information in relation to service provision, local governance, or the civil service? Are there any barriers to access and how could these be addressed? • What information about local governance, service provision and the civil service is currently available (e.g., information on public expenditure, service access, recruitment processes etc)? How can duty bearers be supported to provide information that is widely availability, accessible, acceptable and of good quality (AAAQ)? • Are rights holders' aware of their right to information in relation to service provision, local governance, and the civil service? Are rights holders or their representatives (e.g., CSOs) currently mobilising to demand information? How can they be supported to do this? • What is required to ensure that marginalised rights holders, such as those who cannot read or are from minority language groups, have access to information about service provision, local governance, and the civil service?

PLANET PRINCIPLE	EXAMPLE QUESTIONS TO INFORM PROGRAMMING
	• Do non-state actors operating as de facto duty bearers provide adequate information to rights holders and to state authorities? How can they be supported to become more transparent? • What patterns of corruption within the civil service, local governance or service provision are most detrimental to citizens ability to access their rights? How can these forms of corruption be addressed within governance programming? • How can UNDP apply the principle of transparency to its programmes, ensuring that adequate information is accessible to all stakeholders about the intervention and decision making is transparent?

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Case Studies of UNDP programming
on RBG

06 Annex 1: Case Studies of UNDP programming on RBG

Case study 1:
Environmental Governance Programme in Colombia

Governance problem that the initiative addressed:
The mining and energy sector is central to Colombia's economy. However, this sector's negative environmental impacts have fuelled socio-environmental conflicts and high levels of violence against environmental defenders, while illegal exploitation of extractives has financed armed groups and contributed to environmental harm. Meanwhile, women and indigenous communities tend to be particularly negatively impacted by mining in Colombia.

In 2014 UNDP and SEPA established the *Environmental Governance Programme (EGP) for Sustainable Natural Resource Management*, which operates in 11 countries including Colombia. The EGP in Colombia works to strengthen the capacities of government entities with responsibility for the mining sector, and to empower mining communities, in order to foster governance of the mining sector that takes account of human rights, conflict prevention and environmental concerns.

How human rights principles and standards informed the initiative:
The programme involves a strong focus on strengthening the capacity of duty bearers to deliver on the human rights of communities affected by the mining sector, and on strengthening the capacity of these communities to access their rights.

The EGP supports authorities responsible for mining sector governance to be more **transparent**, **accountable**, and **participatory**. This has included supporting the National Environmental Licensing Authority (ANLA) to develop a *National Strategy for the Prevention and Positive Transformation of Conflicts* which aims to reduce conflicts by increasing community engagement, strengthening monitoring capabilities and using participatory decision-making methodologies. EGP also supported the development of a cadre of facilitators within the ANLA who can undertake community dialogue.

There has been a strong focus on advancing **non-discrimination** within the EPG. This includes supporting Colombia's Ministry of Mines and Energy to develop a Gender Equity Policy that tackles discrimination and gendered impacts within the mining sector, and to implement the Equipares certification programme that promotes gender equality within organisations and workplaces. The EGP has also supported cooperatives of miners to implement the *Equipares* certification programme.

The EGP has worked to **empower** mining communities, and particularly the most marginalised rights holders within them. This has included promoting alternative livelihoods for mining-dependent populations, with a specific focus on women and indigenous peoples; providing capacity development for women's associations and cooperatives involved with artisanal and small-scale mining; and supporting female miners' organizations to adopt better mining practices. It has also included strengthening the participation of indigenous peoples in mining governance with the aim of protecting their traditions and survival in the context of a growing demand for energy transition minerals. More recently, the EGP has supported communities to undertake participatory water resource restoration, conservation and monitoring.

Critically, the EGP has supported the Colombian government to **link** environmental issues to national legal frameworks. Following a workshop organised by the EGP, the Office of the Presidential Advisor for Human Rights invited the programme to participate in national consultations that led to a revised Economic, Social, Cultural and Environmental Rights framework that includes indicators to measure respect for environmental rights.

Challenges and lessons

Colombia's 2012-16 peace process polarized public opinion, including on issues related to environmental and human rights protections, and there have been significant obstacles in implementing the peace agreement. However, instability and growing societal pressure have also highlighted the relationship between extractive sectors, human rights and conflict and contributed to demand for stronger environmental governance.

The ongoing instability, insecurity and division created challenges for the EGP. In particular, armed actors posed a potential threat for UNDP staff and programme participants, while high levels of mistrust among different stakeholders in the mining sector were obstacles to effective collaboration. In this challenging context, a broad range of strong partnerships were key for the EGP to successfully promote rights-based governance within the mining sector. The EGP partnered with public authorities, local communities, CSOs, INGOs and a variety of stakeholders working on human rights, environmental protection, and gender equality. Moreover, the EGP's experiences during the COVID-19 pandemic demonstrated that smaller investments over shorter periods of time can have transformational impact for the rights of mining communities, and this learning has informed the second phase of the project.

Impact of the initiative

The EGP has helped shape the policies, capacities, and practices of duty bearers. This includes supporting the mining and environmental authorities to recognise the importance of addressing human rights, gender, and peacebuilding, and to integrate these issues into their strategies and activities at multiple levels.

The EGP has also had impact in developing the capacity of mining dependent communities, and marginalised groups within them. This includes empowering these actors to participate in mining governance, improve their mining practices, strengthen their own organisations, develop new livelihood options, and understand and defend their human rights.

Case study 2:
Long term engagement to strengthen local government systems from a human rights perspective in Bosnia and Herzegovina

Governance problems that the interventions addressed
Over almost two decades UNDP's work in BiH has sought to support and strengthen local government authorities and local service delivery from a human rights perspective. This work began in response to the post-conflict situation in which many local authorities had weak planning, project development and implementation capacities, while some population groups experienced high levels of exclusion. UNDP's support to local governance in BiH has evolved as the context has changed and the country moves towards EU accession, with local authorities still facing a variety of challenges in terms of political deadlocks, complex constitutional arrangements, slow pace of reform, limited investment, and social inequalities.

UNDP's initial intervention to support local governance was the *Rights-Based Municipal Development Program (RMAP)* which began in 2002 and was undertaken in partnership with BiH Ministry for Human Rights and Refugees and the OHCHR. This provided support and capacity development for municipalities to undertake assessment and planning, implementation, and policy development in line with human rights principles and standards. In 2008 the joint Government of Switzerland and UNDP *Integrated Local Development Project (ILDP)* was launched with the aim of harmonizing integrated and inclusive strategic planning at the local level. This project included the development of a methodology (miPRO) for local development planning and management based on principles of sustainable development and social inclusion. In 2016 the Government of Switzerland launched the *Municipal Environmental and Economic Governance (MEG)* Project, which is implemented by UNDP and is now in its second phase. This project supports systemic improvement of the local governance system using a results-oriented approach and includes development of a performance management system for local authorities.

How human rights principles informed these interventions
RMAP involved the explicit use of a HRBA to deepen and broaden approaches to local development. It began from the premise that there was no need to reinvent local planning processes, but instead sought to draw on principles of **participation**, **non-discrimination**, and **accountability** at strategic points within these processes, and to use human rights standards as benchmarks in areas such as education, health, and social protection. To guarantee a holistic perspective, RMAP ensured that the composition of teams for each activity was interdisciplinary, bringing together economists, local governance experts and human rights specialists.

RMAP supported municipalities to conduct participatory, multisectoral assessments that combined human rights analysis with more standard, local development analysis and involved the most marginalised rights holders. It supported participatory and accountable local planning and implementation processes, including by facilitating the creation of human rights-based local development strategies that contained specific action plans with concrete projects and measures. It also developed capacities for planning, project formulation and implementation that promotes local development and human rights. In addition, RMAP provided technical assistance and seed funding to municipalities for the implementation of priority projects from their human rights-based development strategies, thereby linking participatory planning processes with concrete action and change for local communities.

Building on the RMAP experience of applying a HRBA to local development planning, UNDP and the Government of Switzerland launched IDLP, a joint intervention aimed at harmonizing development planning at the local level. As part of this project, UNDP developed miPRO, a standardized methodology for strategic planning intended to be an instrument for proactive and **accountable** local development planning and management. The methodology was based on principles of sustainable development and social inclusion and sought to fully mainstream gender equality in local policy making, giving it a strong focus on **non-discriminatio**n. These interventions contributed to establishing coherent strategic planning and development management systems at sub-national levels in BiH, including through supporting the design of legal and methodological frameworks and building institutional structures and capacities. They also supported the introduction of gender equality, equal opportunities and transparency across all cycles of public policy planning, implementation, monitoring and reporting.

As UNDP's flagship local governance project in BiH, ILDP served as a backbone for further programming in this area. One of those new initiatives is the MEG project. This employs a results-oriented approach to promote systemic improvement of the local governance system and introduces a good local governance framework, with commonly agreed good governance principles and performance-based benchmarks and indicators, which are expected to be endorsed country wide.

The MEG project aims to improve municipal development and provision of public services in the environmental sector, in order to improve service delivery and enhance **accountability** and trust between local authorities, citizens and businesses. The project includes a focus on non-discrimination through its focus on improving the living conditions of vulnerable groups. It involves the introduction of a performance management system to measure progress of local government authorities towards effective development results management and to support improvements in local government functions, capacities, and processes. This performance management system contributes to **transparency** and **accountability** in relation to local government performance, as well as strengthens the capacity of municipal authorities to deliver on citizens' rights. In addition, the MEG project supports improvements in financial and operational performance of public water utilities, in an effort to make them sustainable, independent and efficient. The overall process is intended to contribute to wider public administration reforms in BiH in the context of the European Union integration process.

Challenges

The complex governance system in BiH, involving multiple government levels and divided competencies among institutions, makes the application of a HRBA to local development challenging. While local governments in BiH face demands for quality, affordable and accessible services, particularly to the most vulnerable groups, these local governments have scarce financial resources and almost no devolved competencies for policy making in areas such as education, social protection or economic development. In this context, it was crucial for UNDP to dedicate time and resources to support the creation of platforms for dialogue between local and higher-level governments, contributing to vertical integration of policies and methodologies, as well as to support mechanisms for exchange and learning among local governments, ultimately leading to harmonization of good practices.

Impact

Taken together these initiatives have made a significant contribution to strengthening local level development planning, management, and service delivery in BiH and to integrating human rights principles within these. Across the initiatives there has been a strong focus on supporting participatory development planning and management; fostering transparency and oversight of local government authorities; building systems for accountability to rights holders; addressing the rights and needs of the most vulnerable or excluded rights holders; and strengthening all citizens access to rights through improved public service delivery.

UNDP's long-term engagement on local governance in BiH through these different projects has enabled it to contribute to embedding a HRBA within local governance systems and structures and to developing sustainable capacity for rights-based local governance. Key elements of success were the initial effort to intentionally include HRBA in the planning tool, and the fact that each intervention built on progress and learning from those that had gone before while responding to the changing context for local governance in BiH. Moreover, experiences in BiH have demonstrated that the replication of successful practices and tested approaches in local governance, local development and service delivery can ensure fast, cost-effective and scaled up impact.

Case study 3:
Local self-government and the Rule of Law in Ukraine

Governance problem that the initiative addressed
A decentralization process that began in 2014 gave Ukraine's local self-governments greater responsibility for delivery of services and a stronger financial basis. The growing incentive for shifting power to the local level gradually brought issues of service delivery and the interests of the citizens to the forefront. Despite the eastern part of the country being caught up in conflict, decentralization efforts continued at the national level by expanding a network of administrative service centres,[58] launching e-governance programmes, and streamlining service delivery. Local self-governments lacked capacity in a range of areas however, including insufficient human capacity and inadequate legal and regulatory frameworks.

To address these challenges and support decentralization, from 2014-2022, FBA and its Ukrainian partners conducted a project to enhance respect and demand for the rule of law (ROL) within local self-government in Ukraine. This project involved local authorities undertaking a self-assessment on ROL principles and developing an action plan based on the assessment findings; contribute to improvements of the national legal framework, as well as activities to strengthen the capacity of local authorities and support civil society monitoring.

How human rights principles and standards informed the initiative
The project focused on service delivery as the primary point of interaction between local government duty bearers and citizen rights holders, and as a key governance function through which core rights are accessed. It supported local authorities in 15 municipalities to undertake self-assessment using the FBA and UNDP *Users' Guide for Assessing Rule of Law in Public Administration*, a methodology that includes reviews of regulatory frameworks, user surveys and interviews with staff. The administrative services that were assessed included architecture and urban planning, registration of business, property and place of residence, housing and land-related services. Close to 360 agency staff were interviewed and over 8,000 service users surveyed, along with 200 in-depth interviews and focus group discussions. The assessments allowed local authorities to evaluate the extent to which ROL principles such as legality, accessibility, the right to be heard, the right to appeal, transparency and accountability are respected within selected service areas; identify challenges and problems; and develop action plans to address these. The project then provided capacity development to local authorities to help them implement their action plans and strengthen ROL in service delivery. Several roadmaps for more transparent service delivery, enhanced access to information, and respect for the rule of law, were drafted with participating municipalities. Over 60 recommendations with relevance to the national framework were presented at related parliamentary committee hearings. Long-term efforts to contribute to the improvement of the national framework supported by international actors in Ukraine subsequently translated into the final adoption of the Law on Administrative Procedure foreseen to ensure legal certainty and safeguard citizens' rights (February 2022).

[58] As of 1 October 2018, 775 Administrative Service Centres were established throughout Ukraine, among which 4% provide over 200 services, 23% – from 136 to 200 services, 58% – from 50 to 135 services (Synthesis Report 2019).

As a result of Russia's full scale invasion of Ukraine in 2022, FBA shifted focus to support national partners' initiatives on providing legal advice to public authorities on legislative gaps, as well as informing the general public about changes in the legislation that impact people's rights and developing understandable and clear guidelines on how to claim administrative and social services in the context of ongoing war.

Strong ROL is a requisite for the realisation of human rights, and by strengthening ROL in the administration of service delivery this project enhanced the ability of local duty bearers to deliver on citizens' rights in relation to a range of services. Moreover, there is a significant overlap between PLANET principles and the specific ROL principles that this project was seeking to strengthen, which were: legality, accessibility, the right to be heard, the right to appeal, transparency, and accountability. Gender equality was also an important focus for this project.

Challenges and lessons

The project originally aimed, among other things, at strengthening civil society to hold public institutions accountable at the local level. To support this, local civil society organisations were invited to take part in the established advisory committees overseeing the self-assessments. Largely selected at the discretion of local authorities, the participating CSOs were often too lenient and did not generate increased demand for rights-based service delivery. To counter that, other initiatives were launched to support civil society in prompting advocacy and legal awareness, e.g., multiple module "Rule of Law in Your City" trainings organised for CSOs in partner municipalities addressing the key principles such as transparency and accountability in local service delivery. While a number of initiatives to enhance the capacity of citizens to exercise their rights were implemented, establishing a robust system for civil society monitoring of public service delivery proved challenging and required a revision of the project approach in subsequent implementation phases.

Impact

By supporting local authorities to assess and strengthen ROL in service delivery, the project contributed to improving public service delivery in participating municipalities in a range of ways, such as improving consultation with citizens, strengthening access to information and services, revising regulatory frameworks, and putting in place new working procedures. Critically, the project strengthened the knowledge, commitment and capacity of local authority staff to apply the ROL principles in their work. Such support for duty bearers to uphold ROL in service provision is an important contribution to rights-based local governance and to the realization of human rights by local citizens.

Case study 4: Collaborative Dispute Resolution Mechanism in Syria

Governance problem that the initiative addressed
Conflict, economic crisis, and displacement in Syria has undermined the capacity of formal justice institutions and pre-existing community dispute resolution mechanisms. Meanwhile, peoples' need for dispute resolution has increased, in part due to tensions resulting from conflict. In 2019, UNDP Syria, under its Portfolio on Social Cohesion and Local Development, piloted a community level collaborative dispute resolution (CDR) mechanism that could potentially be expanded to provide dispute resolution services more broadly in Syria. The mechanism was implemented in three communities (Douma, Dara'a and Al-Tel) that represented urban, peri-urban and more rural areas and which had varied populations in terms of ethnicity, religion, and other factors. It involved a committee of locally trusted individuals, supported by an independent lawyer, who provided assistance to resolve disputes on housing, land and property, domestic matters, and other issues. In this way the CDR pilot supported the provision of justice and dispute resolution services by non-state actors in the absence of effective state provision.

How human rights principles informed the initiative
The CDR mechanism was explicitly designed to comply with the United Nations Guiding Principles for Business and Human Rights (UNGPs). The UNGPs provide a framework of international standards when supporting conflict resolution mechanisms, such as including legitimate stakeholder groups; ensuring transparent processes; implementing measures in a non-discriminatory manner; paying particular attention to the rights and needs of vulnerable and marginalised populations; and ensuring effective redress. The use of the framework meant that a human rights lens was applied throughout the pilot.

There was a strong emphasis on participation in the design of the CDR mechanism. A participatory 'designshop' was held to design the model, structure and focus of the CDR and decide what types of disputes the mechanism should address. Local intermediaries were chosen in a participatory and transparent way through situation assessments that involved consultation with a wide variety of community stakeholders; while disputants participated fully in all stages of the dispute resolution process. Moreover, in response to demand from disputants during the implementation phase, it was decided to widen the range of disputes that the CDR would address to ensure that the initiative was disputant-driven.

The CDR mechanism also promoted transparency through providing clear information to disputants about the process; by intermediaries holding joint meetings with all disputants; and by having lawyers working on behalf of the CDR process to increase quality assurance, understanding and trust between disputants. The role of CDR lawyers was critical in giving independent legal information to all parties, as well as helping to ensure that the CDR mechanism's decisions were linked to the national legal framework and aligned to international human rights standards.

The CDR was intended to be a context relevant mechanism that empowered local actors to resolve local problems. Moreover, it advanced legal empowerment for all community members by being located within communities, and being free and accessible to all often.

Although the pilot did not explicitly use the AAAQ framework for service provision, it was largely in line with this framework as:

- The CDR mechanism made dispute resolution available in target communities, and by being a scalable pilot exercise, could potentially help provide availability more widely.
- In being free, simple to use and locally based the CDR mechanisms was accessible to all.
- The emphasis on working with locally respected individuals, a basis in traditional dispute resolution mechanisms, and involvement of local community members in the CDR mechanism building process, made the CDR culturally acceptable.
- The inclusion of guidance from an independent lawyer helped ensure that CDR processes and decisions are of good quality.

Challenges and lessons

The CDR pilot faced challenges in ensuring non-discrimination in relation to women's rights, with outcomes often discriminating against women. This was due both to prevailing social norms and to Syria's plural legal system, and was particularly the case where Sharia or customary law was applied in dispute resolution processes. In addition, women were highly under represented within the CDR mechanisms. To overcome these challenges, future development of the CDR will include measures to involve more women in these mechanisms; to invest more resources to better women's circumstances and understand women's experience of using such mechanisms; to determine how women's human rights can best be upheld; and to sensitise male actors on women's rights issues.

There were also some challenges in relation to accountability and oversight for dispute resolution processes and outcomes. This was in part due to the way that local intermediaries draw legitimacy through cultural or customary practices, as well as the broader political and legal context. It was identified that further development of the CDR mechanism should include stronger monitoring of outcomes, and a grievance mechanism to provide disputants with an avenue to raise concerns about the CDR process or its outcomes.

Impact of the initiative

Drawing on a human rights framework, the CDR pilot successfully contributed to the resolution of disputes and tensions faced by households and communities. Between December 2020 and June 2021, 96 cases were referred by the CDR mechanism to intermediaries for assistance, with the most common being disputes about housing land and property, followed by disputes about inheritance, and then disputes related to relationship between husbands and wives.

The pilot empowered local intermediaries to provide informal justice and dispute resolution assistance, building their capacity to act as de facto non-state service providers and to fill a gap where formal and traditional services provision had been eroded. Critically, it provided accessible, transparent, cost-effective, and largely human rights-compatible dispute resolution for rights holders who have been unable to access formal justice services due to the conflict. It thereby contributed to creating a more stable local environment and potentially to wider peacebuilding and recovery efforts.

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