

Human Rights, Human Rights Based Approach, Empowerment and Development: Case Study Of Moldova and its Broader Lessons



International Human Rights Internship Working Paper Series

McGill Centre for
Human Rights
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Introduction

The present paper looks into the conceptual and practical nexus among human rights, empowerment, human rights based approach (HRBA) and international development, with focus on the case study of Moldova. It makes an attempt to investigate into the following questions:

- 1) What is the relevance of human rights and empowerment to international development, in the light of the human rights promise of the UN Charter and UDHR;
- 2) What are the constitutive elements and dimensions of a rights-based approach to empowerment and development, and how they can be operationalized (case study);
- 3) How the international development policies and approaches may be re-framed in the light of the global “human rights progress deficit” and of the Moldovan case study.

Part I. Introduction and brief overview of the current human rights situation in the world

A. The human rights “promise” of the UN Charter and the Universal Declaration of Human Rights

In 2015 the international community will celebrate a remarkable date – 70th anniversary of the UN Charter. The Charter established the first international organization inclusive of virtually all nations and states – the United Nations Organization, and the same Charter gave birth to a new global order, both of which sustained over the next seven decades.

The foundational purposes of the UN organization established by the Charter were enshrined in the Art.1 of the document, two of them being:

2. To develop friendly relations among nations based on **respect for the principle of equal rights and self-determination of peoples**, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in **promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;**
(emphasis added)

The Charter became the first document of its kind, which incorporated the respect for human rights into the foundations of the new organization and the new world order. Apart from making the respect for human rights a cornerstone principle, the Charter made an important link between the “friendly relations among nations”, “international cooperation” and human rights – the Charter framed the international cooperation to promote the respect for human rights.

At the same time the Charter did not unpack the principle of “respect for human rights” in details within the document itself. However three years later – in 1948 – the UN General Assembly adopted another ground-breaking document – the Universal Declaration of Human Rights, which unpacked and elaborated in some detail the modern concept of fundamental human rights.

The Declaration was not adopted as a formally binding document, being presented rather as an aspirational statement. Today, 65 years past, there is an on-going debate on the nature of the Declaration with the views ranging from treating it as still declaratory and non-binding document to treating it as part of *jus cogens* and thus with a binding force.¹

Beyond the discussion about the nature of the UDHR what is important to bring out is that both foundational documents – the UN Charter and the UDHR – made a global promise, a promise of the global order based on the fundamental human rights. This new conceptual basis for the new global order was supposed to provide a sustainable solution to the global threats faced by the humankind since its very early days: wars, violence and poverty.

¹ At this point one important aspect needs to be touched upon in the discussion. The UN Charter is a binding document, and hence the principle of respect for human rights is a binding principle. The UDHR was adopted just 3 years after the Charter, within the same institutional framework, and thus it is hard not to treat the Declaration as the most authoritative interpretation of the Charter binding principle of “respect for human rights”. Under this logic the Declaration gets a secondary binding force, as the authoritative interpretation of the primarily binding UN Charter principle of “respect for human rights”.

B. Where does the world stand now on human rights? The unfulfilled imperative of the UN Charter and UDHR

In 2015, there will be given many appreciations to the performance of the UN Charter, including to its “respect for human rights” promise. No doubt there will many positive words said about the Charter, and about the United Nations system. But there is equally no doubt that there will be many voices that will question the human rights performance of the Charter and the global order it established.

On 10 December 1998, on the occasion of the 50th anniversary of the Universal Declaration of Human Rights, the biggest international human rights NGO Amnesty International issued a statement. In this statement Amnesty’s Secretary General called the day of 10 December 1998 the “day of shame for many governments” for failure to deliver the UDHR promise. He pointed that the 1998 reality was very far from the world envisaged in the Declaration, and that for the 50 years the Declaration was “little more than a paper promise”.²

To put the AI’s emotional statement in brief, Amnesty International held that 50 years past UDHR the majority of world’s nations failed to accomplish their undertaken human rights

² “Today should be a day of shame for many governments,” said Pierre Sané, Secretary General of Amnesty International. “A sense of shame that 50 years on from the spirit of idealism and commitment to a better world which framed the adoption of the UDHR, poverty affects hundreds of millions while the torture, “disappearances”, unfair trials and unlawful killings continue.”

“While many leaders will mark today’s historic occasion by reiterating their commitment to protecting human rights, Amnesty International will hold up a mirror to highlight just how far reality is from the world envisaged in the UDHR.”

“Behind the rhetoric is the reality. Amnesty International’s 1998 Annual Report documents the facts. At least 1.3 billion people live on less than \$1 a day, 117 governments torture their citizens; at least 55 governments unlawfully kill their citizens; at least 87 governments jail prisoners of conscience; at least 31 governments make their citizens “disappear”; and at least 40 governments execute their citizens.”

“Although Amnesty International’s annual report presents a bleak look at the state of human rights 50 years on, Mr Sané said that in some areas there had been improvement, but in many others governments failed to implement the majority of standards they themselves had set up since the UDHR’s adoption.”

“The UDHR has been called ‘the world’s best kept secret’ and ‘little more than a paper promise’ Mr Sané said. ... When governments adopted the UDHR they promised to disseminate it throughout society. Today, on the fiftieth anniversary, we promise to redouble our efforts to make sure that for the next 50 years, the UDHR is no longer a secret, and challenge governments to finally live up to the promise they made fifty years ago.” (Amnesty International, Public Statement, *Fiftieth anniversary of the Universal Declaration of Human Rights*, 10 December 1998, AI Index ACT 30/26/98, download from <http://www.amnesty.org/en/library/info/ACT30/026/1998/en> [emphasis added])

commitments, and that the human rights situation globally was very far from the standards established by UDHR.

In 2014 – 66 years after adoption of the UDHR – more than half of world countries (54%) are qualified by the Freedom House (another leading international non-governmental human rights organization) as partially free or not-free in terms of respecting the basic civil and political rights.³

To sum up, despite some progress, in more than half-century after adoption the UN Charter and UDHR did not materialize the rights-based world of “free and equal” individual across the globe. Nor did they manage so far to root the global development in the foundational human rights framework.

C. Why do the UN Charter and UDHR fail on human rights? Rethinking the UN Charter and UDHR commitment to human rights

2015 is an important Rubicon line for rethinking critically the world’s approach to human rights and global development. This year is not only symbolic for marking the 70th anniversary of the UN, but it is also the final year of the latest international grand move for development – the Millenium Development Goals. In approaching this final year the international community engaged into the assessing the results and impact of this global campaign, and in thinking about the post-2015 agenda.

David Mephram, writing for an article in the 2014 Human Rights Watch World Report, made several very important points looking back into past decades of world’s development efforts.

First, the contributor pointed that the “classic” development approach narrowly focussing on economic growth and high (per capita) income was inadequate, because it did little for millions of most vulnerable people.⁴

³ 2014 Freedom in the World, Freedom House, (<https://www.freedomhouse.org/report-types/freedom-world>)

⁴ “Before Tunisia’s popular uprising ... in late 2010, many in the international community saw the country as a development success story. Economic growth was close to 4 percent ...

Second, he pointed that ignoring the interdependence of all fundamental human rights (civil, political, social, economic and cultural) among themselves led to failure in breaking the systemic discrimination and denial of rights, and thus made the development programs ineffective.⁵

Third, the contributor calls to review the global development approach immediately to make it rights-based.⁶

The above account strikingly resembles an earlier call. On 10 December 2011, on the occasion of the International Human Day, Navi Pillay, the then United Nations High Commissioner for Human Rights made a statement, entitled “The Tunis Imperative: Human Rights and Development in the Wake of the Arab Spring”.

In this statement the United Nations High Commissioner for Human Rights brought into spot a dramatic gap between the mainstream international development efforts formulated along “narrow economic and social indicators”, and the reality of routine and still globally wide-spread denial of fundamental human rights – civil, political, economic, social and cultural. The Commissioner stated that the analytical and policy framework engaged by the international

[I]ts recent experience exposes the narrowness and inadequacy of many existing approaches to development. It also provides a compelling case for development to be reframed more broadly, not just as higher income (important as this is), but as ... basic economic, social, cultural, civil, and political rights that governments are obligated to honor but deny to hundreds of millions of people.

Many of those who are most impoverished belong to society's most marginalized and vulnerable social groups—women, children, people with disabilities, ethnic minorities, people infected with HIV—who often lack the power, social or legal standing, or access to decision-making that allows them to challenge their disadvantaged status or improve their circumstances.” (Human Rights Watch, *World Report 2014: Events of 2013*, pp. 29-41, download from <http://www.hrw.org/world-report/2014>)

⁵ “For the most part, development policy and programs have ignored the critical interdependence of economic and social rights with civil and political rights, and so have failed to challenge systemic patterns of discrimination and disadvantage that keep people in poverty. As a result, many poor people have been excluded, or have failed to benefit, from development programs.” (*Ibid.*)

⁶ “[I]n 2001, world governments set about addressing such problems by agreeing on eight Millennium Development Goals (MDGs). Set for achievement by 2015, they included halving the proportion of people suffering from extreme hunger, reducing child and maternal mortality, and achieving universal primary education.

With this date fast approaching, a United Nations-led process is under way to agree on successor goals. ... Despite growing civil society support for rooting development in human rights standards, many governments ... remain hostile to them.

To counter this threat and build wider international support for rights, it is essential and urgent to show how their fuller integration can contribute to improved development outcomes—promoting a form of development that is more inclusive, just, transparent, participatory, and accountable, precisely because it is rights-respecting.” (*Ibid.*)

development community was “pointing at the wrong direction”. Most importantly, it was not rights-based.⁷

⁷ “There are moments in history when each of us is called upon to declare where we stand. I believe this is one of those moments.

Over the past year ... the voice of ordinary people has been raised, and their demands made clear. They want human beings at the centre of our economic and political systems, a chance for meaningful participation in public affairs, a dignified life and freedom from fear and want. [...]

[A]t the international level, the assessments provided by financial institutions and development agencies in the lead-up to the Arab Spring are also illuminating: Tunisia, it was said, showed “remarkable progress on equitable growth, fighting poverty, and achieving good social indicators.” It was “on track” to achieve the Millennium Development Goals. It was “far ahead in terms of governance, effectiveness, rule of law, control of corruption and regulatory quality.” It was “one of the most equitable societies” and “a top reformer.” Overall, we were told, “the development model that Tunisia has pursued over the past two decades has served the country well.”

Yet, at the same time, UN and civil society human rights monitors were painting a picture of excluded and marginalized communities, imposed indignities, and a denial of economic and social rights. We heard of inequality, discrimination, lack of participation, absence of decent jobs, absence of labour rights, political repression, and denial of free assembly, association, and speech. We found censorship, torture, arbitrary detention, and the lack of an independent judiciary. In sum, we heard of fear and want. Yet, somehow, this side of the equation carried very little sway in our development analysis.

This is not to say that the development analysis was all wrong, or the data inaccurate. The problem was that the analytical lens was often too narrow, and sometimes simply pointing the wrong way. [...]

Instead, it was focused too narrowly on growth, markets, and private investment, with relatively little attention to equality, and virtually none to civil, political, economic and social rights. Even where attention was directed at the Millennium Development Goals, this provided only a very narrow set of economic and social indicators, none of them rights-based ...

Essentially, the analysts did not get the answers wrong, they just never asked many of the most important questions.

And this policy myopia has been repeated in countries north and south, where political leaders seem to have forgotten that health care, education, housing, and the fair administration of justice are not commodities for sale to the few, but rather rights to which all are entitled without discrimination. Anything we do in the name of economic policy or development should be designed to advance these rights and, at the very least, should do nothing to undermine their realisation.

When the Universal Declaration of Human Rights was adopted on 10 December 1948, the framers warned that “it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.” The Declaration laid out the rights necessary for a life of dignity, free from fear and want— from health care, education, and housing, to political participation and the fair administration of justice. It said that these rights belong to all people, everywhere, and without discrimination.

Today, on the streets of our cities, people are demanding that governments and international institutions make good on this promise, with their demands streamed live via internet and social media. Ignoring these demands is no longer an option.

Rather, governments and international institutions should follow their lead by making a dramatic policy shift toward the robust integration of human rights in economic affairs and development cooperation, and by adopting human rights law as the basis for governance at home, and the source of policy coherence across the international system. This is our mandate for the new millennium. This is the Tunis imperative.” (Navi Pillay/OHCHR, Public Statement, *The Tunis Imperative: Human Rights and Development in the Wake of the Arab Spring*, 10 December 2011, download from <http://www.un.org/en/events/humanrightsday/2011/op-ed.shtml>)

These most recent critiques of the conventional development paradigm, coming from the leading world's human rights practitioners (UN and leading international NGOs), add to an earlier and more broad global discussion about rethinking the conventional international development paradigm.

In his "Development as Freedom", Amartya Sen⁸, the 1998 Economic Science Nobel Prize winner and the development "big name" wrote that "Despite unprecedented increases in overall opulence, the contemporary world denies elementary freedoms to vast numbers – perhaps even the majority – of people". A shift in paradigm would mean to see the development "as a process of expanding the real freedoms that people enjoy". He further continued "Focusing on human freedoms contrasts with narrower views of development, such as identifying development with the growth of gross national product, or with the rise in personal incomes, or with industrialization, or with technological advance, or with social modernization". GNP growth, industrialization or technological advancement can contribute to the ultimate goal – expansion of human freedoms – but in themselves they are not the ends of development, and they are not sufficient to achieve the ultimate goal. A sharper focus on human rights and development which advances them are the development directions, which will lead to the final end – fulfilment of human freedoms.⁹

Another great personality in the development world – Mahbub ul Haq¹⁰ – in his "Reflections on Human Development" wrote:

"Only 30 years ago, it would have been heresy to challenge the economic growth school's tacit assumption that the purpose of development is to increase national

⁸ Amartya Kumar Sen is an Indian economist and philosopher, an outstanding proponent of the human development paradigm. He has made contributions to welfare economics, social choice theory, economic and social justice, economic theories of famines, and indexes of the measure of well-being of citizens of developing countries. He was awarded the Nobel Memorial Prize in Economic Sciences in 1998 for his work in welfare economics.

(http://en.wikipedia.org/wiki/Amartya_Sen)

⁹ Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 2000), Introduction.

¹⁰ Mahbub-ul-Haq was a Pakistani game theorist, economist, and professor of microeconomics who served as the 13th Finance Minister of Pakistan in 1985-1988. He is a prominent name behind the human development theory, and is the founder of the Human Development Report (HDR). He served as chief economist of Planning Commission (Pakistan) during the 1960s, director of the World Bank's Policy Planning Department in the 1970s. He is known as "the most articulate and persuasive spokesman for the developing world".

(http://en.wikipedia.org/wiki/Mahbub_ul_Haq)

income. Today, it is widely accepted that the real purpose of development is to enlarge people's choices in all fields – economic, political, cultural”¹¹.

“For the first time we have begun to acknowledge – still with a curious reluctance- that in many societies GNP can increase while human lives shrivel.”¹²

“[A]fter many decades of development, we are rediscovering the obvious – that people are both the means and the end of economic development”.¹³

“We have finally begun to accept the axiom that human welfare – not GNP – is the true end of development.”¹⁴

While fully embracing the ul Haq's central thesis of wrong basis underlying the conventional development paradigm, it is important to remark that in his work the role of human rights in the “new” approach was not unpacked to its full value and potential. And, it seems that ul Haq was too optimistic, while writing in 1995 that at that time it was “widely accepted that the real purpose of development was to enlarge people's choices in all fields”, and that “the international community has finally begun to accept the axiom that human welfare was the true end of development”. As we noted above through 2014 Human Rights Watch Report and 2011 UN Human Rights High Commissioner's statement, today, in 2014 (20 years after ul Haq's optimistic claim) the “curious reluctance”¹⁵ and even “governmental hostility”¹⁶ to a human-centered and rights-based development paradigm remain wide-spread and strong.

To sum up, the voices from both, top UN level, and leading international human rights NGOs point at the same fundamental issue. The global development paradigm and the delivering of the human rights promise made by the UN Charter and Universal Declaration of Human Rights requires a fundamental shift:

¹¹ Mahbub ul Haq, *Reflections on Human Development* (New York: Oxford University Press, 1995), p.xvii (“Mahbub ul Haq”)

¹² *Ibid* at 4.

¹³ *Ibid* at 3.

¹⁴ *Ibid* at 4.

¹⁵ *Ibid*.

¹⁶ Human Rights Watch, *World Report 2014: Events of 2013*, pp. 29-41, download from <http://www.hrw.org/world-report/2014>

- a) in the international development paradigm – from a narrow economic and infrastructure-centered approach to a truly human-centered and rights-based approach;
- b) in the human rights advancement paradigm – from dealing with human rights as with “one of the development areas” and a “stand-alone issue” to transforming the human rights into the basis, means and end of international development, by fully mainstreaming it into ALL areas and EVERY aspect of development - from “human rights work” paradigm to “work on human rights mainstreaming into all aspects of development” paradigm.

In practical terms this is a call for both, development and human rights practitioners – to come together and shift to a new, human-centered and rights-based development paradigm and approach.¹⁷

D. Human rights based approach to international development: first steps

While the global appeals to human rights based approach shift are being continuously made over the past decades and remain still valid in our days, first practical steps in the right direction have been gradually made.

In the framework of the UN Programme for Reform launched in 1997, Kofi Annan, the UN Secretary-General, called on all UN system entities to mainstream human rights into their various activities and programmes within the framework of their respective mandates.¹⁸

Since that call a number of UN agencies have started to gradually incorporate elements of the human rights-based approach into their development cooperation and have collected experiences in its operationalization. However each agency tended to have its own interpretation

¹⁷ A very similar analysis, call and appeal to the international development and legal community may be found in S.Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative*, Carnegie Endowment for International Peace Rule of Law Series, No. 41, Democracy and Rule of Law Project (2003) 3, p.4

¹⁸ United Nations, Report of the Secretary-General, *RENEWING THE UNITED NATIONS: A PROGRAMME FOR REFORM*, 14 July 1997, UN Index A/51/950, download from http://www.undg.org/docs/1400/Renewing_the_UN_A_Programme_for_Reform_A51_950.pdf)

of approach and of how it should be operationalized.¹⁹ Since the UN work at the global and regional levels required a common understanding and harmonized approach to implementation across the UN and across the world, in 2003 the UN entities developed a broad “common understanding” of the human rights based approach to development cooperation and development programming. This common understanding has been recorded through a UN statement entitled “The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies”.²⁰

Another remarkable milestone in the same direction was conceptual shift in poverty reduction strategies developed with the support of the World Bank and International Monetary Fund starting 2000. Since 1999 their new pro-poor approach is claimed to be rights-based.²¹

The UN turn towards the human rights based approach to international cooperation and development takes time, with significant political and bureaucratic constraints playing a major role in this process. At the same time, while the wide political and institutional recognition of this transformative approach is in slow progress, UN started to pilot it in a number of countries within programs and projects which are not traditional for a “classic” human rights work.

Among other initiatives, in 2010 UN launched a Joint Integrated Local Development Program in Moldova. This joint UNDP/UN Women program aimed at providing support to the Moldovan Government in implementation of decentralization reform by applying the human rights

¹⁹ “The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies” - http://www.undg.org/archive_docs/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf

²⁰ The document put forward three key points of the common understanding about HRBA:

- “1. 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.
2. 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.
3. 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.”

(“The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies”, p.1)

²¹ Robin Perry, “Preserving Discursive Spaces to Promote Human Rights: Poverty Reduction Strategy, Human Rights and Development Discourse” (2011) 7:1 *McGill International Journal of Sustainable Development Law and Policy*, 61.

based approach to local development. In addition, elements and practices of HRBA were taken on-board by the “Confidence Building Measures” (CBM) program, implemented by UNDP and funded by EU, while the broader HRBA approach has been also used by UN Women in Moldova to plan and implement its work. The following chapter provides a structured presentation of the JILD program, and – to a lesser extent – of CBM and UN Women programs, by identifying the constitutive elements of the applied human rights based approach, and analyzing the practice of its implementation.

Part II. Human Rights Based Approach, Empowerment and Development – Case Study of Moldova

A. Setting the framework: human rights, empowerment, HRBA and development

The conceptual framework set by the Universal Declaration of Human Rights rests on one simple and yet fundamental idea – inherent freedom for each and every individual to pursue and achieve a happy life of his/her choice. In the socio-legal context this fundamental freedom transforms into fundamental right of each and every human to opportunities for accomplishment of such a life – guaranteed by the fundamental human rights and its core principle of equality. In this context empowerment is the process of availing and providing such development opportunities through fulfilling the underlying fundamental human rights and the absolute imperative of equality.²²

There are many development approaches, labels and names around this complex concept and process of implementing human-centered development and/or operationalizing the Charter and Declaration promise of the human rights-based world. Depending on the entry points and focus-dimensions the approach may be called “rights-based approach”, “empowerment approach”, “human security approach”, etc.

²² There are several key areas or dimensions of empowerment:

- economic empowerment – i.e. provision of material and financial resources for self-development and self-fulfillment;
- legal empowerment – i.e. provision of legal resources for securing self-development and self-fulfillment;
- social empowerment – i.e. provision of social resources for advancing self-development and self-fulfillment; etc.

The “legal empowerment” approach, developed and conceptualized in early 2000-s²³ stands closest to the human-rights based approach adopted by the Joint Integrated Development Program in Moldova. The key distinctive features of the “legal empowerment” are:²⁴

- integrating with mainstream socioeconomic development work and efforts;
- prioritizing the needs and concerns of the disadvantaged;
- selection of issues and strategies flowing from the evolving needs and preferences of the poor, vulnerable and disempowered, rather than starting with a predetermined, top-down focus on state institutions;
- reaching “the poorest of the poor” and most vulnerable/disempowered of the most vulnerable/disempowered;
- central role given for civil society – NGOs and community-based groups;
- emphasis on strengthening the roles, capacities, and power of the disadvantaged and civil society;
- using community organizing or group formation;
- using whatever forums (often not the courts) the poor can best access in specific situations, and attention to local governments, informal systems, media, community organizing, group formation, and other processes and institutions that can be used to advance the poor’s rights and well-being, rather than a focus on a narrowly defined formal law sector;
- developing paralegal resources;

²³ 1) S.Golub and K.McQuay, ‘Legal Empowerment: Advancing Good Governance and Poverty Reduction’, in *Law and Policy Reform at the Asian Development Bank*, 2001; 2) Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone: Volume One, Report of the Commission on Legal Empowerment of the Poor* (2008); 3) S.Golub, *Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative*, Carnegie Endowment for International Peace Rule of Law Series, No. 41, Democracy and Rule of Law Project (2003) 3 – [the last work hereinafter referred to as “Golub”].

²⁴ Golub, mainly at p.37, also at pp.25-26

- cooperating with government wherever possible, but pressuring it where necessary (civil society partnership with the state where there is genuine openness to reform on the part of governments, agencies, or state personnel, and pressure on the state where that presents an effective alternative for the disadvantaged);
- building on community-level operations to enable the poor to inform or influence systemic change in laws, policies, and state institutions;
- strong evidence-based systems to ensure close monitoring of effects and impact;
- adoption of long-term timeframe and perspective.

Despite strong and robust conceptual foundation, for a good period of time the legal empowerment approach was being mainly made of “diverse civil society initiatives rather than deliberate donor programs”, and thus was being underappreciated and underused.²⁵

The approach developed in Moldova was built around the same logical framework, as the one provided by the “legal empowerment” approach.

The provision of various kinds of resources necessary for human development is what is often labelled as “creating the enabling environment”. An important conceptual and practical question in this context is how the creation of the enabling environment through fulfillment of underlying human rights shall be effected.

In this paper I will argue that the approach consistent with the very core idea of UDHR is starting “bottom-up”, to put it otherwise – through “internal empowerment”. The most fundamental feature of this approach is that the change should start from inside, from within the vulnerable rights-holders, which need empowerment. For an empowerment to be genuine²⁶ and sustainable, it has to start with self-awareness of the vulnerable and disempowered:

- (a) about the socio-economic environment around them, including about the “power-relations” reality (finding “what the situation is?”);

²⁵ Golub, p.3.

²⁶ “Genuine” meaning reflecting what the beneficiaries really need.

- (b) about the applicable normative framework, based on the UN Charter and UDHR (pointing at “what the situation should be?” / “what the situation back in 1945-1948 was agreed to be?”);
- (c) about them – vulnerable and disempowered – being rights-holders, i.e. those entitled not to ask and beg, but to demand and stand for – and, ultimately, achieve.

It then has to continue with developing attitudes, skills, knowledge and capacities of vulnerable and disempowered on effecting the change towards the UN Charter / UDHR ideal of availing opportunities for everyone to build a fulfilled and happy life of choice. To put in “empowerment words” – the development of developing attitudes, skills, knowledge and capacities of vulnerable and disempowered should aim at enabling them internally to open and extend for themselves the development and self-fulfilment opportunities – through all means: collaboration and cooperation with the existing power-holders (duty-bearers), through fight and struggle to confront the power-holders (duty-bearers), and/or through replacing the power-holders (duty-bearers) via a legal, political or extra-legal and extra-political way. To put it otherwise the primary drive for opening development opportunities and for creating the enabling environment should come from within the vulnerable and disempowered themselves.

Finally, the thus-capacitated individuals will need to be supported (technically) in their practical initiatives and efforts in changing the situation towards the UN Charter / UDHR ideal of availing opportunities for everyone to build a fulfilled and happy life of choice, and in making such positive changes institutionalized and fully internalized by all stake-holders (by both, the newly-empowered individuals, and those, whose “over-reaching” powers were now limited).

This is what might be called “Rights-Based Human Empowerment” or “Human Rights Empowerment”.²⁷ I will argue for this approach, building extensively on the case study of Moldova presented below.

²⁷ Although the term “legal empowerment” embraces much of the above, the term (“legal empowerment”) seems to be a little bit narrow and misleading, in that it may seem to cover only “legal issues”. The proposed term of “rights-based human empowerment” seems to be more accurate and comprehensive in this context.

B. Case Study of Moldova

i. Origins and background of the Joint Integrated Local Development Program (JILDP)²⁸

The origins of the Joint Integrated Local Development Program (JILDP) trace back to 2006, when the first phase of this program – then under the name “Integrated Local Development Program” – was launched by UNDP to support the Moldovan government in its local development modernization efforts. In 2010 the program was re-shaped to focus on supporting the new Moldovan government in its ambitious decentralization reform through the HRBA and gender perspective. UN Women joined the program at this second phase to ensure gender and human rights mainstreaming, and thus the program was re-branded into the Joint Integrated Local Development Program (“JILDP-I” or “JILDP 2010-2012”). Building on the successful experience of JILDP-I, the next phase of the program (“JILDP-II” or “JILDP 2013-2015”) was launched in 2013.²⁹

JILDP is not a “human rights program”. Overall objective of JILDP-II is “to support better and equitable service provision and sustainable local development, facilitated by the improved legal and institutional framework resulting from the implementation of the National Decentralization Strategy”.³⁰ Thus, the Program’s primary focus is decentralization, local development, service provision, legal and institutional frameworks. JILDP-II is an ambitious program with two main Components³¹:

- 1) Support to development and improvement of the policy framework for decentralization reform;³²

²⁸ The author of this paper worked for JILDP as its Program Analyst on Human Rights, Gender Equality and Local Development in January 2011 – August 2014.

²⁹ JILDP was supported financially by two main donors – Swedish International Development Agency (SIDA) / Government of Sweden and DANIDA (Danish International Development Agency). SIDA and OHCHR also stood at the foundations of setting JILDP’s initial conceptual framework.

³⁰ Program Document of the Joint Integrated Local Development Program, Phase II, 2013-2015, p.11.

³¹ Program Document of the Joint Integrated Local Development Program, Phase II, 2013-2015, p.12.

³² Under its Component 1 (the so called “Policy Component”) JILDP supports the government of Moldova in developing strategic and policy documents, as well as legal and institutional arrangements to implement the decentralization reform (Program Document of the Joint Integrated Local Development Program, Phase II, 2013-2015, p.12-15).

- 2) Support to development of viable models of operational local public authorities in line with the decentralization reform.³³

For the purposes of Local Component at the first stage of the program there were identified 30 sizeable rural communities (with minimum population of over 5,000 residents), across all three main geographic regions of Moldova – North, Center and South. Out of this number of 30 communities, 20 were targeted for a full-scale program intervention package (these 20 communities will be further referred to as “target communities”), while the other 10 – for a limited-scale program intervention package.

ii. Underlying concepts

The human right based approach, as understood by the program implementation team, rests on a number of important underlying concepts.

First, fundamental human rights constitute the paramount development priority. If development is to be seen as development for people, it shall produce tangible results for people. Since the fundamental human rights are in fact about the very minimum, which needs to be guaranteed for each individual, the development goals, priorities and results need to be closely tied to – and actually be rooted in – the fundamental human rights standards.

In 1945 and then 1948 the international community and the United Nations members undertook to work for affirming the fundamental human rights as a necessary minimum for each and every individual. Under this logic, before proceeding with other objectives and types of development, all the nations of the United Nations have to first ensure the promised minimum – the fundamental human rights.

In this context the JILDP program promoted advancement of fundamental human rights and equitability as the primary development priorities for the supported decentralization and local development reform. The specific standards for such rights were drawn from the relevant UN

³³ Under its Component 2 (the so called “Local Component”) JILDP implements a complex of activities to develop 20-30 rural communities to serve as a model and example of “good” local community governance and management, in conditions of decentralization (Program Document of the Joint Integrated Local Development Program, Phase II, 2013-2015, p.15-18).

treaties and the treaty body commentaries, as well as from the observations, statements and recommendations provided specifically to Moldova by the UN human rights review bodies and special procedures (UPR, CEDAW, CERD, CESCR, special rapporteurs, etc.).

Second, any public policy, piece of regulation or resource allocation in majority of cases inherently produces varying effects and impact on different social groups: women and men, children and adults, young and elderly, urban and rural, persons with and without disability, majority and minority ethnic, linguistic, and religious groups, etc. When such differentiated effects and impact disadvantage some disempowered, marginalized or excluded groups such policies, regulations and resource allocations become discriminatory (indirect discrimination), while the disadvantaged groups appear as vulnerable groups – vulnerable in terms of enjoyment of public benefits, which in great majority of cases are closely linked to fulfilment of fundamental human rights.

In this context any public policy, piece of regulation or resource allocation, in the case of the JILD program – decentralization and local development policies, regulations and resource allocation schemes – have to be subject to rigorous, conceptually accurate and evidence-based vulnerability awareness and analysis. Such analysis shall establish which groups are most vulnerable to fundamental human rights violations (including economic, social and cultural rights), and shall establish the primary causes of such vulnerability and violations. Further planning and implementation stem from this analysis.

Third, human development shall be primarily driven by the concerned humans themselves (“nothing for us, without us”³⁴). The cornerstone of the human rights concept is the idea that all human beings have primary agency in deciding on their own life (right to self-determination). There is no one to know better of what is good for an individual than this individual her/himself. Making good for an individual without that individual’s meaningful engagement is a disrespectful “paternalistic” approach, which ultimately undermines human dignity.

Running development based on agency of the beneficiaries of this development requires empowerment and mobilization, i.e. building capacity of those concerned in understanding their

³⁴ This motto is widely used internationally by the disability rights movement. At the same time this formula has a broader origin in the foundations of human rights / civil liberties concepts.

needs and development framework, and mobilizing them for active actions on advancing development to their benefit.

The JILDLP program placed empowerment and mobilization at the core of its support efforts (more under the below subsection on Empowerment & Mobilization).

iii. Key HRBA implementation elements and instruments³⁵

Capacitation of duty-bearers coupled with empowerment of rights-holders

One of the key features of the program design has been planning of program activities targeting two key human rights actors – public authorities (the duty-bearers)³⁶ and local population / vulnerable groups (rights-holders)³⁷ – in a complementary way.³⁸

Complementarity of program streams for duty-bearers and rights-holders is achieved through planning the thematic training and other targeted activities in a complementarily synchronized manner, e.g. planning of trainings and activities on gender-responsive budgeting around the same time or in mixed groups (duty-bearers / rights-holders). In addition, and important innovation of the program was to run training and capacitation activities regarding local public administration in a mixed way, i.e. having both the duty-bearers (LPAs) and rights-holders (people) in the same room. This technique played a conducive role in strengthening accountability of duty-bearers (LPAs).

³⁵ Unless otherwise indicated, the specific information and data for this paper on JILDLP draw from the JILDLP operational documents (available to the author of this paper due to his previous work within the Program).

³⁶ Central and local public authorities in charge of effecting decentralization reform and of advancing local development in the rights-based manner. Engaged in a complex and comprehensive training program coupled with financial grants support in order to put in practice improved local governance practices in the rights-based way.

³⁷ Vulnerable, least engaged, least reached-out local community groups in terms of enjoyment of local development programs and benefits (rural women, rural youth, elderly and disabled, ethno-linguistic and religious minorities), as well as wider community groups, beneficiaries of the local development programs and benefits. Engaged into a multi-level empowerment aiming at enabling those groups to become effective and self-sustainable agents and actors in demanding and ensuring their rights and local development benefits. The empowerment program includes trainings, experience-sharing events, multi-stage self-help groups consolidation process, empowerment grants, etc. The wider community groups are engaged into a community mobilization process leading to establishment of continuous and consistent dialogue and intercation with the duty-bearers (local public authorities). This process aims to ensure transparency, participation, accountability and non-discrimination of the local decision-making, resource allocation and local development process in the true interests of all community groups, including those vulnerable.

³⁸ JILDLP Local Capacity Development Plan, p.1.

iv. Vulnerability analysis and disaggregated data

Human-centered and rights-based development are only possible when there are available and relevant data on the people and the status of their rights. In order to improve individual human rights situation it is necessary to know which people are vulnerable to particular human rights violation³⁹, to what extent they are vulnerable, and what are the underlying / primary causes of such vulnerability.⁴⁰

Vulnerability analysis is necessary to identify those groups, which due to a shared individual characteristic, are more vulnerable to particular human rights violation than the others, in other words – which are most vulnerable to discrimination (both, direct and indirect). JILDP performed such a Vulnerability Study in Moldova in 2010.⁴¹ This Study identified the community groups, which enjoy the least the local public services (associated with basic human needs and rights) and the process of local development, and/or whose enjoyment of those can worsen following decentralization.⁴² The individual characteristics, which are common, shared among all

³⁹ There is a difference between the term “victim of human rights violation” and the term “person vulnerable to human rights violations”. In the context of weak human rights protection the majority of human rights violations go unrecorded because of state denial and/or because of victims’ unawareness or reluctance to report. In such circumstances the official data on “victims of violation” are useless, because they are not reflective of the real situation. The concept of “human rights vulnerability” is a term, which encompasses both, those whose rights were violated and this fact was legally acknowledged (*de jure* violations), and those whose rights were violated, but this fact was not legally acknowledged (*de facto* violations).

Furthermore, the term “vulnerable groups” covers the people, whose rights were actually violated, and the people, whose rights were not yet violated, but which rights are under high risk of violation, because of the same structural reasons common to the entire group.

⁴⁰ In case of indiscriminate human rights violations the objective or identity characteristics of people do not play a role in such targets of such violations (for instance, when police summarily and arbitrarily arrests everyone whom it saw within particular distance from the crime place - this happened during the 8-9 April 2009 night in Moldova when police following post-elections protests, partially violent, arrested practically everyone on the streets in the close proximity of the Moldovan capital’s main square). However, absolute majority of human rights denials and violations have a discriminatory character, i.e. they target and/or affect some people more than the others, because of their particular individual characteristic (gender, race, age, disability, ethnic or religious background, HIV-status, etc). This discriminatory violations can be the result of a design (intentional), or can be the result of unawareness (unconscious). In many cases such discriminatory violations are unintentional, unconscious.

⁴¹ Summary Vulnerability Study, “*Taxonomy and possible decentralization policy implications for vulnerable groups in Moldova*”, JILDP/UN, (Chisinau: 2011), download from <http://www.drepturi.md/ro/summary-vulnerability-study>

⁴² As per the Vulnerability Study (*supra*, p.13): “In Moldova, the vulnerability of groups has been identified along the lines of:

1) income, 2) age, 3) disability, 4) language/ethnicity, 5) religion, 6) rural regions, 7) gender, 8) occupation.

those whose enjoyment is denied or is worst, are called “vulnerability criteria”, i.e. they are the ones which determine vulnerability. In practical terms the vulnerability criteria are the “discrimination grounds” (meaning both, de jure and de facto, direct and indirect discrimination).

Fig.1: Analysis of the Community Profile, Vulcanesti village

Community Profile Cioresti / Vulcanesti: Among all the kids who do not go to school the most common characteristic is that they are poor, and that they are of particular ethnic origin (Roma), and from a particular residence area (small village of Vulcanesti), it means that with regard to enjoyment of kindergarten services the vulnerability (and discrimination) criteria are: financial situation (poverty), ethnic origin (Roma), and residence area (small village).

At the next stage of the vulnerability analysis it was important to measure the effective enjoyment rate⁴³ of local public services and local development programs (associated with basic human needs and rights) among the community groups, disaggregated along the vulnerability criteria, identified through the Vulnerability Study. This was done in two ways:

Empirical data and research show the availability of hard and soft data and multiple sources of information, including non-governmental sources of information. Classification of the vulnerable groups by evidence generated on the basis of the fault lines include:

- Poverty: a) older persons, b) large households, c) children;
- Age (subject of exclusion from participation, stigma, unemployment): a) older persons, b) young persons, c) children;
- Disability (subject of exclusion, stigma, inadequate participation in decision-making): a) persons with mental disability, b) children with disability,
- Language/ethnicity (inadequate access to education, stigma,): a) Roma, b) Bulgarians, c) Ukrainians, d) Gagauz, e) Moldovans in Transnistria.
- Religion (registration difficulties, religious services, stigma): a) Muslims, b) Non-orthodox Christian, c) Jews.
- Rural regions (inadequate access to infrastructure, high unemployment): a) children of educational age, b) active part of population.
- Gender (stigma, employment, level of pay): a) women, b) LGBT (lesbian, gay, bisexual, transgender), c) trafficking, domestic violence.
- Occupation (inadequate access to markets): a) agricultural entrepreneurs.”

⁴³ For an accurate human rights / discrimination analysis it is important to measure the effective enjoyment rates (i.e. how many effectively enjoy) as opposed to availability/accessibility figures (how many can theoretically, legally or physically enjoy). In many instances the difference between these two figures is huge, because there are often discriminatory barriers of all sorts, which do not allow all those who can enjoy to effectively enjoy.

- at country level: through the Sociological Study on Women and Men Representing Vulnerable Groups in Local Development from Human Rights Perspective⁴⁴;
- at the community level: through Community Profiling in the 20 target communities.

These studies provided cross-disaggregated data on the effective enjoyment rate of local public services, which highlighted the human rights / discrimination gaps – the measured disparities (effective discrimination) in enjoyment rates across various community groups.

Vulnerability analysis and continuous availability of cross-disaggregated data along vulnerability criteria are an absolutely necessary cornerstone for any meaningful human-centered and rights-based sustainable development. Without continuous measurement and monitoring of enjoyment rates, no effective or efficient results-oriented and performance-based development will be possible.

Rights-based planning, implementation, monitoring and evaluation

In order to improve human rights situation, human rights have to be a planned objective and target. In line with the adopted HRBA the JILDP program put human rights at the core of its:

- a) Own program planning & design;
- b) Support for improvement of public planning performed by the Moldovan partners – selected central and local public authorities.

⁴⁴ Report, *Sociological Study on Women and Men Representing Vulnerable Groups in Local Development from Human Rights Perspective*, UN/JILDP, (Chisinau, 2012), download from <http://www.drepturi.md/ro/vuln-socio-study-en-unedited>.

Fig.2

Key elements of rights-based and gender-responsive strategic planning (and policy-making)	
At the local community level⁴⁵	At the national level⁴⁶
a) Mapping of the human rights situation and human rights vulnerabilities within the relevant strategic/policy field (groups and gender disaggregated data on effective enjoyment of relevant public services associated with the fundamental human rights: education, healthcare, social assistance, police services, etc, as well as information on the causes of disparities)	a) Mapping of the human rights situation and human rights vulnerabilities within the community through development of a Community Profile (groups and gender disaggregated data on effective enjoyment of various local public services related to fundamental human rights: water, sanitation, education, healthcare, social assistance, police services, etc, as well as information on the causes of identified cross-group or gender disparities – through focus-groups and individual interviews)
b) Formulation of strategic/policy priorities based on and in terms of filling the identified human rights gaps	b) Formulation of community strategic priorities based on and in terms of filling the identified human rights gaps

⁴⁵ In practical terms, at the level of central public authorities support to the rights-based planning included several elements:

a) The program provided training and other capacity building activities to representatives of CPAs (mostly staff-in-charge from the ministry departments of policy analysis, monitoring and evaluation) on rights-based and gender-responsive policy-making with focus on decentralization strategies;

b) Provided review and facilitated the elaboration of the rights-based and gender-sensitive National Decentralization Strategy (adopted in April 2012), and sector decentralization strategies.

⁴⁶ At the local community level support to the rights-based planning included the following elements:

a) The program provided trainings and facilitation to the LPAs and representatives of local community groups on rights-based and gender-responsive strategic planning (elaboration of local socio-economic development strategies), and on rights-based and gender-responsive budgeting;

b) Facilitated establishment and consolidation of local community platforms and mechanisms for enabling substantial engagement of community groups, particularly women and other vulnerable groups, into the process of local strategy & budget planning, monitoring and evaluation.

c) Development and formulation of strategic solutions and implementation activities along the established causal relations between the identified human rights gaps and their primary causes	c) Development and formulation of strategic solutions and implementation activities along the established causal relations between the identified human rights gaps and their primary causes
d) Performing <i>ex ante</i> human rights / non-discrimination impact analysis to check whether the proposed strategic/policy solutions will indeed produce the intended result – removal/alleviation of identified human rights gaps, and will not aggravate other human rights gaps	d) Performing <i>ex ante</i> human rights / non-discrimination impact analysis to check whether the proposed strategic solutions will indeed produce the intended result – removal/alleviation of identified human rights gaps, and will not aggravate other human rights gaps
e) Formulation of performance indicators, baselines and targets in terms of rights-related public services effective enjoyment rates, disaggregated by gender and other relevant group identifiers – based on the performed human rights impact assessment.	e) Formulation of performance indicators, baselines and targets in terms of rights-related public services effective enjoyment rates disaggregated by gender and other relevant group identifiers – based on the performed human rights impact assessment.

Fig.3: “Old-style” / non-rights-based vs. rights-based local planning under JILDP

Old-style” / non-rights-based local planning	Rights-based local planning
<u>Strategic priority 1:</u> Develop municipal infrastructure: roads & illumination <u>Strategic priority 2:</u> Develop local businesses	<u>Strategic priority 1:</u> Increase effective access to public facilities, providing for rights-related basic needs through improvement of roads & illumination <u>Strategic priority 2:</u> Extend economic opportunities of economically

	vulnerable women and men
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The key elements of local rights-based and gender-responsive budgeting were:

- a) Developing budgets based on the approved rights-based strategic and operational plans;
- b) Prioritization for budgetary purposes the most important from the identified human rights gaps and corresponding planned solutions;
- c) Performing *ex ante* resource allocation impact assessment to ensure equitable impact on various groups, especially vulnerable.

v. Empowerment and mobilization

Empowerment and mobilization are the most central elements of the truly rights-based approach.

First, as mentioned earlier, the rights-based approach is not only about achieving improvements in terms of human rights, but is also about doing that in a rights-based way – through enabling the agency of human rights holders in moving towards achievement of their human rights.

Second, empowerment and mobilization are key pre-requisites for a true sustainability. The achievements made through direct engagement of the beneficiaries develop a sense of deep ownership with regard to those achievements, which in turn ensure sustainability.

For the above reasons, empowerment and mobilization of women and vulnerable groups was a key cross-cutting approach to the decentralization and local development reform supported by the JILDIP program.

vi. Defining Empowerment under Moldova's JILDP

Empowerment in human rights terms (as taken by JILDP) can be summarized as a process of developing beneficiary's powers (economic, legal, institutional, social, psychological, etc.) to enjoy fundamental human rights, as well as beneficiary's opportunities for development.

Thus, there are two indispensable and complementary dimensions of empowerment:

- a) "Internal" / "soft" – development of internal capacities of the beneficiaries (attitudes, skills, knowledge) to stand for and actively promote their rights, interests and opportunities;
- b) "External" / "hard" – provision of enabling resources and environment to allow advancement of rights, interests and opportunities (financial and material, legal avenues for claiming rights and interests, institutional – institutions charged to deal with rights claims, social – social environment supportive of rights and interests claims, etc.).

JILDP program embraced both empowerment dimensions into program design and implementation.

vii. Empowerment and mobilization process⁴⁷

Empowerment is a complex, multi-staged and facilitated process, requiring sufficient time (2-3 years). First, in 2011-2012 JILDP developed and piloted its approach to empowerment, while in 2013-2014 refined and implemented the approach on a larger scale.

The latest version of the empowerment process implemented by JILDP comprises the following consecutive major stages and elements:⁴⁸

⁴⁷ Guidebook, *Community Mobilization for Empowerment of Vulnerable Women and Men*, UN/JILDP, (Chisinau, Moldova, 2012), download from <http://www.drepturi.md/ro/cme-guide>.

⁴⁸ General organizational setup

As mentioned earlier, rights-based empowerment and mobilization are a complex process based on an innovative approach and requiring sufficient human, intellectual and organizational resources. To enable this process JILDP put in place the following operational scheme:

JILDP core team – capital-based ensuring methodological and administrative coordination of the intervention;

Community facilitators – experienced long-term consultants in charge of facilitating the entire process on behalf of the program in the field – in the target communities;

Local mobilizers – local activists, facilitating the activities of the local community self-help groups;

- 1) First contact
- 2) Community profiling⁴⁹
- 3) Initiation of community self-help groups⁵⁰
- 4) Basic group training and consolidation activities
- 5) Engagement into community planning process
- 6) Facilitation of the first group project⁵¹
- 7) Facilitation of the group's second project (mini-project based on funds provided by the program)⁵²

Self-help groups – primary empowerment and mobilization agents, supported by the above.

⁴⁹ The data for the community profile are being collected from official and unofficial sources, including estimations (where exact data are unavailable). The underlying primary causes of the identified human rights / discrimination gaps are deducted from the focus-groups with the representatives of vulnerable groups (those which are affected by the identified gaps).

⁵⁰ In the experience of JILD P the most frequent vulnerable groups in rural area were (as per the Sociological Study and Community profiles):

- women, who in comparison with men usually are:
- to a considerably lesser extent: connected to centralized water- and gas-supply systems, paid at work, employed in formal economy, represented in public decision-making, dispose of free time;
- to a considerably larger extent: poor, engaged into non-paid work, affected by unemployment, affected by inadequacy of kindergartens and schools, exposed to domestic violence;
- elderly, who in Moldova: to a considerably lesser extent are connected to centralized water- and gas-supply systems and sanitation, more often do not receive sufficient and quality healthcare services, are short of socialization opportunities, are affected by inadequate housing conditions;
- rural youth, who in Moldova often are short of educational, employment and occupational opportunities;
- persons with disabilities, who in Moldova have extremely reduced accessibility to virtually all public services (education, healthcare, employment, centralized water- and gas-supply systems and sanitation, socialization, etc);
- ethno-linguistic and religious minorities, who in Moldova have reduced opportunities in education, employment and public decision-making.

⁵¹ The most common projects at this stage are: arrangement of a community kids playground (Fig.5), organization of the “donate-to-vulnerable” charity actions (food, clothes, toys, etc), community cleaning action, etc. In some cases groups come out with more sophisticated ideas, for instance, arrangement of a market table for elderly, women and disabled in one of the villages in the Transnistrian region of Moldova – from non-conventional materials (on Fig.6).

The key challenge with this stage is to overcome the fear of initiative and publicity inherent to traditionally marginalized and voiceless groups. Through this stage it is very important to start planting the fundamental idea that the life and improvements in life in the very first place depend on the agency of the people themselves. A small scale action of practical utility is the best starting point for this.

Another common tendency at this stage is start thinking big – ambitious, large-scale projects requiring considerable resources. At this point it is important to reiterate that the most important aspect of the micro-project is to continue learning-by-doing starting with something small and manageable, but which would advance one of the identified development priorities.

8) Advanced group training and consolidation ⁵³

9) Engagement into community monitoring, advocacy and decision-making process⁵⁴

10) Facilitation of the group's third project (medium-size project based on external resources and funds)⁵⁵

11) Facilitation of networking and partnerships

12) Consolidation & institutionalization of the developed new community system

viii. Outcomes of the process

The developed approach brings the following major outcomes:

1. Development brings tangible improvements of human rights situation – the human rights enjoyment rate measurably improves, particularly among most vulnerable groups;⁵⁶

⁵² Among the most interesting projects under this grant scheme JILDLP supported:

- a project to establish a small elderly day care center with a room for socialization activities and a public washing-machines service (free-of-charge for needy elderly);
- a para-legals community service;
- a project to run a community social car to transport elderly and disabled to public service institutions free-of-charge; etc.

⁵³ Through these trainings the groups are prepared:

- to independently develop and run medium-size projects;
- to effectively engage with local decision-making and public administration processes, through community monitoring and advocacy activities;
- to develop human rights self-awareness, i.e. internalization of the rights-holder/duty-bearer and underlying accountability paradigm, understanding of the imperative nature of human rights, etc (shift from charity-based to rights-based view).

⁵⁴ This happens in form of:

- meaningful participation at the local council meetings;
- monitoring of mayor's activities;
- monitoring of municipal service providers;
- annual Local Socio-Economic Development Plan assessment and review sessions;
- meaningful participation in local budget development;
- monitoring and evaluation of local budget implementation.

⁵⁵ At this stage three objectives stand:

- to train-by-doing in developing more complex and larger-scale projects;
- to independently raise funds and resources externally and self-sufficiently;
- to train in running projects engaging with / in partnership with LPAs.

At this stage, including through this activity, LPAs shall see the emerged community groups not only as watchdogs over them, but as partners and allies in local development.

2. The approach empowers and mobilizes vulnerable rights-holders to take agency and control over the development process for the benefit of those vulnerable – thus the inclusive development process becomes self-powered, i.e. sustainable;⁵⁷
3. The improvements brought by development are “owned” by their beneficiaries, which again ensures their sustainability.

C. Generalization of the Moldova’s Experience

i. Lessons Learned & Guiding Points for a Rights-Based Development

The leading distinctive feature of the human rights based approach in Moldovan case was the primacy of the bottom-up empowerment approach. It was this “internal” empowerment strategy, which was made central for advancing the local development along fulfilling the basic rights and extending development opportunities for the most vulnerable. This strategy is bringing both, the impact and sustainability in terms of real and substantial improvements in the lives of most vulnerable.

The Moldovan experience provides the “development world” with a successful practical case of applying the “rights-based” / “human development” / “legal empowerment” approach into mainstream development, proving that this is the way for reaching-out to most in need of development and for substantially and sustainably changing their lives for better.

But the Moldovan experience provides the “professional human rights world” with a case for changing the approach and paradigm from “human rights work” to “work on human rights mainstreaming everywhere”. The old model of “isolated” human rights work yields little result. And if in 10-20 years we want to find the UDHR “a living tree”, we have to make a shift in attending to this “tree” now.

⁵⁶ As the result of the JILDLP in Moldova several hundreds of most vulnerable women and men received an equitable access to drinkable water, several hundreds of vulnerable children enjoy kindergarten, up to a hundred of women got employment, etc.

⁵⁷ As the result of the JILDLP in Moldova there were created several hundreds of local self-help groups of vulnerable people, 20 of them registered as local NGOs and are now very active in the community arena (JILDLP Report 2014).

In practical terms, the experiences of applying human rights based approach to local community development in Moldova provide several types of lessons learnt:

1) *Conceptual and strategic* – through these experiences it was possible to shape out a fairly consistent and comprehensive conceptual framework and approach to local community development. But what is more important, it seems that this approach with some adjustments is well replicable and applicable to other areas of development, and to development paradigm in general.

2) *Technical and operational* – the experiences allow to describe step-by-step, with practical examples and in specific terms, the operational implementation of human rights based approach. Words “human rights based approach” and “empowerment” are not anymore just nice and idealistic terms, they are concepts with specific and practical meaning, with more or less clear and tangible elements.

From operational side the implementation of the rights-based approach to local development in Moldova provides a number of important insights.

First, understanding the full picture and complexity of the human rights based approach takes time. This approach incorporated a number of elements and components, which are intimately inter-related and inter-dependent, and all together form a systemic framework. It took considerable time for the JILDIP team to conceptualize well the approach and arrange the elements “at their shelves”.

Second, it took a lot of time – years – to explain and demonstrate functionality and the “added-value” of the new approach. While public decision-makers are usually not members of vulnerable groups, they often find it difficult to accept and internalize the reality of the human rights denial and discrimination. In addition, the governmental thinking is usually deeply infected by the idea of “priority of economic growth, which would create the platform for addressing other issues (social programs, human rights, environment, etc)”. Key instruments to effecting the mind-shift are successful small-scale pilots and successful “good practices” from other places.

Third, implementation of this approach takes a lot of time and resources, incomparably more than in case of “conventional” development approach. At the same time these extra-

investments payback multiply – the tangibly change the human rights situation and provide a sustainable basis for further self-powered development (what the “conventional” development approach usually does not do).

Fourth, the empowerment is a central and core piece of the genuine human rights based approach. The “conventional” development approach very often tends to replace empowerment with mobilization. While mobilization is undoubtedly important, it cannot replace and is not sufficient for a truly rights-based and human-centered development. If mobilization engages those who are already active and ready to engage (and for this reason usually are not most vulnerable and excluded), then empowerment engages those who are usually unheard and unseen, those who are most passive, vulnerable and excluded.

Fifth, the human rights based approach in effect cuts across significant personal interests of traditional power-holders (often corruption-entrenched) by bringing much higher degrees of transparency, participation and accountability, and by redistributing resources in a more equitable way (to the detriment of those who had control over these resources in the past). This factor has to be properly considered and dealt within the program design.

Conclusion: the underlying importance and value of the human-rights based approach

As this paper made an attempt to demonstrate, the rights-based and bottom-up empowerment-focused approach is the logical corollary of the UN Charter and UDHR, and is practically applicable for development areas “non-conventional” for a “classic” human rights project. However, for a process to be successful it requires time and careful conceptually substantiated steps.

The human-rights based shift in global development is critically important in contemporary world. It is this approach, which in author’s view is the key to solution of the major contemporary global problems. While framework of the present paper does not allow for a full-scale argumentation of this claim, below are several brief arguments in its support.

Global security is deeply rooted in individual security. Individual insecurity combined with unavailable peaceful opportunities to address the needs and achieve security makes people aggressive and violent. This aggressiveness and violence can range from individual crimes (thefts, riots, murders, rapes) to much more organized acts – genocide, terrorism, civil and inter-state wars.

Therefore the human rights based approach has not only the intrinsic importance and value as the system bringing equitable benefits to everyone. It also carries a global importance and value – as a strategic and systemic guarantee against inter-personal and inter-national violence and insecurity.

It seems that the underlying idea behind the UN Charter and UDHR was exactly this – to affirm the global peace and security through each individual's peace and security through the framework of universal human rights. Thus, if the human rights regime fails, the entire global order will be undermined and will risk to fail. The latest developments in Russia and Ukraine are the most recent demonstrations of this claim. Therefore, if the world genuinely hopes to maintain the global peace and order, there is no other way to achieve this than through a shift to human rights based approach.

Annex 1

Excerpts from community profiles⁵⁸

(human rights gaps marked in grey)

<u>Community A:</u>		<u>Kindergarten enrollment</u>		
		Total	Boys	Girls
Kindergarten age children		1081	571	510
Enrolled in kindergarten		799	420	379
% of kindergarten age children		73,91	73,56	74,31
Children from families with many children		75	34	41
Enrolled in kindergarten		48	24	24

<u>Community B:</u>		<u>Kindergarten attendance</u>		
		Total	Boys	Girls
Enrolled children from families with both parents		108	55	53
Attend regularly (over 75% of time)		98	54	44
% of all enrolled children		90,74	98,18	83,02
Enrolled children from families with at least one parent absent		41	21	20
Attend regularly (over 75% of time)		0	0	0

⁵⁸ Community Profile, Vulcanesti town (JILDP)

% of kindergarten age children from families with many children

64,00	70,59	58,54
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% of all enrolled children from families with at least one parent absent

0,00	0,00	0,00
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Community C1: **Unemployment benefits**

	Total	Men	Women
Population total	18850	9379	9471
% of the total population	100,00	49,76	50,24
Registered unemployed	179	96	83
% of the population	0,95	1,02	0,86
Receive monthly unemployment benefits	32	22	10

Community C2: **Formal and informal employment**

	Total	Men	Women
Population total	18850	9379	9471
% of the total population	100,00	49,76	50,24
Officially employed in private companies	617	423	194
% of the officially employed in private companies	100,00	68,56	31,44
Unofficially (illegally) employed in private companies	2005	802	1203

<p><i>% of the registered unemployed</i></p> <p>17,88 22,92 12,05</p>	<p><i>% of the unofficially employed in private companies</i></p> <p>100,00 40,00 60,00</p>
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Annex 2

Examples of Community Mobilization and Empowerment Micro-Projects

Fig.1: *Playground powered by a community group*



Pictures © Veaceslav and Ecaterina Balan

Fig.2: *Improvised local market powered by a community group*



Pictures © Veaceslav and Ecaterina Balan

Annex 3

Rights-Based Strategic Development Planning Express-Checklist

1. Is the policy/planning document or development program informed and based on mapping of the human rights situation and human rights vulnerabilities (groups and gender disaggregated data on effective enjoyment of public services related to fundamental human rights)	Y/N or 1-5
2. Is the policy/planning document or development program informed and based on in-depth analysis of the causal relations between the identified human rights gaps and their primary causes?	Y/N or 1-5
3. Are strategic priorities and objectives based on and formulated in terms of filling the identified human rights gaps, and do strategic solutions and activities focused around causal relations between the identified human rights gaps and their primary causes?	Y/N or 1-5
4. Was there performed an <i>ex ante</i> human rights / non-discrimination impact analysis to check whether the proposed strategic solutions would indeed produce the intended result – removal/alleviation of identified human rights gaps, and would not aggravate other human rights gaps?	Y/N or 1-5
5. Are there performance indicators, baselines and targets formulated in terms of rights-related public services effective enjoyment rates disaggregated by gender and other relevant group identifiers – based on the performed human rights impact assessment?	Y/N or 1-5
6. Was the entire process of designing policy/planning document or development program transparent to representatives of all its final beneficiaries?	Y/N or 1-5

7. Did the representatives of all its final beneficiaries have a good opportunity to meaningfully participate and determine the final contents of the document / program?	Y/N or 1-5
8. Does the document / program provides for a beneficiaries-controlled direct accountability mechanism (monitoring, evaluation and enforcement of conclusions) with regard to its implementation?	Y/N or 1-5

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