# ASIA BRIEF

**December 2013**
**South Asia Division**

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

**Swiss Agency for Development
and Cooperation SDC**

## Human Rights in SDC Cooperation Programs in South Asia

# HUMAN RIGHTS AND DIGNITY – KEY DRIVERS OF DEVELOPMENT IN FRAGILE CONTEXTS

**Without the respect of Human Rights, security and sustainable development are an illusion. SDC programmes in South Asia are engaging with a Human Rights Based Approach.**

Commonly the nexus between human rights and development is considered within the social, economic and cultural rights, such as among others the right to work, education, health, food, water and sanitation. However, as the human rights situation in South Asia or the Himalayas shows, main challenges for development come also from the violation of political rights and freedoms such as freedom of expression and media, freedom from discrimination, lacking justice systems and accountability of armed forces, para-militaries and police, violating the right to life. These violations are often aggravated due to armed conflicts, to structural social violence or the absence of democracy and access to justice. With a variety of political and operational measures, Switzerland contributes to the improvement of the Human Rights situation in its partner countries.

In many countries people do not enjoy equal access to basic services and resources nor are they given the possibility to participate in public decision making. This is particularly affecting the lifes of poor people and marginalized groups. Exclusion and discrimination are perpetuating poverty and provoking social tensions and conflict. Consequently, Switzerland places the fundamental Right to a Life in Dignity for all at the heart of its international development cooperation. All policies, programs and technical assistance should foster the realization of Human Rights as laid down in the International Bill of Human Rights and Human Rights principles should be adhered to in every step of the program cycle. This **Human Rights Based Approach (HRBA)** promotes the concept of responsible governments, with the obligation to respect, protect and fulfill the human rights of their citizens. People are perceived as active citizens entitled to rights rather than depending on their Government's mercy or the goodwill of international support. And people are expected to respect other human beings rights – the same rights as they enjoy themselves. The Human Rights Based Approach further empowers citizens and especially marginalized and discriminated groups to claim and enforce their rights. Development efforts for a means of non-violent conflict resolution, transparency and participation, in short

contributions to social cohesion of societies at national and local level are key for a human rights focused and based development.

## HUMAN RIGHTS IN CONFLICT AFFECTED SITUATIONS

In situations of armed conflict and fragility human rights are exposed to higher risks. In armed conflicts the International Humanitarian Law plays an important complementary role to ensure a better protection against human rights violations, with the provisions on the protection of victims of armed conflicts and on the protection of civilians in time of war (Geneva Conventions of 1949 and Additional Protocols of 1977).

As a principle, SDC is working with all relevant actors in a country abiding to its constitution, according to their roles and responsibilities. It supports governments (central and local level) in their capacity to comply with their obligations towards their citizens, and the civil society and private sector in their ability to know their rights, to raise their voice and hold their governments accountable. Most importantly, SDC promotes a relationship of trust and constructive interaction between government and citizens, based on the fundamental human rights principles of equality, participation, accountability and the rule of law. Promoting a change of attitude and practice among concerned actors is crucial to better enforce existing but often disregarded rules and regulations.

Switzerland uses a mix of instruments provided by different branches of government and by civil society to promote


**Bangladesh – © Carole Lauener**

Human Rights. Diplomatic skills are combined with Human Rights and Peace Building expertise together with practical know-how of development practitioners, who often have a sound experience and privileged relations, excellent networks with local partners. SDC starts from a careful analysis of particular contexts and sets different priorities accordingly. This is hereafter illustrated with three concrete examples.

## CONFLICT TRANSFORMATION IN NEPAL – PROTECTING RIGHTS AND PROMOTING SOCIAL JUSTICE

One of the root causes of the civil war in Nepal has been the appalling poverty, especially in remote rural areas, the systematic and widespread marginalization and discrimination of large segments of the Nepali society, due to caste, ethnic and gender based reasons, and the lack of rule of law and accountability, and an entrenched culture of impunity. Continuous abuses of power and human rights violations during the conflict aggravated the difficult living conditions for large segments of the population and deepened the conflict.

As immediate response during the armed conflict, Switzerland supported the protection against Human Rights violations in a combined effort between the political divisions of the Federal Department of Foreign Affairs (FDFA) and the Swiss Agency for Development Cooperation, prominently involving the civil society. Being a member of the Human Rights Council, Switzerland sponsored a Resolution on the Human Rights crisis in Nepal during the civil war, followed by the establishment of an Office of the UN High Commissioner for Human Rights (OHCHR) in Kathmandu, which helped to pave the way to a peaceful end of the armed violent conflict. An alliance of Swiss partners, lead by the OHCHR, the National Human Rights Commission and some national human rights NGOs established a professional monitoring of Human Rights violations, which helps till today to create awareness of the Nepalese society about committed atrocities (e.g. extrajudicial killings, enforced disappearances or systematic torture), hold perpetrators accountable and advocate for justice.



The Human Rights Based Approach is important to work on responsible governance (duty bearers) and empower rights holders and civil society.

To address the problem of exclusion and social inequality the Swiss programs, in the so-called cluster districts, deliberately implement an approach of targeting the poorest and disadvantaged groups for more equitable development and social justice. Thanks to such efforts, disadvantaged groups were able to address discrimination and put forward their own priorities to see them anchored in district plans with budgeted financial resources. In 2012, local governments allocated 32% of their yearly budgets for disadvantaged groups which is a remarkable increase over the years. In the same year 45% of disadvantaged households benefited from better livelihood opportunities, e.g. by using better crop varieties and technologies, engaging in home gardening and graduating from skills training. Non performing local authorities are increasingly held to account by the local population. In more than 50% of so-called village development committees', regular public hearings are conducted and local authorities responding to 76% of the demands put forward in such hearings.

In close alliance with other international donors (the United Kingdom, Denmark, Canada, Norway, Australia), SDC contributed to the Rights, Democracy and Inclusion Fund which allows a variety of local actors to promote the inclusion of marginalized and discriminated Nepali. It includes for example the support of Dalit women to get access to the temple and enjoy their religious rights; the Tharu villagers to get an identity card, which is required for exercising the right to vote; Rai and Magar children to attend school and realize their right to education; and finally women, foremost in remote rural areas not to be forced into marriage and get equal succession rights like their brother siblings.

## VIOLENT CONFLICT IN AFGHANISTAN – STRENGTHENING NATIONAL HUMAN RIGHTS ARCHITECTURE

For decades, Afghanistan has been suffering from devastating wars and associated human losses, the destruction of infrastructure, the displacement of thousands of Afghan citizens and the massive and systematic violation of their most basic Human Rights, committed by all parties involved in the many conflicts. The State of Afghanistan is responsible for the fate of all its citizens. It must ensure that Human Rights are respected and protected. In the current context however, the fulfillment of this obligation is very challenging, and not possible without the support of international partners. Indeed, the Swiss program has advised Afghan experts during the Loja Jirgha constitution building process. It is a partner to key national Human Rights institutions, such as the Afghanistan Independent Human Rights Commission (AIHRC), networks of civil society organizations and the Human Rights Support Unit (HRSU) within the Ministry of Justice. The AIHRC conducts regular monitoring missions in prisons work. It recently published a report on torture and the treatment of conflict re-

lated detainees in prisons, which led to an improvement of their humanitarian living conditions, for example by the establishment of clinics, the provision of potable water and increased quality of food and heating. Further, the AIHRC launched a national inquiry on the significant increase of cases of extrajudicial killings of which broke the taboo of two prevailing forms of violence against women, honor killings and sexual abuse. The HRSU constantly reviews domestic laws to eventually adjusting them in conformity with Afghanistan's international obligations, and its own Constitution. To sensitize government employees the HRSU provides training on their Human Rights duties and their obligations towards the Afghan citizens: So far more than 800 employees, of whose more than one fourth are women, participated in workshops where they debated on torture in detention centers and committed themselves to strictly abiding by the law, and hence to fighting against torture, at all levels.

In alliance with a coordinated donor group Switzerland is promoting strengthened collaboration among civil society organizations. Lately this culminated into the formulation of a civil society charter, with the establishment of a joint civil society-working group and action plan. Thanks to their strong lobbying, the law on the Right to access information has been put on the national agenda and submitted to the Parliament, where it got stalled however. In continuous collaboration with the Afghan Civil Society Forum, Switzerland since many years supported advocacy initiatives for the rights of women and other marginalized and discriminated groups.

As response to the particular cultural-religious context, Switzerland initiated a national dialogue on Human Rights and Islam through the establishment of a small network. To start with, the right to equal treatment and non-discrimination of Afghan women, in respect of Islamic values and traditions, is being addressed. Women Rights in the Koran are being analyzed and debated, in close collaboration with Imams and with assembling a network of Human Rights and Islam practitioners. In all SDC programs in Afghanistan gender issues are deliberately addressed aiming to increase awareness on women's rights and to improve their situation. They promote better legal protection, access to education or improved income for women. With an earmarked SDC contribution



Afghanistan – © SDC

to the multi-donor supported 'National Law and Order Trust' police forces have been trained on gender issues aiming to enforce the rule of law by addressing family violence, especially against women and young girls.

## VOLATILE STABILITY IN BANGLADESH – EMPOWERED CITIZENS AND IMPROVED GOVERNMENT PERFORMANCE

In contrast to other South-Asian countries with recent histories of war and conflict and visible elements of state fragility, Bangladesh has not suffered from overt internal or international armed conflict over the last generation. High ethnic and religious homogeneity, a widely shared development vision of the ruling class and a system of political economy firmly based on traditional values have safeguarded overall stability in the recent past in spite of a sharp and often violent divide between the leading political parties. But the collapse of the Raza Tower, killing more than thousand female workers is just a symptom for the social conflict and the gap between globalization profiteers and a very poor working class. And thus the political and economic stabilising factors in turn limit and hamper the enjoyment of human rights, social justice and sustainable development.

Among the most important limitations to social justice are a deeply rooted patriarchal attitude throughout all segments of society; a limited respect for ethnic and other minorities; a widespread culture of patronage and entitlement throughout the social, economic and political system, leading among others to high levels of corruption; the legacy of political and social violence (including violence against women) and culture of impunity; and citizens' limited awareness and assertion of their rights and obligations under a democratic constitution as well as their inequitable political and economic participation. Moreover, in many cases the government structures have limited ability and will to live up to their responsibilities.

Equal access to basic services, such as food, water, housing and credits is for many Bangladesh citizens inadequate. In their daily struggle for survival, villagers in Switzerland's priority working areas, the districts of Rajshahi and Sunamogonj in Northern Bangladesh, are often not aware of their rights, as they are preoccupied with food scarcity, or a sick child without medical care. Further, traditionally marginalized and discriminated people usually hardly dare to approach local authorities, because their demands and needs are often being met with arrogance, or indifference.

With the declared target to bring public services to poor peoples' doorstep, the Government of Bangladesh has embarked in a decentralization reform process during the past years coupled with efforts to improve local governance structures and processes. Switzerland is among the lead donors in supporting the Governments reform drive, with currently more than ten different local governance projects that are covering approximately ten percent of all villages in Bangladesh, and that are reaching out to 2–3 million of direct beneficiaries. The Swiss system with an efficient local administration that is responsive to the requirements of its citizens and which is known for its strong democratic culture can be illustrative to Bangladesh.

SDC's support focuses on promoting participation and transparency in local affairs. Villagers learn about their rights and responsibilities and how to negotiate their interests in local planning and decision-making. In 2011 and 2012, some 500'000 rural citizens have actively participated in local planning and budgeting processes, and 400'000 rural citizens (40 percent women) have profited from more transparent allocations under the government's safety net programs for the poor. Empowered citizens are in a position to suggesting to the local administration where a public well should be constructed, and by whom; they are confident enough to make a complaint when the treatment in a hospital is miserable, and discriminatory; local citizens are often knowledgeable of the misuse of public funds; thanks to SDC's awareness raising endeavor, corruption cases are unveiled, and the responsible public employees, ideally, are being prosecuted.

Conscious citizens are not meant to be a threat to authorities, but a partner. Citizens do not only have rights but also duties towards authorities as well as towards other human beings. Therefore, in order to establish a constructive relationship between Rights holders and office bearers, the Swiss programs also advise and train local authorities on how to prepare a participatory and transparent budget, on targeting their initiatives on the poorest villagers and on being responsive to the specific needs of women, children and disabled people.

## DEALING WITH HUMAN RIGHTS VIOLATIONS IN CONFLICT

In the last decades, Afghanistan, Bangladesh and Nepal were all in the midst of violent, armed conflicts, always with devastating consequences with regard to the Human Rights of their citizens. Consequently, while working on the resolution of these conflicts as well as reconstruction, the willingness and capacity to addressing Human Rights violations are key for endurable peace and reconciliation – hence for the rebuilding of a social fabric and legitimate State. Responsibilities for Human Rights violations must be established and dealt with, even if they were committed by men and women in arms; victims of torture, rape and forced child recruitment should be acknowledged and re-integrated into society;

militaries, secret services and rebels should open their archives with all relevant information related to Human Rights violations. Each State should strive to establish a political system with sound institutions providing space for civil society to make sure that Human Rights violations can be prevented in future. In Nepal SDC is part of an initiative to promote the establishment of a Truth and Reconciliation Commission meeting international standards. It is however a sensitive issue under the current political conditions and results are not visible easily.

## STAYING ENGAGED IN FRAGILE CONTEXTS

In spite of serious security concerns and a challenging political and cultural environment, Switzerland stays engaged in contributing to a better protecting and enjoyment of the rights of the vulnerable and most discriminated people in South Asia, as prioritized in the respective development cooperation strategies. Capacity building for respect and protection of human rights as well as support and empowerment for the better enjoyment of human rights will be in the core of a meaningful rights based approach in South Asia. Use of international instruments, such as Universal Periodic Review of the United Nations Human Rights Council, fostering dialogue on the national and local level about human rights issues and a special focus on discrimination will assist such an approach. Doing so, the Swiss program is sensitive not only to avoid fuelling conflict, but also to foster the responsibilities of national stakeholders to work on peace and reconciliation amongst communities of different beliefs and back-grounds. Switzerland is considered as a neutral, impartial and independent, hence credible partner. This is particularly important while working on sensitive issues in a challenging context.

When reviewing the first achievements in meeting the MDGs in 2005, the UN Secretary General stated: "Humanity will not enjoy security without development, it will not enjoy development without security, and it will not enjoy either without respect for Human Rights".

Switzerland contributes to this endeavor, in all its partner countries, in particular the ones affected by violent conflicts and fragility. This contribution will be possible thanks to skills and expertise, knowledge of local realities and partners, acceptance by and access to many parties, close alliances with other bi- and multilateral actors and, most importantly, a reliable and professional commitment in favor of Human Rights – towards a life in dignity for all.

**Bangladesh – © Carole Lauener**