

FASTENOPFERPOLICY-STATEMENT

human rights | human rights based approach



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1 Introduction

The 'Fastenopfer Human Rights Policy Statement' establishes the position taken in the organisation's pastoral and development cooperation work with respect to human rights, and defines a human rights-based approach as the framework for its different areas of work. The Policy Statement is intended as a practical guide on how human rights can be integrated into the public relations work, the project and programme work and the advocacy and lobbying undertaken by Fastenopfer (Swiss Catholic Lenten Fund / SCLF).

For this purpose, the Policy Statement addresses the following points:

- Context and Themes
 - Definition of terms
 - Challenges
 - References to human rights in Fastenopfer's work
- Basic positions and principles in Fastenopfer's work
 - Basic positions held by Fastenopfer
 - Principles in the human rights work of Fastenopfer
- The approach adopted by Fastenopfer
 - Strengths and weaknesses of a human rights-based approach
 - Application of a human rights-based approach
- Guidelines for practical implementation

The Policy Statement was approved by the Management on 25 of April 2007.

2 Context and themes

2.1 Terms

Fastenopfer understands human rights to mean: All the rights laid down internationally in the Universal Declaration of Human Rights and in the seven specific Human Rights Conventions¹.

Fastenopfer understands human rights work to mean: Any activity in pastoral and development cooperation work, as well as in public relations work, that helps in the promotion, realisation, exercise and protection of human rights, and that is based on, and made explicit by, concrete reference to human rights.

Fastenopfer understands a human rights-based approach to mean: A conceptual approach that is based on the relevant international human rights standards and principles² and seeks

¹ International Covenant on Economic, Social and Cultural Rights (1966), International Covenant on Civil and Political Rights (1966), Convention on the Elimination of all forms of Racial Discrimination (1965), Convention on the Elimination of all Forms of Discrimination against Women (1979), Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Convention on the Rights of the Child (1989), Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990). The so-called third-generation human rights (collective human rights) do not form part of international agreements since they have not yet been ratified by a sufficient number of countries.

² See Chpt. 3.2.

to operationalise and apply these in all areas of its development cooperation and pastoral work, and at every stage of the development processes.

The decision to adopt this Policy Statement is rooted in the Fastenopfer Mission Statement, the Catholic doctrine on social matters, as well as the general efforts made in development work to comply with human rights principles:

- The Fastenopfer **Mission Statement** stresses its commitment to peace and justice and defines the overcoming of injustice as a fight against poverty by means of ‘just and sustainable’ development: ‘Holistic development, as understood by Fastenopfer, must tackle the root causes of these problems, and transform structures of injustice.’ The reference to legal rights, which a human rights-based approach makes possible, is a logical consequence of the commitment to fight injustice.
- In the **Catholic doctrine on social matters**, especially in the encyclical ‘Pacem in terris’ (1963), human rights are described as the foundation of peaceful and dignified coexistence among peoples, ‘rights which are universal, inviolable and inalienable because they derive directly from the dignity of the person.’³ The text gives a systematic exposition of human rights and declares them as a fundamental condition for peaceful coexistence. Since then, human rights have been an essential part of the churches’ social message.⁴
- The discussions and documents of other, international (UNDP), governmental (SDC, GTZ) or non-governmental (Misereor, Helvetas) **development organisations** also serve as reference points. Human rights work relies on developing extensive networks and on continued joint discussions and actions in order to have an impact on as many levels as possible.

2.2 Challenges

From the beginning of the 1990s, a growing convergence between human rights and development discourses could be noted. The World Conference on Human Rights held in Vienna in 1993 specifically stated that human rights, democracy and development are interdependent and mutually reinforcing⁵. The UN Millennium Summit (2000), in setting out the eight global development goals (Millennium Development Goals), also made an explicit link between human rights and the right to development⁶. Development and development cooperation work were deemed to play an increasingly vital part in the global striving for economic, social and cultural human rights in particular. The key focus of the common objectives of human rights and development cooperation work is the fight against poverty, whereby poverty is seen, from a general perspective, as the result of discrimination, social exclusion and disempowerment, and thus as a violation of rights as set out in international human rights conventions. Therefore, poverty is simultaneously the cause and the consequence of human rights violations.

The consequence of this insight into the human rights dimension of development work was that efforts were made at various levels to elaborate a development policy based on human rights. To arrive at a common understanding, the UN organisations drew up a set of

³ Pacem in terris. In: Bundesverband der Katholischen Arbeitnehmer-Bewegung Deutschlands: *Texte zur katholischen Soziallehre*, Ketteler Publishers, Cologne 1989, p. 321, art.145.

⁴ Vgl. F.Wolfinger : *Die Religionen und die Menschenrechte*, Don Bosco Publishers, Munich 2000, p. 23.

⁵ See www.ohchr.org/english/law/vienna.htm

⁶ See Art.24 of the *Millenniums Declaration*. www.ohchr.org/english/law/millennium.htm

guidelines and principles in 2003 to which such an approach should conform.⁷ This *common understanding* is now generally used as the reference document when elaborating a human rights-based approach:

- All development cooperation (programmes, policies and technical assistance) should further the realization of human rights
- Human rights standards and principles guide all development cooperation in all sectors and in all phases of the programming processes
- Development cooperation contributes to the development of the capacities of ‘duty-bearers’ to meet their obligations and of ‘rights-holders’ to claim their rights.

The common understanding of a human rights-based approach – which is today cited by all organisations as the basis on which they prepare their own approach – postulates that human rights must systematically guide all activities in development work. The human rights-based approach thus goes beyond a development approach as such. It does not determine how development work is done in practice, but it introduces a change in its framework, as well as a change at the conceptual level. Working with a human rights-based approach means implementing a human rights framework, which is adopted as a valid reference, alongside other frameworks, at all levels of the organisation. By adopting the present Policy Statement, Fastenopfer accepts this challenge.

2.3 References to human rights in Fastenopfer’s work

Until the end of the 1990s, the framework for Fastenopfer’s pastoral and development cooperation work was largely a biblical-theological and social-ethical one, i.e. Fastenopfer considered the basis of, and motivation for, its work as religious, and in terms of being part of the Catholic church. However, since the beginning of the new millennium, Fastenopfer’s work has been increasingly guided by references to human rights in all areas of activity (campaigning work, programme and project work, advocacy and lobbying). Below is a brief selection of the many instances where human rights were included in the work:

2.3.1 Campaign work

From 1986 to 1988, human rights were the subject of the three-year ecumenical campaign. By making them a central theme for a period of three years, a lot of attention was given to human rights. However, as was the case with other themes in the 1980s and 1990s (peace, poverty, women etc.), the subject was treated as one area of concern among others, rather than being adopted as a framework for pastoral and development cooperation work. It was only in 2003 that, within the context of the campaign to ensure communication rights, a link was made to concrete human rights (by reference to articles 19 and 27 of the Universal Declaration of Human Rights). Since then, the theoretical foundations of all the campaigns include a more or less direct reference to human rights, alongside the main, theological approach to a particular problem.

2.3.2 Programme and project work

The country programme for Columbia shows a clear orientation towards human rights work both at the programme level (*Eje 2: Democracia, Paz y Derechos Humanos*) and at the project level. In most cases, the particular projects focus on direct human rights work, i.e. they support partner organisations who work specifically on the realisation of human rights. In Columbia, Fastenopfer also participates in a peace programme supported by a consortium

⁷ www.undp.org/governance/docs/HR_Guides_CommonUnderstanding.pdf

of different aid agencies and actors of Swiss civil society, and funded mainly by the Political Affairs Division IV, Human Security, of the Federal Department of Foreign Affairs, which also focuses on human rights.

2.3.3 Advocacy & Lobbying

Within the framework of a position paper on the Millennium Development Goals⁸ of CIDSE (International Cooperation for Development and Solidarity), Fastenopfer committed itself to putting much greater emphasis on the process of achieving the Millennium Development Goals, so that not only will the goals be achieved, but the human rights of those concerned are also guaranteed during the process.

References to human rights featured very frequently in the work of Fastenopfer - in all areas of activity - before this Policy Statement was adopted. However, these references usually remained of a general nature, unsystematic and lacking in clarity. Individual human rights were hardly ever included as specific reference values.

In its pastoral and development cooperation work, Fastenopfer has always given very practical support to promote the empowerment and strengthening of grass roots groups and movements, thus carrying out human rights-relevant work in all its areas of activity. By adopting a human rights-based approach, Fastenopfer is putting this work on a systematic footing, making regular links to specific human rights and emphasising their importance. Fastenopfer is complementing and broadening its original framework by placing a human rights framework alongside it, thus giving its work the objectivity that can be achieved by a human rights-based approach and its reference to a normative framework. Human rights create objective entitlements and obligations which no longer correspond to a subjective perception or interpretation, but rather to legal standards. So the starting point of development processes is no longer only the needs or necessities of those affected, but also their rights, as recognised internationally. And the justification and motivation for assistance and support provided by Fastenopfer are no longer based exclusively on religious, or ethical-moral ideals, but on the legal entitlements of the target groups, whose fulfilment Fastenopfer accepts as its duty.

3 Basic positions and principles in Fastenopfer's work

3.1 Basic positions

3.1.1 Priority to the poor

By focusing its church-based development work on giving 'priority to the poor', Fastenopfer seeks to reach the most disadvantaged and marginalised groups through its pastoral and development cooperation work and to strengthen their position. These are the groups whose rights are least respected and realised, in an environment already disadvantaged by poverty. If the position of these disadvantaged groups is to be improved, it is essential that concrete work is carried out with an understanding and analysis of the power relations, and the involvement of other relevant actors. If Fastenopfer bases its work on the premise that marginalised groups have a legal entitlement, it must understand this entitlement in the context of the circumstances that prevent the realisation of the entitlement.

⁸ CIDSE-Caritas Internationalis Position Paper: More than a Numbers Game. Ensuring that the Millennium Development Goals address Structural Injustice, 2005.

3.1.2 The fight against poverty

In development work, poverty is now understood as a problem that goes beyond economic deprivation – thanks not least to the more central place given to human rights in development discourse. Poverty includes all forms of deprivation or lack of development, and is understood to be the result of discrimination, exclusion and disempowerment. Fastenopfer thus sees the fight against poverty as a process that reintegrates the people affected into collective decision-making and development processes, provides them with greater scope for action and more options to solve problems, and empowers them to use their spiritual and material resources in order to improve their lives.

3.1.3 Commitment to human rights as the church's mission

A commitment to human rights is today an integral part of the church's development work, thanks to the growing involvement of the Catholic church in human rights issues following the Second Vatican Council, and their inclusion in the theoretical principles of social teaching. By giving priority to the most disadvantaged, by its commitment to the fight against poverty, and by its pastoral cooperation, Fastenopfer is promoting values and attitudes that take human rights into account. These values and attitudes must be made explicit in all areas of activity, both inside the organisation and in the dialogue and cooperation with partners. Through its development and pastoral cooperation work, Fastenopfer makes an important contribution to the global realisation of human rights for all people.

3.2 Principles of Fastenopfer's human rights work

3.2.1 The PANEL principles

The human rights-based approach is based on two benchmarks: firstly, the international human rights standards and secondly, the principles set out below. Human rights standards are understood to be the international human rights treaties, and principles refer to the following five PANEL principles laid down internationally for the human rights-based approach:

- **Participation** refers to active, free and meaningful participation at the different levels of a development process. The aim is to include both rights-holders and duty-bearers. The rights-holder is the human being with his inalienable rights. The duty-bearer is the state and its agencies operating at all levels.
- **Accountability**. When setting the objectives of development processes, duties and obligations should be clearly set out. Where a legal claim exists, there is also always a corresponding obligation. At the start of, and during, a process, it is always necessary to analyse why a right is not guaranteed or why a duty is not being met.
- **Non-discrimination, equality and attention to vulnerable groups**. The most disadvantaged groups must be identified in order to develop appropriate strategies for improvement. The realisation of the rights of vulnerable groups demands specific measures, i.e. positive discrimination, because despite the postulate that all individuals are equal as human beings, such groups must be given priority in realising their rights in order to have the same opportunities as the non-disadvantaged.
- **Empowerment**. The capacity of the rights-holders to claim and exercise their rights must be enhanced.
- **Linkages to HR-standards, progressive realisation of rights and non-retrogression**. Human rights standards form the framework for development

strategies, human rights should be progressively realised in the course of development, and retrogressive steps should be prevented.

By adopting a human rights-based approach, Fastenopfer accepts the PANEL principles as essential minimum requirements for its programme and project work. The PANEL principles make it clear that the human rights-based approach does not replace, but rather complements, existing criteria and guidelines in development work. Participation, accountability, positive discrimination and empowerment are concepts that have been successfully applied in development work for many years. However, the human rights-based approach places them on a systematic footing as minimum requirements, encourages the involvement of the relevant governmental actors, and ensures the systematic inclusion of a reference to human rights standards.

While the PANEL principles are primarily conceived for implementation in development programmes and projects, they will also be applied systematically, where this makes sense (accountability, non-discrimination and attention to vulnerable groups, linkages to HR-Standards) in the Campaign and Advocacy & Lobby work.

3.2.2 Inclusion of duty-bearers

The PANEL principles are used to gradually strengthen the capacities of both the rights-holders and the duty-bearers. The regular inclusion of duty-bearers in project work is not a matter of course for an aid organisation that works predominantly at the grassroots level with grassroots communities, groups and movements and, moreover, frequently works in regions where state structures are poorly developed. To avoid creating pressures that reduce the scope for manoeuvre instead of enlarging it, it may be sensible to adopt a flexible approach:

- The inclusion of rights-holders and duty-bearers does not have to happen at the same time. It can be a good idea to first develop the capacities of rights-holders, so that they are in a position to enter into a rights dialogue with state actors. Or, conversely, to raise the awareness of duty-bearers to a degree where they are able to sit at a table with a well-organised grassroots movement. But longer-term planning should aim to include both sides.
- In a country where the government is partly or wholly incapable of functioning, the inclusion of duty-bearers remains a theoretical concept for an indeterminate period. But it is still necessary to develop the capacities of the rights-holders with regard to their rights vis à vis the state, and the state's obligations towards them. If, later on, a process of nation-building occurs, then the human rights claims of civil society can be asserted from the start.
- To achieve the greatest possible effect, it is advantageous to seek cooperation with other actors who work at different levels. Having parallel programmes at all three levels⁹ allows mutual aid via regular exchange. Pressure at the top level can greatly increase the room for manoeuvre at the lower levels in states that are often centrally and hierarchically structured.

⁹ *Grassroots-, middle-range- and top-level.* See the pyramid designed by J.P. Lederach for building peace. For example: crinfo.beyondintractability.org/images/aha/actors_and_approaches-complete.gif

4 The approach adopted by Fastenopfer

4.1 Strengths and weaknesses of a human rights-based approach

Each approach has advantages that justify its application, and reveals weaknesses that have to be recognised and minimised as much as possible. The strengths and weaknesses of an approach result partly from the context in which it is applied, i.e. what proves to be a strength in one context can be a weakness in another.

4.1.1 Strengths

- By its reference to a legal, normative framework, the human rights-based approach helps to bring more objectivity to development work and allows for a more rational argumentation in favour of development.
- With the human rights-based approach, development processes move closer to the people. Starting from their rights, those affected are more likely to perceive these processes as their own, rather than as externally designed models. It is easier to create a consensus between partners in the North and South, as well as between rights-holders and duty-bearers on the basis of a common legal framework, because such a common reference leads to greater mutual understanding and acceptance.
- The reference to a legal system in the human rights-based approach means less political involvement in the negotiations about development, and consequently greater transparency.
- By applying the PANEL principles, marginalised and vulnerable groups are systematically included. This inclusion enhances the sense of responsibility and boosts the self-confidence of the rights-holders, and consequently leads to greater sustainability in the processes.
- The systematic references to rights can have a conflict-reducing effect.
- The human rights language of the human rights-based approach can also be an advantage for a donor organisation in the context of its environment, both as regards the justification of the work, and for campaigning and fundraising.

4.1.2 Weaknesses

- Despite the holistic approach of human rights, the individual articles are often vague in their formulation and leave room for interpretation and implementation. The human rights-based approach does not offer an operational blueprint for development cooperation. A human rights-based approach does not define how development should take place.
- The vagueness in the formulation of human rights leaves gaps (particularly in the field of economic, social and cultural human rights), so that deriving certain 'rights' from these remains a matter of interpretation. The use of legal arguments could lead one to enter uncertain terrain open to different interpretations. In legally disputed cases, a claim founded on political or ethical grounds is likely to be more useful.
- However, despite this vagueness, human rights are deemed to be absolute rights: The legal entitlement exists for everyone, as soon as the corresponding international convention is ratified and comes into force. This absolute entitlement is in contrast to the gradual progress made in the practical work. Each operational implementation requires priorities to be set, which results in goals being achieved progressively.

- Reference to rights and to a legal system may not always be received positively by the rights-holders. Legal systems may in some cases be experienced as tools of repression in the hands of the ruling class, or they may be contrary to traditional communal rights, so that strategies other than a rigid reference to an abstract legal system are needed in order, for example, to strengthen marginalised groups.
- The reference to human rights, and above all the enforceability of these rights, may be inimical to the efforts to promote peace in a conflict-prone environment.
- Human rights are either enforced or not, and cannot be verified in the same way as development processes, with indicators to judge how far they have been implemented. Moreover, the enforcement of a right always remains a matter of interpretation. Therefore, a quantitative statement about the degree of enforcement of such a right is not meaningful.

4.2 Application of the human rights-based approach

Fastenopfer seeks to use the human rights-based approach in a way that allows optimising the benefits of the approach as much as possible while minimising the disadvantages.

4.2.1 General

- The normative framework that can be established by adopting a human rights-based approach must be implemented in all areas of development and pastoral cooperation (campaign work, programme and project work, advocacy and lobbying), and the reference to human rights must be explicit in each area (where advisable, in line with the limitations cited in 4.1), by referring to the respective right and the reference treaties as well as their relevance. Human rights are not applied temporarily, but rather established as a new frame of reference, which will be gradually anchored in Fastenopfer's basic documents.
- The human rights framework does not displace other frames of reference (e.g. theological ones). However, these must be brought into line to be compatible with human rights. The legal argument and justification of development cooperation assumes a central function as a result of a human rights-based approach, but does not replace the political and moral arguments; rather, it complements these.
- All areas of development work require a regular gender analysis, which determines the specific situations of men and women with regard to their human rights.

4.2.2 Programme and project work

- Despite the rights-based framework, a pragmatic approach must be taken in the practical implementation of programme and project work. Where the reference to legal rights encounters rejection from organisations or target groups, or runs counter to efforts of promoting peace, this needs to be analysed and the extent to which such a reference should in fact be made needs to be defined. But the omission of explicit references to human rights can only ever be temporary, i.e. further cooperation must always be geared to the validity of the human rights framework at a later stage.
- During operational planning, decisions must be made on how the reference to human rights will be implemented in pastoral and development cooperation work. Since the holistic approach to human rights cannot be sustained in the implementation of development work, the programme and project work must at least include a definition and justification of what priority is given to those human rights affected by the work to be carried out.
- The PANEL principles are binding as guidelines for the programme and project work.

- Both in the programme and project work, the entitlement to human rights of vulnerable and marginalised groups must be strengthened through positive discrimination, and their enforcement must be a specific concern.
- As regards monitoring, this does not measure the degree to which human rights have been implemented, but rather the degree of implementation of the PANEL principles and of the development activities that were planned and implemented on the assumption that they promoted the human rights of those involved. A qualitative statement on the implementation of human rights cannot be obtained by means of statistics and indicators, but only by a further interpretation based on analyses.

If one wanted to assess the value added to development cooperation by the human rights-based approach, it becomes clear that, in a comparison of the benefits and disadvantages, it is rather modest at the operational level. What changes is above all the frame of reference within which pastoral and development cooperation work takes place, that is a change at the level of ideas, and thus a change in perspective. The added value of the human rights-based approach is correspondingly much greater on the human rights side, whereby growing awareness, the spread and strengthening of human rights ultimately create a framework which in turn is of benefit to the efforts of development cooperation.

The weaknesses of the human rights-based approach or the limitations to which it is subjected in development work in certain contexts would suggest that the approach should be used in an undogmatic way. Despite defining it systematically at the theoretical level, exceptions must be permitted in practice if this helps to ensure that the approach does not have a negative impact on the development processes.

5 Guidelines for implementation

5.1 Fastenopfer in general

- Fastenopfer will implement a human rights framework in addition to its existing frame of reference. New basic documents, policy statements and other theoretical statements that are important for development work will include references to the relevance of human rights for.
- Fastenopfer will examine whether the frameworks are compatible. If there is incompatibility between the frames of reference, Fastenopfer will work towards overcoming this – to the best of its abilities.
- Fastenopfer will implement the human rights framework in all areas of its pastoral and development cooperation work (campaigns, programme and project work, advocacy and lobbying).
- The reference to human rights will (where this is reasonable, bearing in mind the limitations referred to in 4.1) always be an explicit reference to the corresponding treaties and articles, as well as their significance for Fastenopfer's work.
- Fastenopfer will regularly analyse, in all areas of its development work, the specific situation of women and men with respect to their human rights.

5.2 Campaign work

- Fastenopfer is committed to ensure that the annual ecumenical Lenten campaign, as well as – where appropriate – other public relations work will make explicit reference to human rights, and that the respective activities are based on human rights.

5.3 Programme and project work

- The context analysis within the country programmes will include an analysis of the human rights situation in the country.
- The country programmes describe which rights are affected by infringements, why these rights are being violated, and why the government institutions are not meeting their obligations. The country programmes define strategies and activities to overcome these violations. They specify how, when and by whom these respective rights must be enforced.
- The country programmes analyse the existence and the situation of vulnerable groups and define appropriate measures of positive discrimination.
- Project work follows logically from the programme work with regard to references to human rights. In the project description, the reference to human rights is either made directly, or by reference to the corresponding analyses and strategies of the country programme.
- Human rights work in the projects either takes a direct form (support of human rights organisations or activists) or a transverse form (within the core and cross-cutting themes¹⁰ adopted by Fastenopfer).
- A dialogue takes place with the partner organisations and the target groups – where this is meaningful and not counterproductive – about the relevance to human rights of the targets, activities and results of a project.
- The PANEL principles are binding for all projects. Participation, non-discrimination and empowerment are the minimum demands that must be taken into account in each project. The inclusion of duty-bearers, as well as an explicit reference to human rights, must always be demonstrated, at least as a longer-term objective.
- Monitoring within the country programmes and projects measures the level of implementation of the PANEL principles and the development activities that were planned and implemented on the assumption that they would promote the human rights of those involved.
- The aim is to cooperate in the promotion of human rights with other actors and programmes.

5.4 Advocacy and Lobbying

- Fastenopfer accounts for its advocacy & lobbying work, both internally and externally, by the relevance of this work to human rights.

6 Note on the toolbox

The following Fastenopfer documents relevant for human rights work can be found in the *Toolbox* under ...:

- **CT, HR and MDG:** A table that shows which human rights can be linked to which core theme. This helps to establish references to human rights in the work. The table also includes a link to the corresponding MDG.
- **Ratification table:**

¹⁰ See: *Department South, Programme and Project Work, 2003.*