

Official Development Assistance Accountability Act - Consistency with International Human Rights Standards

As per section 4.1 of the Official Development Assistance Accountability Act (the Act or ODAAA), "Official development assistance may be provided only if the competent minister is of the opinion that it (a) contributes to poverty reduction; (b) takes into account the perspectives of the poor; and (c) is consistent with international human rights standards".

The Act defines "international human rights standards" as standards that are based on international human rights conventions to which Canada is a party and on international customary law (see Annex B for the list of such standards).

For its programming to be consistent with international human rights standards, the applicant should be able to demonstrate, at a minimum, that it can reasonably expect to "do no harm", meaning that due diligence is exercised to avoid undermining human rights in the country or community. Many development initiatives go beyond this condition, by directly promoting and protecting human rights in developing countries. Such programming is an even stronger demonstration of adherence to the spirit of the Act.

Background

Canada has international human rights obligations.

By being mindful of the potential for doing harm through development investments, the applicant can avoid or mitigate the risks that marginalized, excluded and vulnerable groups face, and in doing so render its development efforts more sustainable by addressing inequalities and reducing potential sources of conflict. Moreover, some of the treaties to which Canada is a party make specific reference to international assistance as a complement to country resources to ensure the progressive realization of rights that require public investments.

The following are three key aspects of human rights:

- Civil and political rights, such as the freedom of speech, expression or peaceful assembly, must be respected and ensured by the State.
- Economic, social and cultural rights require interventions and public investments by the state and are characterized by their progressive realization. This concept refers to the obligation of the State to take appropriate measures towards the full realization of these rights to the maximum of their available resources. These include spheres such as education, health, employment (including labour rights), agriculture and social programs to ensure adequate standards of living.

- Equality and non-discrimination are other key features of human rights. The applicant should not ignore or exclude certain groups from the benefits of development interventions. Exclusion or discrimination can be based on gender, age, race, color, language, disability, religion, political or other opinion, national or social origin, property, sexual orientation, or other status.

Affirmative action in favor of traditionally excluded groups is a good practice and is not considered as preventing other groups from realizing their own rights. The applicant can choose to focus on advancing specific rights – e.g. girls' access to education, decent employment for persons with disabilities, agricultural livelihoods based on indigenous peoples' knowledge – or contribute to strengthening human rights institutions more broadly.

Demonstrating that Condition of Section 4.1(c) is Met

The initiative documentation (application form, proposal or bid) should contain the following information:

- An outline of key human rights issues, including human rights concerns, relevant to the initiative; and
- Proposed mitigation measures to address any human rights concerns identified.

If there is reasonable expectation that any of the questions below can be answered in the affirmative, then the condition of section 4.1(c) is not met unless appropriate and sufficient mitigation measures are identified by the applicant.

- Will the initiative support activities that directly contribute to civil and political human rights abuses?
- Will the initiative contribute to hampering the progressive realization of social, economic or cultural rights?
- Will the initiative support any activities that discriminate against or actively prevent individuals from realizing their human rights?

3. Mitigation Measures

When human rights issues are identified based on questions number 1, 2 and 3 above, it is important to propose appropriate and sufficient measures to address the potential human rights concerns and, where relevant. **Appropriate** means that the measures are tailored to the identified human rights issue. **Sufficient** means that the measures are

proportionate to the likelihood and magnitude of impact of a possible human rights violation.

Below are some examples of possible response measures:

- Ensuring that risk management includes the risks associated with possible human rights violations in the context of the initiative.
- Building into the logic model and performance measurement framework results that reflect the non-discrimination principle or collection methods that promote participation of marginalized groups in the initiative.
- Developing safeguarding mechanisms (such as codes of conduct, child protection or non-discrimination policies) with associated training and remedial measures when breaches are found.
- Engaging with recognized and accepted representatives of minority and vulnerable groups and community-based organizations, including women's organizations, on a continuous basis throughout initiative implementation to ensure that the interests of vulnerable segments of the target population are taken into consideration.

Annex A: Key Sources of Human Rights Information

- [Treaty Bodies Database](#): This includes States Party Reports, Concluding Observations and General Comments from all the treaty bodies of the Conventions to which the State is a party.
- [Universal Periodic Review](#): Every four years, all UN Member States are reviewed by the Human Rights Council for their overall Human rights record. Recommendations from Member States' delegations often highlight prominent human rights issues. The US State Department's [Human Rights Reports](#) are publicly available and tend to focus mostly on civil and political rights with some broad consideration of economic, social and cultural rights.
- [Human Rights Watch](#) produces country overviews as well as thematic reports and often includes broad human rights considerations, including on social, economic and cultural rights that are of particular interest to Development.
- [Amnesty International](#) tends to focus more specifically on civil and political rights.
- Credible media reports can be used when human rights reporting is dated and where the human rights situation is evolving quickly in a country.

Annex B: What are International Human Rights Standards?

International Human Rights Conventions to which Canada is a Party

Canada has ratified the following international human rights treaties:

- International Covenant on Economic, Social and Cultural Rights ([ICESCR](#))
- International Covenant on Civil and Political Rights ([ICCPR](#))
- Optional Protocol (allowing individual complaints)
- Second Optional Protocol (aiming at abolishing the death penalty)
- Convention on the Elimination of All Forms of Discrimination Against Women ([CEDAW](#))
- Optional Protocol (permitting individual complaints)
- Convention Against Torture ([CAT](#))
- Convention for the Elimination of Racial Discrimination ([CERD](#))
- Convention on the Rights of the Child ([CRC](#))
- Optional Protocol on the Involvement of Children in Armed Conflict
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
- Convention on the Rights of Persons with Disabilities ([CRPD](#))

Additional human rights instruments may also be relevant to this listing, such as the International Labour Organization Conventions, (e.g. Convention No. 182 concerning the Worst Forms of Child Labour) the Rome Statute, and the Geneva Conventions.