

Human Rights and Human Rights-Based Approach

UNIVERSAL DECLARATION OF HUMAN RIGHTS

Human rights are those fundamental/natural/basic rights which are inherent to all human beings, irrespective of their nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. Human rights are universal entitlements guaranteed by international law and treaties endorsed by national governments. All Governments have ratified at least one, and 80 per cent of the States have ratified four or more, of the core human rights treaties. This reflects their consent, which creates legal obligations for them to ensure that these rights are granted and gives a concrete expression to universality. The international law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights of all individuals. First emphasized in the Universal Declaration on Human Rights in 1948, these have been reiterated in numerous international human rights conventions, declarations, and resolutions, predominantly the 1993 Vienna World Conference on Human Rights.

These include, inter alia, various civil, cultural, economic, political and social rights like:

1. Rights to life, liberty, security and dignity;
2. Rights to equality before law, fair, independent and public hearing and effective remedy;
3. Rights to freedom of thought, conscience, religion, opinion and expression;
4. Rights to nationality, freedom of residence, movement and seeking asylum; and
5. Right to education, well-being (food, health, water, sanitation, housing), employment and social security.

These human rights are not only universal and inalienable but also interrelated, interdependent and indivisible. An example is when the civil right to life includes the economic right to social security and the right to development. In fact, the deprivation of one right adversely affects others, while the advancement of one facilitates the improvement of others.

Climate Change and Human Rights

Climate change directly or indirectly has negative impacts on the full realization of human rights. It has a profound impact especially on the right to life and dignity and those related to development, employment, food, health, water and sanitation and housing. It is imperative for the governments as duty bearers to prevent and redress

climate impacts and ensure that the rights of all human beings are safeguarded, especially those who have contributed least to cause climate change but are likely to be most affected. The notion of climate justice links human rights and development for a people-centric approach to climate change. A Rights-based approach to climate change which focuses on all people achieving at least the minimum conditions for living with dignity, through the realisation of their human rights, is what should be promoted at national and local levels. The key considerations guiding this approach have been well compiled in the submission from OHCHR (2015) to COP 21. These include:

- > To mitigate climate change and to prevent its negative human rights impacts
- > To ensure that all persons have the necessary capacity to adapt to climate change
- > To ensure accountability and effective remedy for human rights harms caused by climate change
- > To mobilize maximum available resources for sustainable, human rights-based development
- > To elicit international cooperation and global response, underpinned by international solidarity
- > To ensure equity in climate action
- > To guarantee that everyone enjoys the benefits of science and its applications
- > To protect human rights from business harms
- > To guarantee equality and non-discrimination
- > To ensure meaningful and informed participation

TRAINER'S TIP



This session covers basic concepts and is important for orientation programmes among members of communities, grassroots mobilizers, and others. For advanced course, the trainer can consider skipping the presentation and replacing the

session with a quick ice-breaking discussion using the video on "Integrating human rights, leave no one behind, and gender equality into UN Cooperation Frameworks" from <https://unsdg.un.org/2030-agenda/universal-values>, and discussing on the following questions:

- a. What is the link between HRBA, LNOB and Sustainable Development/Climate Change?
- b. What are the most prevalent forms of inequalities that need to be addressed within a HRBA and LNOB approach?
- c. What is the role of 'duty bearers' in enabling this?

DISCUSSION POINT

The terms 'rights-holders' and 'duty-bearers' are often heard in the context of human rights. Ask the participants what they understand by these terms.

Facilitator Clues

- > Rights-holders are all individuals who are entitled to unalienable and universal human rights without any discrimination.
- > Duty-bearers include the Government or the State typically represented through public bodies, which has an obligation to ensure and realize the human rights of everyone.

THE HUMAN RIGHTS-BASED APPROACH

The strategy for implementing human rights is called the Human Rights-Based Approach (HRBA). It is one of the key guiding principles of the United Nations Sustainable Development Cooperation Framework. HRBA is a conceptual framework for "the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyse inequalities that lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress and often result in groups of people being left behind." (UNSDG n.d. (a)).

There are two main rationales for a human rights-based approach: i) the intrinsic rationale, acknowledging that a human rights-based approach is the right thing to do, morally or legally; and ii) the instrumental rationale, recognizing that a human rights-based approach leads to better and more sustainable human development outcomes. In practice, the reason for pursuing a human rights-based approach is usually a blend of these two (OHCHR 2006).

HRBA requires that:

1. Any and all programmes should aim for the realization and advancement of the human rights of the concerned target group;
2. The planning and implementation phases of all programmes should be guided by human rights principles of universality, indivisibility, equality and non-discrimination, participation, and accountability; and
3. All programmes should have a focus on developing the capacities of both 'duty-bearers' to meet their obligations, and 'rights-holders' to claim their rights.

Translated to practical action, this would mean recognizing the inequalities existing in the society through disaggregated data collection; enhancing the empowerment and participation of the groups which face discrimination in the planning and decision-making process; allocating resources specifically for addressing the concerns of these groups and removing structural barriers to inequalities.

Inequalities and the Human Rights-Based Approach

The key focus of the HRBA is recognizing that rising inequalities are a major concern for the society. These do not only impact poverty reduction and economic development initiatives but also undermine the enjoyment of human rights, social cohesion, peace and sustainable development.

These inequalities come in multiple forms:

1. Inequalities of wealth and income;
2. Inequalities in opportunities and outcomes related to education, health, food security, employment, housing and health services; and
3. Inequalities due to race, ethnicity, religion, age, disability, sexual orientation and gender identity.

Entrenched in barriers across all economic, social, political, cultural urban and environmental domains, these inequalities often lead to: i) systematic disadvantages; ii) generational perpetuation of discrimination; and iii) unequal distributions of power, resources and opportunities. These inequalities threaten the right to development, and addressing them is critical for realizing the 2030 Agenda for Sustainable Development. This entails overcoming the structural barriers and challenging discriminatory laws, policies, social norms and stereotypes, which can be achieved by putting the human rights agenda in the forefront of all development programming.

DISCUSSION POINT

Ask the participants, what they think is the most prevalent form of inequality which needs to be addressed within the human rights-based approach?

Facilitator Clues

- > The most prevalent form of inequality is gender-based discrimination which is rampant across all regions and has been prominently highlighted in the CEDAW. (Tell the participants you will be discussing CEDAW more through an exercise in Session C.)
- > Deep-rooted in culture, societal practices and sometimes even law, harmful gender stereotypes, prejudices and practices prevent the full realization of women's human rights.
- > Particularly prominent among these are restrictions on access to and control over resources, information and education, limited opportunities to decent work and proper wages; and under-representation in decision-making bodies and processes.
- > A human rights-based approach to development thus complements and reinforces gender mainstreaming – or the integration of a gender perspective in development activities.
- > HRBA needs to have a specific component of including women's human rights and prohibiting sex discrimination.

Leave No One Behind

UNDERSTANDING LEAVE NO ONE BEHIND

Leave No One Behind (LNOB) is the central, transformative promise of the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs). LNOB entails “not only reaching the poorest of poor but also ending discriminations and inequalities that exempt people from realizing their full potential.” (UNSDG n.d. (b)). LNOB is important as leaving anyone behind in poverty without access to water, housing, education, social protection, and others is a gross violation of human rights. However, it is also a development concern, as growing inequalities not only leads to slower economic growth but can also generate social tensions and political instability, thereby further slowing down the progress made towards attaining the SDGs (UNSDG 2019).

The key principle of LNOB is to move beyond aggregates and averages while measuring progress on development indicators and ensuring that all population groups benefit from the progress. This requires disaggregated data for planning to identify those excluded or discriminated against, understanding the structural barriers to resources and opportunities, and addressing the root cause of the exclusion (UNSDG 2019). In short, LNOB compels us to focus on discrimination and inequalities (often multiple and intersecting) that undermine the agency of people as holders of rights (UNSDG n.d. (b)).

UNDP (2018) has recognized five key factors which influence LNOB. These are highlighted in Figure 1-1 and include discrimination, geography, shocks and fragility, governance and socio-economic status.

Operationalizing LNOB requires an integrated approach to identify who is being left behind and why; targeting of programmes; identifying effective measures to address root causes; monitoring and measuring progress; and ensuring accountability for LNOB (UNSDG 2019). These are summarized into three levels:

- 1. Examine** why people are left behind – collect and use more and better disaggregated data and people-driven information.
- 2. Empower** those who are left behind – ensure their meaningful participation in decision-making and establish safe and inclusive mechanisms for their civic engagement.
- 3. Enact** policies, laws, reforms, interventions – curb inequalities and uphold minimum standards of well-being.

The most critical element to this, however, is enabling the disadvantaged and marginalized individuals and groups to actively participate in decision-making processes at all levels of programming. The success of targeted policies and programmes as well as those addressing structural inequalities will depend largely on the level of effective participation and meaningful consultation of the actual target audience.

FIGURE 1-1: FACTORS FOR ASSESSING LNOB



Source: UNDP (2018).

DISCUSSION POINT

Ask the participants, who are those who are "left behind."

Facilitator Clues

- > People who are left behind in development are often economically, socially, spatially and/or politically excluded (for example, due to ethnicity, race, gender, age, disability), leading to multiple discriminations.
- > They often have no voice (for example, children, indigenous communities) and are disconnected from societal institutions, lack information to access those institutions, networks, and economic and social support systems to improve their situation, and are not consulted by those in power.
- > They are not counted separately (for example, women, elderly, disabled) or at all (for example, illegal immigrants and refugees) in official data – they are invisible in the development of policies and programmes.

LEAVE NO ONE BEHIND INDEX

ODI in 2019 reviewed the readiness of 159 countries to 'leave no one behind.' Since 2018, the index also has an additional policy indicator on resilience (Chattopadhyay and Manea 2019). It includes a new 'leave no one behind' outcome score for each country that captures the extent

to which real-world outcomes on leaving no one behind are improving. The index shows that 81 countries are 'ready' to meet their 'leave no one behind' commitment, 54 are 'partially ready,' 12 are currently 'not ready' and 12 have 'insufficient data.' The status of select countries from Asia (Table 1-1) shows that most countries are still in the Ready or Partially Ready category.

TABLE 1-1: LEAVE NO ONE BEHIND INDEX

COUNTRY	DATA (Household Surveys)	POLICY (Equal Access to Employment, Land and Health)	FINANCE (Education, Health and Social Protection)	OVERALL LEAVE NO ONE BEHIND READINESS SCORE	OUTCOME SCORE (Under-Five Mortality Rate, Undernourishment, Access to Finance and Electricity)
BANGLADESH	Ready	Not Ready	Not Ready	Partially Ready	Partial Progress
CAMBODIA	Ready	Partially Ready	Not Ready	Partially Ready	Partial Progress
CHINA	Not Ready	Ready	Partially Ready	Partially Ready	On Track
INDIA	Ready	Not Ready	Partially Ready	Partially Ready	Partial Progress
INDONESIA	Ready	Partially Ready	Partially Ready	Ready	Partial Progress
MALAYSIA	Ready	Partially Ready	Partially Ready	Ready	On Track
NEPAL	Ready	Not Ready	Not Ready	Partially Ready	Partial Progress
PHILIPPINES	Ready	Partially Ready	Partially Ready	Ready	Partial Progress
SRI LANKA	Ready	Partially Ready	Partially Ready	Ready	On Track
VIETNAM	Ready	Partially Ready	Not Ready	Partially Ready	Partial Progress

Source: Chattopadhyay and Manea (2019).

Gender Equality and Intersectionality

GENDER EQUALITY FOR HUMAN RIGHTS AND DEVELOPMENT

Given that non-discrimination on the basis of sex and gender identity is a fundamental universal human rights principle, it is crucial to focus on gender equality in development policies and programmes (UN Women 2014). Besides, it is also a prerequisite for advancing the key development agendas (World Bank 2012):

1. Improving national productivity and sustainable economic growth;
2. Improving social and human development outcomes especially for food, nutrition, education, health and family welfare; and
3. Improving policy decisions required for more peaceful and equitable societies.

Therefore, achieving gender equality is a goal sought across international development practice (UN Women 2014). Over the years, many international charters and conventions have endorsed and reinforced the need to focus on women's empowerment and gender equality (see Table 1-2).

Protection of human rights of all women and elimination of gender-based discrimination have thus been recognized as key responsibilities of all governments as "duty bearers." Yet gender-based discrimination remains the most all-pervading forms of deprivation around the world, as highlighted in the recent Global Gender Gap Report (WEF 2020). Many women still do not fully experience equal rights, and are often denied equality of opportunities in education, health, employment and resource ownership. They also continue to be under-represented in power and decision-making roles.

TABLE 1-2: MAJOR INTERNATIONAL COMMITMENTS TO GENDER EQUALITY

INTERNATIONAL COMMITMENT TO GENDER EQUALITY	YEAR OF ADOPTION	KEY PRINCIPLES/RESOLUTIONS ADOPTED
UNITED NATIONS CHARTER	1945	Equal rights of men and women. Article 1 of its Charter is “To achieve international co-operation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”
CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)	1979	Dedicated to the realization of women's human rights. The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life—including the right to vote and to stand for election—as well as education, health and employment. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms. The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. In 2018, the CEDAW Committee also adopted General Recommendation No. 37 on gender-related dimensions of disaster risk reduction in the context of climate change. (This has been discussed later in the section on gender equality, Session C).
INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT (ICPD)	1992	Adopted a programme of action, highlighting the integral linkages between population and development, emphasizing on the fundamental role of women's interests in population matters. The ICPD also introduced the concepts of sexual and reproductive health and reproductive rights.
THE BEIJING DECLARATION AND PLATFORM FOR ACTION	1995	Embedded gender equality and women's rights in every facet of life. The Platform for Action imagines a world where each woman and girl can exercise her freedoms and choices, and realize all her rights, such as to live free from violence, to go to school, to participate in decisions and to earn equal pay for equal work. The Platform for Action covers 12 critical areas of concern that are as relevant today as 20 years ago: poverty; education and training; health; violence; armed conflict; economy; power and decision-making; institutional mechanisms; human rights; media; environment; and the girl child.
SUSTAINABLE DEVELOPMENT GOALS (SDGs)	2017	Included a specific goal (SDG 5) for gender equality underscoring the need to recognize this as a development objective and include targets for ending gender-based violence, eliminating child marriage and female genital mutilation, and ensuring access to sexual and reproductive health; ensuring equal access to education, expanding women's economic opportunities, and reducing the burdens of unpaid care work on women and girls. It also pledges “significant increase in investments to close the gender gap and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, regional and national levels.”

Source: Adapted from UN Women (2014).

TRAINER'S TIP



You can also use some of the sharable infographics from Handout 2 for the presentation. Handout 2 brings together some critical infographics from this report which highlight the key gender gaps.

These not only hamper their own growth but also deny the world the opportunity to benefit from women's potential as economic, social and sustainable development change-agents.

It is thus important to empower women so as to expand economic growth, promote social development and establish more stable and just societies. Women's empowerment has become an important approach within all development approaches.

However, as one moves into the creation of a more equal society, it is important to move beyond women's empowerment to focus on gender equality.

- > This requires thinking beyond only women and look towards eliminating sex and gender-based discriminations also for lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) individuals. It is important to acknowledge that the term 'gender' has diversified itself beyond the binary conceptions of a man and a woman and it is important to have a feminist, queer and intersectionality perspective while addressing gender concerns.
- > There is also the need to recognize that women are not a homogenous community, and some groups of women face compounded forms of discrimination – due to factors such as their age, ethnicity, disability, or socio-economic status – in addition to their gender. For example, indigenous women often experience different but intersecting types of discrimination. Indigenous women who live in poor and remote communities and have less formal education are likely to experience more than one of the deprivations and disadvantages.

The HRBA approach to gender equality thus uses an intersectionality lens which acknowledges that women have different experiences and perspectives based on aspects of their identity, including race, class, caste, ethnicity, sexual orientation and gender identity, disability, religion, age, marital status, indigenous status and migration status. The emphasis is then on reaching the most marginalized groups and tackling different kinds of inequality as part of LNOB. This is significant from a gender perspective, as it can highlight women who experience multiple forms of discrimination and have been historically excluded. The concept of multiple and intersecting forms of discrimination describes overlapping identity-based inequalities that create additional forms of discrimination.

TRAINER'S TIP



You can also refer to Session 2 of ARROW's Intersectionality module for more details. It can be downloaded from https://arrow.org.my/wp-content/uploads/2019/03/E-Module_InterSEXionality.pdf.

DISCUSSION POINT

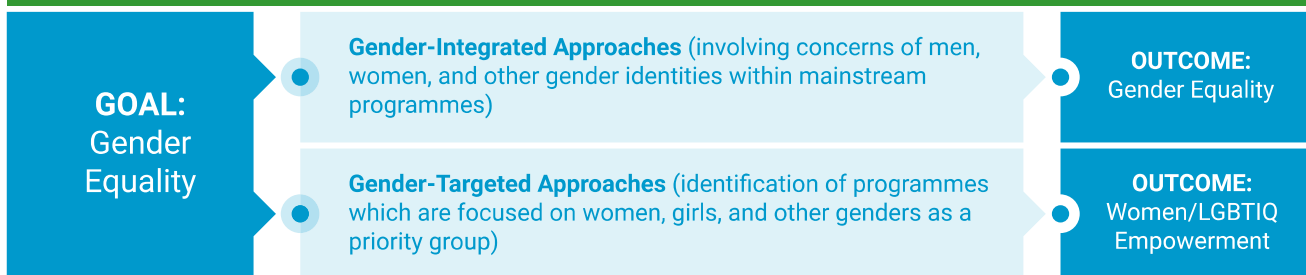


Ask the participants why they think it is important to move beyond only binary gender identities to gender and intersectionalities.

Facilitator Clues

- > Equating gender to men and women tends to ignore the needs and concerns of LGBTIQ people (those with other sexual orientation and identities). These groups also have specific concerns which cannot be equated with any one binary identity. For example, in many Asian societies, transgender people are not provided access to mainstream shelters and/or are often forced to share male quarters which exposes them to sexual harassment.
- > Also, women are not a homogenous group. The traditional notion of women even in gender discourse often tends to be equated with white, straight, able-bodied and young women of reproductive age. Gender roles, responsibilities and stereotypes are not universal; thus, it is important to understand the roles and responsibilities related to women from different races, ethnic groups, sexual orientation, ability and age. Such analyses will not only help understand the actual concerns faced by these women but also bring to light the multiple deprivations and discriminations faced by them. For example, the challenges faced by a young adolescent (dis)abled girl from a minority ethnic community will be different (and often additional) from young adolescent girls from majority communities as well as from other girls and women from her own community.

FIGURE 1-2: GENDER EQUALITY STRATEGIES



Source: Adapted from UN Women (2014).

OPERATIONALIZING HRBA AND LNOB WITH A GENDER LENS

Application of gender lens does not always mean special treatment for women and other gender groups. What is needed is to set aside the gender bias or the ‘Male Norm’ across all phases of programming and to be sensitive to ways in which unexamined attitudes about men and women lead to the unintended result of biased decision-making. Once this sensitivity is achieved, it needs to be reinforced by analysis of gender. For this, there is the need for sex, age and diversity-disaggregated data. Said data need to acknowledge the diversity of this issue recognizing multiple gender identities, gender roles and different needs, rather than treating gender as a homogenous group of women. This analysis then needs to be applied to assess the implications of any planned action, including legislation, policies or programmes for men and women as well as across other gender and social identities. Additional actions/safeguards need to be inbuilt into the programme to ensure that the benefits reach out to all genders and across social groups.

All these processes need to be a part of the basic programme designing and not to be undertaken as an afterthought. The process of gender mainstreaming entails the inclusion of these as standard programme design/ project development practices at all levels and in all sectors. As defined by the UN Economic and Social Council (1997), Gender Mainstreaming “is the process of assessing the implications for women, men (and other gender identities) of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making differential gender concerns

and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that everyone benefit equally and inequality is not perpetuated.” (ECOSOC 1997).

Along with this, UN Women (2014) also recommends the inclusion of a stand-alone gender equality goal which addresses the following: freedom from violence against women and girls; gender equality in the distribution of capabilities; and gender equality in decision-making in all spheres of public and private life, to achieve this, in addition to mainstreaming of gender. This requires a gender transformative approach emphasis that “the commitment to gender equality should be universal; address the structural foundations of gender-based inequality, including in the three dimensions of sustainable development – social, economic and environmental; and ensure accountability” (UN Women 2014). For this, there is a need to understand structural, power and political dynamics that push particular groups further behind and deepen inequality. There is also a need for a comprehensive package of policies and programmes which include universal social protection and essential services to ensure an adequate standard of living, and redistributive and progressive tax policies to address income inequality.

The ultimate goal of both these approaches is gender equality. Most developmental organizations have, however, adopted a twin-track approach to enable gender equality, which includes focus on both integrating gender concerns as well as on empowering specific groups of women and those with other gender identities.

Gender Equality – A Case for Correcting Market Failures

Gender equality is a politically intricate issue. On one hand, there is a growing awareness and acceptance of the need to ensure gender equality. On the other hand, actual policy decisions that endorse equitable distribution of resources among various genders still have a long way ahead. This is despite the fact that gender equality is not only a “women’s issue” but a human rights issue, and should be seen as a pre-condition for, and an indicator of, sustainable people-centric development.

Sustainable development relies on ending gender discrimination and providing equal opportunities to everyone especially for education and employment. Achieving the SDG targets and 2030 Agenda requires thorough gender mainstreaming and a gender transformative approach applied to all public policies and programmes. The interests, needs and priorities of both women and men will need to be taken into consideration in all programme designing while also recognizing the diversity of different groups of women and men.

The intrinsic link of gender equality with intra-household decision-making, however, often makes this a challenge, as governments seek to refrain from interfering in personal choices and to some extent provide a tactical endorsement to existing socio-cultural gender norms. Nevertheless, a case needs to be made for addressing the gender inequalities on intra-household allocation of resources by understanding that these are influenced by market signals and institutional norms that do not capture the full benefits to society of investing in women’s equality of life. This often creates a burble in economic efficiency and growth. Public policies need to compensate for these market failures by ensuring resources to those investments with the highest social returns and equalizing opportunities for various gender and social groups. Without addressing the issue of existing inequalities, neither sustainable development nor human rights will be realized to its full potential.

DISCUSSION POINT



End the session by asking the participants to share examples of gender mainstreaming and gender transformative projects.

Facilitator Clues

- > Providing livelihood trainings, employment of women in project construction activities, women’s participation in planning, micro finance for women, separate facilities – schools, shelters, toilets and others – are examples of gender mainstreaming within projects. For example, the Asian Development Bank (ADB) funded the Cambodia Greater Mekong Subregion Southern Economic Corridor Towns Development Project to provide for flood protection measures for women from climate change-related flooding, and to lighten their burden of cleaning up after a flood and caring for family members with flood-related water-borne diseases. With respect to adaptive infrastructure, roads integrated into flood protection schemes will give women better access to services and markets and improve their mobility. The two urban mass transit projects in Vietnam – Strengthening Sustainable Urban Transport for Ha Noi Metro Line 3, sets aside space for women’s shops and women-vendors, and has provisions for priority seating for women and scheduling based on women’s transportation needs; and the Sustainable Urban Transport for Ho Chi Minh City Mass Rapid Transit Line 2 is designed with women-only waiting spaces, lighting for safety, separate toilets, and shop spaces for small businesses owned or run by women (ADB 2016).
- > Projects providing life skills to adolescent girls and boys and active engagement of key stakeholders (schoolteachers, local government representatives, health service providers) to understand and challenge gender discriminatory practices, addressing gender-based violence and creating institutional response mechanisms; enabling women’s ownership rights to land, house and other property would constitute ‘gender transformative’ projects. For example, the Ethnic Minority Women’s Empowerment project by CARE International in Vietnam focuses on empowering remote ethnic minority women to actively participate in local socio-economic development planning and decision-making (WECF 2016).