

# A Human Rights-Based Approach to Tobacco Control: Delineating the Rights-Holder and Duty-Bearer

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# Human Rights & Tobacco Control

- **What are Human Rights?**
- **Human Rights-Based Approach to Tobacco Control**



A human rights-based approach identifies rights holders and their entitlements and corresponding duty-bearers and their obligations, and works toward strengthening the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations.

# Human Rights-Based Approach

Human Right = Valid claim & Corresponding duty  
(*"X has a right against Y in relation to Z"*)



*E.g.: "A child has a valid claim to a right to health, which is realized through the duties of the national government to provide free vaccinations."*

**Goals** – (1) Define duty-bearers and rights-holders, (2) Impose legal obligations on duty-bearers, (3) Inform rights-holders of their rights, how those rights relate to tobacco control, and how these rights can be claimed and enforced.

# Rights-Holders & Duty-Bearers: The Traditional View

## Rights-holders

- Every individual, either a man woman or child, of any race, ethnic group or social condition
- Collective-rights?

## Duty-bearers

- Primarily States
- In some cases individuals have specific obligations
- Individuals and private entities have some responsibilities to respect the rights of others

**Issue: What do you do when the problem affects a segment of rights holders or cannot be influenced solely by the state as a duty-bearer?**

# Obligations

**Duty-bearer's  
obligation to**

**Respect**

**Protect**

**Fulfill**

**refrain from  
interfering with  
the enjoyment  
of the right**

**prevent others  
from interfering  
with the enjoyment  
of the right**

**adopt appropriate  
measures towards  
full realization of  
the right**

# Causal Analysis

- Analysis of immediate, underlying and structural causes of development challenges identified
- **Identify main patterns of exclusion and other root causes of problems**
- **Programmatic context**
  - **Right-holders' disparities** in enjoying rights
  - **Duty-bearers' efforts** to meet their obligations
  - Existence of laws, policies and institutional mechanisms

## **Define the problem**

- Which rights are being violated or unfulfilled?
- Which groups of people are most affected by the problem?
- What are the causes (immediate, underlying, fundamental) of the problem and the rights violations?

## **Define the goal**

- What is the overall rights-based goal?
- Which interventions are needed to achieve the goal?
- Who are the main stakeholders? What are their responsibilities?
- What are the opportunities and facilitating factors for the stakeholders to fulfil their responsibilities?

# Responding to Harm – Capacity Gaps

- Look at the Rights Holders and the Duty Bearers involved, and the capacity gaps that have been identified
  - Unrealized rights
  - Identify Rights- Holders and Duty-Bearers, their roles and responsibilities
  - Identify related elements of capacity gap
- Negotiate interventions that would bring about positive change on the realization of rights (at output and outcome level)

# Application to Tobacco Control

## ■ **Rights holders**

- Who are they?
- What are their claims?

## ■ **Duty bearers**

- Who are they?
- What are their duties?

## ■ **Capacity gaps**

- Knowledge
- Responsibility/  
motivation/  
leadership
- Authority
- Legal/institutional  
frameworks
- Access to and  
control over  
resources



# Rights Holders

- Children
  - Women
  - Disabled
  - Smokers
  - Imperfect Obligations?
- Identifying Rights-Holders
    - Severity of harm
    - Pervasiveness of harm
    - Most marginalized in relation to the goal

# Rights

- Respect, protect, and fulfill rights to:
  - Life
  - Health
  - Clean Environment
  - Education
  - Freedom from Discrimination
  - Privacy
- **Identifying Rights**
  - Long-term vision
  - Related to Problems and Goals
  - Focuses on individual-level
  - Reinforces interdependence of rights
- **Sources of Human Rights**
  - International Treaties
  - Regional Treaties
  - National Constitutional & Statutory Law
  - "Soft Law"

# Duty Bearers

- State
- International Community
- Tobacco TNCs
- Public Health NGOs
- Family Members

## Identifying Duty Bearer - Responsibility Analysis

- Who is responsible for the harm?
- Who is responsible for respecting, protecting and fulfilling the right?
- Who has the power to affect change?
- What must they do programmatically (what are obligations)?
- What are the obstacles that prevent duty bearers from meeting their obligations?

# Model for Human Rights Accountability in Tobacco Control

## Rights Holders

- Children
- Women
- Disabled
- Farmers
- Smokers

## Rights

- Life
- Health
- Clean Environment
- Education
- Freedom from Discrimination
- Privacy

## Duty Bearers

- State
- International Organizations
- Tobacco Companies
- Public Health NGOs
- Family Members



# Rights-Holder + Rights + Duty-Bearer = Programmatic Action?

## Strengthen Each Causal Link

- Strengthen accountability and capacity of duty-bearers to respect, protect and fulfill rights
- Strengthen rights-holders engagement and capacity in claiming rights
- Strengthen institutional enforcement mechanisms at the national and local levels.

## Enforcement - Putting Rights into Practice

- advocate for policies, laws, programs, and budget allocations
- raise awareness of and publicize rights violations (in the language of human rights)
- establish and monitor standards, rules and procedures
- use courts to claim entitlements and to achieve justice and equality.

A Human Rights-Based  
Approach to Tobacco Control  
ensures that tobacco control  
organizations work to develop the  
capacities of duty-bearers and  
rights-holders