Ludwig Boltzmann Institute of Human Rights (BIM)

HOW TO MAKE LOCAL
DEVELOPMENT WORK FOR ALL
HUMAN RIGHTS-BASED APPROACH TO
LOCAL DEVELOPMENT PLANNING

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How to Make Local Development Work for All – Human Rights-Based Approach to Local Development Planning

(BIM Tool 3)

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Abbreviations

RM	-	Republic of Macedonia
BIM	-	Ludwig Boltzmann Institute of Human Rights
CIS	-	Commonwealth of Independent States
HRBA	-	Human Rights Based Approach
LDP	-	Local Development Plan
HR	-	Human Rights
MDGs	-	Millennium Development Goals
NDP	-	National Development Plan
PRS	-	Poverty Reduction Strategies
RMAP	-	Rights-Based Municipal Assessment and Planning Project
SWOT (Analysis)	-	Strengths, Weaknesses, Opportunities, Threats (Analysis)
MLSP	-	Ministry of Labour and Social Policy
TOT	-	Training of Trainers
OHCHR	-	Office of the High Commissioner for Human Rights
UNDP	-	United Nations Development Programme
WHO	-	World Health Organization
OMC	-	Open Method of Coordination
CSW	-	Centre for Social Welfare
NGO	-	Non-Governmental Organization
CSO	-	Civil Society Organization

Contents

Introduction

This publication provides the opportunity for getting acquainted with the Human Rights Based Approach and its practical application in the processes of planning and development of strategies, programs and plans at local level. The focus is on the local Strategies for social inclusion and eradication of poverty among poor and marginalized individuals at local level. The publication consists of the following components:

Part 1 – Provides basic information about the relationship between poverty and human rights, as a basis for justification and further application of the Human Rights Based Approach into strategies dealing with social exclusion and poverty reduction. It links them to development efforts, incorporating them as constitutive part of the development strategies. There is a separate overview on the efforts undertaken at EU level, taking into consideration our country's aspirations to become an integral part of it.

Part 2 – Elaborates the main elements of the Human Right Based Approach in general.

Part 3 - Provides elaboration of HRBA into local strategies for social inclusion and eradication of poverty, adapted to Macedonian circumstances. It contains information about the steps that should be undertaken, starting with the necessary preconditions or preliminary steps in order to achieve effective realisation of the process. The participatory approach is emphasised as a crucial point for achieving effective and sustainable local planning.

1.Development, Poverty and HRBA

When we speak about a HRBA and its application in development strategies, it is necessary to briefly elaborate the relationship between human rights and poverty, or development, taking into consideration that "poverty reduction is a central element of a broader goal – development".[1]

In the past two decades, at international level, there is an evident tendency for linking poverty reduction or development efforts with the realisation of human rights. From a development perspective, significant steps for linking poverty reduction efforts with human rights were made with the establishment of the so-called people-centred approaches: the participatory and capability approaches which "differ in their theoretical origins, but share a common concern for people, both as beneficiaries and actors in development. Both, the participation and capability approaches emphasise the importance of the human agent, what poor people can do by themselves, and the importance of 'empowerment' as both an end and a strategy for poverty reduction. As a strategy, these perspectives recognise the importance of the economic growth, but also emphasise the institutionalised structures in society as a root causes of poverty".[2]

Poverty is at the same time, both, a factor of denial to human rights, but also a consequence of non-enjoyment of rights as such."On one hand, without a minimum amount of material resources and physical and social goods, it is impossible to enjoy civil, political, economic, social and cultural rights.

1. Operationalizing Human Rights – Based Approach to Poverty Reduction, Interim Pilot Project Report, UNDP 2007
2. Human Rights and National Poverty Reduction Strategies, Sakiko Fukuda – Parr 2007

On the other hand, the non fulfilment of human rights prevents people from escaping poverty".[3] For example, while assessing the status of women in our country, a practice was identified of parents making a choice to continue the education of their son instead of the education of their daughter. In such situation, due to lack of finances, girls are deprived of their right to education. On the other hand, the denial of the right to education in the future might obstruct them in finding a decent job and having a decent standard of living, which enables them to escape the circle of poverty.

One cannot discuss about effective poverty reduction strategy without referring to changes and improving the living conditions of the most poor and vulnerable groups of the population. Therefore, the Human Rights Based Approach is applied, which focuses on improving the position of poor and vulnerable groups in accordance with the internationally guaranteed human rights and freedoms. The HRBA perceives development as a process for realisation of rights and freedoms, challenging the existing "positions" which are in favour of economic growth, neglecting other areas of priority. Human rights, on one hand, can be used to assess whether the development efforts have improved peoples' lives, and on the other hand, if the exercise of human rights contributes toward more effective and sustainable development programs. Moreover, the economic approaches to poverty strictly emphasise and focus on the economic growth and identify the lack of income as a central problem in this regard.

The holistic approach to development draws attention to all areas, especially to the social development. "If the development of the area is to be successful, it has to develop evenly in all its aspects. Economic development alone will not assure high quality of life. If social and environmental development needs are addressed simultaneously the progress will be smoother and faster".[4] Thus, the preparation of strategies for social inclusion and eradication of poverty should be a constitutional part of the development strategies in general, aimed at achieving high level of human development and full exercise of human rights and freedoms.

The table below compares the human rights perspective and development perspectives in relation to poverty reduction (within the development perspective an overview is given to the economic approach and people-centred approaches).

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3. Ibid
4. UNDP policy paper, How to Make Local Development Work, selected practices from Europe and the CIS, 2002

E.g. Matrix: Comparing human rights and development perspectives in national strategies for poverty reduction

	Human rights perspective	Development perspective: economic	Development perspective: capability approach
Normative principles (Intrinsic value of HR; HR as ends)	Strong: International human rights standards – international law and national constitutions. Accountability of the state, non-state actors and international community.	Weak: Tradition of value neutral economics. National autonomy. Political neutrality of international community.	Strong: Human wellbeing as a goal
Analysis: trends	Trends of capability approach. but also focus on the poorest and most vulnerable. Individual case documentation.	Trend: Incidence of income poverty, social indicators, national aggregates.	Trend: Incidence of income poverty, social indicators, national ag-gregates, disaggregated trends by region, gender, rural/urban, identity groups. Inequality and poverty.
Analysis: Causes	Denial of human rights and poverty as cause and consequence.	Economic and social factors.	Economic, social and political factors, also lack of power and voice.
Policy Priorities (Economic, social and governance policies)	Empowerment of the most deprived and most vulnerable. Equality. Eradicate discrimination. Protect against severe human rights abuses. Access to justice.	(pro-poor) Economic growth. Stable macroeconomic environment. Social investment not neces-sarily primary level.	Pro-poor growth. Social investment in basic services first. Access to economic as-sets, voice and account-ability (Empowerment and participation.) Reduce poverty and inequality.
Policy Tools	International law. National law.	Investments and incentives.	Investments and incen-tives.

How to Make Local Development Work for All – Human Rights-Based Approach to Local Development Planning

1.1 The Millennium Development Goals, EU Social Agenda, Open Method of Coordination

Poverty eradication is a primary goal of the new Millennium. Governments have committed themselves to taking action through strategies and programs which aim to reduce poverty. [5]

On the other hand, the European Union has established a framework for development of national strategies for combating poverty and social exclusion through the Open Method of Coordination (OMC) on social protection and social inclusion. The Open Method of Coordination – OMC was established as a tool of the Lisbon Strategy (2000), as part of the employment policy. The EU member states have recognised the importance of strengthening their efforts in the field of combating poverty and social exclusion, thus establishing the OMC as a basis for this purpose.

"It is a **voluntary process** *for political cooperation* based on agreed <u>common objectives</u> and <u>common indicators,</u> which shows how progress towards these goals can be measured. It involves candidate countries as well, preparing them for this objective.

The overarching objectives of the Open Method of Co-ordination for social protection and social inclusion are to promote:

- social cohesion, equality between men and women and equal opportunities for all through adequate, accessible, financially sustainable, adaptable and efficient social protection systems and social inclusion policies;
- effective and mutual interaction between the Lisbon objectives of greater economic growth, more and better jobs and greater social cohesion, and with the EU's Sustainable Development Strategy;
- good governance, transparency and involvement of stakeholders in the design, implementation and monitoring of policy". [6]

One of the priority areas of the revised Social Agenda is combating poverty and social exclusion and discrimination. In this regard, the Commission stresses the **creation of opportunities**, access and solidarity as grounds for accomplishment of set goals and objectives. The creation of opportunities is achieved through continued efforts for creation of more and better jobs, thus increasing the welfare of the population. This requires tackling obstacles, involvement of each relevant actor at local level, promotion of gender equality, combating poverty and social exclusion. In order for individuals to embrace opportunities, they should be **granted access** to them – access to education, health protection, social services etc. People should be actively involved and integrated into the social life. **Solidarity** means that certain individuals or groups should be approached separately in order to enable them to cope with the changes. Efforts should be strengthened for combating poverty and social exclusion and proactive approach and support for the individuals is required.[7]

2. Main Elements of the Human Rights-Based Approach

The Human Rights Based Approach is not a methodology in its own. It is a process that improves the methodological approaches already in use. It is a process that assures that the priorities, the measures and the activities introduced in strategies and action plans will be established on the basis of the factual

5. Principles and Guidelines for a HRBA to Poverty Reduction Strategies, preface, OHCHR 2002
6. http://ec.europa. eu
7. Revised European Social Agenda

situation and the real needs. It is a process focusing on the empowerment of poor and vulnerable people, so they would be able to express their needs and concerns to decision makers.

The main elements of the Human Rights Approach to poverty reduction are the following:

- Identification of the poor
- Recognition of the relevant normative national and international human rights framework
- Participation and empowerment
- Equality and non-discrimination
- Progressive realisation of human rights
- Monitoring and accountability

In order to achieve this, it is important that (1) all vulnerable groups are identified during the data collection and situation and problem analysis; (2) initiatives are established to ensure social mobilisation and participation with focused actions targeting those groups which are usually excluded and not actively participating in policy development processes; (3) a specific set of targets and indicators concerning the exercise of human rights throughout the process, with short-term, mid-term and long-term objectives is established; (4) effective monitoring and accountability mechanisms to ensure that duty-bearers can be held accountable, especially in case of misuse of allocation of resources.[8] Every local development plan should have these elements firmly embedded in the planning and the implementation stage. Although it may seem a difficult endeavour to include these criteria thoroughly, inclusive comprehensive local development plan will not be possible without them.

The principles, as listed above, improve guaranteed access to the development process, institutions and information, and introduction of mechanisms of redress and accountability. At the core of this concept the principle of non-retrogression is,[9] which requires that the existing level of human rights protection has to be maintained and the exercise of rights progressively improved. In view of the economic development plans, the government authorities at all levels have the obligation to safeguard the existing level of protection, not to permit any trade-offs and to ensure with immediate effect a certain minimum level of exercise of various human rights.

2.1 Identification of the Poor

It is directed toward identification of vulnerable, discriminated or in any other way marginalised groups in the society. Particular attention should be paid to identify whether vulnerable subgroups within the main identified group exist, or if multi -layered discrimination makes a particular group more likely to be affected by an issue/problem than another group, or the general population.

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8. See also Renate Frech, A Human Rights-Based Approach to Regional Development, p. 5.
9. Principles and Guidelines for a HRBA to Poverty Reduction Strategies, preface, OHCHR 2002
Guideline 4: Progressive Realization of Human Rights; Indicators and Benchmarks, par. 73-74.

2.2 Recognition of the Relevant Normative National and International Human Rights Framework

Significant influence in the recognition, the improvement and the protection of human rights has been exerted by the international community with the international documents. The influence of the international documents, directly or indirectly, affects the creation of the national legal system in the Republic of Macedonia. Ratification of international documents is an integral part of the legal order in the Republic of Macedonia. Indirect influence is exerted by the recommendations provided by the international organisations where the Republic of Macedonia is a member state (UN and UN agencies, Council of Europe).

The cornerstone of the HRBA is that it is established on the basis of international and regional human rights instruments; legally binding instruments for the states that ratified them. The main strength of the HRBA lies here. Based on these instruments, the states (at all levels of authority) have the obligation to respect, exercise and protect human rights guaranteed within a particular instrument. The rights set through the human rights instruments and the obligations arising from them equally cover civil and political rights, as well as economic, social and cultural rights.

Bearing in mind the political orientation of the country for European integration, the national human rights legislation is, in part, created or being built on the national situation and the particular needs. However it is also to a greater extent, under the influence of the country's openness to the global integration processes and in particular to the European region and the sub-region of the European Union, whereas these processes directly affect the creation of the national legislation. According to this, human rights are founded in the established legal system, which is under the influence of the international documents, to an extent to which they have become part of the national legal order or are becoming part thereof, i.e. to an extent to which the country has been or is being integrated in particular international organisations and structures. Hence, the transposition of the international legal instruments in the national legislation can play the role of a corrective and accelerate the process for improvement of human rights through national legislation and practice.

2.3 Equality and Non-discrimination

All individuals are equal by the virtue of being human. Every person is entitled to human rights and should not face discrimination at any level, such as race, colour, sex, gender, age, language, religion, belief, political or other opinion, national or social origin, disability, property, birth, health status, sexual orientation and other status (the list is all inclusive and open) as established by the human rights treaties and interpreted by the human rights treaty bodies. This leads us to the point that everyone should enjoy their rights equally.

Equality does not imply equal treatment. Sometimes in order to achieve equality of some groups/ individuals different or preferential treatment is needed. Therefore, special attention to the vulnerable groups in the society is a must, if the states want to reach equality for all of their citizens. It is worth mentioning that when we speak of vulnerable groups in the society, we refer to groups vulnerable to human rights violations, which will be different at different time due to the evolution or democratisation of the societies. The advancement of human rights of both men and women, based on equality, is an absolute requirement.

2.4 Indivisibility, Inter-dependence and Inter-Relation of HR

Human rights are indivisible. Whether civil, political or economic, social and cultural, they are all inherent in the dignity of every person. They all have equal status as rights, and cannot be ranked. In assessing whether this principle is respected, we should ask ourselves if some of the rights are given preferential treatment or attention in comparison to others.

The above mentioned is due to the interdependence and interrelation of human rights. The exercise of one right depends on the exercise of other rights. The infringement on one right causes a violation to other rights. And vice versa, the protection, the promotion and the respect of one right increases the respect for other rights. For example, the realisation of the right to health may depend on the realisation of the right to information, to food and nutrition, to safe water and sanitation, information, education, privacy, etc.

> If we want the poor to participate in the poverty reduction strategies, they must be free to organise themselves without restriction (right to association), to meet without impediment (right of assembly), and to say what they want without intimidation (freedom of expression). Further on, they must know the relevant facts (right to information) and they must enjoy an elementary level of economic security and well-being (right to reasonable standard of living and associated rights).
>
> ***UN Principles and Guidelines – HRBA to Poverty Reduction***

2.5 Progressive Realisation of Human Rights

The legislation on human rights recognises that the lack of resources can impede the realisation of human rights.[10]
The International Covenant on Economic, Social and Cultural Rights stresses that states have to use all the available resources for progressive realisation of all human rights. Even though a state might lack resources or may be mismanaging their reallocation, in any case, it must move rapidly from one point to another in the realisation of all human rights. The lack of resources is not an excuse if the state stagnates in even making efforts for full provision of human rights. Sometimes it takes only willingness and dedication to change things. The table below shows immediate obligations that a state must undertake.

> State obligations which should be undertaken with regards to the progressive provision of human rights:
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> - Not to discriminate between different groups of people;
> - Should take steps toward realisation of HR;
> - Monitor the progress made towards their realization.

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10. Operationalising Human Rights-Based Approaches to Poverty Reduction, Interim Pilot Project Report, UNDP 2007

2.6 Participation and Empowerment

The HRBA treats the participation as a right in itself. Each person has the right to join the decision making processes which affect his/her future life.

Why is participation important?

- Participation gives transparency to the process.
- Participation increases the level of accountability of duty bearers.
- Participation increases the access to information.
- Participation makes people feel equal and valuable.
- The policies and strategies reflect the real needs of people.
- If people are included in the process and well informed, it is more likely that they will approve and support the agenda of the local or central authorities.

Participation should be **active and meaningful,** and in order to provide this, the local authorities must identify and eliminate the obstacles that are preventing people to participate and involve in the process. It is essential for local authorities to develop special mechanisms in order to include poor groups in the process. For this purpose, actions directed toward informing them about their rights and their empowerment should be undertaken.
Access to information is crucial for active and meaningful participation. The relevant institutions with a certain competency are obliged to inform the citizens about their guaranteed rights and the established systems of protection. Local authorities, centres for social welfare, civil society organisations that provide direct services etc. need to inform the poor and vulnerable about their rights, the mechanisms for their protection, and redress mechanisms if rights are violated.

These efforts, if undertaken, will enable initial **empowering** of the poor and vulnerable groups and enable them to express their views and concerns and significantly contribute to the process of development of local policies. For example, after the legislation on domestic violence was passed, the professional staff of the centres for social welfare, the police and civil society organisations that were already in direct contact with the victims, were the institutions that were promoting the formal system of protection for domestic violence victims. This was in accordance with their mandate provided in the amendments to the Criminal Code[11] and the Law on Family in the Republic of Macedonia.[12]

In addition to the above mentioned, a HRBA envisages additional efforts to be made, including establishment of mechanisms for inclusion of the poor and vulnerable in the process. For example, specific activities to be carried out by relevant institutions such as: interviews, forums, focus groups etc. **Participation is not about offering prepared solutions** and requesting feedback on already developed strategies and action plans. This implies having formal participation without the possibility of influencing significantly the priorities, the objectives, the measures and the activities already defined. The real needs might be neglected if we conduct the process in such a way. Therefore, it is essential that participation is perceived and accepted as a principle which should seek and find solutions to the problems, based on the real needs of groups which are vulnerable and discriminated.

11. Criminal Code Of Republic of Macedonia, Official Gazette No.38/2004
12. Family Law, Official Gazette No. 19/2004

2.7 Monitoring and Accountability

Accountability is further strengthened by the HRBA with a clear identification and distinction of the right holders and duty bearers with regards to the provision of specific human rights. States, and their bodies, local and other authorities, communities and individuals (the right holders and the duty-bearers) all are accountable for the provision of the human rights although not to the same extent.[13] Accountability implies fulfilling obligations arising from human rights provisions, based on all the principles mentioned previously (exact use of the human rights framework, participation, non-discrimination, etc.) When we speak of accountability, we think of clear roles and responsibilities, transparency, access to information, redress.

Another aspect of accountability is the monitoring of the state endeavours. Since the states sovereignty is extracted from citizens' sovereignty, it is the monitoring by the citizens that is inevitable part of good governance. States must create appropriate legal frameworks within which civil society organisations and individuals can play independent monitoring role. In particular, the state must take immediate steps to provide a set of interrelated rights, such as the right to information, free speech and association, as independent monitoring is not possible without it.

The Government should carry out preventive actions in the sphere of human rights with a constant referral to the jurisprudence of the European Court of Human Rights. A number of changes in several national laws over the past few years have been inspired exactly by the interpretations given by the European Court on cases in Strasbourg processed against other member states in the Council of Europe.

The Government plays an important role in the implementation and the monitoring of the responsibilities arising from the international conventions. With regards to the direct implementation of the international treaties into the national legal system, the key role has been assigned to the judiciary. Therefore, the constitutional concept of the rule of law insists on the independent position of the courts, where in regular processing and by lawful means in the legal procedures, the protection of basic rights and freedoms is performed and the political authority is controlled through the law. Here, it is important to emphase the strong bond between the means to protect a given right and the right itself. Efficient instruments for protecting rights and freedoms should be associated with all the declared proclamations.

Apart from the regular judiciary, an important role in the protection of human rights has been entrusted to the Constitutional Court of the Republic of Macedonia, the Ombudsman, and the Inquiry Commission on Human Rights of the Parliament of the Republic of Macedonia. Understanding the system of institutions through which the rights are exercised, including the right to non-discrimination, i.e. to know the institutions which protect those rights, increases the access of the vulnerable and marginalised social groups to those institutions, with the ultimate objective to enjoy and protect their rights.

The Republic of Macedonia has recognized the right to submit individual petitions to the authorised bodies to the United Nations for an alleged infringement of the rights guaranteed by the international conventions.

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13. Individuals only have the obligation to respect human rights, not to protect or fulfil them.

When ratifying the European Convention on Protection of Basic Rights and Freedoms, the Republic of Macedonia submitted a Declaration, thereby endorsing the authority of the European Court on Human Rights, according to the Article 34 of the Convention. In that direction, it is necessary to promote and use the opportunity given to the citizens of the Republic of Macedonia to access the European mechanisms, such as the European Court on Human Rights, after the exhaustion of the national legal mechanisms. Furthermore, the courts in RM, within the general frame of their authority and responsibility to protect and provide rights to citizens and legal entities, should become sensitive to the issues of poverty and social exclusion, and should increasingly use the ratified international documents as source of law for their legal practice.

It is important to mention that the HRBA is not just a tool to enhance the capacities of the right holders to claim their rights, but also, that it is a tool to enhance the capacities of the duty bearers to uphold their obligations; sometimes authorities lack resources, or ability to interpret human rights or use the HRBA, so strengthening their capacities will improve accountability as well.

3. HRBA to Local Development Planning- Local Strategies for Social Inclusion and Poverty Reduction

3.1 Poverty reduction and Social Inclusion in Macedonia

After the independence in 1991, the Republic of Macedonia has faced a long process of "painful" transition, which resulted in increased poverty and unemployment rate, broadening the scope of socially excluded persons. In the past few years the problem of poverty and social exclusion was put high on the political agenda of the Macedonian Government.

The recent findings of the State Statistical Office have shown that the poverty line for 2009 was 31.1%, thus, every third person in Macedonia is living in poverty. These alarming figures justify the need for prioritising poverty eradication and social exclusion at the highest level of the political agenda.

The National Strategy of the Republic of Macedonia for Harmonization with EU legislation foresees adoption of concrete strategies, policies, laws and other legal acts which should be adopted by our country on its way to the EU. In this regard, the adoption of laws, strategies and action plans is a constitutive part of the efforts undertaken by the Macedonian authorities. This is in line with our country's EU aspirations and supporting the Joint Inclusion Memorandum, "which serves to prepare the candidate country for the open method of coordination as soon as it adjoins. The Memorandum gives a short summary of the most important challenges while handling poverty and social exclusion. It presents the major policy measures that a country must undertake to interpolate European Union Common Goals into national policies." [14]

A significant step towards improving the overall formal response of the state to poverty and social exclusion was the adoption of the National Strategy for Combating Poverty and Social Exclusion in RM and The National Strategy for Social Protection 2011-2021 (in phase of adoption during the preparation of this publication). These strategic documents, in parallel with the existing strategies and programs

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14. On the Path to EU:A contribution of the civil society sector in the creation of the policy of social inclusion in the Republic of Macedonia, Ludwig Boltzmann Institute of Human Rights, 2008

directed towards concrete vulnerable groups such as Roma, women, children etc. are a solid strategic basis for the protection of different vulnerable groups in our society and combating the phenomenon of poverty and social exclusion.

NATIONAL STRATEGY FOR COMBATING POVERTY AND SOCIAL EXCLUSION IN RM

Definitions of poverty and social exclusion

People are said to be living in **poverty** if their income and resources are so inadequate as to preclude them from having a standard of living considered acceptable in the society in which they live.

Social exclusion is a multidimensional and complex process which eradicates the relations between the individual and the society. The search of solutions for inclusion of the socially excluded persons, groups or communities is related to the establishment of a constructive approach at society level and the acceptance of the strategic orientation toward the constantly expressed needs.

Main strategic goal

Eradication of poverty and social exclusion in the Republic of Macedonia through better use of available human and material resources, improved living conditions, working and societal conditions for all citizens, systematic and institutional engagement towards accelerated development, higher standard of living and quality of life.

The National Strategy for Combating Poverty and Social Exclusion identifies and further regulates the following priority areas:

1. Employment
2. Informal economy and strengthening of the entrepreneurship
3. Labour market
4. Poverty and social exclusion
5. Health protection
6. Long-term care
7. Education
8. Social protection
9. Transport
10. Communication
11. Housing
12. Child protection
13. Equal opportunities between men and women
14. Public sensitiveness on social inclusion.

Concrete measures and activities planned under each of the areas of priority are an integral part of the Domestic Law Checklists, which incorporate different priorities of the strategy in accordance with the area they regulate. For example, the domestic law checklist on employment incorporates the measures

and the activities defined under this area within the National Strategy for Eradication of Poverty and Social Exclusion. They can be found as an annex to this publication.

The National Strategy for Social Protection 2011-2021 although in the process of adoption, plays a significant role for the promotion of the entire system, thus fostering the needed changes. The above mentioned problems, such as: unemployment, poverty, lowered living standard etc. has justified the need for carrying out reforms in the area of social protection, imposing new principles and working methodology to be applied. Another chain stimulating the reforms are the international human rights documents called the Millennium Development Goals. The European Social Agenda plays a significant role in this regard, especially for the establishment of the guidelines for development and promotion of the system of social protection in our country. "The establishment of a system of social protection which will face the emerging challenges of the new millennium is at the same time in line with the clearly defined EU aspirations of the Republic of Macedonia. In this regard, the Republic of Macedonia has harmonsed its strategic documents with the established standards within the European Convention on Human rights, the EU Directives prohibiting discriminatory practices and promoting equal treatment[15], as well as the Strategy for Modernization of Social Protection.[16]

A. The Local Development Planning Phase

It is the process that matters!

The development of the strategy and the plan on social inclusion is not our final goal, but the change we aspire to. For example, the local strategy dealing with social inclusion of people with disabilities is not the objective we are aimed at, but the improved access to health services for them, their inclusion in the regular educational process, the realisation of their right to work etc; these are the impacts we desire. The strategic documents are the basis for achieving these changes or improvements of the living conditions of the local population.

In this regard, it is important to note that the quality of each phase of the process is dependent on the realisation of the previous phase. Therefore, if we neglect the participation of the poor and vulnerable, it is more likely that the solutions offered in the documents would not be in compliance with the real needs. This is why a HRBA promotes and is focused on the process itself, since it is of no less importance than the goal we aim at.
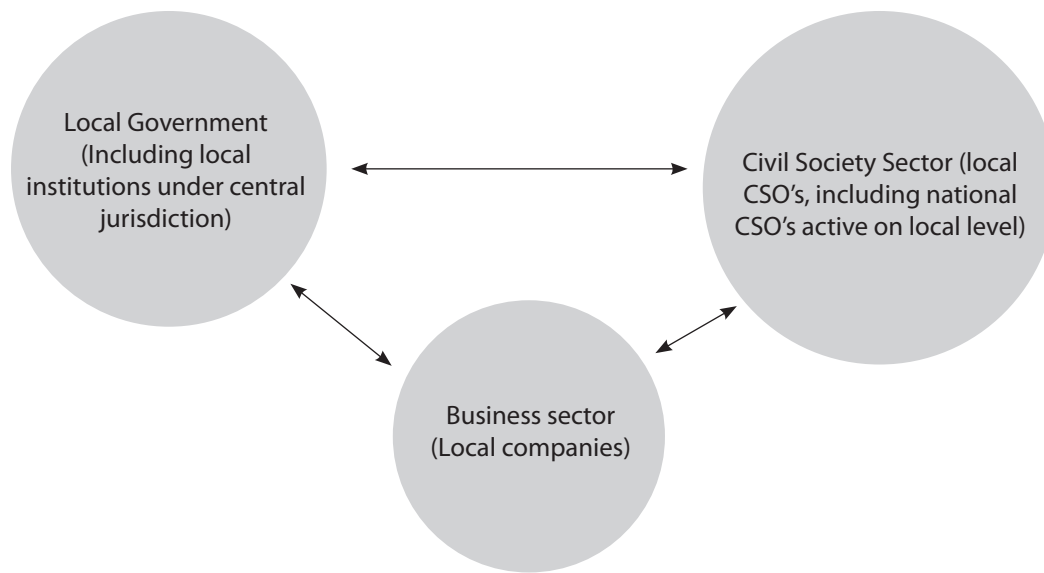
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15. Directive 2000/43/EC and Directive 2000/78/EC
16. Draft National Strategy for Social Protection 2011-2021

3.1.1 Preliminary Steps to Be Taken

Preliminary or preparatory steps need to be taken to enable effectiveness of the process and to eliminate possible obstacles which might appear afterwards.

Participatory process – establishment of partnerships and alliances

The process must be inclusive and participatory, thus partnership and cooperation between all relevant stakeholders needs to be established. First of all, **partnerships need to be established between the government institutions (under jurisdiction of central and local authorities) and local civil society organisations** active in the field of social inclusion of different vulnerable groups, as a "prerequisite for participation".[17]

The third "chain" which completes the circle is the business sector. The cooperation with the business sector is vital for sustainability of the strategies and the action plans, thus contributing towards social responsibility at local level. The business sector should join the process of implementation as well, by supporting local CSOs in the implementation of the micro projects.

Benefits of CSOs participation in the process:

- Their participation increases transparency and accountability of the process.
- They share the same objectives as the state and the local authorities, thus complementing their work.
- They are in direct contact with the poor and vulnerable groups and therefore they can help provide their mobilisation and participation in the process.

17. How to Make Local Development Work, Selected Practices from Europe and the CIS, UNDP Policy Paper 2002

- Well informed about the needs of the vulnerable groups they are representing.
- Very often have the needed expertise and credibility (certain problems were treated by civil society sector even before formal reaction by the state was established, thus establishing them as "pioneers" in a given area).

Local Partnership Groups need to be established for the development of local strategies on social inclusion and eradication of poverty, which will include representatives from the municipalities, Centres for Social Welfare, local civil society organizations, business sector, employment agencies, health institutions, educational institutions etc.

These groups or the entities they represent should encourage and seek direct participation of the poor and vulnerable in the process as well. For example, for the purposes of conducting a situation analysis, CSWs or CSOs as service providers can help in the identification of representatives of the poor and vulnerable to join the focus groups which will be organized, or they might identify and include persons who will be interviewed in the process of assessment. This will enable the voice of the poor and vulnerable, often forgotten, to be heard, their concerns and needs to be expressed, and all this with one purpose – to make them an integral part of the developed strategies and action plans to come.

It is important to stress that the established partnerships should be based on mutual respect and trust, thus everyone should recognise the role and the input by other actors as essential for the creation of effective strategic documents and for introducing changes in the communities, especially for ensuring sustainability.

In accordance with the Constitution of the Republic of Macedonia "sovereignty in the Republic of Macedonia derives from the citizens and belongs to the citizens. The citizens of the Republic of Macedonia exercise their authority through democratically elected Representatives, through referendum and through other forms of direct expression".[18] This establishes the participation of the citizens in decision making processes as a constitutional right which they enjoy indirectly, through representatives elected by them, and directly, through their direct inclusion. In this regard, this constitutional provision can be seen as a basis for operation of the HRBA into practice, taking into consideration that this is the approach which constantly encourages direct participation of the citizens in the processes where decisions affecting their lives are taken. The Constitution of the Republic of Macedonia guarantees an entire set of civil rights for enabling participation of citizens in the decision making processes. The rights to peaceful assembly, freedom of association, right to free thought, right to free expression etc. are all provided in the Macedonian Constitution.

The Constitution of the Republic of Macedonia (The Official Gazette of the Republic of Macedonia, Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) defines the right of citizens for peaceful assembly and expressing public protest without prior registration or special permission. This right can be restricted only in cases of national emergency or war (Article 21 of the Constitution). The right of the citizens of the Republic of Macedonia to public assembly, for the purpose of public expression of thought or public protest is regulated by the Law on Public Assembly (The Official Gazette of the Republic of Macedonia, No. 55/95). The freedom of association is also one of the basic and essential rights of the citizens provided in the Constitution of the Republic of Macedonia. Article 20 of the Constitution of the Republic of Macedonia guarantees citizens the freedom to associate for the purpose of implementation and protection of their

18. Constitution of R.M. Article 2

political, economic, social, cultural and other rights and beliefs. For the purpose of enjoying this right, citizens can freely establish civil associations and political parties, join or leave them. The Constitution only in particular cases restricts the formation of civil associations and political parties.

In accordance with the principle of interdependence and interrelatedness, in order for a person to be able to participate in the decision making processes a certain set of rights should be fully enjoyed. The access to information is essential so people are able to participate in such processes. The freedom of expression and speech must be provided so the people feel free to express their problems and needs.

Also, participation requires citizens to have acceptable living conditions. The right to free expression is guaranteed in the Constitution of the Republic of Macedonia in Article 16 as a complex right comprising the following components: freedom of belief, conscience, thought and public expression of thought (Article 16 Paragraph 1); freedom of speech, public performance, public information and free establishment of institutions for public information (Article 16 Paragraph 2); free access to information, the freedom to receive and transmit information (Article 16 Paragraph 3); the right to response in the media for public information (Article 16 Paragraph 4); the right to correction in the media for public information (Article 16 Paragraph 5); the right to protection of the source of information in the media for public information (Article 16 Paragraph 6). In addition to this, Article 16, Paragraph 7 prohibits censorship.

The right to a free thought is guaranteed by the Constitution of the Republic of Macedonia with no restrictions whatsoever, along with the freedom of belief, conscience, public expression of thought and religion, and it elevates it to the level of a fundamental human right which cannot be restricted not even in cases of exceptional circumstances (war or national emergency). In addition, these freedoms and rights enjoy judicial protection, as well as a direct constitutional-judicial protection by the Constitutional Court of the Republic of Macedonia.

Knowledge of International Human Rights Norms and Principles

In compliance with the determination to respect and improve humans rights and freedoms as a basis for developing democracy in the country, the Republic of Macedonia has become a party to a number of international conventions on human rights of the United Nations and the Council of Europe, which also includes the recognition of the control mechanisms established for the implementation of these conventions.

In the legal system of the Republic of Macedonia the relationship between the national and international law represents a constitutional and legal matter. According to Article 118 of the Constitution, the international treaties ratified in compliance with the Constitution become part of the national legal order and cannot be changed by law. In such a way, in the hierarchical set up of the legal norms, the international norms superimpose the national laws.

In the period after the declaration of independence, the Republic of Macedonia has joined or ratified the most important international documents, such as: the International UN Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All

Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Convention on Human Rights and Fundamental Freedoms, the Framework Convention for the Protection of the National Minorities, and other European and international documents on human rights.

The Local Partnership Groups need to understand the international human rights norms and principles, the domestic legal framework, and strategic planning as well. Therefore, **trainings on the concept of human rights, HRBA, non-discrimination, gender equality, and strategic planning and project cycle management** should be organized for them. Information on the Open Method of Coordination - OMC, EU Social Agenda, and positive EU and domestic practices will be provided for the representatives of LPGs. The external expertise provided by the Ludwig Boltzmann Institute of Human Rights will significantly contribute towards strengthening their capacities in the abovementioned areas.

3.1.2 Situation Analysis

Preparatory phase: Desk review

The desk review is a preparatory activity referring to the existing data from civil society organisations, state institutions, international organisations etc. needed for the preliminary assessment of the overall socio-economic, political and cultural situation in a specific municipality or region. All the included actors (CSWs, CSOs, municipality, employment agencies etc.) should make their databases available for this purpose. This includes statistical data, but also empirical research, thus it provides quantitative and qualitative data as well. If strategic documents related to the area of interest exist (social protection, health protection, economic development etc), they are subjected to desk review as well, thus they are taken into consideration additionally when defining priorities, objectives and measures in the latter phase of the process.

Conducting Analysis at Local Level

Why conducting analysis is important

The recognition that there is a lack of qualitative data on the status of the vulnerable groups and the problems they face in the municipality, led to analysis conduction.[19] This was done in order to identify the vulnerable groups, identify their problems and obstacles that prevent them to enjoy their guaranteed rights and freedoms. The analysis will reflect upon the general socio-economic situation in the municipality, thus it will provide information on the living standard, the level of poverty and structures, as well as information on the marginalisation and discrimination and different forms of social exclusion in the municipality. The analysis will focus on the identification of the problems and needs of different categories of socially excluded persons, different types of social services and the obstacles the poor face in the procedures for provision of social services.

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19. "The project "Human Rights and Social Inclusion in Macedonia" incorporated the conduction of a Gap Analysis and Base Line Study as a basis for development of the Local Strategies on Social Inclusion on local level.

In this regard, it is important to note the participation of the poor and the vulnerable in this stage of the process. The analysis will include specific activities aimed at providing active participation of the poor and vulnerable, and to this aim interviews or focus groups will be organised separately for different categories of socially included persons. The idea behind their direct inclusion in the assessment is clear; these are the people that face poverty and social exclusion in the society, thus their voice must be heard when identifying their problems.

> ### • Identification of poor and vulnerable
>
> Who are the poor and vulnerable?
> Who are the right holders?
> Whose rights are violated the most?
> Are they part of some particular group (men, women, ethnic, religious and political group, persons with disabilities, persons living in particular geographical areas, such as the rural areas etc.
> Are there individuals or groups facing multiple discrimination? (For example, Roma women can be discriminated on the ground of their ethnic background and on the ground of sex).

The Government of Macedonia has, to a considerable extent, identified the poor in its MDGs report.[20] One group of persons that the focus should be at are persons who experience multiple discrimination or vulnerabilities, such as Roma women or children with disabilities. A tool to identify the poor and vulnerable is being developed by BIM Vienna (see Vulnerable Group List).
The Ministry of Labour and Social Policy of the Republic of Macedonia – MLSP in line with its mandate in the field of social protection has identified concrete target groups which are vulnerable, thus its Unit for Social Inclusion refers to the following categories of people: victims of domestic violence, homeless persons, drug users and street children.

The State Statistical Office of the Republic of Macedonia, in its latest research on poverty for 2009, reveals that 31.1% of the population is poor and identified the following categories as especially vulnerable to poverty: households with 5 and more members, unemployed persons, households where the head of the household has no or only elementary education etc.
It is important to stress that the HRBA demands and encourages the inclusion of all vulnerable groups, thus **the list of vulnerable should be extended with specific target groups or subgroups into the processes of local planning.**
The identification of the poor and vulnerable at local level should be done in consultation with all stakeholders included, emphasising once again the importance of establishing of participatory approach at the very beginning of the process.

Vulnerable groups reference checklists are designed[21](see annex) to assist in the identification of "potentially vulnerable groups and the types of problems they might be facing". They can serve as a basis for analysis of the situation of different vulnerable groups and the problems they face at local level. The checklist contains questions by categories of persons. For persons with disabilities, for example, the following questions should \ be answered:[22]

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20. Government of the Republic of Macedonia, Report on Millennium Development Goals, Skopje 2005.
21. Rights Based Municipal Assessment and Planning Project - RMAP, UNDP/OHCHR Bosnia and Herzegovina
22. RMAP, p. 76.

- Are persons with disabilities viewed as "objects" of protection, treatment and assistance rather than subjects of rights? Are they excluded from the mainstream society, and provided with special schools, sheltered workshops and separate housing and transportation on the assumption that that they were incapable of coping, either with society at large, or all or most major life activities?
- Is the general system of society, such as the physical and cultural environment, housing and transportation, social and health services, education and work opportunities, cultural and social life, including sports and recreational facilities, accessible to all? If not, what is the State doing to tackle socially created obstacles in order to ensure full respect for the dignity and the human rights of persons with disabilities?
- Do women with disabilities face additional obstacles, stigma or exclusion?

Identify problems the poor and vulnerable are facing

- What are the prevailing problems?
- What is happening at national level regarding this issue? (i.e. What the government, NGOs, donor community is involved in or works on?)
- Were there any incidents regarding these issues?
- Which human rights are violated? (Health, education, information)
- What are the related rights? (work, participation, legal protection, etc.)
- Who is affected by that? (men and women, drug users, sex workers, child sexual abuse, etc.)
- Are there more vulnerable people then other? (LGBT[23] , MSM[24] , prisoners, drug users, girls, PLHA[25])
- What are their problems?

With the identification of the poor and vulnerable, the next step is to identify problems they face. This task imposes their necessary direct inclusion, since they are the ones most affected by the problems identified and the whole process is carried out as a means for improvement of their living conditions. This can be done by organising focus groups, forums, conduction of interviews etc., thus requiring specific areas to be assessed (problems related to housing, education, labour market, social protection, health protection, access to justice etc.). The logic is very clear; people are aware about the situation they are in and they know their needs, so if one works on the solution to their problems it should include them in the process and obtain information from them.

When a problem is identified, which should explore the level where it occurs. It can be identified as:
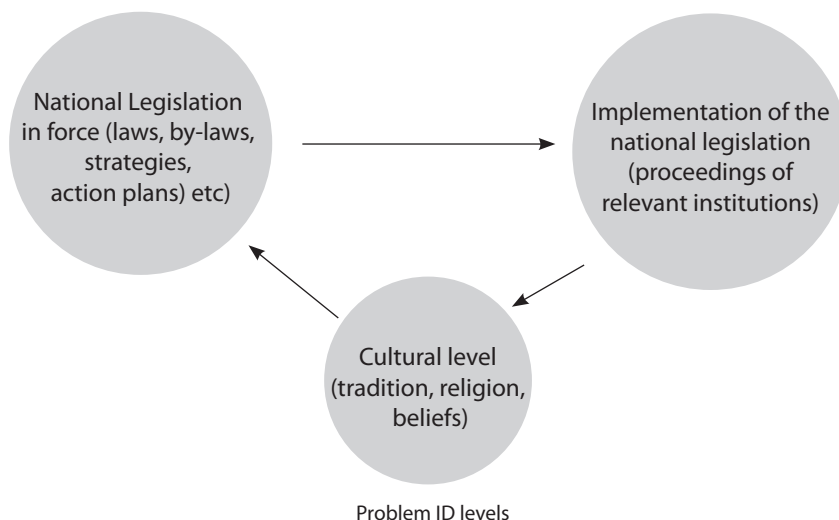
- **lack of formal reaction** by the state (lack of legal regulation for certain issues, for example the absence of antidiscrimination law until recently in our country);
- problem identified as **lack of implementation** of the existing national legal framework (for example, after the adoption of legal provisions for regulation of domestic violence, the professional structures of Centres for social welfare and the police faced difficulties implementing them, as a result of the lack of clear mechanisms for implementation, lack of capacity among them, non-sensitiveness toward this issue etc.);

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23. Lesbians, Gays, Bisexual and Transgender
24. Men Having Sex with Men
25. People Living with HIV/AIDS

- The problem may occur at the **level of people's beliefs, attitudes or culture** when groups of the population do not accept the implementation of certain legal provisions not corresponding with their traditional values, (for example, women's right to vote denied by their spouses voting on their behalf among the Albanian community, although right to vote is a constitutional right to every individual).

National Legislation in force (laws, by-laws, strategies, action plans) etc)

Implementation of the national legislation (proceedings of relevant institutions)

Cultural level (tradition, religion, beliefs)

Problem ID levels

The second level where there is a possibility for a problem to occur is when the existing research data shows that "existing legislature is not implemented, which can be seen in the absence of programs for vulnerable groups' issues. Even more, there is no implementation of strategies, action plans and programs already adopted".[26]

- **Identify the right affected by the problem**

The problems the vulnerable and poor face are violation or a denial to specific rights and freedoms guaranteed to them. When we identify certain problem we relate it to a specific right guaranteed by the international and national legal framework. Thus, this will enable us to make a distinction between the right holders and their entitlements and duty bearers and their obligation. For example, if women from rural areas cannot visit a doctor because there is no health institution in the area, this implies violation of the accessibility of the right to health, guaranteed by the international and national legal framework.

Identify which human rights of poor and vulnerable are violated or affected by the problem.
Are these rights guaranteed and protected within the domestic legal framework?
Identify the level on which their violation occurs (lack of legal regulation in the domestic framework, lack of implementation of the legislation in force).
What are the claims of right holders versus obligations of duty bearers?

26. On the Path to EU: A contribution of the civil society sector in the creation of the policy of social inclusion in the Republic of Macedonia,Ludwig Boltzmann Institute of Human Rights, 2008

- **Identify the relevant national and international human rights framework**

A local development plan must be consistent with and inclusive of the State's national and international human rights commitments because this will enhance the plan's effectiveness and prevent occurrence of unlawful elements of the plan. The following standards provide such a framework:[27]

- National human rights law and practice, for example, human rights provisions from the constitution, bill of rights, anti-discrimination laws, freedom of information legislation, as well as the main human rights case law;
- Other important international human rights instruments such as the Universal Declaration of Human Rights, International Covenant of Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, European Convention on Human Rights and Fundamental Freedoms etc; Convention on Elimination of the Discrimination Against Women – CEDAW etc.
- Commitments from recent world conferences insofar as they refer to human rights, including the United Nations Millennium Declaration (2000).

It is through the system of the national legislation that these rights and freedoms should become operational. An analysis of the extent of harmonisation of the national legislation with the international standards should become an integral part of the legal reforms. In this sense, the ratification of these conventions by the Republic of Macedonia should not be just a formal obligation and an objective in itself, rather it should become part of a continuous process of implementation of endorsed international standards at national level.

The international documents that the Republic of Macedonia is a party to, or it has ratified, prescribe a wide scope of rights of persons and citizens (to life, freedom, security, equality, freedom from torture, work, living standard providing for health and wellbeing, respect of privacy, other civil, economic, political and cultural rights). The listed documents, including the documents of the European Union, introduce a clear responsibility for the country to establish a broad anti-discriminatory clause that will contribute towards the realisation and safeguarding of the overall contingent of human rights and freedoms. The Republic of Macedonia is obliged to implement the listed international acts. The issue of the extent to which these documents are enforced is of great importance, not only at the level of formal declaration, but also in practice. The provision of human rights and freedoms is in most cases hindered by the ensuing stigmatization of marginalized and socially excluded groups of citizens and is more related to the practical enforcement of the legal acts.

- **Identify the general human rights framework, or, which relevant national and international human rights and legal documents referring to the particular rights/issue.**

In addition to the general legally binding instruments, as conventions, covenants, protocols etc., it will be useful if the nonbinding documents are included in the research, like the explanatory reports or the general comments. The importance of the later is due to the fact they provide the interpretation of the human rights standards which the authorities should understand.
For example regarding the **accessibility of the right of education,** the Committee on Economic, Social and Cultural Rights in General Comment 13 stipulates "whereas primary education shall be available "free

27. Principles and Guidelines for a HRBA to Poverty Reduction Strategies, p. 12, OHCHR 2002

to all", state authorities are required to progressively introduce free secondary and higher education". In 2007, the Government of the Republic of Macedonia proposed and the National Assembly adopted changes and amendments to the **Law on Secondary Education,** prescribing the secondary education as compulsory and free of charge . This was a positive step undertaken by the Republic of Macedonia which is in line with the **ESCR General Comment 13** and the established standards on economic accessibility of the right to education.

Another example is the **access to healthcare** - a right regulated by the **Law on Health Protection,** then with regards to the funding (as financial access to health care) in the **Law on Health Insurance** and the by-laws operating it. Patients' rights (healthcare rights) are regulated in other legal documents of the so-called «healthcare legislation» of the Republic of Macedonia. This law comprises more than 20 or so regulations, whereas the greater importance lies in the **Law on Mental Health** and the **Law on the Protection of Patients' Rights,** which made a huge progress with regards to protecting the rights of patients. The Law on the Protection of Patients' Rights regulates the following patients' rights (healthcare rights): the right of the patient to take part in the decision-making right to information; right to a second expert opinion; the right to accept or reject a particular medical intervention; the right to protection in scientific research and medical lectures; rights relating to operations on the human genome; the right to access to the medical file; right to confidentiality etc.

The Law on the Protection of the Patients' Rights is expected to provide quality and continuous healthcare protection, based on the **principles of humanity and accessibility** in accordance with the current achievements in healthcare and medicine, without any form of psychological or physical abuse, with full respect of the patients' personality and in their best interest. This law is yet another important step in the protection of the right to healthcare and implies the codification of the most important "healthcare rights". Although it is complementary with other regulations in the field of healthcare legislation, this law completes the regulation of the healthcare rights of patients, where the broad anti-discriminatory clause from a normative aspect does not discriminate against anyone. With the resolutions adopted, the Republic of Macedonia has endorsed the international treaties and conventions regulating healthcare rights, such as the "Amsterdam Criteria" on patients' rights. Therefore, the policies and the practices related to public health seem to be entirely harmonised with the international documents and European good practices. The healthcare legislation, which makes these policies operational, is an example of a good practice, in setting up the legal grounds for the provision and protection of the patients' rights in the healthcare sector. The Law on Mental Health and the Law on Protection of Patients' Rights provide the human rights in the fields of medicine and health.

At a policy level it is important that two strategic documents related to social, inclusion, social protection and eradication of poverty are in a phase of their adoption:

•   The National Strategy for Eradication of Poverty and Social Exclusion
•   National Strategy for Social Protection 2011 – 2021

For the purposes of the local planning process, the Ludwig Boltzmann Institute of Human Rights – BIM- FV Skopje has provided detailed analysis on the relevant legal framework in the publication **International and National Human Rights Related Legal and Policy Action Framework in Anti-Poverty and Social Inclusion Field in the Republic of Macedonia.**[28]

Main questions:

- What HR instruments is the country a State Party to, regarding the particular and the related rights?
- What is the national framework regarding the respective rights?
- What obligations arise from these?
- Who is responsible for these obligations?
- Which institutions are involved?
- Are there statistics and if there are, are they disaggregated by age, disability, gender, etc.?
- Were the views of the focus group included in some of the documents/budgets allocation, strategies, or other information?
- What is the situation regarding the monitoring mechanisms, accountability, transparency, and efficiency of the responsible institutions?

The Ludwig Boltzmann Institute of Human Rights, BIM FV Skopje has published the analysis on the relevant International and National Legal Framework in the field of social inclusion and poverty reduction and it can be used for this purpose.

The rights and duties analysis is part of the national and international human rights legal framework analysis. This framework analysis will determine which duties the local and national authorities have and what human rights can citizens at the local and national level claim. This will enable a **clear distinction between right holders and duty bearers** for every particular right or obligation. Part of this analysis focuses on health and education competencies. In Macedonia, for example, national and local authorities share competencies in both sectors to a different extent: Art. 22 of the Law on Local Self-Government foresees cooperation of local government with central government and the representation of local government in health boards. An analysis on the rights and duties will demonstrate if the legal requirements are in place to determine the duties of local and central government vis-a-vis the citizens.

The SWOT analysis provides a detailed picture of the existing resources within the community, thus enabling us to see what are the strengths, the weaknesses, the opportunities and the threats. It provides information on the strengths of local institutions, organizations, individuals; it helps to identify their weaknesses in order to address them in the future; to use the existing opportunities towards improving the situation and to be aware about the threats.

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28. Conducted by Helsinki Committee for Human Rights of the Republic of Macedonia

Ballansing the strategic meassure: Applied SWOT analisys, David,1995

	Internal	Strenghts	Weaknesses
External		Strenghts of the sector/ organisation	Weaknesses of the sector/ organisation
Opportunities Opportunities arising out of the sector / organization Threads		Strenghts/ opportunities strategies (SO) How to use the strenghts of the sector/oraganisation in order to take advantage of the available oportunities	Opportunities/ weaknesses strategies (WO) How to use the opportunities within the sector/organisation in order to neutralise the effects of the weaknesses
Threats Threats arising out of the sector/ organisation		Strenghts/threads strategies (ST) How to use the strenghts of the sector/organisation in order to avoid the threads	Weaknessess/threads strategies (WT) How to improve weaknesses within the sector/organisation

Source: UNDP LD Policy Paper, p. 29

3.1.3 Formulation of the Local Strategies and Action Plans

On the basis of the steps undertaken previously (elaborated above) formulation of the policy documents will be done. The results from the situation analysis (poor and vulnerable ID, problem ID, relevant legal framework, rights and duties analysis, SWOT analysis), will be addressed in the document. The following steps should be undertaken when designing policies and strategies on social inclusion:

- Policy design and setting of priorities
- Prioritise policies that ensure the maximum realisation/inclusion of rights of the poor and vulnerable

From a HR-based perspective, the process of prioritisation is a strategically important step within the policy development and very closely related to the principles of participation and empowerment. Guideline 5, referring to 'Participation and Empowerment',[29] describes the link between participation and allocation of available resources: "As different patterns of resource allocation will serve the interest of different groups of people differently, a conflict of interest is inherent in any process of policy formulation. In whose favour this conflict is resolved depends very much on who can participate effectively in the process. Traditionally, the poor are left out, as they do not possess enough political or financial power to make their interests count. A human rights approach must take steps to alter this situation, by creating a legal-institutional framework in which the poor can participate effectively in policy formulation."[30]

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29. Principles and Guidelines for a HRBA to Poverty Reduction Strategies, p 16, OHCHR 2002
30. Ibid, p. 16

The Guidelines also give guidance on priorities in education, health and other rights.[31] As an example, related with priorities on the realisation of the right to education, the Guidelines list the following:

- primary education free of charge for most vulnerable groups
- educational institutions for adults, focus on vocational training
- support programmes for the vulnerable to reduce drop-out rates (primary and secondary education) e.g. through textbooks, transport, meals free of charge.

On the basis of the analysis carried out in consultation with the local authorities and LPGs the priorities will be established. Consequently, ***objectives should be established for short, midterm and long term level, taking into consideration the different vulnerable groups identified in the assessment stage (see box bellow).***

Example:
Within the situation analysis, if we identify "Lack of health protection for different vulnerable groups in certain municipality" (violation or denial of the right to health), then
Priority: Promotion of the health protection system for the poor and vulnerable. **Objective (one of them):** Increased access to health services for different vulnerable groups.

The prioritization in terms of the timeframe for the realization of the objectives (short term, midterm and long term level) should be done on the basis of the principle of **progressive realization of human rights.** The priorities related to the most vulnerable and poor individuals and groups within the concrete municipality or region will be the first to be addressed. If we take the previous example related to the right to health (see box above), and identify rural women as most vulnerable in a certain municipality the progressive realisation of human rights imposes priority to be given to them, thus the "increased access to health services for rural women" will be first to be addressed under the above established objective. In another municipality depending on the findings from the analysis the priority might be given for example to the single elderly households.

- **Planning of activities**

On the basis of the established priorities and objectives, measures and activities for their achievement will be formulated. Each activity will be connected with concrete duty bearers for its implementation, thus requiring coordination among different groups and institutions such as CSOs, CSWs, local municipality staff, business sector, employment agency etc.

- **Resource Commitments and Allocations**

It is important to ensure that adequate resources are allocated to achieve the objectives related to poor and vulnerable. The needed administrative, technical, human and financial resources will be connected to each activity incorporated within the local strategies, thus enabling their effective implementation.

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31. Ibid, p. 25

- **Setting indicators**

In substance there is no big difference between HR-based indicators and socio-economic indicators, though they are derived from the HR norms and used for monitoring HR compliance of duty-bearers. The European Council in December 2001 has established common statistical indicators for poverty and social exclusion under the name Laeken Indicators, aiming at coordinating state national social policies. However, it is important to know that while preparing local strategies for social inclusion, the indicators should be developed and adapted to the local circumstances in each municipality. Thus indicators should be developed within the process of local planning, which excludes the possibility for them to be developed in advance.

Examples of indicators for the rights to food, health, education and others can be found in the UN (OHCHR) Guidelines: A Human Rights Based Approach to Poverty Reduction Strategies.

Why are indicators important?

- They help us to monitor the implementation of the planned actions.
- They help us to assess the performance of each institution/organization involved.
- They enable us to improve the implementation of the local action plans.

3.1.4 Implementation and Monitoring

Once the strategic documents have been developed, the next step is to implement them. As it was stated at the beginning of this chapter, our objective are not the strategic documents themselves, but the impact we desire to achieve, especially taking into consideration the fact that in the Republic of Macedonia a large number of strategic documents are not implemented although they are developed and adopted. The same is valid for strategies and action plans, both at national and local level.[32] The implementation process should involve all the relevant actors, thus requiring a sufficient level of cooperation and coordination to be obtained.

The poor and vulnerable should be included in this phase of the process as well. The monitoring of the implementation process will be done on the basis of the previously determined indicators for this purpose.

During monitoring of implementation:
- Do the poor and vulnerable participate in the implementation process?
- Are their objectives taken into account?

During evaluation, indicators must be taken into account, which measure:
- Have the poor and vulnerable participated in the planning process?
- Have their objectives been taken into account?

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32. The meetings with municipality staff organized as part of the selection process within the project "Social Inclusion an Human Rights in Macedonia", has confirmed that there is a lack of implementation on the developed and adopted strategies on social protection , health protection etc.

Priorities check

- Are priorities set that lead to the realisation of relevant rights of the poor and vulnerable? Are they balanced with the general economic interests?
- Are adequate resource allocations made to implement these priorities?

Monitoring and Accountability

The establishment of a monitoring mechanism is essential for achieving effective and sustainable local strategies. Local authorities and relevant institutions should recognize the importance of an independent monitoring mechanism. The monitoring should be done by independent actors within the community and recognise the role of CSOs in this regard, specific monitoring mechanisms should be established for this purpose.[33] This is why it is important that a legal framework and political conditions for NGOs to monitor the implementation process[34] is created.

Attention should be paid to the participation of the poor and vulnerable in this phase of the process as well.

An effective monitoring system will increase the level of accountalty of each relevant local actor (duty bearer), thus improving the realization of the foreseen action and implying real changes in the life of the poor and vulnerable.

3.1.5 Additional Issues to be Considered[35]
Awareness-Raising, Training and Capacity-Building

The integration of a human rights-based approach into local development planning is to a large extent a new concept in Macedonia. This requires a broad-based education and awareness-raising program which targets all groups and sectors of society, especially vulnerable and marginalized groups, including the poor and less educated..

Achieving the goals of

- sustained social mobilization,
- empowerment and ownership of the vulnerable, marginalized and poor

implies a long-term process, certainly in the beginning, supported from the outside. It is not sufficient to provide training to the political, social and economic leadership to ensure that they are familiar with a human rights-based approach, but it is equally important that the right-holders are aware of their rights and entitlements and also understand how to claim them from the duty-bearers. Groups which have been traditionally passive and remained outside of the political sphere, such as disadvantaged, vulnerable and poor people, might not know how to get involved and meaningfully participate in a policy development process, or how to use accountability procedures and which institutions to address to when claiming compensation.
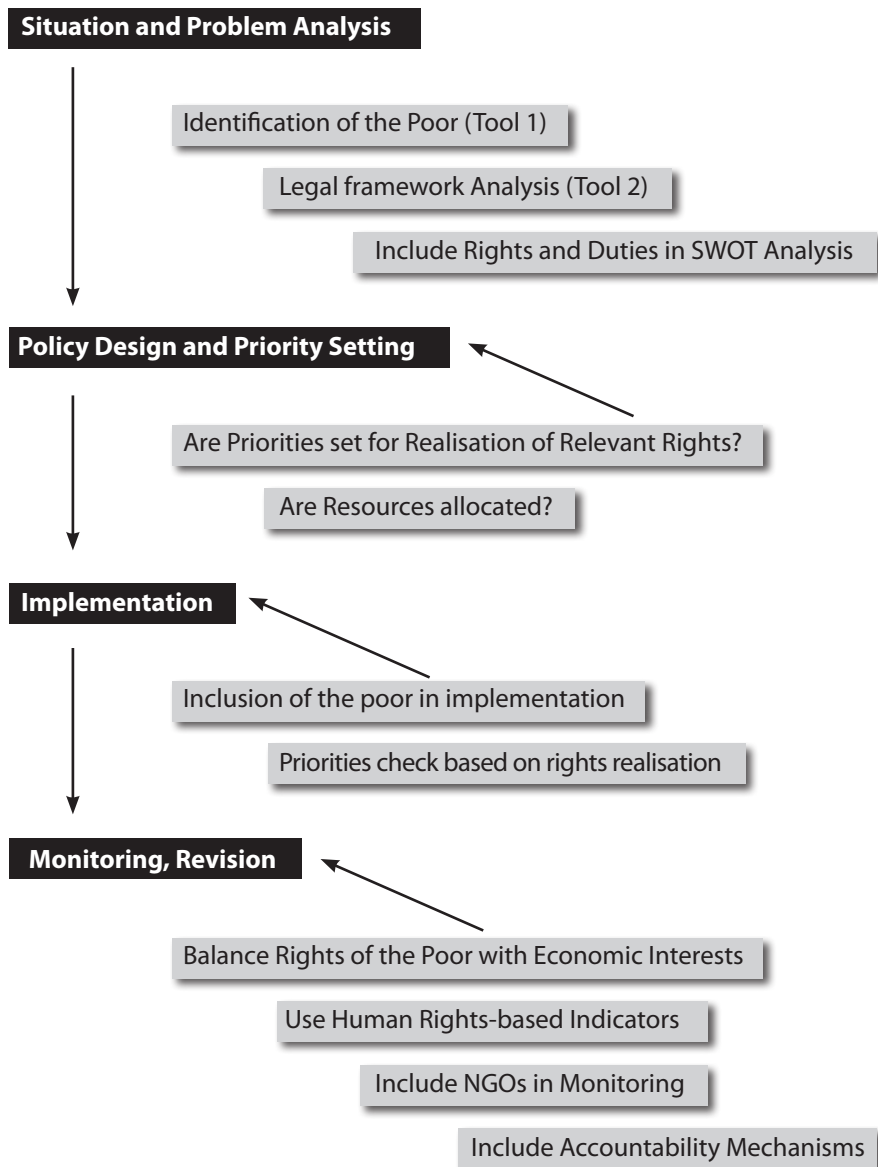
33. The project "Social Inclusion and Human Rights in Macedonia" foresees establishment of such mechanisms for monitoring of the situation on local level. These mechanisms will be functioning within CSOs, taking into consideration their autonomy and independence.
34. Principles and Guidelines for a HRBA to Poverty Reduction Strategies, p 57, OHCHR 2002
35. Largely based on Renate French, A Human Rights-Based Approach to Regional Development, p. 29f.

Furthermore, social mobilization and capacity building which is closely related to human resource development, may create and enhance a bottom-up approach with regards to human rights education, as citizens are getting increasingly aware of their rights and of the mechanisms put in place to ensure the exercise of those rights.

Steps of a HRBA to Local Development Planning (BIM Tool 3)

Situation and Problem Analysis

Identification of the Poor (Tool 1)

Legal framework Analysis (Tool 2)

Include Rights and Duties in SWOT Analysis

Policy Design and Priority Setting

Are Priorities set for Realisation of Relevant Rights?

Are Resources allocated?

Implementation

Inclusion of the poor in implementation

Priorities check based on rights realisation

Monitoring, Revision

Balance Rights of the Poor with Economic Interests

Use Human Rights-based Indicators

Include NGOs in Monitoring

Include Accountability Mechanisms

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