

IMPLEMENTATION OF THE HUMAN RIGHTS BASED APPROACH IN POLICY AND PROGRAMMING PROCESSES WITHIN PUBLIC INSTITUTIONS





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Methodology

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INTRODUCTION

The state is the primary entity responsible for the realization of human rights on its territory. Today, this notion of the role of the state is differently interpreted by different states. Regardless of the specific situation in a particular country, human rights are an internationally protected category and human rights standards are set in international instruments that regulate in detail their realization, and set the minimum acceptable standards.

This publication is intended to be used by the entire government structure – the central and local governments themselves, the line ministries, the different agencies and directorates, as well as other state and public bodies having competences that directly or indirectly affect the lives of the rights holders. The intent is to produce a methodological approach on how to design and implement policies and programs that will have a substantial positive impact on the human rights of all, including the marginalized, the left behind, and the invisible.

The developed methodology and indicators below are to be used by employees in government that are engaged in any of the phases described below, regardless of the level they occupy within the organizational structure. After all, implementation of HRBA is a complex and team effort encompassing many government representatives, as well as other state and non-state stakeholders. Even though there are a lot of overlaps between implementing HRBA in policy and programming, on one side, and service provision by public entities, on the other, this publication is intended to be used for the former. The methodological approach to mainstreaming HRBA in service provision should be additionally developed, having in mind the numerous specificities of service provision and human rights. The current publication can only be used as a point of reference regarding public service provision.

Human rights, in their current form, are the result of a historical evolution, and until UN did not begin to address them at the systemic level and insist that states accept human rights obligations, these rights were a part of every country's internal affairs. Although international human rights law has existed since the late 19th century, human rights development has accelerated dramatically after the World War II and the founding of the United Nations in 1945. The UN Charter itself states that human rights are at the heart of its commitment (Article 1.3). Through the UN Universal Declaration of Human Rights of 1948, the nine key UN human rights instruments and their optional protocols, as well as through the many Conferences and Declarations that address various human rights related issues, the international legal framework for human rights is evolving to protect and safeguard the integrity and dignity of individuals. This is done by establishing obligations for states to protect the rights of all who live and reside in their territory. The whole body of instruments that regulate human rights also defines the scope and depth of the rights that states are obliged to protect.

International instruments establish the minimum standards that every country is obliged to respect in the protection and realization of human rights. They also establish the rights of the right holders and the obligations of the duty bearers to protect those rights. These obligations are classified into three categories:

Respect for human rights	It indicates the obligation of states and duty bearers not to interfere in the enjoyment of human rights.
Protection of human rights	It indicates the obligation of states and duty bearers to take steps to ensure that third parties do not interfere with the enjoyment of the rights.

Fulfil human rights

It indicates the obligation of states and duty bearers to be active and to take progressive steps for the realization of human rights. This obligation includes: the obligation of the state to create conditions for the exercise and demand of rights by the right holders, as well as the obligation to directly intervene and enable the enjoyment of human rights in cases where this is not otherwise possible.

Human rights based approach is a method developed within the UN as a way of translating the obligations arising from human rights instruments into concrete results in the field, thus directly contributing to sustainable changes in the lives of rights holders. Chronologically, the development of the HRBA was initiated by the UN Secretary-General in 1997, who called on all UN agencies to mainstream human rights in their activities within their respective mandates. The UNDP adopted a policy on «Integrating Human Rights into Sustainable Human Development» in 1998, and subsequent 2000 and 2002¹ Human Rights Reports state that human development is essential for the full realization of human rights, while human rights are essential for achieving integral human development. In this way, human rights and human development are directly linked and share a common vision and goal.

In 2003, however, UN agencies adopted the **Common Understanding Among UN Agencies** on the HRBA, which implies that «when applying the right-based approach to programming and development cooperation, every activity aims to directly contribute to the realization of one or more human rights.» (UNDP Argentina, 2011, pp. 11-12)

It is the latest document that establishes **the three essential attributes of HRBA in the programming of the activities** of the UN and its agencies (UNSDG, 2003):

- All programs for development cooperation, policies and technical assistance should **promote the exercising of human rights**, in line with the Universal Declaration of Human Rights and other international human rights instruments.
- The human rights standards contained in, as well as the principles arising from, the Universal Declaration of Human Rights and other international human rights instruments, **guide all development cooperation and programming** in all sectors and all phases of programming processes.
- Development cooperation contributes to the development of the capacities of the duty bearers in order to **fulfil their obligations** and / or the **right holders to exercise their rights**.

These three foundations are also the basis for the implementation of the HRBA within the democratic institutions and their processes for adopting and implementing policies and programs.

In this context, human rights are understood as «a program that guides and leads public policies of states and helps to strengthen democratic institutions, especially during the transition or in cases of incomplete and weak democracies.» (Abramovich, 2006, p. 38)

¹ <http://hdr.undp.org/en/global-reports>

1. CONTEXT

The state is the key entity in which the responsibilities assumed through ratified international instruments lie. In general, these obligations imply that the state is to ensure respect, protection and realization of the human rights of rights holders in all spheres of social life. From the rights holders' perspective, these obligations represent the responsibilities that the state has towards them, while they themselves have the right without any obstacles to exercise their human rights, as well as to demand from the state to provide the conditions for this. These obligations further affect the functioning of other sectors in the country, such as businesses and the civil society. And these entities should incorporate the corpus of human rights and its implications in specific cases as part of their actions, given their direct impact on the lives of rights holders and the potential for disrespect, violation, and even active obstruction of the enjoyment of human rights.

North Macedonia has accessed 8 of the nine key human rights instruments², with the exception of the International Convention for the Protection of the Rights of Migrant Workers and Members of Their Families³. This means that the state has undertaken the obligations to respect, protect and fulfil the human rights of its citizens, at least in the manner and to the extent provided in those documents. It also means that rights holders can and should hold the state and other duty bearers accountable, as well as demand from them to take general and concrete action to ensure realization of their rights.

Apart from the above conventions and existing regional international treaties and mechanisms⁴ that are directly applicable as part of the national legislation, North Macedonia has enshrined the human rights of rights holders within its Constitution and throughout numerous laws and bylaws. The Constitution affirms the respect for human rights by laying the foundation for their full realization by the rights holders, and by that recognizes the existing obligations of the duty bearers. Furthermore, the Law on Prevention and Protection against Discrimination (LPPD) from 2010 set the base line for the respect of equality and the prohibition of discrimination in public and private spheres. The new LPPD that is finalized and to be adopted in the near future will significantly further the anti-discrimination protection and infrastructure in the country. Human rights, as an underlying and a horizontal concept, are rooted in a multitude of other thematic laws and bylaws on central level, as well as within bylaws and decisions on local levels, and as such, they pose the bedrock on which the society is build.

Various UN agencies, both globally and at the level of the countries in which they are present, are implementing the HRBA in all aspects and at all stages of their operation. Their programs and activities, after the Common Understanding of Human Rights-Based Approach of 2003, contain the HRBA as an integral part that ensures that the results of the activities are felt also by the most marginalized and excluded rights holders.

From a process point of view, planning, carrying out and implementing policies and programs in state institutions does not differ substantially from the same processes

2 International Convention on the Elimination of All Forms of Racial Discrimination; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; International Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; International Convention for the Protection of the Rights of Migrant Workers and Members of Their Families; International Convention for the Protection of All Persons from Enforced Disappearance; and Convention on the Rights of Persons with Disabilities.

3 For more on the status of North Macedonia's access to UN human rights instruments, as well as the status of other countries globally, see indicators.ohchr.org

4 Such as the European Convention on Human Rights, the Revised European Social Charter, and the multitude of European Human Rights Treaties and the case law of the European Court of Human Rights. For more information on protection and promotion of human rights within the Council of Europe, go to <https://www.coe.int/en/web/portal/home>.

within UN agencies. Each of the phases contains key elements that are common to both the UN and national institutions. Also, the methods and ways of achieving the goals share common elements. From this perspective, although there are significant differences between individual institutions and the sum of the state apparatus, on one hand, and the individual or overall organizational set-up of the UN and its agencies, on the other, HRBA is equally applicable (through properly designed individual approaches) and has the potential to **transform the operation of the state apparatus**. Even more, it has the potential **to transform the manner duty bearers fulfil their obligations**, and thus **to transform even the lives of marginalized and excluded rights holders**.

For the purposes of this publication, we have approached a number of central institutions through a questionnaire designed to assess the capacity of institutions to systematically implement HRBA, as well as to assess the capacity of their employees to use it on a daily basis in their work. Knowing the limitations of this approach, we conducted also semi-structured interviews with senior officials in the Ministry of Labour and Social Policy, the Ministry of Information Society and Administration and in the Ministry of Foreign Affairs.

Although most of the institutions to which we submitted the questionnaire did not respond, we managed to get an appropriate insight into the general conditions and capacities of the duty bearers concerning HRBA. However, the very fact that a number of institutions did not answer the questionnaire is an indicator of the responsiveness of the duty bearers, but also of the level of understanding of the basic concept of HRBA⁵.

Four main conclusions emerge from these activities:

1 HRBA is very little recognized by the institutions and even less used in a systematic way. The UN Sustainable Development Goals are used in some institutions as a guide in creating strategic documents, policies and legislation, while the use of HRBAs as a conceptual framework depends solely on the individual knowledge and skills of those in charge of leading and directing the processes. It is interesting to note that the ministries that responded to the questionnaire have to some extent aligned their own programming processes with the principles and phases of results-based management. However, the same cannot be said for HRBA, although we can see certain onset of the implementation of the Human Rights Principles in their programming work. However, a structural approach is still missing. In the institutions themselves, higher level officials are more aware of the obligations that duty bearers have for ensuring human rights. When developing specific policies and programs in which these individuals are involved, HRBA (although not in a structured way) finds its way into the various stages and to some extent it is incorporated into the processes. This type of top-down pressure can be useful when programming the next steps for improving the application of HRBA in institutional processes.

In addition, having in mind the limited level of sensitization to human rights issues in the operational teams working in the institutions, as well as them being aware to some extent of the need to include HRBA in the programming stages, it is obvious that it is still too early to talk about an internal bottom-up pressure that would contribute to faster implementation of the HRBA.

2 There is an evident need for awareness-raising activities for HRBA. The only common thread between the answers to the questionnaire and the interviewed duty bearers is that the level of awareness in the institutions concerning the existence of a structured HRBA is unsatisfactory. The general remark is that although some employees implement HRBA elements in the programming stages as a result of their own professional experiences, this is limited only to the individuals and to

⁵ Institutions that answered the questionnaire: Ministry of Labor and Social Policy, Ministry of Information Society and Administration, Ministry of Education and Science and Ministry of Justice

specific examples. On the other hand, the vast majority of duty bearers are not even familiar with the HRBA. This is an interesting insight into the operation of the ministries and shows that there is a gap in the awareness, knowledge and skills for HRBA between different levels within the institutions themselves, as well as between different institutions. Targeted sets of awareness-raising activities in partnership with institutions would contribute to increasing the understanding of HRBA, as well as to increasing the interest for obtaining professional knowledge and skills for implementing HRBA.

3 The duty bearers' capacities urgently need to be developed and upgraded. If we want to build institutions that will be responsive to the needs of rights holders and will do so continuously and through all stages of their operation, we must provide knowledge and skills. The existing capacities for implementing HRBA are very low and therefore the results are not surprising. From these activities, it became clear that the duty bearers require all three types of training - introductory, advanced and for experts. The latter would be particularly important for the duty bearers who have a role to play in ensuring horizontal implementation of HRBA through all the programming processes in a specific institution.

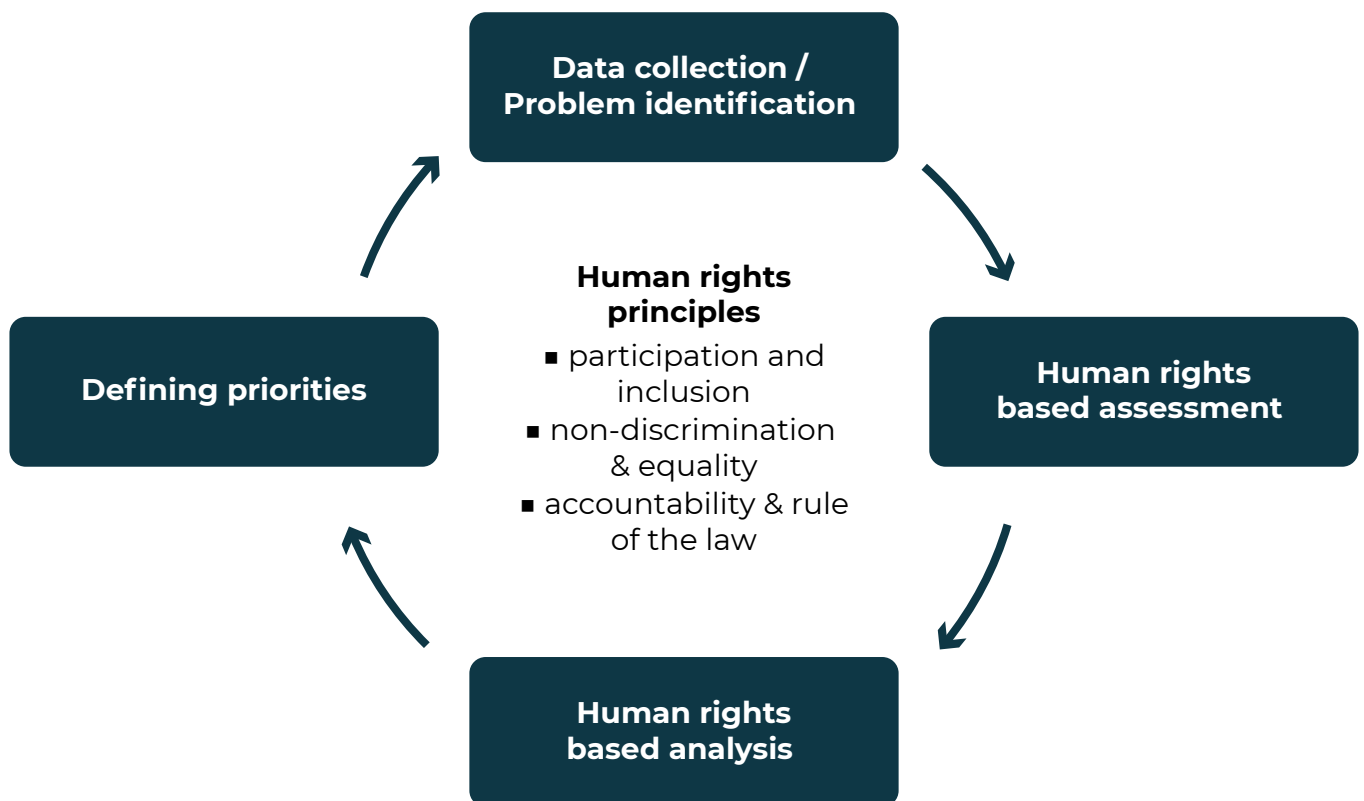
4 Centralized points for coordination of the implementation of HRBA in the institutions (focal points, program departments, program sectors - the last especially when there is a greater need for coordination, as in the Government). During the interviews, the representatives of the institutions pointed out that in order to have a structural HRBA implementation approach, in each institution there should be a certain person or department that would ensure mainstreaming of HRBA in all policies and programs within the competence of the specific institution. This and similar solutions are practiced also in UN agencies, within the relevant program departments / sectors. The point of this centralized approach is that the duty bearers being focal points or part of the department / sector are professionals in mainstreaming HRBA within all stages of their work and they control the processes for policy and programs making, as well as to what extent they are based on HRBA. In addition, in various international organizations in and outside the UN system, these program departments / sectors have additional responsibilities whose nature depends predominantly on the specific competencies of the organizations, but, among other things, they include gender mainstreaming, disability and youth in programming..

2. IMPLEMENTING THE HUMAN RIGHTS BASED APPROACH THROUGHOUT INSTITUTIONAL POLICIES AND PROGRAMS

In our society, the state still plays a key role in the processes of adopting and implementing policies and programs. Although the greater involvement of the civil and business sector in these processes is visible, there is still a lot of room and need for improvement. This is due to the tendency of government institutions to perceive non-state actors as external bodies in the system of governance and administration, but also to the existing acceptance of the thesis that the state is an end in itself. This notion is in direct opposition to modern concepts of human rights and the role of the state. According to these modern concepts, the state and other duty bearers at every level have the obligation to promote, protect and ensure exercising of human rights by the right holders. This is the foundation for sustainable development of a society and is the basic idea behind HRBA.

Basically, creating national development policies and programs is based on the answers to three questions: what do we want to achieve, how do we want to achieve it, and for whom do we do it. HRBA guides the processes that should provide answers to these questions by connecting the essential reasons for the situation in which certain groups of persons are, with the structural reality in which those reasons arose. Finally, through the use of HRBA in all phases of developing and implementing policies and programs, the state addresses these reasons in a sustainable way that contributes to overall human and social development.

Briefly put, the human rights based approach is a systemic integration of the human rights principles in the daily work in order to create policies and support the programming work on national and local level.



2.1. Phase 1 – Situation Analysis

A thorough process with planning processes and activities and essential involvement of all relevant stakeholders, in line with the HRBA, are the basis for achieving the desired results and their sustainability in the long run. It takes time and resources, but the benefits of implementing them are numerous.

The situation analysis is the most important phase from the point of view of HRBA. It shows the knowledge of HRBA and the techniques of implementation of human rights standards and principles in the processes of policy and programs making. The better we incorporate human rights standards and principles through the four key steps at this stage, the more accurate image we will get about the real situation on the ground and we will have a better basis for planning appropriate action. This, in turn, will lead to long-term sustainable results.

That is why it is very important for the team that will implement this phase to have adequate knowledge of human rights and HRBA, either practical or theoretical - preferably both. At this stage, the team will need to answer the following questions (adapted from UNDP Vietnam, 2009):

- What is happening, to whom is it happening and why is it happening?
- Who are the right holders and who are the duty bearers that cause or are affected by the problem?
- What are the obstacles that rights holders face in exercising their rights?
- Why duty bearers do not fulfil their obligations?
- Is there a relevant legal solution that regulates the specific issue?
- Is there a difference between the international obligations undertaken by the state, the current national legislation and the implementation on the ground?
- What are the effects of (non)implementation of legal solutions on rights holders?
- What are the roles of duty bearers at all levels and how do they cause perpetuation of the problems?

This phase is implemented through 4 main steps.



Phase 1, Step 1 – Data Collection / Problem Identification

The first step is to review all the relevant documents, data and information we have available. This should include all documents developed by all stakeholders, not just institutions. It is necessary to understand the problem from as many angles and perspectives as possible, and especially from the point of view of marginalized and excluded groups. This review should cover a variety of sources of information (even contradictory), various reports, indicators and documents from international, national, state and non-state actors.

In the problem identification process we collect various information about the relevant administrative processes and characteristics; legal framework and existing strategies, programs and plans; Conclusions and Recommendations of the Treaty Bodies and Special Rapporteurs; data and analysis of national human rights institutions and the Ombudsman; as well as analysis, conclusions and recommendations of CSOs. All information should be segregated by gender, age, ethnicity, geographical location, disability, etc. (i.e. by all grounds for discrimination under international agreements) (UNDP Argentina, 2011).

Once the data has been compiled, other tools can be used to better determine the interrelatedness of the specific problem with human rights: interviews, questionnaires, and focus groups. These additional activities allow us to determine the action strategies, mechanisms and other relevant factors that directly affect the exercising of human rights.

This approach ensures a better and more complete understanding of the situation through several dimensions: political, economic, social, legal, cultural, historical and developmental.

With this in mind, it is imperative that the team responsible for data collection and implementation of additional activities is well familiar with the concept of human rights and has experience in programming with the use of HRBA. If the team or its individual members do not have the appropriate level of knowledge, you should organize advanced trainings that will focus on gaining awareness of human rights and their standards and principles, ways of violating and / or restricting them, protection mechanisms, real and potential implications, as well as trainings on rapid identification of people and groups most vulnerable to being affected by such violations.

Phase 1, Step 2 – Human Rights Based Assessment

After identifying the most urgent problems and shortcomings, the team moves on to identifying and assessing the appropriate human rights influenced by them, those that are disabled or restricted. At this stage, the relevant rights and duty bearers are identified and evaluated, as well as the compliance of the situation on paper vis-a-vis the situation on the ground. This means, among other things, determining whether there are shortcomings in the legal regulation and protection of specific rights or the shortcomings are present during implementation. Although this sub-step will primarily point to areas and specific disabled or restricted human rights, keep in mind that positive examples and practices also need to be identified. In the future, they can be used as good examples and practices that can be part of various programming aspects of a specific policy or program, as well as in future policies and programs.

The purpose of the assessment is to determine where and to what extent there are developmental challenges and who is affected by them. The assessment should provide an answer to the following questions: «What's going on?», «To whom?», and «Where?». During this activity it is necessary to use the participatory approach, in order to take into consideration the problems, challenges, experiences and views of various marginalized and excluded groups.

Make sure that the following groups are taken into account and covered by the assessment (according to the specific needs) and that data are properly disaggregated (this list is only an example and can be supplemented and reduced, as needed):

- Persons with disabilities and parents of children with disabilities;
- People living in poverty;
- Elderly people;
- Refugees and internally displaced persons;
- Persons without personal documents and unregistered persons;
- Women, especially women with disabilities, victims of domestic violence and women sex workers;
- Minority groups, including ethnic and cultural minorities;
- Roma, as a separate multidimensional category;
- People with different sexual orientations, including the LGBTI population;
- Street children and parents of street children;
- Marginalized groups, etc.

Phase 1, Step 3 – Human Rights Based Analysis

The human rights based analysis begins with the analysis of the collected data in order to determine the developmental challenges in the priority areas in which action should

be taken. We do this by answering three sets of questions that will essentially produce three different analyses. Although this three-step analysis can be done at any stage of a particular programming cycle, it is very much necessary when analysing the situation.

Three-step analysis:

- 1 Causality analysis** -> Why? What rights are at stake? Explain why there is a problem.
- 2 Role Analysis** -> Who should do something? Who are the rights holders? Who are the duty bearers? Who should take action and what should be done?
- 3 Capacity Gap Analysis** -> What do they need to take action? What capacity gaps do the duty bearers have preventing them to fulfil their responsibilities? What gaps the right holders have preventing them to claim and exercise their rights?

Causality analysis

Causality analysis is a technique for identifying direct, underlying and essential causes of a particular developmental problem. Through this analysis we will answer the question which rights can be used to explain why there is a problem. The focus here is on the root causes of developmental problems and patterns of discrimination.

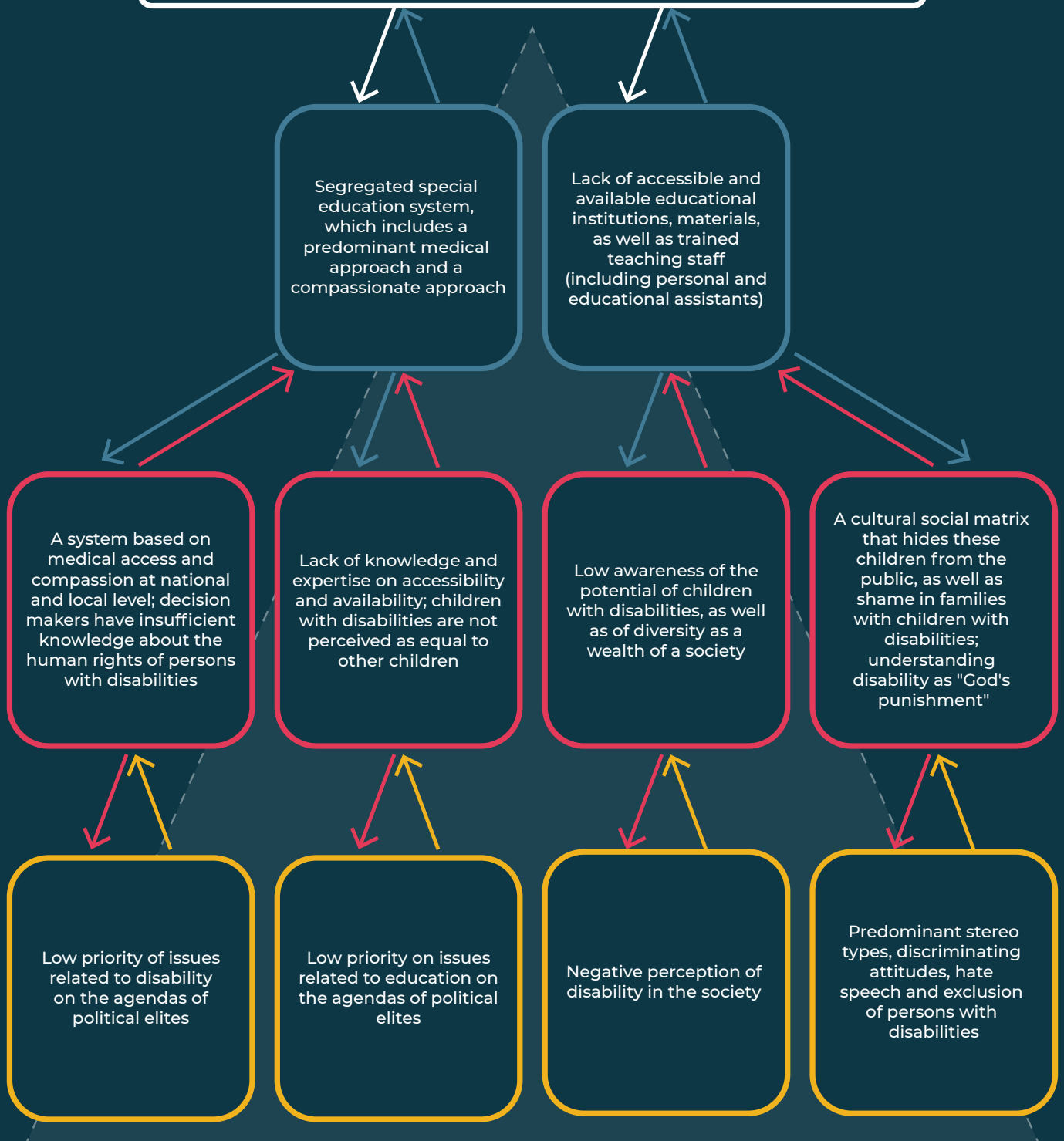
This analysis helps to understand the numerous, related and interdependent causes that contribute to the identified developmental problem. This technique consists of creating a problem tree / triangle, which is a very useful tool through which we map all the conditions, states and causes that contribute to the problem, as well as the ways in which we will address them. This tool is used in group work, we start with brainstorming, and then through discussion the structure of the tree is defined. Of course, the participating team should be educated on the concept of human rights and, preferably, on human rights-based approach, as well as on the use of all relevant data sources.

The problem tree / triangle consists of four levels that contain different types of causes and a manifestation of the problem that prevents the enjoyment of a certain human right. The analysis starts from the main manifestation of the problem and goes down identifying the hierarchy of causes. First, the interdependency of the problem manifestation and its immediate causes is analysed, then the focus is put on the relationship between the immediate and underlying causes, and in the end on the relationship between the underlying and root causes, as well as on the root causes themselves (UNICEF Finland, 2013). In this way we get a map that shows us what effect the removal of a certain root cause will have on the causes on higher levels and on the manifestation of the problem.

The level of manifestation is also called a level of challenge or a level of unfulfilled right, depending on who uses this technique and what they want to achieve. This level shows the end result, ie. the right or rights that are not respected as a consequence of the various levels of reasons presented below. Manifestation is a qualitative set of three causal levels, where each causal level differently influences the manifestation and the different actors that are part of the identified problem.

The immediate causes are the ones that have the most direct impact on people, families and communities and which most directly cause the manifestation that everyone can see. Underlying causes are those causes that define the immediate causes and contribute to the manifestation of the problem. Most often they are a result of the implementation of policies, laws, and the availability of resources. Root / structural causes are those that are almost invisible and that reveal conditions for which correction long-term interventions are needed in order to change social attitudes and relationships at different levels.

CHILDREN WITH DISABILITIES DO NOT ACQUIRE QUALITY EDUCATION AND ARE LEFT OUT OF CONTEMPORARY WORK PROCESSES



MANIFESTATION

IMMEDIATE CAUSES

UNDERLYING CAUSES

ROOT CAUSES

Role Analysis

Based on the causal analysis, Role Analysis identifies the stakeholders and provides an answer to 1. who are the rights holders affected by the problem, 2. who are the duty bearers and 3. whose is the obligation to take action to resolve the identified problem. This analysis defines who has what kind of obligations to whom, especially paying attention to the identified root / structural causes. In order to identify the obligations, it is very important to check the obligations that the state has undertaken with the international human rights agreements in line with the General Comments of the Treaty Bodies and the relevant legislative framework.

Identifying stakeholders will ensure a better understanding of existing power relations, will help identify and change dynamics, and contribute to overcoming differences between rights holders and duty bearers. Make sure you identify stakeholders at all levels, including family level (such as children, parents), community (religious leaders, people with local status / authority, teachers), local level (employees or councillors in the municipality), national level (ministers, prime ministers) and international level (such as embassies, donors, international organizations).

Besides identifying the two main groups, in this section all influential groups should be identified as well. These are groups that have some influence on the problem (positive or negative) and have an impact on the capacity of rights holders and duty bearers. Most often these groups are non-state groups and belong to the civil or business sector, organized religions, economic or political groups and interest groups, media, donors, etc. These groups can have different levels of influence on one of the two main groups (or on both) and therefore the dynamics of power arising from these relations should be closely monitored.

Capacity Gap Analysis

Capacity gap analysis helps us understand:

- 1 Shortcomings of the duty bearers for implementing their obligations,
- 2 Obstacles among rights holders for exercising their rights, as well as
- 3 What they both need in order to take appropriate action so to enjoy human rights fully and completely.

This analysis defines the interventions necessary in order to strengthen the capacities of the right holders and to improve the performance of the duty bearers. This analysis covers 5 dimensions that will help us understand the reasons why duty bearers are often not able to fulfil their obligations.

In a broader sense, the capacity to carry out duties contains 5 components / dimensions (adapted from UNCT, 2009):

- 1 **Responsibility / motivation / commitment / leadership** – it is related to the individual personal recognition of the duty holder that he needs to do something about a particular problem. This is reflected in the personal acceptance of the duty and is based on legal or moral principles.
- 2 **Authority** – it is related to the legitimacy of a particular intervention, i.e. when the duty bearers feel and / or know that it is possible or permitted to undertake a certain action. What is and what is not allowed in a certain society is largely determined by the laws, formal and informal norms and rules, traditions and culture. However, the personal moral element can be a progressive driving force in the human rights process.

3 Access to and control of resources - when the duty holder accepts that something needs to be done and is able to take concrete action, a lack of resources can make that activity impossible. Therefore, the power to act directly depends on the resources available. They, in turn, can generally be classified into three types: human resources, economic resources, and organizational resources.

4 Capacity for rational decision-making and learning - a rational decision-making requires an assessment based on data, as well as a logical analysis of the causes of a particular problem. Activities should be based on informed decisions made through this analysis. After undertaking the activity, re-evaluating the result and the impact will lead to improved analysis and better activities in the next cycle. This type of learning-by-doing process depends a lot on the communication capabilities of the specific team and institution - these capacities are key to the advanced process of such learning and dissemination of acquired knowledge and skills through the internal structures in the institution.

5 Communication capacity - the capacity for communication and access to information and communication systems is crucial for both the duty bearers and right holders in the efforts to exercise human rights or fulfil obligations. Communication is also important when connecting various key actors in the society with functional networks that are able to respond to certain critical developmental problems.

Steps 2 and 3 are most easily displayed with the Matrix of Roles and Capacities, which contains the identified rights and duty bearers, their respective rights and duties, as well as the gaps in the capacity to exercise those rights and fulfil obligations.

An example of a Matrix of Roles and Capacities Gaps

<p>Right holders: Children with disabilities</p>	<p>Right: access to quality education on an equal footing with children without disabilities</p>	<p>Capacity gap: Needs: limited opportunities for children with disabilities to present the problems they face; limited opportunities to meet and socialize with children without disabilities. Strengths: active student councils</p>
<p>Duty holder 1: Local schools administration</p>	<p>Duty:</p> <ul style="list-style-type: none"> ■ ensuring physical access to classrooms and other rooms in the school; ■ ensuring the presence of teachers, instructors and / or personal and educational assistants; ■ Monitoring the performance of teachers, instructors and / or personal and educational assistants. 	<p>Capacity gap: Needs: law planning and management capacities; limited opportunities for finding financial resources; low capacity of teachers and teaching staff for working with children with disabilities.</p>
<p>Duty holder 2: Municipalities and the City of Skopje</p>	<p>Duty:</p> <ul style="list-style-type: none"> ■ ensure implementation of inclusive education policies at the local level; ■ providing funds for improving the accessibility and availability of regular educational for children with disabilities; ■ controls the schools 	<p>Capacity gap: Needs: lack of clear standards for inclusive education; low capacity to perform essential controls in schools; limited education budgets in general. Strengths: mandate to control schools; mandate to require schools to comply and act on municipal acts</p>
<p>Duty holder 3: Ministry of Education and Science</p>	<p>Duty:</p> <ul style="list-style-type: none"> ■ adopts a policy for inclusive education of children with disabilities; ■ allocates a budget for the implementation of the policy, as well as for the training of teachers, educators and personal and educational assistants. 	<p>Capacity gap: Needs: lack of comprehensive and clear policy for inclusive education; low capacity and expertise for developing a policy for inclusive education. Strengths: partial development of inclusive education policy has been initiated; there are active international donors promoting inclusive education</p>

* The data and results obtained from the three steps directly affect policy making and programming of appropriate activities. Causality analysis contributes to clarifying problems and challenges, while the other two steps define the stakeholders and other factors contributing to the specific situation. From a strategic point of view, the Role Analysis and Capacity Analysis define the areas in which capacity strengthening is needed, and show to which direction the Partnership Strategy should evolve. These two analyses will further influence the formulation of outputs from the capacity building processes.

Phase 1, Step 4 – Defining Priorities and Goals

The last step in this phase is to set priorities that will guide the policies and programs to be implemented. Priorities are a direct consequence of the previous three steps, through which we have already identified development problems and challenges, and have analysed their causes and manifestations, the rights holders and duty bearers, as well as their capacities and needs. Some criteria for selecting possible priorities may be:

- major differences between human rights standards and societal practices;
- Comments and Conclusions given by the Treaty Bodies in accordance with ratified conventions;
- analyses, comments and conclusions given by the national human rights institutions, the Ombudsman and / or the civil sector;
- national priorities in line with human rights standards and the UN Sustainable Development Goals;
- negative social trends and continuous violations of certain human rights, etc.

Selecting Partners for Achieving the Strategic Priorities

In developing countries, there are a number of actors who support the development agenda and are focused on respecting and exercising human rights. In addition to state institutions and agencies, these actors include international organizations, UN agencies, international and national civil society organizations, foundations and donors. In different fields of action and geographical areas, the degree of overlapping between the possible partners is different.

In order to choose the right partners in a particular case, it is necessary to make a brief analysis of the actors:

- to identify all actors who are active in the specific field;
- to compare their programs of activities;
- to approach potential partners at a high / political level, but also to share information at the operational level in order to make an optimal partnership framework and to avoid duplication of activities;
- to conclude Memoranda of Cooperation or similar documents that will define the partnership;
- to maintain cooperation and communication with partners through the period of implementation of activities which belong to a joint scope of work.

The simplest way is to create a Matrix of Partnerships that will include all relevant actors active in the specific field. If a particular item in the matrix is aggregate (as CSOs in the example below), then a separate matrix should be made only for that item that will contain the specific actors. The nature of the strategic intervention that will follow will also define the choice of partners. As a rule, the use of HRBA in policy and programs making requires the inclusion of right holders that cannot be easily reached. This means that the number of partners will be larger and more substantial, as opposed to an approach which is not based on human rights.

This matrix is the output of this process, and it can be amended with new actors as the activities are implemented. It should not be forgotten that the state and other duty bearers bear the responsibility for social transformation, while partners can only contribute to it.

An example of a Partnership Matrix

Inclusive education for children with disability	CSOs	UNICEF	USAID/US Embassy	EU	UNDP
Social mobilisation and advocacy	x	x			
Policy development	x	x			
Capacity building	x		x	x	
Service provision	x				
Awareness raising	x	x	x	x	
Media presence and visibility	x	x			
Granting and re-granting	x	x	x	x	x

2.2. Phase 2 – Policy and Program Planning and Design

After completing the overall Situation Analysis, we focus on the program planning and design phase. Planning is based on the findings, results and priorities set by the analysis, a phase in which it is very important to constantly have in mind human rights and their realisation. For successful planning and design of policies and programs, it is necessary to have constant cooperation between the relevant institutions that will be responsible for achieving the set goals and results, given that all human rights related implications at this stage are integrated into the design itself. But more importantly, you need to include the right holders in order to:

- strengthen the credibility of the policy and / or program,
- divide the ownership of the whole policy and / or program between all stakeholders, and
- include all perspectives and experiences in the process and create a complete policy and / or program, which will produce sustainable results.

HRBA and Result-Based Management (RBM)

To this end, institutions should accept and implement the results-based management principles. Result-based management is a participatory and team approach to program planning. It promotes the effectiveness, efficiency and accountability of the institution and is a fundamental approach to achieving results. The institution should systematically focus on achieving results in order to ensure that its financial and human resources are strategically used to achieve the greatest possible impact. (adapted from UNFPA, 2003, p. 4 and UNESCO, 2007, p. 6)

Results-based management allows us to relate what we do with what we want to achieve and tells us how to know when we have achieved it. HRBA contributes to a multidimensional RBM by pointing out the real questions we need to ask, the type of change we are striving for and how to measure, monitor and report on the change made.

The RBM contains the following elements:

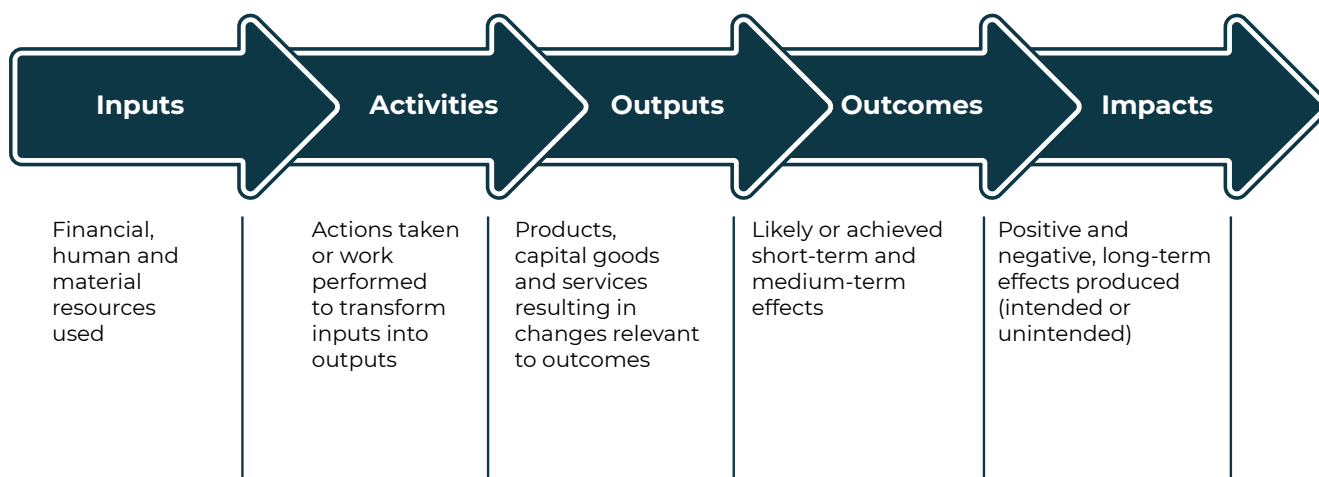
- analyses the problems in order to better understand the reasons;
- structures the policies and programs around a results chain, based on the findings of the analysis,
- predicts causality in the results chain,
- uses indicators to measure performance,
- focuses on the cost for achieving results, not on the budgeting of activities,
- monitors, evaluates and reports vis-a-vis planned consultations.

HRBA complements the RBM with a usable conceptual framework through which the causes for (non) fulfilment of human rights are perceived. In this process, HRBA makes visible the hidden problems and challenges that hinder development. HRBA also defines that the outcome should reflect changes in the behaviour of duty bearers and rights holders - through improved performance and enhanced responsibilities of both groups; while outputs are aimed at bridging the capacity gaps.

Illustration of the complementarity of HRBA and RBM in achieving change		
HRBA, RBM and a change		
← Human rights principles guide the process →		
RBM	HRBA	
Impact: change in... ↑↓	... quality of life (exercising human rights) ↑↓	Causality analysis
Outcome: change in... ↑↓	... performance (behaviour of right and /or duty bearers and their institutions) ↑↓	Role analysis
Outputs: change in...	... capacity of right and duty bearers	Capacity gap analysis
↑		
Sources for identifying certain behaviours and capacities:		
<ul style="list-style-type: none"> ■ Conclusions and Recommendations from the Universal Periodic Review, Treaty Bodies; ■ Reports, comments, findings, conclusions and recommendations of the national human rights institutions and the Ombudsman; ■ Reports, comments, findings, conclusions and recommendations of national and international CSOs active in the processes and / or present on the ground 		

The result-based planning of policies and programs aims to ensure that the set of interventions is not only minimal, but also sufficient to achieve the desired result, in our case the exercising of certain or certain human rights. It also reflects the causal relationship between the desired outcomes at different levels (outputs, outcome and impact). (adapted from UNFPA, 2010, p. 105)

From the duty bearers perspective, this type of policy and program planning should have priority and the state should make funds available for continuous capacity building of duty bearers. You should also use appropriate language and terminology when writing different documents. This will make policies and programs precise and will eliminate any confusion about any part of them. Use the human rights mechanisms when choosing the language and terminology. Also, use the languages spoken by the communities to make it easier to convey the right messages to marginalized and excluded rights holders.



A result chain is a causal sequence in development interventions that presents the necessary sequence for achieving desired goals, starting with inputs, moving through activities and outputs, and culminating in outcome and impact. (OECD / DAC, 2002, p. 33)

We use this chain in order to simplify complex cyclical processes and see the ways and models in which resources and activities will contribute to achieving the intended results, and thus to achieving the desired developmental changes.

Inputs are the financial, human and material resources involved in development interventions. (OECD / DAC, 2002, p. 25) According to the HRBA, it is crucial that these resources are sufficient and adequate to reach the most marginalized and most excluded communities. The way they are defined depends on the case, but we should be mindful that this should be done in accordance with the goals that we want to achieve, and not just with the needs of the activities.

Activities are actions taken or works performed that mobilize various inputs, such as funds, technical support and other resources, in order to achieve certain outputs. (OECD / DAC, 2002, p. 15)

The design of the activities themselves must have HRBA as the leading method, since their implementation in the field will mostly affect the achievement of the outputs and the outcome. They, in turn, will directly affect the impact of the development policy or program. In general, activities should actively contribute to the promotion of human rights; should be in line with the activities of other stakeholders in order to avoid overlapping, contradictions and sending the wrong messages; should be focused on addressing the underlying causes; as well as they should ensure the participation of relevant rights and duty bearers.

The activities take place in the field and if they are designed and planned based on human rights, they will involve all interested stakeholders, of which the most important are marginalized and excluded rights holders.

Outputs are products or services that are the result of implemented activities. They should be tangible, deliverable and sufficient to achieve the desired outcome of policies or programs created by the duty bearers. (adapted from UNDG, 2007)

A human rights-based output is a product or service designed to help reduce gaps in the capacity of:

- 1 The rights holders to enjoy and exercise their rights and / or to the duty bearers to fulfil the respective obligations; and of
- 2 Legal, institutional and policy frameworks to create an appropriate environment for rights holders and duty bearers to exercise their roles. (UNFPA, 2010, p. 105)

Outcome is the probable or achieved short-term and medium-term effect caused through the outputs (OECD / DAC, 2002, p. 28). Collective effort from partners is usually required to achieve them. They represent changes in developmental conditions, which occur after the realization of outputs, and before achieving the desired impact.

From the HRBA point of view, if the capacity gaps are successfully filled, the achieved result would be improved performance of the rights and duty bearers.

Impact is a positive or negative, primary or secondary long-term effect generated by a particular developmental intervention, in a direct or indirect way, desired or undesirable. (OECD / DAC, 2002, p. 24)

From a HRBA perspective, this means that a certain right is exercised or a certain development goal has been achieved.

2.3. Phase 3 – Implementation

The next stage is the action phase. Everything that is planned in the previous phase is taken to action. The better the planning and designing policies and programs, the simpler this phase will be.

Implementation of policies and programs led by HRBA has three main characteristics:

- 1 Human rights standards and principles are a guide at this stage and require their thorough involvement in the implementation if we want to achieve the desired results and impacts in the long run. This means that we need to carefully monitor the elements and steps outlined in the previous step.
- 2 Duty and rights holders are essentially and fully involved in the implementation. In order to have successful and effective national policies and programs a number of actors need to be involved in various negotiations. HRBA requires an inter-departmental and inter-sectoral approach and the involvement of all relevant stakeholders.
- 3 The manner of implementation and the strategic approach to it are aimed at encouraging the rights holders and building the capacities of the duty bearers in order to fulfil their obligations towards the rights holders.

This means that at this stage you will need to work with a number of stakeholders - rights holders, their representatives (mostly civil society organizations) and duty bearers. This in itself will be a challenge, but that challenge will be even greater when you work with stakeholders who have greater knowledge of human rights, knowledge of their disrespect and restriction on the ground, and of the implementation of the HRBA. Keep in mind that you are all on the same side and that you have the same goals in the process, although the perspectives from which you observe the problems and challenges are different. Respect

everyone involved in the implementation process and be open to learning from those who have more knowledge. If you have religious leaders or other community leaders among your partners, involve them substantially in the implementation - that way you will be able to reach out to marginalized and excluded groups, communities and / or people. Finally, ensure shared ownership of both the implementation and the results achieved. In this way you will contribute to more sustainable long-term solutions.

2.4. Phase 4 – Monitoring and evaluation (M&E)

The monitoring and evaluation phase means monitoring and evaluating the achieved results vis-a-vis what we have planned and expected and determining whether the intended impact is achieved. Monitoring and evaluation are intended to guide the decision-making process, such as whether to continue the intervention, how to improve it, whether the structure implementing a particular policy or program is sufficient or needs to be expanded, reorganized etc.

The ways in which the M&E of a policy or program will be carried out are foreseen in the planning and design phase of that policy and program. Most often they are contained in a document (Plan, Strategy, System or a differently titled document) which narratively explains how M&E will be performed. This is usually accompanied by M&E Matrix which contains the key elements of the narrative part. The matrix helps to have a comprehensive perspective of the M&E processes and facilitates their coordination.

A key element of this phase in terms of HRBA implementation is that we must ensure monitoring and evaluation of processes, in addition to the M&E of outputs and impacts.

The HRBA focuses mainly on processes because in this way it ensures the involvement of the most marginalized people and groups in the programs and ensures they contribute to improving the conditions and processes that are aimed at them. Thus, HRBA ensures higher quality results, as well as their long-term sustainability. HRBA foresees M&E of processes, from a point of view of them exercising human rights of rights holders and therefore it focuses on monitoring of (UNICEF Finland, 2015, p. 30):

- 1** The participation and empowerment of rights holders,
- 2** The responsibility of the duty bearers, and
- 3** Changes at all social levels.

Monitoring of processes

HRBA envisages that no policy or program should harm human rights in any way. Therefore, it should be carefully monitored and assessed whether interventions, although promoting certain rights, do not adversely affect the enjoyment of other rights. If so, the M&E document also provides for ways to investigate and refute the damage. In addition, HRBA requires constant and structural monitoring and evaluation of the human right principles and their implementation.

In addition to performing monitoring regularly, it should include mechanisms established by the M&E document, which will ensure the essential and full participation of other stakeholders in this process, as well as hearing their remarks, complaints, comments and requests.

Any successful policy or program implementing HRBA affects the power relations between rights holders and duty bearers. This means that tensions should be expected throughout the implementation cycle. These tensions need to be monitored to avoid any

conflicts that could escalate into violence. A well-thought-out approach to monitor and mitigate potential conflicts is essential in the planning phase of an M&E document.

Evaluating results

The aim of policies and programs that implement HRBA is to bring about positive change and to improve people's lives. Exactly this dimension is taken as a measurable result in the phase of planning and design of policies and programs, but also as a result that will be subject to evaluation in this stage.

HRBA incorporates marginalized and excluded individuals and groups as essential holders of rights and includes them at all stages. This means that the change that needs to be measured must also include them, i.e. it needs to be assessed whether the changes are visible in their daily lives, unlike the indicators according to which the implementation of national policies and programs that are not in line with HRBA is monitored. In essence, this means ensuring collection of completely disaggregated data on multiple grounds and their use in stages 2, 3 and 4. Possible criteria for data disaggregation are: disability, sex, gender, sexual orientation, ethnicity, religion, marginalized group, difference in wealth, difference between urban and rural conditions, belonging to a particular group, age, etc.

One way to visualize the dimensions in which we want changes to happen, depending on the specific intervention, is by assessing the changes that we wish would happen in certain areas (Joachim Theis, 2003):

- * **Changes in policies and practices:** in this case we assess whether the responsibility of the duty bearers has been strengthened by answering the following questions:
 - Are policies, laws and programs changed or new have been adopted?
 - Is the implementation of existing policies, laws and programs more effective in preventing human rights violations?
 - Is there a change in awareness, behaviour, practices, norms and values?
 - Have the funds allocated for the poor, marginalized and people at risk increased?
- * **Changes in fairness, inclusion and non-discrimination:** every human being has the same human rights everywhere and at all times. Non-discrimination and equality are fundamental principles of human rights and of HRBA. Some questions that need to be answered in order to monitor changes in this dimension are:
 - Are existing discriminatory norms and practices challenged / altered?
 - Has awareness increased and have discriminatory attitudes changed?
 - Is there an increased budget allocated for future addressing of inequity, exclusion and discrimination?
 - Are the capacities of the duty bearers to essentially include the marginalized groups strengthened?
 - Have the capacity of rights holders increased so that they can claim their rights?
 - Does this policy / program reach everyone?
- * **Changes in the participation of rights holders:** if people can influence the ways and the essence of the decisions made, the responsibility of the duty bearers is strengthened. Some questions for assessing the level of change in this dimension are:
 - Can the whole group exercise its rights?
 - Do they have support when they want to exercise them?

- Is there enough space for full participation of all interested rights holders?
- Can rights holders substantially participate in the processes, especially in those focused on them?
- * **Changes in the capacity of CSOs to support the exercising of human rights:**
 - Do CSOs have more constituents addressing them concerning human rights violations?
 - Do CSO networks add a new quality and dimension to the work of CSOs?
 - Do CSOs and networks have greater effect on respect of human rights and the HRBA implementation?
 - Do CSOs and networks mobilize greater forces and resources for positive change in exercising human rights?

3. HRBA AND HUMAN RIGHTS-BASED BUDGETING

A country's budget is its most important economic document and is central to supporting human rights. Creating human rights-based budgets is a key component of HRBA, because exercising of all human rights requires funds. The essence of creating budgets in line with HRBA is to link the resources needed to exercise and / or promote a particular right to the right itself. For example, a functioning judicial system is necessary to exercising the right of access to justice; or exercising the right to education requires having built and safe facilities, equipped schools, continuous training for teachers and for the other staff.

These direct and close relations between state budgets and the exercising of human rights are increasingly recognized by international organizations, especially the UN, while the OHCHR's field offices are actively working in this area with governments and CSOs. If the authorities want to use budgets to effectively exercise the human rights of their citizens, they must understand the relationship between the budget and the commitments made in international agreements. (OHCHR, 2017)

Results-based budgeting requires developing tools that will enable:

- Monitoring both budget allocations and budget expenditures;
- Creating a M&E system with clearly linked desired results and resources;
- Analysing the results and implementation of these findings in the process of allocation of funds;
- Encouraging structure that will motivate achievement of better results.

In a report to the UN, the former Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepulveda Carmona, although in a limited contexts, cited the basis for how states and public officials should understand state budgets: "Participation, accountability, transparency and access to information are critical principles of human rights that are also applicable to fiscal policies throughout policy cycles, ranging from budget and tax design, to cost allocation, to monitoring and impact assessment. (M. S. Carmona, 2014, p. 7)

Furthermore, she includes an explanation of what co-payment means, with effective and significant involvement of civil society organizations, but also of those "who will be directly affected by these policies, including those living in poverty" (M. S. Carmona). , 2014, p. 8)

HRBA in budgeting is based on several obligations which are “imposed” on the states. These obligations, from a financial point of view, derive predominantly from the corpus of economic, social and cultural rights, i.e. from the International Covenant on Economic, Social and Cultural Rights.

An Obligation for Progressive Realization of Rights

For certain rights, the state is obliged to progressively realize the full enjoyment of those rights by the right holders. This group includes many of the rights protected by the International Covenant on Economic, Social and Cultural Rights - the right to adequate income, health care, education, housing, etc. Regardless, the realization of all human rights is preconditioned with allocation of finances that are necessary, adequate and sufficient.

In terms of budgeting, progressive realization can take many forms - direct funding, use of other resources and new programs, reduction of restrictions, change of policies in order to strengthen the rights of marginalized groups, etc. In general, progressive realization in the budgeting process occurs when a country takes steps to upgrade its already achieved results. Progressive realization must exist all the time and it does not depend on economic growth, but implies effective use of existing and available resources. The burden of proof falls on the state to show that all possible efforts have been made to make progress on specific rights, within the available resources. (FLAC Briefing, 2014, p. 2)

An Obligation for Immediate Realization of Rights

Certain rights must be immediately and urgently met by states regardless of the availability of funds. Certain rights are applicable to all people at the same time and at all times, such as the right to equality and the prohibition of discrimination, which must be respected, protected and exercised urgently by states. This, for example, means equal pay for equal work for men and women.

Protection of the Minimum Necessary Level of Human Rights

The state has an obligation to ensure and protect at least the minimum necessary level of enjoyment of human rights, and thus to ensure the right to an adequate standard of living, which, in turn, is reflected in all spheres of the life of rights holders, and is primarily reflected in the response to the question of whether the right holders have a dignified life.

The minimum necessary level of obligations for the state, as a reflection of the minimum necessary level of rights, is different in each state. The term «minimum necessary level» is only an established baseline under which there is no exercise of rights. The goal is for the state to constantly upgrade that level and to promote the enjoyment of the rights of the holders, in all spheres.

The State Party [of ICESCR] in which a significant number of individuals are deprived of basic foodstuffs, essential primary health care, primary housing, or the most basic forms of education, prima facie, [is a state that] does not fulfil its obligations under the Covenant. (CESCR, 1990)

Assessing the Rights (3AQ)

The question to be answered by the creators of budgets and budgetary policies in relation to any right is whether the allocated funds are sufficient to meet the minimum standards for adequacy, affordability, accessibility and quality for the exercise of that right.

In relation to the state budget, the assessment of the exercise of rights is reflected in the formula 3AQ, explained above, with two adjustments of a financial nature.

The term **"adequate"** specifies the term «acceptable» from a budgetary point of view. This means that budgets need to be designed in a way that meets the needs of human rights on the ground.

The term **"affordable"** specifies the term **"available"** and implies that budgets are designed in a way that allows even those with the lowest income or those who depend on the state to be able to allow themselves to exercise their right.

A certain right is **"accessible"** if the right holders are not denied this right and its enjoyment, as well as in cases where the state actively supports it. The claim that a particular right is accessible is reflected in the answer to the question of whether the state provides financial incentives, develops financial programs, etc., so that all rights holders have equal access to a particular right.

"Quality" is the last budget question we need to answer when creating a budget - whether through allocated funds, which provide adequate, accessible and affordable realization of a right, we provide a substantial increase in the quality of the enjoyment of that right. From the HRBA perspective, this means providing equal quality of the right for all rights holders. If, on the other hand, these are services that support the exercise of a certain right, the quality requirement means that they should be standardized at a certain level and that they should be available to all rights holders at the same level of quality.

The state has an obligation to use public finances as efficiently as possible in order to maximize the benefits to society. (Limburg principles for implementation of ICESCR, Article 23)

An Obligation for Using the Maximum Available Resources

This commitment means that the authorities and those in charge must do their best to mobilize resources, which they will further use to promote human rights. In cases where national resources are not sufficient, the state must ensure international support and resources to realize them. In any case, the state must do its utmost to mobilize all available resources, whether national or international.

This commitment includes several other elements:

- States must prioritize the use of budgetary resources to promote the enjoyment of human rights. Funds already allocated for human rights issues should not be redistributed to other areas and should be fully spent on the original goals.
- The collection and spending of budget funds should be efficient and effective.
- Preventing corruption is primary - thus preventing the outflow of funds and the regression of human rights enjoyment.

An Obligation not to Take Retrograde Measures

The logical consequence of the obligation for progressive realization of rights is that the state has an obligation to refrain from deliberately taking retrograde measures. The state cannot annul the progress achieved in the enjoyment of human rights, except in very limited conditions. Even in those limited conditions, the state will have to make serious reasoning, explaining that (OHCHR, 2017):

- made every effort and used all available resources;
- that it has made all possible efforts in order to meet the minimum obligations;

- that when making the decision, it paid special attention to the vulnerable groups; as well as
- that once the reasons for the restrictive measures cease, they will be withdrawn immediately and the negative effects they have left on the right holders will be immediately annulled.

The other side of the coin is that states must consider various alternatives to raising funds before cutting funds in a way that directly affects the enjoyment of human rights.

Impact Assessment

States should periodically assess the impact that budget allocations have on human rights. These processes need to be open and participatory, where the general public will have an insight into the finances and the effects of their distribution, will have an insight into the various analyses made by state and non-state entities related to budget funds and their effects on the ground, but will also supervise the processes for using the financial resources (both during the impact assessment, but also during the implementation of a certain policy).

The impact assessment, if done properly, will produce substantial information about all aspects of budget spending, as well as about the direct impact on the ground. By including the real effects of policies in this analysis, we will obtain a comparative insight into the funds vis-a-vis the rights, and we will even be able to quantify the cost of a right on an individual, local, national or other level. This data will be of great importance in the next cycle of policy making and allocating budgets to support those policies.

4. MONITORING INDICATORS

Developing appropriate indicators to monitor the exercise of specific human right is a key step in designing a particular policy or program. In terms of the stages described above, the indicators are developed in the second phase, during the planning and design of policies and programs. Their monitoring, on the other hand, is constantly ongoing through the phases of implementation and M&E.

The idea of developing indicators for the realization of human rights comes from the thought that if something cannot be measured / counted then it remains unnoticed and / or unfinished. This is especially important for human rights, because they are descriptive, value-based, based on a legal narrative and are completely immeasurable in themselves. Therefore, they need to be transformed into an easily understood and tangible context, with a clearly expressed message and operationalized. Through the identification and use of qualitative and quantitative indicators, we clarify the content of human rights standards, norms and principles.

The purpose of the indicators is to be used for managing the processes of change and realization of human rights. With appropriate indicators we can measure to what extent the desired results have been achieved with the specific policy, as well as to articulate the connection between the goals, policies, activities and the rights.

A human rights indicator is a specific information about the situation in which an event, activity, outcome or goal is located (OHCHR, 2012, p. 16):

- Which can be associated with human rights standards and norms;
- Which addresses or reflects the principles of human rights or their violations; and
- Which can be used for evaluation and monitoring of the promotion and realization of a certain right.

4.1. Types of Indicators for Measuring the Realization of Human Rights

Qualitative and Quantitative

Quantitative indicators are indicators expressed in numbers (absolute numbers, percentages...) and have a statistical form, while qualitative are descriptive and narrative indicators, which aim to capture the data that are in the background of the bare statistics and want to reflect a certain qualitative change in the field, in a certain situation or in the exercise of a certain right.

Fact-based (objective) and opinion-based (subjective)

Facts and events that can be directly perceived and verified are objective, while those based on the perception, opinion or assessment of individuals are subjective.

Performance Indicators and Compliance Indicators

The primary goal of performance indicators is to enable verification of the achieved changes vis-à-vis planned. They are used in monitoring the performance of program activities in line with human rights norms and standards. Compliance indicators are explicitly linked to human rights standards and aim to demonstrate the scope of compliance with the obligations arising from standards with improved realization of human rights.

An Indicator and a Benchmark

A benchmark is a predetermined value of a specific indicator that shows the exact absolute number or percentage we want to achieve with a policy or program.

4.2. Measuring the Realization of the Human Rights

As explained above, HRBA is an approach that is equally important for both goals and processes. This is best reflected in the development of indicators and their population, given that HRBA requires that we monitor the achievement of both processes and outcomes.

The indicators that we will develop, basically, measure the level of acceptance of the obligations arising from a specific international instrument, as well as the level of their realization in the country. This is a three-layered process, which measures the level of acceptance of obligations, the efforts that the state should make to fulfil those obligations, as well as the results of those efforts through the prism of improved realization of human rights.

Consequently, the indicators that should support the process of design and implementation of policies and programs in the country are designed at 3 levels:

- Structural indicators,
- Process indicators, and
- Outcome indicators.

Structural Indicators

After the ratification of a certain international instrument, it is necessary to assess the commitment of the state to the implementation of the obligations it has accepted. Structural indicators support this process and reflect the steps taken at the highest level to meet the obligations.

Structural indicators focus on adoption of the necessary legal acts in line with the undertaken commitments; development of human rights promotion strategies and action plans; the existence and the need for the developing additional infrastructure and mechanisms necessary for promotion and protection of human rights.

Structural Indicators (adapted from OHCHR, 2012, p. 34)

Structural indicators help to reflect the acceptance, intention and commitment of the state to take measures that are in line with the undertaken obligations for human rights. Common structural indicators are:

- Relevant international human rights instruments are ratified by the state;
- National policies, strategies, legislation, infrastructure and mechanisms that exist or need to be established / built in order to fulfil the undertaken obligations;
- Time frame for adopting the necessary policies, strategies, legislation, infrastructure and mechanisms;
- Procedures that exist or need to be developed for better fulfilment of the undertaken obligations by the duty bearers;
- Time frame for adopting the necessary procedures.

Process Indicators

These indicators measure the activities that the duty bearers undertake in order to fulfil their obligations. These are used continuously for measuring and evaluating policies and specific measures taken by those in charge with the aim of transforming undertaken commitments into concrete outcomes. Process indicators link the undertaken measures and activities with specific achievements, which, in turn, when consolidated, should result in the desired outcomes. These indicators should be adaptable to change and, thus, progressively reflect the realization of rights, but also should contribute to improving the accountability and responsibility of the state.

Two things are important, when selecting and formulating process indicators: the first is the process indicator to connect a specific structural indicator with an outcome Indicator, while the second is to explicitly reflect a specific activity vis-a-vis the duty bearers and the undertaken obligations.

Process Indicators (adapted from OHCHR, 2012, p. 36)

These indicators help in assessing the activities undertaken by the state in order to transform the undertaken obligations into results. This transformation takes place through the implementation of policies, strategies, action plans and the planned concrete measures and activities. The formulation of these indicators depends on the means used in the implementation of a specific policy and program, but common process indicators are:

- Indicators for budget allocation of funds for the realization of a specific human right;
- Whether the target groups are covered by policies, programs, strategic and action documents and / or activities;
- Complaints received and filed for human rights violations, as well as the ratio of rectified violations;
- Measures for raising the awareness of the duty bearers for fulfilling the obligations and the awareness of the rights holders for exercising their rights;
- Measures for stimulating (financially and non-financially) the duty bearers to address the specific problems in relation to realization of human rights;
- Indicators about the operation of specific institutions (for example, the Ombudsman, the Government, the Assembly) or of specific systemic units (for example, mutual compliance of relevant laws and bylaws, to what extent the legislation allows the exercise of human rights in practice).

Outcome Indicators

These indicators cover individual and collective improvements in the realization of certain rights in a specific context and thus reflect the degree of enjoyment of those rights. It is the sum of time and the impact of various processes, which are expressed as common or separate process indicators. Therefore, these indicators are not adaptable to the changes that occur during the implementation of policies and programs.

These indicators measure the changes that occur over a period of time and present them as concrete result or results. Consequently, they are related to the activities that are implemented in order to achieve the desired results, as well as to the intended results themselves. Therefore, their formulation depends on the goals and outcomes we want to achieve.

Outcome Indicators (adapted from OHCHR, 2012, p. 38)

These indicators help to assess the results of the efforts and activities undertaken by the state in order to improve the enjoyment of human rights. Possible outcome indicators are:

- Percentage of children with disabilities involved in regular education;
- Reported cases of discrimination in a certain period;
- Increase in the percentage of inter-ethnic activities in the educational processes;
- Number of human trafficking cases;
- Number of women victims of domestic violence reported in one of the shelter centres.

Criteria for Selecting Appropriate Indicators

Criteria for Selection of Indicators (OHCHR, 2012, p. 50)	
R	Relevant and reliable – The indicators should be relevant and reliable
I	Independent – Indicators should be independent of the subject of monitoring , viewed through the prism of data collection methods
G	Global and universally meaningful – Indicators need to be set up in a way that is meaningful and understandable beyond the borders of a particular country , but at the same time, they need to be flexible enough to adapt to the specific context and be able to disintegrate on different grounds.
H	Human rights standards-centric – Indicators should be based on the normative framework and human rights standards
T	Transparent, timely and time bound – They need to be transparent, timely to address specific situations, as well as time bound to achieve the desired goals in a relatively short period of time
S	Simple and specific – Indicators should be expressed in simple language and be specific

4.4. Setting the Indicators

When selecting and defining indicators, the most important step is to link them to specific human rights standards. Available data and evidence for the performance of specific indicators should be also taken into consideration.

First, in the context of a specific human right, an appropriate **structural indicator** is formulated. In order to do that, first we consider the obligations that the state has undertaken with the international instruments of human rights, as well as data and information that will show to what extent and in what way those obligations are reflected in the national legal system. Further on we determine whether the national legal system is translated into the policies and programs that the state implements.

The second step is to define and formulate **process indicators**. Here we identify all measures contained in the institutional policies and programs, defined duty bearers and their mandates, specific rights holders, infrastructural and systemic setup, institutional context and possible bottlenecks, the nature of existing policies and programs and their shortcomings, etc. Based on this analysis, sets of process indicators are identified, which will reflect the relationship between the structural and the outcome indicators.

The last step in setting the indicators is to formulate the **output indicators**. When doing this, the most important thing is that they are clearly and easily related to the enjoyment of the concrete right, as well as to the process indicators. These indicators are numerically less than the process ones and contain qualitative and quantitative sum of process indicators.

Setting the Indicators (OHCHR, 2012, p. 78)

Step 1	→	Structural indicators		
		<ul style="list-style-type: none"> ■ Constitutional and other internal legal fees for current rights ■ Public policies and their shortcomings, in terms of specific rights ■ Institutional framework for implementing the obligations in relation to specific rights 		
↓				
Step 2	→	Process indicators	Identification of duty bearers and their roles; as well as the mandates of relevant institutions	
			<ul style="list-style-type: none"> ■ Physical indicators are more desirable than financial ■ Indicators that link institutional mandates with results / outcomes 	Identification of policies and programs relevant to achieving the desired results
			Identification of national and global good practices and gaps in the implementation of a certain right in the country	
↓				
Step 3	→	Outcome indicators	Identification of desired outcomes related to the implementation of the obligations in relation to human rights, as well as their connection with the processes	
		<ul style="list-style-type: none"> ■ Easily related to the enjoyment of a right ■ They represent the cumulative effect of processes ■ There are not many 		
Review / validation of indicators and levels of disintegration, according to evidence specific to a particular country				

Contextualisation of Indicators

Indicators for measuring the realization of human rights need to be designed separately for each specific context; they need to be accurately and specifically defined, based on a planned and harmonized methodology (in cooperation with other institutions and the civil and / or business sector), as well as and be constantly available to all stakeholders so that they can contribute to their population. The contextualization of indicators allows for their ownership by the state, and the inclusive and participatory process for their design ensures their quality and relevance.

Contextualisation of Indicators (OHCHR, 2012, p. 87)										
Step 1	<p style="margin: 0;">Structural indicators</p> <ul style="list-style-type: none"> ■ Identification of gaps in the national legislation vis-à-vis international human rights law and obligations of the state as per the international human rights instruments ■ Identification of gaps in public policy documents about the specific problem, taking into account the best international practices ■ Identification of common practices and national institutions relevant to the implementation of human rights obligations 									
Step 2	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; padding: 5px;"> <p style="margin: 0;">Process indicators</p> <ul style="list-style-type: none"> ■ Contextually relevant and locally targeted ■ Higher number of process indicators may be required ■ Focus on administrative data ■ Design of additional process indicators and interventions </td> <td style="width: 5%; text-align: center; vertical-align: middle;">→</td> <td style="padding: 5px;">Identification of target groups in order to articulate specific indicators</td> </tr> <tr> <td></td> <td style="text-align: center; vertical-align: middle;">→</td> <td style="padding: 5px;">Refining illustrative indicators for the existing programs</td> </tr> <tr> <td></td> <td style="text-align: center; vertical-align: middle;">→</td> <td style="padding: 5px;">Focus on national and local budget processes in order to mainstream human rights</td> </tr> </table>	<p style="margin: 0;">Process indicators</p> <ul style="list-style-type: none"> ■ Contextually relevant and locally targeted ■ Higher number of process indicators may be required ■ Focus on administrative data ■ Design of additional process indicators and interventions 	→	Identification of target groups in order to articulate specific indicators		→	Refining illustrative indicators for the existing programs		→	Focus on national and local budget processes in order to mainstream human rights
<p style="margin: 0;">Process indicators</p> <ul style="list-style-type: none"> ■ Contextually relevant and locally targeted ■ Higher number of process indicators may be required ■ Focus on administrative data ■ Design of additional process indicators and interventions 	→	Identification of target groups in order to articulate specific indicators								
	→	Refining illustrative indicators for the existing programs								
	→	Focus on national and local budget processes in order to mainstream human rights								
Step 3	<p style="margin: 0;">Outcome indicators</p> <p style="margin: 0;">Standard formulation of these indicators, in a way in which they are universally relevant; it may be necessary to adapt them to specific local target groups</p>									
<p>Review / validation of indicators based on the need for follow-up on the recommendations given by the human rights mechanisms and the evidence specific to the state</p>										

An example of the Indicator Matrix for the right to education, through the prism of inclusive education of students with disabilities

The four columns in the matrix below are the key sectors stemming from Phase 1 and Phase 2 from the above Methodology, and are identified for this particular topic. Regarding the nature and needs of the intervention you are about to undertake, the number, complexity and dimensions of the columns will vary. Please bear in mind to keep things simple, but to include all necessary sectors.

The three main rows below encompass each of the levels of the indicators and they can be divided in indicators that are developed for several or all the key sectors (joint indicators) or for a concrete sector (sectorial indicators). Please use both in line with the nature of the intervention at hand. Finally, keep in mind the logical connections between the designed indicators, and their regression from structural to outcome indicators, and vice versa

	Universal primary education	Access to secondary and higher education	Curricula and educational resources	Educational opportunities and freedom
Structural Indicators	<ul style="list-style-type: none"> ■ Relevant ratified international agreements that cover the right to education in general, as well as those that cover inclusive education of students with disabilities ■ Constitutional coverage of the right to education ■ Legal coverage of the right to education, in general, and of inclusive education for students with disabilities, in particular (the latter includes a ban on discrimination, accessible and available school facilities (to and inside), teachers and other staff necessary for effective inclusive education) ■ Legal framework for establishing special educational institutions for students with disabilities, as well as their administration by persons with disabilities (we do not refer here to “special schools” according to the existing national legal framework, but to the possibilities for achieving the principle “Nothing for us, without us” in the education sector) ■ Number of CSOs active in promoting, realizing and protecting the right to inclusive education for students with disabilities, as well as an area of their professional engagement (influence, awareness raising, capacity building, development of educational materials, care for children with disabilities, resource centres) 			
	<ul style="list-style-type: none"> ■ Time frame and scope of the strategic and action plan for free and compulsory primary education for all (in our case secondary also) ■ Time frame and scope of the strategic and action plan for providing full inclusive education for students with disability, as well as related documents about “special schools” for students with disability 	<ul style="list-style-type: none"> ■ Time frame and scope of national educational policies for all, including temporary and / or special measures for students with disabilities ■ Time frame and scope of national educational policies for vocational and technical education ■ Standardized curricula for education at all levels - date of entry into force and their scope ■ Number or percentage of educational institutions at all levels that teach human rights, inclusion, diversity, as well as number of hours for those subject in the curriculum ■ Number or percentage of educational institutions that have a system for involving staff to support the educational processes of students with disabilities (personal assistants in educational processes, educational assistants, etc.). ■ Number or percentage of educational institutions with mechanisms for students to participate in things that affect them and make decisions related to them, as well as whether these mechanisms have sub-mechanisms that provide inclusion of students with disabilities 		

- Ratio of received complaints / grievances / appeals related to the right to inclusive education of children and persons with disabilities, which have been reviewed and positively solved by the Commission for Protection against Discrimination, the Ombudsman, the Constitutional Court and / or other mechanisms , as well as a number of those for which there was an effective action by the Government
- Ratio between GDP and allocated budget funds for all levels of education in general, as well as the percentage of that ratio aimed at providing inclusive education for children and people with disabilities
- Amount of developmental assistance allocated to education, in general, and percentage of the amount which is intended to provide inclusive education for children and people with disabilities

<ul style="list-style-type: none"> ■ Ratio of students with disabilities vis-a-vis students without disabilities ■ Percentage of students with disabilities moving to more advanced classes ■ Percentage of students with disabilities enrolled in public schools ■ Ratio of students with disabilities using support programs or financial incentives for primary education ■ Ratio of public schools that have introduced additional costs for students, except the minimum necessary ■ Ratio of teachers who are fully trained and qualified to work with students with disabilities ■ Ratio of schools that are fully accessible and available to students with disabilities ■ Ratio of schools that have sufficient support staff for unhindered and quality education of students with disabilities ■ Ratio of students with disabilities enrolled in the first grade who attended some kind of preschool education 	<ul style="list-style-type: none"> ■ Percentage of students with disabilities continuing to secondary regular education ■ Percentage of students with disabilities continuing to more advanced classes ■ Percentage of students with disabilities continuing education from secondary school to regular higher education ■ Ratio of costs per student in secondary and higher education vis-a-vis average annual consumption of a family, and the same ratio for students with disabilities ■ Percentage of students with disabilities who receive grants, scholarships or other support ■ Ratio of teachers who are fully trained and qualified to work with students with disabilities ■ Ratio of schools that have sufficient support staff for unhindered and quality education of students with disabilities ■ Ratio of students with disabilities enrolled in vocational and technical programs in secondary and post-secondary education 	<ul style="list-style-type: none"> ■ Ratio of educational institutions which comply with the national requirements for accessible and available facilities, educational processes and curricula ■ Periodic revision of curricula at all levels of education ■ Promoting inclusion of human rights in the curricula ■ Number of schools included and excluded from the educational processes in the specific period ■ Average salary of teachers as a percentage of the minimum wage at the national level ■ Number of teachers attending trainings on working with students with disabilities and their ratio of the total number of teachers ■ Number of students per teacher at each level of education separately, including the number of students with disabilities per teacher 	<ul style="list-style-type: none"> ■ Percentage of educational institutions that have accepted modern concepts of education (e.g. active learning), number of students with disabilities included in these schools and the ratio to students with disabilities in other schools ■ Percentage of adults with disabilities who are covered by basic educational programs ■ Percentage of students with disabilities who study at a distance, but continue their education ■ Number of educational institutions established and managed by persons with disabilities, which are recognized by the state and the public (organizations for accommodating and care are not included) ■ Percentage of students with disabilities undergoing vocational training for easier entry into the open labour market, in public institutions and in those supported by public funds ■ Percentage of students using personal computers
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Outcome Indicators	<ul style="list-style-type: none"> ■ Ratio of male and female students with disabilities per grade ■ Percentage of students with disabilities who finish primary education ■ Percentage of children with disabilities in school age who do not attend school 	<ul style="list-style-type: none"> ■ Ratio of male and female students with disabilities per class in secondary and higher education ■ Ratio of students with disabilities who complete secondary education ■ Number of students with disabilities who complete undergraduate studies per 1000 population 	<ul style="list-style-type: none"> ■ Improved educational facilities at all levels of education that are fully inclusive for students with disabilities ■ Number of educational facilities that have become fully inclusive for students with disabilities in this period 	<ul style="list-style-type: none"> ■ Ratio of students with disabilities with a professional or university degree, with segregated data for women with disabilities, type of disability and other relevant target groups
	<ul style="list-style-type: none"> ■ Level of literacy in young and adults with disabilities (reading, writing, speaking, math, problem solving, as well as other life skills). 			

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