



REGERINGSKANSLIET

IJ2007/2488/DISK

24 October 2008

Ministry of Integration and Gender Equality
Sweden

Rights Work!

**International Conference on Systematic Work for
Human Rights Implementation**

Background paper

1	Introduction.....	4
1.1	Background	4
1.2	Aim	5
1.3	Systematic work for human rights implementation: outlining the concept and its context.....	6
1.4	Structure of the paper.....	7
2	International organisations and systematic work for human rights implementation	9
2.1	The United Nations and the Office of the High Commissioner for Human Rights.....	9
2.2	The United Nations Development Programme (UNDP)	10
2.3	Council of Europe Commissioner for Human Rights	11
3	Methods for mainstreaming and following up systematic work for human rights implementation	13
3.1	Introduction.....	13
3.2	Human rights-based governance	14
3.2.1	What is human rights-based governance?	14
3.2.2	Challenges and value added of a human rights-based approach.....	15
3.3	Human rights indicators	16
3.3.1	Introduction.....	16
3.3.2	Different models for human rights indicators.....	18
3.3.3	Challenges and value added of human rights indicators	21
3.4	Human rights budgeting	22
3.4.1	What is human rights budgeting?	22
3.4.2	Human rights budgeting in practice.....	24
	Suggested issues for discussion (Workshop 2).....	26
4	National human rights action plans and baseline studies.....	27
4.1	Introduction.....	27
4.2	Identifying the problems: Human rights baseline studies	28
4.2.1	An early and open invitation to stakeholders	29
4.2.2	How to identify the problems to be included in the study	30
4.2.3	Who should do it?.....	31
4.3	Drafting a human rights action plan.....	31
4.3.1	Allow time for planning and budgeting	31
4.3.2	Discuss possible solutions, not only problems.....	32
4.3.3	Prioritisation and inclusion	32
4.3.4	Precision of activities	33
4.3.5	Educational value	33
4.4	Outreach – making the plan known	34
4.5	Implementing a human rights action plan	34
4.6	Ownership and responsibility	36
4.7	Allocation of resources.....	36
4.8	Sustainability	37

4.9 Evaluation.....	37
4.10 After the first plan	38
4.11 Sector-based action plans and combinations of plans	39
4.12 The value added of human rights action plans.....	40
Suggested issues for discussion (Workshop 1).....	42
5 Systematic work for human rights implementation at regional and local level.	44
5.1 Introduction.....	44
5.2 What may characterise human rights work at local and regional level?	45
5.3 Practical human rights work at local and regional level	46
Suggested issues for discussion (Workshop 3).....	48
6 The role of civil society and national human rights institutions in systematic work for human rights implementation	48
6.1 The role of national human rights institutions in systematic work for human rights implementation.....	48
6.2 The role of civil society	51
6.3 Different stages, different roles	52
6.4 The business sector.....	53
Suggested issues for discussion (Workshop 4).....	54
7 Conclusions.....	55
7.1 Systematic work for human rights implementation: concept and methods revisited	55
7.2. The value added of systematic work for human rights implementation.....	56
7.3 Credibility and public support for systematic work for human rights implementation	58
7.4 Central elements in systematic work for human rights implementation – draft points for discussion.....	59
7.5 Final remarks.....	61
Further reading	63

1 Introduction

1.1 Background

At the Council of Europe's Forum for the Future of Democracy in June 2007, the General Rapporteurs concluded that public authorities should seek ways to secure the systematic implementation and monitoring of human rights and democracy at different territorial levels, using a structured and comprehensive approach.

National human rights action plans and performance indicators were proposed as tools for identifying problems and deficiencies on a regular basis to ensure they are addressed constructively, and for mainstreaming a human rights perspective into governance. One of the breakout sessions at the Forum was on the topic of systematic work for human rights implementation, with participants from several member states of the Council of Europe (CoE), as well as from the organisation itself, the Office of the Council of Europe Commissioner for Human Rights, the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Development Programme (UNDP).

An important starting point for the international discussion on systematic work for human rights implementation was the recommendation of the World Conference for Human Rights in Vienna 1993. The Conference recommended each State to "consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights." The Swedish Government has adopted two national human rights action plans, the first for 2002–2004, and the second for 2006–2009. The experience gained from working on these projects has been largely positive, but has also shown that many concrete issues need to be solved along the way in working systematically on human rights implementation. Through various international contacts it has also become clear that many people in different countries face the same challenges and that their experiences and ideas can assist the Swedish systematic work for human rights implementation. The Swedish Government therefore considered it useful to invite other states – along with intergovernmental and non-governmental organisations and national human rights institutions – to a meeting to exchange experiences and ideas in this area. Accordingly, in its human rights action plan, the Government undertook to organise an international conference on the topic of systematic work for human rights implementation. The conference is to be held in Stockholm on 6–7 November 2008, and this paper has been prepared as a background document for that conference.¹

¹ The paper has been written by Anna Karin Lindblom at the Swedish Ministry for Integration and Gender Equality, which is responsible for coordinating human rights issues in Sweden and the Swedish national human rights action plan. As mentioned below, the Office of the Council of Europe Commissioner for Human Rights has contributed both to the study visits and through

1.2. Aim

States are under an international legal obligation to respect, protect and fulfil human rights in accordance with the Universal Declaration for Human Rights, ratified human rights treaties of the United Nations (UN) and the CoE, as well as other international and regional human rights instruments. It is also generally recognised, as was emphasised in 1993 by the World Conference for Human Rights, that human rights are indivisible, interdependent and interrelated. The obligation of states to implement human rights must be a starting point for all discussions on human rights implementation.

At the same time, a worrying gap exists between the rights proclaimed in international and regional human rights instruments and how these rights are respected in reality. Varying explanations are offered when states fail to fully implement human rights. Internal political tensions or armed conflict are perhaps the most common situations when human rights are challenged. But even in times of peace and when the state economy is healthy and stable, human rights violations occur.

Human rights standards have evolved over time and today cover large areas of human life and needs. The standards constitute a rather complex system of rules and obligations. Grasping the whole picture, with the many different aspects of human rights and the needs and interests of different groups and the individual to take into account, is a very complicated task. An adequate balance must be found to deal with structural and long-term challenges on the one hand and more acute and specific human rights problems on the other, as well as in allocating resources and addressing the rights and interests of different groups and parts of the population.

The complexity of human rights work must not be used however as an excuse by states for not respecting human rights. Instead, acknowledging the challenges should be the starting point for a discussion in which states, intergovernmental organisations, national human rights institutions (NHRIs), non-governmental organisations (NGOs) and other civil society actors can share experiences and consider methods and solutions to address the challenges involved in implementing human rights.

Perhaps too little attention has been paid to the more practical, everyday challenges and problems that public administration encounters when dealing with human rights. These may include a lack of knowledge and awareness of human rights among civil servants, problems in coordinating different actors and levels of

valuable input and comments on this paper. OHCHR and UNDP, among others, have also provided important input.

society when working to uphold human rights, as well as the absence of a human rights perspective in some standard public administration procedures such as budgeting and planning. These factors, alone or in combination, may lead to human rights violations or problems.

This paper aims to contribute to a discussion on how the gap between human rights standards and experienced reality can be closed through systematic work for human rights. The indivisibility, interdependence and interrelatedness of human rights constitute an important rationale for a holistic approach to human rights work. Systematic work for human rights implementation is presented here as a way to approach human rights in such a holistic or comprehensive manner. This paper presents various methods for working systematically to implement human rights and discusses the value added of these methods.

The paper is intended as background information for participants at the Conference on Systematic Work for Human Rights Implementation and touches on all the conference themes to be considered by the working groups of the Conference. The paper also includes questions on each of these themes.

Sections 3–6 all end with a set of suggested questions for the conference to discuss. These questions are framed in the same way as this text and marked with the relevant workshop of the Conference.

1.3 Systematic work for human rights implementation: outlining the concept and its context

Systematic work for human rights implementation, as used in this paper, is understood as a concept that includes varying methods used at national, regional or local level to ensure that human rights are implemented. These methods have some common characteristics, including the following:

- They take as their starting point the international human rights framework.
- Their overall aim is to ensure that human rights are implemented throughout all policy areas, in all sectors and at all levels of public administration.
- Rather than addressing one or a few human rights issues at a time, they attempt to grasp a more general or comprehensive picture of national human rights policy, or of a more specific policy area relating to human rights, thus including decisions on priorities between steps, issues and interests.
- They address both institutional challenges and problems in the implementation of specific rights.
- They can be applied at different levels of society: national, regional, local or federal state level.

As systematic work for human rights implementation at national level is based on international human rights law, such work is closely related to the international structures set up for reviewing how states manage to comply with their

obligations. These structures can be described as working systematically for human rights implementation at international level. They include, for example, the State party reports to the UN treaty monitoring bodies and the recommendations that follow, the Universal Periodic Review and the special procedures of the UN Human Rights Council, the CoE human rights monitoring bodies, including the Commissioner for Human Rights, as well as similar methods used in other regional systems for human rights protection.

As international human rights instruments are drafted, adopted, interpreted and developed by international organisations and their human rights mechanisms, states must closely follow international developments in this field. This means that systematic work for human rights at international level has its direct correlation on the national level. The regular review of states' compliance with their obligations provides the basis or for human rights work within the state. Both the drafting of State party reports – including the dialogue on their content with national human rights institutions, NGOs and other actors – and follow-up on the comments and recommendations from treaty monitoring bodies entail regular reviews of the national human rights situation. In other words, such work also includes a systematic approach to human rights, although usually in relation to one treaty at a time. Another important aspect of working systematically for human rights implementation at national level is human rights education and training.

Systematic work for human rights can thus be described as a process that flows from the international to the national level, and then returns to the international arena to be monitored and evaluated. Thus, systematic and coordinated work for human rights at national level facilitates the reporting process both when State party reports are to be submitted and when the observations and recommendations of human rights monitoring bodies are to be taken into account within a country.

Although different levels and aspects of systematic work for human rights implementation are closely connected, the present paper focuses on systematic work for human rights implementation at national level.

1.4 Structure of the paper

This background paper presents several methods for systematic work for human rights implementation, each of which constitutes a sub-theme and a workshop of the conference. The first theme focuses on *methods for mainstreaming and following up systematic work for human rights* (section 3). This topic is more general in that it touches on several interrelated elements or methods – including human rights indicators, human rights budgeting and rights-based governance – whose common aim is to further human rights through everyday policy making.

The second theme focuses on *national human rights action plans and baseline studies* (section 4). This can be described as one of several possible methods for mainstreaming and following up on human rights work. Since it is a rather comprehensive and structured method that is often linked with or includes other methods (e.g. indicators), it has been singled out as a separate sub-theme and working group of the conference. The topic deals with both comprehensive and more sector-based human rights action plans. Although the term “human rights action plans” will be used, the discussion is also meant to be relevant for other similar policy documents such as strategies.

The third theme focuses on *systematic work for human rights at local and regional level* (section 5). It includes a discussion on the special circumstances, opportunities and challenges that may arise when systematic work for human rights is performed at regional and local level.

The fourth theme deals with *the role of national human rights institutions and civil society in systematic work for human rights* (section 6). This topic, including the need for consultation with stakeholders, is also discussed as part of the other themes as a participatory approach is necessary in all human rights implementation efforts.

Before these four themes are embarked upon, the initiatives of intergovernmental organisations in the field of systematic work for human rights implementation are described to provide a background for the more specific sub-themes of the Conference (section 2). Practical information for those who wish to contact OHCHR, UNDP or the Office of the CoE Commissioner for Human Rights for a discussion on issues related to systematic work for human rights implementation can be found at the end of the paper (section 7.5).

Information and text contributions for this paper have been gathered from governmental and non-governmental actors in several states, as well as from intergovernmental organisations and institutions. Study visits have been made to Mexico, Azerbaijan and Norway, but information has been gathered from many more countries, including Sweden. It is important to note that the conclusions drawn in this paper have not been formulated on the basis of experiences of any particular country. Rather, the issues raised should be regarded as common to all or most countries working in the field of systematic human rights implementation. It has been interesting to note that many of the opportunities and challenges in the area are surprisingly similar from one country to another in spite of the considerable variations in political and administrative contexts.

The Office of the Council of Europe Commissioner for Human Rights has contributed both to the study visits and through valuable input and comments on

this paper. OHCHR and UNDP, among others, have also provided important input.

2 International organisations and systematic work for human rights implementation

2.1 The United Nations and the Office of the High Commissioner for Human Rights

A natural starting point for a discussion on systematic work for human rights implementation, focusing on national human rights action plans, is the recommendation of the World Conference for Human Rights in Vienna 1993. The Conference recommended that “each State consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights”.²

In addition to recommending national human rights action plans, the World Conference also discussed issues regarding human rights education. Taking into account the World Plan of Action on Education for Human Rights and Democracy, adopted in March 1993 by the UNESCO International Congress on Education for Human Rights and Democracy, the World Conference for Human Rights recommended that States develop specific programmes and strategies for ensuring the widest human rights education and the dissemination of public information, taking particular account of the human rights needs of women.³

OHCHR published a handbook on national human rights plans of action in 2002. The handbook was developed as a guide for those considering or working on national action plans for the promotion and protection of human rights.⁴ The contents of the UN handbook, which is currently being updated, and the subsequent findings of OHCHR with regard to this topic will be described below (see section 4).

Human rights education is often discussed within the context of national human rights action plans as one of the core components of such a plan. However, human rights education is also an important field in its own right. The period from 1995 to 2004 was the UN Decade for Human Rights Education and in October 1997 the General Assembly issued Guidelines for National Plans of Action for Human Rights Education.⁵ In December 2004, the General Assembly proclaimed the World Programme for Human Rights Education (2005–ongoing)

² Vienna Declaration and Programme of Action, A/CONF.157/23, para. 71.

³ A/CONF.157/23, paras. 78-81.

⁴ Available at [http://www2.ohchr.org/english/about/publications/docs/national human rights action plan.pdf](http://www2.ohchr.org/english/about/publications/docs/national%20human%20rights%20action%20plan.pdf).

⁵ A/52/469/Add. 1.

to advance the implementation of human rights education programmes in all sectors.

Within the framework of the World Programme for Human Rights Education, OHCHR has set up a database to facilitate information-sharing on human rights education and training. The database provides information on institutions offering human rights training, university programmes, training courses, conferences, materials for human rights education and training, etc.⁶

Needless to say, OHCHR is also a key contributor to the other themes of this paper and the Conference, such as human rights indicators and national human rights institutions. These topics, and the work of OHCHR in relation to them, will be described in sections 3 and 6.

2.2 The United Nations Development Programme (UNDP)

As the UN's organisation for global development, UNDP has a key role in integrating human rights into development programming.⁷ In the context of this paper, this means that UNDP deals with systematic work for human rights implementation from the programmatic meta-level down to issues of how human rights are respected within the concrete national or local reality of a specific development project.

UNDP issued its first policy of integrating human rights with human development in January 1998. Since then, the provision of technical assistance in the field of human rights to, and at the request of, governments has emerged as a key area of the organisation's development activities. This work has also been influenced by the signing of a Memorandum of Understanding with OHCHR, the launch of a UNDP/OHCHR programme to implement the policy at global level (HURIST; Human Rights Strengthening, 1999–2006), the establishment of a UN-wide electronic human rights knowledge network (HURITALK) and the adoption of several Practice and Guidance Notes. More recently, the UNDP Global Human Rights Strengthening Program (2007–2011) has been launched to implement the 2005 Practice Note – Human Rights in UNDP.

Following the 2005 World Summit Outcome Document calling on the UN system to “further mainstream human rights throughout all of its activities”, and the adoption of the new UNDP Strategic Plan 2008–2011, UNDP continues to put particular emphasis on:

- working with national human rights institutions;

⁶ The database is available at <http://hre.ohchr.org>

⁷ The text in this section has been written by Patrick van Weerelt, Human Rights Adviser, Democratic Governance Group, Bureau for Development Policy, UNDP, New York.

- harmonisation of national laws with internationally ratified human rights instruments;
- working with discriminated, marginalised and/or vulnerable groups; and
- mainstreaming human rights throughout all of its programmes and policies.

The emphasis rests on solid country activity evidence with more than 94 country offices already involved in supporting national human rights institutions at the request of governments, 69 country offices reporting joint activities with governments that explicitly support the rights of discriminated, vulnerable and/or marginalised groups, and 51 country offices reporting activities in support government initiatives related to the harmonisation of national legislation with internationally ratified human rights law, including CEDAW.

UNDP's engagement with human rights is grounded in a partnership with OHCHR, elaborated over the past ten years. Practical collaboration between the two agencies started in 1999 with staff training and has developed into a variety of bilateral and broader UN initiatives in the area of human rights, also at national level.

2.3 Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent, non-judicial institution within the Council of Europe, mandated to promote awareness of, and respect for, human rights in the organisation's 47 member states.⁸ The Commissioner monitors the national implementation of human rights through his country visits and reports. The national system and structures for protecting human rights in each country are assessed as part of this process, including the coordination of human rights work and national action plans in this field.

In the context of country visits to Azerbaijan, Lithuania, Norway and Sweden, the Commissioner has highlighted the usefulness of national action plans for human rights implemented in these countries. He has pointed out that such action plans, when anchored in a thorough baseline study, provide a comprehensive overview of the problems to be addressed as well as clarification of the bodies entrusted with the responsibility of implementing the measures envisaged. Attention has also been paid to the bodies that coordinate and provide assistance in the implementation of the action plans. Moreover, the Commissioner has stressed the importance of evaluating the action plans already implemented and setting priorities for human rights work through the plans.

In recent reports on countries that have not yet implemented a human rights action plan, the Commissioner has regularly recommended the development of a

⁸ The text in this section has been prepared by the Office of the Council of Europe Commissioner for Human Rights.

national action plan through a comprehensive and coherent approach to human rights policy and planning. When a national action plan is developed and implemented in an inclusive manner involving all the stakeholders concerned, it can also serve as a tool for reviewing the institutional framework of human rights protection and improving coordination among the various institutions and partners. The direct involvement of NGOs and other civil society representatives in this process has been deemed essential by the Commissioner.

To enable effective monitoring, the Commissioner has recommended that action plans include specific and realistic benchmarks, structured along the lines of policy sectors and responsibilities.

In his country reports, the Commissioner has also assessed the implementation of more focused national action plans, for example, for the prevention of racism and discrimination, violence against women, trafficking in human beings, and the promotion of human rights education. He has recommended that a national human rights action plan integrate already existing action plans in specific areas to avoid duplication. In addition, the Commissioner has noted other means to coordinate specific action plans and human rights implementation at national, regional and local levels. Human rights coordinators at government ministries and regional and local authorities can play an essential role in the implementation of human rights. Such networks are also useful for fulfilling reporting obligations to international human rights monitoring bodies and may prevent unnecessary duplication of tasks.

In October 2006, the Commissioner held an exchange of views on national human rights action plans with the Council of Europe Steering Committee on Human Rights (CDDH). The aim of this exchange was to start a dialogue between the Commissioner and the CDDH on systematic and comprehensive work to ensure the full realisation of human rights obligations and treaties – not least the European Convention on Human Rights and the Revised Social Charter. During the event, representatives from the Swedish Ministry of Justice gave a presentation on the Swedish experience in that area of national action plans for human rights. The representative of the Lithuanian Government also referred to the lessons learned from the implementation of the Lithuanian national action plan.

The Commissioner discussed national human rights planning at the Council of Europe Forum for the Future of Democracy in Sigtuna in June 2007 (see also section 1.1). One of the Forum workshops focused on national human rights action plans, emphasising inclusive human rights planning as a way to enhance public accountability of human rights implementation and the involvement of local authorities in the process.

3 Methods for mainstreaming and following up systematic work for human rights implementation

3.1 Introduction

Very large – if not all – policy areas include human rights issues. International obligations regulate the most central areas of life – e.g. liberty and security of person, standard of living, health, respect for private life – and fundamental principles such as non-discrimination should be applied throughout public administration. This means that practically everyone with a role in public policy making or administration deals with human rights. It also means that all public officials are responsible for respecting their country's human rights obligations.

This general responsibility may sometimes cause problems as it creates a need for mainstreaming human rights into all policy areas and all parts of administration. While national legislation is concrete and elaborated for the society of a specific country, human rights standards are sometimes general, vague and difficult to apply in a specific national context. Given the complexity of human rights and the continuing development of this system of norms, how can an appropriate level of knowledge and awareness of human rights be upheld and maintained within public administration? How can the national situation be assessed in relation to international standards in a way that everyone can understand, and how can development over time be followed?

Methods for mainstreaming, or integrating, human rights are designed to provide guidance on how human rights should be understood in practice in a specific context or situation. This paper will focus on human rights-based governance, human rights budgeting and human rights indicators. These are only examples; other methods exist (e.g. human rights impact assessments) and more are sure to be developed.

While these and other methods for mainstreaming a human rights perspective into governance may be difficult to grasp as theoretical models, their application in practice can be very clear and straightforward. A few examples are offered here as an illustration:

- The United Kingdom's Department for Constitutional Affairs has produced a human rights handbook (*Human rights: human lives – A handbook for public authorities*, 2006) to assist officials in public authorities to implement the 1998 Human Rights Act. The handbook includes a human rights flowchart and discussions on how to balance one person's rights against those of the community.⁹
- In some countries, public commissions of inquiry are required by law to analyse the possible impact of their proposals on human rights.

⁹ The handbook is available at www.justice.gov.uk/docs/hr-handbook-public-authorities.pdf

- Other countries have formed networks of human rights focal points in ministries and public authorities that meet regularly and follow up the human rights situation in different policy areas.
- The human rights action plan of New Zealand includes a section entitled “Good governance – applying human rights in the development of policy and legislation”. The priorities for action (2005–2010) include: “Adopt a key government goal that affirms the centrality of human rights to good governance, develop tools and processes for parliamentary and executive branches of government to achieve a stronger human rights framework for legislation and policy and practice, including strategic planning, policy development, and legislative scrutiny, for example, conducting practical case studies with central and local government applying a human rights approach to new and existing policies and legislation, creating human rights analysis tools for the public sector to employ when developing policy, legislation, and/or practices...”¹⁰
- UNICEF has produced a handbook on the interpretation of the UN Convention on the Rights of the Child in the Swedish Context (only available in Swedish). In the handbook, each article of the Convention is thoroughly discussed and accompanied by a description of relevant Swedish legislation and related case-law, as well as checklists of questions for use by public authorities applying the convention.
- Training programmes for new and/or experienced public officials to increase their knowledge and awareness by analysing their policy area in a human rights perspective is another method used for mainstreaming human rights into governance.

3.2 Human rights-based governance

3.2.1 What is human rights-based governance?

Human rights-based governance is a method for policy elaboration, priority setting and evaluation using human rights both as a starting point and a measuring stick. Human rights-based governance is often associated with international development cooperation, for instance when an intergovernmental organisation wishes to contribute to strengthening the human rights situation. However, it can also be used as a tool for politicians and decision makers in general who seek to advance their own society in a way that places human rights at the centre.

According to the *Statement on A Common Understanding of a Human Rights Based Approach to Development Cooperation*, adopted by the UN Development Group in 2003, four elements are specific, necessary and unique to human rights-

¹⁰ Available at www.hrc.co.nz/report/actionplan/7framework.html#goo

based development programming.¹¹ If these elements are slightly reformulated, they can be understood as the four overall characteristics of human rights-based governance. Accordingly, human rights-based governance can be understood as governance where the following four factors are at hand:

- The human rights situation is assessed and problems in the implementation of human rights are identified.
- The capacity of rights-holders to claim their rights, and of duty-bearers to fulfil their obligations, are assessed; strategies to build these capacities are developed.
- Governance is monitored and evaluated in relation to human rights standards and principles, both as regards its processes and its outcomes.
- The recommendations of international human rights bodies and mechanisms are taken into account.

In more general terms, the human rights-based approach to governance and development can be described as normatively based on international human rights standards and operationally directed to protecting and promoting human rights.¹² By being anchored in human rights and the identification of human rights problems, the human rights-based approach focuses on and includes marginalised and disadvantaged groups.

3.2.2 Challenges and value added of a human rights-based approach

- Human rights-based governance can offer legitimacy to governance and development by being grounded in the internationally recognised framework of international law.
- The human rights-based approach should contribute to the prioritisation of human rights in governance. It also means that the recommendations of international human rights bodies and mechanisms should be taken into account in this process.
- The human rights-based approach can increase empowerment, as it shifts the perspective from a charity and needs perspective to a more equal relationship between individual rights-holders and public duty-bearers. People are recognised as key actors in their own development rather than as recipients. This shift in the power balance is emphasised by the requirement to assess both the capacity of rights-holders to claim their rights and of duty-bearers to fulfil their obligations and to develop strategies to build these capacities.

¹¹ The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies, Inter-Agency Workshop on a Human Rights Based Approach in the Context of UN Reform, Stamford, 5–7 May 2003 (available at www.undp.org/governance/cdromhr/homepage.html).

¹² Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation, OHCHR, 2006, p. 15.

- Due to this shift in perspective, participation becomes both a means and a goal.
- A shift in power balance through the empowerment of the individual can also be a challenge, both for public actors and for the individual. Where there are large differences in the distribution of power and marginalisation of groups, changing these attitudes takes a long time. It is often pointed out that changing attitudes to power relations is one of the biggest challenges in human rights work, especially if there is a national history of authoritarian rule. In a guide for NGOs on the human rights-based approach to development, these organisations are recommended to map power relations influencing the given situation as part of development programming.¹³
- Human rights-based governance can, of course, be used in combination with other methods for working systematically on human rights implementation. Human rights action plans are one way of integrating a human rights perspective into different policy areas, in other words shaping human rights-based governance. Measurable goals and targets are important in governance, and human rights indicators (see section 3.3 below) can be used to evaluate and assess the human rights situation.
- Practical guidance on how a human rights-based approach can be used is provided in the UNDP handbook entitled *Programming for Justice: Justice for All. A Practitioner's Guide to a Human Rights-Based Approach to Access to Justice* (2005).¹⁴
- The UN Common Learning Package on a Human Rights Based Approach to Programming (2007).¹⁵

3.3 Human rights indicators

3.3.1 Introduction

An indicator is an instrument or a tool for evaluating a situation or a result. Indicators are often formulated as questions that can be answered using statistical information (e.g. the percentage of children completing primary school, the number of people subjected to torture or inhuman treatment, etc.). However, they can also be of a qualitative nature requiring, for example, an indication of the level of awareness of human rights obligations among civil servants, analysis of a group's experiences of discrimination and so forth. Thus, quantitative indicators are of a broader subject-oriented usage, covering any information relevant to the observance or enjoyment of a specific right.

¹³ Applying a rights-based approach, Inspirational Guide for Civil Society, Jakob Kirkemann Boesen & Tomas Martin, Danish Institute for Human Rights, 2007, p. 31.

¹⁴ Produced by UNDP's Asia-Pacific Rights and Justice Initiative in 2005, available at <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/tools/index.html>

¹⁵ Available at <http://www.undg.org/index.cfm?P=531>.

Since the 2000 UNDP Human Development Report on Human Rights and Human Development, the human rights and development agencies of the UN system have been increasingly recognising the need for indicators that reflect human rights concerns. From the human rights side, the demand for indicators has mainly come from the human rights treaty monitoring bodies, the OHCHR, and Special Rapporteurs, who have found that indicators can improve the monitoring of state compliance with human rights treaty obligations. From the international development side, the demand for indicators has come from the need to mainstream human rights into development projects and to monitor and implement a human rights-based approach to development (see section 3.2).¹⁶

Generally speaking, indicator systems can serve a variety of objectives, including assessing, for example, the impact of a reform and progress in a field, strengthening capacity to achieve policy goals, enhancing transparency and promoting accountability. Indicator systems shared throughout a country or a region also make it possible to compare one country, region or municipality with another. The primary objective of human rights indicators, more specifically, is to measure the level of a country's compliance with its human rights obligations.

It can be questioned whether *human rights* indicators are really necessary, given that various indicator systems for different policy areas are already in place in many countries. Why cannot existing indicators also be used to measure the degree of respect for human rights? What distinguishes human rights indicators from other types of indicators?

The most important (and unique) quality of human rights indicators is that they take human rights standards as their starting point and therefore identify and structure information according to each human right. When developing human rights indicators it is essential to translate universal human rights standards into indicators that are contextually relevant at country level. As human rights indicators are based on human rights standards, these indicators can provide information that is not generated by other indicator systems. While indicator systems dealing with specific policy areas or perspectives provide considerable information that is also relevant for evaluating compliance with human rights obligations in a country, human rights indicators also need to illustrate, for example, facts that are related to the character of human rights as law. The requirement that states respect human rights standards as law (directly or through domestic law) makes it necessary for human rights indicators to provide information on the nature of domestic legal norms and institutions themselves, for example, with regard to the legal status of a right or the opportunity to appeal a decision concerning that right.

¹⁶ Indicators for Human Rights Based Approaches to Development in UNDP Programming: A Users' Guide, March 2006.

Moreover – at least from the perspective of the international system for human rights protection – indicators directly related to the rights enshrined in international treaties are more useful than other types of indicators that may provide information that needs to be identified and restructured in accordance with human rights conventions, for instance when writing a country report. By using human rights indicators, reporting to human rights monitoring bodies can be streamlined and following up recommendations from these bodies made more effective.

Human rights indicators taking international legal standards as their starting point allow the human rights situation and development in one country to be discussed in relation to another. At the same time, however, each country, region or municipality will need to adapt the indicator system to its own situation. If a complete indicator system cannot be developed, it will be necessary to choose a limited number of rights as the basis of the system, preferably starting with the most urgent problems in that particular country or region. For these reasons, indicator systems will always limit the ability to compare information from different countries.

3.3.2 Different models for human rights indicators

Human rights scholars and practitioners working in the academic and non-governmental sector have discussed and developed a range of indicators and indicator systems. The three schemes that seem to have dominated the discussion are structured to make identifying contextually meaningful human rights indicators easier. They all aim to express a few key aspects of rights and obligations as a system of indicators.

The *respect, protect and fulfil scheme* builds on the generally recognised three dimensions of international human rights obligations. The obligation to *respect* requires the state to refrain from unlawful interference with the individual's enjoyment of rights. The obligation to *protect* means that the state is required to protect individuals from human rights violations by private actors. The obligation to *fulfil* refers to the obligation of states to put into effect the necessary measures (legislative, administrative or judicial) to ensure the implementation of human rights. Due to the basic nature and structure of this scheme, it can be argued that all human rights indicator systems should be designed to reflect the three dimensions – to respect, protect and fulfil.¹⁷

¹⁷ See e.g. OHCHR Report on Indicators for Monitoring Compliance with International Human Rights Instruments: a Conceptual and Methodological Framework, HRI/MC/2006/7, 11 May 2006, para. 13.

The *4-A scheme* builds on four principal indicators: available, accessible, acceptable and adaptable. *Available* means that the state has to ensure that its national legal system complies with the state's human rights obligations, for instance through the creation of judicial guarantees and complaints mechanisms. *Accessibility* of a right includes the prohibition of discrimination in addition to geographical, physical and economic accessibility. *Acceptable* relates to the quality, relevance and cultural appropriateness of a right. Finally, *adaptability* means the right is designed to meet different needs and is flexible enough to adapt to particular circumstances at a particular time.

The background to the *structure, process and outcome scheme* was a request in 2005 by the chairpersons of the human rights treaty bodies to provide assistance in analysing statistical information in State party reports and to prepare a background paper on the possible uses of indicators. As a result of the request, the OHCHR developed, in consultation with a panel of experts, a conceptual and methodological framework for identifying human rights indicators.¹⁸ Under this scheme, indicators focus on steps taken by a state to address its obligations – from commitments and acceptance of international human rights standards (structural indicators) to efforts undertaken to meet the obligations that flow from the standards (process indicators) and the results of those efforts (outcome indicators). More specifically, *structural indicators* reflect the ratification or adoption of legal instruments and the existence of basic institutional mechanisms that are considered necessary for facilitating realisation of the human right concerned. Structural indicators focus on the nature of domestic law as relevant to the right in question and the institutional mechanisms that promote and protect the standards, but they also look at state policy frameworks and strategies as relevant to the right. *Process indicators* relate state policy instruments – all measures, programmes and specific interventions that a state implements to give effect to its commitments and acceptance of human rights standards – to milestones that become outcome indicators. Therefore, process indicators help in monitoring the progressive fulfilment of the right and reflect the efforts made by a State Party in protecting the rights. *Outcome indicators* capture attainments, individual and collective, that reflect the status of realisation of human rights. For instance, outcome indicators can reflect life expectancy or child mortality. Outcome indicators thus consolidate the impact of various underlying processes over time and are often slower in capturing changes than a process indicator.

The OHCHR framework for human rights indicators is also characterised by a common approach to identifying indicators for monitoring civil and political rights, and economic, social and cultural rights, thereby strengthening the notion of the indivisibility and interdependence of human right. It focuses on two categories of indicators and data-generating mechanisms. Indicators in the first

¹⁸ UN OHCHR work on indicators for human rights assessments, Status Note, June 2008.

category are, or can be, compiled by official statistical systems, using statistical surveys and administrative records. The second category includes information compiled by non-governmental sources, for example, NGOs focusing on alleged human rights violations reported by victims and witnesses. The framework also includes both quantitative and qualitative indicators. To the extent feasible, there is an emphasis on the disaggregation of identified indicators by type of prohibited discrimination (e.g. gender, ethnic background or disability) and by marginalised groups. The framework, as it has evolved over the last two years, is outlined in the Report on Indicators for Promoting and Monitoring the Implementation of Human Rights, prepared for the Intercommittee meeting of the human rights treaty bodies in June 2008.¹⁹

On the basis of this framework, OHCHR has prepared lists of human rights that cover civil and political rights, and economic, social and cultural rights (e.g. the right to life, the right to liberty and security of person, the right to adequate housing, the right to freedom of opinion and expression and the right to education). It is now in the process of validating these lists through consultation and piloting at country level. In Mexico, the office of OHCHR is working with the National Institute for Statistics (Instituto Nacional de Estadística y Geografía) and the National Human Rights Commission (Comisión Nacional de los Derechos Humanos) on a project to identify human rights indicators for the right to health, the right to education and the rights of persons deprived of their liberty. An important aspect of this project is to collect and analyse data not only from official sources, but also from civil society.

A major task of the Fundamental Rights Agency of the European Union is to collect and analyse official and non-official information and data on fundamental rights issues in the EU. Given the differences in data availability and quality across the EU, the Agency has also been tasked to develop methods and standards to improve data quality and comparability, and to conduct its own EU-wide policy-relevant research and surveys or encourage others to do so. Hence the Fundamental Rights Agency is an important forum for the development of human rights indicators and data that allows comparisons of EU member states. In 2008, the Agency launched an EU-wide survey to collect comparable data on selected immigrant and minority groups' experiences of discrimination in access to goods and services, including experiences of criminal victimisation.

Practical examples

Apart from the OHCHR framework for indicators (described above), the following examples can be mentioned.

¹⁹ UN document HRI/MC/2008/3, available at www2.ohchr.org/english/bodies/icm-mc/documents.htm

- The British Institute of Human Rights has published *Human Rights in Healthcare – A Framework for Local Action* (2007). This handbook includes a section on good practice actions and human rights indicators in relation to the right to health.²⁰
- In 2007, the EU Fundamental Rights Agency initiated a project on implementation, protection, respect and promotion of the rights of the child in the EU. The project was launched with the objective to develop a set of indicators for measuring regularly how the rights of the child are implemented, protected, respected and promoted in EU member states. The project will also analyse relevant legal measures already in place and judicial data (such as court statistics and case law) and develop a sociological analysis of relevant data. The report has not yet been published.
- The Danish Institute for Human Rights published *Human Rights Indicators. Country and Regional Data Base* in 2000. The purpose of this study is to provide indicators on government conduct that can be used in human rights assessments or evaluative studies.²¹

3.3.3 Challenges and value added of human rights indicators

- Human rights indicators have the potential to operationalise human rights, i.e. to translate international human rights standards into the national concrete context by measuring the impact of, for example, reforms and developments in the human rights situation.
- It is necessary to recognise and deal with the fact that the information produced through human rights indicators may be politically sensitive and affect actors in both positive and negative ways. Decision makers may find it problematic to provide the media and the general public with information expressing human rights problems in concrete numbers and data, especially if the human rights situation is deteriorating.
- On the other hand, if challenges are to be dealt with constructively, statistics and other information will be needed. The problems that come to light through the use of indicators will rarely come as a surprise – the situation will only be more closely described and can therefore be better analysed.
- It is important when human rights indicator systems are used to seek disaggregated data on the human rights situation of marginalised population groups as compared to the rest of the population. This can be done with the help of variables based both on common grounds of discrimination (e.g. gender, ethnic background, religion or faith, sexual orientation, disability, age) and other factors such as geographic region, level of education, employment, etc. This type of disaggregated data is not always available.

²⁰ The handbook is available at

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073473

²¹ The report, written by Hans-Otto Sano & Lone Lindholt, is available at

<http://humanrights.palermo.magenta-aps.dk/upload/application/bd50e713/indicator-full.pdf>

- To obtain results that are as complete and objective as possible when the indicators are used, it is important to include official statistics as well as information from other sources, such as national human rights ombudspersons and institutions, the NGO sector, victims and witnesses and from academic institutions, etc.
- Producing statistics and qualitative data is often costly and statistics also require professionals to interpret them correctly. As some data may already be available, while other information (that may be of particular interest from a human rights perspective) may not, a balance needs to be struck between the ideal indicator system and what is possible and practical. There is a risk that indicator systems rely too heavily on information already available and thus ignore more important human rights aspects due to a lack of resources.
- It is a very complex task to construct frameworks for human rights indicators that can illustrate the most important aspects of a country's human rights situation, taking into account the principles of indivisibility and of non-discrimination and the need for variables to reflect the situation of different parts of the population. If the results are to function as effective tools for monitoring the human rights situation, they need to be structured and formulated in a way that can be easily understood by public officials, the media and the general public. Human rights standards themselves are often perceived as complicated and the use of indicator systems should not widen the already existing gap between "human rights professionals" and those for whom the work is being done (i.e. the right-bearers themselves).
- Finally, it should be borne in mind that information produced through the use of indicators can never provide a complete picture of a human rights situation. Such information might illustrate developments in the human rights situation but indicators cannot explain the causes of these developments. Thus, to be effective tools for implementing human rights, indicators need to be grounded in a conceptual framework that addresses the concerns and goals of the human rights policy of the country or region concerned. One way to create a framework for indicator systems where problems and goals are identified is to link them to a human rights action plan or a similar strategic policy document.

3.4 Human rights budgeting

3.4.1 What is human rights budgeting?

The realisation of rights may, of course, have budgetary implications. National and local budgets thus have a direct bearing on how human rights are realised. Budget analysis is also a central tool for discussing and deciding on policy choices and priorities in general.

A central assumption in all budget work is that there are insufficient resources to meet all existing needs. Deciding on priorities is therefore central to all budgetary

processes and also the key to how budgeting can be done by applying a human rights perspective. Human rights budgeting means

- that a country's human rights obligations guide the decisions on priorities set in the budgetary process;
- that the impact of budgetary choices on different groups, with marginalised groups in focus, is analysed;
- that budgetary decisions are made with respect for the principle of non-discrimination (which does not always mean identical treatment);
- that the principle of the indivisibility of human rights is respected, i.e. that resources are not allocated for the realisation of one right to an extent that may lead to the violation of another right; and
- that the budgetary processes is participatory so that it can be ensured that the needs of different groups, and the possible effects of different decisions, can be brought to the attention of decision makers during the process.

Human rights budgeting can also include, or be linked to, audit of the use of funds and evaluation of performance from a human rights perspective.

To make budgetary choices that direct resources to addressing human rights problems, decision makers need to have a comprehensive picture of the current human rights situation of the country or region in question. This can be ensured through the elaboration of a human rights baseline study, which is part of the process of drawing up a human rights action plan (see section 4.2).

Budgets are always political documents. Thus, the extent to which human rights standards are allowed to influence budgetary processes will also be decided on politically. However, there is a limit to political discretion in this regard, as human rights conventions place states under an obligation not to ignore the needs of the population. For example, the right to education, the right to the highest attainable standard of health and the right to a fair trial require that sufficient resources are allocated to address institutional problems in schools, health care and the judiciary. This fact is expressed in the UN Covenant on Economic, Social and Cultural Rights, Article 2(1), which states that "Each State Party /.../ undertakes to take steps, individually and through international assistance and co-operation /.../ to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means..."

The implications of specific state budgets on the respect for human rights have been discussed by the UN treaty bodies in the context of their review of State party reports. For instance, the Committee on the Elimination of Discrimination Against Women (CEDAW) has explained that the duty to fulfil the Convention on the Elimination of Discrimination Against Women, article 12 (relating to women and health), entails an obligation on States parties to take budgetary

measures to the maximum extent of their available resources to ensure that women's rights to health care are implemented (General Recommendation 24, 1999, para. 17).

Moreover, the Committee on Economic, Social and Cultural rights has explained on several occasions that retrogressive budgetary measures are to be avoided as far as possible. In its General Recommendation (3) on the nature of States parties' obligations (1990), the Committee explained that States parties are to move as expeditiously and effectively as possible towards the realisation of the convention rights and that "any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources" (para. 9).

In other words, human rights conventions and recommendations of human rights treaty bodies should be taken into account in relation to elaborating state budgets. As mentioned above, another important aspect of how a human rights perspective can be applied to the budgetary process is respect for the principle of non-discrimination when resources are allocated. It is important to remember in this context that the obligation of states to implement human rights in a non-discriminatory way is an immediate obligation that leaves no room for progressive realisation.

In sum, human rights budgeting seems to include several more specific methods or tools that can be used at different stages of the budgetary process to, for example:

- decide on the allocation of resources in a way that directs resources to where human rights challenges need to be addressed, i.e. for deciding on priorities in accordance with human rights obligations;
- analyse the impact of a budget on the implementation of human rights (making a "human rights impact assessment" of the budget);
- analyse the actual expenditure from a human rights perspective (as the expenditure can both exceed and be less than the amount of resources allocated through the budget); and
- analyse the results or developments in the human rights situation in relation to the resources allocated in the budget, i.e. the effectiveness of the resources used to strengthen human rights.

3.4.2 Human rights budgeting in practice

Human rights budgeting as a method for integrating a human rights perspective into governmental processes seems to interest many state officials, IGOs and NGOs. Practical experiences of using this method, however, appear to be limited. Probably few states (and municipalities) make a systematic attempt to ensure that the budget does not have a negative effect on the human rights situation or that it

facilitates their promotion by directing resources to where they are most needed from a human rights perspective.

Some researchers, however, have analysed budgets from a human rights perspective. In 2002, a study analysed the health budget in Mexico in relation to the right to health as stipulated in the International Covenant on Economic, Social and Cultural Rights and in Mexican law. The study focuses on the prohibition of discrimination in access to health care and mentions important factors when examining whether the allocation of resources may have discriminatory effects. These include:

- identifying groups who are marginalised from a human rights perspective;
- identifying how much expenditure per capita is being received by each group for a particular service;
- analysing how services are distributed throughout the country;
- analysing whether any differences operate so as to reduce, perpetuate or increase inequalities between groups; and
- identifying measures that can be taken to remedy discriminatory outcomes.²²

The study was published by Fundar – Centro de Análisis e Investigación, a Mexican organisation specialising in, among other things, citizen’s participation in budgetary processes (see www.fundar.org.mx). Information on applied budget analysis and economic, social and cultural rights can also be found on the International Budget Project website: www.internationalbudget.org

Gender-sensitive budgeting is a related method that has been used more frequently; some analogies may thus be drawn from that field. The Beijing Platform for Action (1995) refers to the need to conduct gender analysis of budgets and to adjust public spending to ensure equality between women and men.²³ It states that “Governments should make efforts to systematically review how women benefit from public sector expenditures; adjust budgets to ensure equality of access to public expenditures...” (para. 346).

The United Nations Development Fund for Women (UNIFEM) has produced a report on how budgeting can be carried out in compliance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), *Budgeting for Women’s Rights* (2006).²⁴ The report recommends a step-by-step approach, examining particular dimensions of the budget separately, while taking into account their interactions where appropriate and possible. The report

²² Health Care. A Question of Human Rights, Not Charity, Hofbauer, Lara and Martínez, Fundar 2002.

²³ Report of the Fourth World Conference on Women, UN document A/CONF.177/20.

²⁴ Budgeting for Women’s Rights: Monitoring Government Budgets for Compliance with CEDAW, Diane Elson, 2006.

discusses how the following aspects of the budgetary process can be conducted using a CEDAW perspective:

- public expenditure
- public revenue, especially taxation and user fees
- the macroeconomics of the budget (secondary impacts on inflation, jobs and economic growth)
- the budget decision-making processes.

It should be possible to use the same methodology to analyse the budgetary process so as to prevent other types of discriminatory effects, provided that data can be disaggregated in relation to different groups or parts of the population.

The Social Rights Protocols used by the South African Human Rights Commission provide an interesting illustration of how the human rights impact of budgetary processes can be examined.²⁵ The protocols are used by the Commission to request relevant organs of state to provide it with information each year on the measures they have taken towards the realisation of certain socio-economic rights. The protocols include questions of various types, including on budgetary and financial issues. For instance, state organs are asked to provide information on programmes and projects which are considered to have contributed significantly to the progressive realisation of economic and social rights, specifying for each one of them actual budget allocation, whether the budget was adequate, what measures were instituted to address budget inadequacy and the impact of over or under-spending on the realisation of the right, etc. The information is presented in economic and social rights reports for each right and financial year.

Suggested issues for discussion (Workshop 2)

Questions for all round tables

- Is there a need to refer to human rights explicitly or can human rights be successfully mainstreamed without the use of the specific “human rights language”? What is the value added by the human rights perspective as such?
- Have we really made a conclusive case that human rights mainstreaming strengthens development effectiveness and national ownership?
- What does mainstreaming human rights actually mean?

Round table 1

- How can human rights indicators be formulated without becoming too complicated to understand and apply, and the data required too costly to produce and collect?

Round table 2

²⁵ See http://www.sahrc.org.za/sahrc_cms/publish/cat_index_28.shtml.

- What should be the balance between mainstreaming, coordination and specialisation?
- Is there a risk that the human rights perspective of everyone becomes the responsibility of no one?
- What tools are available for increasing human rights awareness without overburdening public officials with another “perspective” that is to be mainstreamed or integrated?

Round table 3

- How can systematic work for human rights be followed up and evaluated?
- Are national goals for human rights combined with indicators a useful method or have indicator systems only flooded public bodies with yet more administration?

Round table 4

- What methods can civil society use to measure and evaluate to what extent mainstreaming human rights really means respect for human rights?

Round table 5

- Are we in fact developing new conditionalities, or can we genuinely stress the concept of “mutually agreed conditions”?

4 National human rights action plans and baseline studies

4.1 Introduction

According to OHCHR, 24 countries (including four CoE member states) have adopted national human rights action plans.²⁶ These action plans usually seek to address the human rights situation in a country in a comprehensive way and thus cover many different rights and issues. Other states have chosen to adopt action plans addressing one specific human rights issue or area such as gender equality, non-discrimination, the rights of the child or human rights education. Some states do both. Although the term “human rights action plans” will be used below, the discussion is also intended to apply to other similar policy documents such as strategies.

In the UN handbook on national human rights plans of action, it is stated that “The fundamental purpose of a national human rights action plan is to improve the promotion and protection of human rights in a particular country. It does this by placing human rights improvements in the context of public policy, so that governments and communities can endorse human rights improvements as practical goals, devise programmes to ensure the achievement of these goals,

²⁶ www2.ohchr.org/english/issues/plan_actions/index.htm

engage all relevant sectors of government and society, and allocate sufficient resources.”²⁷ The UN handbook is an extensive and very useful guide on how a national human rights action plan can be drafted, implemented and evaluated. This paper makes only a few brief points on human rights action plans, based on information gathered, for example, on study visits to learn from the experiences of different countries using this method. The purpose here is to provide some background for the discussion at the Conference. (For more detailed information, see the UN handbook.)

A few factors are particularly important for human rights action plans and should be mentioned at the outset to serve as a basis for the discussion. As regards human rights action plans, the first point is that the focus should not be only on the document containing the activities to be undertaken by the government or other actors. The process of drafting the document is equally important as it provides a framework to discuss, mobilise and increase human rights awareness and to create legitimacy for priorities and other policy choices. It is crucial therefore that the drafting process is inclusive.

Another essential point is that the first step of drafting a human rights action plan should always be to review the current human rights situation. Once the problems have been identified through an inclusive process involving active stakeholder participation, solutions and approaches can be discussed and agreed. Deciding on measures and activities before identifying the problems may mean that resources will not go where they are needed the most. And, in the worst case, activities may divert attention away from the problems rather than addressing them.

The sections below deal with both the process of drafting a baseline study of the human rights situation and that of drafting the action plan. Issues of ownership, resources, sustainability and evaluation are also discussed. Finally, the value added of human rights action plans will be considered.

4.2 Identifying the problems: Human rights baseline studies

The need to identify human rights problems through a review of the human rights situation is an essential part of elaborating both comprehensive and sector-based action plans. Some states have identified human rights problems in a process integrated with the process of drafting the actual action plan, while others have kept these two processes separate.

The process of reviewing the human rights situation and drafting a baseline study takes time, and should be allowed to do so. It is a very complicated task and

²⁷ OHCHR, Handbook on National Human Rights Plans of Action, New York and Geneva 2002. The handbook is available at [www2.ohchr.org/english/about/publications/docs/national human rights action plan.pdf](http://www2.ohchr.org/english/about/publications/docs/national_human_rights_action_plan.pdf)

involves issues that evoke strong opinions and feelings, as human rights violations will be a necessary topic of discussion. Creating a forum for this type of discussion may offer an opportunity for conflicting groups or interests to address controversies directly. Thus, if handled correctly, the human rights survey can also be a process that contributes to increased understanding.

It may appear to be a politically problematic task to discuss human rights violations or challenges directly with stakeholders. Even so, government members in some countries have been able to participate personally in this type of meeting with good results. One way to deal with a meeting in which high political representatives will participate (which may be an effective way to indicate that the process has high political support) is to explain at the start that these government representatives are there to listen to the stakeholders, not to explain the government's policy. It may be valuable for stakeholders to be able to express their concerns directly to someone who is politically responsible, even if a "response" at that stage is unlikely.

4.2.1 An early and open invitation to stakeholders

It is important that stakeholders are invited to participate in the process as early as possible. This will help to allay suspicions that the agenda has already been set. Invitations to participate in drafting the baseline study should also be as broad as possible from the outset so that all stakeholders are given the same opportunity to take part right from the start. Excluding certain actors or types of actors, or inviting some organisations first and others later, is a very delicate task and may cause unnecessary tension and scepticism. Thus, it is recommended that invitations be open to all interested actors. To ensure that no one is excluded, the invitation can be sent directly to actors well known for their interest in human rights or related issues and also, for example, be posted on a website for everyone to read. There is little risk that too many will want to take part in the drafting process, making it difficult to manage; should this occur, however, the drafting can be done in small groups divided according to theme, type of actor, etc.

The categories of actors to be invited should be varied and include public authorities and agencies (central, regional and local), national human rights institutions and ombudspersons, the parliament, universities and other institutions of higher education, NGOs, trade unions and the business sector.

The involvement of indigenous peoples and (other) national minorities needs to be particularly emphasised. National minorities and indigenous peoples are, generally speaking, often subjected to discrimination or other types of human rights violations. More general human rights NGOs are not necessarily representative of national minorities, which is why special attention should be paid to including their own organisations in the process.

In general, a non-discrimination perspective should be applied when designing the consultation process so that parts of the population that are victims of human rights violations more often than the majority (e.g. due to discrimination based on gender, ethnic background, religion or other belief, disability, sexual orientation or age) are well represented in the process.

The importance of involving political parties also needs to be emphasised. If a human rights action plan is not adopted by the parliament, the political parties represented in the parliament should be consulted in order to create as broad a political consensus as possible. This is vital if the action plan is to be sustainable over elections.

Another aspect to be kept in mind is to consult not only with agencies, institutions and organisations specialised in human rights issues but also with other actors. For instance, NGOs specialising in health, housing or issues relating to the rule of law can provide expertise and important input into the process. It is not always possible for human rights NGOs to have the same degree of specialisation in all issues related to human rights. Moreover, broad consultation contributes to creating legitimacy and mobilising larger parts of the community.

4.2.2 How to identify the problems to be included in the study

Discussing human rights problems may be a sensitive issue for governments. Some human rights issues are rooted in political conflicts or more general problems such as corruption or the lack of an independent judiciary and cannot be immediately solved through a human rights action plan. Therefore it may appear to be a practical solution to ignore problems that could be too sensitive to discuss or impossible to solve – or even improve – within the framework of the action plan.

But this is not a constructive way to deal with sensitive issues. Rather, the baseline study should clearly state the criteria used to select the human rights issues to be included in the study. This entails, *first of all*, an explicit definition of how the concept of “human rights” is understood, as this may not be clear to all stakeholders or readers. For instance, the concept can be defined by reference to the countries’ international human rights obligations as interpreted by international treaty monitoring bodies. *Secondly*, international recommendations and criticism from treaty monitoring bodies are central to identifying a country’s human rights problems and need to be analysed thoroughly. *Thirdly*, the views and concerns of the stakeholders are also fundamental for identifying human rights challenges. And, *finally*, certain other limitations may be necessary, for example, regarding the period covered by the document and the type of problems to be included. Baseline studies often focus on systemic or institutional problems rather than single mistakes, unless these mistakes are very serious or demonstrate institutional weaknesses.

4.2.3 Who should do it?

In some countries, the drafting of the baseline study (and the action plan building on it) is done by a committee consisting of representatives of the government, civil society and other experts and actors such as academics and representatives of national, regional or local authorities. National human rights institutions or ombudspersons are also natural partners in this process. In some countries, the drafting committee has been chaired by a human rights ombudsman, and in others, the ombudsman has chosen not to participate directly so as to safeguard the independence of the institution.

In other countries, the drafting has been done within the government offices in combination with reference groups or meetings with stakeholders, invitations to submit written comments, etc. International organisations, such as OHCHR, have also taken active part in the drafting process in some countries.

What is essential in drafting the baseline study is not the exact organisation of the process but that the process is inclusive. It is important to ask stakeholders for their input at the early stage of the drafting process so that their viewpoints are not only submitted when the document is already too tied up by agreements between different ministries etc.

The importance of inclusiveness also applies to the internal process. All relevant ministries should be involved (i.e. all ministries in most countries) in a process that allows each ministry to present its own problems and suggestions for dealing with them. An interministerial working group has functioned as the drafting committee in some countries, both for the baseline study and the action plan. If there is a smaller drafting group, this group can be combined with one or several reference groups representing different ministries, national authorities, NGOs, municipalities, national human rights institutions, etc.

4.3 Drafting a human rights action plan

Drafting a human rights action plan is similar to drafting a baseline study, and the drafting of both documents can be carried out in an integrated process. What has been mentioned above regarding an inclusive process, whom to involve and how the actual drafting can be done, applies to both baseline studies and human rights action plans. However, a few specific points ought to be made about drafting action plans.

4.3.1 Allow time for planning and budgeting

The first point is to allow time for the process. While allowing sufficient time also applies to the drafting of baseline studies, formulating and planning concrete activities to be included in the action plan is even more time-consuming. If too little time is allowed for this part of the process, the likely result will be an action

plan that only contains plans that were already decided when the drafting began. The inclusion – possibly after reshaping – of activities that were already planned is not necessarily negative, as many of the challenges identified during the drafting of the baseline study are likely to have been well known. However, if there is insufficient time for planning and too few resources connected to the action plan – which prevents the plan from making its own substantial contribution to strengthening the human rights situation – the plan will run the obvious risk of being criticised for having no actual effect or value added.

Time, of course, is an especially important factor if the drafting of the action plan is to be constructively adjusted to the budgetary process of the country concerned. In some countries, the action plan has been adopted before the budgetary consequences of the plan have been sorted out. Naturally, this may lead to considerable problems in implementing the plan. The resources required for each activity in the action plan need to be secured before the plan is adopted, even if the activity is not scheduled to be carried immediately.

4.3.2 Discuss possible solutions, not only problems

A second point concerning the drafting of the action plan is that the consultation process sometimes tend to focus more on identifying human rights problems than on discussing possible solutions. For example, it may be natural for NGOs taking part in the consultation process to consider it their role to criticise the government's policy rather than suggest solutions or activities, as this can be perceived as compromising their independence and impartiality. Nevertheless, it is essential that government, relevant authorities and stakeholders together discuss not only problems but also solutions. The formulation of activities to be included in the action plan involves important decisions on priorities.

Moreover, the more ideas that can be put on the table at this stage of the process, the better. Finding problems is often far easier than coming up with realistic reforms or activities that may improve the situation. For some problems, partnerships involving several sectors of society can be one solution, and if representatives from these sectors are present at discussions on activities to be included in the action plan, such solutions may be easier to reach.

4.3.3 Prioritisation and inclusion

A difficult balance that needs to be struck when drafting both the baseline study and the action plan is between, on the one hand, the need for clear priorities and, on the other, sending a message of inclusion to those who feel they have experienced human rights problems. Human rights violations or problems are, naturally, significant. However, some human rights problems will need urgent attention, and it is important that priorities are discussed and formulated so that resources can be allocated to the areas most in need. It is impossible to formulate a principle that can help to strike this balance between prioritisation and inclusion

in all situations as these will obviously vary from one country and period to another.

One point worth highlighting, however, is that decisions to exclude certain issues from the action plan should be considered carefully and explained explicitly in the document.

Another way to deal with the balance between prioritisation and inclusion is to be generous about how much to include in the baseline study (i.e. the baseline study can describe all or most human rights problems), while clear decisions on priorities are made within the framework of the action plan when decisions on resources need to be made. If the baseline study reports criticism and concerns brought forward by the stakeholders – even if these concerns do not lead to any concrete reforms or activities in the action plan – the stakeholders’ concerns are at least reflected, which may be of value in itself.

4.3.4 Precision of activities

The activities included in the human rights action plan should be presented clearly and precisely to prevent ambiguities during the implementation phase. This can be done, for example, by providing concrete descriptions of the actions to be taken, by whom and when. If activities or goals of a more general character are formulated – such as “improving” a situation, “increasing knowledge”, etc. – precision can be added by accompanying the activity with indicators and benchmarks that make it possible to measure the effect of the activity.

4.3.5 Educational value

If the process of drafting and implementing a human rights action plan is broad, inclusive and discursive, people and actors who have not discussed human rights issues before are likely to become involved in or informed about the project for the first time. This means that the action plan process (both the baseline study and the plan itself as well as the drafting and implementation) provides good opportunities for increasing knowledge and awareness of human rights. Furthermore, the document itself can be written in a way that will make it appropriate and useful for educational purposes. The combination of descriptions of human rights obligations, recommendations and criticism from treaty monitoring bodies, and concrete problems at national, regional or local level can illustrate very clearly what human rights “mean” for that country in concrete terms. If the language needs to be very formal (which is the case in many countries), a shorter, easy-to-read version can be produced once the formal document has been adopted.

4.4 Outreach – making the plan known

The dissemination of the action plan may seem to be a marginal issue after the complicated drafting process, but it is very important to prevent the action plan from becoming an anonymous document on the bookshelves of bureaucrats. Once the plan has been adopted, information about it needs to be disseminated as widely as possible. Naturally, the media is a central avenue for disseminating information about the plan. Further, it is useful to distribute the plan to all stakeholders who have participated in the drafting process – both inside and outside public administration. If the document has educational value, that is, if it has been written in a way that contributes to an understanding of the concrete meaning of human rights in the context of that country, it can also be distributed to schools and universities etc.

The document should be translated into minority languages and versions adapted to people with disabilities. Shorter and easier-to-read versions can also contribute to making the plan better known. The design of the plan (e.g. a practical format) also has a bearing on whether or not it will be read and used.

In some countries, meetings and conferences have been arranged to disseminate and discuss the action plan and to mark that the adoption of the plan is only the beginning of the implementation phase. Sometimes such meetings have also stimulated interest in working more systematically on human rights at regional and local level.

4.5 Implementing a human rights action plan

OHCHR has pointed out that the implementation of human rights action plans is where countries experience the greatest challenges.²⁸ There may be many reasons for this, including the following:

- The drafting process has been so time-consuming and required so much energy that it is difficult to revive enthusiasm for starting anew when the implementation phase begins.
- The people involved in the drafting have been overly optimistic when formulating the action plan and thus underestimated the difficulties of carrying out different activities.
- The ownership of the drafting process has been too limited so that texts, proposals, estimations of resources, etc. have been formulated in a circle that has not included all ministries and actors concerned.
- The drafting or coordinating group has pushed the process forward without regularly ensuring that political support for the process still exists, so that

²⁸ Experience with National Human Rights Action Plans, Indicators and National Human Rights Institutions, OHCHR paper presented at the CoE Forum for the Future of Democracy, June 2007.

when the plan has been adopted there is too little political interest in implementing it.

- There is a change in government and the new government does not support the plan (e.g. because the opposition parties were not included in the consultation process before the adoption of the plan).
- There is no structure or mechanism for how to follow up and monitor the implementation of the plan.

As this list suggests, the reasons for non-implementation of a plan may lie in deficiencies during both the drafting and implementation phase. Most problems can be prevented through a careful drafting process that takes due account of:

- involving all actors whose support will be needed during the implementation phase, e.g. ministries and national and local authorities,
- being realistic when formulating the activities to be included in the plan,
- involving people critical of the process at the drafting stage so that their criticisms are taken into consideration from the start,
- reporting back to and checking the direction with representatives at a high political level regularly during the drafting process,
- creating an interest in civil society so that there will be external pressure for the plan to be implemented,
- securing resources for all activities included in the plan before it is adopted, and
- creating a mechanism for regular follow-up and monitoring of the implementation.

The follow-up and monitoring mechanism can include both actors within and outside the government administration. If a committee has been assigned the responsibility of drafting the baseline study and/or the action plan, this committee can also be tasked to follow up and monitor the implementation process. Regardless of the exact design of the structure, the follow-up process needs to involve all ministries affected by activities included in the plan. In addition, all stakeholders need to be regularly and openly informed about implementation progress. While either meetings and written reports can be used for this, a written report is perhaps more important, as the drafting of this report makes it necessary for all ministries to review the text where the implementation of “their” activities is described, thus securing their active involvement, as well as the involvement of the political level of government.

To ensure that the implementation and follow-up function well, it seems necessary that a coordinating and/or monitoring body should be in place and assigned with the task of seeing to it that the responsible ministries or authorities report on the implementation, that documents (e.g. annual reports, mid-term reviews, etc.) are produced and disseminated and that the stakeholders are kept informed. Moreover, if problems arise in the implementation of the action plan,

this coordinating body can bring these problems to the attention of the responsible minister so that possible solutions can be discussed.

Another possible task for a coordinating/monitoring body is to keep an eye on out for new human rights problems that may arise during the implementation phase and initiate a discussion on how to deal with these problems. If meetings with the stakeholders are held during the implementation phase, there should also be time to discuss whether new problems have appeared or if the action plan has lost its relevance in some other respect.

4.6 Ownership and responsibility

A human rights action plan, like a human rights baseline study, will always concern ministries, policy areas and public administration in general transversely. It can hardly be denied that the division of responsibility that is necessary for public administration also means that an element of competition is built into the system. Different ministers, ministries, authorities, municipalities, etc. sometimes aim to take the most initiatives and demonstrate the most strength. Thus, “umbrella” plans, like human rights action plans, may involve discussions on who will get the credit, or the blame, for different developments regarding human rights. Interest from ministries other than the ministry coordinating the human rights action plan may also be limited; these other ministries may consider it more effective to present initiatives and reforms in their own policy documents. If broad ownership cannot be created, the result may be that too few initiatives are included in the plan, or that too few resources are allocated to the activities in the plan.

Therefore, it is crucial to create broad ownership of a human rights action plan and the process leading to its adoption. An ideal way to start the process could be a signal from the highest political level (e.g. prime minister). If this is not possible, the initiative could be taken by the ministries most concerned or divisions together. Another way of creating, and maintaining, ownership across areas of responsibility is to establish a drafting and/or implementation committee with representatives from different ministries, national authorities, etc. It may also be advisable that ministries be allowed to present and take the honour for their “own parts” of the plan. This can be done, for instance, by including one and the same initiative in several policy documents, for example, both in a comprehensive human rights action plan and in a more detailed sector-based plan that is “owned” only by the ministry concerned.

4.7 Allocation of resources

The allocation of resources needs careful planning, as mentioned above (section 4.3.1).

One of the most frequent questions when human rights action plans are discussed is “Does it have its own budget?” It seems to be common, however, that states that have adopted such plans have no separate budget for them, but rather that each ministry allocates resources for its own activities in the plan as part of the ordinary budget process. This seems to be a natural consequence of the transverse character of human rights action plans. Nevertheless, it should be emphasised that this does not mean that it is a good solution to leave it to each ministry to decide on how to deal with the resource question, or that the question of resources can be dealt with once the plan has been adopted. The ministry of finance needs to be involved from the start and an agreement reached on each activity included in the plan before it is adopted. It is also useful to allocate special resources for more general needs connected to the plan, such as the dissemination of the plan, the organisation of meetings with stakeholders, drafting and printing reports on the implementation, translating the plan into other languages, etc.

4.8 Sustainability

To ensure that a human rights action plan is sustainable, it is preferable that it be adopted by the parliament. However, this is not possible in all countries and situations. If the action plan is adopted by the government, it is important to include opposition parties in the consultation process. Broad political consensus is not unusual on basic human rights issues and if this is possible to achieve regarding the plan, the document will, of course, be more stable. It is rather natural, however, that the more specific priorities and activities contained in the action plan are of a political nature. However, if the opposition has been part of the discussion from an early stage and agreement can be reached at least regarding the main direction of the plan, the plan will stand a better chance of being sustainable.

Another factor that is important for sustainability is the involvement of stakeholders in the consultation process. If there is interest in the plan in several sectors of society and pressure from civil society for the plan to be implemented, a new government may well continue working along the lines of a plan adopted by the former government. A new government could also choose to signal its interest, or to communicate a slight change of direction by adopting a new document as a complement to an already existing plan.

4.9 Evaluation

It is recommendable that a human rights action plan include a section on evaluation. An evaluation is especially important, of course, when deciding whether and how a second plan is to be elaborated, or whether new forms of human rights work should be developed. However, an evaluation can also be useful for reviving interest in the human rights action plan (and human rights issues in general) and promoting a new discussion on these issues.

Before a decision is taken regarding evaluation, it should be considered whether and to what extent it is the process, the document, the implementation, the results or all of these that are to be evaluated. Ideally, of course, the evaluator should be independent of the government and the other actors responsible for the drafting and implementation of the action plan. If a completely independent evaluation is not possible, one solution could be to conduct several evaluations (e.g. civil society conducts its own). This has been done in some countries. If several evaluations are conducted, there should still be opportunities for the government, civil society and stakeholders in general to meet and discuss their experiences of the human rights action plan.

One way to enable an assessment of the action plan results is to combine it with human rights indicators designed to measure the development of the human rights situation in general or the development as regards specific areas, rights or activities (see also section 3.3).

4.10 After the first plan

A human rights action plan is not only a document, but also a process. The process of drafting and implementing the action plan is perhaps more important than the plan itself and the activities contained in it, provided that it is an open and inclusive process.

Thus, it can be interesting to keep up the interest, and perhaps broaden the process even more, by starting a new drafting process. Naturally, there are also other reasons, such as being able to use the experiences gained from the first process to achieve better results the second time around, and being able to design a policy document that is better adapted to the current situation.

The question then arises of how to deal with the second plan. A few points are worth mentioning in this regard.

- If a second plan is to be drafted, it is obviously useful to begin by evaluating the first plan.
- A second plan should be based on a new baseline study. Making a survey of the human rights situation – as well as the consultation that is part of this process – is a central element of the action plan process. In some cases a new action plan has been designed very shortly after the first plan (e.g. due to a shift in power), and under such circumstances it may be possible to use the same baseline study. But if a whole new survey of the human rights situation is not carried out, the second action plan process must include issues not discussed in the original baseline study (e.g. new recommendations from treaty monitoring bodies).
- Another question that may arise is whether each new human rights action plan needs to be more ambitious than the former. Clearly, this question must be

answered taking the political context of each country into account. However, if a human rights action plan includes clear priorities – rather than attempting to solve everything – it will be a natural choice to identify new priorities in a successor plan rather than just adding new areas and activities.

4.11 Sector-based action plans and combinations of plans

Many countries adopt action plans for several specific policy areas related to human rights, such as non-discrimination, gender equality, rights of persons with disabilities, etc. This often reflects a desire to be more specific and concrete than what is possible within the framework of a more general or comprehensive human rights action plan.

In countries where both more specific and more general human rights action plans have been adopted, it appears that deciding how the different documents relate to each other has not been considered problematic. Through the regular contacts between ministries and within the interministerial working groups that are often established when a comprehensive human rights action plan is to be drafted, coordination issues can be discussed. Such issues can be solved, for example, through mutual references, repetition of more important activities and statements, etc.

A difficult issue may be rivalry between ministries that seek to fill their own policy documents with the most substance. If overlapping between plans is accepted, that is, if undertakings and activities important both for the general human rights action plan and the more specific plan can be repeated, rivalry can be avoided. This, however, requires that the activities and statements repeated are only minor parts in both plans. Another way of avoiding rivalry may be to focus more on general institutional issues in the general plan – such as the role of central actors (e.g. human rights institutions, ombudspersons, national authorities), human rights training and education, information and awareness raising, etc. – and on specific rights issues in the sector-based plans.

It is difficult to argue that any strong reasons exist for choosing to adopt only sector-based action plans/policy documents or more general ones, or indeed a combination; different countries and different contexts require different solutions. However, it may be advantageous from a human rights point of view to ensure – if a country has no general human rights action plan – that there is an occasion or method for reviewing all human rights problems and the recommendations from international organisations together. The reasons for this are both the indivisibility and interdependence of human rights and the importance of ensuring that all human rights challenges have been considered. A more general action plan or method also underlines the fact that human rights issues are wide reaching issues dealt with by almost all ministries

As mentioned in section 2.1, the Vienna Conference in 1993 recommended not only that states consider the desirability of drawing up human rights action plans but also that states develop specific programmes and strategies for ensuring the widest human rights education and the dissemination of public information, taking particular account of the human rights needs of women. Against this background, several states have adopted national action plans for human rights education. Such action plans, or strategies, may focus on a specific sector (such as the school system) or on a broader range of actors such as professionals, marginalised groups or the general public. It seems that most states have chosen to adopt either a general human rights action plan (including issues regarding human rights education), or an action plan dealing only with human rights education – not both.

To assist and support the efforts to elaborate action plans for human rights education, OHCHR has developed specific tools including *Guidelines for National Plans of Action for Human Rights Education*, adopted by the UN General Assembly in 1997.²⁹ According to these guidelines, national plans for human rights education serve to initiate steps towards national programmes for the promotion and protection of human rights, as recommended by the World Conference on Human Rights (para. 14). Thus, action plans for human rights education are described both as important in themselves, and as a step towards the adoption of general human rights action plans. It can be assumed that it is often perceived as less sensitive in a politically turbulent situation to draft and adopt a plan for human rights education than a human rights action plan dealing with specific rights issues.

4.12 The value added of human rights action plans

Considering the amount of time and resources that need to be invested in the elaboration and implementation of a human rights action plan, the question of the value added of such a plan needs to be carefully considered. The overarching question is whether human rights action plans have value added in relation to the objective to decrease the “implementation gap”. In addition to this assessment of the typical value of human rights action plans as tools, each state that considers to elaborate a plan needs to weigh the possible value of such a process in relation to its own national situation, resources and already existing strategies, etc.

The doubts often expressed about national human rights action plans, and scepticism about their value added, include:

- that they tend to become another document on the bookshelf that no one reads
- that they are too lofty and a collection of nice words with little relation to reality

²⁹ UN Document A/52/469 Add. 1.

- that they attempt to grasp and solve everything in one and the same document, which is both impossible and makes them too general
- that the resources required are too extensive considering the actual effect of the document.

These doubts are in their turn related to suspicions or views that human rights action plans are primarily used by states as a way to achieve a good “human rights record” among intergovernmental organisations. It is also sometimes held that positive reactions of intergovernmental organisations with regard to human rights action plans entail a risk of legitimising situations where governments in reality put too little effort into solving their national human rights problems. The issues of whether human rights action plans are merely a way to achieve a good human rights rating, and the view sometimes expressed that intergovernmental organisations focus too much on such formal processes, are fundamental in the context of an international conference on systematic work for human rights implementation. These questions will be discussed further in section 7.

Here, some of the possible positive effects of human rights action plans will be mentioned. It is not suggested that these values will be the result of all processes, only that they have been experienced as positive effects of the action plans of some countries. Some of the effects mentioned overlap, but they are nevertheless separated here for the sake of clarity:

- The first such positive factor is the whole process of drafting and implementing a human rights action plan, i.e. the process in itself rather than the document. In some states, this process has had the effect that many actors (some for the first time) have engaged in discussions on human rights issues over quite a long period time. This has also in its turn meant that in some countries participating NGOs, municipalities, national authorities, etc. have started systematic human rights work in their own organisations after having participated in the process of elaborating the national action plan.
- A second positive factor is that human rights action plans can act as a starting point for a more comprehensive and systematic approach to human rights issues in public administration. It can also lead to the establishment of new structures such as coordinating committees, working groups and focal points for human rights work.
- Thirdly, national human rights action plans can (like other methods for coordinating human rights work at national level) facilitate the reporting process both when State party reports are to be submitted to human rights monitoring bodies and when the observations and recommendations of such bodies are to be dealt with.
- A fourth positive effect of human rights action plans can be that they are viewed as a signal from the government that human rights are a priority especially if the action plans contain substantial undertakings or activities aimed at strengthening human rights.

- Fifthly, human rights action plans can contribute to integrating a human rights perspective into other policy areas. Through the drafting process, in which all or many ministries participate, government officials need to analyse their respective fields of responsibility from a human rights perspective, contribute to the work of identifying human rights problems and suggest activities that can help to strengthening human rights.
- A sixth positive effect is the educational value of the process, as well as the document itself. The systematisation and descriptions of views and recommendations from treaty monitoring bodies, the analysis of convention rights in relation to national law and practice, etc. can contribute to increase understanding among both public officials and the general public of what human rights mean in their national or even local context.
- A seventh possible effect is that sector-based plans and strategies related to human rights (non-discrimination, national minorities, gender equality, etc.) can be linked to and perhaps strengthened by a common platform on human rights. It is sometimes held that it is easier for officials (in, for example, municipalities) to consider and relate different “perspectives” to each other when these are regarded as part of the same human rights fundament, rather than “switching glasses” and perspectives depending on group and/or interest.
- Finally, a human rights action plan and the process leading to its adoption can provide a platform for creating better understanding and acceptance for policy decisions relating to human rights, provided that the process is inclusive, the discussion open and argumentation in the action plan clear.

Suggested issues for discussion (Workshop 1)

Questions for all round tables

- At which stages of the elaboration and implementation processes of baseline studies and human rights action plans should civil society and the business sector be involved, and how?
- What role can they play in carrying out the activities in a human rights action plan?
- What is it about a national human rights action plan that makes a contribution/value added to the promotion of human rights additional to that of other approaches to human rights implementation?
- Is it possible to adopt a human rights action plan that implicitly or explicitly leaves serious challenges aside? Does a human rights action plan need to deal with “everything” in order to be relevant?
- How can a human rights action plan be combined with other methods, such as indicators, without becoming too complicated and costly to follow up?

Round table 1: Preparation

- What steps were taken to prepare for national human rights action plans in various countries in the past?

- Were there any gaps or mistakes?
- What lessons can be learned for future proposals to introduce national human rights action plans?

Round table 2: Baseline studies

- What should be the minimum standards for baseline studies?
- What options are there for carrying out baseline studies?
- What are the strengths and weaknesses of each option?
- What difficulties are there in carrying out baseline studies?
- How can they be overcome?

Round table 3: Development and implementation

- What structures have been employed to manage the implementation of national human rights action plans and which have proven successful so far?
- What is needed in terms of political leadership, staffing and resources?
- How should civil society be involved in the various stages of national human rights action plan activity?
- How can a sense of ownership across ministries and policy areas be created for a comprehensive human rights action plan?

Round table 4: Monitoring and evaluation

- What measures have been used or should be used to monitor the ongoing implementation of national human rights action plans and/or to carry out evaluations at the conclusion of each plan?
- How could they be improved?
- If no monitoring or evaluation has taken place, what have been the obstacles and why?

Round table 5: Successor plans and relationship with specialised plans

- How should successor plans be facilitated?
- What should be the relationship to earlier plans?
- How can specialised and more general human rights plans in a country be made more mutually reinforcing?

Round table 6

- What is the relationship between and among national human rights action plans and development plans such as poverty reduction strategies?
- How can national human rights action plans contribute to effective implementation of the human rights approach to development?

5 Systematic work for human rights implementation at regional and local level

5.1 Introduction

The international obligation to respect human rights lies with the central government. However, for human rights to become a reality within the state, they need to be implemented at all levels of society. In many countries, important aspects of the individual's daily life (e.g. schools, health care, social care and housing), belong within the field of responsibility of the regional or local level of government. While federal states, regions and municipalities generally aim at achieving a beneficial and sustainable development for their communities, methods for systematic work for human rights implementation have perhaps been regarded and developed as a tool mainly for central government. However, as treaty monitoring bodies frequently comment on human rights problems at regional or local level, it is important to consider ways of working systematically with human rights implementation also in this context. Thus, it may be useful to discuss whether human rights implementation at local and regional level differs in any respect from national human rights implementation.

On 6 October 2008, local and regional decision makers in Europe and representatives of the Congress of the Council of Europe met in Stockholm for the seminar *Systematic Work for Human Rights – a challenge to local/regional politics*. In its final declaration, the seminar called for concerted action between all tiers of government, including local and regional, to eradicate all forms of intolerance and discrimination, and to build cohesive societies in Europe based on respect for human rights.³⁰ The seminar considered that local and regional authorities must play a more substantial part in the implementation of human rights within the scope of local self-government as laid down in the European Charter of Local Self-Government. The local and regional decision makers in Europe and representatives of the Congress of the CoE requested full support from the international conference on human rights to be held in Stockholm on 6 and 7 November 2008, and asked it to take a number of proposals into serious consideration, and to consult local and regional authorities. The proposals presented in the declaration included (for example):

- to encourage local and regional authorities to promote respect for human rights through awareness-raising campaigns, and through local and regional action plans;
- to promote and support the establishment and development of good methods of implementation, such as independent ombudspersons or human rights coordinators, at local and regional level;
- to create appropriate structures or procedures to facilitate effective monitoring and remedy of cases where fundamental rights are not fully respected in the delivery of local public services; and

³⁰ The declaration is available at www.skl.se/6oct2008.

- to foster respect for human rights through systematic training of elected representatives and staff of local authorities, as well as of independent monitoring bodies, to make them aware of their responsibilities regarding compliance with human rights.

5.2 What may characterise human rights work at local and regional level?

In many countries, regions and municipalities have partial autonomy. However, the other side of the coin is precisely that autonomy is limited in the sense that it is circumscribed by, for example, national legislation. Moreover, it is not uncommon to find a certain tension connected with this division of powers, occasionally coupled with an aspiration for a higher degree of self-determination for the region or municipality.

In some cases this tension also includes, or leads to, a certain unwillingness among local and regional authorities to regard international human rights obligations as binding or relevant. Local and regional decision makers sometimes refer to that fact that it is the state that has decided to enter into human rights obligations and that it is the responsibility of the central government to implement them. Representatives of local and regional authorities are also often some distance from international decision-making fora, which may contribute to a less immediate sense of responsibility to fulfil international obligations. On the other hand, central government in some instances refers to local or regional autonomy as an explanation for problems in human rights implementation, while it is clear from the point of view of international law that it is the government's responsibility to structure society in such a way that international obligations are complied with.

Decision makers at local and regional level are often well known in their communities and have many personal contacts there. This means that they are also close to human rights stakeholders, which can contribute to a good understanding of the challenges at hand and may make it easier deal with them. At the same time, a local decision maker may be very aware of who will be affected by a certain decision, for example, regarding mother tongue instruction for a child belonging to a national minority or personal assistance to a person with a disability. Without questioning the integrity of the decision maker, it could be somewhat sensitive for individuals affected by a decision that someone in their community has power over the realisation of their rights.

People in a community also know each other. Someone at school or a colleague may in certain situations be associated with a "cost", which may in turn create tensions. Tension may also arise within a community or a region when questions of land rights are debated, for example, in relation to indigenous peoples. Yet another example are clashes between xenophobic parties or organisations and immigrants who are directly and personally confronted with each other.

It can be discussed whether these factors can make some decisions concerning human rights implementation at local and regional level particularly sensitive in that they can be connected with personal relations and sometimes disagreement, for example, over the allocation of resources. The fact that resources are sometimes rather limited can perhaps also contribute to a situation where people in the region or municipality may feel that the implementation of the rights of one person or group decreases the possibility of full implementation of other rights. In its final declaration, the seminar of local and regional decision makers in Europe and representatives of the Congress of the CoE (mentioned above) recognised that the full implementation of some human rights by local and regional authorities calls for financial resources which are not available everywhere. It is important to discuss how this can be dealt with.

There are also institutional issues to take into account, which vary greatly from one country to another, for example, whether there are human rights institutions and/or ombudspersons only at national level or also at local and regional level. It can be assumed that the presence of such institutions at local or regional level contributes to raising human rights awareness in local and regional authorities and increases understanding of the relation between international human rights obligations and local and regional autonomy.

5.3 Practical human rights work at local and regional level

The methods for systematic work for human rights implementation discussed above (sections 3 and 4) – mainstreaming a human rights perspective into governance, for example, through indicators and human rights action plans including baseline studies – are likely to function in a similar way at local and regional level. They may even be easier to handle in that their smaller scale makes them easier to grasp. On the other hand, resources for the projects may be more limited.

Human rights institutions, including ombudspersons, can also be established at the level of the federal state, region or municipality. Due to their proximity to people, human rights institutions at the local and regional level are often perceived as accessible and can contribute to making public officials more accountable. One example of a human rights institution established at federal state level is the human rights commission of Mexico D.F., which is active in relation to issues such as discrimination in the city's public transport system, health issues, domestic violence, etc. The Commission receives individual complaints and has elaborated a human rights baseline study for the state in cooperation with OHCHR in Mexico (see below). In Austria, federal ministries and provincial governments have appointed human rights coordinators who function as the authorities' network and resource persons in the field of human rights. This network is used, for example, when submissions to international human rights monitoring mechanisms are prepared. In other countries, the (central) human

rights institution has established focal points in different parts of the country that can assist individuals in their dealings with local or regional authorities. Still another solution is when NGOs or community-based organisations appoint local or regional representatives on their own initiative to represent the population in human rights issues in relation to the municipality or region.

One aspect of systematic work for human rights implementation that may differ in some respects is consultation with stakeholders. Due to personal connections and the more local character of human rights problems discussed above, consultation carried out as part of drafting a baseline study or a human rights action plan may sometimes be more sensitive, at least if such consultation is done through meetings. On the other hand, meetings that discuss human rights problems and possible solutions can also provide a platform for important and direct discussions on priorities, which may hopefully contribute to a better understanding of the rights of other groups and individuals.

Examples of systematic work for human rights at local, regional and federal state level, and information on such work, include:

- Mexico D.F., where the Commission for Human Rights of Mexico D.F. has recently finalised a human rights baseline study (2008) in collaboration with OHCHR in Mexico. The baseline study now forms the basis for the elaboration of a human rights action plan for the state;³¹
- the implementation of the human rights action plan of Moldova, which includes human rights training for 34 human rights focal points at national level and 35 at local level with the support of UNDP;
- *Human Rights in Healthcare – A Framework for Local Action*, a handbook published in 2007 by the British Institute of Human Rights that includes “From principles to practice – human rights based approaches in action”, a section containing examples of good practice actions and case studies;³²
- the Australian Local Government Association’s guide for local governments on how to elaborate Disability Discrimination Act Action Plans for taking a proactive approach in providing equality and quality customer service for people with a disability;³³ and
- a handbook for human rights implementation at local level produced in 2008 as a result of one of the measures contained in the Swedish national human rights action plan (only available in Swedish).
- the reports on local government, decentralisation and human rights elaborated by the International Council on Human Rights Policy.³⁴

³¹ Baseline study available at www.cd hdf.org.mx/index.php?id=informesdiagnostico (in Spanish).

³² www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073473.

³³ Available at www.alga.asn.au/publications/DDA_Action_plans.pdf

³⁴ See “Governance” at <http://www.ichrp.org/en/themes>.

Suggested issues for discussion (Workshop 3)

Questions for all round tables

- When there is partial autonomy at municipality, region or federal state level, how can a sense of ownership and responsibility be created in relation to respect for international human rights obligations?
- In what respects does systematic work for human rights implementation at municipality, region and federal state level differ from such work at national level?

Round table 1

- How can work to safeguard human rights be more systematically and efficiently carried out at municipality, region and federal state level?

Round table 2

- How can different levels of government administration cooperate to address human rights problems constructively wherever they emerge?

Round table 3

- What methods exist for identifying human rights problems at federal state, region and municipality level?
- Should baseline studies on the human rights situation be carried out at all levels separately?

Round table 4

- How can geographical and personal proximity to groups and individuals be treated as an advantage rather than a problem in decision-making relating to human rights issues?

6 The role of civil society and national human rights institutions in systematic work for human rights implementation

6.1 The role of national human rights institutions in systematic work for human rights implementation

The basis of systematic work for human rights implementation is formed, naturally, by the international and regional conventions that express the human rights obligations of states. According to the Paris Principles on National Institutions for the Promotion and Protection of Human Rights (NHRI), such an institution shall, inter alia, have the mandate to promote and ensure the harmonisation of national legislation, regulations and practices with the

international human rights instruments.³⁵ It shall make such recommendations as it deems appropriate in order to ensure that legislation and administrative provisions in force, as well as bills and proposals, conform to human rights. This means that NHRIs – be they organised as institutes, commissions, ombudspersons or in some other way – have a central role in systematic work for human rights implementation. The term “national human rights institution” is understood here as a concept that includes all institutions that are in conformity with the Paris Principles, regardless of whether they are commissions, ombudspersons, institutes or organised in some other way. Within the CoE, the corresponding inclusive term is “national human rights structures”.

Another important component of systematic work for human rights implementation is the report system established by many human rights treaties. Both the drafting of such reports, including dialogue on their content with national human rights institutions, NGOs and other actors, and the follow-up of the comments and recommendations issued by the treaty monitoring bodies, entail regular reviews of the human rights situation, although in relation to one treaty at a time. According to the Paris Principles, an NHRI shall have the mandate contribute to States party reports to human rights treaty monitoring bodies and to express an opinion on the subject, with due respect for their independence.

The annual meeting of chairpersons of the human rights treaty bodies (“the inter-committee meeting”) provides a forum for members of the human rights treaty bodies to discuss their work and consider ways to enhance the effectiveness of the treaty body system as a whole. At an inter-committee meeting in 2007, a document on a harmonised approach to NHRIs engagement with UN treaty bodies was adopted.³⁶ This is a useful guide for NHRIs wishing to interact with the treaty body system. In January 2008, a *The Role of NHRIs in the Treaty Body Process* was published by the German Institute for Human Rights in close cooperation with OHCHR.³⁷ This handbook examines areas of cooperation between UN treaty bodies and NHRIs in detail, explains the various mechanisms of the treaty body system, discusses cooperation with NHRIs and treaty bodies and in what ways this can be improved.

As regards the relations between NHRIs and NGOs, the Paris Principles refer to the fundamental role played by NGOs in expanding the work of NHRIs. According to the principles, NHRIs shall develop relations with NGOs devoted

³⁵ Adopted through a UN General Assembly resolution of 1993, document A/RES/48/134.

³⁶ Conclusions of the International Roundtable on the Role of National Human Rights Institutions and Treaty Bodies, UN document HRI/MC/2007/3.

³⁷ Available at http://files.institut-fuer-menschenrechte.de/437/IUS-049_HB_NHRI_WEB_ES.pdf.

to promoting and protecting human rights, economic and social development, combating racism, protecting the rights of marginalised groups, or to specialised areas.

In addition to the roles mentioned above, NHRIs also have a mandate as regards more promotional work, such as in relation to human rights information, education and research.

All these different roles of NHRIs are related to systematic work for human rights implementation in several ways. More concretely, their involvement in such work may include the following:

- NHRIs can play a vital role in the process of drafting human rights action plans, including baseline studies. However, depending on their respective mandates, this type of participation needs to be designed so as not to infringe on their role as independent from the government. Their participation (e.g. in processes for the elaboration of a human rights action plan) will thus depend on their constitutional role; it may be important for human rights institutions or ombudspersons belonging to the remit of the parliament to abstain from playing an active role, especially if the action plan will be adopted by the government rather than the parliament. In such situations, the NHRI may regard it as acceptable to submit written comments on a draft at a late stage in the process, or focus only on an observatory and pressurising role during the implementation phase. Even if an NHRI plays a less active role in the process of elaborating and/or implementing a human rights action plan, its reports and recommendations will of course be important material for identifying human rights problems and drafting the baseline study.
- As regards mainstreaming a human rights perspective into governance (e.g. through human rights-based governance) the expertise of NHRIs on national human rights challenges in relation to national legislation, the practice of national courts, administrative procedures, etc. can play a central role in increasing understanding of human rights as applied in a concrete national context. For instance, the knowledge of NHRIs of typical problems and mistakes can be instrumental when handbooks, checklists and similar methods and tools for increasing human rights awareness in public administration are being elaborated. This also applies to the elaboration of human rights indicators, where it is crucial to identify the issues and areas most relevant for the indicators to cover. The Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights and the Committee on Elimination of Racial Discrimination have issued General Comments on NHRIs stipulating the role of NHRIs in the protection and promotion of human rights. In these general comments, it is mentioned that NHRIs may, for example, identify national-level benchmarks against which the realisation

of convention rights can be measured and conduct research and inquiries designed to ascertain the extent to which particular rights are being realised.³⁸

- Yet another role that can be played by NHRIs in systematic work for human rights implementation is in relation to NGOs and other parts of civil society. If NGOs or groups need human rights information or training (e.g. help in formulating their mandates or concerns in human rights terms), NHRIs can provide assistance. They can also provide platforms and fora for networking on human rights issues, for instance in relation to the drafting of shadow reports to human rights treaty monitoring bodies.

It has sometimes been the case that civil society has been critical of an NHRI or that the institution chooses not to participate in the drafting of a human rights action plan due to lack of confidence in the process. This may lead to a situation where there is no central actor on the national level that actively promotes the process to move forward. Other actors, such as international organisations, can then take on this more active role instead. In other words, lack of confidence in an NHRI, or the non-participation of such an institution in a process such as elaborating a human rights action plan, has negative effects on the process but does not need to halt it altogether.

6.2 The role of civil society

The role of civil society in systematic work for human rights implementation has been stressed repeatedly throughout this paper. For instance, in sections 4.2, 4.4 and 4.5, the importance of involving civil society in the work on elaborating and implementing human rights action plans, including baseline studies, has been discussed. Civil society also has a crucial role in relation to the treaty monitoring bodies, increasing human rights knowledge and awareness (both in public administration and among the general public) and, in general, in identifying and drawing attention to human rights problems, bringing complaints about violations, etc. In short, civil society is crucial for democracy as a balance to governmental power, and since the notion of human rights is based on the idea of circumscribing political power in order to protect the individual and the individual's interests, the role of civil society in this area is perhaps particularly important. Having actors who scrutinise, criticise and debate with public officials is vital for human rights to work.

The issue of who are the relevant actors in civil society with regard to systematic work for human rights implementation has been discussed in relation to national human rights action plans and baseline studies (section 4.2.2). The argument presented there can be applied to systematic work for human rights implementation in general: it is crucial to include a broad range of actors in all

³⁸ See e.g. Committee for Economic, Social and Cultural Rights, General Comment 10 (1998), UN document E/C.12/1998/25, para. 3(d).

large and/or important projects concerning systematic work for human rights implementation. It is clear that as much information as possible regarding the human rights situation needs to be on the table in order for challenges to be identified and possible ideas for strengthening human rights to be collected. But it is also a question of principle to be as participatory as possible in human rights work to ensure its credibility and legitimacy.

Thus, when consulting with civil society on projects concerning systematic work for human rights implementation, it is important to include not only organisations specialised in human rights issues, but also those representing more specialised interests. It is essential to involve national minorities, including indigenous peoples, and organisations promoting the interests of marginalised groups such as groups or parts of the population often subjected to discrimination. Important information can also be provided by health organisations, youth organisations, persons who are or have been deprived of liberty, organisations promoting social interests, etc. Political parties and trade unions should also be included in consultations on human rights issues.

It is often useful to send an open invitation to groups and organisations of civil society to participate in combination with invitations to organisations already known to be interested in the process or with a specialisation that is needed. Directing the invitation only to particular NGOs or groups while denying other organisations a chance to participate will be problematic, both as a matter of principle and in more practical terms, since any controversy over who is allowed to participate will threaten the process.

Another point worth mentioning, also discussed in section 4.12, is that the process leading towards the adoption of a human rights action plan is of great value in itself as a platform for discussion and increasing knowledge and awareness. The arguments presented there are likely relevant also for other larger projects on dealing systematically with human rights implementation. If many actors are involved, the process will become well known and become in itself a forum for enhanced human rights awareness.

6.3 Different stages, different roles

After having dealt with the participation of NHRIs and civil society in more general terms, it can be useful to consider whether different stages of projects for dealing systematically with human rights implementation provide opportunities for different types of roles. It has already been mentioned that NHRIs often need to avoid being too actively involved in policy-making activities, such as the drafting of a human rights action plan, while NGOs and other civil society actors are important partners at this stage of the process.

If civil society lacks confidence in the government's or parliament's process for elaborating a human rights action plan or similar strategic documents, NHRIs, NGOs and other actors in society could consider the option of drafting alternative baseline studies and action plans specifying activities they considered necessary for the government to carry out.

During the implementation phase, public authorities can cooperate with both NHRIs and NGOs on specific undertakings and activities in a human rights action plan. Naturally the main overall responsibility for implementing the action plan will still remain with the government. But how far into a partnership for implementing activities can NHRIs and civil society go? Is it possible, for instance, that parts of a human rights action plan can be joint undertakings for several sectors of society? For NHRIs, such involvement would perhaps be problematic as it could infringe on their ability to scrutinise the action plan process. NGOs, however, could possibly reach an understanding with the government to cooperate in carrying out education programmes, awareness raising campaigns, etc. Whether or not this is possible depends, of course, on the political situation in the country and whether there are guarantees ensuring the independence of NGOs.

At the evaluation stage, NHRIs, NGOs and other civil society actors can provide input to an independent evaluator or carry out their own evaluation. In some countries, the human rights action plan has been evaluated by both the committee assigned with the task of drafting the plan and following up its implementation, and separately by NGOs.

6.4 The business sector

The concept of "civil society" is often used in a three-party setting, where the public sector is separated from both the market and civil society. Thus, according to this understanding, civil society does not include actors promoting a commercial interest. This is also how the concept of civil society has been used above. Nevertheless, the issue of involving the business sector also merits consideration against the background of, among other things, the growing interest in corporate social responsibility. The business sector is sometimes involved in drafting baseline studies through the participation of employer organisations. An active role in formulating the activities to include in an action plan also seems realistic. Such a role could include planning activities concerning respect for labour rights, human rights education and awareness raising, as well as a role when such activities are carried out. Due to the goodwill such participation generates for business, it could be of interest to many companies. It is also evident that companies and the business sector play an important role in implementing non-discrimination legislation, for example in EU countries as a consequence of the EU equality directives. The business sector needs to comply with this legislation within contexts such as recruitment and employment. However, in

some situations, it may be necessary to consider whether the “human rights record” of a company is possible to combine with an active role in a project on systematic work for human rights implementation.

Suggested issues for discussion (Workshop 4)

Questions for all round tables

- What good examples are there of how NHRIs can contribute to the development of a human rights culture among the general public?
- How can projects for working systematically with human rights implementation be structured in a participatory and transparent way without becoming too difficult to handle due to the large number of involved actors? Can anyone participate?

Round table 1

- Depending on their respective mandates, what role can national human rights institutions play in the elaboration, implementation and evaluation of human rights action plans, policies and other instruments for systematic work for human rights implementation?

Round table 2

- What is the role of NGOs in the elaboration, implementation and evaluation of human rights action plans, policies and other instruments for systematic work for human rights implementation?
- How can NGOs and other civil society actors be consulted in an open inclusive way?

Round table 3

- How can a proper balance be struck between mainstreaming a human rights perspective in all official bodies and the special role and responsibilities of national human rights institutions and ombudspersons?

Round table 4

- What is the role of the business sector with regard to systematic work for human rights implementation?

Round table 5

- What is, or should be, the relationship between NHRIs and civil society, including NGOs, on projects for working systematically with human rights implementation?

7 Conclusions

7.1 Systematic work for human rights implementation: concept and methods revisited

The introduction to this paper discussed how the concept of “systematic work for human rights implementation” should be understood in this context. The description can be repeated here as the basis for a concluding discussion.

Systematic work for human rights implementation is understood to include varying methods with common characteristics, including the following:

- They take as their starting point the international human rights framework.
- Their overall aim is to ensure that human rights are implemented throughout all policy areas, in all sectors and at all levels of public administration.
- Rather than addressing one or a few human rights issues at a time, they attempt to grasp a more general or comprehensive picture of national human rights policy, or of a more specific policy area relating to human rights, thus including decisions on priorities between different steps, issues and interests.
- They address both institutional challenges and problems in the implementation of specific rights.
- They can be applied at different levels of society: national, regional, local or at federal state level.

The methods for working systematically with human rights implementation discussed in this paper are:

- mainstreaming of a human rights perspective, which can be regarded as an umbrella covering the more specific methods discussed, namely:
- human rights-based governance,
- human rights indicators,
- human rights budgeting,
- human rights action plans, including baseline studies.

In addition, the use of methods for systematic work for human rights at regional and local levels has been discussed in a specific section. The role of NHRIs and civil society in such work has also been discussed.

One obvious point that nevertheless needs emphasising is that all the different methods and issues discussed are closely interrelated and do not exclude but rather complement each other. For instance, human rights action plans, human rights budgeting and human rights indicators can all be seen as methods for mainstreaming human rights, or different tools for human rights-based governance.

The methods used for working systematically with human rights implementation at national level should be seen against the background of institutions and systems for reviewing states’ compliance with their human rights obligations at

international level, for example, the State party reports to the UN treaty monitoring bodies and the recommendations that follow, the Universal Periodic Review and the special procedures of the UN Human Rights Council, the CoE human rights monitoring bodies, including the Commissioner for Human Rights, as well as similar methods used in other regional systems for human rights protection. Systematic work for human rights can thus be described as a process that flows from the international to the national level, and then returns to the international arena to be monitored and evaluated.

In the *Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties*, issued by the UN Secretary General in May 2008, it is observed that all states have reporting obligations to fulfil and should benefit from adopting a coordinated approach to their reporting for each respective treaty body.³⁹ Therefore, states are recommended to consider setting up an appropriate institutional framework for the preparation of their reports, such as inter-ministerial drafting committees and/or focal points for reporting. It is also pointed out that the reporting process offers occasions for each State party to identify problems and shortcomings in its approach to the implementation of the treaties and plan and develop appropriate policies to achieve goals. It is thus evident that states can achieve significant synergy effects, and thus save time and financial resources, through combining systematic work for human rights at the national level (such as the drafting of human rights baseline studies and action plans) with the reporting process.

Reports under the revised UN reporting system will consist of two parts: the common core document and the treaty-specific document. The common core document should contain information of a general and factual nature relating to the implementation of the treaties to which the reporting State is party and which may be of relevance to all or several treaty bodies. Thus, a project for working systematically on the national level can easily be combined with the preparation or updating of the common core document that is to be submitted to UN treaty bodies.

7.2. The value added of systematic work for human rights implementation

Some projects for working systematically with human rights implementation require rather extensive resources and time. Elaborating and using human rights indicators is a complicated task, and drafting and implementing a human rights action plan is also a project of considerable dimensions. It is therefore necessary to consider and formulate what the value added of such work is. The value added of human rights action plans has been discussed more specifically above (section 4.12). Here, the value and importance of systematic work for human rights implementation will be discussed in more general terms.

³⁹ UN Document HRI/GEN/2/Rev.5.

- At the heart of such a discussion lies the moral and legal obligation to respect, protect and fulfil human rights. It is first and foremost a question of trying to find the most effective methods for avoiding errors that are harmful to individuals, groups and society at large. As one single human rights error can have serious consequences, it is necessary to be systematic in trying to prevent them.
- Another central value is that, since human rights are indivisible, interdependent and interrelated, they should be considered, protected and promoted in a comprehensive way. This means that limiting work for human rights implementation to one human rights issue at a time cannot be the most constructive method. When the whole human rights situation, or large parts of it, is reviewed and discussed together, systemic problems can be revealed, for example that similar problems exist in several areas, that one and the same group experiences problems in different areas, or that one problem spills over into other areas.
- Methods for working systematically with human rights implementation can facilitate the reporting process both when State party reports are to be submitted to human rights monitoring bodies and when the observations and recommendations of such bodies are to be dealt with. Moreover, the international reporting process can be used as basis for working systematically for human rights on the national plane. For instance, the common core document that is to be submitted to UN human rights treaty bodies under the revised reporting process is to contain information of a general and factual nature relating to the implementation of the treaties to which the reporting state is party. Thus, once such a report has been compiled or updated, it can fairly easily be combined with a national action-plan or similar strategic documents to deal with the challenges identified. Or, when a human rights baseline study has been produced on the national level, this report can be used for drafting or updating a common core document to the UN treaty bodies.
- Looking at the whole situation at the same time will also reveal which challenges are most critical and need to be given priority. Thus, systematic work for human rights implementation is a good starting point for identifying priorities, steps and strategies. Finding solutions or ways to address a particularly important human rights issue is sometimes instrumental in dealing with other human rights challenges.
- Another important point is that a systematic and comprehensive approach to human rights implementation provides opportunities for participatory processes, where actors promoting different rights and interests can take part together in a wider discussion on human rights, problems and priorities. As systematic work for human rights implementation entails a comprehensive approach to human rights, it can also contribute to increased transparency and an open discussion concerning whether some challenges should be addressed before others, why certain areas or activities are given more priority, etc.

7.3 Credibility and public support for systematic work for human rights implementation

Human rights are of fundamental importance to everyone and often the subject of strong feelings and opinions. Work conducted within this field is particularly dependent on maintaining credibility and confidence among stakeholders. Unfortunately, governments' systematic work for human rights (e.g. with human rights action plans) has at times little credibility in academia and civil society. Scepticism expressed in this regard may include doubts as to whether such projects have enough political support and whether they can really improve the situation on the ground. Some civil society actors choose not to participate in these projects due to concerns that they may distract attention from the "real" problems and could therefore be counterproductive. Another point that is sometimes made by critics of human rights action plans and similar processes is that intergovernmental organisations give states that have conducted such projects too much credit bearing in mind the challenges that remain.

Several objections can be raised against this type of scepticism. For instance, it can be argued that any human rights initiative is better than no initiative at all. Another objection is that the results of projects such as human rights action plans are sometimes assessed in too short a time perspective, while their effects can only be expected gradually and over the longer term.

But even so, prevailing scepticism and lack of credibility have harmful effects and therefore need to be carefully considered by those who advocate systematic work for human rights implementation, and ways to strengthen credibility and legitimacy should be discussed.

The concerns sometimes expressed in relation to more comprehensive projects for human rights implementation, in particular human rights action plans, are often connected to the fact that a plan cannot solve everything at the same time. In some situations, it may be too complicated to even address all issues related to human rights implementation within the framework of one and the same action plan or project. When a project for dealing systematically with human rights implementation encounters serious obstacles, it can be considered whether it is possible and legitimate to explicitly limit the project to issues that seem possible to handle, provided that the reasons for doing so are openly and elaborately explained. A limited action plan that can lead to strengthening human rights in one particularly central area, thus maintaining credibility with regard to its intentions and possible impact, can perhaps be more useful in some situations than an action plan or a project that aims to solve everything. However, as all human rights obligations must be complied with, this would presuppose the use of other methods to address the human rights challenges that are not included in the plan or project.

Recognising that human rights implementation can be a complicated task, and that human rights action plans and similar projects cannot solve all problems directly, also leads to a discussion on whether comprehensive projects for working systematically with human rights implementation can be divided into smaller steps that seem more possible to handle without damaging the credibility for the project. It cannot be denied that large-scale projects for working systematically with human rights implementation require time and resources. Although a large part of this work needs to be carried out anyway when states are to submit reports to international and regional human rights monitoring bodies (as described above), it is likely that the issue of resources is a problem for some countries and may make them sceptical about projects such as national baseline studies or action plans. Therefore, it is important to consider how projects for working systematically with human rights implementation can be planned in order not to seem too difficult to handle. Perhaps it can contribute to making such projects more manageable to provide them with a long time frame and identify smaller steps to be taken along the way. For instance, just drafting a human rights baseline study is a very important first step that can in itself help public authorities to identify priorities within the context of their ordinary activities (such as budgetary processes), even if an action plan cannot be drafted directly afterwards. It can also be discussed how the issue of resources can be addressed by several sectors of society together.

7.4 Central elements in systematic work for human rights implementation – draft points for discussion

Bearing in mind the credibility problem, it can be discussed whether projects for working systematically with human rights implementation should be regarded in relation to certain central elements. A key publication that provides significant guidance with regard to factors that are important for the success of a national human rights action plan is the OHCHR handbook on national human rights action plans published in 2002 (see also section 4.1). In addition to such broad materials for guidance, it could perhaps be discussed whether any particular elements are vital for projects on systematic work for human rights implementation to give value added (i.e. to have a positive impact on the human rights situation). Based on the experiences of different countries, and the views expressed by civil servants, representatives of civil society and academia, the following elements seem to be central for systematic work for human rights implementation.

- In all projects for working systematically with human rights implementation, such as human rights baseline studies and action plans, a particularly central element is an inclusive and transparent process (see also section 4.2.1) that involves civil society and other relevant actors from the very start. For instance, if the process towards adopting and implementing a human rights action plan is truly inclusive and transparent, it will provide an opportunity for a broad range of actors to engage in discussions on human rights issues over a

period of time. This is a very important value in itself; some even claim that it is the most central value of a human rights action plan. Other methods for working systematically with human rights implementation – such as structures and processes for State party reports to human rights treaty bodies and follow up on their recommendations, and the elaboration of human rights indicators – should also be characterised by participatory and transparent processes.

- It is vital that the project has support from a high political level. Addressing human rights challenges entails an element of self-criticism for public administration, and there will always be those who are sceptical about the project or worried that it will generate negative public opinion. Therefore, it is necessary for those working on the project to have high level support from the start.
- It is necessary to start large-scale projects for working systematically with human rights implementation, such as the elaboration of human rights action plans or human rights indicators, by surveying the human rights situation of the country, region or municipality in question. Actually identifying, recognising and discussing challenges and problems are necessary first steps for setting priorities and trying to find ways to improve the situation. Starting by formulating undertakings and activities in an action plan directly involves a risk of resources not being used where they are most needed and promotional activities distracting attention from more concrete problems. This may damage credibility and public support for the project.
- If there are serious and more general political challenges in the country, region or municipality concerned, and if it is absolutely impossible to improve that situation through measures undertaken within the project, this limitation must be openly declared and explained. If the project is, for example, elaborating a human rights action plan, it is crucial that serious problems (e.g. corruption) are recognised in the baseline study, even if it is impossible to formulate measures to begin tackling the problem within the framework of the action plan. If serious problems are not mentioned at all, the action plan (or other type of strategic document) may be criticised for being nothing but window dressing.
- In a situation where a large-scale project for working systematically with human rights implementation seems difficult to carry out due to lack of resources, one way to start the work can be to provide the project with a long time-frame and identify smaller steps to be taken along the way. In such situations, the goal and steps must be clearly formulated, explained, communicated and monitored so that credibility can be upheld even when progress is slow.
- Activities and measures to be carried out within the context of a project for working systematically with human rights implementation need to clearly specify what is to be done, by whom, and when. If measures are more open-ended (in e.g. an action plan or strategy), they should be accompanied by

targets or benchmarks that will indicate whether or not the plan is actually being followed.

- Adequate resources must be available for the project. A specific budget for the entire project is not necessary but adequate funding needs to be secured for each individual undertaking before the document or project is decided upon. If funding cannot be secured for a particular activity, it is more transparent not to include it from the start and to devise a complementary document or undertaking later on.
- Regular monitoring of the implementation of strategic documents with undertakings and activities (such as action plans) is essential, and this monitoring must be transparent in that non-fulfilment or delay of an undertaking is openly declared.
- The implementation phase should include checkpoints where stakeholders are included in a review and discussion on the process so far and where the implementation can be described and priorities discussed again if the situation has changed or unexpected events have occurred.

7.5 Final remarks

This paper has been written with the aim of providing a background for the discussion at the Conference on Systematic Work for Human Rights Implementation to be held in Stockholm on 6–7 November 2008. As mentioned in the introduction, the issues addressed in the paper will, however, need to be considered and addressed repeatedly and continuously as long as states are under an obligation to implement human rights.

Focal points in intergovernmental organisations can be contacted by those who wish to discuss issues regarding, for example, plans to start a project on systematic work for human rights implementation:

- At the Office of the High Commissioner for Human Rights at the United Nations regarding human rights indicators: Mr Nicolas Fasel, Research and Right to Development Division, email nfasel@ohchr.org
- At the UNDP: Mr Patrick van Weerelt, Human Rights Adviser, Democratic Governance Group, Bureau for Development Policy, UNDP, New York, USA. Tel: + 1 212 9066847, email: patrick.van.weerelt@undp.org
- Office of the Council of Europe Commissioner for Human Rights, F-67075 Strasbourg Cedex, France. Tel: + 33 (0)3 88 41 34 21, email: commissioner@coe.int. The Commissioner intends to issue shortly a recommendation on systematic work for implementing human rights at national level .
- For issues regarding the conference, the Swedish Government Offices can be contacted through Ms Elin Strand, Ministry of Integration and Gender Equality, SE 103 33 Stockholm, Sweden, tel. +46 8 405 49 42, email: elin.strand@integration.ministry.se

Further reading

Applying a rights-based approach, Inspirational Guide for Civil Society, Jakob Kirkemann Boesen & Tomas Martin, Danish Institute for Human Rights, 2007, available at www.humanrights.dk/files/pdf/Publikationer/applying%20a%20rights%20based%20approach.pdf

Budgeting for Women's Rights: Monitoring Government Budgets for Compliance with CEDAW, Diane Elson, UNIFEM, 2006, available at http://www.unifem.org/attachments/products/MonitoringGovernmentBudgetsComplianceCEDAW_eng.pdf

Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties, UN Document HRI/GEN/2/Rev.5, 29 May 2008, available at <http://daccessdds.un.org/doc/UNDOC/GEN/G08/422/10/PDF/G0842210.pdf?OpenElement>

Disability Discrimination Act. A Guide for Local Government, Australian Local Government Association, 1995, available at http://www.alga.asn.au/publications/DDA_Action_plans.pdf

Frequently asked questions on a human rights-based approach to development cooperation, OHCHR, 2006, available at <http://www.ohchr.org/Documents/Publications/FAQen.pdf>

Handbook on National Human Rights Plans of Action, OHCHR, 2002, available at http://www2.ohchr.org/english/about/publications/docs/national_human_rights_action_plan.pdf

Health Care. A Question of Human Rights, Not Charity, Helena Hofbauer, Gabriel Lara with the collaboration of Barbara Martínez, Fundar, 2002, available at <http://www.fundar.org.mx/secciones/publicaciones/pdf/doc-healthcarequestionofhumanrights.pdf>

The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies, Inter-Agency Workshop on a Human Rights Based Approach in the Context of UN Reform, Stamford, 5–7 May 2003, available at <http://www.undp.org/governance/cdromhr/homepage.html>

Human rights: human lives. A handbook for public authorities, U.K. Department for Constitutional Affairs, 2006, available at <http://www.justice.gov.uk/docs/hr-handbook-public-authorities.pdf>

Human Rights Indicators. Country and Regional Data Base, Hans-Otto Sano & Lone Lindholt, Danish Institute for Human Rights published the study, 2000, available at <http://humanrights.palermo.magenta-aps.dk/upload/application/bd50e713/indicator-full.pdf>

Human Rights in Healthcare – A Framework for Local Action, British Institute of Human Rights, 2007, available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073473

Indicators for Human Rights Based Approaches to Development in UNDP Programming: A User's Guide, March 2006, available at <http://www.undp.org/oslocentre/docs06/HRBA%20indicators%20guide.pdf>

Joint Declaration of the SALAR and the Congress of the Council of Europe, in co-operation with the Commissioner for Human Rights of the Council of Europe, available at www.skl.se/6oct2008

Justice for All. A Human Rights-Based Approach to Access Justice, UNDP Asia-Pacific Rights and Justice Initiative, 2005, available at <http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/tools/index.html>

Report on Indicators for Promoting and Monitoring the Implementation of Human Rights, OHCHR, 2008, available at <http://www2.ohchr.org/english/bodies/icm-mc/docs/HRI.MC.2008.3EN.pdf>

The Role of National Human Rights Institutions in the United Nations Treaty Body Process, Amrei Müller, Frauke Seidensticker, German Institute for Human Rights, 2007, available at http://files.institut-fuer-menschenrechte.de/437/IUS-049_HB_NHRI_WEB_ES.pdf

The UN Common Learning Package on a Human Rights Based Approach to Programming (2007), available at <http://www.undg.org/index.cfm?P=531>

UNDP Practice Note on Human Rights, 2005, available at http://www.undp.org/governance/docs/HRPN_English.pdf