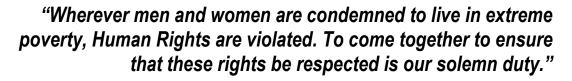# Change, Hope, and Justice

A Rights-Based Approach to Poverty

EU INCLUSION STRATEGIES GROUP
Task Force on Poverty as a violation of Human Rights

"Wherever men and women are condemned to live in extreme poverty, Human Rights are violated. To come together to ensure that these rights be respected is our solemn duty."

CONTENT

INTRODUCTION

Why this Handbook?

Europe is facing the worst Human Rights crisis since the Cold War, stated a report by the Secretary General of the Council of Europe in 2014[1]. A wide range of rights, from basic survival needs (such as adequate food and shelter) to social, political, cultural, and economical rights, are enshrined in a number of international documents, to which most countries are signatories. The existence of poverty and social exclusion inhibits the full and effective enjoyment of Human Rights. People who live in poverty and social exclusion are often also victims of societal structural discrimination, caused by political decisions or an absence of intervention, while poverty itself is considered by some authors as a form of structural violence. **The rights-based approach to poverty reduction needs a stronger and more prominent position in the European fight against poverty and social exclusion.**

> *"A Human Rights approach to poverty calls for a paradigm shift in how we see and address poverty. It suggests that poverty is not simply inevitable, nor can it be blamed on the poor. It seeks to identify how and where poverty is created by human actions or policy choices, rather than by nameless economic forces. A Human Rights approach views poverty not as a question of fate, but rather as an issue of justice. With a rights-based approach, we must investigate and demand accountability for the actions (or failures to act) that produce, perpetuate, and exacerbate poverty. The Human Rights framework also focuses on empowerment – giving voice and power to those who are poor and otherwise unable to claim their rights. A particular focus on social rights will help to ensure that Governments address poverty reduction as a priority."[2]*

The financial, economic and social crises in Europe, and especially the way they have been dealt with, have shown that respect for social Human Rights is not an obstacle to progress, but part of the solution to the crisis. The promotion of Human Rights needs to be carried out on a specific and correct understanding of poverty and social exclusion as violation of rights, and an advanced knowledge of how to act to respect, protect and fulfil those rights. While EAPN has always championed a rights-based approach, it is high-time this approach was consolidated in a consensual, reference document, to be used at national and EU level as a foundation for our stance on the fight against poverty and social exclusion.

Some encouraging recent steps from the European Union include the launch of a comprehensive European Pillar of Social Rights, which anchors detailed social, employment, and education policy principles in concrete rights that the Union adheres to. While this is very positive, particularly the perceived shift towards a rights-based approach to tackling poverty and social exclusion in Europe, it remains to be seen in the upcoming months what sort of implementation is being contemplated.

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[1] **Council of Europe**, *State of Democracy, Human Rights and the Rule of Law in Europe*, available here: https://rm.coe.int/1680646af8
[2] **CESR**, Human Rights Insights No. 1, *Human Rights and Poverty: Is poverty a violation of Human Rights?*: http://www.palermo.edu/Archivos_content/2015/derecho/pobreza_multidimensional/bibliografia/Sesion4_doc3.pdf

How was this Handbook developed?

At its meeting in October 2015, held in Brussels, Belgium, EAPN's EU Inclusion Strategies Group (EU ISG) decided to mandate a Task Force, upon a proposal from EAPN Denmark, to work on a comprehensive Handbook looking at poverty as a violation of Human Rights, from an anti-poverty perspective.

The Task Force was chaired by **Ole Meldgaard** (EAPN DK) and was composed of **Anja-Riitta Ketokoski-Rexed** (EAPN FI), **Aiden Lloyd** (EAPN IE), **Natasha Najdenova-Levikj** (EAPN MK), and **Fran McDonnell** (International Federation of Social Workers – organisation in membership of EAPN). Hilde Linssen (EAPN BE) also attended one Task Force meeting and provided useful input. Support to the work of the Task Force was ensured by Amana Ferro, Senior Policy Officer with EAPN Europe, with additional desk research by Matteo Mandelli, Policy Assistant. Furthermore, the Task Force benefitted from the valuable contribution of: Maria José Aldanas, Policy officer with FEANTSA, European Organisation in membership of EAPN; George-Konstantinos Charonis, Policy Officer for Youth Rights with the European Youth Forum; and Stefan Clauwaert, Senior Researcher with the European Trade Union Institute. EU ISG members also provided input and country examples to the Handbook.

The Task Force conducted its work over the period from July 2016 to December 2017, during which it held 4 one-day meetings in Brussels (8 July 2016, 7 November 2016, 15 May 2017, 21 September 2017). The Handbook was drafted by Task Force members and contributors, and was reviewed, amended, and endorsed by the EU ISG. It underpinned a capacity-building session held with EAPN members within the EU ISG meeting on 19 October 2017 in Dublin, Ireland.

The objectives of the Handbook

This Handbook is aimed primarily at EAPN members, be they National Networks or European Organisations, and it aims at elaborating on the relation between poverty and Human Rights in Europe, to deepen EAPN's understanding of poverty and social exclusion as a violation of Human Rights, and to strengthen members' capacity to act against poverty and Human Rights violations. It is hoped that the Handbook will inspire anti-poverty organisations to include Human Rights as the basis and aim of their work, as a new lens to look at poverty. The Handbook is also relevant for Governments, National Human Rights Institutes and Equality Bodies, public, private and not-for-profit service providers, as well as European and international organisations active in the field.

Its main objectives are:
- To understand and define how poverty and social exclusion can be treated as a Human Rights issue
- To make this understanding operational in EAPN's fight against poverty and social exclusion and develop EAPN's capacity to work on poverty and social exclusion as Human Rights issues
- To gather examples of how Human Rights instruments have been used to combat poverty and social exclusion by the EAPN membership and other stakeholders
- To strengthen EAPN members' capacity to contribute to the general discourse and debate about poverty as a breach of Human Rights, including to reports which Member States are required to submit to United Nations bodies and to European institutions
- To explore the possibility of taking collective legal action against Governments for their failure to combat poverty and social exclusion, and hence guarantee Human Rights.

The Handbook provides an overview of the Human Rights landscape and the instruments available for including Human Rights in anti-poverty work. The fight against poverty and Human Rights are not two distinct projects, but projects that reinforce each other. A Human Rights-based approach means that norms and principles of Human Rights law should play a major role in tackling poverty and guide all public policies affecting persons living in poverty.

The Handbook includes 4 separate sections, with an additional on-line Annex containing useful references and more detail of Human Rights instruments and tools. The 4 sections are:

1. Understanding poverty and social exclusion as a violation of Human Rights
2. Overview of main Human Rights instruments relevant for the fight against poverty and social exclusion
3. Applying the rights-based approach to anti-poverty work: tips and tools for EAPN members
4. Taking legal action against Governments for failing to fulfil Human Rights

1. UNDERSTANDING POVERTY AND SOCIAL EXCLUSION AS A VIOLATION OF HUMAN RIGHTS

"I want to be seen as a human being, with rights and obligations like all other people."

Andrea, person living in poverty, Antwerp

1.1. Putting Human Rights at the core of the fight against poverty

Anti-poverty groups, policy analysts and public administrators are very familiar with the impact of poverty on individuals, families, communities and society. Poverty brings hardship and deprivation to families, it negatively affects health, and it restricts the life chances of adults and children. It further degrades community life, while the societal cost, in terms of inequality, ruptured social solidarity, and compensatory spending on services, is huge. Research by the Joseph Rowntree Foundation estimates the cost at £78 billion in the UK[3]. Unfortunately, representative democracy, reflective as it is of massive power differentials, has not delivered resolute measures to eradicate poverty and its resulting social exclusion. In a world dominated by consumption and competitiveness, with increased alienation of people marginalised by poverty from the democratic process, this is unlikely to change. A Human Rights based approach to poverty provides a different approach to bring about change.

Redistribution of power and resources to address poverty and inequality is only achievable with strong political resolution, an intrinsic shared sense of common good and a constitutional/obligated rights regime. Political resolution requires visionary leadership and a courageous polity that can override powerful interests, while common good may be difficult to embed when societies are market led and competition driven. That is not to dismiss both of these factors, for the longer-term development of a Human Rights culture is reliant upon a parallel development of democracy and a resilient, respectful societal cohesion. A Human Rights-based approach can complement both of these endeavours by providing a powerful impetus capable of leveraging Governmental action, shifting the values framework of the state and furthering the ideal of social justice.

At the core of a Human Rights approach to poverty is the conviction that poverty matters, and should be addressed by the state as a matter of obligation, rather than request. To operationalise this Human Rights approach, NGOs need to embed an understanding of Human Rights within their organisations, including familiarity with Human Rights instruments, the entitlements of the rights holder (individuals), and the responsibilities of the duty bearer (the state).

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[3] **Joseph Rowntree Foundation**, authors Glen Bramley, Donald Hirsch, Mandy Littlewood and David Watkins, *Counting the cost of UK poverty*, available here: https://www.jrf.org.uk/report/counting-cost-uk-poverty

The Participation and Practice of Rights (PPR) project is located in Belfast, Northern Ireland where it puts the power of Human Rights at the service of those who need it most, supporting marginalised people to assert their rights in practical ways that bring about real social and economic change in their communities. PPR harnesses the experiences and expertise of people in deprived communities to identify the problems they face and to outline how they can be remedied. These are then set against Government commitments and obligations and a campaign organised to demand action which is monitored for progress. The intention is to make Government deliver on its Human Rights obligations and to make decision-making processes more participative and accountable. This approach leads to better outcomes and long-lasting change, and it has the potential for widespread replication. Successes of PPR include the establishment of a new appointment system for mental health patients attending accident and emergency units of hospitals across Northern Ireland, re-housing families from run-down tower blocks, and re-negotiation of regeneration plans from which residents have been excluded. See more on: http://www.pprproject.org

A Human Rights-based approach is the practice of applying the norms and standards set out in international Human Rights law to policies and practices. One of the most fundamental dynamics of a rights-based approach is that every human being is a rights-holder and that every human right has a corresponding duty bearer. The right holder is entitled to claim rights, hold the duty bearer accountable and a responsibility to respect the rights of others[4].

The Human Rights approach brings with it the Human Rights principles of participation, equality, non-discrimination and accountability. Within the Human Rights framework, there is an explicit focus on accountability of the duty-bearer towards the rights-holders. The state must be responsible for adherence to Human Rights standards as well as being answerable to laws and policies. If it fails to do so, the principle of accountability demands the availability of means for rights-holders to seek and obtain redress.

Moreover, rights-based social protection measures help States fulfil several Human Rights obligations, including: ensuring the enjoyment of the right to the highest attainable standard of physical and mental health; the right to food; the right to education; the protection of the family and maternity benefits; the right to fair and equal remuneration for work; and, the specific rights of vulnerable groups such as children, older persons and persons with disabilities.

It is important to note that, despite freedom from poverty being accepted as a human right, and its acceptance deemed discriminatory, socio-economic status is not recognised as a factor in discrimination in many countries, including at the European level. Poverty is too often seen as resulting from discrimination on the basis of 'race', gender, religion, ethnicity, or cultural difference. While this may be the case, poverty can be present without any of the above discrimination. This illustrates the need to apply a wider analysis, including a 'race' and social class analysis, within a Human Rights approach to poverty.

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[4] **The Danish Human Rights Institute**, *Applying a Rights-Based Approach: An Inspirational Guide for Civil Society*, available here: https://www.crin.org/en/docs/dihr_rba.pdf

1.2. What are Human Rights instruments

Human Rights are essentially about respecting human dignity and enabling everybody to live a dignified life. Not all needs are rights. Everybody has a need for love, for friendship, for personal expression and fulfilment, but important as these are they are not Human Rights, although they may sometimes be expressed as rights. Our concern is with rights that enable people to live a life of dignity – the right not to be enslaved or abused, the right to due legal process, to food and water, shelter, education and healthcare, amongst other rights.

The Universal Declaration of Human Rights sets down a common standard of achievement on Human Rights for all peoples and all nations[5]. The term *universal* is important because it applies to all people, not just citizens of a state, and it overrides the sovereignty of individual states in its righteous application. The Universal Declaration is therefore the starting point for all Human Rights discussion. The two great covenants of 1966, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were devised as the key implementation instruments of the Universal Declaration, and together with the Universal Declaration, constitute what is commonly called the Bill of Rights. The covenants are international treaties that place legal obligations on ratifying states.

Human Rights instruments compel states to eradicate discrimination and to *progressively realise* the Human Rights covered by the instrument. Some of these rights may appear obvious or even archaic, either because we now take them for granted, or because it is impossible to imagine their contravention being tolerated in modern societies. Slavery is a good example. Few if any would defend slavery, yet trafficking of women for the purposes of forced prostitution is a modern form of slavery. Similarly, child labour may conjure up Dickensian images of children working long, hazardous hours in factories, rather than their modern counterparts working in sweat shops, food kitchens, or farms, whose Human Rights also need to be protected.

Human Rights obligations go beyond states refraining from *breaches* of rights. There is also a requirement to *respect* Human Rights - i.e. to avoid measures that could prevent the enjoyment of the right. Similarly, there is a duty to *protect* Human Rights - i.e. prevent third parties (such as private companies) from interfering with the exercise of the right. Finally, there is a requirement to *fulfil* these Human Rights - i.e. take positive measures that enable people to enjoy the right[6].

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[5] **Clapham, A.**, *Human Rights: A Very Short Introduction* (2007), Oxford University Press.
[6] **Clapham, A.**, *Human Rights: A Very Short Introduction* (2007), Oxford University Press.

> **When countries sign up to Human Rights instruments, there are some basic rules that apply:**
> • There must be progress in advancing social and economic rights and steps must be made within a reasonable timeframe;
> • There must be measurable progress and a maximum application of available resources;
> • There can be no regression, even in times of austerity, without careful investigation of all alternatives, this investigation must take account of the impact on people in poverty and be accountable in relation to all other rights;
> • Governments are obliged as a priority to provide a minimum set of objectives for each human right, including a policy, plan of action and budget;
> • They must prioritise the most vulnerable groups in society, listing the impacts of the priority policy for these group. They must also list the priority achievements for these groups and the protections that will be put in place in case of regression[7].

1.3. Defining poverty as a Human Rights issue

Poverty is quite clearly defined as a violation of Human Rights. The Universal Declaration of Human Rights declares that: *'Everyone has the right to a standard of living adequate to the health and well-being of himself (sic) and his (sic) family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his (sic) control'*.

Poverty was first defined as the minimum measure below which it was impossible to maintain physical function[8]. This *absolute* threshold was discarded in post-war Europe as poverty gradually came to be understood as a *relative* concept that went beyond the notion of poverty as a lack of basic material needs towards one that recognises the need for social participation in the context of the particular society in which one lives.

Basically, this concept of relative poverty recognises that people live in societies where their well-being is measured against the norms in those societies. This means that poverty includes not only lack of income and resources sufficient to ensure a sustainable livelihood, but also takes into account health, housing, education, social discrimination and exclusion, and a lack of participation in decision-making in civil, social and cultural life. (United Nations, 1995, para 19).

The Committee on Economic Social and Cultural Rights, the UN body charged with monitoring compliance and interpreting the rights in the Covenant, in 2001 defined poverty *'as a human condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights'* (United

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[7] **Dierckx, D. (2012)**, *Een toetsing van de armoedetoets*, In D. Dierckx, J. Coene & A. Van Haarlem (Eds.), Jaarboek armoede en sociale uitsluiting 2012. Leuven: Acco.
[8] **Rowantree BS,** *A Study of Town Life,* The Policy Press, 2000.

Nations, 2001, para 8). Social exclusion was adopted by the European Union as a concept to describe the cumulative impact of poverty, discrimination and inequality whereby lack of income and separation from decision-making, social networks and cultural engagement puts people on the margins of society.

> *"People are said to be living in poverty if their income and resources are so inadequate as to preclude them from having a standard of living considered acceptable in the society in which they live. Because of their poverty they may experience multiple disadvantages through unemployment, low income, poor housing, inadequate health care and barriers to lifelong learning, culture, sport and recreation. They are often excluded and marginalised from participating in activities (economic, social and cultural) that are the norm for other people and their access to fundamental rights may be restricted."*
>
> **European Commission, Joint Report on Social Inclusion 2004**

This definition probably best describes the broader experiences of people in poverty. In the European Union, the main measure of monetary poverty is a relative one, the *at-risk-of-poverty* rate. The 60% median income level was accepted by all Member States as the risk-of-poverty indicator under the Lisbon Strategy up to 2010 and at-risk-of-poverty is now one of three elements for measuring the numbers of people experiencing poverty and social exclusion under the Europe 2020 Strategy - the other two are severe material deprivation and low work-intensity households.

Human Rights instruments set down important markers, including the minimum that Governments should do, or should provide, to ensure the enjoyment of these rights by all. More specifically, they also indicate the approach that Governments need to take to eradicate poverty. Of course, Human Rights law in itself is only part of the solution to poverty, but it does provide important protections, as well as offering guidance for those developing and implementing anti-poverty actions and strategies. Many Human Rights objectives are shared with anti-poverty objectives, especially those concerned with matters of economic, social, political, and cultural rights. In some countries, Human Rights is synonymous with anti-poverty activity, and is the preferred approach to issues of income, land ownership, trade union struggles, health and education.

1.4. The rights holder and the duty bearer

The condition of being poor has shifted over time, from being regarded as self-inflicted (pauper), resulting from family failure (deprivation), arising from a restricted set of available opportunities (disadvantage), to an acceptance that poverty is a structural problem related to the distribution of resources, income and wealth, all of which are influenced by policy decisions and institutional practices. Viewing poverty as a violation of Human Rights moves us onto the need for affirmative actions to eradicate poverty and this as an essential element of a Human Rights approach to poverty.

Charity and 'welfarist' approaches seek to help the individual who is poor with financial or material support in order to make a difficult situation tolerable. It does this through the provision of social services according to individual needs, but it does not change the conditions that create the need. Human Rights-based approaches focus on protecting and fulfilling the Human Rights of poor and excluded people by establishing an entitlement and by tackling the causes of poverty, which is the best way to eradicate poverty and inequality. Poor and excluded people are seen as lead agents in this development process which challenges unequal power and injustice.

> The primary shift in understanding is that:
> (a) Poverty is a violation of Human Rights
> (b) Poverty arises principally because Human Rights have been denied, and
> (c) If we are to end poverty then it is necessary to protect, promote and fulfil the Human Rights of poor and excluded people.

Equality and non-discrimination are fundamental principles in the Human Rights framework. All people are equal by virtue of being human. Thus, all human beings are entitled to their Human Rights without discrimination of any kind in both law and practice.

While there is an almost universal acceptance of civil and political rights in democratic states (and even a desultory acceptance in many despotic states) economic, social and cultural (ESC) rights is a different matter. Many states cite the *separation of powers*[9] principle and are hesitant or refuse to contemplate rights to housing, health, education etc., as justiciable entitlements, viewing them as policy goals to be decided by politicians who are accountable to the electorate, rather than being assigned to a judiciary that has no mandate to determine matters of distribution of resources. This is a simplistic argument as the role of the judiciary is to interpret law, including Human Rights law, in order to remind the state of its duties. The purpose is not to intrude upon the responsibilities of the legislature or the executive but to provide an appropriate check which balances and maintains the separation of powers principle.

A further argument by opponents against a more robust application of economic, social and cultural rights is that Governments do not deliberately inflict poverty on their citizens and therefore cannot be responsible for outcomes regarded as a consequence of economic, developmental or historic circumstances. This 'inevitability of consequence' argument is spurious, for there is nothing inevitable about poverty: it is a structural problem that can be remedied by policy action. In a Human Rights approach, poverty needs to be viewed in its fullest perspective.

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[9] The principle that responsibilities and powers are distributed between the judiciary (courts), the legislature (parliament) and the executive (government), the balancing of this distribution providing a check on misuse of powers in any of the three spheres.

> The **International Convention on the Elimination of All Forms of Racial Discrimination** prohibits *'any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Human Rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.'*

1.5 Economic arguments for Human Rights

It is commonly accepted that economic development has tremendous importance for Human Rights. It can generate revenue, jobs, services, infrastructure and technology that are needed for Human Rights to be realised. However, this also depends on the type of economic development that it proposed, and who benefits from it. Simultaneously, the reverse relationship – the importance of Human Rights to economic development - is less well understood. Human Rights need economic development, but the reverse is also true; and a number of sweet spots exist where Human Rights policies can positively contribute to economic development.

Based on a review of existing research[10] in economics, development studies and related fields, at least four social development aspects – economic inequality, human development, institutions and governance, and conflict and political instability – can be causally linked to economic growth. In other words, they may serve as proxies for understanding the contribution of Human Rights to positive economic development. There is widespread evidence[11] that, at least above a certain level, inequality negatively affects economic growth. Given the high level of inequality in and between many societies, the promotion of Human Rights, in particular social and economic rights, is likely to lead to a more equal distribution of resources and opportunities, which is good for growth, and particularly a more sustainable and inclusive growth.

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[10] **The Danish Institute for Human Rights**, *The Economy of Human Rights*, available here: http://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/nyheder/the_economics_of_human_rights_2016.pdf

[11] **Wilkinson, R & Pickett, K.,** *The Spirit Level: Why More Equal Societies Almost Always Do Better* (2009) Penguin

The **Danish Institute of Human Rights** has published a paper the purpose of which is to better understand how countries can use Human Rights-related policies and reforms to enhance their economic development. This line of enquiry is not intended to reduce Human Rights to an economic tool. Human Rights must be upheld regardless of economic gain. However, the ability of countries to do so is constrained by the resources available to them. As such, resource mobilisation is not just an economic concern, it is also a key Human Rights concern. The paper explores the linkages between economic development and four Human Rights related aspects of social development: economic inequality; human development; institutions and governance; and conflict and political instability. The research reviewed yields little support for the widely held assumption that there is a trade-off between Human Rights and economic development or that Human Rights is a cost that one must put off until sufficient wealth has been generated. Rather, the indications so far are that the sequence works the other way around. It can be argued that Human Rights should be seen as an active part of the growth model, rather than merely a passive outcome of it.

The Danish Institute for Human Rights: The Economy of Human Rights:

http://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/nyheder/the_economics_of_human_rights_2016.pdf)

2. OVERVIEW OF MAIN HUMAN RIGHTS INSTRUMENTS RELEVANT FOR THE FIGHT AGAINST POVERTY AND SOCIAL EXCLUSION

"The aim of… social actions is to move towards the creation of a Human Rights culture among people throughout the world so that every person, everywhere can have their rights guaranteed. In brief, a Human Rights culture is a "lived awareness" of Human Rights principles in one's mind and heart, dragged into one's everyday life."

Dr. Joseph Wronka: Creating a Human Rights Culture:
http://www.humanrightsculture.org/Relevance.html

This section, along with access to a more detailed Annex, is intended to give an overview of the Human Rights landscape so that anti-poverty organisations are equipped to include Human Rights as the basis and aim of their work and to take a proactive, Human Rights based approach. When it comes to using the Human Rights instruments on the ground in daily life, it is recommended to do this in networks that include many types of expertise. There is great potential in fighting poverty using Human Rights but it often takes new ways of working, cooperating and organising (see The Rights Platform example on page 28). Below is an overview of the Human Rights Framework, and in the Annex (page 4) there is more detailed information about these areas:

International, regional, national Human Rights systems
1. United Nations
    1.1. The Universal Declaration of Human Rights
    1.2. The International Covenant of Economic, Social and Cultural Rights
    1.3. International Covenant on Civil and Political Rights
    1.4. Declaration on the Right to Development
    1.5. Committee on Economic, Social and Cultural Rights
    1.6. The Core International Human Rights Instruments
2. The Council of Europe
    2.1. The European Convention on Human Rights
    2.2. The European Social Charter
    2.3. The European Social Charter (Revised)
    2.4. The right to protection against poverty and social exclusion
    2.5. The European Committee of Social Rights
    2.6. The European Code of Social Security
    2.7. Other Treaties
3. The European Union
    3.1. Fundamental Rights in the EU
    3.2. The EU Charter of Fundamental Rights of the European Union
    3.3. The Europe 2020 Strategy and the Platform against Poverty and Social Exclusion
    3.4. The European Pillar of Social Rights

2.1. A brief history of Human Rights

The idea of Human Rights has a long history, rooted in religions, cultures and traditions, for instance 'the golden rule' of "Do unto others as you would have them do unto you". Precursors to modern Human Rights documents are the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789) and the US Constitution and Bill of Rights from 1791.

The idea of Human Rights emerged stronger after the Second World War. The extermination by Nazi Germany of millions of Jews, Sinti and Romani, homosexuals and people with disabilities horrified the world. Member states of the United Nations pledged to promote respect for the Human Rights of all. To advance this goal, the United Nations established a Commission on Human Rights with the task of drafting a document spelling out the meaning of fundamental rights and freedoms proclaimed in the United Nations Charter in 1945.

> **Three generations of Human Rights**
> The concept of three generations of Human Rights has developed over time. The French jurist Karel Vasak identified three generations of Human Rights, inspired by the slogans from the French revolution:
> - civil and political rights (liberté), which include the right to life, freedom, personal security and property, freedom from discrimination, slavery, torture, arbitrary arrest and freedom of expression, assembly and political rights
> - economic, social and cultural rights (egalité) include the right to work, to social security, to leisure time, to health and well-being, to education and an adequate standard of living
> - solidarity rights (fraternité) focus on redistribution of power and wealth, self-determination, economic and social development and shared resources, the right to peace and a healthy and sustainable environment.

The three generations are now understood to be cumulative: they are overlapping, interlinked, and intertwined. It may help anti-poverty organisations to understand what generation of social rights they are concerned with and it is likely to be more than one.

> **Applying the three generations to social work[12]**
>
> 1. First generation rights are civil and political rights such as freedom of speech and freedom from discrimination. Social workers working in advocacy might be involved in the protection of civil and political rights through for example advocacy groups, refugee action groups or prisoner reform.
>
> 2. Second generation rights are economic, social and cultural rights, like the right to health, housing, social security and education. These rights are at the heart of what many social workers do to provide the physical, social or emotional support that people need. Social workers have a vital role in exposing service gaps to show how many people are missing out on having their fundamental rights met. This is important work that can be done both inside and outside of bureaucratic processes.
>
> 3. Third generation rights are collective rights, such as the right to development and self-determination. These intersect with the social work practice and community development. Community development is a way of working with, rather than for communities to increase their capacity and ability to find their own solutions to problems. Social workers should be facilitators for this process of change that occurs from the grass roots in a bottom-up way and to link these to influence central policy.
>
> See more here: www.basw.co.uk/policies

2.2. Overview of main Human Rights instruments

Since 1948, the provisions of the Universal Declaration of Human Rights (UDHR)[13] adopted by the UN have defined the field of Human Rights. The Declaration sets "a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction."

The UDHR extended the revolution in international law ushered in by the United Nations Charter – namely, that how a Government treats its own citizens is now a matter of legitimate international concern, and not simply a domestic issue. It claims that all rights are interdependent and indivisible. Its preamble eloquently asserts that: "Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world."

There are nine core international Human Rights treaties[14]. The nine treaties address

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[12] **International Federation of Social Workers**, *Standards in Social Work practice Meeting Human Rights*, (2010), contact www.ifsw.orgeurope@ifsw.org

[13] See more on: http://www.un.org/en/universal-declaration-human-rights/

[14] See more on: http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx

economic, social and cultural rights, civil and political rights, the elimination of racial and gender discrimination, protection against torture and forced disappearance and the rights of women, children, migrants, persons with disabilities. These rights have been elaborated in subsequent covenants detailing the first and second-generation rights and in conventions addressing the special Human Rights claims of particularly oppressed groups.

The 9 treaties are:
- The International Covenant on Civil and Political Rights (ICCPR) (1966)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)
- The International Convention on the Elimination of All Forms of Racial Discrimination (1969)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- The Convention on the Rights of the Child (CRC) (1989)
- International Convention for the Protection of All Persons from Enforced Disappearance (1990)
- International Convention on the Protection of the Rights of Migrant Workers and Members of their Families (1990)
- The Convention on the Rights of Persons with Disabilities (2006)

In Europe, organisations also work within the context of:
- The European Convention on Human Rights (ECHR) (1953) which is an international treaty under which the member states of the Council of Europe promise to secure fundamental civil and political rights
- The Charter of Fundamental Rights of the European Union (2009)
- The European Social Charter, which is seen as the Social Constitution of Europe and represents an essential component of the Human Rights architecture. The Charter was amended in 1996 and is now ratified by 43 of the 47 Council of Europe member states. It guarantees fundamental social and economic rights. It guarantees a broad range of everyday Human Rights related to employment, housing, health, education, social protection and welfare. The Charter lays specific emphasis on the protection of vulnerable people such as elderly people, children, people with disabilities and migrants.[15]

2.3. The Human Rights enforcement framework and the role of civil society

A wide network of global, regional, national and non-state institutions aim to protect and promote Human Rights. At the global level, the United Nations dominates the stage and acts as the main forum for the development of global Human Rights norms and action. At the regional level, the EU shares the stage with a multitude of regional Human Rights

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[15] EAPN internal working paper *Participatory Status and Collective Complaints in the Council of Europe*, July 2017

organisations. It maintains a very fruitful relationship with the Council of Europe, which was set up in 1949 to promote democracy and protect Human Rights and the rule of law in Europe and comprises of 47 countries, and which has since been instrumental in shaping Europe's Human Rights tradition. At the national level, National Human Rights Institutions (NHRIs) have proliferated worldwide as mechanisms to enhance respect of and compliance with Human Rights law locally. The Council of Europe, and the other agencies' work, benefits extensively from contact and co-operation with civil society as represented by NGOs. The International NGO Conference is the consultative body representing civil society and these organisations have participatory status at the Council of Europe.

The EU itself has established a number of institutions charged with the monitoring, implementation and enforcement of Human Rights:

- The European Court of Human Rights set up in 1959, rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention on Human Rights. The connections between the Convention and the Charter are taken into account by the court.
- The European Union Agency for Fundamental Rights (FRA) is the EU's centre of fundamental rights expertise. The Agency assists EU institutions and EU Member States in understanding and tackling challenges to safeguard the fundamental rights of everyone in the EU through the collection and analysis of data in the EU. Working in partnership, the Agency plays an important role in helping to make fundamental rights a reality for everyone living in the EU.

At all levels, it emerges that civil society organisations and NGOs increasingly play a key role in Human Rights promotion and protection. They can steer the Human Rights agenda as well as provide international and national institutions with the necessary input to monitor Human Rights records on the ground, thereby raising awareness worldwide, regionally and nationally.

FEANTSA has published ***Housing Related Binding Obligations on States from European and International Case Law***. They argue that "delivering on the Right to Housing is not a political choice any longer. Case law and legal practice now oblige public authorities to respect, protect and implement the right to housing."[16] This document is designed to help NGOs, lawyers and other organisations working on housing rights to use International and European law to combat homelessness and social exclusion. It brings together the norms set by case law relating to the right to housing and lists the obligations on public authorities that result from the case law. This list of positive obligations for public authorities should allow for an evaluation of local and national policy developments in relation to housing rights.

You can find the EN and FR versions of the documents here:

http://www.housingrightswatch.org/news/housing-related-binding-obligations-states-european-and-international-law

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[16] **FEANTSA and Foundation Abbé Pierre**, *Housing-Related Binding Obligations on the State*, Update: June 2016

2.4. Universal rights relevant to the fight against poverty

Human Rights are based on principles of dignity and freedom. Both are severely compromised when human beings cannot meet their fundamental needs. Economic and social rights guarantee that every person be afforded conditions under which they are able to meet their needs. In particular, economic and social rights include[17]:

Rights	Instruments
The Right to Education, enabling all persons to participate effectively in a free society and directed to the full development of the human personality.	Universal Declaration of Human Rights: Article 26 International Covenant on Economic Social and Cultural Rights: Articles 13 & 14 Convention on the Rights of the Child: Articles 28, 29 & 40 Convention on the Elimination of All Forms of Racial Discrimination: Article 5. Convention on the Elimination of All Forms of Discrimination against Women: Articles 10 & 14
The Right to Food, guaranteeing freedom from hunger and access to safe and nutritious food.	Universal Declaration of Human Rights: Article 25 International Covenant on Economic Social and Cultural Rights: Article 11 Convention on the Rights of the Child: Articles 24 & 27
The Right to Health, ensuring the highest attainable standard of physical and mental health including access to care, nutrition, and clean water and air.	Universal Declaration of Human Rights: Article 25 International Covenant on Economic, Social and Cultural Rights: Article 12 Convention on the Rights of the Child: Article 24 Convention on the Elimination of All Forms of Racial Discrimination: Article 5 Convention on the Elimination of All Forms of Discrimination against Women: Articles 12 & 14 Convention on the Rights of Persons with Disabilities: Article 25.
The Right to Housing, ensuring access to a safe, secure, habitable, and affordable home with freedom from forced eviction.	Universal Declaration of Human Rights: Article 25 International Covenant on Economic, Social and Cultural Rights: Article 11 Convention on the Rights of the Child: Article 27 Convention on the Elimination of All Forms of

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[17] **National Economic and Social Rights Initiative**, *Economic and Social Rights*, available here: https://www.nesri.org/human-rights/economic-and-social-rights

	Racial Discrimination: Article 5 Convention on the Elimination of All Forms of Discrimination against Women: Article 14
The Right to Social Security, guaranteeing that everyone regardless of age or ability to work has the means necessary to procure basic needs and services.	Universal Declaration of Human Rights: Article 22 International Covenant on Economic Social and Cultural Rights: Article 9 Convention on the Rights of the Child: Article 26 Convention on the Elimination of All Forms of Racial Discrimination: Article 5 Convention on the Elimination of All Forms of Discrimination against Women: Articles 11 & 14
The Right to Work, guaranteeing the opportunity to have fulfilling and dignified work under safe and healthy conditions with fair wages affording a decent living for oneself and one's family. It also provides for freedom from unemployment and the right to organise.	International Covenant on Economic Social and Cultural Rights Articles: 6 & 7. Convention on the Elimination of All Forms of Discrimination against Women: Articles 6 & 11 Convention on the Rights of the Child: Articles 32, 34, 35 and 36.

The UN Human Rights Council's Special Rapporteur on Extreme Poverty, Dr. Magdalena Sepúlveda, together with her assistant, Ms. Carly Nyst, have drawn the attention to the key role of social protection in reduction of extreme poverty and to the critical role of Human Rights in the implementation of social protection, and have proposed 30 comprehensive recommendations, which are detailed in the online [Annex] of this Handbook (page 25).

2.5. The Universal Periodic Review

There are a range of ways that NGOs can be involved in monitoring, participating and making complaints about Human Rights. See Chapter 4 for more details. However, it is important that NGOs know about The Universal Periodic Review (UPR). It is a unique process that allows NGOs to get involved in a periodic review of the Human Rights records of all UN Member States. The UPR is a significant innovation of the Human Rights Council, which is based on equal treatment for all countries. It provides an opportunity for all States to declare what actions they have taken to improve the Human Rights situations in their countries and to overcome challenges to the enjoyment of Human Rights. The UPR also includes a sharing of best Human Rights practices around the globe.

The ultimate goal of UPR is the improvement of the Human Rights situation in every country with significant consequences for people around the globe. The UPR is designed to prompt, support, and expand the promotion and protection of Human Rights on the ground. To achieve this, the UPR involves assessing States' Human Rights records and addressing Human Rights violations wherever they occur.

The documents on which the reviews are based are: 1) information provided by the State under review, which can take the form of a "national report"; 2) information contained in the reports of independent Human Rights experts and groups, known as the Special Procedures, Human Rights treaty bodies, and other UN entities; 3) information from other stakeholders including national Human Rights institutions and non-Governmental organisations.

EAPN Denmark's involvement with the UPR process

As part of the Danish UPR procedure 2015, the Danish Institute for Human Rights organised open public hearings in four cities. The purpose was to activate citizens to participate in the UPR process. All citizens and organisations could contribute with examples on what they saw as Human Rights problems. The hearings were organised around four themes:
• Discrimination
• Monitoring and security
• Human Rights and vulnerable groups
• Human Rights in the administration

Experts were invited to give a short presentation of different aspects of the themes. Then the microphone was open to anybody. About 175 participated in the hearings. From each hearing, the Institute of Human Rights took notes with about 100 bullet-points. Among the many aspects of Human Rights abuses were mentioned for example:
•   Discrimination because of ethnicity
•   Long custodies before trial
•   Vulnerable Greenlanders in Denmark
•   Coercion in psychiatric hospitals
•   Different treatment in the municipalities

The report was read by the permanent UPR working group of the Institute (for NGOs). 17 NGOs joined their recommendations to the Danish stake holder report. The work was carried out with support from professionals from the Danish Institute for Human Rights with relevant references to Human Rights documents and professional phrasing of the text.

The NGOs agreed on 42 recommendations on:
•   Background and framework
•   Scope of international obligations
•   Institutional and Human Rights infrastructure and policy measures
•   Implementation of international Human Rights obligations
•   Equality and non-discrimination
•   Right to life, liberty and security of the person
•   Administration of justice, including impunity, and the rule of law
•   Right to privacy, marriage and family life
•   Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

- Right to work and to just and favourable conditions of work
- Right to social security and to an adequate standard of living
- Right to health
- Right to education and cultural rights
- Migrants, refugees and asylum-seekers
- Human Rights and counter-terrorism

See more on: https://menneskeret.dk/pfid/4544

3. APPLYING THE RIGHTS-BASED APPROACH TO ANTI-POVERTY WORK: TIPS AND TOOLS

"Where, after all, do universal rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. Yet they are the worlds of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

Eleanor Roosevelt: The Great Question, 1958[18]

This section of the Handbook looks at how to embed a Human Rights based approach into political and socio-economic strategies, policy and practice, to prevent and eradicate poverty as a violation of Human Rights. It also contributes to developing an integrated rights-based approach to poverty, as promoted by EAPN.

> EAPN Vision and Values clearly state:
> • We are working for a social Europe free of poverty and social exclusion, with access to economic, cultural and social rights for all.
> • Poverty and social exclusion are a denial of fundamental human rights and a failure to respect and protect human dignity.

Equally, the section builds on EAPN's longstanding expertise in stakeholder engagement, which enables people experiencing poverty to become engaged in the development of policy and practice, by becoming strategic partners, in pursuit of Human Rights entitlements, rather than 'target groups' or passive recipients. This distinguishes the Human Rights-based approach to development from a welfare or basic needs approach in terms of the relationship between the State, on the one hand, and individuals and local communities, on the other. It also brings in legal tools and institutions – laws and the judiciary – as a means to secure freedoms and human development[19].

This chapter will provide concrete sections on what EAPN members can do, as follows:
- Building on the core principles of a human rights based approach
- Empowerment and participation based on human rights
- Human rights education and capacity building
- Shaping political and socio-economic strategies to combat poverty
- Using a Human Rights based approach in anti-poverty advocacy and policy lobbying

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[18] First Lady of the United States from 1933 to 1945 and the chairperson of the Drafting Committee for the Universal Declaration of Human Rights, in http://harpers.org/blog/2007/12/roosevelt-on-human-rights-in-the-small-places/
[19] **UNDP**, *Poverty Reduction and Human Rights: A Practice Note,* June 2003, p. 10.

- Embedding a human rights based approach in tackling poverty through service delivery
- Building partnerships across all stakeholders to foster a human rights based approach
- Getting involved in monitoring and evaluation of policy, practice and enforcement of human rights frameworks including National Action Plans
- Getting involved in shadow civil society processes and campaigns for the ratification of human rights treaties.

3.1. Core principles for embedding a Human Rights based approach in the fight against poverty and social exclusion

The first step in embedding a human rights approach in anti-poverty work is to ensure that appropriate underlying principles are applied to strategy, policy and practice based on the human rights framework to protect civil, political, economic, social and cultural rights. The norms and principles of human rights law should play a major part in tackling poverty and guiding all public policies affecting people living in poverty[20].

Common principles for a human rights based approach have been identified as the "PANEL" principles and have been adopted by the UN and Human Rights Commissions, including the Australian Human Rights Commission and the Scottish Human Rights Commission[21]. These principles can be used when developing and reviewing economic and social strategy, policy and service delivery.

The PANEL principles are:

Participation
Everyone has the right to participate in decisions which affect their Human Rights. Participation must be active, free and meaningful, and give attention to issues of accessibility, including access to information in a form and a language which can be understood.

Accountability
Accountability requires effective monitoring of compliance with Human Rights standards and achievement of Human Rights goals, as well as effective remedies for Human Rights breaches. For accountability to be effective, there must be appropriate laws, policies, institutions, administrative procedures and mechanisms of redress in order to secure Human Rights. Effective monitoring of compliance and achievement of Human Rights goals also requires development and use of appropriate Human Rights indicators[22].

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[20] **OHCHR**, *Guiding principles on extreme poverty and human rights*, Foundation Principle 8, available here: http://www.ohchr.org/EN/Issues/Poverty/Pages/DGPIntroduction.aspx

[21] See more here: http://www.scottishhumanrights.com/careaboutrights/whatisahumanrightsbasedapproach

[22] **OHCHR**, *A Guide to Measurement and Implementation*, Human Rights indicators, Summary, available here: http://www.ohchr.org/Documents/Issues/HRIndicators/Summary_en.pd

> **Non-discrimination and equality**
> A Human Rights based approach means that all forms of discrimination in the realisation of rights must be prohibited, prevented and eliminated. It also means that priority should be given to people in the most marginalised or vulnerable situations who face the biggest barriers to realising their rights.
>
> **Empowerment**
> Everyone is entitled to claim and exercise their rights and freedoms. Individuals and communities need to be able to understand their rights, and to participate fully in the development of policy and practices which affect their lives.
>
> **Legality**
> A Human Rights based approach requires that the law recognises Human Rights and freedoms as legally enforceable entitlements, and the law itself is consistent with Human Rights principles.

3.2. Empowerment and participation[23]

A human rights-based approach is most effective when it promotes empowerment, the right to participation and gives people a say over the policies and practices that affect them[24]. This can be achieved when Governments ensure the active, free, informed and meaningful participation of persons experiencing poverty at all stages in the development process. This includes the design, implementation, monitoring and evaluation of policies affecting them.
The process must include the poorest and most socially excluded people and requires:

- Capacity building and human rights education for persons living in poverty.
- Transparency and equal access to information.
- The establishment of specific mechanisms and institutional arrangements, at various levels of decision-making, to overcome the obstacles that the most socially excluded people face in terms of effective participation.
- Adequate representation in all decision-making processes by groups at higher risk of falling into poverty, including those who commonly experience disadvantage and discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- Support and empowerment to express their views.
- Protection of individuals, community-based organisations, social movements, groups and other non-Governmental organisations that support and advocate the rights of those living in poverty.

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[23] **British Association of Social Workers**, *BASW Human Rights Policy*, January 2015 - www.scottishhumanrights.com/careaboutrights/whatisahumanrightsbasedapproach

[24] **EAPN**, *Active Inclusion* – Making It Happen, 2011, available here:
http://www.eapn.eu/images/stories/docs/eapn-books/2011-active-inclusion-booklet-en-web.pdf

Our Voices Project - Example of empowering people to participate in shaping decisions

This project is bringing together people who participate in NGOs in three European countries: in Spain, Andecha Participacion y Trabajo Comunitario and ATD Fourth World–Spain; in Poland, ATD Fourth World–Poland; and in Ireland, ATD Fourth World–Ireland. In addition to people living in poverty, this project is also oriented to include professionals from local authorities and civil society organisations. The project began in February 2016 and is funded by the European Commission's Europe for Citizens Programme, under the Civil Society Participation chapter. The objective is to deepen the debates regarding the future of Europe, focusing on a socially inclusive Europe as described in the European Social Charter and the Charter of Fundamental Rights of the EU. Cohesion has been deteriorating between EU institutions and many citizens, particularly those living in poverty. To reverse this deterioration, the project favours the participation of people facing social exclusion.

By taking part in this project, we hope to better understand the substance of the European Social Charter and the Charter of Fundamental Rights of the EU, the work of the European Union Agency for Fundamental Rights, and of European Committee of Social Rights, and the work of the EU in ensuring the Human Rights of its citizens. It is important to incorporate the participation of people living in conditions of poverty and exclusion in order to determine the degree to which these mechanisms are effective, and how all EU policies affect them. It begins from their experiences to collaboratively build an understanding of how policy implementation plays out on the ground, and to develop proposals for improvement. In the final stage of this project, the groups will develop effective recommendations and proposals for building a Europe that is more inclusive for all people. It is clear that if policies are positive and inclusive for people who endure the greatest difficulties, they will be inclusive for all.

See more on: http://www.atd-fourthworld.org/voices-margins-considering-europe-people-living-poverty

3.3. Human Rights education and capacity building

Adopting a human rights based approach to influencing policy making by people experiencing poverty and their NGOs requires a wide range of skills, knowledge and activities. Changing or adopting different mindsets, attitudes, skills and behaviours are often required for making a more participatory form of practice a reality.

Many of those whose interests are supported in rights-based work are neither accustomed to thinking about their rights, nor are they usually aware of the legal provisions or conventions that exist to safeguard their rights. An educational process for enabling people to learn about their rights and their role is, therefore, usually a requirement of participatory approaches to social change. The aim would be to empower people to identify rights violations and claim their own rights and to engage in partnership activities.

When embarking upon a human rights issue, organisations need to be clear about:
- The right
- How it is being infringed
- What redress mechanisms are available
- How progress can be monitored

There are various routes and approaches to equipping people with knowledge such as participatory research and the provision of human rights education.[25] Just knowing one's rights is not necessarily sufficient to realise them, which typically involves examining, challenging and transforming established power relations. Partnerships need to consider what type of education activities their members need.

> **Rights Platform Dublin**
> The Rights Platform delivers training measures on Human Rights and rights-based approaches for community activists. The training strategy has two distinct strands. The first being a generalist training module for a range of community organisations - the content covered includes knowledge of Human Rights and Human Rights instruments as well as an exploration of the rudiments of a Human Rights approach. The second strand is a more targeted measure, working intensively with selected groups over a period of time – identifying priorities, separating out the *rights issue*, surveying to ascertain the extent of the issue, and searching out the appropriate regulation or law that is being breached or violated.
> See more on: www.therightsplatform.ie

Human Rights education is an integral part of the right to education and is increasingly gaining recognition as a human right in itself. Knowledge of rights and freedoms is considered a fundamental tool to guarantee respect for the rights of all. It is particularly important for the direct participation of people with experience of poverty to understand their role as rights holders and the responsibilities of rights bearers.

Education should encompass values such as peace, non-discrimination, equality, justice, non-violence, tolerance and respect for human dignity. Quality education based on a Human Rights approach means that rights are implemented throughout the whole education system and in all learning environments.[26]

Integrating a Human Rights based approach into training, qualifications and registration of workers reinforces practice. For example, since 1994 social work programmes have taught that a Human Rights based approach requires an understanding that poverty is multidimensional, encompassing not only a low income but also other forms of deprivation and a loss of dignity and respect[27].

Capacity building refers to the process of optimising the skills of individuals and institutional support of one or more organisations. The process aims to facilitate the stakeholders to develop their capacities at an individual, organisational and national level. External people often interact with partners with the specific purpose of empowering them and equipping them with the capacity to bring about changes that matter to them. People organise

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[25] Institute of Development Studies, Literature Review on Active Participation and Human Rights Research and Advocacy, May 2010

[26] Taken from: http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/human-rights-education/

[27] **United Nations**, *Human Rights and Social Work: A manual for Schools of Social Work and the Social Work Profession* (1994) Centre for Human Rights Geneva – http://cdn.ifsw.org/assets/ifsw_24626-7.pdf; **British Association of Social Workers**, *BASW Human Rights Policy*, January 2015, page 6.

themselves and use opportunities to bring about the changes they desire. At an individual and organisational level this can be done through training, access to and dissemination of information, exchange fora, facilitation and guidance, consultative support, tutoring and twinning systems, inter organisational collaboration, networking and feedback.[28]

> **Example of developing advocacy and capacity building in policy development at a national level - Albania United Nations Development Assistance Framework (UNDAF) (2006-2010):**
>
> The United Nations Country Team in Albania used a novel approach called appreciative inquiry (AI) to draw out ideas on the way forward for Albania's development. AI is an organisational change management philosophy and human development approach, built upon a collective visioning of a desired future ("where do we want to be in five years?"). In contrast to more retrospective or static "problem analysis" approaches, AI is a relatively dynamic, inclusive and proactive process through which a shared vision is translated into a forward-looking agenda for change.
>
> The Country Team set up a special task force to flesh out the objectives of the UNDAF prioritization workshop. Interviews were carried out in different parts of the country, including in disadvantaged regions and communities. Representatives of Government, civil society, donors and the United Nations served as interviewers and were also among the interviewees. An unprecedented arrangement was made to involve young men and women in the UNDAF prioritization workshop. They included members of disadvantaged groups (e.g., persons with disabilities, the Roma community and very poor households).
>
> Contributions from networks of key stakeholders that had been created for the CCA exercise and the Millennium Development Goals consensus-building process fed into the UNDAF exercise. CCA and UNDAF theme groups were expanded to include other interested parties. The implementation of UNDAF, starting in 2006, will be firmly based on established networks and partnerships, and the AI approach will continue to be applied through joint programming.

There are certain principles required for capacity building which include:
- The direct participation of the persons or organisations involved
- Capacity building needs time to have an impact
- Needs to happen at different levels e.g.– individual, organisational and institutional level
- Important to be flexible as there is no "blue print" for capacity building.

EAPN Portugal have been developing the capacity of people experiencing poverty and their NGOs, to influence policy making over the past few years.

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[28](Source:https://webgate.ec.europa.eu/fpfis/mwikis/aidco/index.php?title=Special:Pdfprint&page=9EDF:_Capacity_building p.1-3)

Influencing policy making – role of people experiencing poverty and their NGOs
Since 2009, EAPN Portugal promotes the National and Local Councils of Citizens. These groups are composed of citizens that lived or are living in situation of poverty and social exclusion and have as main aims to give them voice in the matters that are directly related to their situation. They have also an increasing role in the definition of EAPN Portugal priorities through a National Council and the National meetings of people experiencing poverty. Participation is a key strategy for EAPN Portugal and with these groups a set of different national, regional and local actions like training, campaigns (example: *Undress prejudices and Dress the inclusion* - http://www.eapn.pt/campanha/25/despir-os-preconceitos-e-vestir-a-inclusao), awareness raising actions in schools are developed.

It's also important to highlight that EAPN Portugal decided to change its statutes in order to guarantee the inclusion of people experiencing poverty, that participate in LCC, as members. Until this moment, only civil society organisations or individual persons could be members of EAPN, but with this change the participants of LCC can also be free members (is not required to pay any fee) of the organisation.

One of the relevant influence actions is related to the national forums where the members of the councils are the protagonists. The Forums are annual and have as main aim to enhance internal and critical debate among these citizens on some key issues that influence their lives and active citizenship. In the last Forum – 2016 – the members of the Local Citizens took to the National Parliament a set of concerns and questions which they placed directly to political parties.

More information on the work developed: http://participacao.eapn.pt

EAPN has identified in "Giving a Voice to Citizens"[29] how important it is to invest in capacity building and identified 3 areas that would be relevant for developing Human Rights based policy making:

- Organise training for civil servants to enhance their capacity to organise meaningful stakeholder dialogue involving people with direct experience of poverty.
- These training sessions should be focused using different (creative and unconventional) methodologies, knowledge of the realities of living in poverty, other examples of successful participatory processes.
- Invest in continuous capacity building of civil society organisations in the preparation of quality proposals, advocacy and lobbying, that will contribute to the improvement of the process of consultation, dialogue, and cooperation.

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[29] **EAPN**, *Giving a Voice to Citizens, Building stakeholder engagement for effective decision making, Guidelines for Decision- Makers at EU and national levels,* October 2014, available here: http://www.eapn.eu/giving-a-voice-to-citizens-new-eapn-handbook-is-out/, page 22

3.4 Shaping political and socio-economic strategies to combat poverty

The 2030 Agenda for Sustainable Development reaffirms that social, environmental and economic development are mutually interdependent. Policy making for sustainable development involves fostering a virtuous cycle, where these aspects reinforce rather than undermine each other. Human Rights should be seen as an active part of the growth model, rather than merely a passive outcome of it.

As identified in Chapter 1, there are strong economic arguments for a rights based approach to economic development. The Danish Institute of Human Rights published in May 2017 an analysis, "Human Rights and Economic Growth"[30], based on 167 countries between the years 1981 & 2011, which show that freedom and participation rights have a positive effect on economic growth. Observers have argued that investments in Human Rights generally are a burden on economic growth but this shows that globally, there is no trade-off between Human Rights and economic growth. This means that by investing in Human Rights, the economic growth rate of a country is likely to increase.

A Human Rights based approach to developing political, economic and social strategies to combat poverty requires governments and Human Rights organisations to:
- Bring equal social relations and the dimension of power into the understanding of poverty.
- Use a broader definition of poverty, which is a combination of income poverty, human development poverty and social exclusion, moving away from just an income-based measure towards a broader concept of human development.[31]
- Integrate both the standards and the principles of Human Rights into policy making at an international, national and local level as well as the day-to-day running of organisations and practice.
- Base policies on the full range of rights, including economic and social rights. The relationship between poverty and the negation of Human Rights, especially economic and social rights, then becomes clearer.
- Create social protection and social welfare systems that are socially transformative, reduce inequality, create social justice and prevent violations of Human Rights[32].
- Analyse the structural causes of discrimination and poverty, rather than only their symptoms. A Human Rights-based analysis may reveal capacity gaps in *legislation*, *institutions*, *policies* and *voice[33]*.
- Analyse the impact of Governmental action or inaction on communities and individuals experiencing poverty[34].

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[30] **Danish Institute for Human Rights**, *Human Rights and Economic Growth*, May 2017, available here: https://www.humanrights.dk/news/human-rights-have-positive-effect-economic-growth

[31] **Amartya Sen**, Development as Freedom Oxford, Clarendon Press (1999), quoted in **CESR**, Human Rights Insights No. 1, *Human Rights and Poverty: Is poverty a violation of Human Rights?*, available here: http://www.cesr.org/downloads/CESR%20Briefing%20-%20Human%20Rights%20and%20Poverty%20-%20Draft%20December%202009.pdf

[32] **IFSW**, Policy Paper: The role of Social Work in Social Protection Systems, 2016, available here: http://ifsw.org/policies/the-role-of-social-work-in-social-protection-systems-the-universal-right-to-social-protection/

[33] See more on: http://hrbaportal.org/faq/how-do-human-rights-help-with-situation-analysis

[34] **BASW**, *Human Rights Policy*, Jan 2015, page 7, available here: www.basw.co.uk/policies

- Redress the myths about people who find themselves living in poverty and the current solutions based on these.
- Make a paradigm shift in how the broader view of poverty and violation of Human Rights is addressed (see examples below).

Ireland's Public Sector Duty (2014) demonstrates this shift in focus at a national level from servicing needs to empowering and building the capacity of individuals and communities. It increases the ability of those with responsibility for fulfilling rights to recognise and respect Human Rights for example in health, local authorities, providers of public services, such as care, housing, energy etc.[35] It clarifies their obligations and those of other stakeholders.

Ireland's Public Sector Duty - Example of a Human Rights based approach to developing political strategy

Section 42 of the Irish Human Rights and Equality Commission Act 2014 places a positive duty on public sector bodies to have regard to the need to eliminate discrimination, promote equality, and protect Human Rights, in their daily work, stating that: *A public body shall, in the performance of its functions, have regard to the need to:*
- *Eliminate discrimination*
- *Promote equality of opportunity and treatment of its staff and the persons to whom it provides services*
- *Protect the Human Rights of its members, staff and the persons to whom it provides services*

This means that public bodies must have regard to these points in preparing their strategic plans, and in the formulation of their policies and practices. Public bodies must therefore

A) Assess and identify the Human Rights and equality issues that are relevant to their function;

B) Identify the policies and practices in place, or to be put in place, to address these issues;

C) Report in a manner accessible to the public on their developments and achievements in that regard.

Consultation and participation with key stakeholders, including communities accessing and using the services, is an important part of the Public Service Duty, the implementation of which will be supported by the Irish Human Rights and Equality Commission

See more on https://www.ihrec.ie/publications/.

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[35] **BASW**, *Human Rights Policy*, Jan 2015, available here: www.basw.co.uk/policies

Scotland is implementing a Human Rights based approach to social and economic policies as demonstrated by the examples below.

> **Scotland - Examples of social and economic strategies implementing a Human Rights based approach:**
>
> 1. *Social Care* - The Scottish Human Rights Commission has worked with Government and many other organisations to embed Human Rights in care[36]. In September 2012, the Social Platform Recommendations for Care[37] stated that care services are not a cost, as generally perceived, but they are a social investment for the sustainability of European societies and an under exploited source of employment. It recommends that care respects the rights of individuals, includes all care givers, guarantees access to services and promotes social inclusion.
> 2. *Homelessness* – The Scottish Government passed a Human Rights based homelessness law (31st December 2012)[38] with a commitment that all of those assessed as unintentionally homeless by local authorities will be entitled to settled accommodation as a legal right. Tackling and preventing homelessness is seen as a vital part of tackling poverty and promoting economic inclusion. The Scottish Government is working with partners from local Government, health and the third sector to put in place policies, guidance and legislation to prevent and alleviate homelessness and to ensure that every homeless person is able to receive information, advice and support according to their needs.
> 3. *Child Poverty* – The Scottish Government is currently consulting on a child poverty bill to eradicate child poverty based on UNCRC recommendations and set out a clear agenda for tackling, reporting on and measuring child poverty[39].

3.5. Using a rights-based approach in anti-poverty advocacy and lobbying

"Overall, the reality of poverty in the EU is that it affects many aspects of people's lives and limits people's access to their fundamental rights. People affected often experience a range of different disadvantages which combine to reinforce each other and trap them in poverty. Poverty limits the opportunity for people to reach their full potential. For instance, children growing up in poverty are more likely to suffer poor health, do less well at school and become the next generation of adults at risk of unemployment and long-term poverty."[40]

The success of Human Rights-based development is based on respect for Human Rights and a commitment at all levels for them to be reflected in a country's norms, institutions, legal and policy frameworks. Such an environment should change the power relations between

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[36] **Scottish Human Rights Commission**, *Embedding Human Rights in care*, available here: http://careaboutrights.scottishhumanrights.com/welcome-embedding.html

[37] **Social Platform**, *Recommendations for care that respects the rights of individuals, guarantees access to services and promotes social inclusion*, available here: http://www.socialplatform.org/wp-content/uploads/2013/03/20121217_SocialPlatform_Recommendations_on_CARE_EN1.pdf

[38] See more here: http://www.gov.scot/Topics/Built-Environment/Housing/homeless

[39] Consultation on a child poverty bill for Scotland (2016), see more here: http://www.gov.scot/Publications/2016/12/2834

[40] **EAPN**, *Poverty and Inequality in the European Union*, available here: http://www.poverty.org.uk/summary/eapn.shtml

different groups in decision making, in accessing resources and understanding the specific cultural contexts in which discrimination occurs[41].

NGOs and citizens play a key role in all the development stages to promote rights-based development. A range of strategies and techniques can be used to initiate and promote change:[42]

- **Advocacy:** sensitisation of all stakeholders in the broadest sense of the word
- **Capacity building**: creation of a sustainable system of rights-based policy development and enforcement (not necessarily legal) (see section 3.3)
- **Implementation:** application of human rights in law, strategy and policy
- **Monitoring:** effective systems for societal monitoring of rights-based application and enforcement[43] (see section 3.8).

Advocacy can be directed at different audiences: the general public, NGOs, politicians, governments, other decision-makers, and your own organisation. Advocacy means to "give a voice to people" and is a system of actions aimed at changing attitudes, policies and practices. Advocacy campaigns will include identifying priorities and bringing these to the attention of government and local authorities through a variety of means such as meetings, demonstrations, petitions, press releases - press conferences, newspaper articles, columns, media campaigns and lawsuits.

Step-by-step approach to a policy advocacy campaign[44]

1. Identify priorities, the rights issues and the appropriate regulation or law being breached

2. Create a who's who list
Make a list of all the governmental officials who are in positions of influence with regard to your programme or mission. This list should include elected representatives, senior bureaucrats, agency staffers and others with whom you might interact. Make sure you get complete (and correct!) contact information that you can put into your database.

3. Compile useful data
Nothing is more persuasive to a politician than a compelling story that demonstrates the important work of your organisation. Survey your programme participants for information about the impact of your programmes. Often, such personal stories become the basis for government consultations, press conferences and other media events.

4. Build a coalition
Any piece of legislation has a greater chance of success if it has a broad base of support. Ask around to see if there are other organisations in your region or province

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[42] http://www.making-prsp-inclusive.org/8-advocacy-and-lobbying-influencing-policies/81-advocacy-lobbying-and-campaigning-some-definitions.html)

[43] **UNDP**, *Poverty Reduction and Human Rights: A Practice Note,* June 2003, p. 13.

[44] **The Art of Advocacy,** *A Handbook for Non-Profit Organizations*, p. 6-7, available here: http://www.habitat.ca/files/4752180162832249.pdf

that could be similarly impacted. When it comes to lobbying, there is strength in numbers. Know the players; research your legislators; learn their interests. Do they have any personal or professional ties to your cause? Most elected officials provide such information on their websites.

5. Understand the process
At every level of government, whether it's the House of Commons, provincial legislature or the local school board, there is a prescribed process by which bills become law or funding requests become part of the budget. While professional lobbyists are paid to know the details of this process, you should set out to learn at least the basics, including deadlines to introduce bills, committees assigned to hear certain bills, and how to amend legislation as it makes its way through the process.

6. Brief your Board of Directors
Chances are, several members of your board have personal relationships with influential people in the political arena. Discuss with your Board President the possibility of establishing a public policy committee composed of board members who are interested in helping build your political capacity.

EAPN Portugal, in partnership with the State Secretariat for Citizenship and Equality, promoted during 2017 an anti-discrimination Campaign on Roma Communities, entitled: "#direitoaseroquequiserem" (#therighttobeanythingwewant).

The Right to Be Anything We Want
This campaign was launched on the 24th June – "Roma Communities National Day" and its main aim is to seek to positively influence the social perception of Roma Communities among the general society, namely by confronting it with the unfair and violently discriminatory way in which this ethnic minority group is treated on a daily basis, thus calling for a change of behaviour.

The fight against discrimination necessarily involves an intervention that promotes information and knowledge about Portuguese Roma citizens, since its lack contributes to the development and the worsening of stereotypes and prejudices. For the construction of the campaign there was an important involvement of Roma communities and they also assumed an important role in its dissemination.

Campaign Videos available for download or viewing at:
Https://www.youtube.com/watch?v=oeMy1e82aL8
Https://www.youtube.com/watch?v=DPn6hOw8m_g

More information and other campaign materials:
http://www.eapn.pt/campanha/30/campanha-contra-a-discriminacao-das-comunidades-ciganas-direitoaseroquequiserem

Lobbying and direct contact with policymakers are critical components of an advocacy campaign and can be instrumental in achieving the desired policy change. Lobbying refers to asking an elected official or key decision-maker to vote a certain way or take a specific stand

on a piece of legislation, rule, issue or policy. One of the most persuasive forms of lobbying is a face-to-face meeting with your elected officials or her/his staff about the issue at stake, why you are passionate about the issue, and the position you want your member of Congress (Parliament) to take.[45]

Lobbying is also behind the scenes activities through meetings and presentations of key partners at high positions and that can contribute to a change of policy. Lobbying requires a deeper knowledge of the subject, results of statistical and other research, application of arguments "with a human face", knowledge of the political process and the system of decision making, such as: building good relationships with those who create local (national) rules, policies, strategies, budgets, etc[46].

Lobbying can include:
• personal letters
• face-to-face meetings with decision-makers (such as MPs in Parliament)
• informal contacts at receptions (e.g. at Ministry of Foreign Affairs)
• working visits with decision-makers
• personal exchanges over the telephone
• drafting of joint strategies[47]

Awareness raising is a two-way street, fostering communication and information exchange in order to improve mutual understanding. Awareness raising can happen locally, nationally and regionally. It should aim to mobilise communities and society to bring about the necessary change in attitudes and behaviour to adopt a Human Rights based approach to policy.

Awareness-raising campaigns are recognised as one of the most efficient and effective means of communicating information especially to the general public[48]. To be effective, the process of awareness-raising must meet and maintain the mutual needs and interests of all the stakeholders involved. Any model of awareness-raising, or campaign planning, should be a tool to stimulate discussions and innovations. There can be combinations of different approaches such as public relations (PR), advocacy, personal communication or educational programmes.

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[45] **Center for Health and Gender Equality**, *The Lobbying Process: Basics and How – To Guide*, available here: http://genderhealth.org/files/uploads/change/Tools_for_Advocacy/The_Lobbying_Process.pdf

[46] **Jane Vrteska, Natasha Ilijeva-Acevski, Georgi Hristov**, Manual decentralization of representatives of civil society organizations to monitor the process of implementation of decentralization in Macedonia, Skopje, Foundation Open Society Institute - Macedonia, 2013, p. 133, available here: http://soros.org.mk/dokumenti/20130706-priracnik-za-decentralizacija.pdf).

[47] **ICCO**, Guidelines on lobby and advocacy, June 2010, p.5.

[48] **European Institute for Gender Equality**, *Study on Collection of methods, tools and good practices in the field of domestic violence (area D of Beijing Platform for Action)*, available on: eige.europa.eu/sites/.../EIGE-DOMESTIC-VIOLENCE-AWARENESS-RAISING.pdf

EAPN Awareness Raising Action on Decent / Living Wages

EAPN is coordinating an awareness raising action on decent/living wages aiming at:

• Strengthening the consensus and the knowledge of issues of low pay and decent wages among EAPN members

• Raising the visibility of the importance of decent wages in all Member States and at the European level

• Strengthening partnerships and alliances between EAPN members and other significant actors in the field, such as trade unions, academics, other NGOs, etc

• Effecting real change in both employer behaviour, as well as national and local governments responsible for wage-setting mechanisms, in favour of decent / living wages for all workers.

More: http://www.eapn.eu/eapn-awareness-raising-action-on-decent-living-wages/ (2017)

The key features of successful awareness raising campaigns, based on an evaluation[49], are outlined by the European Literacy Policy Network. It found that a campaign plan should be based on clearly defined objectives and if possible the goals should be aligned with wider agendas such as European or national. In this way messages should have more impact and resonate more broadly to bring about social change. It is important to identify partners and networks and target groups and that they share a sense of ownership of the outcomes of the campaign. The next step is to identify campaign messages, tools and channels to use and any sources of funding. Develop and promote the campaign with clear monitoring and evaluation in place and consider gathering best practice examples.

Getting stakeholders actively involved can be one of the best ways of publicizing and giving visibility to EU, national and local campaigns. They can publicise them through their own communication tools, media work and in their advocacy and representation work. As visibility increases so does public awareness of the issues.[50]

3.6. Embedding a Human Rights based approach in tackling poverty through service delivery

Socio-economic circumstances, in particular poverty and deprivation[51], relate directly to what creates health and social inequalities. Low income, whether due to unemployment, reliance on benefits or low paid work, limits access to adequate housing, education and other services or facilities, as well as to essentials such as food, fuel and clothing. Socio-economic disadvantage impacts on opportunities for involvement, participation and

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[49] **Laura Masiulienė, Janet Looney (EIESP), Hanne Aertgeerts (VUB), Maurice de Greef (VUB)**, *The key features of successful awareness raising campaigns*, p. 6-9, European Policy Network, available here: http://www.eli-net.eu/fileadmin/ELINET/Redaktion/user_upload/The_key_features_of_successful_awareness_raising__camp aigns_10-15_LM_ELINET.pdf)

[50] **EAPN**, *Giving a Voice to Citizens, Building stakeholder engagement for effective decision making, Guidelines for Decision- Makers at EU and national levels,* October 2014, available here: http://www.eapn.eu/giving-a-voice-to-citizens-new-eapn-handbook-is-out/

[51] *Measuring Deprivation in Scotland: Developing a Long-Term Strategy: Final Report*, available here: http://www.gov.scot/Publications/2003/09/18197/26546

contribution; and can result in feelings of hopelessness and despair. In turn, this can emphasise and reinforce social exclusion affecting not only individual but families and community health[52].

The Scottish Human Rights Commission has developed a 'FAIR' approach[53] to help workers and organisations put into practice a Human Rights based approach to social policy. The purpose of a Human Rights-based approach is to ensure that dignity and respect of all individuals is at the centre of policy and decision making. Where it is applied everyone affected will have an opportunity to help think through how Human Rights can best be realised in the delivery of services. (Note that not every unfair situation will be an abuse of Human Rights law).

The FAIR Approach is:

Facts	What is the experience of the individuals involved and what are the important facts to understand.
Analyse Rights	Develop an analysis of Human Rights at stake
Identify responsibilities	What needs to be done and who is responsible for doing it (Rights holder and duty bearer)
Review Actions	Make recommendations for action and later recall and review what happened as a result

The Charter of Rights for People with Dementia and their Carers in Scotland – an example of implementing a FAIR approach.

A Human Rights based approach has already been adopted in the development of care services for people with dementia in Scotland. The Cross-Party Group on Alzheimer's at the Scottish Parliament brings together Members of the Scottish Parliament with organisations representing the interests of people with dementia. The group works towards ensuring that high quality support, services and treatment are available in order to assist people with dementia and their carers throughout Scotland. As part of this work the group has considered how to ensure that the rights of people with dementia and their carers are fully recognised at all levels of Government and by individuals and non-Governmental organisations. People with dementia and their carers (family members and friends) have the same Human Rights as everyone else. It is widely recognised, however, that in addition to the impact of the illness, people with dementia and their carers can face cultural, social and economic barriers to fulfilling these rights. The group has produced a Charter of Rights which aims to empower people with dementia, those who support them and the community as a whole, to ensure their rights are recognised and respected.

To see a copy of this Charter, go to: http://www.dementiarights.org/charter-of-rights

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It is particularly important in health, including public health and mental health, that a Human Rights based approach underpins policy and practice due to the links between health, poverty and inequalities[54]. In England, the Care Quality Commission (CQC) has developed a Human Rights approach to regulation of health and care services. CQC monitors, inspects and regulate services to make sure they meet fundamental standards of quality and safety. This means that each hospital, care home, local authority children and adult service and private provider of care services must demonstrate how they apply these standards.

> **Human Rights approach for our regulation of health and social care services – Care Quality Commission (CQC) England**
>
> CQC needs a Human Rights approach because:
> • Respecting diversity, promoting equality and ensuring Human Rights will help to ensure that everyone using health and social care services receives safe and good quality care
> • The Human Rights approach will help us to apply our principle of promoting equality and Human Rights to our purpose, using our five key questions to consistently integrate Human Rights into the way we regulate.
>
> The aim is to integrate equality and Human Rights at every stage of the development of our new approach to regulation, and the Human Rights approach will apply to all regulated services and joint inspections with other services e.g. children's services, prison health services or themed work that crosses organisational boundaries.
>
> Firstly, the approach will put Human Rights principles and standards at the heart of policy and planning. Secondly, it will empower staff and people who use services with knowledge and skills, and provide organisational leadership and commitment to achieve Human Rights-based approaches.
>
> People who use services have a wealth of experience, knowledge and skills about Human Rights that, if shared, will help regulate more effectively. CQC sees its engagement with people who use services around their Human Rights approach as mutually beneficial, as part of their core purpose to encourage services to improve, and knowing that they need to encourage positive practice and a 'learning culture' in health and social care services around promoting Human Rights – as well as needing to use their regulatory powers to take swift and appropriate action when people's Human Rights are at risk of being violated.
>
> See more on:
> https://www.cqc.org.uk/sites/default/files/20150416_our_human_rights_approach.pdf

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[54] **Richard Wilkinson and Kate Pickett**, *The Spirit Level: Why Equality is Better for Everyone*, Penguin, London, 2010.

For services to meet Human Rights standards and address poverty and inequalities, workers in public services need to adhere to Human Rights principles and take a Human Rights based approach to practice (see example Carstairs Hospital above). However, this is a great challenge for professionals if economic and social policy, such as austerity, mitigates against such an approach. Professional bodies, unions and employers can support workers by developing policies underpinned by Human Rights.

For example, in June 2016, the International Federation of Social Workers published a policy on social work's role in Social Protection underpinned by a holistic, Human Rights based approach.

> **IFSW Policy Statement:** *The Role of Social Work in Social Protection Systems: the Universal Right to Social Protection*[55]
>
> It is consistent with social work's professional ethics that social workers promote Social Protection Systems to construct systems that transform communities and society to address the root causes and dynamics that undermine peoples' safety, security and wellbeing. The professional principles of social work also emphasize that Social Protection Systems are grounded in a development model to ensure social sustainability and maximise the opportunity for people's self-determination and influence over their own lives. The role of social workers in social protection systems is to facilitate community solidarity and engagement in the development of systems that will be inclusive for all people and treat them with dignity and respect, and ensuring Human Rights and social justice. Social workers will bring their skills, knowledge and expertise not only of individuals who are marginalized and excluded, but also of groups and communities to advocate that systems positively address structural, social and cultural barriers.
> See full text here: http://ifsw.org/policies/

3.7. Building partnerships across all stakeholders to foster a Human Rights based approach

Organisations and individuals need to come together in partnerships to collaborate and achieve a Human Rights based approach to positive change in our communities, in society and in workplaces. Rights based development must promote and enable an environment of empowered citizen involvement and pressure. It should recognize that those living in poverty must be in the driver's seat of decisions about their future[56].

Partnerships may also need to develop a transformative approach to participation[57], which challenges established ways of working. This is not only in society, the state or corporations

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[55] **International Federation of Social Workers**, The Role of Social Work in Social Protection Systems: the Universal Right to Social Protection http://ifsw.org/policies/

[56] **CESR**, A *Matter of Justice: Securing Human Rights in the post-2015 sustainable development agenda*, available here: http://cesr.org/downloads/matter.of.justice.pdf

[57] **Institute of Development Studies**, *Literature Review on Active Participation and Human Rights Research and Advocacy*, May 2010, available here:

but more broadly in all relationships with others that questions the prevailing dominant social, institutional or organisational orders. Adopting a more participatory approach as an organisation, inevitably entails re-considering and transforming one's own organisational practices, processes and routines.

The example of The Rights Platform in South Dublin County describes such a change in approach to citizens and NGOs being involved in participating and influencing policy making. This proactive approach is fundamental to bringing about change and NGOs play a key role as demonstrated by the example below.

The Rights Platform was set up to support some 40 community organisations fighting poverty and social exclusion in South Dublin County, a region that encompasses areas of multiple disadvantage as well as communities of interest experiencing severe inequality, such as Travellers, Roma and migrant families. The Rights Platform adopted a Human Rights approach to its work because of the state's failure to work with local communities to eradicate poverty and inequality. Acknowledging that the nature of the engagement had changed, the Rights Platform shifted its focus from *requesting* social change to *demanding* that the state delivers on its Human Rights obligations, especially economic, social and cultural rights.

The overall aim of the Rights Platform is to build up the capacity of community activists to implement a different approach to their work, on the basis that it is pointless to persist with processes and actions that are not adequately delivering on social inclusion objectives. The Rights Platform acknowledges that community development methodologies - in terms of collectively organising, analysing and identifying objectives - are still valid in a Human Rights-based approach, but the action bit – the argument, the strategy and the focusing of energy - needs to change. The Rights Platform delivers training measures on Human Rights and rights-based approaches for community activists. The Platform has worked with women tenants of public housing agencies to improve maintenance, repairs and upgrading; with Travellers to improve the provision of culturally appropriate accommodation; and with health groups to address the conditions that lead to poor health outcomes for people on low incomes.
See more on: www.therightsplatform.ie

Partnerships that come together and collaborate are called a variety of terms – Platforms Alliances, Coalitions and Networks. Partnerships consist of individuals or organisations that share information, ideas and resources to accomplish individual or group goals. Networking is the process of acquiring resources and building power by using or creating linkages between two or more individuals, groups, or organisations.

Some alliances can involve relationships among members which are focused on specific, short term goals and objectives. Some partnerships such as coalitions often have a more formalized structure with the members making a long-term commitment to share responsibilities and resources. Their permanence can give clout and leverage. Whenever

http://www.ids.ac.uk/files/dmfile/LiteratureReviewonActiveParticipationandHumanRightsResearchandAdvocacy.pdf

possible, organisations and individuals should seek to build or join a coalition to strengthen the impact of their advocacy.

> "The fact that people with direct experience of poverty (and the NGOs) are in a continuous, ongoing dialogue process with the policy makers and officials is very valuable. It's an opportunity for the Belgian government to consult these experts on relevant matters. Though unfortunately, the Platform has no strong formal status yet and is not recognised as a consultative body for all relevant policy."
>
> **Belgian Anti-Poverty Network**, as quoted in EAPN, *Giving a Voice to Citizens.*[58]

Effective partnerships can:

- Leverage collective bargaining power to build and maintain strong, constructive relationships with relevant policymakers and decision makers who have authority and responsibility for policy change
- Collaborate to design and implement evidence-based advocacy campaigns based on the expressed needs and with the full and active participation of their communities and constituents
- Collaborate with other peer networks, coalitions, or groups that share their advocacy and policy objectives.[59]

Stakeholders in partnerships can include businesses, their subsidiaries and suppliers as what they do or do not do can affect the rights of workers, clients and the public. National Human Rights Institutions (NHRI) are uniquely placed to play a powerful role in advancing Human Rights in the context of business activities. They are at the interface between Government, civil society and the private sector, and between the international, national and local levels. What role they can play will depend on whether the law gives the NHRI the ability to accept complaints about private sector activity[60].

> **Project Net-Kard: Cooperation and networking between key actors against Roma discrimination (2012-2014)**
>
> A set of 4 practical Guides were developed to prevent discrimination of Roma Communities. The Guide for Lawyers "focuses on Roma rights litigation as a social justice cause**,** but it can be relevant for other social justice causes and for providing legal services to vulnerable, discriminated against persons in general".
>
> The other 3 guides that were built are directed to other key stakeholders like: Media Professionals; NGOs and Police Services. Each one has an overview about this subject on how to prevent discrimination of Roma Communities and provides some recommendations, tools and resources for these professionals.

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[58] **EAPN**, *Giving a Voice to Citizens, Building stakeholder engagement for effective decision making, Guidelines for Decision- Makers at EU and national levels,* October 2014, available here: http://www.eapn.eu/giving-a-voice-to-citizens-new-eapn-handbook-is-out/

[60] **OHCHR,** *Toolkit for Collaboration with National Human Rights Institutions*, December 2010, pg 48-50, Business and its impact on Human Rights. Additional info available at : http://humanrightsbusiness.org

Net-Kard was financed by the Fundamental Rights and Citizenship Programme of the European Union and involved the following partners: Fundación Secretariado Gitano (lead partner, Spain), Portuguese European Anti-Poverty Network (EAPN Portugal) (Portugal); High Commission for Immigration and Intercultural Dialogue (ACIDI, I.P.) (Portugal), Centrul de Resurse Juridice (CRJ) (Romania), Fundatia Secretariatul Romilor (Romania), Ufficio Nazionale Antidiscriminazioni Razziali (Italy), and Istituto Internazionale Scienze Mediche Antropologiche e Sociali (Italy).

The Guides are available in English; Portuguese; Spanish, Romanian. More information in here: https://www.gitanos.org/romania/informacion/net_kard_project.html.en; or, http://www.eapn.pt/projeto/148/net-kard-cooperation-and-networking-between-key-actors-against-roma-discrimination

3.8 Monitoring and evaluating the effectiveness of rights based policy and the enforcement Human Rights frameworks, [61] including through National Action Plans

Monitoring and reviewing actions and outcomes using appropriate Human Rights Indicators are an essential stage in the development process. NGOs and minority associations have a key role in contributing to effective and active monitoring to bring about change. This would include monitoring their own role and whether they could be working in new ways to develop a Human Rights based approach to poverty (see Danish Network example below.)

Participatory monitoring is the routine collection of information by, rather than on behalf of, concerned people" and is a "key set of processes for generating information and knowledge for social change."[62] Participatory monitoring can focus on government services, budgets and policies, but it can equally be applied to NGOs, corporations and other actors. Citizens are ideally involved not only in gathering the required information, but also identifying the issues they seek to address and what information is required for this. Through this process, people become more aware of the policies, programmes or practices that exist, thereby better positioning them to take action to bring about change.

For example, citizens could be involved in participatory processes of monitoring violations of women's rights, or in monitoring social security payments made by local governments; children could be involved in monitoring instances of violence in schools. In one of the best-known applications, 'participatory budgeting', residents of a municipality or borough are involved in establishing public budget priorities and then monitoring budget execution. Such processes can be used to gather data over time that can be mobilised in different kinds of forums to raise public awareness and to hold duty-bearers to account for their performance. This can contribute to both ensuring better delivery of services and the creation of new policies and programmes to respond to needs that were otherwise not identified, thereby

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[61] **UNDP**, *Poverty Reduction and Human Rights: A Practice Note,* June 2003, p. 13.

[62] **Institute of Development Studies**, *Literature Review on Active Participation and Human Rights Research and Advocacy*, May 2010, available here: www.ids.ac.uk/files/dmfile/LiteratureReviewonActiveParticipationandHumanRightsResearchandAdvocacy.pdf

playing a significant role in participatory processes of advocacy and campaigning[63].

The example below shows how the Danish network approaches monitoring and review making the best use of their resources and expertise.

How the Danish network (EAPN.dk) works with Human Rights

EAPN.dk works through the Danish Institute for Human Rights and is a member of its Council. The Institute is independent of Government with a national and international mandate to promote and protect Human Rights and equal treatment in Denmark. It operates in the nexus between Governments, NGOs and businesses. The Institute monitors the human rights situation in Denmark and advises the Government, the Parliament, ministries and public authorities on Human Rights, among other things, when new legislation is suggested. It has about 150 staff members.

EAPN.dk applied for membership of the Institute's Council when it became clear that Danish social policy is no longer a guarantee against social exclusion. The Council may make suggestions for new activities and assess the progress of the initiatives implemented. The Council contributes to strategic and work plans and they feed the professional members of the Institute with input to hearings on bills and reports.

EAPN.dk does not have the resources and competencies to carry out research on Human Rights issues. By joining the Institute, EAPN.dk have access to professional Human Rights advocates and can draw on their expertise and resources.

How EAPN.dk contributes and influences work with Human Rights:
• One member of the EAPN.dk board follows the activities of the Institute and is bonding with the Institute and EAPN.dk.
• EAPN contributes to the Institutes public hearings as first steps in the UN Universal Periodic Review (UPR) process to gather information on the human right situation including among excluded groups.
• In the Council, EAPN.dk works for the perspective of Human Rights and poverty and social rights and the rule of law for poor and excluded groups
• EAPN.dk participates in drafting the UPR Joint Stakeholder Report to the United Nations
• EAPN.dk describes conditions and circumstances for poor and excluded groups and asks experts for formulations that fit into a Human Rights framework
• EAPN.dk works together with professional members of the Institute and gives input to reports on Human Rights and social issues. Every year the Institute publishes a multitude of reports on Human Rights based on research, data, interviews, questionnaires etc. The reports make recommendations to public authorities to change practices in accordance with Human Rights
• EAPN.dk participates in workshops organised by the Institute and inform the experts about experiences from the ground

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[63] **Institute of Development Studies**, *Literature Review on Active Participation and Human Rights Research and Advocacy*, May 2010, available here: www.ids.ac.uk/files/dmfile/LiteratureReviewonActiveParticipationandHumanRightsResearchandAdvocacy.pdf

- Projects (among many): Homelessness and the right of homeless; housing; Unregistered migrants; Human Rights in the municipalities; Human Rights of disabled; Human Rights in Greenland; Rule of law, Human Rights and municipal administration of social laws etc.

Outcome
By taking this approach and being a member of the Danish Institute for Human Rights, it is a better use of EAPN.dk resources and expertise. It ensures that EAPN.dk influences and contributes to national and international strategy and work plans.

More information: https://www.humanrights.dk/

Evaluation of Human Rights based strategies is required to determine the extent to which the implemented policy has met goals/targets and solutions. The evaluation should be performed by the public authority bodies, but it may be delegated to a range of other organisations (association of citizens, private companies, experts of their own volition or by delegation, NGOs etc). This phase determines if further action is required in order to achieve the identified goals and outcomes[64].

The example below demonstrates that although a process at national level was followed to engage citizens in policy development, when reviewed it was found that the policy had not been implemented.

Evaluation – Example Republic of Macedonia
In recent years, the state has made good progress in the regulation of the legal framework, which affects the opportunities of citizen participation in the exercise of public governance.

In most ministries, responsible persons were appointed for cooperation with civil society. A variety of acts were adopted and implemented, ones that offer guidelines for a more effective engagement of citizens and associations in the process of drafting legislation and the methodology was adopted for Regulatory Impact Assessment (RIA) that renders the grounds for better legislation incorporating therein the views of the stakeholders. However, in practice, participatory policy-making in Macedonia remains relatively low and is characterized by many weaknesses in the implementation thereof[65]. Ministries have failed to publish many of the draft laws on SNER and have largely failed to adhere to all the stages of consultation according to the methodology of RIA.

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[64] **Misha Popovikj, Jovan Bliznakovski**, In the labyrinths of the policy making cycle, *Opportunities for influence by the civil society organizations*, Institute for Democracy SocietasCivilis – Policy brief, Skopje, January 2016, page 6-7, available here: http://idscs.org.mk/wp-content/uploads/2009/08/agora-sesii-vo-lavirintite-na-ciklusot-na-kreiranje-na-politiki-en.pdf

[65] **Simona Ognenovska**, *Report on an enabling environment for civil society development in Macedonia 2014*, Macedonian Center for International Cooperation, Skopje, 2015, page 36, available at: http://mcms.mk/images/docs/2015/izvestajza-ovozmozuvacka-okolina.pdf

Furthermore, in almost half (47%) of the published regulations, the minimum period for consultation has not been kept to, and in two thirds of cases ministries have offered no feedback to any of the submitted objections. The evaluation demonstrates the degree and nature of involvement of civil society (which is evidently seen to be non-crucial), the low capacity of civil servants to engage civil society organisations and the lack of a standardized mechanism for engaging civil society organisations in cross-sector bodies.

The evaluation example below is taken from a review of programmes using a Human Rights based approach to mental health[66]. It demonstrates that such an approach to services can contribute to positive therapeutic outcomes, clinical improvements and potentially cost savings. The review highlighted the need for more objective, high-quality research to ascertain the extent of benefits to service users and providers.

The State Hospital, Carstairs, Scotland – Human Rights based approach to service delivery

The Scottish Human Rights Commission undertook an independent evaluation of the HRBA at The State Hospital (TSH) in Carstairs, Scotland, a high-security forensic hospital for compulsorily detained mental health patients. Following a critical report by the Mental Welfare Commission in 2000, the hospital decided to adopt an HRBA into its culture.

A Human Rights working group was established that underwent extensive training with a Human Rights expert. The group:

•   Interviewed approximately 100 staff and patients to identify Human Rights concerns in conjunction with the expert.

•   Examined all hospital policies using a three-tiered "traffic light" assessment tool. Although no policies were given a "red light" (indicating that a policy was not compliant with Human Rights standards), several policies, such as those concerning the use of restraint and seclusion, were given an "amber light" rating. Amber light ratings were used to identify policies in need of development and consideration.

•   A "best practice guide" was developed to help staff make appropriate decisions in cases where Human Rights might be infringed. The guide included an index of hospital practices and policies where Human Rights problems might occur, with instructions on how to avoid breaches.

In addition, Human Rights training was provided for staff not involved in the working group and a patient and staff forum for involvement in the decision-making process was established. The Human Rights training was provided in the form of a series of workshops over two years, examining the reasons behind the implementation of the HRBA and using case studies to educate staff. Roughly 200 staff took part in these efforts.

The Scottish Human Rights Commission's evaluation included the review of internal documents as well as focus groups and interviews with management, staff, and patients. The Commission found that:

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[66] **Sebastian Porsdam Mann, Valerie J. Bradley, and Barbara J. Sahakian**, *Human Rights-Based Approaches to Mental Health: A Review of Programs,* Health and Human Rights Journal, Volume 18, Number 1, June 2016

- "the majority of patients, caregivers, management, and external commentators, whole heartedly agree that a positive rights respecting culture, where the rights of staff, patients and carers are respected, was created at TSH as a result of the Human Rights-based approach."
- Improvements in the care and treatment conditions of patients as well as a reduction in the use and severity of restraint.
- Staff reported improved working conditions and a reduction in anxiety.
- Both patients and caregivers reported a shift from blanket policies to more individualized, patient-centered approaches.
- These changes combined to effect improved working relations between caregivers and patients.

Negative comments were limited to concerns about communications and involvement in discussions on working practices related to hospital rebuilding works among staff and patient concerns regarding proposed restrictions on diet choices and smoking.

At a national level, **National Action Plans** (NAPs) are policy documents in which a State identifies priorities and actions that it will adopt to support the implementation of international, regional, or national obligations and commitments with regard to a given policy area or topic[67].

Putting a national Human Rights action plan in place is a substantial undertaking. The broad steps towards accomplishing this task are described in the Handbook on National Human Rights Plans of Action published by the UN High Commissioner for Human Rights (2002)[68]. There is a need for effective consultation at all stages of the process and it is important that civil society organisations are aware of these developments and participate as appropriate. Situations differ from one country to another, depending on constitutional and legal systems, political cultures, Human Rights situations and other factors. So there is no single detailed model for developing a national plan[69].

The handbook identifies the benefits of national action plans, which will:
- Review a country's Human Rights needs
- Raise awareness of Human Rights issues among government officials, security authorities, civil society organisations and the general public
- Mobilize a broad spectrum of society in a cooperative atmosphere
- Propose realistic activities
- Set achievable targets
- Promote linkages with other national programmes, particularly in the areas of development and education
- Generate commitment to action.

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[67] **The Danish Institute for Human Rights (DIHR) The International Corporate Accountability Roundtable (ICAR)**, *National Action Plans on Business and Human Rights, A Toolkit for the Development, Implementation, and Review of State Commitments to Business and Human Rights Frameworks*, June 2014, p. 8.

[68] **Office of the United Nations High Commissioner for Human Rights**, *Handbook on National Human Rights Plans of Action*, 2002, available here: http://www.ohchr.org/Documents/Publications/training10en.pdf.

[69] **Office of the United Nations High Commissioner for Human Rights**, *Handbook on National Human Rights Plans of Action*, PROFESSIONAL TRAINING SERIES NO. 10, New York and Geneva, 29 August 2002, available here: http://www.ohchr.org/EN/Issues/PlansActions/Pages/PlansofActionIndex.aspx p. 41.

The potential outcomes of a national action plan will include:
- Stronger legal frameworks, embracing firmer adhesion to international norms, more effective incorporation of Human Rights standards in domestic law, enhanced independence of the judiciary and more effective rule of law
- Better protection for individuals
- A stronger culture of Human Rights
- Stronger national institutions for the promotion and protection of Human Rights
- More effective social programmes that enhance the quality of life for all, particularly vulnerable groups
- Improved national harmony, reducing risks of internal conflict.[70]

> **National Action Plan on Human Rights in the Netherlands**
> The National Action Plan on Human Rights sets out the ways in which the government fulfils its responsibility to protect and promote human rights in the Netherlands, the specific objectives and priorities it defines in this regard, and the role of other bodies and individuals in ensuring respect for human rights in the Netherlands. The aim is to place the protection and promotion of human rights in the Netherlands on a more systematic footing.
> You can read the Plan here: https://www.government.nl/documents/policy-notes/2014/03/19/national-action-plan-on-human-rights

In June 2011, the United Nations Human Rights Council endorsed by consensus the UN Working Group on Human Rights and transnational corporations and other business enterprises (UN Working Group on Business and Human Rights/UNWG) UNGPs. States thereby made a powerful joint commitment to address adverse Human Rights impacts of business enterprises. The UNGPs are based on three pillars, the third of which stresses and specifies the need to ensure better access to remedy for victims as a joint responsibility of States and business enterprises[71].

States have devised NAPs to address a broad range of other topics. One common usage is as a vehicle for policies and commitments on national economic and social development and, in some cases, sustainable development[72]. NAPs are advocated by international organisations and initiatives to support implementation of commitments in a number of areas, apart from Human Rights and CSR, such as women's rights, renewable energy, and open government[73].

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[70] **Office of the United Nations High Commissioner for Human Rights**, *Handbook on National Human Rights Plans of Action*, PROFESSIONAL TRAINING SERIES NO. 10, New York and Geneva, 29 August 2002, available here: http://www.ohchr.org/EN/Issues/PlansActions/Pages/PlansofActionIndex.aspx p.3.

[71] **The International Steering Committee for the Campaign for Ratification of the Migrants Rights Convention**, *Guide on Ratification of the International Convention on the protection of the rights of all migrant workers and members of their families (ICRMW)*, English edition first produced in Geneva in April 2009, p.12, 29-30, available here: http://www.ohchr.org/Documents/Press/HandbookFINAL.PDF

3.9. Involvement in civil society shadow reporting and campaigns for ratification of Human Rights Treaties

Shadow or alternative reports are usually written by NGO coalitions and presented to the monitoring bodies on international Human Rights treaties, such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). The reports describe progress (or setbacks) in the fulfilment of rights enshrined in the relevant international treaty. States who have ratified certain treaties (e.g. CEDAW) must submit regular reports on progress towards implementing the treaty.

Shadow reports are a civil society critique of the government reports, highlighting issues that may have been neglected or misrepresented in the government reports. In cases where a government fails to submit a report or does not make its report available to NGOs in time for a critique, alternative reports may be submitted (by NGOs) as a key source of information on the issues that are important to the cause[74].

Shadow monitoring provides a second alternative opinion and non-governmental source of information, and therefore it allows to secure objectives and legality of the monitoring reports. Public participation in the monitoring also ensures transparency of the monitoring process. By using the recommendations, which are given to the country in the course of monitoring, representatives of the nongovernmental sector get not only a potential direction for their activities, but also a tool of influence on the country's government, in order to initiate and implement the particular measures in the country and securing of its effectiveness[75].

Main steps in writing a shadow or alternative report:

1. **Identify priorities** within the provisions of a treaty (e.g. CEDAW), in a joint process involving other interested groups. Try to find allies in relevant public institutions for up-to-date information and tactical tips.

2. **Make it a joint effort.** A single shadow report supported by a large alliance is more powerful than scattered submissions. However, separate reports may be necessary to address issues that a broad alliance cannot reach consensus on, or that need extra attention (e.g. minority rights) or a specific geographic area (e.g. war zones).

3. **Gather and analyse information on priority issues**. Evaluate the measures the government has taken to address the parts of the treaty (e.g. CEDEW) relevant to the issues – see also guidelines on policy analysis.

4. **Write the report.** Make sure everything in the report is clear, accurate and based on verifiable evidence. In shadow reporting, refer directly to the government's official report.

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[74] **UN Women, UN Entity for Gender**, *Equality and the Empowerment of Women*, Virtual Knowledge Centre to End Violence against Women and Girls, see more here: http://www.endvawnow.org/en/articles/1302-alternative-and-shadow-reporting-as-a-campaign-element.html.
[75] Taken from: http://www.oecd.org/corruption/acn/ACN-Civil-Society-Monitoring-Practical-Guide-ENG.pdf.

5. **Disseminate the report.** There are specific mechanisms for submitting reports to treaty monitoring bodies. E.g. the CEDAW Committee convenes pre-session working groups which set the agenda for dialogue between the Committee and the government reviewed – hence it is important to send in the report, or at least a summary, in time for the pre-session. After that step, the full report should be submitted in time for the formal session, where the government report is presented and reviewed76.

The British Institute of Human Rights (BIHR) are beginning a new project to support organisations across Great Britain in having a voice during the UK's next Human Rights examination by the United Nations as part of the Universal Periodic Review process. More details are available at: http://www.communitycvs.org.uk/bihr-get-involved/

Campaigns for ratifications of Human Rights Treaties are another concrete way for civil society organisations to promote better respect and implementation of human rights in their country. Before a State can become a party to a Human Rights treaty, usually a number of steps have to be taken to ensure that the national legislation and practice is in compliance with the treaty. In most countries, formal approval by the national legislature is needed to ratify or accede to a treaty. By ratifying or acceding, a State becomes a State Party to the treaty and the treaty becomes legally binding for that State once it enters into force[77].

Although it is the parliaments' responsibility, governments sometimes hold back from promoting ratification for various reasons. What is clear is that the determining factor in each country will be political will. NGOs will have to convince governments and parliamentarians to ratify and implement the Convention, and will need to conduct information campaigns based on solid arguments. The NGOs will also have to convince their own members that this is a worthwhile exercise[78].

Achieving decent work for domestic workers: An organiser's manual to promote ILO convention no. 189 and build domestic workers' power.
A strong campaign, whether for promotion of the Convention, winning a case against an abusive employer, or for any other goal, is a potent tool for organising domestic workers. Campaigns provide opportunities to raise awareness among public officials and the public at large, shift perceptions of domestic workers and the industry in general, and inform domestic workers and employers of their rights and responsibilities. Moreover, campaigns encourage domestic workers to participate in union activities, and results boost their self -image as real workers deserving of protections.

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[76] Adapted from IWRAW Asia Pacific. The whole text is available at: http://www.endvawnow.org/en/articles/1302-alternative-and-shadow-reporting-as-a-campaign-element.html

[78] **International Labour Organization,** *Achieving decent work for domestic workers, An organizer's manual to promote ILO convention no. 189 and build domestic workers' power*, 2012 First published 2012, available here: http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@actrav/documents/publication/wcms_181344.pdf, p. 1.

Once a Human Rights treaty is adopted, it is open for ratification by all member States. The ratification process can take time, so be prepared for a lengthy campaign. Although, ratification is ultimately a legal process[79], a strong campaign can be built around the process of ratification which can involve a wide range of civil society organisations and other partners.

> **Steps towards Ratification**
> Step 1. Prepare analyses/collect documentation;
> Step 2. Contact authority for issuing ratification instruments/identify who would sign;
> Step 3. Identify/undertake processes that lead to endorsement of ratification/accession;
> Step 4. Determine if any declarations are needed;
> Step 5. Prepare and sign instrument(s);
> Step 6. Lodge instrument(s) with the Depositary.[80]

The national integration of international Human Rights norms and standards has taken place over many decades since the adoption of the UDHR in 1948 and the progressive ratification of an increasing number of multilateral Conventions. Treaty monitoring bodies have in progress reviews of State Party reports called for harmonization of domestic law and policy with State obligations under treaties.

The basic law of a country is critical in ensuring that State party obligations under treaties are not merely aspirational political commitments, but create procedure for ensuring accountability to the beneficiaries of rights under international instruments. It is only then that a Human Rights based approach to economic and social policy can become a reality. When a Constitution incorporates a procedure of enforcement in courts of law, this institution becomes a major actor in bringing international Human Rights into domestic law.[81]

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[79] **International Labour Organization,** *Achieving decent work for domestic workers, An organizer's manual to promote ILO convention no. 189 and build domestic workers' power*, 2012 First published 2012, available here: http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@actrav/documents/publication/wcms_181344.pdf, p. 36-37;)

[80] The whole text is available at: http://www.pic.int/Procedures/BecomingaParty/StepstowardRatification/tabid/2184/language/en-US/Default.aspx.

[81] **Savitri Goonesekere**, National Implementation of International Human Rights, Social Inclusion and the Empowerment of People, p.3-5, available at: http://www.un.org/esa/socdev/egms/docs/2013/EmpowermentPolicies/National%20Implementation%20of%20International%20Human%20Rights.pdf.

4. TAKING LEGAL ACTION AGAINST GOVERNMENTS FOR FAILING TO FULFIL HUMAN RIGHTS

If Governments have signed and ratified international documents affirming, protecting, and promoting Human Rights, as described in the previous chapters, then they are under a legally binding obligation to implement those provisions, for the benefit of the people living on their territory. Living in a state of poverty and / or social exclusion is a clear infringement of those rights that Governments have sworn to enforce, so, subsequently, the state is in legal breach of Human Rights commitments, as duty-bearer. In such a circumstance, legal action against the State can be envisioned.

This chapter will review ways in which EAPN members can get started on bringing such an action against Governments, including an overview of infringement procedures available with different international institutions, as well as an exploration of how specifically EAPN could take action with the Council of Europe, where it holds participatory status and is, hence, able to launch collective complaints.

4.1. Legal action at national level

When embarking upon a Human Rights issue, organisations need to be clear about: the right; how it is being infringed; what redress mechanisms are available; how progress can be monitored.

In essence, it is about holding the state to account, and if necessary, bringing the state to account through its own regulatory framework or through the appropriate Human Rights committee complaints procedure.

When we focus on a Human Rights based approach, it becomes easier to identify the different types of duties to respect, protect and fulfil Human Rights and see these as obligations of governments. Analysing and establishing violations of the duty to fulfil is more challenging, but is essential in the context of poverty. It is challenging because it involves moving away from traditional Human Rights monitoring of 'eventbased' violations to undertaking 'long-term monitoring' of public policies related to poverty, health, education and other issues. It requires new methodologies to measure progressive realization over time and to analyse public budgets in order to assess the allocation of available resources. It also requires analysis of deliberate failures to act, or what are otherwise acts of omission.

Despite these difficulties, substantive progress is now being made on the development of new methodologies to address these challenges by many organisations, including CESR[82]. If your rights have been violated, you typically need to address the relevant authority in your country or the country where the violations took place.

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[82] **CESR**, Monitoring Toolkit, *Human Rights and Poverty: Is poverty a violation of Human Rights?, available here:* www.cesr.org/Tools

While cooperation is preferable, anti-poverty groups may often find themselves in conflict with the state or its agencies on matters of housing/accommodation, disability supports, health, welfare or discrimination amongst others. All of these are matters of Human Rights and may be more successfully pursued using a Human Rights approach. For instance, if housing is inadequate, unaffordable, overcrowded or of an inadequate standard (damp, unheated and posing a health hazard) then the state can be deemed as failing to deliver on its Human Rights obligations. If all domestic remedies have not addressed the matter then a complaint may be made, with some legal assistance, perhaps under the European Social Charter. Similarly, the increased privatisation of public utilities has meant that access to items such as water (the most basic of needs) or education may now be controlled by organisations whose primary concern is to make profits.

Should this pose hardship to families on a limited income, and were the state to view these services as purely marketable commodities, then this could be construed as a Human Rights breach capable of being pursued under the appropriate Human Rights instrument – probably, the International Covenant on Economic, Social and Cultural Rights, if the state in question has ratified the Optional Protocol which provides a mechanism for individual complaints.

Complaints at The Netherlands Institute for Human Rights

The number of complaints received in 2016 was 3.133, in comparison to only 2.148 a year earlier, and 1.786 in 2014. The number of requests for judgment increased in 2016 by 41 requests, to 463. In 2017, the Institute released a report entitled *Human Rights in the Netherlands*, where it stated that fighting poverty must be higher on the agenda as, due to a lack of money, human rights such as the right to education, work, health and housing are in jeopardy. The Institute demanded that the Government came up with a national strategy to fight poverty.

See more here: https://www.nu.nl/binnenland/4556904/college-rechten-van-mens-kreeg-meer-verzoeken-in-2016.html and here: https://www.nu.nl/binnenland/4699194/mensenrechten-in-nederland-komen-druk-staan-armoede.html

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4.2. Legal action at international level

Depending on the case, it is possible to turn to treaty bodies of the United Nations in Geneva, or to the European Court of Human Rights in Strasbourg. The Court of Justice of the European Union and the European Ombudsman may also be approached under particular circumstances. This section details the specific complaint conditions and procedure for each international body of appeal.

United Nations

The conditions that must be met to complain are:

- that one should be a victim of a violation of any of the rights set out in the Conventions
- that all national appeals must be exhausted
- that the complaint is not anonymous
- that the complaint should not be regarded as abuse of the right of appeal
- that the complaint should not have been addressed by other international appeal bodies.

There are three main procedures for bringing complaints of violations of the provisions of the Human Rights treaties before the Human Rights treaty bodies:

- Individual Communications: There are nine core international Human Rights treaties. Each of these treaties has established a "treaty body" (Committee) of experts to monitor implementation of the treaty provisions by its States parties. The full list of Committees and rights they are responsible for can be found in the Annex (page 29). Anyone can lodge a complaint with a Committee against a State a) that is party to the treaty in question (through ratification or accession) providing for the rights which have allegedly been violated; b) that accepted the Committee's competence to examine individual complaints, either through ratification or accession to an Optional Protocol (in the case of ICCPR, CEDAW, CRPD, ICESCR and CRC) or by making a declaration to that effect under a specific article of the Convention (in the case of CERD, CAT, CED and CMW). Complaints may also be brought by third parties on behalf of individuals, provided they have given their written consent.
- Inter-State Complaints: Several of the Human Rights treaties contain provisions to allow for State parties to complain about alleged violations of the treaty by another State party. These procedures have never been used.
- Inquiries: Upon receipt of reliable information on serious, grave or systematic violations by a State party of the conventions they monitor, the Committee against Torture (article 20 CAT), the Committee on the Elimination of Discrimination against Women (article 8 of the Optional Protocol to CEDAW), the Committee on the Rights of Persons with Disabilities (article 6 Optional Protocol to CRPD), the Committee on Enforced Disappearances (article 33 of CED), the Committee on Economic, Social and Cultural Rights (article 11 of the Optional Protocol to ICESCR) and the Committee on the Rights of the Child (article 13 of the Optional Protocol (on a communications procedure) to CRC) may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of the conventions in a State party.

There are also procedures for complaints which fall outside of the treaty body system - through the Special Procedures of the Human Rights Council and the Human Rights Council Complaint Procedure.

> *See more on the United Nations Complaint Procedure:*
> - http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx
> - http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx
> - http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#proceduregenerale

The European Court of Human Rights

The European Convention on Human Rights (ECHR) established in 1959 the European Court of Human Rights (ECtHR) with jurisdiction against State Parties that do not fulfil their obligations under the Conventions.

The Court has 47 judges, one from each Member State. The object of the Court is to ensure observance of the European Convention on Human Rights (ECHR) by members of the Council of Europe. The Court examines applications from both individual citizens and States alleging Human Rights violations. In recent years, the Court has passed more than 1,000 judgments annually.

The conditions to be met to complain are basically:
- that one should be directly and personally affected by the act or omission that you believe is in violation of the Convention
- that all national appeals must be exhausted
- to be appealed within a period of six months after the case was finally settled in the national system
- that the complaint is not anonymous
- that the complaint should not have been addressed by international appeal bodies earlier.

If a case is then brought before ECHR it must be described. This description must contain:
- a brief presentation of the complaint
- citation of the rights and/or freedoms alleged to have been violated
- a listing of the administrative and/or legal rulings passed by national authorities on the case.

If a case is found admissible for examination by the Court, the applicant must as a rule be represented by a lawyer. Judgments finding violations are binding on the States concerned, and they are obliged to execute them. All European states that have signed up to the Convention are under obligation to keep abreast of the rulings passed by the Court.

> *See more on Admissibility Criteria for the European Court of Human Rights:*
> http://www.echr.coe.int/Documents/Admissibility_guide_ENG.pdf

European Union

If you feel that your rights have been infringed by a Member State or by the EU institutions themselves, you may contact one of the following bodies.
- The European Parliament: Any citizen of the European Union, or resident in a Member State, may, individually or in association with others, submit a petition to

the European Parliament on a subject which comes within the European Union's fields of activity and which affects them directly. Any company, organisation or association with its headquarters in the European Union may also exercise this right of petition. A petition may take the form of a complaint or a request and may relate to issues of public or private interest. The petition may present an individual request, a complaint or observation concerning the application of EU law or an appeal to the European Parliament to adopt a position on a specific matter. Such petitions give the European Parliament the opportunity of calling attention to any infringement of a European citizen's rights by a Member State or local authorities or other institution.

- The European Ombudsman: This is available to EU citizens and people resident in an EU Member State. You may make a complaint relating to poor or bad administration by a body of the EU. The European Ombudsman is an independent and impartial body that holds the EU administration to account. The Ombudsman investigates complaints about maladministration in EU institutions, bodies, offices, and agencies. Only the Court of Justice of the European Union, acting in its judicial capacity, falls outside the Ombudsman's mandate. The Ombudsman may find maladministration if an institution fails to respect fundamental rights, legal rules or principles, or the principles of good administration.

- The European Commission: This is available to anyone who wishes to complain to the Commission that a Member State has failed to comply with EU law.

- The Court of Justice of the European Union interprets EU law to make sure it is applied in the same way in all EU countries, and settles legal disputes between national governments and EU institutions. It can also, in certain circumstances, be used by individuals, companies or organisations to take action against an EU institution, if they feel it has somehow infringed their rights.

- *The European Union Agency for Fundamental Rights* (FRA) is one of the EU's decentralised agencies. These agencies are set up to provide expert advice to the institutions of the EU and the Member States on a range of issues. FRA helps to ensure that the fundamental rights of people living in the EU are protected. It does not have the mandate to deal with individual complaints. However, there are organisations in Member States, and at the European and international level listed below, where people can turn to when their fundamental rights have been violated.

> *See more on where to turn for help at the European Union Agency for Fundamental Rights:*
> http://fra.europa.eu/en/about-fundamental-rights/where-to-turn

4.3. Collective complaints with the Council of Europe

The Council of Europe is an International Organisation founded in 1949 to promote democracy, protect Human Rights and the rule of law in Europe and comprising 47 European Countries as members**.** In order to ensure that individuals' rights are legally binding, the Council of Europe adopted two separate treaties: the European Convention on Human Rights guaranteeing civil and political rights, adopted in 1950 and the European Social Charter, guaranteeing social and economic rights, adopted in 1961. Rights established by the European Social Charter (ESC) are normally mirrored in binding provisions of either primary or secondary EU laws. While the Charter does not contain any specific provision on poverty, its revised version (RESC) contains article 30, which explicitly and specifically addresses the issue.

> **Participatory Status of NGOs**
> The Conference of INGOs is the statutory relation between the Council of Europe and Non-Governmental Organisations (NGOs). NGOs actively contribute to the decision-making process at the Council of Europe through the Conference, which is a unique consultative body uniting more than three hundred NGOs that meet twice a year for a plenary session. All NGOs that are part of the Conference of INGOs enjoy a special title, called *participatory status*. There are several different admissibility criteria that NGOs have to respect in order to gain this, including respecting democratic principles, having a functioning structure and being representative in the field of their competence at the European level. Participatory status is granted once a year and can be renewed every four years. EAPN's participatory status has been renewed in 2017. Once an organisation enjoys participatory status, it has access to several channels of participation, ranging from actively promoting legal frameworks adopted by the Council of Europe, to advising and cooperating with other bodies of the Council (notably with the Commissioner for Human Rights). See more here: https://www.coe.int/en/web/ingo/participatory-status

Only NGOs enjoying participatory status can lodge Collective Complaints before the ECSR. EAPN is listed among NGOs that can lodge complaints until 30/06/2018.

The Collective Complaints procedure, introduced in 1995, has strengthened the role of social partners and non-governmental organisations, by enabling them to directly apply to the European Committee of Social Rights for rulings on possible non-implementation of the Charter in the countries concerned, namely those States which have accepted its provisions and the complaints procedure. Because of their collective nature, complaints may only raise questions concerning non-compliance of a State's law or practice with one of the provisions of the Charter. Individual situations may not be submitted. In the light of this, complaints may be lodged without domestic remedies having been exhausted, and without the claimant organisation necessarily being itself a victim of the relevant violation. The only requirement for NGOs lodging collective complaints is that they need to have a particular competence in the field relating to the provision (or provisions) of the Charter covered by the complaint[83].

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[83] **Council of Europe**, *The Collective Complaints Procedure*, available here: http://www.coe.int/en/web/turin-european-social-charter/collective-complaints-procedure1

Complaints must be written in English or French, and must be sent by post to the Executive Secretary of the ECSR. If the formal requirements have been met, the ECSR declares the complaint admissible based on the proposal of an appointed Rapporteur. The State Party may respond in writing and the complainant may also do the same at the request of the President of the ECSR. The President closes the process only when she considers it appropriate. Public hearings may also be organised by the ECSR on its own initiative or from a request of one of the parties.

Subsequently, a Report on the Merits of the Complaint is adopted and sent by the ECSR, establishing whether or not the Charter has been violated. The Committee of Ministers of the Council of Europe may then adopt immediate measures at the request of one of the parties, or on its own initiative in case of risks of serious damages, and the parties may also be asked to monitor the implementation of these measures. In the event of violation of the Charter, the Committee's final decision or recommendation takes account of the respondent State's declared intention to take appropriate measures to bring the situation into conformity[84].

Decisions and Conclusions must be respected by the State concerned, even though they are not directly enforceable at the national level because the Committee is not a proper court capable of producing judgements. Which measures to adopt is ultimately a political decision of the State concerned (i.e. the complainant cannot require the decision to be enforced). Nonetheless, these resolutions serve as the basis for positive developments in social rights at the national level through both legislation and case-law.

However, one of the main constraints for progress in this field rests on the limited juridical value of the ECSR jurisprudence for two main reasons: first, it does not derive from a court; and second, its resolutions are not judgments. Therefore, other possible channels in the framework of the Council of Europe might be explored, such as applying before the European Court of Human Rights, or cooperating with the Commissioner for Human Rights.

> *See more on the Council of Europe wok on Human Rights here:*
> http://www.coe.int/en/web/portal/human-rights

A full overview of the Council of Europe procedures, with complete details on the bodies, responsibilities, and practical steps is available in the , with the following structure:
1. What is the Council of Europe?
2. The protection of individuals' rights within the Council of Europe
3. The European Convention on Human Rights and the European Court of Human Rights
4. The European Social Charter and the European Committee of Social Rights
5. Overview – The Conference of INGOS

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84 Council of Europe, The evolution of the Charter and the Convention within the Council of Europe: a comparative overview, available here: https://www.coe.int/en/web/turin-european-social-charter/the-evolution-of-the-charter-and-the-convention-within-the-council-of-europe-a-comparative-overview

6.   The Participatory Status – Meaning
7.   The Participatory Status – Requirements to access
8.   The Participatory Status – Modality of participation
9.   EAPN Status in the INGOs Database
10.   Overview - Collective Complaints
11.   NGOs entitled to lodge Collective Complaints
12.   Admissibility conditions - Collective Complaints
13.   Following procedure - Collective Complaints
14.   Possible Alternatives – Applying before the European Court of Human Rights & Cooperate with the Commissioner for Human Rights.

Making complaints under the European Social Charter (Revised) in Finland

The Finnish Association of Social Rights (member of EAPN FI) has made two complaints to the Committee of Social Rights in the Council of Europe (Complaint 88/2012 and Complaint 108/2014). The Association has referred to the articles 12 and 13 in the Social Charter (Revised), and has taken the opinion that the amount of basic benefits concerning sickness, motherhood, rehabilitation, and unemployment, including labour market subsidy, are too low in Finland. In the decisions, the Committee has agreed and noted that, in keeping basic benefits too low, Finland is in breach of articles 12 and 13 of the Social Charter, Merits 88/2012 and 108/2014. In the later decision 108/2015, the Committee concluded that the labour market subsidy, even taking into account its possible combination with other benefits, is not sufficient to enable its beneficiaries to meet their basic needs and therefore the situation is in violation of Article 13§1 (Social Assistance).

Unfortunately, the Government of Finland has refused to obey the Social Charter. Basic benefits have not been promoted and, in 2016-2019, those benefits will be frozen, because there are no raises due to consumer index changes. So despite the merits, the situation for the poor people is even worse in Finland in 2017 than it was in 2014. EAPN FI is planning a campaign and collecting signatures for a citizens' initiative to raise basic benefits in Finland to help poor people, and to force the Government to obey the rules of the Social Charter.

Finland is also among the 15 countries that have received a complaint under the European Social Charter concerning breach of their obligations concerning equal pay for work of equal value for women and men. These 15 complaints by University Women of Europe nos 124-138/2016 have been declared admissible by the European Committee of Social Rights and are now being studied by the Committee following the collective complaints procedure.

Read more:
- http://hudoc.esc.coe.int/eng/?i=cc-88-2012-dmerits-en
- www.coe.int/en/web/turin-european-social-charter/-/the-decision-on-the-admissibility-and-merits-of-the-complaint-finnish-society-of-social-rights-v-finland-no-108-2014-is-now-public
- www.eapn.fi/wp-content/uploads/2017/05/E-108-2014-report.pdf

4.4. Legal action at the Council of Europe in practice: lessons learned from social stakeholders

In an effort to better understand what the implications are of using the participatory status with the Council of Europe in order to launch a collective complaint procedure, EAPN has reached out to other European-level organisations, in an attempt to learn from their experience. Information was gathered from FEANTSA (European Organisation in membership of EAPN), the European Youth Forum, and the European Trade Union Confederation.

FEANTSA have lodged three collective complaints with the Council of Europe over the past years. In 2006, it submitted a successful complaint against France, which was in breach of its specific obligations under Article 31 of the Revised Social Charter: to promote access to adequate housing, to prevent, reduce and gradually eliminate homelessness and to make housing affordable for those without adequate resources. In 2008, it submitted a complaint against Slovenia, targeting legislation that would have exposed 13000 tenants to having their apartments expropriated by former occupiers, arguing that this violated Articles E, 16, and 31. In 2012, it submitted a complaint against the Netherlands, alleging that country's legislation, policy and practice regarding sheltering the homeless was not compatible with Articles 13, 16, 17, 19, 30, and 31, taken alone or in conjunction with Article E of the European Social Charter. See more information here:

- http://housingrightswatch.org/jurisprudence/collective-complaint-feantsa-v-france-392006
- http://housingrightswatch.org/jurisprudence/collective-complaint-feantsa-v-slovenia-532008
- http://housingrightswatch.org/jurisprudence/collective-complaint-feantsa-v-netherlands-862012

In May 2017, the **European Youth Forum** lodged a legal complaint against Belgium on the issue of unpaid internships. The complaint aimed to challenge and ultimately change Belgian legislation, seeking a legal decision that would set a precedent across Europe and beyond to make this unfair and discriminatory practice illegal. Currently, Belgium has the highest percentage of unpaid interns in the EU, with only 1 in 5 (18%) being paid. The complaint argues that unpaid internships are in violation of the right to fair remuneration as well as the right of children and young persons to protection as defined in the European Social Charter. See more details about this action here: http://www.youthforum.org/pressrelease/belgium-youth-forum-takes-legal-step-to-ban-unpaid-internships/

The **European Trade Union Confederation** has a long history of engagement, having contributed to the original drafting of the collective complaints procedure. So far, they submitted two successful complaints, together with their national affiliates: in 2005 against Bulgaria and in 2009 against Belgium, both on the right to strike and to collective action. Additionally, the ETUC have advised other national affiliates whether they should pursue legal action, are collaborating with the European Youth Forum on the action above, and have made observations to over 20 collective complaints,

> including all 15 cases of the University of Women in Europe (one NGO against 15 Member States).
> See more information here:
> - https://rm.coe.int/16805d731f
> - https://www.etuc.org/IMG/pdf/E_Report_to_CM_59-2009.pdf

Based on these concrete experiences and the input of the organisations above, we summarise in the following the main steps, as well as challenges and opportunities, that these actors have identified in their legal pursuits.

How to understand if there is a legal case that can be brought as a collective complaint?

According to the actors above, the first step is to search national realities, in order to check in which countries there are Human Rights breaches that could be challenged through a legal complaint against the Governments in question. The ETUC feels that this is best done by the national members. This work is assisted by an assessment of which European Social Charter provisions these countries have ratified, and reports by the European Committee of Social Rights on these countries, which monitor whether the country's behaviour is in compliance with the provisions. The complaint can be against the law itself, or how it is enforced (or not) in practice. For example, in the case of the European Youth Forum's complaint about unpaid internships, it was important to determine whether national laws allowed for them to happen, or did not appropriately regulate them, or whether the law forbade them, but they existed in practice. The ETUC reinforces that the case law of the ECSR and pending violations of the articles concerned by the country are the starting point. In 2008, the European Trade Union Institute produced a campaign-oriented, practical tool, entitled *Better defending and promoting trade union rights in the public sector*, which maps all possible litigation proceedings, including collective complaints. While part 1 includes some informal guidelines the ETUC applies in deciding whether or not to in a collective complaints, part 2 provides an analysis of the then standing violations on trade union rights, as identified by ILO and CoE, per country. The document can be consulted in its entirety here: http://www.etui.org/Publications2/Reports/Better-defending-and-promoting-trade-union-rights-in-the-public-sector2

> **European Youth Forum: Promoting youth rights through the Council of Europe**
>
> Identify the following:
> - Whether the country has ratified the original or Revised European Social Charter.
> - Which provisions of the European Social Charter the country has accepted.
> - Whether the country has accepted the Collective Complaints procedure.
> - When the country is reporting on the articles that are of interest to your organisation.
> - Whether your government is aware of the Committee of Ministers Recommendation on Young People's Access to Rights, by contacting the relevant Ministry (e.g. Foreign Affairs).
> - If so, what is it doing to implement the Recommendation?

See more on http://www.youthforum.org/youth-rights-info-tool/the-council-of-europe-and-youth-rights/the-council-of-europe-and-youth-rights#action-points-promoting-youth-rights-through-the-council-of-europe-human-rights-system193

FEANTSA: Is there a case?
What is needed:
- Good knowledge of the national and local context
- Collect information on the issues: statistics that evidence violations, pressing issues present in the media
- Assess compatibility with revised European Social Charter, to establish what rights are violated
- Link together coherently evidence from the ground with existing laws and policies and provisions of the Charter adopted by the country in question.

What legal expertise is needed?

This is essentially legal work, so intimate knowledge of the legal provisions in the country and domain concerned are required. Legal support is needed not only for lodging the complaint, but also to respond to comments from the prosecuted States. Adequate legal support and capacity are paramount – or, as ETUC states, at least someone with knowledge of procedures and case-law (non-conformity). According to FEANTSA, one person with sound legal knowledge is needed to put the legal case together and write the complaint. In their case, for instance, the complaint was supported by a lawyer linked to the Tenants' Association in Slovenia, and by a Barrister expert on migrant rights in the Netherlands. Aside that, a wider team of experts is needed to review the complaint, improve it, enrich it, and provide support – in FEANTSA's case, this was the Housing Rights Watch Network of Experts (see box further down). The ETUC has in-house legal counsel, so can provide legal support to national affiliates. As NGO workers don't always have a legal background or experience with such issues, a solution proposed by the European Youth Forum and FEANTSA is to work with a pro-bono legal firm, who can offer assistance in drafting the complaint, with input from the organisation and its members. Paying for legal support is another option, but much less explored as fees are prohibitive for NGOs with limited resources. The ETUC informs that requests to the Council of Europe for it to reimburse legal fees have already been submitted in some cases. FEANTSA also points out to the existence of legal clinics, where students, supervised by their Professors, work on specific cases, in order to learn how to apply their theoretical knowledge while maintaining direct contact with practitioners and complainants.

What other resources, including staff time, are involved?

National members in the country in question need to be prepared to dedicate resources to engage in the process, by collecting evidence at the national level to substantiate the case, and working with legal counsel to put together the complaint. Active involvement of national members is an absolute must, and FEANTSA also recommends identifying champions at national and local level. At least one staff member at the European level (often two) will need to provide support for the proceedings, with different levels of engagement – sometimes 10-25% of their time, according to the European Trade Union Confederation, sometimes much more, when key moments occur. A hearing may take place in Strasbourg. The entire process requires about 18 months on average. FEANTSA opined that, while the process is relatively cheap, it is time consuming in terms of staff engagement and energy required, in order to effectively mobilise national members, obtain statutory approval within the organisation, liaise with all parties involved, including external legal experts, following the proceedings, accompanying the process with complementary activities (lobbying, awareness-raising, capacity-building etc. It is also important to highlight that EU funding programmes supporting European Networks explicitly rule out expenses related to legal action as eligible, so alternative funding sources need to be identified to carry out such activities (although, as results are not binding, this may need further confirmation).

EaSI - Establishment of 4-years framework partnership agreements to support EU-level networks active in the areas of social inclusion and poverty reduction

The Call for Proposals released by the European Commission in July 2017 clearly specifies the following:
"6.1.3. Ineligible activities: The following types of activities are not eligible for EU funding: membership fees to other networks supported by EU grants; financial support to third parties as defined in point 3 of the Financial Guidelines; sponsorships/scholarships to individuals for their participation in workshops, seminars, conferences, congresses, training courses, etc.; activities supporting individual political parties; **legal actions before national or international courts regardless of their grounds or objectives.**"

This is clarified and reiterated in the FAQ document. All documents available for consultation here: http://ec.europa.eu/social/main.jsp?catId=629&langId=en&callId=520&furtherCalls=yes

What partnerships can be fruitfully established in this pursuit - at national and European level?

Aside from reaching out to pro-bono lawyers, FEANTSA and the European Youth Forum point to contacting other organisations who have carried out similar procedures. Building on other organisations' expertise is a very valuable resource. The ETUC highlights that alliances with other NGOs also active in the same domain are useful not only for tapping into expertise, but also because complaints submitted by more than one party would also be a precedent in the procedure. Aside that, the Forum also recalls that the Social Platform has, in the past, organised events and trainings on the European Social Charter and collective complaints, but the last one was in 2015. Setting up, or linking to existing networks carrying out useful work in the field is another practice exemplified below. The ETUC advises an interested organisation to get in touch with the Social Charter Secretariat, as well as the Conference of INGOs, to see what kind of particular support they can offer NGOs in putting together a complaint.

Housing Rights Watch

FEANTSA's Housing Rights Watch is an interdisciplinary European network of associations, lawyers and academics from different countries, who are committed to promoting the right to housing, which has been recognised as one of the most important fundamental Human Rights. The network, set up in Cardiff in November 2008, seeks the realisation of every person's right to live in dignity and to have a secure, adequate and affordable place to live. It supports exchange and mutual learning through:

- Sharing information on legislative and judiciary initiatives (case-law database, judicial analysis, monitoring of normative outcomes)
- Supporting judicial proceedings at local, national and international level
- Monitoring and intervening on the factual and systemic denial of rights observed at various levels
- Monitoring the development of the housing situation from a rights-based perspective
- Supporting change in public policies at national and European level with the aim of better implementing the right to housing
- Supporting the setting-up of national networks on the right to housing across Europe.

Opportunities and benefits in lodging a complaint

An important strength, according to the European Youth Forum, is a positive outcome from the ECSR can boost advocacy for the same issue in other countries. They also point to the advantage of a lack of need to first exhaust all local remedies, which speeds up the procedure. Submitting such a complaint is a great opportunity to raise awareness and give visibility to the issue, but additional resources are needed to adequately promote it through media (including social media) and other awareness-raising channels, to create a buzz. For example, the European Youth Forum's Facebook post about the complaint was their most liked and shared of all time. FEANTSA underlines that advocacy is needed alongside litigation, as well as training, capacity-building, and awareness-raising activities. In their case, the complaint against France managed to create momentum for the issue, while in the Netherlands unconditional right to shelter was obtained (though it does not extend to undocumented migrants). Another positive aspect is the fact that the complaints influenced case law and jurisprudence, including with implications for the European Court of Justice and national courts. According to the ETUC, political impact is a clear benefit, but they warn on it depending on many factors, such as getting the media on board (trade unions do so more easily than NGOs), investing resources in creating media and political buzz, the willingness of the Government to entertain debate on the topic of the complaint etc.

Positive lessons learned from FEANTSA's experience
- Campaigning and social movements for housing rights found that framing homelessness within the legal rights approach is valuable.
- It gives homeless people a right of action, rather than having homelessness considered simply as a political issue.
- Valuable for advancing and clarifying housing rights and creating a valuable corpus of jurisprudence on the obligations of States in relation to the ESC and RESC.
- Structure international standards/harmonization process top-down.
- Influenced the right to housing at national level by correcting the legislation that caused condemnations.

Threats and challenges in engaging with a collective action

A key weakness, also underlined by the European Trade Union Confederation, is that the outcome is not legally binding, though complaints do tend to lead to changes in both law and practice. Furthermore, only 15 countries have accepted the protocol on Collective Complaints. The ETUC warns that it is a quasi-legal result, as Member States are, in principle, obliged to take implementation measures, but there are no sanctions. Equally, implementation can take a long time, and it is sometimes piecemeal, as national legislative changes may take years. According to FEANTSA, organisations need to carefully balance the costs and benefits of collaboration with Governments to obtain change, versus direct confrontation through legal means. They also warn that collective complaints may have a negative impact on membership, as some national member organisations are service providers funded by the State or local government. In the case of the ETUC, respecting national membership was also a consideration – while they got involved with the complaints

in Bulgaria and Belgium, they did not in the French case, when not all their national affiliates were on board with the action. FEANTSA equally points out that many countries have not ratified the European Social Charter, and the *à la carte* system allows State to pick and choose the articles they accept. One challenge identified by the European Youth Forum was balancing input received from external legal actors with the involvement of national members.

HUDOC-ESC is a database providing access to the Decisions and Conclusions of the European Committee of Social Rights - Decisions adopted by the Committee in the framework of the Collective Complaints procedure, and follow-up of the decisions by the Committee of Ministers; Conclusions adopted by the Committee in the framework of the Reporting System and follow-up of the Conclusions by the Committee of Ministers. You can consult it here: http://hudoc.esc.coe.int