

# The Human Rights-Based Approach in Belarus, Moldova and Ukraine

Regional Study and Practical Guidance  
on the Application of HRBA  
by Civil Society Organisations



This study analyzes the scope of applying the human rights based approach (HRBA) by the civil society organisations in Belarus, Moldova and Ukraine, identifies possible problems which the CSOs might face in this context and opportunities for the successful integration of HRBA in the CSOs' everyday activities, as well as defines practical recommendations for overcoming these problems.

The study is conducted by the group of independent consultants with participation of the research team from FRESNO, The Right Link under the contract with the United Nations Development Programme.



*Opinions, conclusions and recommendations belong to the authors of this publications and do not necessarily represent the opinions of UNDP, other UN agencies or the Ministry of Foreign Affairs of Denmark. The study was conducted in the framework of the project "Democratisation, Human Rights and Civil Society Development" implemented by the United Nations Development Programme under the financial support of the Ministry of Foreign Affairs of Denmark.*

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CAT	Convention Against Torture
CEDAW	Committee on the Elimination of Discrimination against Women / Convention on the Elimination of All Forms of Discrimination against Women
CRC	Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organisation
HR	Human rights
HRBA	Human rights-based approach
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
OHCHR	Office of the High Commissioner for Human Rights
SDGs	Sustainable development goals
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
UPR	Universal Periodic Review



# Executive Summary

The human rights-based approach (HRBA) is currently considered the state-of-the-art approach to advance social development. While the majority of international development actors have either already shifted or are currently reorienting their strategies towards this approach, the conscious application of HRBA by local development actors such as civil society organisations (CSOs) is far less common.

This regional study seeks to provide an overview of the extent to which CSOs apply the HRBA in Belarus, Moldova and Ukraine. The overview was undertaken as part of the Programme for Democratisation, Human Rights and Civil Society in Ukraine, Moldova and Belarus (2013-2016).

The main target audience of this study consists of CSOs in Belarus, Moldova and Ukraine which may benefit from both the theoretical background regarding HRBA and analysis of the current challenges for applying HRBA. These can briefly be summarised as follows:

- The depth of real understanding of HRBA, including the reasons for applying it and the benefits of the approach, is low, and thus most CSOs do not know why or how to apply the approach.
- Applying HRBA as a mainstreaming tool appears to have the greatest promise for effective HRBA implementation by CSOs in the region. A critical issue for properly on-boarding HRBA is, nonetheless, not only the external application of the tool but



also alignment of internal organisational activity, procedures and programming with its core principles. Walking the talk in terms of HRBA, both externally and internally, will be key for genuine application of this development framework.

- Underlying social norms hamper full integration of HRBA principles into some CSOs and distort the focus of situation analysis by most CSOs.

The study also presents a variety of opportunities for successfully integrating HRBA into the organisations' daily work and provides practical suggestions for mitigating the above-mentioned challenges, which can briefly be summarised as follows:

- Share information and experiences about the added value of HRBA application by CSOs in Belarus, Moldova and Ukraine.
- Verify the level of internal understanding of HRBA, including its practical application, through peer support and tailored guidance.
- When identifying a problem, take a critical look at all actors in society, including within the organisation.
- Make full use of existing policy opportunities and HRBA techniques.

In addition to the CSO community in Belarus, Moldova and Ukraine, this review may be of use to the international donor community representatives and development actors who are interested in exploring support for integration of HRBA into practices of the civil society community in these three countries.



# Introduction

For the last decade, the human rights based approach (HRBA) has become one of the guiding principles in the programmatic activities of international organisations and development agencies. The United Nations and its agencies have begun steering their development principles towards HRBA as a technique to promote sustainable social development. The evolution of sustainable development goals (SDGs) has returned human rights issues to the political agenda, opening up a new area of sustainable social development through the involvement of a wider circle of stakeholders that connects individuals with states, and rights with duties. Throughout this process, the role of civil society organisations (CSOs) has increased in significance, as these organisations have the greatest potential to apply sustainable development approaches on the ground.

HRBA is currently considered a state-of-the-art approach to advance social development. But what does it really mean to apply this approach? And what difference does it make if an organisation decides to apply it or not? These and other questions will be touched upon in **Chapter 1** of this study, which provides the theoretical background and history of the concept, as well as some practical tools and techniques for CSOs.

In addition to the informational aspect of this document, the study has been produced within the framework of the Programme for Democratisation, Human Rights and Civil Society in Ukraine, Moldova



and Belarus<sup>1</sup>, which aims to strengthen civil society by building its capacity in order to contribute to the democratic process and to respect for international human rights standards. Against this background, this study aims to provide a snapshot review of the challenges and opportunities for applying HRBA in the context of these three countries. **Chapter 2**, in this respect, presents an overview of these challenges and opportunities for CSOs in the three countries, answering the following questions in the process:

- What is the depth of real understanding of HRBA by civil society in these three countries?
- Is there a difference in this understanding between organisations of different types or with different mandates?
- How does “demanding rights” correlate with “integrating HRBA into an organisation’s work” in these three countries?

Finally, **Chapter 3** revisits the main challenges which form the basis for practical recommendations for CSOs to effectively apply HRBA in their work.

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<sup>1</sup> N.B. This Programme has been supported by the Danish Ministry of Foreign Affairs (DMFA) since 2013.



# 1. The Human Rights-Based Approach (HRBA) – Theory and Practice

The term “human rights-based approach” has a number of definitions that, nonetheless, in all cases revolve around two major underlying principles: on the one hand, making sure that those who possess the rights are able to effectively make their voices heard, and, on the other hand, empowering those who need to ensure that the rights are honoured are indeed able to do this work. In other words, the “human rights-based approach is about empowering people to know and claim their rights and increasing the ability and accountability of individuals and institutions that are responsible for respecting, protecting and fulfilling rights”<sup>2</sup>. Put even more simply, the HRBA aims to answer the following questions in sequential order:

*Figure 1. Key questions of the HRBA*



<sup>2</sup> Adapted from SHRC n.d.



To ensure that the terms used throughout this review are interpreted consistently, the following definitions are provided:

### HUMAN RIGHTS

Human rights are rights inherent to all human beings, regardless of their nationality, place of residence, sex, national or ethnic origin, skin colour, religion, language, or any other status. Everyone is equally entitled to their human rights without discrimination<sup>3</sup>. Human rights law obliges governments (principally) and other duty-bearers to do certain things and prevents them from doing others<sup>4</sup>.

Among the rights internationally guaranteed to all human beings are<sup>5</sup>:

- The right to life, liberty and security of person
- Freedom of association, expression, assembly and movement
- The right to the highest attainable standard of health
- Freedom from arbitrary arrest or detention
- The right to a fair trial
- The right to just and favourable working conditions

- The right to adequate food, housing and social security
- The right to education
- The right to equal protection of the law
- Freedom from arbitrary interference with privacy, family, home or correspondence
- Freedom from torture and cruel, inhuman or degrading treatment or punishment
- Freedom from slavery
- The right to a nationality
- Freedom of thought, conscience and religion
- The right to vote and take part in the conduct of public affairs
- The right to participate in cultural life

### RIGHTS-HOLDERS

All human beings are rights-holders. They are entitled to the rights set out in both their national laws and international treaties and are entitled to claim these rights; at the same time, rights-holders also have the responsibility to respect the rights of others<sup>6</sup>.

<sup>3</sup> OHCHR n.d. h.

<sup>4</sup> OHCHR 2006.

<sup>5</sup> Ibid.

<sup>6</sup> OHCHR 2006.



## DUTY-BEARERS

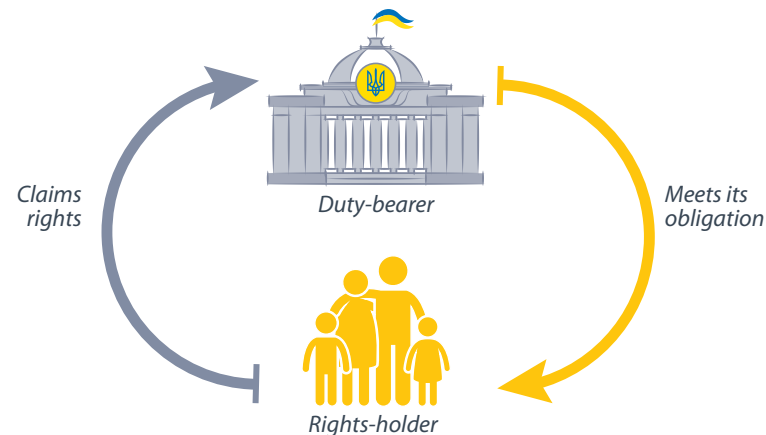
Duty-bearers are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. Depending on the context, individuals (e.g. parents), local organisations, private companies, and international institutions can also be duty-bearers<sup>7</sup>.

## HUMAN-RIGHTS-BASED APPROACH

A human rights-based approach (HRBA) is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. The objective of the HRBA is to empower rights-holders to realise their rights and strengthen duty-bearers to comply with their human rights obligations and duties<sup>8</sup>.

HRBA focuses on the relationship between rights-holders and duty-bearers, as illustrated in the figure below:

Figure 2. The relationship between rights-holders and duty-bearers<sup>9</sup>



<sup>7</sup> Adapted from UNICEF, UNFPA, UN Women, UNDP n.d.

<sup>8</sup> Adapted from ibid.

<sup>9</sup> Adapted from UNCAT Vietnam 2009 and UNICEF Finland 2005.

### 1.2. HRBA PRINCIPLES

The general purpose of the HRBA is advancement of socio-economic, cultural and other aspects of human development with adherence and reference to human rights principles, namely:

1. Universality and inalienability
2. Indivisibility
3. Interdependence and inter-relatedness
4. Equality and non-discrimination
5. Participation and inclusion
6. Accountability and rule of law

In recent years, a variety of actors have adapted these principles into the HRBA they apply to their programmes, which can be summarised as follows:

#### PARTICIPATION

Active, free and meaningful participation is both a means and an end in itself. It is ensured by active meaningful participation as well as local ownership in development processes.

#### TRANSPARENCY

Access to information and freedom of expression has to ensure that all people have access to free and independent information, so that those in power can be held accountable for actions.

#### ACCOUNTABILITY

The state, but also other actors, are responsible for respecting, protecting and fulfilling human rights and should be held accountable. The realisation of human rights requires that state formation and governance be based on the principles of the rule of law and on democratic and inclusive legislative processes.

#### EQUALITY AND NON-DISCRIMINATION

All persons are equal and should have equal access to public services and opportunities, to security and justice. Key is the empowerment of the poor and marginalised to fight for their rights as active individuals. This entails a special focus on promoting vulnerable groups' rights and equal access to decision-making, resources and opportunities.

*Source: Adapted from DANIDA 2013<sup>10</sup>*

<sup>10</sup> N.B. Adapted from DANIDA 2013, but see also SIDA 2015, BMZ 2010 and OHCHR 2006.



It should, however, be highlighted that all of these HRBA principles have their internal and external application aspects. These are explained in the list below, which summarises how organisations can apply them in their internal and external processes.

*Table 1. HRBA Principles check-list for CSOs*

HRBA principle	External application	Internal application
Participation	The organisation takes part in some or all phases of the public policy process at the local or national level: planning, design, implementation, monitoring and/or evaluation of public policy.	The organisation's beneficiaries or stakeholders are welcome to take part in the internal activities of the organisation. Participation of clients and constituency is encouraged.
Non-discrimination	The organisation's activities aim to highlight discrimination experienced by different groups of individuals in the country and to counter it through thematic activities (culture, governance, economy, healthcare, education, etc.).	Equal (non-discriminatory) treatment of staff members, clients, and constituency representatives is an essential internal value of the organisation that is not only declared but also lived.

Transparency	The organisation pushes public authorities to make information about their decision-making processes available to the public.	Information about plans and decisions (e.g. strategy, action plan, overall budget, sources of funding) of the organisation are available to the public.
Accountability	When the organisation detects a rights violation, it approaches the institution, person or body (e.g. local authority, government) which should be held accountable and tells them that they need to act to stop this violation because it is their duty. It then holds the defined duty-bearer to account in removing the violation.	If it is discovered that a staff member in the organisation has violated any right, this person is held accountable for his or her actions. The organization takes responsibility for its actions if they result in a rights violation (deliberate or inadvertent).

## 1.3. NORMATIVE AND OPERATIONAL FOUNDATIONS OF HRBA

HRBA has both normative and operational foundations<sup>11</sup>. On the normative side, HRBA is based on international human rights standards, meaning that all international human rights treaties form the framework for using the approach.

On the operational side, HRBA focuses on ensuring sustainable human development through better promotion and protection of human rights. This overall objective has an effect on the focus of all stages of project or programme activities, as will be shown in the next section. However, before this, it is important to understand the human rights framework and the role of the various actors which shape the normative basis of HRBA.

### 1.3.1. LEGAL FRAMEWORKS AND THE COMPLEXITY OF DIFFERENT ACTORS

As explained earlier, rights-holders and duty-bearers are the main actors within the human rights framework. Although the definition of these actors presented above may appear simple, this chapter summarises

#### RIGHTS-HOLDERS

A rights-holder is any individual in any country or territory of the world, as all UN member states must, in principle, adhere to the Universal Declaration of Human Rights<sup>12</sup> (UDHR), and therefore commit to securing the universal and effective recognition and observance of human rights<sup>13</sup>. States also usually commit to guaranteeing human rights in their national constitutions and legislation, which can be referred to and relied upon when claiming rights. The principles of the UDHR have also been elaborated in a wide range of international treaties which are binding to the states that have ratified them, meaning that the rights-holders in these states can hold the states accountable for the rights they have agreed to protect, respect and fulfil. In this context, it is also worth highlighting that, although everyone has the same rights, sometimes the equal worth and dignity of some individuals can only be assured through the recognition and protection of their rights as members of a group. These rights are referred to as “collective rights” or “group rights” and

<sup>12</sup> UN General Assembly 1948.

<sup>13</sup> Ibid., Preamble.

<sup>11</sup> OHCHR 2006.



are important because of the additional need to protect the rights of certain groups that have been known to experience inequalities in realising all their rights (e.g. ethnic minorities, women, children, people with disabilities etc.). For an overview of the main human rights treaties, including those on collective rights, ratified by Belarus, Ukraine and Moldova, see Annex 1 (Status of ratification of human rights instruments as of 29 July 2016).

Consequently, a rights-holder is entitled to the rights set out in both national laws and international treaties and is entitled to claim these rights while at the same time respecting the rights of others<sup>14</sup>. Another important issue to bear in mind in the context of HRBA is that some rights-holders may not be aware of their rights or might not be able to or know how to claim their rights<sup>15</sup>.

### DUTY-BEARERS

By ratifying an international human rights treaty, a state agrees that every human being has the rights outlined in the treaty; hence every human being is a “rights-holder”. By doing so, the state commits itself to reflecting this treaty in national law – that is, adapting its national legal framework to protect, respect and fulfil the rights outlined in

the appropriate treaty, for example by passing new national laws or adapting existing ones. From a rights perspective, this makes the state the overall duty-bearer<sup>16</sup>, because it is responsible for protecting the rights it agreed to respect in the international treaty and for incorporating international human rights treaties into national laws. However, what happens if an international human rights treaty has been properly incorporated into national law but the rights exist only on paper and not in practice? In such a circumstance, the question of “who is the duty-bearer” becomes much more complex, as the duties trickle down from the legal framework to the level of practical implementation. At this stage, there may be many duty-bearers, such as government departments, ministries, local authorities, courts, police, schools, teachers and any person or organisation delivering a service or acting on behalf of the state<sup>17</sup>. Consequently, it can be said that in the majority of cases, state actors are duty-bearers.

To make things even more complex, depending on the context in which a rights-holder exercises his or her rights, there are also non-state actors which can be duty-bearers; some literature refers to these actors as “moral duty-bearers”<sup>18</sup>. For example, the Convention on the Rights of the Child<sup>19</sup> states that “parents or, as the case may be,

<sup>14</sup> OHCHR 2006.

<sup>15</sup> UNICEF Finland 2005.

<sup>16</sup> OHCHR 2006.

<sup>17</sup> OHCHR 2006.

<sup>18</sup> UNICEF n.d. b.

<sup>19</sup> UN General Assembly 1989.



legal guardians, have the primary responsibility for the upbringing and development of the child<sup>20</sup>; hence, private individuals, such as parents and legal guardians, can also be duty-bearers<sup>21</sup>. Another example is the Convention on the Elimination of All Forms of Discrimination against Women<sup>22</sup>, which guarantees “the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment” for all women and prohibits dismissal on the grounds of pregnancy or maternity leave as discrimination<sup>23</sup>. This makes employers and private companies<sup>24</sup> first-line duty-bearers who have the obligation to respect this right, along with all other human rights that are legally binding in the respective country.

Moreover, international organisations can also function as duty-bearers, especially if their mandate is to monitor the protection of all human rights (e.g. OHCHR) or collective rights (e.g. UNICEF, UN Women etc.). However, in this function their duty is mainly limited to advocating for the protection of human rights in a particular country<sup>25</sup>, which is usually accomplished by building the capacities of national duty-bearers and rights-holders.

It is also worth noting that there are independent human rights bodies which are responsible for monitoring the protection of all human rights (e.g. the Human Rights Council<sup>26</sup>) as well as the implementation of specific human rights treaties (e.g. ICCPR<sup>27</sup>, CRC<sup>28</sup>, CEDAW<sup>29</sup> etc.). These bodies have the duty to determine whether human rights are respected and to make recommendations to the states regarding how to address any human rights violations that may have been observed<sup>30</sup>. It should be stressed that individual rights-holders, groups of individuals or organisations representing rights-holders (e.g. CSOs) may file complaints or present shadow reports<sup>31</sup> to some of these bodies, and these may lead to further investigations by the body and/or enhance the accuracy of the body’s findings and improve the recommendations to the state.

In certain contexts, CSOs may also have the role of duty-bearers. First and foremost, just like private companies, they are obliged to respect national human rights laws when conducting their activities. Moreover, if CSOs are delivering any service on behalf of the state (e.g. medical care, child care, home assistance for elderly persons or people with disabilities etc.) they become a state actor and hence a first-line duty-bearer.

<sup>20</sup> UN General Assembly 1989, Article 18.

<sup>21</sup> Ibid.

<sup>22</sup> UN General Assembly 1979.

<sup>23</sup> Ibid. Article 11.

<sup>24</sup> OHCHR 2011.

<sup>25</sup> E.g. UNICEF n.d.

<sup>26</sup> OHCHR n.d., a.

<sup>27</sup> OHCHR n.d., b.

<sup>28</sup> OHCHR n.d., c.

<sup>29</sup> OHCHR n.d., d.

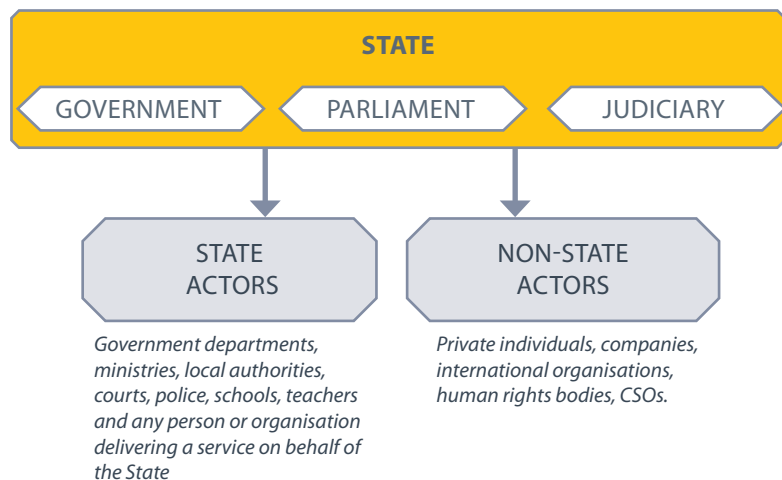
<sup>30</sup> OHCHR n.d., e.

<sup>31</sup> OHCHR n.d., f.



In short, the landscape of duty-bearers is diverse, as Figure 3 shows. Depending on the type of right and the ratification or implementation level of a human rights treaty, the duty-bearers may vary. An important issue in the context of the HRBA is that some duty-bearers may not be aware of their role and, therefore, their responsibilities, while others may not have the capacity to fulfil them.

Figure 3. Diversity of duty-bearers



### 1.3.2. HOW TO APPLY HRBA TO ACTIVITIES AND PROJECT PHASES

On the operational side, an internal cross-check of compliance with HRBA principles for internal and external activities is an essential prerequisite for the HRBA. However, actual HRBA application starts with proper situation analysis that identifies underlying root causes of a certain problem from a rights perspective and consequently guides the programming of actions towards the solution of the identified problem. This solution, as a rule in HRBA, is always related to capacity gaps of both rights-holders and duty-bearers, i.e. the problem must be solved by closing these capacity gaps. In this sense, it bears emphasising that both process and outcome are equally important for the HRBA, as represented in Figure 4.

Figure 4. The equal importance of process and outcome to HRBA



The following section therefore guides the reader through the different steps of applying HRBA to all phases of a project (i.e. process) and lists a variety of tools and techniques that can be used to close capacity gaps mentioned above. These tools may not be new for many CSOs, but their purpose may change when applying the HRBA to the outcome.

It should be noted that the following information has been adapted<sup>32</sup> to the needs of the CSOs identified by this research.

## PHASE 1: Situation Analysis

For proper situation analysis in an HRBA approach, the following three steps should be taken into account and focus on the associated questions:

**1. Problem identification:** *What is the problem? Who is concerned? Which rights are violated (check against definition of relevant rights, consult Conventions)? Which legal framework applies (international, national, both)?*

**2. Problem analysis:** *What are the causes of this problem? What are the superficial causes (easily observable, seemingly evident)? What are*

*the root causes (the fundamental concrete reasons for the existence of a problem)?*

**3. Stakeholder analysis:** *Who are the rights-holders? Who are the duty-bearers? Who is affected by the problem? Who is responsible? What do the rights-holders and duty-bearers need in order to act?*

This situation analysis should lead to the following results:

## HRBA SITUATION ANALYSIS: RESULTS



There is a variety of tools that can be used to facilitate a situation analysis in the HRBA approach. Three practical examples are presented below.

- Tool 1: FAIR Flowchart
- Tool 2: Problem Tree Analysis
- Tool 3: Role Analysis

<sup>32</sup> UNCT Vietnam 2009.



### TOOL 1: FAIR Flowchart

The Scottish human rights commission developed the FAIR Flowchart<sup>33</sup> to help in the application of the HRBA in practice. The FAIR Flowchart breaks down situation analysis into the following steps:

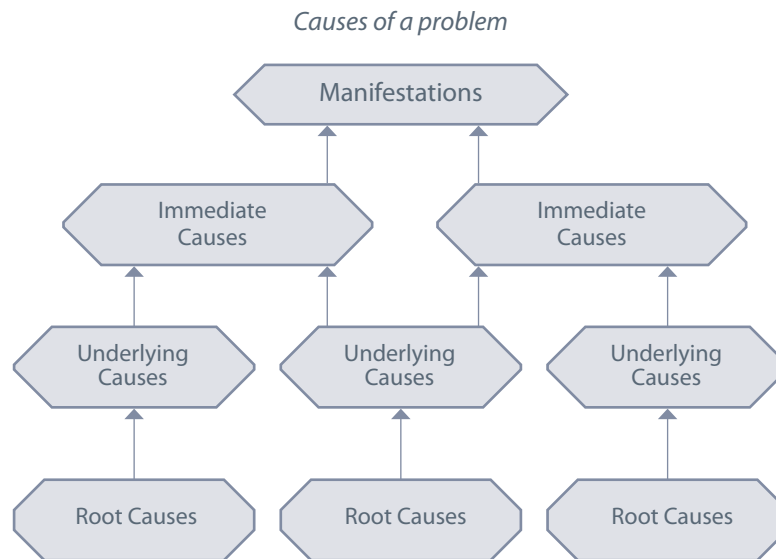
<b>F</b>	<b>Facts</b> What is the experience of the individual? Is the individual being heard and, if not, do they require support to do so? What are the important facts to understand?
<b>A</b>	<b>Analysis of right(s) at stake</b> What are the human rights or issues at stake? (refer to Key Rights Explained <sup>34</sup> for help)
<b>I</b>	<b>Identification of shared responsibilities</b> What changes are necessary? Who has responsibilities for helping to make the necessary changes?
<b>R</b>	<b>Review actions</b> What changes are necessary? Have the actions taken been recorded and reviewed and has the individual affected been involved?

<sup>33</sup> SHC n.d. b.

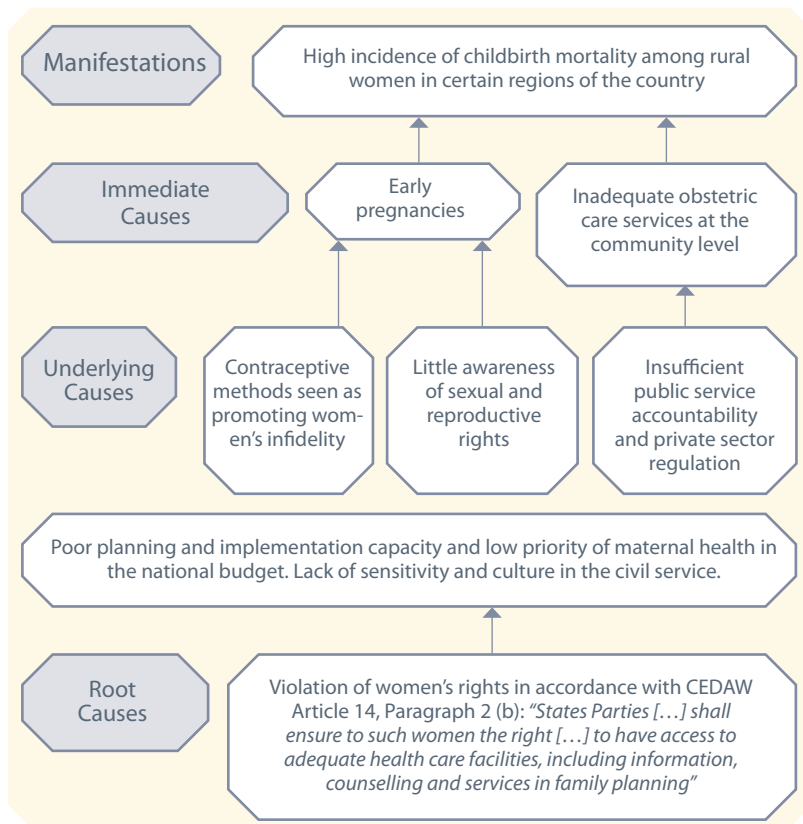
<sup>34</sup> SHC n.d. c.

### TOOL 2: Problem Tree Analysis

A commonly used tool in UN training sessions on HRBA<sup>35</sup> is the “Causality Tree” or “Problem Tree” as method for problem analysis.



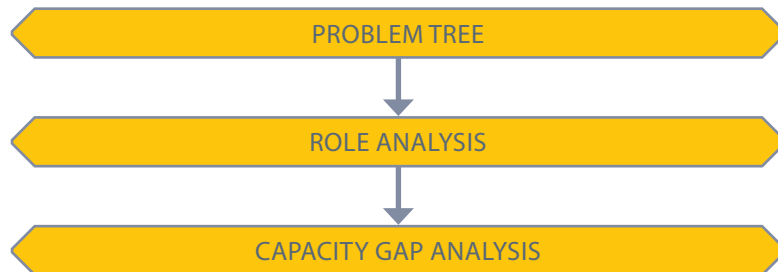
<sup>35</sup> UNSSC n.d.



### TOOL 3: Role Analysis

Another helpful tool used to identify stakeholders is the Role Analysis, developed by United Nations System Staff College<sup>36</sup>, which includes a Capacity Gap Analysis for each identified stakeholder and their rights claims or obligations. Ideally, this tool should be used after completing a proper problem analysis, such as the Problem Tree (see Figure 5).

Figure 5. The ideal sequence of complementary tools for a Situation Analysis



<sup>36</sup> UNSSC n.d.



**Example: Right to Education**<sup>37</sup>

Stakeholder	Rights / Obligations	Capacity gap
<b>Rights-holder:</b> Children with disabilities	<b>Claim:</b> ensure access to quality primary and secondary education without discrimination	<b>Capacity gaps:</b> rights-holders and legal guardians are not aware of their rights
<b>Duty-bearer (1):</b> School Administration	<b>Obligations:</b> improve physical accessibility to classroom and toilets, ensure teachers' attendance	<b>Capacity gaps:</b> insufficient funding to make the necessary changes
<b>Duty-bearer (2):</b> Provincial Direction of Education	<b>Obligations:</b> carry out regular inspections in public and private schools and address individual complaints	<b>Capacity gaps:</b> insufficient staff to carry out inspections; unaware of the problem
<b>Duty-bearer (3):</b> Ministry of Education	<b>Obligations:</b> promote inclusive education policies, train teachers, adapt textbooks	<b>Capacity gaps:</b> resistance in society against inclusive education

**PHASE 2: Project Design and Planning**

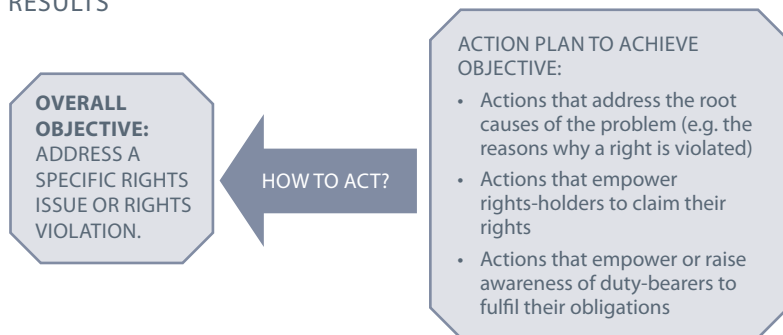
The project design and planning phase builds on the results of the situation analysis. An HRBA perspective is applied to each of the three steps under this phase, namely:

- 1. Set overall objective:** Which right / rights violation needs to be addressed?
- 2. Plan programme activities (i.e. action plan):** Which activities can address the root causes that are responsible for this rights violation? How can affected rights-holders be empowered to claim their rights? What do the duty-bearers need in order to respect, protect and fulfil the human rights of the rights-holders?
- 3. Involve all stakeholders:** Are both the identified rights-holders and the duty-bearers involved in the planning, implementation and monitoring of your project?

<sup>37</sup> Adapted from ibid.

This project design and planning phase should lead to the following results:

## HRBA PROJECT DESIGN AND PLANNING: RESULTS



There are several tools available to address specific rights issues and root causes responsible for rights violations. Many of these are particularly useful to empower rights-holders and raise the awareness of duty-bearers. The following section presents an overview of some of these tools and how they can be used to close the capacity gaps of rights-holders and duty-bearers.

## Tools to close capacity gaps

Some essential HRBA tools to empower rights-holders include direct democracy (e.g. collecting the signatures for the local initiatives, participation in advisory bodies and civic councils within central and local authorities, initiation of and participation in public hearings). On the duty-bearers' side, capacities can be built by assisting authorities in the decision-making process (citizens' expertise, consulting services, self-governance in local communities, public discussions for challenging issues pertinent to the community, elaboration of recommendations for authorities). Furthermore, advocacy campaigns are an excellent tool to raise awareness among both rights-holders (who might not know about their rights) and duty-bearers (who might not be aware of violations or inequitable access, for example).

The following list is a partial enumeration of actions that may help close the capacity gaps of duty-bearers and rights-holders

- Joint working groups bringing together representatives of public and private sectors;
- Meetings involving the target groups whose rights are promoted or protected and the organisations' supporters;
- Lobbying, advocacy and campaigning, including through traditional and social media;



- Shadow reports to the UN and other bodies that monitor human rights treaties (e.g. Universal Periodic Review);
- Civic monitoring of public authorities' activities and elaboration of recommendations for them;
- Training / educational programmes for target groups or beneficiaries;
- Collecting signatures, launching petitions (including e-petitions);
- Networking, teaming up with peer organisations.

### PHASE 3: Project Implementation

Building on the results of the previous two phases, the integration of HRBA into the project implementation phase comprises three steps:

- 1. Involve all stakeholders:** Which rights-holders and duty-bearers are involved?
- 2. Close capacity gaps:** How do your activities strengthen the capacities of rights-holders to claim their rights? How do your activities strengthen the capacities of duty-bearers to respect, protect and fulfil the human rights of rights-holders?

- 3. Adhere to HR standards:** Are your implementation routines (day-to-day activities, e.g. working with beneficiaries, advocacy campaigns, content of training etc.) in line with human rights standards?

### HRBA PROJECT IMPLEMENTATION: RESULTS



### PHASE 4: Monitoring and Evaluation

A monitoring and evaluation plan should already be present at the project design phase, as this is when the overall project objective and activities are decided on. In order to monitor whether a project is on track, a set of carefully considered indicators is an excellent tool to provide project managers with the necessary information to take the appropriate management decisions. Furthermore, another set of



carefully selected indicators makes it possible to verify whether the project has achieved its objective.

Additionally, indicators can be used as a tool for<sup>38</sup>:

- Making better policies and monitoring progress;
- Identifying unintended impacts of laws, policies and practices;
- Identifying which actors are having an effect on the realisation of rights;
- Determining whether these actors are meeting their obligations;
- Providing early warning signals of potential violations;
- Exposing issues that had been neglected or silenced.

here are four types of indicators to which the HRBA can or should be applied:

### HRBA MONITORING AND EVALUATION: RESULTS

Types of indicators	What do they measure?	Examples
1. Output indicator	<b>Deliverables</b>	Goods produced, services delivered by the project in order to change a situation (see outcome indicator below)

2. Outcome indicator	<b>Changes</b> in the situation that the project tries to influence	Changes of social norms, politicians' attitudes, legislation, rights-holders' behaviour etc.
3. Impact indicator	<b>Changes in lives</b> , changes in well-being of rights-holders	Demonstrated change in the lives of affected rights-holders who can now exercise their rights/a specific right (which they could not before)
4. Process indicator	Extent to which the project's processes <b>meet human rights principles</b> ?	All project processes are universal and inalienable, indivisible, interdependent and inter-related, equal and non-discriminatory, participatory and inclusive as well as accountable.

However, when it comes to defining the most appropriate indicators, it is very important to consider whether the organisation actually has the capacity to collect the relevant data on the indicators it is planning to measure. Impact indicators, in particular, might be difficult for small organisations to track, as they often do not have the capacity to conduct large-scale surveys on changes in the well-being of rights-holders, for example, although such data may be obtained through secondary sources (e.g. statistics, surveys by third parties etc.). With this in mind, outcome indicators are the most important element for CSOs with a limited capacity to measure and monitor how their activities succeed in building the capacities of rights-holders and duty-bearers.

<sup>38</sup> UNDP n.d.



## 1.4. THE BENEFITS OF HRBA

It is widely recognised that promoting and protecting human rights is crucial for achieving peace, sustainable human development, democracy and security, and that these aspirations and common goals are inseparably linked and interdependent. The many benefits of the HRBA can be summarised as follows<sup>39</sup>:

HRBA...	
increases and strengthens the participation of the local community	reduces vulnerabilities by focusing on the most marginalised and excluded in society
improves transparency	increases accountability
promotes realisation of human rights and helps government partners achieve their human rights commitments	is more likely to lead to sustained change as human rights-based programs have been designed to have an impact on cultural and social norms and values, structures, policy, and practice

<sup>39</sup> UNICEF Finland 2005.

## 1.5. THE EVOLUTION OF THE HRBA AND CURRENT TRENDS

The HRBA is a concept that began in the context of international development cooperation, with the United Nations being one of the main global actors calling for a change in the approach to development. Previously, development cooperation had tended to focus on a needs-based approach which tried to identify the basic requirements of beneficiaries in order to either improve service delivery or advocate for these requirements to be met<sup>40</sup>. United Nations agencies themselves had applied a needs-based approach until at least the late 1990s, but started shifting their strategies drastically when the UN Secretary General in 1997 called for mainstreaming human rights into all work of the United Nations<sup>41</sup>. In 2003, various UN organisations developed the Statement of Common Understanding on the Human Rights-Based Approach<sup>42</sup>, in which they agreed to apply this approach to all strategies and programmes. In parallel, the majority of development agencies and international development actors have also shifted to base their approaches on human rights<sup>43</sup>. Having undergone this evolution, HRBA is now considered the state-of-the-art technique to advance social developmen.

<sup>40</sup> UNFPA, n.d.

<sup>41</sup> HRBA Portal n.d.

<sup>42</sup> Ibid.

<sup>43</sup> UNESCO 2006.

There are several ways in which the HRBA may be distinguished from the needs-based approach, but its most distinctive feature is the way in which a problem is analysed, which consequently affects how the problem is addressed. To demonstrate the difference between the two approaches, the tables below provides a brief comparison<sup>44</sup>, with a focus on problem analysis.

Table 2. Problem analysis: Needs-based vs. Rights-based lenses

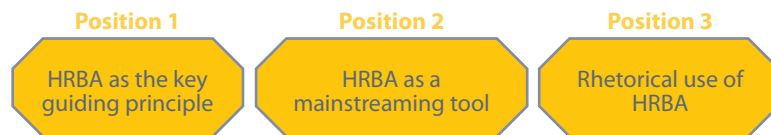
Needs-based approach	HRBA
<b>Different ways of looking at the problem...</b>	
What do the people need?	Why can rights-holders not exercise a certain right?
<b>... lead to different solutions:</b>	
Two alternatives:  1) Can I provide the people with what they need?  2) How can I make the responsible person or institution provide the people with what they need?	Two parallel actions:  1) Why do the rights-holders not claim this right? What do they need to claim this and other rights? How can I empower them to claim their rights?  2) Why do the duty-bearers not fulfil their obligations? What do they need in order to respect, protect and fulfil the rights of rights-holders? How can I make them aware of the problem so that they react to the claims of rights-holders?

### 1.5.1. THREE COMMON CSO POSITIONS ON HRBA APPLICATION

In view of the growing trend of HRBA in development cooperation, the CSO Platform for Development Effectiveness commissioned a study<sup>45</sup>. on the current practices of integrating the HRBA into development cooperation. One important focus of this global study was the comparison of different stakeholders' positions on the HRBA. For the purpose of our regional study, the following findings provide valuable insights into CSOs' attitudes towards HRBA, which serve as an important background to better understand the current status of HRBA integration by Belarusian, Moldovan and Ukrainian CSOs.

Summarising different attitudes in civil society, we may identify three main positions on HRBA<sup>46</sup>:

Figure 6. Common positions on HRBA



<sup>45</sup> D'Hollander, Pollet & Beke 2013.

<sup>46</sup> Ibid.



Position 1	The most radical position is held by those CSOs that regard a HRBA as the key guiding principle of development cooperation. According to this view, development goals should be replaced by targeted compliance with human rights norms as the ultimate objective of all development practitioners. The idea is to eliminate the causes of poverty, injustice and discrimination by enabling people to exercise and claim their rights. Implementing this view in daily practice requires a re-design of partnerships, staff, tools and monitoring processes, with a focus on long-term rather than short-term project cycles. CSOs that are active as watchdogs or advocacy organisations in the field of human rights and gender equality, trade unions, as well as some development NGOs are often supporters of this radical view on HRBA.
Position 2	A second group of CSOs sees the implementation of a HRBA as a mainstreaming tool. This means that they systematically use HRBA as a transversal issue in all their actions (in a similar way as for core issues such as gender equality and environmental sustainability), without turning it into the ultimate, overarching goal or guiding principle of their programmes. Many development NGOs that are in favour of this HRBA concept may specialise in providing services in particular sectors such as education, water and sanitation (i.e. a needs-based approach), and argue that through their role as a service provider in a community, they are able to build a relationship of trust which serves as a basis for empowerment and advocacy initiatives. As a mainstreaming tool, CSOs in favour of this position try to integrate human rights into all aspects of their activities by promoting active participation, inclusion of vulnerable groups and non-discrimination.

Position 3	A third group of CSOs make largely rhetorical use of HRBA. Some of them strategically use 'rights-language' in their campaign activities towards a specific goal but do not see the human rights framework as their point of departure. Such an approach has been described as 'rights-framed' instead of 'rights-based' with a strong accent on empowerment and capacity-building aimed at promoting human development without necessarily implementing HRBA.
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In sum, HRBA is a different way of doing some of the same things. Promoters of the HRBA argue that the approach is more sustainable than others. However, many of those in favour of the HRBA stress that the approach may be used in parallel to the needs-based approach. The difference in positions on HRBA highlights the importance of using the approach with care by educating rights-holders and duty-bearers about their respective rights and duties, including their roles and obligations within the human rights framework.



## 2. Current challenges and opportunities for applying HRBA in Belarus, Moldova and Ukraine

This chapter reflects the main challenges and opportunities for CSOs in applying the HRBA in Belarus, Moldova and Ukraine. As background information on the respective preconditions, the first sub-chapter summarises the specific environments in which civil society operates in each of the countries. Given that HRBA is a relatively new concept for programming activities, it is also necessary to analyse the current depth of understanding of HRBA within CSOs in these countries. Hence, the second sub-chapter is dedicated to the analysis of differences in such understanding and the causes of these differences. The challenges and opportunities of applying HRBA are further explored by looking at the current tools used and their potential in applying HRBA, as well as by analysing the correlation between “demanding rights” and “integrating the HRBA into one’s own work” and current strategies for applying HRBA in contexts with limitations on rights advocacy. Moreover, country-specific opportunities are identified with regard to current policies and trends.

The main sources for this chapter are direct observations during the international workshop<sup>47</sup>, held in June 2016, the results of an online questionnaire<sup>48</sup> with replies from 41 CSOs<sup>49</sup> from Belarus, Moldova and Ukraine, 10 in-depth interviews<sup>50</sup> conducted with experts from

<sup>47</sup> Fresno, the right link 2016.

<sup>48</sup> See Annex 2.

<sup>49</sup> N.B. This questionnaire had been distributed to 100 CSOs.

<sup>50</sup> See Annex 3.



international organisations and CSOs active in the three countries as well as relevant literature<sup>51</sup> on the civil society situation in the respective countries.

## 2.1. COUNTRY-SPECIFIC OVERVIEWS

Concerning the depth of understanding of HRBA, none of the sources consulted for this research identified any major difference in the level of understanding between CSOs from the three countries analysed. On the contrary, all three countries show a comparably low level of understanding and degree of integration of HRBA, as will be explained in the subsequent sub-chapters. However, in order to better understand the reasons for the present situation, the sections below describe the specific environments in which civil society operates in each of the countries. They describe the current legal frameworks, funding situations, activities and membership engagement, which are all factors that can pose challenges or opportunities for CSOs.

### 2.1.1. BELARUS

The current legislative framework in Belarus presents major obstacles to the operation of CSOs in the country, from complex and arbitrary

CSO registration procedures and funding restrictions to limitations of or wholesale prohibition of activities<sup>52</sup>. Moreover, the rights of CSOs to peaceful assembly and freedom of expression are currently severely restricted, while mechanisms of policy dialogue between public authorities and civil society are neither regulated nor widespread. These conditions have prompted numerous Belarusian CSOs to operate unregistered or to opt for registration abroad (especially in EU countries)<sup>53</sup>.

Regarding the profile of unregistered CSOs, it is worth highlighting that these are up to 2-3 times more common among citizens' initiatives aimed at human rights protection and civil society support. The chances of organisations with any kind of political agenda being officially registered in Belarus are very low<sup>54</sup>. These characteristics provide important insights into the country's CSO landscape, especially when comparing them with statements from the workshop and interviews<sup>55</sup> which identified two related factors that are currently said to hamper HRBA application by Belarusian CSOs:

- 1) the negative perception of human rights mainstreaming in Belarus and consequent "shaming" of human rights defenders and those who are involved in HR-related acti;

<sup>51</sup> Konrad Adenauer Foundation et al. 2014, Chiriack et al. 2015, Palyvoda et al. 2015.

<sup>52</sup> Konrad Adenauer Foundation et al. 2014.

<sup>53</sup> Ibid.

<sup>54</sup> Konrad Adenauer Foundation et al. 2014.

<sup>55</sup> See Annex 2 and Annex 3.

- 2) the politicisation of human rights issues, notably by both the government and CSOs.

In view of these observations, it may well be assumed that unregistered CSOs in Belarus face more challenges in applying the HRBA than do registered ones. This argument is supported by the fact that unregistered CSOs have significantly fewer opportunities for cooperation with government agencies and other public institutions<sup>56</sup>. Furthermore, they are described as more distant from the needs of the target groups in the country due to their higher dependency on funding from abroad<sup>57</sup>. These circumstances clearly influence CSOs' abilities to identify the capacity gaps of duty-bearers and rights-holders and consequently their ability to close them.

One of the main reasons for the lack of cooperation described between CSOs and public authorities is prejudice on the part of public authorities, including by civil servants, who tend to identify CSOs with the political opposition<sup>58</sup>. While this phenomenon is experienced by both registered and unregistered CSOs, unregistered ones are additionally threatened with criminal prosecution if they continue their activities without registration. On the one hand, this makes participation in unregistered CSOs not only risky but certainly

less attractive for potential members who might strengthen the capacity of any organisation. On the other hand, it explains why human rights terminology is often camouflaged in the work of many CSOs, as described in the expert interviews and the workshop<sup>59</sup>.

*«Using the term 'human rights' can be dangerous for CSOs in Belarus, so not calling it a human rights-based approach could help. The HRBA is actually a 'social developmental approach'. However, it must remain within the framework of human rights».*

**Natallia Karkanitsa, National Human Rights Coordinator,  
OHCHR in Belarus**

The deliberate avoidance of human rights terminology is undoubtedly an adverse precondition for the application of an approach that aims to promote human rights; however, not all interviewees shared the view that the taboo status of "human rights" was the most prominent obstacle to a successful application of HRBA by Belarusian CSOs.

*«We also thought about changing the name when working with Belarusian CSOs. The term 'human approach' came up but we realised that this was a bad idea because the common understanding of the concept shifted back to the needs-based approach, which was not the goal. What is important is to change*

<sup>59</sup> N.B. according to opinions expressed during the workshop and interviews.

<sup>56</sup> Konrad Adenauer Foundation et al. 2014.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.



*the mind-set of politicians. They must understand that 'human rights' is not such a bad thing. HR is a smart thing to do!»*

**Jane Klementieva, Programme Manager,  
Danish Institute for Human Rights**

These characteristics of the environment in which Belarusian CSOs operate may be one explanation for the low level of knowledge and understanding of HRBA among Belarusian CSOs which was identified by all sources used for this study. Nevertheless, the interviews point to the fact that meaningful information on the HRBA is currently scarce, as material on HRBA is often not available in Russian and, if available, it is not targeted at CSO audiences.

*«The level of applying of HRBA [among Belarusian CSOs] is relatively low. The approach is almost unknown. More advanced organisations apply needs-based approaches oriented at their target groups but do not use the terms duty-bearers and right-holders in an internationally recognised meaning. On the one hand, human rights are a common concept, but HRBA is not applied due to the low level of awareness. There is not enough literature for dissemination in Russian. Only Swedish and Danish donors raise HRBA issues [in Belarus]».*

**Aleh Hulak,  
Belarusian Helsinki Committee**

Additionally, the restrictive legislation on CSO activities makes them highly dependent on external funding and hence donor requirements. According to the expert interviews, these requirements are often not fully understood, nor do they reflect the immediate needs of CSOs; many of them feel pushed into using HRBA without seeing any added value from it.

### 2.1.2. MOLDOVA

Compared to Belarus, the legislative framework in Moldova provides CSOs with far better conditions to operate freely<sup>60</sup>. Moreover, Moldovan public authorities at the central and local level are generally felt to be aware of the importance of policy dialogue with CSOs, and express their willingness to cooperate with civil society in order to solve various socio-economic problems<sup>61</sup>. This cooperation is characterised by an active role of civil society in problem identification – forming the basis for policy design – as well as in the promotion of policies. Many Moldovan CSOs have also specialised in monitoring and evaluating public authorities; however, few CSOs participate in the actual implementation of policies<sup>62</sup>. This may be related to the fact that public grants to CSOs are uncommon, while public contracting of CSOs for the provision of services remains scarce despite legal

<sup>60</sup> Cf. Konrad Adenauer Foundation et al. 2014 with Chiriac & Tugui 2015.

<sup>61</sup> Chiriac & Tugui 2015.

<sup>62</sup> Ibid.



provisions that would allow this. These circumstances may explain why foreign donors remain the primary sources of income for Moldovan CSOs<sup>63</sup>.

Dependence on foreign donations has a direct impact on the financial sustainability of CSOs, which is one of the main problems faced by civil society in Moldova. It may also explain why a significant majority of registered Moldovan CSOs do not actually perform any activities, conduct projects, or have employees, but rather operate on a volunteer basis<sup>64</sup>.

Consequently, in spite of the relatively good operating environment, Moldovan CSOs experience a major capacity problem which affects not only their activities but their access to the human resources that would be needed to consciously integrate HRBA into their strategies.

*«The lack of practical skills and experience of CSOs [...] and the necessity to deliver fast and visible results to the donor, rather than aiming for any strategic impact, might remain one of main obstacles to applying HRBA».*

**Anna Iovchou,**  
**UNFPA Moldova**

Taking a closer look at the level of understanding of HRBA, both the survey results and the expert interviews indicated that the real depth of understanding among Moldovan CSOs is much lower than their self-perceived knowledge. Furthermore, in the workshop the participants identified the “ignorance” of both rights-holders and duty-bearers as an apparent challenge for HRBA integration, which was said to result in unequal access to justice for all citizens, reduced civic participation and lack of trust in public authorities. Although the workshop exercise had aimed to demonstrate a problem analysis technique, the participants actually identified a capacity gap (i.e. ignorance of rights-holders and duty-bearers) without realising it. This observation indicates a critical weakness in Situation Analysis (see section 1.2.), which was confirmed by several expert interviews, notably, for CSOs in all three countries (see also section 2.3.).

Similar to Belarus, the HRBA is also a donor-driven phenomenon in Moldova with very little interest or motivation to actively integrate HRBA by the CSOs themselves<sup>65</sup>. However, apart from the aforementioned challenges that this poses, high donor interest was also described as an opportunity, as donors are willing to provide CSOs with support. Nonetheless, specific guidelines and tailored support on how to meaningfully integrate HRBA remains essentially lacking. At the same time, the expert interviews highlighted conflicting demands from donors as a potential obstacle:

<sup>65</sup> See Annex 3.

<sup>63</sup> Chiriac & Tugui 2015.

<sup>64</sup> Ibid.



*«While, through a 'shift' to the HRBA, CSOs are being asked to aim for a strategic impact from their activities, at the same time donors demand fast and visible results. Such demands may be conflicting and are likely to stretch the CSO's capacities».*

**Anonymous source**

### 2.1.3. UKRAINE

Civil society in Ukraine is often considered the most developed among countries of the former Soviet Union<sup>66</sup>. Moreover, the legislative framework provides Ukrainian CSOs with favourable conditions to apply HRBA, as the Law on Non-Governmental Organisations grants them the right to defend citizens' rights and freedoms and to promote the meeting of social interests<sup>67</sup>. Furthermore, the law, which took effect in 2013, states that initial registration of CSOs is free of charge<sup>68</sup>. As updated, this law also provides CSOs with the opportunity to register electronically<sup>69</sup>, therefore reducing the administrative burden of registration. However, this option will become fully functional only when the state portal for administrative services becomes operational, which is not yet the case.

Despite these favourable conditions for registration, Ukrainian civil society consists of a significant number of informal (i.e. unregistered) organisations, which are made up of temporary and spontaneous initiatives and movements that address pressing, very narrow and ad hoc needs, or voice the concerns of the general public<sup>70</sup>.

Registered Ukrainian CSOs can generally be divided into organisations that protect the interests of their target groups and those that are guided by the interests of their founders<sup>71</sup>. The latter characteristic applies especially to charity organisations, whose dependence on the founder tends to be extremely high, while diversification of funding sources is usually poor. Although charity organisations represent around 6% of registered CSOs in Ukraine<sup>72</sup>, according to interviews conducted for this research, the number of unregistered organisations conducting charity activities is likely to be much higher.

Concerning public engagement in CSOs, only 2% of the Ukrainian population are members of legally registered CSOs<sup>73</sup>. While this figure may be interpreted as a sign of weak support for or interest in CSOs, it also gives an idea of the poor internal capacities many CSOs must operate with.

<sup>66</sup> Palyvoda et. al. 2016.

<sup>67</sup> Law of Ukraine On Non-Governmental Organisations.

<sup>68</sup> Ibid.

<sup>69</sup> GURT Resource Center: <http://gurt.org.ua/interviews/31646/>.

<sup>70</sup> Palyvoda et. al. 2016.

<sup>71</sup> Ibid.

<sup>72</sup> N.B. In 2016, out of a total 246,336 registered CSOs, 15,384 were charity organisations. Source: Palyvoda et. al. 2016.

<sup>73</sup> Palyvoda et. al. 2016.



Lack of capacity, unclear strategies and dependence on founders were also described as major obstacles to HRBA application in the interviews conducted for this study:

*«There is one important thing to consider in the Ukrainian context: many organisations are very young. They started with volunteers. They [these young CSOs] don't have any strategy or core values. [...] Another issue is accountability. CSOs should become an important actor to make the government more accountable. Many NGOs [young ones] are led by people who want to do good things, but sometimes it would be more important to take a step back and consider what they are doing.».*

**Fredric Larsson,  
Ukraine NGO Forum**

In the Ukrainian context, the current political and military situation plays an important role for the environment in which civil society operates. Firstly, the military conflict in the occupied areas of the Donetsk and Luhansk oblasts, along with the annexation of Crimea by Russia, have affected the promotion and protection of human rights in the country and, consequently, also the focus of CSOs active in these areas. As a response to the conflict's implications for the rest of Ukraine, numerous CSOs emerged between 2014 and 2016. They focused on conflict-related issues, conflict reconciliation and peace-building (e.g. promotion of IDP rights, rehabilitation of

demobilised participants in the anti-terrorist operation, and aid to Ukrainian military forces). With the start of the military aggression by the Russian Federation against Ukraine, some CSOs and initiative groups attempted to replace the functions of corresponding state institutions which had limited capacities to fulfil their duties.

Secondly, many analysts<sup>74</sup> currently consider Ukraine to be the target of a “hybrid warfare” campaign orchestrated by Russia. While the definitions of hybrid warfare vary in the literature, most analysts agree that such a status involves non-military tools which are not connected with standard military activities. One of the strongest components of hybrid warfare is information war, which aims to influence the perception of civilians<sup>75</sup>.

Although the actual act of spreading false information is not a direct violation of rights, its effects can lead to violations of several rights. For instance, influencing the perception of national identities affects the right to self-determination, while deliberately causing the escalation of a conflict conflicts with the right to liberty and security and the right to life. Furthermore, techniques such as hacking directly violate the right to privacy, while trolling and cyberbullying also target the right to freedom from cruel, degrading or inhumane treatment. In view of these effects of hybrid warfare in Ukraine, the HRBA becomes

<sup>74</sup> E.g. NATO StratCom COE 2016, Horbulin, V. 2015.

<sup>75</sup> Horbulin, V. 2015.



a powerful tool to make the population aware of its exposure to the threats of an information war.

In this sense, the HRBA can be used as a means of ensuring human security – a concept which draws attention to the wide scope of threats faced by individuals and communities with a focus on the root causes of insecurity. By raising awareness of rights violations caused by hybrid warfare, rights-holders can be empowered to protect themselves against potential threats (e.g. verification of information, additional data protection measures) and defend themselves against attacks (e.g. reporting them, pressing charges etc.). Some Ukrainian CSOs already dedicate their core activities to the fight against targeted rumours and false information (e.g. StopFake, CSO “Lviv Media Forum”, and the Ukrainian Peace-Building School Project).

## 2.2. DIFFERENCES IN UNDERSTANDING BY DIFFERENT TYPES OF ORGANISATIONS

In terms of differences in how to understand the HRBA, the research conducted for this study revealed concrete observations which allow for the identification of certain factors that may influence the level of understanding among CSOs in the three countries. However, most importantly, familiarity with “human rights” – in the sense of the term

or even the broader concept or instruments – does not determine the level of understanding of HRBA by different CSOs. This observation was first made during the workshop<sup>76</sup>, conducted for the project and was further stressed during the interviews<sup>77</sup>. The observation was confirmed by the questionnaire, which revealed a relatively high level of understanding of the broader concept of human rights (95% correct responses)<sup>78</sup> but a low level of thorough understanding of HRBA (7%) by all types of organisations (see figure below). Most notably, CSOs defining themselves as “human rights defenders” were among those selecting an incorrect definition of human rights, while other CSOs of the same type provided accurate written definitions of the HRBA. This observation was confirmed in two interviews with experts on Belarus, stating that human rights defender CSOs may be better equipped to understand HRBA more easily, but this does not automatically imply that they have a better understanding or that they practice HRBA.

*«Human rights defenders are least likely to apply HRBA. Most of them have no awareness of applying HRBA internally, and they usually only focus on HR issues externally: ‘The problems are outside».*

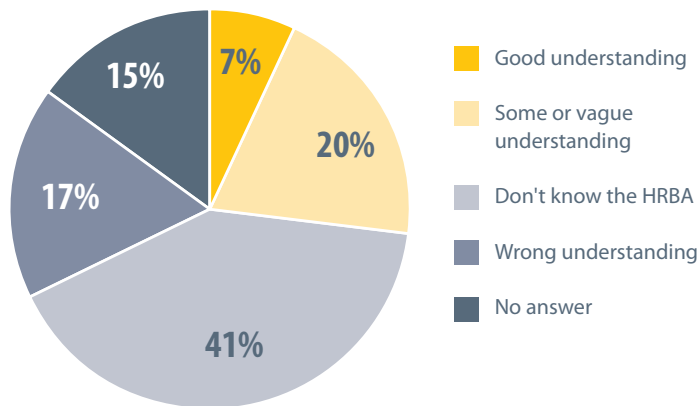
**Jane Klementieva, Programme Manager,  
Danish Institute for Human Rights**

<sup>76</sup> Fresno, the right link 2016.

<sup>77</sup> See Annex 3.

<sup>78</sup> See Annex 2, question 3.

Figure 3. Levels of understanding of the HRBA by CSOs in Belarus, Moldova and Ukraine



Source: Questionnaire response data<sup>79</sup>

Another observation may also be made if we contrast the figure above with the results of the question about self-declared familiarity with HRBA. Such a comparison reveals that self-perceived understanding

of HRBA is much higher (57%)<sup>80</sup>, than the level of actual understanding (27%)<sup>81</sup>. In view of these findings, it may be concluded that the share of CSOs with an incorrect understanding of the HRBA may be as large as 30%<sup>82</sup>. When taking a closer look at the answers demonstrating an incorrect understanding, it is again the case that no clear pattern with regard to types of organisations can be identified, as in all three countries they range from human rights defenders to CSOs working in education, journalism and other sectors, as well as think tanks. Notably, 83% of CSOs with an incorrect understanding also believe that they currently practice HRBA<sup>83</sup>.

Nevertheless, an environment of previous HRBA “exposure” underpins an argument from the workshop as well as some interviews: respondents with both correct and incorrect understanding of the HRBA had undergone special HRBA training, and it may therefore be assumed that HRBA training (alone) does not determine the level of understanding of the HRBA and must be conducted along with other activities (e.g. evaluation events, monitoring support etc.) for verification of proper understanding of the concepts. In this context, the aforementioned scarcity of both training and materials – and not only training material – in Russian and/or national languages must

<sup>80</sup> N.B. 25% “profound” + 32% “some”. See Annex 2, question 9.

<sup>81</sup> N.B. 7% “profound” + 20% “some”.

<sup>82</sup> N.B. i.e. 57% “self-perceived” minus 27% “actual”; see preceding footnotes.

<sup>83</sup> See Annex 2, question 10 and 11.

<sup>79</sup> See Annex 2, questions 9 and 10.

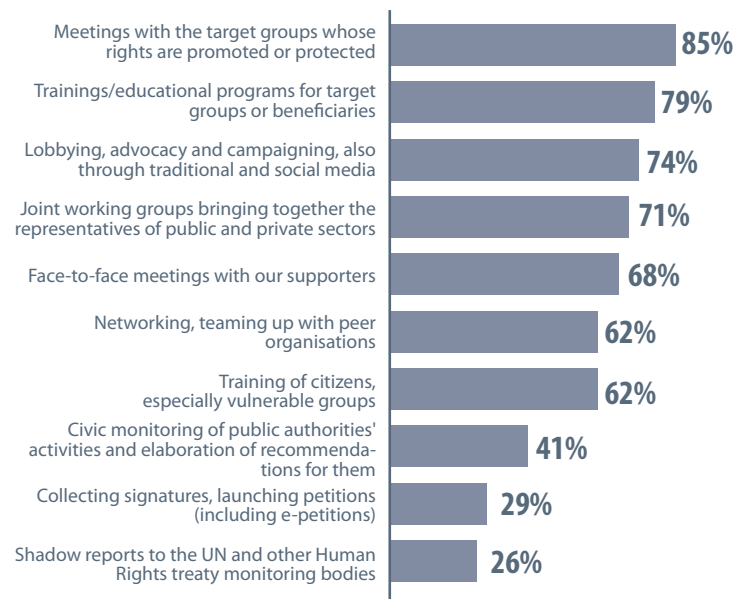


be emphasised as a potential factor hindering access to knowledge about the HRBA, not only in Belarus but potentially also in Ukraine in Moldova.

### 2.3. CURRENT TOOLS AND THEIR POTENTIAL IN APPLYING HRBA

With respect to current strategies used by CSOs in the three countries, there is a broad spectrum of opportunities and potential for effective application of the HRBA through a variety of tools. According to the questionnaire findings, most CSOs already engage in activities that have proven to be effective tools for rights advocacy. As presented in the figure below, meetings and training sessions of targeted groups or beneficiaries rank among the activities most commonly applied by CSOs (82%-88% of organisations). It should also be emphasised that civic monitoring of public authorities and development of recommendations for them is practiced only by 42% of CSOs. This is an important observation to highlight, as it is in line with findings from other sources and is a critical challenge that is a recurring theme in this chapter.

*Figure 4. HRBA tools currently used by CSOs in Belarus, Moldova and Ukraine*

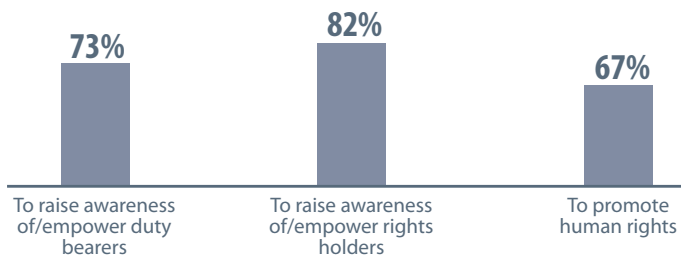


Source: Questionnaire response data<sup>84</sup>

<sup>84</sup> See Annex 2, question 19.

Nevertheless, the results of the questionnaire indicate great potential for proper application of these rights advocacy tools from an HRBA perspective, as the majority of activities currently engaged in by CSOs in the three countries appear to already aim at closing the capacity gaps of rights-holders and duty-bearers<sup>85</sup>. though the promotion of human rights appears to be a lower priority of these activities (see figure 5).

Figure 5. The aim of HRBA tools used by CSOs in Belarus, Moldova and Ukraine



Source: Questionnaire response data<sup>86</sup>

Despite this great potential, both the interviews and the workshop highlighted a critical obstacle which currently hinders full integration

of HRBA by the majority of CSOs. This concerns several difficulties encountered in the first phase of a project cycle or perhaps even in the strategic orientation of CSOs, specifically the Situation Analysis (see section 1.2.). Although this challenge appears to be related to project planning, it was also said to affect current rights advocacy strategies as it influences their content and aims. According to all interviews with international organisations and donors, a key issue is problem identification, including root cause analysis, which often appears to follow a needs-based approach and might explain why many CSOs practice a certain “culture of complaining” (see also section 2.4. below). Furthermore, other interviews pointed to an insufficient stakeholder analysis, which often does not go beyond the mere identification of rights-holders and duty-bearers and fails to identify their capacity gaps, consequently giving rights advocacy strategies an aim that does not involve the empowerment of both actors.

*«Problem analysis is a critical issue, as it is the most important step to providing the correct solution. Most CSOs use rather emotional language, which is not advisable. This really affects the efficiency of CSOs’ advocacy efforts».*

**David Mark, OSCE/ODIHR**

<sup>85</sup> N.B. By raising awareness of public authorities, institutions, governments, public officials, politicians (i.e. duty-bearers) as well as among the public (i.e. rights-holders).

<sup>86</sup> See Annex 2, question 20.



## 2.4. CORRELATION BETWEEN “DEMANDING RIGHTS” AND “INTEGRATING HRBA INTO INTERNAL OPERATIONS”

With regard to “demanding rights”, advocacy strategies are the most apparent techniques in the context of CSO strategies in doing so. In this regard, there are several observations from the expert interviews which point to a common weakness that appears to affect the integration of HRBA by CSOs in the three countries. This is further highlighted in this chapter, as it indicates a missing link between “demanding rights” and “HRBA integration”.

As mentioned in the interviews, many CSOs in the three countries practice a “culture of complaining” and fail to realise that it is necessary to work with public authorities and not against them. In the case of Belarus, it was stressed that many CSOs find it difficult to grasp the concept of “duty-bearers”, as governments or public authorities are often seen as oppressors. A possible link was also drawn to the Soviet past of Belarus (but potentially also Moldova and Ukraine), explaining that society has a common perception that “the state has the obligation to give” whereas “the citizen only receives”. According to this argument, this is why there is no common understanding of why the rights-holder must also claim a right, and hence why CSOs should empower people to do so. Consequently, their advocacy

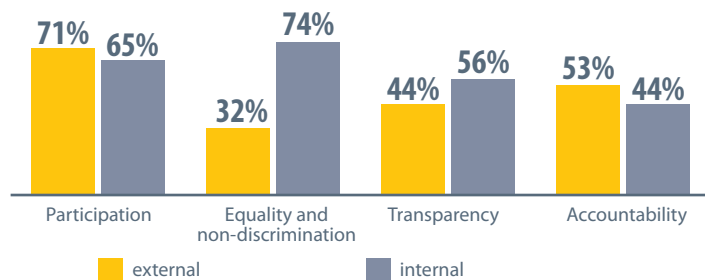
campaigns tend to focus on merely criticising duty-bearers, leaving HRBA integration entirely disconnected from demands for rights.

This apparent division between “demanding rights” and “HRBA integration” becomes even more relevant for CSOs whose activities focus on the promotion of one particular right or certain collective rights, as they have sometimes been described<sup>87</sup> as not respecting other rights or the principle of equality and non-discrimination itself (e.g. minority rights organisations that discriminate against the LGBT community). This phenomenon was also observed during the workshop conducted as part of this project. These and other observations from the questionnaire responses point to weaknesses in the application of HRBA principles and, hence, limitations on the integration of HRBA into the organisation’s work. The figure below presents a detailed overview of the degree of integration of the different HRBA principles. These figures indicate that “equality and non-discrimination” play a relatively unimportant role (32%) in external activities; this is in contrast with 75% of respondents who highlighted that “equality and non-discrimination” were among the most critical rights for the well-being of their beneficiaries<sup>88</sup>. These results not only demonstrate a disconnect between “demanding rights” and “HRBA integration”, but also highlight a lack of HRBA integration as an obstacle to coherent rights demands.

<sup>87</sup> See Annex 3.

<sup>88</sup> See Annex 2, question 4.

Figure 6. Integration of HRBA principles by CSOs in Belarus, Moldova and Ukraine<sup>89</sup>



Source: Questionnaire response data<sup>90</sup>

Another factor posing a similar obstacle to “demanding rights” is the low level of internal integration of accountability: 56% of questionnaire respondents stated, though indirectly, that fraud was an accepted practice in their organisations<sup>91</sup>. Apart from the concerns raised by these results, the findings point to an important gap between “holding duty-bearers accountable for their responsibility to fulfil rights” and “respecting these rights internally”.

## 2.5. APPLYING HRBA IN SITUATIONS WHERE RIGHTS ADVOCACY IS LIMITED

According to the available guidance material on HRBA, there are several recommendations on how to promote HRBA in challenging environments, i.e. situations in which there is a grave lack of accountability or resistance to the concepts and methods of human rights<sup>92</sup>. Some of these recommendations are particularly relevant for the application of HRBA by CSOs operating in such environments:

- **Work with culture, not against it:** this recommendation especially refers to working with traditional and religious leaders in areas influencing discriminatory processes;
- **Show that human rights are not a foreign concept:** in this regard it is recommended to refer to rights enshrined in national constitutions and domestic legal standards;
- **Emphasise capacity development:** in situations of resistance to human rights, it is recommended to demonstrate that the collaboration offered (i.e. by CSOs with governments, for example) aims to build the capacity of duty-bearers in fulfilling their obligations, rather than criticising their failure to do so;

<sup>89</sup> N.B. internal and external integration as percentage of responses to questionnaire.

<sup>90</sup> See Annex 2, question 18.

<sup>91</sup> See Annex 2, question 18. h).

<sup>92</sup> UNFPA 2010.



- **Do the best you can in the situation you are in:** this recommendation specifically refers to the internal HRBA principles of accountability and transparency, as setting a good example is the best justification for demanding these externally, especially in situations of low accountability on the part of duty-bearers;
- **Be patient and work progressively towards change:** this recommendation reflects the fact that behaviour change – in the attitudes of society and of public authorities – can be slow. In this regard, UN guidance material even recommends the avoidance of rights language in certain contexts where it might not be appropriate. However, as indicated by two of the experts on Belarus interviewed for this study (see section 2.1.1.), deliberate avoidance of human rights language not only hampers HRBA application but is an obstacle to human rights promotion itself. It should therefore be stressed that the recommendation focuses on the early stages of establishing collaboration with duty-bearers that demonstrate high levels of resistance to the concept of human rights. Change can be achieved through progressive sensitisation about human rights issues.

Considering the different contexts of the countries under review for this study, Belarus must be highlighted as an environment posing additional challenges to the application of HRBA by CSOs. This is mainly due to the fact that the government and its agencies impose

strict limitations on the advocacy work of CSOs, especially CSOs engaged in the protection of human rights<sup>93</sup>. Naturally, this limits the ability of CSOs to use rights advocacy as a tool of empowering rights-holders and raise awareness among duty-bearers. In order to avoid these restrictions, many Belarusian CSOs have chosen the option of registering abroad<sup>94</sup> in order to pursue their advocacy aims with fewer restrictions<sup>95</sup>. However, in order for the HRBA to work, collaboration with duty-bearers is essential. It must therefore be stressed that Belarusian CSOs use a variety of other tools to collaborate with duty-bearers in order to influence policies. For instance:

- One out of five organisations participates in the drafting of regulations;
- Almost half of organisations engage in situation monitoring and assessment and implementation of government decisions, problem analysis and drafting of analytical documents, as well as participation in community, advisory and expert councils<sup>96</sup>.

Furthermore, the survey conducted for this study revealed that two-thirds of Belarusian CSOs use similar tools of civic monitoring and drafting of policy recommendations in order to engage with duty-bearers with the aim of promoting human rights.

<sup>93</sup> Konrad Adenauer Foundation et al. 2014.

<sup>94</sup> Ibid.

<sup>95</sup> See also section 2.1.1.

<sup>96</sup> Ibid.



With regard to the empowerment of rights-holders, popular strategies applied by Belarusian CSOs<sup>97</sup> are:

- Training of citizens, especially vulnerable groups, to raise awareness about certain issues (two-thirds of Belarusian CSOs use training sessions to promote human rights);
- Educational programmes for target groups or beneficiaries (five out of six Belarusian CSOs conduct educational programmes to promote human rights).

In short, despite the additional challenges faced by Belarusian CSOs, there are several HRBA tools which provide opportunities to work progressively towards change, both in society and in the attitudes of policy makers.

## 2.6. IDENTIFYING POLICY OPPORTUNITIES

Although CSOs from all three countries tend to highlight external factors that are seen to hinder application of HRBA in their respective countries<sup>98</sup>, there is a variety of policy opportunities which provide

CSOs with favourable conditions to introduce HRBA in their own activities. Most importantly, the broad range of international human rights documents, most of which were ratified by their respective countries (see Annex 1), are the cornerstones of integrating HRBA into CSO activities. They may be used for the following purposes:

- to monitor the level of implementation of each HR instrument;
- to raise awareness (of both duty-bearers and rights-holders) should the national legal framework not comply with the ratified human rights standards;
- to monitor the proper implementation of national human rights law by raising awareness (of both duty-bearers and rights-holders) about (potential) rights violations or about inequitable access to rights by certain groups.

As the analysis of the questionnaire revealed, 24% of CSOs already claim to use at least one of the main human rights instruments as a primary tool for planning their work, while 21% stated that they used it as a guiding document for their work<sup>99</sup>. These findings stress the importance of these policy documents and underpin the opportunity they provide to integrate HRBA into the work of CSOs in these three countries.

<sup>97</sup> See Annex 2, question 19.

<sup>98</sup> Annex 2 and Fresno, the right link 2016.

<sup>99</sup> See Annex 2, Question 8.



INTERNATIONAL HUMAN RIGHTS DOCUMENTS	
Duty-bearer	Rights-holder
<ul style="list-style-type: none"> <li>State actors at all levels, depending on level of policy implementation (national, regional, local)</li> <li>Non-state actors:               <ul style="list-style-type: none"> <li>– individuals, organisations (including CSOs) or companies which have the responsibility to respect the rights listed in the instruments;</li> <li>– international organisations which have the mandate to monitor the protection of rights (see link below).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Any individual or group affected or threatened by a rights violation;</li> <li>Particular groups that do not enjoy equal access to certain rights compared to the rest of the population.</li> </ul>

As mentioned in chapter 1, there are independent human rights bodies which are responsible for monitoring the protection of human rights and compliance with specific treaties. In their role as interlocutors between rights-holders and duty-bearers at a national level, CSOs have the opportunity to provide these bodies with relevant information on rights issues (i.e. shadow reporting) so that the monitoring bodies have sufficient information to issue adequate recommendations to improve the rights situation in each state.

#### CALENDAR OF COUNTRY REVIEWS BY HUMAN RIGHTS TREATY BODIES:

[http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/MasterCalendar.aspx?Type=Session&Lang=En](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx?Type=Session&Lang=En)

Moreover, as indicated by the expert interviews, the upcoming third cycle of the Universal Periodic Review (UPR) – a unique process which involves a review of the all human rights records in each UN Member State<sup>100</sup> – provides an excellent opportunity for CSOs to:

- engage rights-holders (e.g. CSO beneficiaries or target groups) in voicing their experiences of difficulties in realising their rights;
- report their observations to the human rights body (i.e. the Human Rights Council) and thereby strengthen this duty-bearer's capacity to review the human rights situation in the respective country in order to provide adequate recommendations to the state (i.e. the national duty-bearer).

The table below presents an overview of the upcoming UPR reporting deadlines, which allow CSOs to plan for the preparation of their shadow reports, starting with Ukraine, followed by Belarus and Moldova.

<sup>100</sup> OHCHR n.d. g.



Table 3. Human Rights Council Universal Periodic Review (Third Cycle)<sup>101</sup>

UPR, 3rd cycle	Ukraine	Belarus	Moldova
<b>Session</b>	28th session (Oct-Nov 2017)	36th session (Apr-May 2020)	40th session (Oct-Nov 2021)
<b>National report deadline (tentative)</b>	July 2017	February 2020	July 2021

Additionally, there are several existing national, regional or local policies transposing international human rights law into the local context, which provide excellent opportunities and potential for CSOs:

- to build the capacity of duty-bearers to monitor policy implementation;
- to raise the awareness of rights-holders to claim their rights.

These capacities can be built through the existing tools of direct democracy, such as participation in public hearings and advisory bodies and civic councils at the central or local level, organisation of and participation in public hearings, as well as the presentation of policy recommendations to public authorities.

### 2.6.1. UKRAINE

In Ukraine, the recently approved National Human Rights Strategy provides an opportunity for CSOs to assist the Ukrainian Parliament Commissioner for Human Rights Office (Ombudsman), as well as various ministries and state agencies, in monitoring implementation of the strategy. Currently there are numerous CSOs involved in this monitoring process.

Furthermore, the EU-Ukraine Association agreement<sup>102</sup> provides opportunities for CSOs to participate in advisory bodies in ministries and regional state administrations, as well as to participate in the monitoring of on-going reforms.

### 2.6.2. MOLDOVA

An assessment of Moldova's latest National Human Rights Action Plan, which expired in 2014, credits the country with positive developments towards the protection of human rights. Nevertheless, the assessment also detected a number of shortcomings regarding the ratification of international human rights instruments, including efforts to protect fifteen specific rights which are still considered critical. The EEf-supported Gender Equality Platform submitted

<sup>101</sup> Ibid. See link "Calendar of reviews for the 3rd cycle (2017-2021)".

<sup>102</sup> [http://eeas.europa.eu/top\\_stories/2012/140912\\_ukraine\\_en.htm](http://eeas.europa.eu/top_stories/2012/140912_ukraine_en.htm).



an alternative report on implementation of the 1<sup>st</sup> UPR cycle recommendations, stressing the need to strengthen the legal and institutional framework for gender equality. Together with the soon-to-be-published results of the UPR<sup>103</sup>, both documents can help CSOs to support their arguments when raising the awareness of duty-bearers. In view of Moldova's commitments within the framework of the Eastern Partnership, the design of a National Human Rights Action Plan is more than likely; this will provide CSOs with the opportunity to participate in the design and monitoring of the new plan.

It should also be noted that a National Council for Participation, a body established to facilitate participation by civil society in the public decision-making process, functioned in Moldova between 2010 and 2014. However, this body had certain limitations in its application and is no longer operating at the time of publication of this study.

### 2.6.3. BELARUS

Unlike Ukraine and Moldova, Belarus lacks a national action plan or strategy for the promotion of human rights. The absence of an ombudsman in Belarus further hampers both rights-holders and civil

society in their ability to actively engage in independent monitoring of the human rights situation in the country. However, according to latest reports by UNICEF, Belarus is currently discussing the possibility of creating an ombudsman institution which, if implemented, would provide excellent opportunities for rights-holders to claim their rights and hence for civil society to empower them to do so. At the same time, an independent ombudsman institute would allow CSOs to focus their advocacy efforts on raising awareness about human rights issues among various duty-bearers.

## **2.7. PROMISING HRBA PRACTICES IN THE REGION**

The following pages present three case studies which can be considered promising instances of CSOs applying the HRBA in each of the three countries.

### **BELARUS CASE STUDY: HRBA STAKEHOLDER AND CAPACITY GAP ANALYSIS**

The Belarusian Helsinki Committee is an independent, non-political and non-profit public association which seeks to protect human rights in Belarus, to promote human rights initiatives, to raise legal

<sup>103</sup> N.B. October-November 2016. See [http://www2.ohchr.org/SPdocs/UPR/UPR-FullCycleCalendar\\_2nd.doc](http://www2.ohchr.org/SPdocs/UPR/UPR-FullCycleCalendar_2nd.doc).

awareness among citizens, and to assist in the training of competent legal personnel. In 2016 the organisation collaborated with the Danish Institute for Human Rights to publish the Human Rights and Business Country Guide for Belarus<sup>104</sup>, which is intended to help companies respect human rights and contribute to development in their own operations and those of their suppliers and business partners. The guide can be considered an excellent example of an HRBA stakeholder and capacity gap analysis. With the publication and subsequent dissemination of the guide, the “project” directly targets a variety of duty-bearers and right-holders whose capacities it aims to build by raising awareness of potential and actual human rights impacts of businesses.

The publication clearly identifies the main duty-bearer as its target audience: as explained in chapter 1 of this study, companies are first-line duty-bearers that have the obligation to respect human rights that are legally binding in the respective country. The guide therefore provides companies with information about the local human rights context in which they operate, including specific human rights issues. It also provides guidance for companies on how to ensure respect for human rights in their operations or in collaboration with suppliers and other business partners.

Furthermore, it highlights and addresses rights-holders, such as

employees, customers, clients, providers or any other person that may be affected by company’s activities. Most importantly, it identifies specific groups of at-risk rights-holders (e.g. ethnic minorities, persons living with HIV/AIDS, persons with disabilities, refugees, sexual minorities and women) that may be vulnerable to workplace discrimination or community impacts. In an entire chapter<sup>105</sup>, the guide lists and explains the different bodies with which victims of corporate human rights abuses can file grievances and seek redress. However, the publication also clearly addresses another important duty-bearers responsible for ensuring that businesses fulfil their rights obligations. It provides governments at the national, regional and local level with information to review public policy and legislation relevant to the human rights impacts of business, including in the areas of labour, environment, land, equal treatment, anti-corruption, taxation, consumer protection and corporate reporting. It does not limit itself to informing the policy-making process, but also aims to raise the awareness of governments about their responsibility to provide effective access to judicial and non-judicial remedies for persons who have been the victims of rights violations by companies.

Last but not least, the guide addresses other important stakeholders, namely Belarusian CSOs, and provides them with useful information for applying HRBA, as it explains how CSOs can use this information to empower rights-holders and build the capacities of duty-bearers

<sup>104</sup> Belarusian Helsinki Committee, The Danish Institute for Human Rights 2016.

<sup>105</sup> Ibid., see chapter “Access to Remedy” pages 78-80.



(e.g. work with affected employees and communities to define human rights and human development priorities related to the role of business; work with the community to provide recommendations to business and government).

### **MOLDOVA CASE STUDY: APPLYING THE HRBA TO PROJECT DESIGN**

Partnerships for Every Child is a Moldovan NGO which has the Convention on the Rights of the Child enshrined in its vision of a world where every child enjoys the right to a childhood in a safe and caring family, free from poverty, violence and exploitation<sup>106</sup>. Between 2010 and 2011, the organisation developed the project entitled “Children in Moldova are protected from family separation, violence, abuse, neglect and exploitation,” which formed part of Moldova’s Master Plan of Transformation for the closure of residential institutions<sup>107</sup>. The project targeted institutions for children with learning disabilities in the towns of Sculeni, Socii Noi and Albinetul Vech in the northwest of Moldova. The following actions were designed to close the capacity gaps of the respective rights-holders and duty-bearers to facilitate the reintegration of these children:

<sup>106</sup> Partnership for Every Child 2016.

<sup>107</sup> World Vision 2012.

#### **RH: INSTITUTIONALISED CHILDREN, INCLUDING CHILDREN WITH DISABILITIES**

**Capacity gap:** Lack of social and life skills to (re)integrate in the family, community and school<sup>108</sup>.

**Action:** Seminars on learning social and life skills. Sharing of experiences by reintegrated children with those still in institutions.

#### **DB: DEPARTMENTS FOR SOCIAL ASSISTANCE AND FAMILY PROTECTION AT THE LOCAL LEVEL**

**Capacity gap:** Low efficiency of gatekeeping<sup>109</sup> mechanism at municipal level.

**Action:** Training on developing an effective gatekeeping system and information about alternative care.

#### **DB: CHILD PROTECTION AND EDUCATION PROFESSIONALS**

**Capacity gap:** Low level of respect for the views of the child<sup>110</sup>.

**Action:** Training on child participation.

#### **DB: SCHOOL STAFF IN NEW RECEIVING SCHOOLS**

**Capacity gap:** Low awareness and lack of skills to ensure inclusive education<sup>111</sup>.

**Action:** Training and support on principles and practices.

<sup>108</sup> Convention on the Rights of the Child (CRC) Preamble, Article 23, Article 39; Convention on the Rights of Persons with Disabilities (CRDP) Preamble, Article 19, Article 23, Article 26.

<sup>109</sup> N.B. Gatekeeping refers to the mechanisms by which children should enter and exit state care. The main purpose of gatekeeping is to keep the number of children in state care at a minimum level by developing a filter system at each point of entry to the state care system.

<sup>110</sup> Convention on the Rights of the Child (CRC), Article 12.

<sup>111</sup> Convention on the Rights of Persons with Disabilities (CRDP) Article 24.



### DB: GENERAL PUBLIC

**Capacity gap:** Discriminatory attitudes towards children “with problems,” including those with special education needs.



**Action:** Awareness-raising campaigns and sensitisation of journalists to report on the importance of integrating deinstitutionalised children.

### DB: PARENTS

**Capacity gap:** Lack of awareness of their responsibility for the upbringing and development of the child<sup>112</sup>.



**Action:** Train teachers and community workers to raise awareness and build capacities of parents to prevent institutionalisation and facilitate reintegration of children.

### UKRAINE CASE STUDY: INTEGRATING HRBA IN PROJECT IMPLEMENTATIO<sup>113</sup>

The Tamarysk Centre is a Ukrainian CSO that supports civic and cultural initiatives with the aim of developing local territorial communities (hromadas). After receiving HRBA training, the organisation decided to apply the lessons learnt by starting with a community with which they had collaborated previously. Pidhorodne is a town in the east of Ukraine. It was chosen for the following reasons:

- The graduates of the organisation’s previous training programmes lived and worked there;
- Several new community associations had been set up with the support of the Tamarysk Centre;
- The citizens were considered to be relatively active, but their relationships with public authorities were known to be discordant.

As a first step, the CSO conducted a situation analysis for the town of Pidhorodne in which it identified the main problem from a human rights perspective. As a result of this process, the civil and political right to take part in the conduct of public affairs<sup>114</sup> was identified as a right that was not being adequately fulfilled by local public authorities or being sufficiently realised by its citizens. Analyses of root causes established the following reasons for this situation:

- Citizens thought that the activities of local authorities were not transparent;
- Public opinion was not taken into consideration by policy makers;
- The rate of civic engagement was low.

At the same time, these reasons were found to create fertile conditions for corruption. As a next step, the Tamarysk Centre invited

<sup>112</sup> Convention on the Rights of the Child (CRC) Article 18, Paragraph 1.

<sup>113</sup> N.B. Information adapted from <http://dhrp.org.ua/en/news/1568-20161118-en>.

<sup>114</sup> ICCPR, Article 25 <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.



the local citizens of Pidhorodne to explore what would be necessary for the right-holders and duty-bearers to improve their cooperation. Together, they found that there was no appropriate local legal framework for citizens' engagement in the decision-making process and one had to be put in place.

As a next step, it was decided to approach the City Council and offer them expertise in the drafting of the necessary regulatory documents to form the legal basis for citizens' engagement in the decision-making process. After developing the documents in collaboration with partner NGOs, civil society representatives, active citizens and the City Council, they were uploaded to the information portal Podgorodnoe.in.ua for further public dialogue. Additionally, an awareness raising campaign was launched to highlight the importance of civic control among the local community. Furthermore, public authorities and citizens were invited to a public event to discuss the draft documents. After more advocacy by the Tamarysk Centre with City Council members, the following regulatory documents were adopted by the City Council:

- Procedure for facilitating civic expert assessment of its activities
- Regulation on participatory budgeting in the city
- Municipal target programme for 2016-2020.

Due to the initiative, trust between civil society and the authorities has been strengthened and citizens have become more aware of the agenda items considered at the City Council sessions. Moreover, the City Council recently announced that it would allocate UAH 500,000 (about US\$ 20,000) annually to projects initiated by the local community.



### 3. Conclusions

The potential scope for applying HRBA in these three countries is very broad. CSOs already use a large variety of tools and methods that facilitate application of HRBA. For instance, almost nine out of ten CSOs organise meetings with the target groups whose rights are promoted or protected and train their target groups or beneficiaries, which are excellent tools to build the capacity of rights-holders. At the same time, three-fourths of CSOs apply lobbying techniques and organise advocacy campaigns, which are ideal methods to close the capacity gaps of duty-bearers. Furthermore, CSOs in all three countries use various human rights instruments either as inspiration or guidance for their work, and they already apply some of HRBA principles, though to various extents.

Nevertheless, the scope of HRBA integration into the CSO's daily work is low, which naturally affects the full application of the HRBA by CSOs. There are several reasons for this reality which apply to all three countries, although it is worth mentioning that these may not only apply to CSOs in Belarus, Moldova and Ukraine but may be common elsewhere as well. The following overall conclusions may be drawn from the research conducted for this study, which also form the basis for the recommendations presented in the next chapter:

- **The depth of real understanding of HRBA is low, and hence most CSOs do not know how to apply the approach**, although some might apply it unconsciously. As much as one-third of CSOs



may have **an incorrect understanding** of the approach, while among these a large majority (83%) could be labouring under the illusion that they are in fact applying an HRBA. Compared with global reviews on different CSO positions towards the HRBA, the results of this regional study indicate that about 25% of CSOs in Belarus, Moldova and Ukraine can be considered as making rhetorical use of HRBA<sup>115</sup>, which means that their approaches may be rights-framed with elements of empowerment and capacity-building aimed at promoting human rights, but without necessarily implementing HRBA per se. The reason for such a position may be the fact that the approach is donor-stimulated, and CSOs themselves have failed to see the real use of it to this point.

- **Applying HRBA as a mainstreaming tool<sup>116</sup> appears to be the position with most potential for effective HRBA implementation by CSOs in the region.** The main reason for this is that most CSOs currently lack the capacity and resources for shifting their entire strategies to make HRBA their key guiding principle. At the same time, most CSOs currently apply a needs-based approach, which not only makes them financially dependent on the funding for the services they provide, but at the same time provides them with the opportunity to work

with communities, in turn forming a basis for empowerment and advocacy initiatives. A critical issue in applying HRBA as a mainstreaming tool is internal adherence to HRBA principles, in particular the principle of accountability. The fact that fraud may be viewed as a tolerated practice in more than half of the CSOs surveyed for this study<sup>117</sup>, represents one of the major obstacles for HRBA integration in the region.

- **Underlying social norms hamper full integration of HRBA principles into some CSOs and distort the focus of situation analysis of most CSOs.** These norms relate to attitudes and traditions practiced in society and are values that can therefore also be found among public authorities and CSOs. They can be observed in the non-sanctioning of discriminatory practices or unaccountable behaviour but can also be found in the perception of roles and responsibilities of actors within a human rights framework (i.e. rights-holders, duty-bearers). When applying HRBA, these norms affect the early stages of a proper situation analysis (i.e. problem identification, stakeholder analysis), whose consequences are most apparent in the content and aim of advocacy campaigns which often limit themselves to criticising public authorities without having taken a closer look at the underlying root causes of problems that need to be addressed in society and through all its actors, including CSOs. Furthermore,

<sup>115</sup> See section 1.5., Figure 3, Item 3.

<sup>116</sup> See section 1.5., Figure 3, Item 2.

<sup>117</sup> See section 2.4.



stereotypes caused by social norms may also explain why many CSOs do not use the full potential of policy opportunities at their disposal.

In addition, the following concluding observations may be made about the specific country contexts in which CSOs operate and which somewhat affect the scope of HRBA integration:

- **In Ukraine**, the legal and administrative conditions for CSOs to operate legally and officially are the most favourable in this three-country comparison. This is an important advantage for HRBA application, as there are fewer external obstacles to applying the HRBA principles of transparency and participation since the organisations can operate openly and there are no legal barriers to participation by citizens. Official registration is also an important factor increasing public credibility of organisations, providing CSOs with better opportunities for opening dialogues with public institutions and government representatives and hence building their capacity as duty-bearers. However, despite these favourable prerequisites, the number of unregistered CSOs has increased in recent years, while the membership of citizens in CSOs<sup>118</sup> has remained low. These are two critical factors affecting the internal capacities

of CSOs, with direct impacts on the capacity of their human resources and on their funding stability, which are crucial determinants for developing an internal HRBA strategy that is also sustainable. For the Ukrainian context, the current political and military situation must also be taken into account; on the one hand, it has given rise to the creation of (often unregistered) charity organisations, while other organisations have focused their activities on raising the population's awareness of its exposure to the threats of hybrid warfare in the form of an information war (e.g. fake news), thereby applying the essential HRBA element of building the capacities of rights-holders.

- **Moldovan CSOs** are known to be particularly active in identifying socio-economic problems for which public authorities are often receptive and willing to cooperate with CSOs. However, the research conducted for this study showed that most CSOs lack either knowledge or skills to apply HRBA techniques to this first step of project design focussing on the identification of rights violations, rights-holders – including vulnerable groups of rights-holders that are at higher risk of not realising their rights – and duty-bearers, as well as their capacity gaps which need to be addressed by the resulting actions (if an HRBA is desired). While intensive experience in problem identification along with cooperative public authorities is undoubtedly an advantage for HRBA integration, one of the biggest obstacles for Moldovan

<sup>118</sup>This refers to membership in registered CSOs; the number of members in unregistered CSOs is unknown.



CSOs to ensure their activities follow an HRBA may be their unwillingness to look beyond their accustomed approach of problem identification. In the case of Moldova, it should also be noted that legal conditions for CSO registration and operation are very favourable; however, civil society is marked by a high dependency on foreign funding which, on the one hand, puts the financial stability of its activities at risk, but at the same time affects the ability of human resources, often volunteers, to gain new skills and increase capacity and institutional memory.

- **In Belarus**, the conditions for CSOs to apply the HRBA are the least favourable in the three-country comparison. This is related to restrictions on their registration, limitations on their funding and, in extreme cases, prohibition of their activities even to the point of criminal prosecution. The taboo status of human rights terminology in public is a direct impediment to obtaining knowledge about an approach whose main aim is to promote human rights. Mistrust between public authorities and civil society often takes away the very possibility of applying one of the most essential HRBA functions, i.e. building the capacity of duty-bearers. At the same time, mistrust within civil society reduces the likelihood of sharing knowledge and experiences among CSOs, which would allow them to increase their own HRBA skills through mutual learning. However, caution should be exercised in using these unfavourable conditions as an

excuse for an inability to apply the HRBA, as the approach has been successfully demonstrated by at least one Belarusian CSO registered in the country without any negative consequences to its activities and, on the contrary, with a positive impact on human rights promotion in the country as a whole.



## 4. Recommendations for CSOs

Based on the conclusions presented in the previous chapter, the following practical recommendations may be presented to CSOs in Belarus, Moldova and Ukraine. The recommendations address the current challenges faced by CSOs in applying HRBA and integrating the approach into their work. These challenges are balanced against the current opportunities for HRBA application in the three countries and provide CSOs with practical tips for improving not only their understanding of the approach but also their perception of its usefulness.

**Recommendation 1: Share information and experiences about the added value of HRBA application by CSOs in Belarus, Moldova and Ukraine.**

As highlighted in this study, the actual demand for applying HRBA currently comes not from inside CSOs, but rather tends to be encouraged by international donors. The lack of available practical experiences or demonstrated added value of CSOs applying HRBA in the three countries largely contributes to the absence of an internal demand for the approach. While interested donors would certainly also have to fine-tune their strategies to better convey the added value as reason behind their demands, the internal realisation that the approach would bring added value to the activities of a CSO is the best condition for meaningful HRBA integration with the most efficient use of resources.



For this purpose, civil society itself is in the best position to provide peer support, for instance by publishing experiences on websites and disseminating it via social media or by presenting it in public events or at civil society fora (e.g. Eastern Partnership Civil Society Forum, Black Sea NGO forum, or meetings at the local level).

Additionally, it is highly recommended to approach donors for support in sharing information about local experiences showing the added value of applying HRBA. Donors with an HRBA agenda are very likely to support the exchange of information on the added value of the approach in the three countries, as this is also on their agenda.

**Recommendation 2: Verify the internal level of HRBA understanding, including its practical application, through peer support and tailored guidance.**

It is undeniable that HRBA is a complex approach with scarce documentation about CSOs' practical experiences<sup>119</sup>, especially in the three countries of this study. As this research has demonstrated, training is an important method to increase knowledge about HRBA among CSOs, but it is not always sufficient to deepen the real understanding

<sup>119</sup> N.B. most documentation on HRBA good practices is for audiences from international organisations or development agencies; most documentation on HRBA for CSOs is currently still limited to guidelines (from donor agencies for CSOs).

of the approach. While this remains an important realisation for donors with an HRBA agenda, for CSOs this means that they have to actively search for direct support to receive feedback and tailored guidance on proper HRBA integration.

Here again, there are two entry points for possible support: peer support from other CSOs and support from donors. In view of the current low levels of HRBA understanding and experiences by CSOs in the three countries, peer support is likely to be more important in the near future. An additional relevant and immediately available source of support is experienced donors with an HRBA agenda in the three countries. It is therefore highly advisable that CSOs actively approach (potential) donors to get increased and tailored support for the integration of HRBA principles during all project stages. For instance, international organisations, multi- and bilateral development agencies and donor representatives, as well as specialised human rights organisations, often operate programmes that support capacity-building in civil society in the three countries. Such programmes offer excellent opportunities to deepen and verify the understanding of HRBA.

**Recommendation 3: When identifying a problem, take a critical look at all actors in society, including within your organisation.**

This recommendation appears to be the most challenging task, as it refers to the obstacle of underlying social norms that impede comprehensive HRBA application or even integration. It requires a change in the mind-sets of CSOs which would allow them to acknowledge that the root causes of certain problems can be manifold and that there might not be one single entity (i.e. duty-bearer/public authority) to blame. It would require the realisation that apparent problems may be found within society and all its actors, be they the broad variety of duty-bearers, rights-holders or other stakeholders. It would also require CSOs to take a critical look inside their own organisations and reflect on whether what is externally demanded is also internally respected – applying a “practice what you preach” approach. Such self-reflection would allow CSOs to become social change agents and role models that are proud to demonstrate how rights and responsibilities are practiced and respected by all actors in society.

**Recommendation 4: Make full use of existing policy opportunities and HRBA techniques.**

As described in this study, the majority of CSOs already use tools and techniques that could serve HRBA purposes, namely closing the capacity gaps of rights-holders and duty-bearers. However, this aim is not always followed comprehensively. Lack of understanding or not seeing the added value of HRBA appears to be the main reason

for this. Against this background, recommendation 4 cannot be seen independently from the three previous recommendations which aim to increase the understanding of and rationale for HRBA. By achieving this, the ultimate goal of the tools and techniques already used would automatically serve the purpose of HRBA, which would enable the full use of the existing policy opportunities presented in this study.

Furthermore, the desired impact of many activities (e.g. empowered citizens, informed public authorities) may be multiplied by joining efforts and teaming up with other CSOs, which may come from the same sector or a different sector but follow the same objective of promoting human rights. It is therefore also highly advisable to look for like-minded HRBA allies within civil society.

### 4.1. COUNTRY-SPECIFIC RECOMMENDATIONS

Based on the country-specific observations and conclusions presented in this study, the following recommendations are specifically relevant for CSOs in the individual countries:



## UKRAINE

To make efforts to increase membership and member participation, either through additional human resources and/or financial contributions, in order to increase internal capacities and strengthen financial autonomy and stability, while at the same time reinforcing the HRBA principle of participation.

To become engaged in the monitoring of National Human Rights Strategy implementation at the central and local levels. At the central level, there are a variety of opportunities for cooperation with the Parliamentary Committee on Human Rights and Interethnic Relations among National Minorities, such as:

- Monitor and liaise for closer communication between the Parliamentary Committee and the ministries responsible for implementation of the particular draft laws for implementation of the strategy and action plan;
- Strengthen civic monitoring of compliance with the Law On Access to Public Information, for instance by developing “civic scorecards” to assess duty-bearers’ performance in implementing the law;
- Engage rights-holders in the analysis of lessons learnt after the first year of the National Human Rights Strategy (2016-2020), and develop potential revisions to the strategy if needed.

To use the regional civil society development programmes for 2017-2020 as a tool for strengthening internal CSO capacities through funding and networking and as a mechanism to build the capacities of duty-bearers, since the programmes call for the participation of CSOs in public hearings and monthly consultations with departments of state administrations. These are also excellent occasions for making the voices of rights-holders heard (especially non-members of CSOs), which is why they should be encouraged to participate in these events. For those oblasts in which the regional programmes have not been approved as of the publication of this study, CSOs still have an excellent opportunity to participate in the design of these programmes, while all CSOs should be actively engaged in programme implementation, monitoring and evaluation to ensure the programmes are participatory, transparent, accountable and non-discriminatory.

To actively use the Coordination Council of Civil Society Development, established in 2016, as a means for policy dialogue and participation by rights-holders in policy design and monitoring.

To engage rights-holders and collaborate with other CSOs in the preparation of a Shadow Report for the upcoming UPR session scheduled for autumn 2017. This is an excellent opportunity to empower rights-holders to voice their experiences with difficulties in realising their rights and to strengthen the international duty-bearer’s (i.e. the Human Rights Council) capacity to review the human rights



situation in Ukraine in order to provide adequate recommendations to the national duty-bearer (i.e. the state).

For CSOs that focus their activities on the fight against information war as part of hybrid warfare, it is important that, in doing so, they raise the awareness of rights violations that may result from fake news (e.g. the right to self-determination, right to liberty and security, right to life, right to privacy, right to freedom from cruel, degrading or inhuman treatment) in order to empower rights-holders to protect themselves against potential threats and defend themselves against attacks.

### MOLDOVA

To diversify funding by exploring additional opportunities, including grants and contracting, through the state or public authorities, but also by expanding the membership base, in order to increase internal capacities and strengthen financial autonomy and stability, while at the same time reinforcing the HRBA principle of participation.

To actively participate in the development of the new Human Rights Action Plan based on lessons learnt from the implementation of the previous Action Plan. In doing so, CSOs should involve rights-holders and at the same time inform duty-bearers about any critical rights issue that the plan needs to address. The Ukrainian experience of gathering

a variety of stakeholders from different spheres for the development of the National Human Rights Strategy and for monitoring after the first year could serve as positive example.

Once the new Human Rights Action Plan is approved, raise awareness about it among the general public (i.e. capacity building of rights-holders) and support public authorities and other duty-bearers at the central, regional and local level in implementing the action plan by informing them of ways to improve their performance and by monitoring their actions or failures to act.

To raise awareness among duty-bearers and rights-holders about the findings and recommendations of the UPR conducted for Moldova in 2016, for which the report will be published in 2017, and engage rights-holders and other CSOs in the preparation of the next Shadow Report for the UPR session scheduled for 2021.

### BELARUS

To increase collaboration between CSOs from different spheres, especially between human rights CSOs and CSOs from other sectors such as health or education, to share experiences on HRBA implementation, country-specific challenges and possible ways to overcome them.



To use the information presented in the Human Rights and Business Country Guide for Belarus, presented as a case study in the section on promising practices, in order to empower rights-holders (e.g. work with affected workers and communities to define human rights and human development priorities related to the role of business) and build the capacities of duty bearers, especially by involving the affected communities in providing recommendations to local businesses and/or governments on how to prevent rights violations that may be caused by business activities.

To continue advocating for the creation of an ombudsman institution which would allow rights-holders to claim their rights and CSOs to empower them to do so. The creation of such an institution would allow CSOs to focus their advocacy efforts on raising awareness about human rights issues among different duty-bearers.

To the extent possible, try to position your CSO as a partner that aims to help public authorities better do their jobs. It is essential to work with public authorities and not against them. One important occasion for collaboration could be the common development of a comprehensive document with a strategic vision of human rights promotion in Belarus, including an Action Plan for its implementation.

To continue raising awareness among duty-bearers and rights-holders about the findings and recommendations of the UPR conducted for

Belarus in 2015 and engage rights-holders and other CSOs in the preparation of the next Shadow Report for the UPR session scheduled for 2020.



## STATUS OF RATIFICATION OF HUMAN RIGHTS INSTRUMENTS AS OF 19 SEPTEMBER 2016

Status legend:

Signed and ratified



Signed



No action



Human rights instrument	Belarus	Moldova	Ukraine
ICERD: International Convention on the Elimination of All Forms of Racial Discrimination 1969			
ICCPR: International Covenant on Civil and Political Rights 1976			
ICCPR-OP1 1976			
ICCPR-OP2: OP aiming at the abolition of the death penalty 1991			
ICESR: International Covenant on Economic, Social and Cultural Rights 1976			
ICESCR - OP 2013			
CEDAW: Convention on the Elimination of All Forms of Discrimination against Women 1981			
OP-CEDAW 2000			
CAT: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1987			
OP-CAT 2006			
CRC: Convention on the Rights of the Child 1990			



OP CRC AC: Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2002			
OP CRC SC: Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography 2002			
OP CRC IC: Optional Protocol to the Convention on the Rights of the Child on a communications procedure 2014			
ICMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 2003			
CPED: International Convention for the Protection of All Persons from Enforced Disappearance 2010			
CRPD: Convention on the Rights of Persons with Disabilities 2008			
OP:CRPD 2008			



## QUESTIONNAIRE RESPONSES SUMMARISED FOR THE STUDY

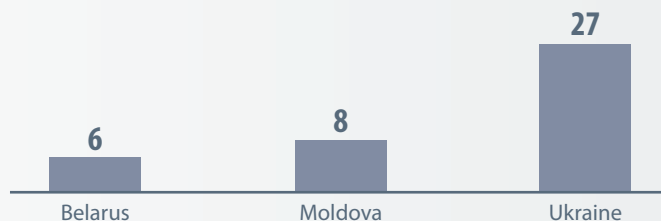
Responses to the questionnaire have been summarised below and adapted to provide a better overview of HRBA awareness and practical implementation in the three countries. Please note that since a certain number of organizations failed to complete the full questionnaire (participation was voluntary and a certain degree of non-completion was expected) the data is presented in percentages rather than source numeric values, with a few exceptions. Source data may be downloaded by <https://drive.google.com/file/d/0B6PWVKrwu4f4MUJRZ2F5aGhOenM/view>

**№ 1. In which country does your organisation operate?**

(please select one option)

- a) ) Belarus
- b) Moldova
- c) Ukraine
- d) I refuse to answer

**Response rate = 100%** (answers – absolute values)



**№ 2. In which subject area does your organisation operate?**

(multiple choice)

**Response rate = 100%** (answers – percentage of actual respondents)

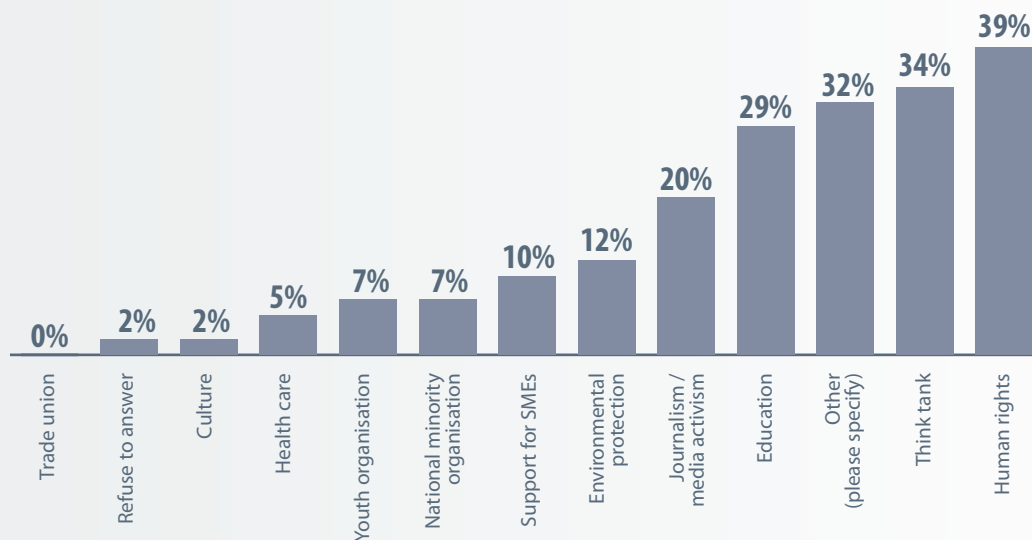
The option "Other" included the following responses:

- Good governance – 4 responses;
- Civil society development – 2 responses;



- a) Defending human rights
- b) Environmental protection
- c) Health care
- d) Education
- e) Culture
- f) Journalism / media activism
- g) National minority organisation
- h) Organisation of support for SMEs
- i) Think tank specialised in consultations for public and private sector
- j) Youth organisation
- k) Trade union
- l) I refuse to answer
- m) Other (please specify)

- Election system change / political monitoring – 2 responses;
- IDP assistance – 2 responses;
- Charity / Healthcare – 2 responses;
- Unidentified answer – 1 response.



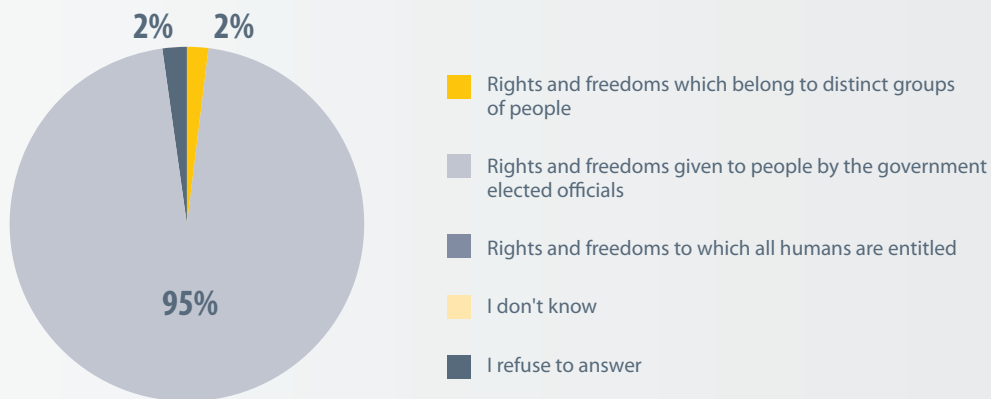


**№ 3. What are human rights?** (please select one option or select “other” and enter your response)

- a) Rights and freedoms which belong to distinct groups of people
- b) Rights and freedoms given to people by elected government officials
- c) Rights and freedoms to which all humans are entitled d) I don't know
- e) I refuse to answer
- f) Other (please give your version)

**Response rate = 100%** (answers – percentage of actual respondents)

The option “Other” included the following: “HR – freedom to act in society, that made possible the absolute personal realization”.



**№ 4. Please explain your answer**  
(optional comment box)

**Response rate = 41.5%** (answers – analytical summary)

A total of 17 answers were submitted as “additions” to the selected option. The answers mostly cited inalienability of the rights, their inherent essence, as well as universal character. On one occasion, the Universal Declaration was quoted directly, and in another case human rights were equated to rights provided by the Constitution of the country.

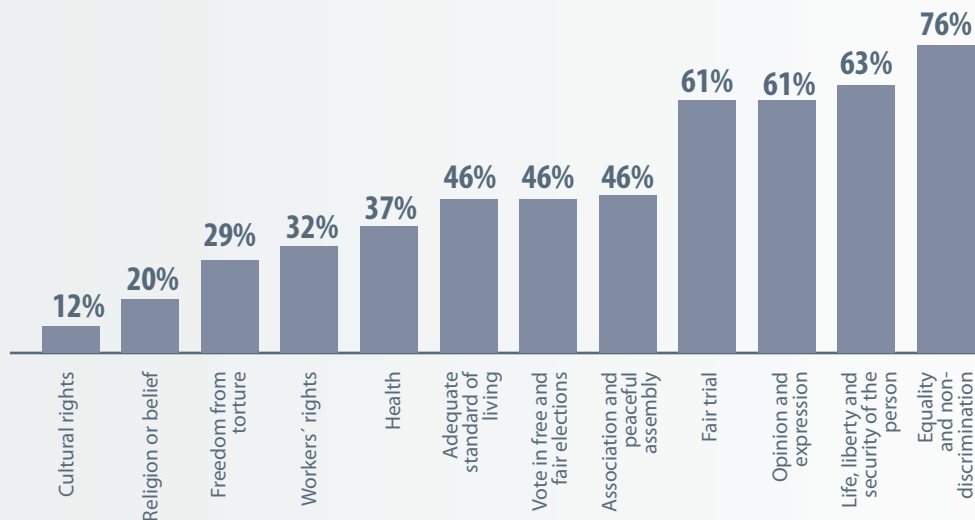


**Nº 5.** Think about the beneficiaries of your organisation. **Which of the rights indicated below do you consider to be the most critical for the well-being of your beneficiaries?** Please respond from the perspective of organisation. (multiple choice)

- a) Right to life, liberty and security of the person
- b) Right to health
- c) Right to an adequate standard of living
- d) Freedom from torture and other cruel, inhuman or degrading treatment or punishment
- e) Right to equality and non-discrimination
- f) Right to vote in free and fair elections
- g) Right to a fair trial
- h) Freedom of opinion and expression
- i) Freedom of association and peaceful assembly
- j) Freedom of religion or belief
- k) Workers' rights
- l) Cultural rights
- m) I don't know
- n) I refuse to answer
- o) Other rights (please explain)

**Response rate = 100%** (answers – percentage of actual respondents)

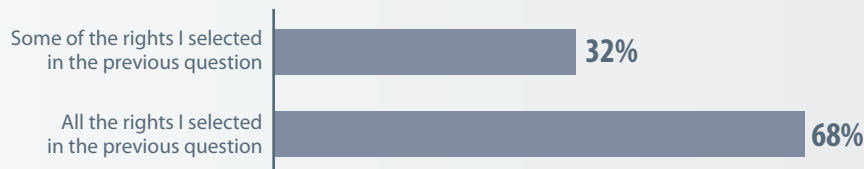
The option "Other" generated 3 responses with 2 of them demonstrating supposedly deep understanding of rights, as the rights identified may indeed be relevant for organizational programmatic work. The two responses included: "right to education" and "right to information and participation in adoption of decisions that have an environmental impact".



**№ 6. Which of these rights do the activities of your organisation address?**  
(single choice)

- a) All the rights I selected in the previous question.
- b) Some of the rights I selected in the previous question.
- c) I don't know
- d) We do not address human rights at all
- e) I refuse to answer
- f) Other rights (please specify)

**Response rate = 100%** (answers – percentage of actual respondents)



**№ 7. Please explain your answer** (optional open answer)

**Response rate = 48.8%** (answers – analytical summary)

Responses, in many ways, echoed those given to the previous questions. At the same time, only one of the respondents indicated what seems to be a clear-cut application of HRBA in their work “with” human rights, noting that “It is important for people to know their rights and to defend them in a proper way.” The rest of the responses mostly emphasized work in fields that touch upon human rights that were indicated above without necessarily specifying how these rights were addressed or referred to in everyday work.

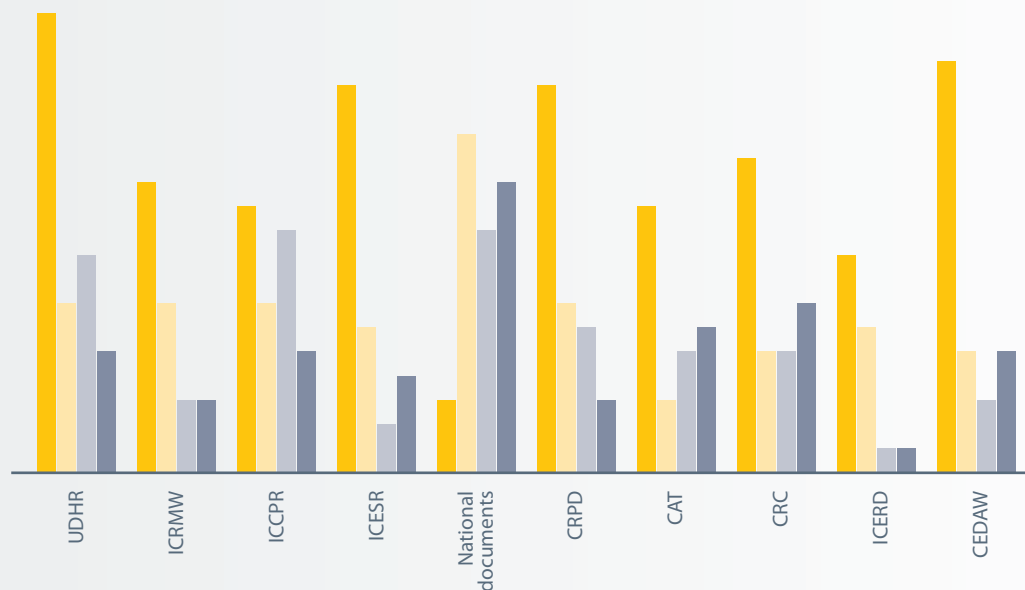
**№ 8. Do you use any of the following documents in planning your programmatic work?** (Choosing one option for each of the international human rights documents. Options include: do not use at all / use as inspiration for work / use as reference to justify work / use as main instrument for planning work / don't know / refuse to answer)

**Response rate = 100%** (answers – absolute values)

- as an inspiration for our work
- as a reference to justify our work
- as a guiding framework document for our work
- as a main instrument for planning our work



- a) National documents (laws, bylaws, strategies etc.)
- b) Universal Declaration of Human Rights
- c) International Covenant on Civil and Political Rights (ICCPR)
- d) International Covenant on Economic, Social and Cultural Rights (ICESCR)
- e) International Convention on the Elimination of all Forms of Racial Discrimination (CERD)
- f) International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)
- g) Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)
- h) Convention on the Rights of the Child (CRC)
- i) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 2003 (ICRMW)
- j) Convention on the Protection of the Rights and Dignity of Persons with Disabilities (CRPD)
- k) Convention on the Rights of Persons with Disabilities 2008 (CRPD)
- l) Other (Please indicate)

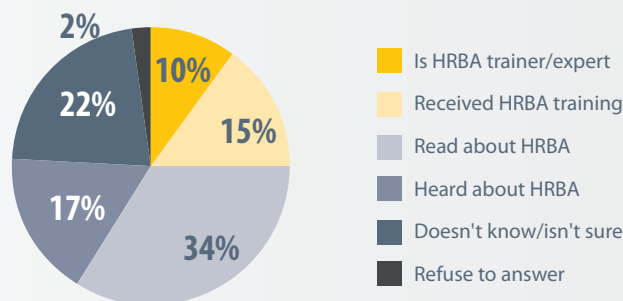


**№ 9. Are you familiar with the HRBA?**

(select one)

- a) Yes, I am an HRBA expert/trainer
- b) Yes, I underwent specialised HRBA training
- c) Yes, I have read about it myself
- d) Yes, I have heard about it from other people within my organisation
- e) Yes, I have heard about it from other people from outside of my organisation
- f) No. /conditional: skip next 2 questions and jump to next question page/.
- g) I am not sure.
- h) I refuse to answer.

**Response rate = 100%** (answers – percentage of actual respondents)



**№ 10. I would describe HRBA as....** (open answer, 100 words max)

**Response rate = 100%** (answers – qualitative data that was assessed and turned into percentage of actual respondents; “I don’t know” responses to the previous question were included in the “Don’t know the HRBA” category)

Here the responses were first analysed in accordance with more or less accepted definitions of HRBA and then an overall assessment of HRBA awareness was drawn up. Results are presented in the graph below.

All 3 respondents with good understanding noted in previous questions that they had undergone special HRBA training or read about HRBA. Two of them were from Belarus, one from Moldova. All three responded that their CSO’s activities address some or all the rights they selected in question 6. All of them also stated that their CSO “consistently practices HRBA” in all their activities (question 11); questions 12-17 are also in line.

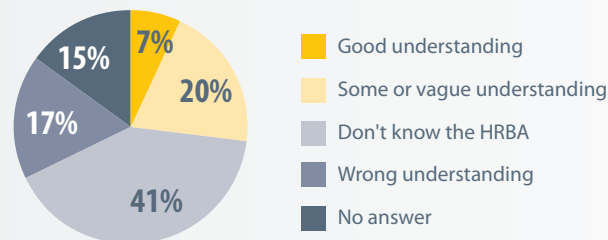
For challenges of HRBA application, it is interesting that the 3 CSOs with good understanding did not select all the principles being applied internally and externally (question 18); e.g. 2 CSOs did not select the “transparency / internal” statement, and 2 did not select “equality & non-discrimination / external” statement. 1 CSO each did not select: “participation / external”, “accountability / external & internal”.



Out of the 7 respondents with an incorrect understanding, 5 had read or heard about HRBA (question 9), and 2 had undergone special training. 6 are from Ukraine and 1 from Moldova. 3 work in defending human rights, 2 in education, 2 in journalism, 2 in a think tank and in other sectors. Out of these seven, 1 CSO said they would “Consistently practice HRBA in almost all our activities” (question 11), while 5 said they would “sometimes practice HRBA but do not do so for all of the activities”.

The majority of CSOs (17) noted that they didn’t know HRBA. Of these, 1 was from Belarus, 4 from Moldova and 12 from Ukraine. Surprisingly, only 1 of these 17 did not know whether they are applying an HRBA and only 1 was sure that they were not. Interestingly, more than half of the CSOs who did not know what HRBA was said that they were practicing it either sometimes or consistently.

One interesting observation from 1 human rights defender CSO: they started the questionnaire convinced that they were applying HRBA but were not able to provide an explanation. When asked about the focus of their activities (questions 12-15), they agreed that their activities all had this focus, which would make it in line with HRBA. Nevertheless, after answering these questions the CSO concluded that they were NOT applying HRBA although they might actually do so. This could indicate an incorrect understanding of or confusion over HRBA (which may be in line with the incorrect answer to this question).

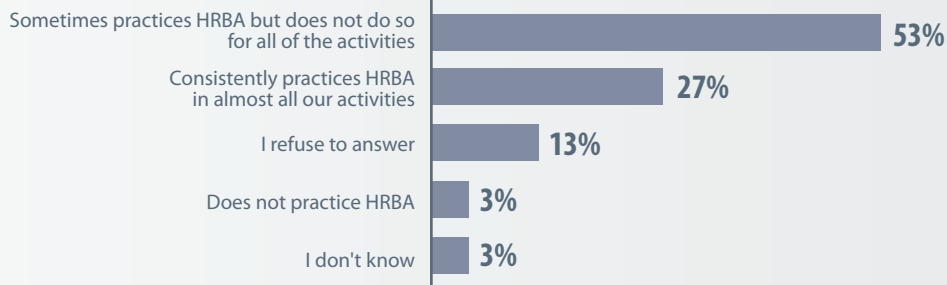




**№ 11. Looking at my answer above, I can say that our organisation... (one choice)**

- a) Consistently practices HRBA in almost all our activities.
- b) Sometimes practices HRBA but does not do so for all of the activities.
- c) Does not practice HRBA.
- d) I don't know.
- e) I refuse to answer
- f) Other (please explain)

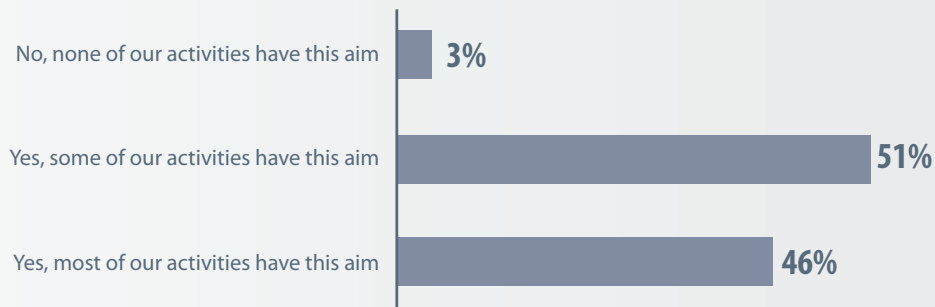
**Response rate = 73.2%** (answers – percentage of actual respondents)



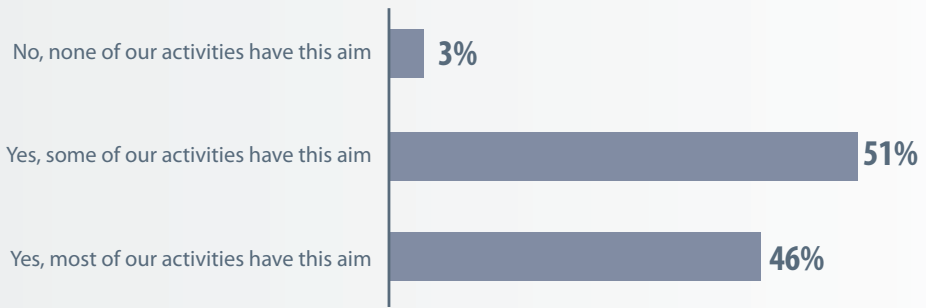
**№ 12. Are the activities of your organisation aimed at protecting your beneficiaries' rights? (select one)**

- a) Yes, most of our activities have this aim.
- b) Yes, some of our activities have this aim.
- c) No, none of our activities have this aim.
- d) I don't know.
- e) I refuse to answer.

**Response rate = 85.4%** (answers –percentage of actual respondents)





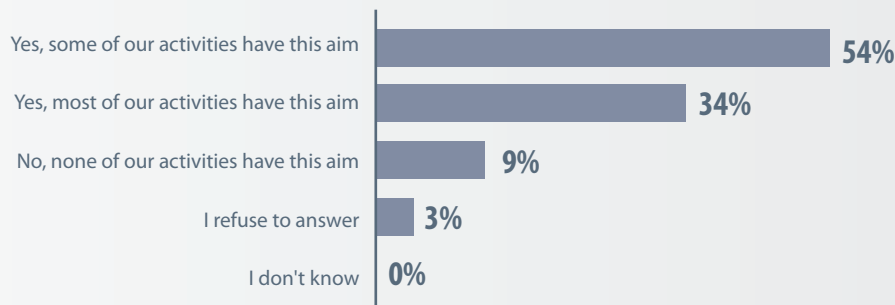
<p><b>Nº 13. Are the activities of your organisation aimed at empowering people so that they can claim their own rights (e.g. from public authorities at the local or national level) whenever they cannot exercise them?</b> (select one)</p> <p>a) Yes, most of our activities have this aim.</p> <p>b) Yes, some of our activities have this aim.</p> <p>c) No, none of our activities have this aim.</p> <p>d) I don't know.</p> <p>e) I refuse to answer.</p>	<p><b>Response rate = 85.4%</b> (answers – percentage of actual respondents)</p>  <table border="1"> <thead> <tr> <th>Response</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>No, none of our activities have this aim</td> <td>3%</td> </tr> <tr> <td>Yes, some of our activities have this aim</td> <td>51%</td> </tr> <tr> <td>Yes, most of our activities have this aim</td> <td>46%</td> </tr> </tbody> </table>	Response	Percentage	No, none of our activities have this aim	3%	Yes, some of our activities have this aim	51%	Yes, most of our activities have this aim	46%
Response	Percentage								
No, none of our activities have this aim	3%								
Yes, some of our activities have this aim	51%								
Yes, most of our activities have this aim	46%								
<p><b>Nº 14. Please explain your answer</b> (open answer)</p>	<p><b>Response rate = 19.5%</b> (answers – analytical summary)</p> <p>Although there were 34 positive answers to the previous question, there were only 4 explanations that indicate how the CSOs actually do this. “Empowering people to claim their own rights” (i.e. “closing capacity gaps of rights holders”) was highlighted as a main challenge of HRBA integration in the interviews, meaning that most experts said that CSOs in the 3 countries have difficulties doing this.</p>								

**№ 15. Are the activities of your organisation aimed at holding public institutions or governments accountable for fulfilling their duty to protect and promote the rights of the people?**

(select one)

- a) Yes, most of our activities have this aim.
- b) Yes, some of our activities have this aim.
- c) No, none of our activities have this aim.
- d) I don't know.
- e) I refuse to answer.

**Response rate = 85.4%** (answers –percentage of actual respondents)



**№ 16. Please explain your answer?**  
(open answer)

**Response rate = 19.5%** (answers – analytical summary)

According to the responses received, “closing capacity gaps of duty-bearers” seems to be better developed than the rights-holders part (see previous question). A similar picture of the situation was obtained through interviews where several interviewees specifically criticised the style in which CSOs in the 3 countries try to hold governments / public authorities responsible, including through harsh criticism, undiplomatic language and lack of willingness to cooperate on issues of importance.

**№ 17. Based on your answers to questions on this page, would you say that your organisation is applying the HRBA?**

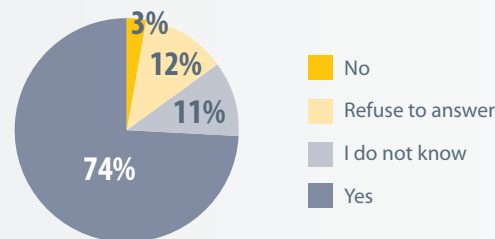
**Response rate = 87.8%** (answers –percentage of actual respondents)

All CSOs that responded positively to question 11 (also asking whether they think they applied the HRBA), also answered affirmatively in question 17. Additionally, 1 CSO changed their opinion (Q11: no; Q17: yes), 2 CSOs that did not know what the HRBA was earlier (Q9) decided in this question that they were applying HRBA.



- a) Yes.  
b) No.  
c) I don't know.  
d) I refuse to answer.

Comparing these answers to positive responses to questions 13 (empowering rights-holders) and 15 (holding duty-bearers accountable), the following observations can be made for responses to this question: 31 CSOs had reported their activities to have both aims. Of these, 26 CSOs agreed that their organisations were applying HRBA, 1 disagreed, 2 did not know and 1 refused to answer.

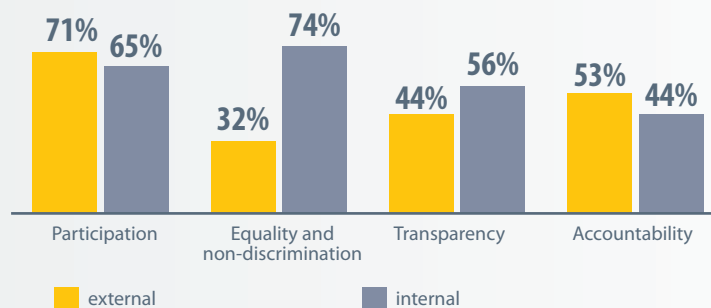


**Nº 18. Which of the following statements applies to your organisation?**

(multiple choice)

- a) My organisation takes part in some or all phases of the public policy process at the local or national level: planning, design, implementation, monitoring and/or evaluation of public policies (e.g. we submit proposals for policies or monitor how they are being implemented).  
b) My organisation engages its beneficiaries and target audience in planning and implementation of its internal activities.

**Response rate = 82.9%** (answers – percentage of actual respondentsx)





<p>c) My organisation's activities aim to highlight discrimination experienced by different groups of people in my country.</p> <p>d) All staff members are treated equally in my organisation.</p> <p>e) My organisation works with public authorities to make information about their decision-making processes available to the public.</p> <p>f) Information about plans and decisions (e.g. strategy, action plan) of my organisation is available to the public.</p> <p>g) When my organisation detects a rights violation, we approach the institution, person or body (e.g. local authority, government) which should be held responsible and tell them that they need to act to stop this violation because this is their duty.</p> <p>h) If anyone ever discovered that a staff member in our organisation committed fraud, this person would be held accountable for his or her actions.</p> <p>i) I refuse to answer.</p>	<p>Overall, the areas where positive answers were not selected indicate a weak area. It is concerning, for instance, that over 50% of respondents noted that if it were discovered that an employee committed fraud (item "h"), he or she would not necessarily be held accountable.</p> <p>a) Participation external: 6 did not select this (20 did).</p> <p>b) Participation internal: 6 did not select this (20 did). 2 persons selected neither a nor b.</p> <p>c) Equality &amp; non-discrimination external: 16 did not select this (10 did).</p> <p>d) Equality &amp; non-discrimination internal: 6 did not select this (20 did). 4 persons selected neither c nor d.</p> <p>e) Transparency external: 16 did not select this (10 did).</p> <p>f) Transparency internal: 11 did not select this (15 did). 9 persons selected neither e nor f.</p> <p>g) Accountability external: 10 people did not select this (16 did).</p> <p>h) Accountability internal: 14 people did not select this (12 did). 9 persons selected neither g nor h.</p>
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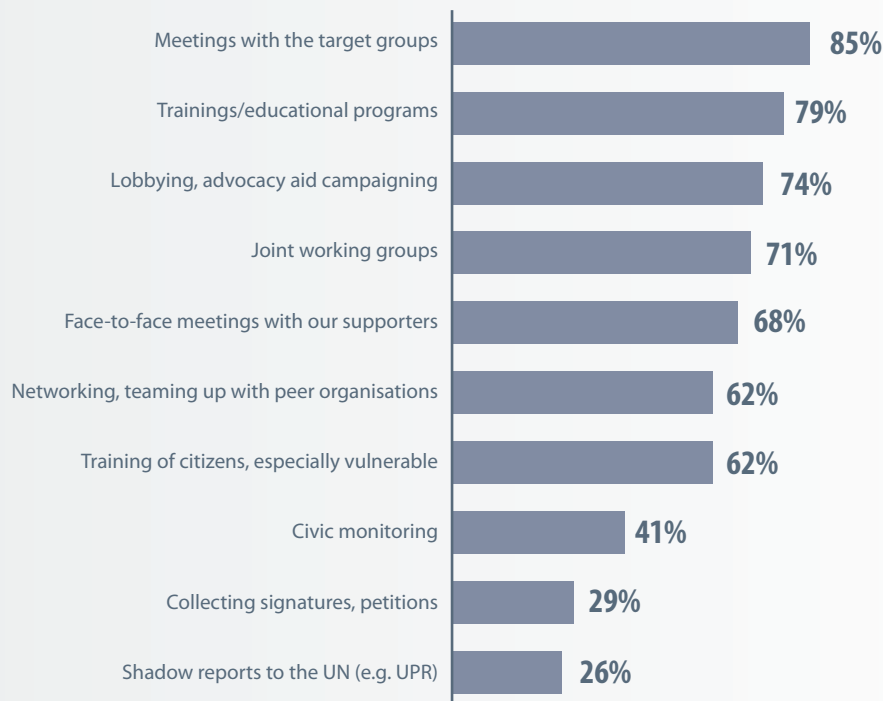


**Nº 19. Which of the following activities are currently applied in your organisation?**

(Choosing one option for each of the instruments. Options include: very effectively / effectively / not effectively / we do not conduct this activity / I refuse to answer / I don't know)

- a) Joint working groups bringing together representatives of public and private sectors
- b) Meetings with the target groups whose rights are promoted or protected
- c) Lobbying, advocacy and campaigning, including through traditional and social media
- d) Lobbying, advocacy and campaigning
- e) Shadow reports to the UN and other human rights treaty monitoring bodies (e.g. Universal Periodic Review)
- f) Civic monitoring of public authorities' activities and development of recommendations for them
- g) Face-to-face meetings with our supporters
- h) Training/educational programs for target groups or beneficiaries
- i) Collecting signatures, launching petitions (including e-petitions)
- j) Networking, teaming up with peer organisations

**Response rate = 82.9%** (answers –percentage of actual respondents)

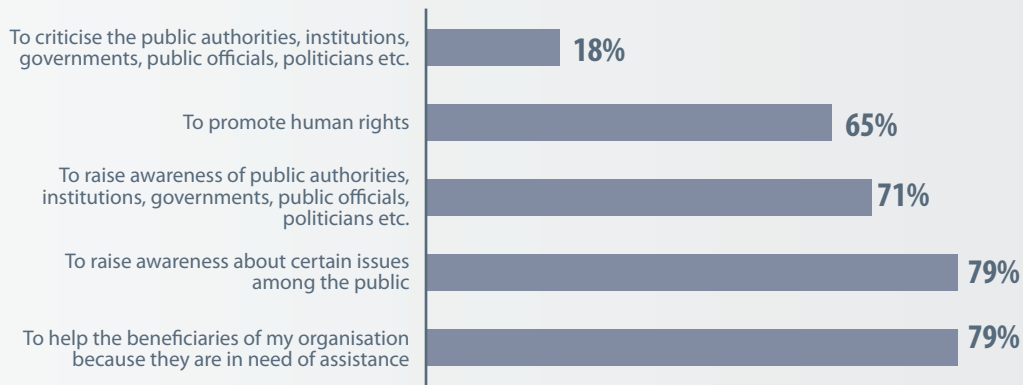




**№ 20. What is the aim of these activities?**  
(multiple choice)

- a) To criticise public authorities, institutions, governments, public officials, politicians etc.
- b) To help the beneficiaries of my organisation because they are in need of assistance.
- c) To raise the awareness of public authorities, institutions, governments, public officials, politicians etc.
- d) To raise awareness about certain issues among the public.
- e) To promote human rights.
- f) I refuse to answer.

**Response rate = 82.9%** (answers –percentage of actual respondents)



Although answers to c), d) and e) are high; high number of answers to b) indicates that the needs-based approach is common among all CSOs.

**№ 21. Are you currently conducting any other activities that could (also) be used to promote human rights?** (open answer)

**Response rate = 39%** (answers – analytical summary)

While there were 16 answers provided, only one of them could be seen as related to HRBA, aimed at advocacy for rights of journalists.



## ANNEX 3: LIST OF IN-DEPTH INTERVIEWS WITH EXPERTS

Name	Organisation/position	Country
JANE KLEMENTIEVA	Programme Manager, Danish Institute for Human Rights	Belarus
ALEH HULAK	Belarusian Helsinki Committee	Belarus
NATALLIA KARKANITSA	National Human Rights Coordinator, OHCHR in Belarus	Belarus
FREDRIC LARSSON	Ukraine NGO Forum	Ukraine
GALYNA MESCHERYKOV	UN Women, Ukraine	Ukraine
DAVID MARK	OSCE/ODIHR, Democratization department, Human Rights Adviser/Capacity Building Co-ordinator	Moldova, Ukraine
EVGHENII ALEXANDROVICI GOLOȘCEAPOV	Programme Analyst, Justice and Human Rights, UNDP Moldova	Moldova
ANNA IOVCHOU	UNFPA	Moldova

Note: Two other interviews were conducted with experts from two international organisations. The interviewees wished that their names and organisations remain anonymous.



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