

Human Rights at the Local and Regional Level

EXTERNAL MONITORING STUDY WITH A FOCUS ON
GOVERNANCE AND MANAGEMENT



Foreword

The Swedish Association of Local Authorities and Regions (SALAR) has entered into an agreement with the national government to strengthen the work on human rights in municipalities, county councils and regions. The initiative covers both human rights education and development efforts to integrate human rights in the governance and management of Swedish municipalities, county councils and regions. Within the framework of the agreement, Emerga Research & Consulting was commissioned by SALAR to collect, analyse and present various international examples of how human rights can be integrated into governance and management processes at the local and regional level. In the Swedish report you can, among other things, read about the Human Rights Policy in Utrecht in the Netherlands, the Human Rights Council in Graz, Austria, and how the city of Toronto in Canada systematically follows up the realization of human rights at the local level. In this English version, some parts of the human rights work carried out in Swedish municipalities, county councils and regions are presented, as well as conclusions and tips for integrating human rights into governance and management.

Our hope is that this publication should be useful to interested actors in other countries and contributes to the exchange of knowledge and experience across national borders.

Stockholm, September 2017

Lennart Hansson

Economy and Governance Division

Swedish Association of Local Authorities and Regions

Content

Introduction	4
Background	4
How can the work on human rights be carried out in a more structured manner?	6
How can human rights work be broadened?	6
How can the link between different perspectives and human rights be improved?.....	6
Human Rights in Brief	7
Human Rights Standards	8
Human Rights Principles	11
Human Rights in Governance and Management	13
Paths Forward	14

Introduction

Everyone, including government authorities, shall strive to promote respect for human rights and ensure that they are recognized and applied in a general and effective manner.

As part of the efforts to integrate and strengthen human rights in municipal and regional governance and management processes, the Swedish Association of Local Authorities and Regions (SALAR) commissioned Emerga Research & Consulting to conduct an external monitoring study. This study was carried out with the aim of collecting, analysing and presenting different examples of how human rights can be integrated into and developed in governance and management processes at the local and regional level. The study can be read in its entirety in Swedish; *Mänskliga rättigheter på lokal och regional nivå – omvärldsstudie med fokus på styrning och ledning*. Below the sections dealing with the work on human rights in Sweden and human rights in governance and management at a more general level are presented.

Background

SALAR entered into an agreement with the national government through which SALAR, for a period of three years, agreed to work on strengthening human rights at the municipal and regional level in Sweden. The goal of the agreement is that, within their fields of responsibility, municipalities, county councils and regions:

- Strengthen respect for human rights; and
- Increase the knowledge of how human rights can be translated into practice.

During 2015, SALAR developed an action plan for making the work more concrete during the coming years.¹ This human rights action plan

¹ Sveriges Kommuner och Landsting (2015) Handlingsplan för ett stärkt arbete för mänskliga rättigheter i kommuner, landsting och regioner (Swedish Association of Local Authorities and Regions, 2015, Action plan for strengthening the human rights work of municipalities, county councils and regions), dnr 11/7554, available in Swedish at: <http://skl.se/download/18.6f6e407314d3e0aee8a3e083/1431351568562/skl-handlingsplan-2015->

focuses on four areas:

- Governance and management emanating from a rights-based perspective
- Targeted skills development efforts
- A sharing of experiences and dissemination of good examples
- External monitoring, dialogue and collaboration

A preliminary study was carried out in 2014 which served as a basis for the development of SALAR's work on the above-mentioned action plan. Emerga Research & Consulting was tasked with developing an overview of the human rights work of Swedish municipalities, county councils and regions as well as on the additional need for support they may have in order to strengthen the work further.² The study collected quantitative data from all municipalities, county councils and regions through a survey. These data were supplemented with semi-structured interviews with municipal and county council directors and persons with specific duties concerning work with human rights. The general conclusion of the survey is that the vast majority of municipalities, county councils and regions consider it self-evident that they relate their activities to human rights. This is a clear change compared to 2006 when the Delegation for Human Rights in Sweden carried out a similar study. The 2014 survey shows that knowledge about human rights and the insight into the importance of the local and regional level to ensuring equal rights and opportunities for all residents has increased. Most respondents point out that it would not be possible to run a good school or provide good health care and other forms of care without respect for human rights.

Through the survey it was possible to identify several areas for improvement, thereby providing SALAR a focus for its efforts to support municipalities in their continued work.

[MR-%C3%B6verenskommelse.pdf](#)

² Emerga Research and Consulting (2015) Mänskliga rättigheter i kommuner, regioner och landsting, Kartläggning av arbetet med mänskliga rättigheter samt önskemål om stöd i detta arbete, rapport utförd på uppdrag av SKL (Human rights in municipalities, county councils and regions, Survey of the the work on human rights as well as requests for support in that work, A report developed on behalf of SALAR), available in Swedish at: <http://skl.se/download/18.3e6904914b309136e321430/1422957308106/M%C3%A4nskliga+r%C3%A4ttigheter+i+kommuner,+regioner+och+landsting+2015.pdf>

The main challenges indicated by the survey are pointed out below:

How can the work on human rights be carried out in a more structured manner?

Human rights issues are often found in municipal and regional goals and vision documents. However, the question is whether a rights perspective actually permeates the activities, as many respondents point out difficulties in following up the development of human rights work over time. It is relatively common that municipalities, county councils and regions today have one or more persons who have assignments or job descriptions that include human rights. At the same time, the mandate, title and position can vary greatly depending on the organization. Whether there are funds allocated in the budgets to the work with human rights also varies. The follow-up of human rights work takes place in different ways. The results in the survey indicate the need to further develop the forms of follow-up within municipalities, county councils and regions. Only a few mention that indicators are used for follow-up. Generally there are no explicit links between governance and follow-up on the one hand and human rights on the other hand. This often means that there is also no information about the population's access to, or the extent to which they enjoy human rights.

How can human rights work be broadened?

Most municipalities, county councils and regions today have experience working with certain areas of human rights within some sector of their activities. The larger the municipality, county council or region is, the more they work with and follow up at least some areas from a rights perspective. It is common for municipalities, county councils and regions to link human rights with their work against discrimination. Other areas of rights are rarely defined in terms of human rights. Nevertheless, children are the rights-bearers that have a special focus. The rights of children and young people also seem to be the area of rights in which the structures for implementation and follow-up are most established. There is usually a central level decision combined with a cross-cutting approach to various local government activities.

How can the link between different perspectives and human rights be improved?

There is rarely a decision that a particular activity should be based on a rights perspective using a broader, cross-cutting framework, which in turn often results in the rights perspective being to a large extent divided

into areas such as gender equality, child rights issues, diversity, and accessibility, creating the risk that these areas will compete with each other. Among the survey respondents there were quite a few who saw human rights as an alien concept that they chose not to use. Instead, they refer to different types of value-based and/or vision documents, where in some cases there was no connection at all to rights standards or principles. Instead, they are more of a mixture of what is required for a proper case-handling (effective, clear), proper relations with e.g. the public (responsive, respectful) and other more generally desirable issues (diversity, growth, courage and so forth).

Human Rights in Brief

The focus of human rights is on the relationship between the State and its inhabitants, or as it is also called, between the duty bearer and the rights holders.

Human rights shall apply to every person regardless of, for example, sex, ethnicity, religion/belief, sexual orientation, gender expression or gender identity, and age.³ In order to be able to guarantee these rights, every State has government authorities at different levels related to schools, police, health and social services. Responsibility for human rights is distributed in most states between different levels. In Sweden, responsibility is divided between the municipalities, county councils/regions and State authorities. Through the principle of local self-government, the local and regional levels have a relatively high degree of independence to determine how they are going to work and the goals they establish for their activities within the framework of common national laws. This means that the government mainly guides the work at these levels by adopting laws and establishing government authorities to monitor compliance with the laws. In countries such as Germany and the United States, which have federal systems, regions (states in the US and *länder* in Germany) also have the right to adopt their own laws. In Great Britain, the vast regions of Scotland, Wales and Northern Ireland also have opportunities for independent action, while a smaller regional level, so-called counties, increasingly have become a political level without

³ The UN refers to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

real power. However, Swedish municipalities and county councils/regions have a relatively large measure of self-government. Within the Swedish system of local self-government, there is also the possibility of deciding on the taxation of residents, which also provides for a greater scope for action than if the tax is collected only at the national level and then distributed to the regional and municipal governments. Regardless of how the various tasks are distributed between a particular State's different levels of government, the State as a whole is responsible for ensuring that human rights are guaranteed within its territory.

Human Rights Standards

That which is currently defined as human rights standards is contained in international conventions developed by, for example, by the UN and the Council of Europe. The countries that ratify the conventions have thereby assumed a legally binding duty to ensure human rights in their territories. Conventions thus set the human rights standards that are in force. The work of the States to comply with the established legal human rights standards defined by the conventions must be carried out on the basis of a number of fundamental rights principles. The human rights conventions to which Sweden has acceded are⁴:

- Convention on the Prevention and Punishment of the Crime of Genocide;
- Convention relating to the Status of Refugees;
- Protocol relating to the Status of Refugees;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- International Covenant on Economic, Social and Cultural Rights;
- International Covenant on Civil and Political Rights;
- Optional Protocol to the International Covenant on Civil and Political Rights;
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- Convention on the Elimination of All Forms of Discrimination against Women;

⁴ For information on the date of Sweden's signature, ratification, entry into force, possible reservations and government bills see:
www.manskligarattigheter.se/Media/Get/303/konventioner-om-manskliga-rattigheter-som-sverige-har-undertecknat-pdf

- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Concerning the Right to Submit Individual Complaints)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention on the Rights of the Child;
- Optional Protocol on the Involvement of Children in Armed Conflict;
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography;
- Rome Statute of the International Criminal Court;
- Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention on the Rights of Persons with Disabilities;
- Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Being a part of the EU also means that the EU Charter of Fundamental Rights applies in Sweden.⁵ The Charter deals with civil, political, economic and social rights. Within the Council of Europe there is the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) adopted in 1950. The Convention initially contained only civil and political rights but has since been extended by several additional protocols. The European Convention is an effective instrument for protecting human rights. The control of compliance with the Convention is unique thanks to the European Court of Human Rights.⁶

The Swedish constitution, which consists of several fundamental laws including the Instrument of Government, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression, also contains a number of passages specifying certain human rights. The Instrument of Government specifies that public power shall be exercised with respect for the equal worth of all and the liberty and dignity of the private person. It also contains a list of human rights and freedoms, some of which are considered to be absolute. The absolute rights include, for example, freedom of religion, protection against compulsion from authorities to disseminate an opinion in a political, religious, cultural or similar

⁵ CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION (2000/C 364/01) available at: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

⁶ *Convention for the Protection of Human Rights and Fundamental Freedoms* available at: www.echr.coe.int/Pages/home.aspx?p=basictexts/convention

relationship, protection against compulsion to attend meetings for the formation of opinions, belonging to a political association, a religious congregation or other such association. The Instrument of Government also contains an absolute ban concerning the death penalty, torture and physical punishment. Article 19 of the second chapter of the Instrument of Government also clarifies that no laws or other regulations may be adopted which contravene Sweden's undertakings under the European Convention for the Protection of Human Rights and Fundamental Freedoms.

According to the UN, the duty of States in regard to human rights is divided into three areas: the State (here meaning the public sector in a broad sense) is responsible for respecting, protecting and fulfilling all human rights.⁷

Respecting human rights means that all duty bearers must ensure that they do not themselves violate human rights, whether through the acts of individual employees or through sanctioning from above. For example, no person shall be prevented from enjoying a right or risk being discriminated against or harassed by a government authority.

Protecting human rights means that the authorities are to ensure that people and/or groups have their rights protected from abuse and interference by other individuals or groups (for example, through criminal activity). For example, no person shall be exposed to threats and violence or otherwise prevented from enjoying their human rights.

Fulfilling human rights means that the duty bearers must develop and maintain a system that provides the service and support needed to deliver various human rights. The right to the best possible health is dependent on a health care system; the right to education is dependent on an education system.

Surveys, interview studies, the development of relevant indicators, and evaluations can be combined to investigate the current rights situation in

⁷ UN, "What are human rights?" web page available at the Office of the High Commissioner for Human Rights (OHCHR): www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx. During earlier periods the UN worked with the terms respect, protect and promote. During Mary Robinson's period as the High Commissioner United Nations High Commissioner for Human Rights (1997-2002) this was changed to respect, protect & fulfil in order to put a focus on the duty of States to fulfil and not just promote human rights. The term promoting human rights was considered to be too vague in that it did not emphasize the duty that arises in working with human rights.

a particular sector or geographical area. Similarly, these tools can be used to find out if the situation is different for different groups. This information is needed for the planning work in order to not miss the goals of the work. Developing indicators can be a part of the above efforts, but may also serve as preparation for subsequent analyses. Knowledge about the rights holders' rights and the duties of the duty bearers is the key to a well-functioning human rights structure. However, in order for human rights to be respected and enjoyed in practice always requires:

- That individuals have knowledge and awareness of human rights as their rights, and their own responsibility to respect the human rights of other people; and
- that people in the public sector have knowledge and awareness of the obligations/duties concerning human rights that apply to them.

Every governmental actor at the national, regional and local level should have the overview required to see how different missions and efforts, taken together, can ensure that each right is respected, protected and fulfilled.

Human Rights Principles

In order for work to be seen as rights-based, the work must respect a number of rights principles. The UN points out that these principles are:

Universal and inalienable - the principle of universal rights of human rights is a cornerstone of international human rights law. This principle, first underlined in the Universal Declaration of Human Rights in 1948, has been repeated in various international human rights conventions, declarations and resolutions.

Interdependent and indivisible - human rights are indivisible (whether they are civil and political rights or economic, social and cultural or collective rights) and they are mutually dependent.

Equal and non-discriminatory - No person may be treated worse than another (direct discrimination), or be met by rules and criteria that make it more difficult for a group unless these criteria are relevant to the performance of a task (indirect discrimination). In the context of rights, equality should be understood as an extension of the concept of gender

⁸ UN, "What are human rights?" webpage available at the Office of the High Commissioner for Human Rights (OHCHR), available at: www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx

equality⁹. In the same way as gender equality aims at equal rights and opportunities between men and women in law and practice, the concept of equality refers to a similar goal for equal rights and opportunities not only between different sexes but also between people of different ethnicities, different ages, different sexual orientations, different religions, different degrees of disability, and different gender identities and gender expressions. It is also important to remember that different groups are not homogeneous but consist of individuals who differ from one another.

Participation and inclusion - Investigations, analysis, planning and follow-up must ensure that all persons/groups that make up the target group are also included. There are many examples of how, for example, new buildings become inaccessible because no one in the process included persons with physical disabilities even in their internal planning and also failed to get information from different civil society organizations or specialized authorities. Inclusion is thus as much a matter of inclusion in ideas, plans and analyses, as in meetings and so on. Participation provides the opportunity for persons and groups that are particularly affected by planning, decisions, etc. to meaningfully contribute to the work being carried out.

Transparency and responsibility - To know about if and how government authorities work to ensure human rights, there needs to be transparency in decision-making processes as well as in the decisions that are made. It should be possible to follow such processes for those who may have an interest in possibly influencing those processes. Human rights require that it is clear who is responsible for what. It will otherwise be impossible to review activities and assess liability if rights have been violated or downgraded. Transparency is therefore necessary for a properly functioning accountability. If the rights holder does not know what decisions have been made and who is ultimately responsible, the rights holder will have no opportunity to raise objections in regard to these decision makers.

⁹ In Sweden, gender equality has a special term known as *jämställdhet*.

Human Rights in Governance and Management

When human rights standards and principles are used systematically in governance and management, this can be seen as a rights-based, or human rights-based, governance and management. Given a starting point in an international description of a rights-based work, such work can be characterized by¹⁰:

1. The goals of the activities are clearly linked to the various human rights and the different dimensions of responsibility;
2. Current situation analyses also examine differences between the ability of different groups to enjoy various human rights;
3. Special efforts are made to include individuals and groups who have historically been discriminated against and/or made invisible or hidden away (for example, people with disabilities, Roma and LGBTQ persons).
4. The human rights principles of non-discrimination, equality, inclusion, participation, transparency and accountability guide the work throughout the process, from planning and implementation to follow-up and evaluation;
5. The work specifically prioritizes the rights of vulnerable groups;
6. Individuals and groups are given real opportunities to participate in formulating the goals and working methods for activities

¹⁰ United Nations Development Group (2003) *The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies*, finns tillgänglig på: https://undg.org/main/undg_document/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies/ I This document also underlines the point that human rights are to provide guidance at all stages of the work, from planning, formulation and implementation to monitoring and evaluation of the work. It is also pointed out that participation is to be seen both as a method as well as a goal in human rights-based work. Evaluations are to cover both the process and the results. Measurable goals should be identified.

affecting them;

7. The opportunities of individuals to assert their human rights are evaluated and strategies to strengthen them are formulated and implemented;
8. The ability of officials and elected representatives to require compliance with human rights is evaluated and strengthened, and accountability can be demanded when public representatives violate human rights;
9. The work done is monitored and evaluated in relation to human rights, both in terms of process and results;
10. The human rights situation is assessed and evaluated and the shortcomings concerning compliance with the rights are identified and addressed in the next round of planning.

Paths Forward

Starting from governance and management processes means that each government activity must take into account human rights in all three processes, namely in planning/goal setting, implementation and follow-up/evaluation. It also shows the necessity of being humble because there is an ever increasing need for wider participation, data collection that poses new questions and analyses that look at various activities and data collection from new perspectives. Governance and management from a rights perspective requires a direct link to human rights standards and principles in data collection, analysis, planning, priorities, follow-up, inspections, and skills enhancement measures.

By taking advantage of examples from the outside world, tips and success factors can be collected for different municipalities and county councils/regions that want to integrate human rights into governance and management processes. Naturally not all of the points can apply to every municipality or county council, but they can lead to further reflection in the work carried out.

- **Start the work by identifying all** that you are already working with regarding human rights. Many government activities have come a long way in the work of gender equality, the rights of the child, accessibility, equal treatment, social sustainability, discrimination and so on.
- **Examine how you can use materials/tools already produced** such as child impact assessments, equality analyses and other types of available knowledge to develop and strengthen the work already in progress.
- **Describe all ongoing work on the basis of rights standards**, what rights you are responsible for, and how you work to respect, protect, fulfil and promote human rights.
- **Consider how you use different human rights principles today**, even though this is not explicitly mentioned in the ongoing work.
- **Clarify the link to human rights in the policy and regulatory documents.** Explain why you are going to work with human rights, what you want to achieve and how you will follow up the work being done. It is important that the contents of these documents are also linked to the constitution and other relevant laws.
- **See to it that everyone in the target groups are made visible in planning, implementation and follow-up.** There are groups in society that are marginalized in different ways and are far from the social services and support they are entitled to. These may include groups such as national minorities, new arrivals, people with disabilities and LGBTQ persons. Due to various obstacles such as lack of trust and information, there is a risk that social services and support measures will not reach their entire target audience.
- **Ask questions about how the government operations can eliminate various obstacles** (including through fair and proper treatment, interpreters, accessible premises and broader contact opportunities concerning various groups). It is important to work proactively to reach all groups affected by various efforts, and to create a platform for influence and participation. This is because individuals have the right to receive the public services provided by public actors, but also because an active dialogue reduces the risk of making the same mistake over and over. In this way, resources are

saved, the work of providing social services is made more effective and local and regional authorities live up to the commitment to respect, protect, fulfil and promote the human rights of all individuals.

- **Initiate active cooperation with civil society, including both the non-profit sector as well as the business community.** This cooperation should lead to the development of goals, activities and indicators for work in close collaboration with all those who will benefit from social services, thus minimizing the risk of error concerning priorities and making incorrect decisions. Collaboration with various key actors in society opens up the opportunity to educate residents about their rights, and the responsibility of the public sector to fulfil these rights.
- **Place clearer rights-based demands in regard to actors who want to collaborate** with and provide services and/or products to the municipality, county council or region, so that the authority can ensure that the cooperation partners help to live up to the commitments to respect, protect and fulfil human rights.
- **Create an organization with a clear mandate and legitimacy on the issue, which can work in a structured manner and a long-term perspective.** Many so-called "soft" issues that do not have quantitatively measurable goals that are not regularly monitored tend to be linked to individuals, instead of being linked to a particular activity and being part of an assignment. No government operation would say that budget planning, economy or human rights issues are solely the responsibility of an individual official. The work on human rights also needs a structure that enables individual officials and entire government operations to achieve the goals set out for the operations.
- **Collaborate between different activities to ensure that individuals do not fall between two areas of government responsibility.** All actions, measures and follow-ups should be based on the different individuals/groups in society that the government operations meet. Collaboration between operations is of great importance to individuals who are entitled to service/support from different agencies at the same time.

- **Develop a long-term plan on skills development and include factors like coaching, learning seminars and knowledge retrieval.** Such a plan involves structured work that is related to what is happening in everyday life. Collegial guidance can be a good way to develop the operations and strengthen employees in a change process. Employees read, discuss, test ideas in their work - and discuss again. The model is based on the idea that all employees have time allocated for skills development. The results of this approach can lead to a more open climate, increased trust between colleagues and transparency concerning the priorities and decisions taken. In order for this to work, it requires shared values and shared responsibilities among the colleagues. Everyone must take responsibility for respecting, protecting and fulfilling the human rights of all individuals. Through reflective and professional exploratory dialogue and observation, employees can help make this tacit knowledge more explicit in the workplace. This cooperation must go beyond a superficial exchange of help and support. Therefore, the management has to create an environment among the colleagues where they see differences, debates and disagreements as a foundation for improvement.

Human Rights at the Local and Regional Level

External Monitoring Study with a focus on Governance and Management

The municipalities, county councils and regions play a central role in the realization of human rights in Sweden. In this short English version of a report with international examples published in 2016, the sections dealing with human rights work in Swedish municipalities, county councils and regions, as well as conclusions and tips for integrating human rights into governance and management are highlighted.

Read more about SALAR's work on human rights at www.skl.se/mr

This is an English edition of *Mänskliga rättigheter på lokal och regional nivå – omvärldsstudie med fokus på mänskliga rättigheter* (ISBN: 978-91-7585-339-0)

Information about the content:

Björn Kullander, bjorn.kullander@skl.se

Anna Lindström, anna.lindstrom@skl.se

© Swedish Association of Local Authorities and Regions, 2017

Order No: 5454

Original text: Emerga Research and Consulting AB

English Translation: Paul Lappalainen

Order No: 5454

Download at webbutik.skl.se

Mail: 118 82 Stockholm | **Visit:** Hornsgatan 20

Phone: +46 (0)8-452 70 00 | www.skl.se