

**«Mainstreaming Human Security Approach in Policy Making To Support The  
Recovery Of Syunik Region» Project**

**LEGAL ANALYSIS AND RECOMMENDATIONS**

**REGARDING THE DRAFT AMENDMENTS TO RA LAW ON LOCAL SELF GOVERNMENT  
IN THE CONTEXTUAL HUMAN SECURITY APPROACH**

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This legal analysis and recommendations were prepared within the «Mainstreaming Human Security Approach in Policy Making To Support The Recovery Of Syunik Region» Project jointly implemented by the United Nations Development Program (UNDP) and the International Labor Organization (ILO), in cooperation with the "Disaster Risk Reduction National Platform" foundation.

The project was financed by the United Nations Trust Fund for Human Security and aims to improve the effectiveness of regional and community development planning in Syunik by including the concept of human security in existing norms, institutional relationships and planning processes, to systematically address the factors of insecurity that exist at the local level and to protect people from various threats.

The views and conclusions in this analysis do not necessarily reflect the positions of UNDP or other relevant organizations. The authors are fully responsible for the content.

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## List of Abbreviations

RA	Republic of Armenia
LSG	Local Self Government
ECLSG	European Charter for Local Self Government
MOTAI	RA Ministry of Territorial Administration
CDP	5-year Community Development Plan
CDPM	Community Development Planning Methodology
HSM	Human Security Methodology
HSA	Human Security Approach
UN	United Nations
UNDP	United Nations Development Programme

## 1. GENERAL PROVISIONS

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The purpose of this legal analysis is to study and analyze the regulations defined by the RA Law "On Local Self-Government", in the light of the UN approach to human security (hereinafter referred to as the UN approach to human security), that refer to the community development planning processes, in particular, a) the five-year development plan of the community (hereinafter referred to as CDP), b) the annual work plan of the municipality (hereinafter: AWP) and c) the medium-term expenditure plan of the municipality (hereinafter: MTEP).

Within the framework of the analysis, the concept and purpose of the CDP is presented, the legislative instruments for ensuring the participation of the community's residents in the processes of preparation, development and implementation of the CDP, the concept of AWP, the legislative regulations defined in terms of the participation of residents in the processes of preparation, development and implementation of the AWP, the MTEP- its essence and significance, its development and implementation processes, etc.

As a result of the analysis, legislative proposals were developed and presented on amendments and additions to the Law "On Local Self-Government", which refer to the principles of local self-government, the legislative regulations related to the CDP, AWP and have the aim of community development in the current law, its legal norms regulating the planning processes, to provide institutional arrangements in the context of the integration of the HSA.

The legislative recommendations made and developed as a result of this legal analysis have a normative legal character, they are mainly aimed at the realization of the principles of HSA in the legal norms regulating the planning processes of the Law on Local Self-Government.

The developed legislative recommendations should be submitted to the MTAI in 2024-2025. in order to incorporate them in the new edition of the Law on Local Self-Government, which is currently being developed.

## 2. ANALYSIS OF LEGAL REGULATIONS RELATED TO COMMUNITY DEVELOPMENT PLANNING

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The Law "On Local Self-Government" defines the fundamental regulations related to the realization of the right of local self-government in Armenia, the legal, financial, and economic foundations of the local self-government system, the status and powers of local governments, the principles of local self-government, the mandatory tasks of the community, the fundamental documents of community development planning: CDP, AWP, MTEP, the community budget, community property, community economic activity frameworks, tools for residents' participation in local self-government, etc.

From the point of view of community development, planning and sustainable public administration, the documents of a strategic nature that are developed and approved by local governments of the community are characterised as short-term, medium-term and long-term.

The five-year development plan of the community is a document expressing all the steps to be taken from the point of view of targeted development as a result of the analysis of the socio-economic situation of the community and the identification of existing problems, the assessment of financial, economic, natural and human resources, which provides for the effective solution of the community's problems on a strategic basis.

The head of the community prepares the CDP within four months after assuming his powers and submits it for the approval of the council of Community Council (Elders). After that, within five months, the community council discusses the presented plan, makes changes or additions to it, if necessary, and adopts it by more than half of the votes of the council members present at the session in case of election of members of the council of elders of the community, after assuming the powers of the council of elders, within three months, at least one third of the members of the council of elders of the community, of the number established by law, may propose changes or additions to the CDP.

According to Article 82, Part 5 of the Law on Local Self-Government, the CDP must be in line with regional, regional development and other strategic programs approved by the National Assembly of the Republic of Armenia. as well as from the point of view of the feasibility of the CDP as a political document of the local governments of the community.

Firstly, it is necessary to record that there are no regional programs as such and the Government does not approve such programs in institutional and legal practice. The main reason for this is that, within the framework of practice developed in recent years, development approaches at the level of regions are included in regional development strategies.

Secondly, the legislative requirement, according to which the CDP should be in line with the regional development plans approved by the Government also implies a serious contradiction on the programs, which would rightly ensure the interdependence and interoperability between the development of these two administrative territorial units in the light of the community policy aspects, guidelines and priorities adopted by the self-governing bodies, while not excluding the connection of the regional development strategy with the Government programs adopted at the national level. The regulation established by Article 82, Part 5 of the Law "On Local Self-Government" may be revoked, as that it will continue to have a formal character and conditioned by objective circumstances, this coherence cannot be ensured.

It should also be noted that regional programs or strategies are not approved by the National Assembly, the legislative power is not endowed with such authority, these powers are within the powers of the executive power, therefore, it is necessary to remove "National Assembly" from part 5 of Article 82 of the Law.

Based on the above, it is also proposed to remove the word "regions" from the current Article 82, Part 5 of the Law on Local Self-Government in the new draft of the law, and to provide in a separate paragraph in the same article that regional development plans and strategies approved by the Government must be consistent. At the same time, it is proposed to establish a regulation according to which the five-year development strategy of the community should be consistent with the approaches provided by the Government Program.

Part 6 of Article 82 of the Law "On Local Self-Government" defines the following: The CDP includes mandatory issues that can be implemented within the scope of the community's capabilities and the programs planned for their solution. From this it turns out that the legislator did not condition the solution of the community's mandatory problems with the scope of the community's opportunities.

In addition to the above, the CDP should not be limited to programs aimed at solving mandatory tasks, it should rightly include the voluntary tasks of the community as well and the programs defined for their solution the program actions to achieve the solution will be defined by which document assuming community planning, if not by the RAP.

Based on the above, it is proposed to fix the following regulation in the draft of the new edition of the Law "On Local Self-Government". "The community's five-year development strategy includes the community's mandatory tasks and the planned program directions for their solution, as well as the community's voluntary tasks that can be implemented within the community's capabilities and the planned program directions for their solution."

According to the provisions of Article 82, Part 8 of the Law on Local Self-Government, changes or additions to the CDP can be proposed by the head of the community or members of the community council, at least one-third of the number established by law, or by standing committees for the annual work plan of the community in the reporting year. After the submission of the report on the implementation by the head of the community, the correlation of the annual work plan of the community with the CDP becomes evident from the analysis of this regulation, because, according to the legislator, essentially, the legal possibility of making changes in the five-year development plan has been established for all cases when the report on the implementation of the annual work plan of the community has already been submitted to the council of elders the circumstance of deriving from the five-year development strategy will be defined, especially in the context when the five-year plan is reformulated as a strategy, and the annual work plan becomes the main "addressee" in which the programs resulting from the five-year development strategy will be included.

Referring to the provisions of the 9th part of Article 82 of the Law on Local Self-Government, we should note that the following is specifically defined: "The entity defined by Article 9, part 4 of this law develops and presents to the heads of communities the methodological instructions for the development of the five-year development plan of the community." That is, the Ministry of Territorial Administration and Infrastructures, as the state authorized body in the field of local self-government, which develops and provides them to the heads of the communities. It should be noted that the addressee of the methodological instructions, in the case of the CDP, is not only the head of the community, but also the community council. Therefore, it is recommended to set the words "to the local self-government bodies of the community" instead of the «head of community».

Considering the fact that in the document defining the conceptual provisions and approaches of the draft law "On Local Self-Government" in the new edition, there is a guideline to define the annual work plan in a separate chapter, it is proposed to remove the "Annual Work Plan" from the "Community Development Program and Budget" chapter of the law. with reference to Article 82.1.

According to Article 42, Part 1, Clause 11 of the RA Law "On Local Self-Government", the head of the community is given the following authority: "develops and compiles the annual and five-year plans for the management of buildings and structures that are owned by the community, which are a constituent part of the CDP, and submits them to the community council for approval. Taking into account the fact that the CDP

is being transformed into a strategy under the new edition of the law , it is proposed to fix a regulation in the article defining the powers of the head of the community in the field of urban development of the new edition of the draft law, which will establish that the management of buildings and structures owned by the community annual and five-year plans should be derived from the community's five-year development strategy.

According to Article 43, Part 1, Clause 2 of the RA Law "On Local Self-Government", the head of the community has the following powers in the field of land use: "develops and compiles the annual and five-year plans for the management of community-owned lands, which are a constituent part of the CDP, and submits them to the community council for approval." strategy, it is proposed to establish a regulation in the article defining the powers of the community head in the field of land use in the new version of the draft law, which will establish that the annual and five-year management of the lands owned by the community the plans should be derived from the five-year development strategy of the community.

In addition to the proposed changes in the draft law, in general, it is necessary to discuss the feasibility of having five-year plans for land and buildings' management, which are owned by the community in addition to the annual plan. The authority to develop and approve five-year plans was given to local governments taking into account the legislative requirement of the five-year development plan, it is quite understandable. However, considering the fact that the idea of strategy is included in the draft of the new edition of the law, it is plausible to consider the possibility of removing the five-year land and building management plans from the law.

The results of the assessment of the socio-economic condition of the community should be based on the development of the CDP, so that the planning is targeted and effective. In this sense, it is important that the assessment of the socio-economic condition of the community and the project of the community development strategy are developed and implemented on the basis of the principle of people-centeredness.

Similarly, the data presented in the CDP should also refer to different social groups living in the community: children, the elderly, poor families, people with disabilities, and should be separated by age, gender, place of residence, vulnerability, and other characteristics that will create an opportunity to identify as a result of the analysis the needs of a particular group and the degree of exposure to insecurity.

Considering the importance of the integration of HSA into the law, ensuring the participation and inclusiveness of residents in community planning processes, it is proposed to establish a separate article in the new edition of the draft law "On Local Self-Government" in Chapter 8 with the following text: Participation of community residents in the processes of composition, development and implementation of the community development strategy.

Considering the above, it is proposed to provide the following legal regulations in that article.

1. The draft community development strategy is developed based on the principle of people-centeredness, ensuring the participation of community residents.

2. The participation of residents, including disabled people and socially disadvantaged groups, CSO representatives should be ensured in all processes of development of the community development strategy project, implementation and control of the strategy approved by the council of elders.

3. The forms of participation of community residents in the development of the draft community development strategy, the implementation and control of the strategy approved by the council of elders are defined by this law, and the procedures for their implementation are the participation of residents in local self-government, the formation and operation of consultative bodies attached to the community leader, public open hearings and discussions in the community. with the procedures of organization and conduct, as well as with methodological instructions for the preparation and development of the community development strategy developed by the authorized body in the field of territorial administration.

4. In order to ensure the participation of community residents in the community development strategy formulation, public discussion, implementation (execution) and control processes, upon the recommendation of the community leader and the decision of the community council, a consultative body adjunct to the community leader is formed.

5. The head of the community organizes and conducts public hearings or discussions before submitting the draft of the community development strategy to the community council for approval, based on Article 4, Part 6 of the Law on Normative Legal Acts and the head of the community provides information on the recommendations to the community council in the form of a summary sheet.

Next, it is worthwhile to consider the importance of fixing the principle of context specificity. Communities should have the opportunity to describe and take into account the community's development planning documents, based not only on the actual characteristics and specificities of the given community, but also on the community's capabilities address community resources, availability and accessibility of infrastructure, community specific impacts, climate change and other factors that may favor conditions or create threats in the dimensions of insecurity components.

In the light of the principle of context specificity, it is proposed to establish a regulation in chapter 8 of the new edition of the draft law "On Local Self-Government" defining the community development strategy, according to which knowledge-based analyzes of vulnerabilities and capacities are carried out for the development of the community development strategy. In order to address them, the mandatory and voluntary problems of the community and the planned directions for their solution are included. In the context of the HSA, it is important to fix the preventive principle in this sense. Perhaps, as an indirect reference, the 12th point of Article 12 of the current Local Government Law can be considered, in which disaster risk reduction measures and measures in emergency situations are mentioned as a mandatory issue. organization and implementation.

However, the implementation of the preventive principle is much more characteristic in the process of development of the community development strategy, especially in the context of the provision of risk-informed development partners and in the component of the analysis of the situation in the community and the actions that will prevent, mitigate or solve those identified problems.

In the context of the above, it is proposed to establish a regulation in chapter 8 of the draft law on Local Self-Government defining the community development strategy, according to which the analysis of the situation based on the community development strategy should include knowledge-based analyzes of threats and risks to the community, such as also envisage program actions aimed at the prevention, reduction and elimination of these risks. At the same time, it is proposed to establish a provision according to which the development of the community development strategy should be carried out taking into account the threats to the community, based on the principle of preventive planning.

The community development strategy should be developed in the context of the assessment of the community's strengths, opportunities, weaknesses or vulnerabilities, and capacities, with the aim of identifying the community's real opportunities and resources. To codify this, in chapter 8 defining the development strategy, it is proposed to establish a requirement according to which the community staff, during the development of the draft community development strategy, must carry out a mapping of the community's capabilities and vulnerabilities, the combination of which it will be possible to connect the needs with the available resources, define the priorities and find the most effective solutions.

In order to reveal the full potential and ensure multiplier effects in the community development planning processes, it is necessary to define approaches for identifying program interrelationships and interactions and through them to evaluate various connections and interactions between planning documents. In this context, it is significant and important to fix the connection of the community development strategy with the

community budget, AWP, MDEP and other sectoral programs. to ensure the implementation of the goals, vision, and priorities outlined by the community development strategy.

In this sense, it is important that the draft law provides a clear description of the interrelatedness and interactions of the above-mentioned documents.

Based on the above, it is proposed to provide a regulation in the chapter defining the community development strategy of the draft law "On Local Self-Government", according to which the vision, priorities and program directions of the sustainable development of the community, included in the Community Development Strategy, are implemented in the annual budget of the community, community development plans, community within the framework of the annual work plan and medium-term expenditure plan.

Referring to the principles of local self-government, it is credible to consider their importance from the point of view of the realization of the right of local self-government and the sustainable functioning of the local self-government system principles of local self-government. Studying the principle of people-centeredness in the context of HSA, it is plausible to observe that this principle, consistent with its content is with a number of principles of local self-government.

It should be noted that the principle of community residents' participation in local self-government is one of the main guidelines of people-centered policy. As for the principle of accountability, publicity and transparency of local government activities, this principle complements the principle of residents' participation, ensuring community local government feedback and responsibility to the community. to residents.

Emphasizing the establishment of the principle of people-centeredness among the principles of local self-government, it is proposed to supplement part 1 of Article 8 of the new edition of the draft law "On Local Self-Government" with the following content, paragraph 17. People-centered planning in community development processes.

From the point of view of community development planning processes, AWP and MTEP are extremely important. The annual work plan of the community is the single most important program document of the community, which defines all the programs and activities implemented in the community by the local self-government bodies or with their participation during the given year.

The annual work plan of the community is developed and approved on the basis of the five-year development plan approved by the community council, in order to organize the community's economic, social, cultural, environmental and other programs and activities in a more targeted and effective way. The plan includes all projects implemented in the community financed from the community budget and other sources, as well as those that do not require financing, including maintenance, operation and

development of community infrastructure, provision of community services, basic funds management, human resources management, as well as investment from international organizations, civil society and private sector support and other programs.

The methodology for the development of the annual work plan of the community defines the legal basis and structure of the preparation of the annual work plan.

The regulations established in the law regarding the AWP are quite rich, but there are no defined requirements in them, according to which the AWP should be implemented in the context of the principle of people-centeredness, ensuring the broad participation of residents. The existing legal regulations regarding need to be reviewed and revised.

Based on the above, it is proposed to establish a regulation in Chapter 9 of the draft law "On Local Self-Government" in the new edition, according to which, in the processes of development, compilation and implementation of the annual work plan and mid-term expenditure plan of the community, the community residents, including the disabled, with special needs and socially balanced participation of disadvantaged classes, including all settlements included in the community NDPs should be based on the principle of people-centeredness, taking into account comprehensive development in the context of community planning, alignment with local content and preventive local policy approaches.

### **3. LEGISLATIVE RECOMMENDATIONS FOR THE INTEGRATION OF THE HUMAN SECURITY APPROACH IN LEGAL PROVISIONS REGARDING COMMUNITY DEVELOPMENT PLANNING PROCESS**

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1. Emphasizing the establishment of the principle of people-centeredness among the principles of local self-government, it is proposed to supplement part 1 of Article 8 of the new edition of the draft law "On Local Self-Government" with the following content, in the part 17. «People-centered planning in community development processes».

2. Considering the provision of residents' participation and inclusiveness in the legal regulations related to community planning processes in the law, it is proposed to establish a separate article with the following text in Chapter 8 of the new edition of the draft law "On Local Self-Government". «The participation of community residents in the composition, development and implementation of the community development strategy».

1) The draft of the community development strategy is drawn up and developed based on the principle of people-centeredness, ensuring the participation and inclusiveness of the community residents.

2) Residents' participation should be ensured in all processes of development of the community development strategy project, implementation and control of the strategy approved by the council of elders.

3) The forms of participation of community residents in the development of the draft community development strategy, the implementation and control of the strategy approved by the council of elders are defined by this law, and the procedures for fostering the participation of residents in local self-government, the formation and operation of consultative bodies attached to the community leader, public open hearings and discussions in the community. with the procedures of organization and conduct, as well as with methodological instructions for the preparation and development of the community development strategy developed by the authorized body in the field of territorial administration.

4) In order to ensure the participation of community residents in the community development strategy formulation, public discussion, implementation (execution) and control processes, a consultative body attached to the community leader is formed upon the recommendation of the community leader and the decision of the community council.

5) The head of the community organizes and conducts public hearings or discussions before submitting the draft of the community development strategy to the community council for approval, based on Article 4 of the Law on Normative Legal Acts. Objections received and accepted in public hearings or discussions and the head of the

community provides information on the recommendations to the community council in the form of a summary sheet.

3. The realization of the principle of local coherence is characteristic in the process of development of the community development strategy, especially in the component of providing a knowledge-based analysis of the situation in the community.

In this regard, it is proposed to establish a regulation in chapter 8 of the draft law "On Local Self-Government" defining the community development strategy, according to which, the community development strategy includes the mandatory and voluntary problems of the community that can be implemented within the community's capabilities and the planned program directions for their solution.

4. The implementation of the preventive principle is characteristic in the process of developing a community development strategy, both in the context of prevention and reduction of existing and possible new risks.

In this regard, legal regulations aimed at identifying the main causes of insecurities, warning and early warning are necessary for the prevention of emergency situations and mitigating the impact in case of crises. Moreover, legal regulations aimed at adopting a long-term vision to overcome the preconditions of vulnerabilities and ensuring risk-aware development in communities are needed.

1) It is proposed to establish a regulation in chapter 8 of the draft law "On Local Self-Government" defining the community development strategy, according to which the community development strategy should be based on a knowledge-based analysis of community risks, which should include threats and risks to the community. , as well as plan the program activities aimed at reducing and eliminating these risks the strategy and related programs will become assessable and the results measurable.

2) At the same time, it is proposed to establish a provision according to which the development of the community development strategy should be carried out taking into account the threats to the community, based on the principle of preventive, risk-aware planning, the community's ARD plan, and other relevant legal regulations.

5. A community development strategy should be developed in the context of an assessment of community opportunities, strengths and weaknesses, considering the full range of challenges facing communities. In this regard, the community development strategy of the draft law "On Local Self-Government" is proposed

7. It is proposed to establish a regulation in Chapter 9 of the draft law "On Local Self-Government" in the new edition, according to which the participation of the residents of the community is ensured in the processes of development, compilation and implementation of the annual work plan and medium-term expenditure plan of the

community, covering all settlements included in the community. At the same time, it is proposed to establish a regulation according to which the TAP and the NDP should be based on the principle of people-centeredness, taking into account community planning. in the context of comprehensive development, local relevance and preventive local policy approaches.

Note: In the framework of the legal analysis, a number of institutional problems were identified and legislative recommendations aimed at their solution were made, which in terms of their content do not coincide with the context of the integration of the MAM, which is the basis of this legal analysis, but may be of significant importance for the community's development strategy. In terms of improving the related legislative regulations, these legislative recommendations are presented below.

1. In the new version of the draft law, it is proposed to remove the word "regions" from the current Article 82, Part 5 of the Law on Local Self-Government, and to provide in a separate paragraph in the same article that regional development plans and strategies approved by the Government must be consistent. At the same time, it is proposed to establish a regulation according to which the five-year development strategy of the community should be in line with the Government's development plan. approaches.

2. It is proposed to fix the following regulation in the new version of the "Local Self-Government" draft: "The community's five-year development strategy includes the community's mandatory problems and the planned program directions for their solution, as well as the community's voluntary problems that can be implemented within the community's capabilities and the planned program directions for their solution."

3. It should be noted that the addressee of the methodological instructions, in the case of the RADP, is not only the head of the community, but also the council of elders of the community, therefore it is suggested to define the words "to the local self-government bodies of the community" instead of "the head of the community".

4. Taking into account the fact that the RADP is being transformed into a strategy from the point of view of the new draft law, it is proposed to fix a regulation in the article defining the powers of the head of the community in the field of urban development in the new draft law, which will establish that the annual and five-year management of buildings and structures owned by the community the plans should be derived from the five-year development strategy of the community.

5. Taking into account the fact that the five-year development plan of the community, from the point of view of the new version of the draft law, is transformed into a strategy, it is proposed to establish a regulation in the article defining the powers of the community head in the field of land use of the new version of the draft law, which will establish that the annual and five-year management of the lands owned by the

community the plans should be derived from the five-year development strategy of the community.