



Human Rights-Based Approach – A practical guide for the realization, through programming, of the human rights to water and sanitation

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Abstract

The inspiration for this “practical guide”¹ by the “Human right 2 water” was a recognized need to provide water and sanitation practitioners with practical guidance on how to implement the human rights to water and sanitation (HRWS) at different stages of the project cycle.

It seeks to provide a methodology and tools to integrate a Human Rights-Based Approach (HRBA) in programming to facilitate the realization of the human rights to water and sanitation. The target audience is development cooperation agencies, civil society, and non-governmental organizations; nonetheless, the guide is helpful to anyone working in water, sanitation, and other interlinked sectors.

Keywords— human rights-based approach, human rights to water and sanitation, programming.

I. INTRODUCTION

The integration of the Human Rights-Based Approach (HRBA) in development activity has accelerated over the years and proven to be effective. HRBA is a common framework that seeks to further human rights by incorporating human rights principles in all steps of projects or programs. At the heart of HRBA lies the aspiration to support the capacities of rights-holders to claim their rights and duty-bearers to fulfill their human rights obligations. Emphasis is placed on ensuring action to support the marginalized and vulnerable. In HRBA, the human rights principles of equality and non-



discrimination, participation and inclusion, access to information, accountability, and sustainability are utilized to guide the entire project management cycle. These are commonly known as cross-cutting principles.

In supporting the realization of the Human Rights to Water and Sanitation (HRWS), the HRBA cross-cutting principles are employed in conjunction with the normative criteria of the HRWS (availability, accessibility, affordability, quality, acceptability) to strengthen the capacities of both rights-holders and duty-bearers and generate sustainable outcomes. This comprehensive approach is particularly important with water and sanitation as many projects tend to concentrate on quantity (availability) and quality rather than addressing all components of the HRWS, including such criteria as accessibility (particularly for the less able), acceptability (very important to preserve dignity and safety for women and girls) and affordability (making sure that any pricing allows for all people, especially the most vulnerable, to be able to afford safely managed water and sanitation).

There are four recognized stages in implementing an HRBA in programming:

STAGE I: SITUATION ANALYSIS

The first stage is situation analysis, which is a multi-step process in itself. This analysis seeks to identify HRWS issues and the causes which hinder their realization in a causality analysis. The specific groups who are encountering obstacles to accessing safe water and adequate sanitation, rights-holders, and the persons bearing the responsibility to fulfill HRWS, duty-bearers, are also identified through stakeholder mapping. In the final step of the situation analysis, a capacity gap analysis is undertaken to understand where capacity development is necessary for all stakeholders to support them in accelerating the realization of HRWS.

STAGE II: Planning

Stage two is planning, where information taken from the situation analysis on the issues and causes of the lack of access is used to design and define objectives from an HRBA. Objectives should align with the country's human rights commitments and recommendations made by human rights protection mechanisms. Activities are defined with elements that go beyond

just providing services but also strengthening capacities, with an emphasis on intervention for the marginalized and vulnerable populations.

STAGE III: Implementation

Once objectives have been designed, implementation follows with human rights standards and principles being continuously employed, especially ensuring non-discriminatory practices, realizing meaningful participation, and guaranteeing accountability and transparency throughout the implementation of activities. For an HRBA project to be effectively implemented, dialogue with various stakeholders is necessary. It is important to avoid working in silos and to cooperate with other development partners or civil society organizations.

STAGE IV: Monitoring and Evaluation

Using an HRBA in projects and programs requires the development of a monitoring and evaluation framework aligned with human rights standards and to follow up on progress made in the realization of the rights to water and sanitation. The monitoring and evaluation phases are fundamental to guarantee the principles of

sustainability and accountability and provide important decision-relevant information to professionals that seek to implement similar projects.

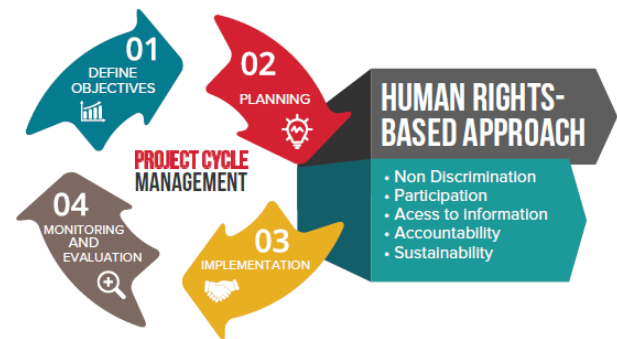


Figure 1: The four stages in project cycle management that lead to an HRBA

II. HUMAN RIGHTS & HRBA EVOLUTION

The integration of human rights into development programming has been ongoing for quite some time, although the term “human rights-based approach” (HRBA) is a more recent development. It was in 1997, during Kofi Annan’s mandate as the United Nations Secretary-General, that he recognized the importance of an HRBA and advocated in favor of its implementation across the United Nations System.



Adopting an HRBA means incorporating human rights and human rights principles into any and every working project. It goes beyond focusing on outcomes and draws attention to the entire process, implementing human rights principles in every step of the project design, planning, and operations – by applying this method, the result will also have a positive effect in strengthening human rights.

As the HRBA gained traction and became a widely used approach, different attempts to define the term have emerged. For this reason, there is no single universal definition for HRBA.

The most common definition comes from the United Nations Common Understanding,² as it serves as the foundation for organizations, which then may adapt the approach to their mandates. Adopted in 2003 by the United Nations Sustainable Development Group (UNSDG), the United Nations Common Understanding on HRBAs to Development Cooperation and Programming (UN Common Understanding) sought to make sure that United Nations agencies, funds, and programs consistently implemented an HRBA in their programs at a global and regional level. Most importantly, these

guidelines provide practitioners with the tools necessary to operationalize an HRBA and mainstream human rights in their work.

III. THE UN COMMON UNDERSTANDING

1. All programs of development cooperation, policies, and technical assistance should further the realization of human rights as laid down in the Universal Declaration of Human Rights and other international human rights documents.
2. Human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments guide all development cooperation and programming in all sectors and all phases of the programming process.
3. Development cooperation contributes to the development of the capacities of “duty-bearers” to meet their obligations and/or of “rights-holders” to claim their rights.

Bearing in mind the guiding principles determined by the UN Common Understanding, the incorporation of HRBA represents a change in thinking development, shifting from previously



more common approaches, such as charity and needs-based. HRBA focuses on building holistic processes and empowering individuals to claim their rights, while charity and needs-based approaches focus primarily on input and short-term solutions.³

IV. HRBA CROSS-CUTTING PRINCIPLES

Every person is entitled to inalienable and fundamental human rights. To guarantee the protection of human dignity, human rights need to follow these five principles:

A. EQUALITY AND NON-DISCRIMINATION

Individuals are equally entitled to their human rights without discrimination of race, color, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth, or other status, as explained by Article 2 of the Universal Declaration of Human Rights (UDHR), and promoted by other human rights treaty bodies, such as the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of Persons with Disabilities.

B. PARTICIPATION AND INCLUSION

The right to participate in political and public life directly and indirectly, as well as in key decision-making processes, is an integral component of empowering individuals and groups. It is one of the core elements of a human rights-based approach aimed at eliminating marginalization and discrimination. Indeed, the UN Declaration on the Right to Development (UNDRD) notably recognizes that all persons are entitled to an active, free, and informed participation in their contribution to and for their enjoyment of civil, economic, social, cultural, and political development, through which all other human rights and fundamental freedoms can be realized.⁴

C. ACCESS TO INFORMATION

The right to information encompasses the right to access information held by public bodies and reflects the premise that all information held by governments and governmental institutions is in principle public and can only be withheld for legitimate reasons. It is an integral component of the fundamental right of freedom of expression, as recognized by resolution 59 of the UN General Assembly (1946)⁵ and Article 19 of the UDHR (1948). The freedom of expression encompasses the freedom “to seek, receive



and impart information and ideas through any media regardless of frontiers.”

D. ACCOUNTABILITY

This principle entitles rights-holders to institute proceedings to seek appropriate redress for the violation of their human rights before a competent domestic court, an international court, such as the European Court of Human Rights (ECtHR), or an international treaty body, such as the United Nations Human Rights Committee (UNHCR), in accordance with the rules and procedures provided by the law. Many international and regional treaties demand an effective remedy to be made available for individual victims of human rights violations.⁶ A remedy involves two key components: firstly, the victim having access to the appropriate authorities to have his/her claim fairly heard and adjudicated upon, and secondly, the redress or relief that he/she can receive because of instituting such a claim.

E. SUSTAINABILITY

This requires us to be mindful of future generations and guarantee access to water and sanitation while maintaining balance among economic, social, and environmental sustainability.⁷ This notion

of intergenerational equity was notably enshrined in Principle 3 of the Rio Declaration and reiterated by the UN Committee on Economic, Social and Cultural Rights (CESCR) through its General Comment 15 (GC 15).⁸

V. THE HUMAN RIGHTS TO WATER AND SANITATION

A. HRWS AND THE SUSTAINABLE DEVELOPMENT GOALS

Although the human right to water was recognized by the UN General Assembly in 2010, 29% of the global population, 1.5 billion people still do not have safely managed water at home, while many more (2.3 billion) lacks safely managed sanitation.⁹ Diarrhoeal disease is the second leading cause of death among children under five.¹⁰ The use of improved sanitation and hygiene practices are key measures to prevent such health risks. The lack of access to clean water and adequate sanitation necessarily impacts other needs that are vital for a life of economic and social well-being.

2015 marked the end of the Millennium Development Goals (MDGs) 15 years: Eight specific development goals adopted by world leaders in 2000 to eradicate extreme poverty, hunger and to combat



issues that ensue from such conditions.¹¹ The Sustainable Development Goals (SDGs), the successors to the MDGs adopted in September 2015, emphasize sustainable development identifying 17 goals with 169 targets to be achieved by 2030.¹² “The Future We Want,” the outcome document of the 2012 UN Conference on Sustainable Development, noted that “[t]he goals should address and incorporate in a balanced way all three dimensions of sustainable development and their interlinkages.”¹³

The SDGs encompass a holistic framework grounded in three pillars: economic development, environmental sustainability, and social inclusion. The 2030 Agenda is differentiated from the MDGs as it is universally applicable to all countries, not just to developing countries, as had been the case with the MDGs. Rooted in a pledge to “leave no one behind,” the 2030 Agenda is firmly grounded in the human rights framework.

Moreover, “Transforming Our World: The 2030 Agenda for Sustainable Development”¹⁴ particularly affirms the SDG’s connection to human rights. These assert the importance of the UDHR and other international instruments relating to

human rights and international law. They call for States to maintain their responsibilities to respect, protect and promote human rights and fundamental freedoms for all. Commitment to the HRWS is also explicitly confirmed in the 2030 Agenda’s vision with a dedicated goal, SDG 6, which seeks to ensure availability and sustainable management of water and sanitation for all.

A view of the principal water and sanitation access targets for SDG 6 reflect multiple HRWS criteria and principles:

Target 6.1: Achieve universal and equitable access to safe and affordable drinking water for all (non-discrimination, accessibility, availability, quality, affordability).

Target 6.2: Achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations (non-discrimination and focus on gender and vulnerable groups).

Target 6.3: Support and strengthen the participation of local communities in improving water and sanitation management (public participation).¹⁵



B. LEGAL BASIS

The development of water and sanitation access depends on political, social, economic, and administrative systems, which will determine (directly or indirectly) how water resources and sanitation infrastructure will be used and managed, as well as the efficiency and development of delivery services. The way water governance is carried out will generate consequences within and outside the sector. The implementation of the human rights to water and sanitation is also an essential part of water governance, setting out legal obligations.

The International Bill of Human Rights is the core legal framework from which different human rights originate. The Bill is composed of three key instruments:

- 1948 Universal Declaration of Human Rights (UDHR)
- 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)
- 1966 International Covenant on Civil and Political Rights (ICCPR)

While the UDHR was originally a non-binding instrument, it has now become part of customary international law. Moreover, the two covenants that stem from it are

international treaties monitored by the United Nations treaty body mechanisms. The HRWS belong to the group of economic, social, and cultural rights, although they are not explicitly recognized in the text of any of the instruments that make up the Bill of Rights. However, water and sanitation are present as key components for the realization of other rights, such as food, housing, and health. Many countries have also incorporated these rights in their national constitutions, laws, policies, and judicial courts.¹⁶

The first explicit mentions of HRWS are seen in international human rights thematic treaties. For example, both The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and The Convention on the Rights of the Child (CRC) are instruments that have been widely ratified. CEDAW calls on State Parties to ensure women the right to sanitation and water supply, and CRC requires State Parties to take appropriate measures to provide clean drinking water and to support parents and children in environmental sanitation. Various regional human rights treaties in Africa, Europe, and the Americas also



have either explicit or implicit references to the HRWS.

Notwithstanding the reflection of HRWS early on in international human rights law, it was only in 2010 that the United Nations General Assembly recognized the “right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.”¹⁷ In the same year, the Human Rights Council reiterated the importance of these rights, approving by consensus a resolution on access to water and sanitation as legally binding human rights.¹⁸

These achievements strengthened the work that had been done since 2002 by the United Nations Committee on Economic, Social and Cultural Rights, with the adoption of GC 15. They supported the efforts of the then Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Catarina de Albuquerque, which has been since been carried forward by Léo Heller from 2014 and by Pedro Arrojo-Agudo from the end of 2020.

The human rights to water and sanitation entitle every person to sufficient, safe, accessible, culturally acceptable, and

affordable water and sanitation services for personal and domestic uses. These services, in turn, must be provided in a participatory, informed, accountable, sustainable, and non-discriminatory manner. Governments should guarantee that the HRWS is substantiated in the appropriate legislation, policies, and programs, as a fundamental step to ensure that their population is granted access to these services and will have legal remedies available in case their rights are violated.

C. HRWS NORMATIVE CONTENT

In parallel to the HRBA cross-cutting principles mentioned in the previous subsection, the CESCR defined the human right to water in GC 15 and set out the normative content, which forms the backbone of the HRWS according to the following five criteria¹⁹ :

Accessibility:

Water and sanitation services and facilities should be accessible to all and without threat to personal security. Physical accessibility is a crucial aspect in this case. Even though there are no definitive international legal standards for physical access to water, the World Health Organization (WHO) has developed basic



guidelines. These determined that water collection time should not exceed a 30-minute round trip and that the water source must be within one thousand meters from the household, educational institution, or workplace.²⁰ These elements of accessibility, and the following descriptions of availability and quality, have been further supported and refined through the SDG 6 target indicators and the JMP Ladder from the WHO/UNICEF Joint Monitoring Programme for Water Supply, Sanitation and Hygiene (JMP) description of “Safely Managed Drinking Water.” The needs of vulnerable groups should be taken into consideration, e.g., the elderly, persons with disabilities, and children.

Affordability:

States are obliged to make sure the population can afford water and sanitation services. To guarantee these services, governments should consider low-cost technologies, income supplements, and appropriate pricing policies, including free provision for those who cannot pay. The original guideline of 3% of household income has since been updated to state that costs related to water and sanitation should not impede the ability to access other basic

needs such as food or health services.²¹ As stated by the special rapporteur, affordability needs to be contextualized, and each State should make an assessment based on local or national challenges and situations.

Availability:

Water must be available in sufficient quantities and in a continuous manner for personal and domestic uses, meaning food preparation, drinking, and personal and household hygiene. Water use for industry and agriculture should not be prioritized over personal and domestic uses. Each household, health, education, or other public institution should have enough sanitation facilities on the premises or within the immediate vicinity. According to the WHO, 50 to 100 liters per person per day is an adequate quantity of water to meet health requirements.²²

Quality:

Water must be safe for consumption, hence free from micro-organisms, chemical substances, or any other hazards that can cause a threat to human health. Sanitation facilities must be safe to use and effectively prevent human, animal, and insect contact with human excreta. In the



context of sanitation, it is essential to have access to water for hygiene purposes. Note that the definition of Safely Managed Sanitation Facilities, according to the JMP Ladder, also includes the safe disposal of waste matter and precludes the dumping of toilet waste in water bodies.²³

Acceptability:

Water and sanitation facilities must be culturally and socially acceptable. In practice, this means that depending on the cultural context of each community, sanitation facilities may require privacy and be sensitive to gender needs for safety and dignity. In the case of water supply, services should be provided in a way that accommodates local cultural practices to be truly acceptable and accessible for all marginalized groups.

D. INTERLINKAGE WITH OTHER HUMAN RIGHTS

As mentioned in the previous section, the HRWS were only formally recognized by the United Nations General Assembly in 2010. Nonetheless, it has been present in human rights law for decades as an integral part of other fundamental human rights. Furthermore, GC 15 on the right to water explains some of these linkages in detail,

namely the rights to food and adequate housing and the highest attainable standard of health, which are enshrined in various international human rights instruments, notably the ICESCR. GC 15 also determines that the right to water should be interpreted in unison with the right to life and dignity.

VI. EVALUATING RESULTS

To understand what is needed, the first step is to create a baseline for planning at a local or preferably at catchment level, concluding in the establishment of a system to monitor the realization of the human rights, the goals included in SDG targets such as SDG 6 on water and sanitation, and the related goals on food, health, the right to a healthy environment and other interconnected human rights.

Assessing strengths and weaknesses of the project in realizing the HRWS and lessons learned:

Human rights impact assessments are developed to assess, prevent and/or respond to potential or actual human rights impacts of a particular intervention.

- Human rights impact assessments need to be carried out using human



rights indicators (structural, process, and output indicators) to evaluate who is benefitting from the intervention, how, and why.

- The impact may be measured by comparing the HRWS situation carried out during the Situation Analysis (baseline) with the results after the intervention to assess progress towards the universal realization of the right, considering all HRWS criteria.
- Furthermore, it will focus on the impact on the reduction of inequalities: how has the intervention reached more vulnerable people, and to what extent has the situation of these different marginalized groups improved during the program.

VII. *DEVELOPMENT OF HUMAN RIGHTS INDICATORS FOR MONITORING AND REDRESS*

A. *HUMAN RIGHTS INDICATORS*

The development of human rights indicators is based on HRWS elements that include the local population's priorities and needs and considers how to integrate

existing systems and institutions in the monitoring process of these rights. Through the first three assessment steps of the baseline, the mapping of and then consultation with the relevant stakeholders, it is possible to identify the priorities and needs, as seen from the point of view of each stakeholder. The input from vulnerable groups needs to have special weight considering that they generally lack the power, position, and voice to express themselves as loudly as the other stakeholders.

By framing the indicators into the ten elements that are expressed by the HRWS criteria and principles and analyzing each of these elements' accessibility from the standpoint of each different vulnerable group, it is possible to develop a set of evaluation indicators that should be monitored. These indicators must be simple enough to be measured accurately, disaggregated enough to capture every vulnerable group, and meaningful such that they support the HRWS' progressive realization.

By developing indicators that are applicable at the river basin level, it is then useful to track the results over time, to determine how the national policies



developed are effectively integrated into local authority policies and whether they are supported by realistic outcomes that achieve the SDG goals.

B. TRANSPARENCY

The HRBA transparency principle is critical to ensure that the community can read and understand the monitoring outcomes such that they are able to provide important feedback into the system for improvement.

- Results need to be shared in a wider variety of media to capture different languages, communication methods, technical access levels, and vulnerabilities.
- They need to provide a simple system for people to express their opinions and provide feedback.
- Most importantly, the feedback results need to be evident through public reports and information sharing to show that there has been a redress.

With a comprehensive system of monitoring, data sharing, a system for public feedback and results demonstration, the public is more likely to feel included in the process; increasing numbers of

vulnerable groups will be included in the service provision, and the results will start to demonstrate a gradual improvement of accessibility over time. The outcome is a more sustainable service that reaches the marginalized communities that are currently at risk of being overlooked without such monitoring. The collection of this sensitive human rights data is therefore essential to the achievement of the Sustainable Development Goals and the realization of the human rights to water and sanitation.

VIII. CONCLUSION

It is important to understand the factors that have contributed to change in the realization of rights, regardless of the overall impacts of the program. The HRBA is renowned for focusing on the process of change. Considering the HRBA process principles help in understanding the degree of impact.

Table 1 provides guiding questions that can be formulated to assess the human rights principles' integration throughout the entire intervention process. Any negative answers must be investigated with rights-holders and duty-bearers, per the principle of participation. The lessons learned should be used to improve the



HRWS progressive realization and the design of future interventions.

	<p>and consumption and promote appropriate demographic policies?</p> <ul style="list-style-type: none"> • Does the program use natural resources in a way that protects the environment, ground quality, and surface water?
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Human Rights Principles	Assessment Indicators
Non-discrimination ²⁴	<ul style="list-style-type: none"> • Has the program or project taken into account the rights to water and sanitation for those in the most vulnerable situations?
Access to information ²⁵	<ul style="list-style-type: none"> • Have the program deliverables been clearly understood by duty-bearers and rights-holders?
Participation ²⁶	<ul style="list-style-type: none"> • Has the target population been directly involved throughout, from situation analysis until evaluation?
Accountability ²⁷	<ul style="list-style-type: none"> • Has the program improved the capability of duty-bearers to deliver services? • Has the program addressed the right to compensation for those negatively affected? • Has the program provided transparency and participation mechanisms?
Sustainability ^{28 29}	<ul style="list-style-type: none"> • Is the program generally accepted by the community as the best solution? • Does it reduce and eliminate unsustainable patterns of production

NOTES

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²¹ UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, 'Affordability of Water and Sanitation Services - a/Hrc/30/39', (Geneva, 2015).

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²⁴ General Comment 15, Par 13

²⁵ Ibid Par 48

²⁶ Ibid

²⁷ Ibid Par 49

²⁸ General Comment 15, Par 11

²⁹ *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Declaration on Environment and Development, principles 1, 8, 9, 10, 12 and 15; and Agenda 21, in particular principles 5.3, 7.27, 7.28, 7.35, 7.39, 7.41, 18.3, 18.8, 18.35, 18.40, 18.48, 18.50, 18.59 and 18.68.*